

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
In re : Chapter 11  
: :  
Doral Financial Corporation, *et al.*,<sup>1</sup> : Case No. 15-10573 (SCC)  
: :  
Debtors. : Jointly Administered  
-----X

**NOTICE OF FILING OF PLAN SUPPLEMENT**

**PLEASE TAKE NOTICE THAT** on June 6, 2016, the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") entered the order [Dkt. No. 641] (the "Disclosure Statement Order"): (a) authorizing Doral Financial Corporation (the "Debtor") to solicit acceptances for the *Amended Plan of Reorganization Proposed by Doral Financial Corporation and the Official Committee of Unsecured Creditors of Doral Financial Corporation* [Dkt. No. 632-1] (as the same may be further amended, supplemented or modified from time to time, the "Plan"); (b) approving the *Amended Disclosure Statement Pursuant to Chapter 11 of the Bankruptcy Code for Plan of Reorganization Proposed by Doral Financial Corporation and the Official Committee of Unsecured Creditors of Doral Financial Corp.* [Dkt. No. 632-3] as containing "adequate information" pursuant to section 1125 of the Bankruptcy Code; (c) approving solicitation materials and documents to be included in the solicitation packages; and (d) approving procedures for soliciting, receiving, and tabulating votes on the Plan and for filing objections to the Plan.<sup>2</sup>

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<sup>1</sup> The last four digits of the taxpayer identification number of the above-captioned debtors are: Doral Financial Corporation (2162) and Doral Properties, Inc. (2283).

<sup>2</sup> Any capitalized terms not defined in this Plan Supplement shall have the meanings given to them in the Plan.

**PLEASE TAKE FURTHER NOTICE THAT**, as contemplated by the Plan and the Disclosure Statement Order, this Plan Supplement consists of the document attached hereto as Exhibit A, and the information set forth in Exhibits B through F. The documents contained in this Plan Supplement are integral to and part of the Plan and, if the Plan is approved, such documents shall be approved by the Confirmation Order.

**PLEASE TAKE FURTHER NOTICE THAT** the hearing to consider confirmation of the Plan (the "Confirmation Hearing") is currently scheduled to occur on **July 25, 2016 at 10:00 a.m.** (prevailing Eastern Time), before the Honorable Shelley C. Chapman, United States Bankruptcy Court, at One Bowling Green, New York, NY 10004-1408. The Confirmation Hearing may be continued from time to time without further notice other than the announcement by the Debtor in open court of the adjourned date(s) at the Confirmation Hearing or at any continued hearing.

**PLEASE TAKE FURTHER NOTICE THAT** the deadline for filing objections to the Plan is **July 11, 2016 at 5:00 p.m.** (prevailing Eastern Time) (the "Plan Objection Deadline"). Any responses or objections to the confirmation of the Plan shall be made in writing, shall conform to the Order Establishing Certain Notice, Case Management, and Administrative Procedures and Omnibus Hearing Dates [Dkt. No. 74], the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court for the Southern District of New York, shall set forth the name of the objecting party, the basis for the objection, and the specific grounds thereof, and shall be filed with the Bankruptcy Court by the Plan Objection Deadline.

**PLEASE TAKE FURTHER NOTICE THAT** the Debtor and Committee reserve the right to alter, amend, modify or supplement any document in the Plan Supplement.

Dated: July 1, 2016

**ROPES & GRAY LLP**

**SCHULTE ROTH & ZABEL LLP**

/s/ James A. Wright III  
Mark I. Bane  
Marc B. Roitman  
1211 Avenue of the Americas  
New York, NY 10036-8704  
Telephone: (212) 596-9000  
Facsimile: (212) 596-9090

/s/ Brian D. Pfeiffer  
Brian D. Pfeiffer  
Taejin Kim  
919 Third Avenue  
New York, New York 10022  
Telephone: (212) 756-2000  
Facsimile: (212) 593-5955

-and-

*Counsel to the Official Committee of  
Unsecured Creditors*

James A. Wright III  
ROPES & GRAY LLP  
Prudential Tower  
800 Boylston Street  
Boston, MA 02199-3600  
Telephone: (617) 951-7000  
Facsimile: (617) 951-7050

*Counsel to the Debtors*

**Plan Supplement**

- Exhibit A** Form of Creditors' Trust Agreement
- Exhibit B** Disclosure of Compensation to be Paid to the Creditors' Trustee
- Exhibit C** Disclosure of Creditors' Trustee, Director of Reorganized Debtor
- Exhibit D** Disclosure of Expense Reserve
- Exhibit E** List of Executory Contracts to be Assumed and Assigned to the Creditors' Trust
- Exhibit F** Preserved Causes of Action

Form of Certificate of Incorporation of Reorganized Debtor [to be filed prior to the confirmation hearing]

Form of Bylaws of Reorganized Debtor [to be filed prior to the confirmation hearing]

**EXHIBIT A**

(Creditors' Trust Agreement)

CREDITORS' TRUST AGREEMENT

TABLE OF CONTENTS

ARTICLE 1 ESTABLISHMENT OF THE CREDITORS' TRUST .....2

1.1 Establishment of Creditors' Trust and Appointment of Creditors' Trustee.....2

1.2 Transfer of Assets and Rights to the Creditors' Trust.....3

1.3 Title to Creditors' Trust Assets .....3

1.4 Nature and Purpose of the Creditors' Trust.....4

1.5 Relationship to, and Incorporation of, the Plan and Confirmation Order.....4

1.6 Funding of the Creditors' Trust.....5

1.7 Appointment as Representative .....5

ARTICLE 2 CREDITORS' TRUST INTERESTS .....6

2.1 Allocation of Creditors' Trust Interests.....6

2.2 Interests Beneficial Only.....6

2.3 Evidence of Beneficial Interests .....6

2.4 Exemption from Registration.....6

2.5 Transfer and Exchange .....6

2.6 Change of Address.....6

2.7 Tax Identification Numbers .....7

ARTICLE 3 THE CREDITORS' TRUSTEE .....7

3.1 Role of the Creditors' Trustee .....7

3.2 Authority of the Creditors' Trustee .....7

3.3 Limitation of the Creditors' Trustee's Authority .....10

3.4 Payment of Creditors' Trust Expenses .....10

3.5 Reimbursement .....11

3.6 Distributions.....11

3.7 Tenure, Removal, and Replacement of the Creditors' Trustee .....12

3.8 Books and Records .....13

3.9 Inquiries into the Creditors' Trustee's Authority.....13

3.10 Compliance with Laws .....13

3.11 Creditors' Trustee Compensation and Reimbursement.....14

3.12 Reliance by the Creditors' Trustee .....14

3.13 Standard of Care; Exculpation.....15

3.14 No Further Liability .....15

ARTICLE 4 TAX MATTERS.....16

4.1 Treatment of Creditors' Trust Assets Transfer.....16

4.2 Income Tax Status.....16

4.3 Valuation of Creditors' Trust Assets as of Effective Date .....16

4.4 Tax Returns.....17

4.5 Treatment of Claims Reserves .....17

4.6 Expedited Determination of Taxes .....17

4.7 Withholding of Taxes; Creditors' Trust Taxes.....17

ARTICLE 5 DISTRIBUTIONS .....18

5.1	Distributions.....	18
5.2	Manner of Payment or Distribution .....	19
5.3	Delivery of Creditors' Trust Distributions .....	19
ARTICLE 6 INDEMNIFICATION.....		20
6.1	Indemnification of the Creditors' Trustee .....	20
ARTICLE 7 REPORTS TO CREDITORS' TRUST BENEFICIARIES.....		21
7.1	Reports .....	21
ARTICLE 8 TERM; TERMINATION OF THE CREDITORS' TRUST .....		21
8.1	Term; Termination of the Creditors' Trust.....	21
8.2	Continuance of the Creditors' Trustee for Winding Up.....	21
ARTICLE 9 AMENDMENT AND WAIVER.....		22
ARTICLE 10 MISCELLANEOUS PROVISIONS.....		22
10.1	Intention of Parties to Establish a Liquidating Trust. ....	22
10.2	Reimbursement of Trust Costs.....	22
10.3	Laws as to Construction,.....	23
10.4	Jurisdiction.....	23
10.5	Severability. ....	23
10.6	Notices. ....	23
10.7	Fiscal Year .....	24
10.8	Headings .....	24
10.9	Counterparts,.....	24
10.10	Entire Agreement .....	24
10.11	Rules of Interpretation .....	25
10.12	Effectiveness .....	25
10.13	No Waiver.....	25



## CREDITORS' TRUST AGREEMENT

This Creditors' Trust Agreement (this "Creditors' Trust Agreement") by (a) Lauren Krueger, as the trustee for the liquidating trust established pursuant to this Creditors' Trust Agreement (such person and each successor trustee, the "Creditors' Trustee"), (b) Doral Financial Corporation (the "Debtor") (c) the Official Committee of Unsecured Creditors of Doral Financial Corporation (the "Committee"), and (d) [REDACTED] as [Distribution Agent], is executed pursuant to the Confirmation Order<sup>1</sup> to facilitate the implementation of the Plan of Reorganization Proposed by Doral Financial Corporation and the Committee, dated April 28, 2016 (as the same may be amended, modified or supplemented from time to time in accordance with the terms and provisions thereof, the "Plan") that provides for the establishment of the Creditors' Trust created hereby. The Debtor (or, after the Effective Date, the Reorganized Debtor), the Creditors' Trustee and the Committee are sometimes referred to individually as a "Party" and collectively as the "Parties."

### RECITALS

WHEREAS, on March 11, 2015, Doral Financial Corporation filed a voluntary petition under Chapter 11 of the Bankruptcy Code in the Bankruptcy Court;

WHEREAS, the Committee was appointed by the Office of the U.S. Trustee on March 23, 2015;

WHEREAS, on [REDACTED], 2016, the Bankruptcy Court entered the Confirmation Order;

WHEREAS, the date of this Creditors' Trust Agreement is the Effective Date of the Plan;

WHEREAS, the Creditors' Trust (as defined below) is established for the purpose of administering the Creditors' Trust Assets and making all distributions on account of the Creditors' Trust Interests and the Plan;

WHEREAS, the Creditors' Trust is established for the benefit of the Creditors' Trust Beneficiaries;

WHEREAS, the Creditors' Trustee has been duly appointed as representative of the Debtor's estate pursuant to section 1123(a)(5), (a)(7), and (b)(3)(B) of the Bankruptcy Code and the Plan;

WHEREAS, the Creditors' Trust has no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Creditors' Trust;

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<sup>1</sup> Capitalized terms used herein but otherwise not defined shall take the meaning ascribed to such terms in the Plan.

WHEREAS, the Creditors' Trust is intended to qualify as a liquidating trust within the meaning of United States Treasury Regulation section 301.7701-4(d), and this Creditors' Trust Agreement, the Creditors' Trust, the Confirmation Order, the Plan and the Disclosure Documents are intended to comply with the advance ruling guidelines contained in Rev. Proc. 94-45, 1994-2 C.B. 684; and

WHEREAS, this Creditors' Trust Agreement is the "Creditors' Trust Agreement" contemplated under the Plan and executed in order to facilitate the implementation of the Plan;

NOW, THEREFORE, pursuant to the Plan and Confirmation Order, in consideration of the premises and the mutual covenants and agreements contained herein, the receipt and sufficiency of which are hereby acknowledged and affirmed, the Parties hereby agree as follows:

### **DECLARATION OF TRUST**

Doral Financial Corporation, the Committee and the Creditors' Trustee enter into this Creditors' Trust Agreement to effectuate the liquidation of assets, the determination of Allowed Claims, and the distribution of the Creditors' Trust Assets to the holders of Allowed Class 3 Claims pursuant to this Creditors' Trust Agreement, the Plan, and the Confirmation Order;

Pursuant to this Creditors' Trust Agreement, the Plan, and the Confirmation Order, all right title, and interest in, under, and to the Creditors' Trust Assets shall be absolutely and irrevocably assigned to the Creditors' Trust and the Creditors' Trustee and its successors in trust;

TO HAVE AND TO HOLD unto the Creditors' Trustee and its successors in trust;  
and

IT IS HEREBY FURTHER COVENANTED AND DECLARED, that by operation of the Plan and the Confirmation Order, the Creditors' Trust Assets are held as of the Effective Date by the Creditors' Trust and shall be applied on behalf of the Creditors' Trust by the Creditors' Trustee on the terms and conditions set forth in this Creditors' Trust Agreement and in the Plan, solely for the benefit of the Creditors' Trust Beneficiaries, and for no other party, in the manner herein provided.

### **ARTICLE 1**

#### **ESTABLISHMENT OF THE CREDITORS' TRUST**

##### **1.1 Establishment of Creditors' Trust and Appointment of Creditors' Trustee.**

(a) A trust, which shall be known as the "Doral Financial Creditors' Trust" (the "Creditors' Trust"), is hereby established on behalf of the Creditors' Trust Beneficiaries.

(b) The Creditors' Trustee is hereby appointed as administrator of the Plan and as trustee of the Creditors' Trust effective as of the Effective Date and agrees to administer and

implement the Plan and to accept and hold the Creditors' Trust Assets in trust for the Creditors' Trust Beneficiaries subject to the terms of the Plan, the Confirmation Order, and this Creditors' Trust Agreement. The Creditors' Trustee and each successor Creditors' Trustee serving from time to time hereunder shall have all the rights, powers and duties set forth herein.

(c) Subject to the terms of this Creditors' Trust Agreement, any action by the Creditors' Trustee that affects the interests of more than one Creditors' Trust Beneficiary shall be binding and conclusive on all Creditors' Trust Beneficiaries even if such Creditors' Trust Beneficiaries have different or conflicting interests.

(d) The Creditors' Trustee may serve without bond.

### 1.2 Transfer of Assets and Rights to the Creditors' Trust.

(a) On the Effective Date, in accordance with section 1141 of the Bankruptcy Code and the Plan, all of the Creditors' Trust Assets, as well as the rights and powers of the Debtor's estate applicable to the Creditors' Trust Assets (as defined in the Plan), shall vest automatically in the Creditors' Trust, free and clear of all Claims and Interests for the benefit of the Creditors' Trust Beneficiaries. In connection with the vesting and transfer of the Creditors' Trust Assets, any attorney-client privilege, work product protection, or other privilege or immunity attaching to any documents or communications (whether written or oral and including but not limited to electronic information) relating to the Debtor and/or the Creditors' Trust Assets shall vest in the Creditors' Trust. The Debtor, the Reorganized Debtor, the Committee, and the Creditors' Trustee are authorized to take all necessary actions to effectuate the transfer of such privileges, protections, and immunities.

(b) The Reorganized Debtor, the Committee, and the Creditors' Trustee shall enter into a Confidentiality and Common Interest Agreement providing for reasonable access to copies of the Debtor's, Committee's and Reorganized Debtor's records and information relating to the Creditors' Trust Assets, including electronic records or documents.

(c) All of the proceeds received by the Creditors' Trust from the pursuit of any of the Litigation Claims (or the prosecution of the D&O Claims by the Committee) (collectively, the "Litigation Proceeds") shall be added to the Creditors' Trust Assets and held as a part thereof (and title thereto shall be vested in the Creditors' Trust).

(d) At any time and from time to time on and after the Effective Date, the Reorganized Debtor and Committee agree (i) at the reasonable request of the Creditors' Trustee to execute and/or deliver any instruments, documents, books, and records (including those maintained in electronic format and original documents as may be needed), and (ii) to take, or cause to be taken, all such further actions as the Creditors' Trustee may reasonably request in furtherance of the respective rights and powers conferred hereby and the purposes of this Agreement.

### 1.3 Title to Creditors' Trust Assets.

The transfer of the Creditors' Trust Assets to the Creditors' Trust shall be made for the benefit and on behalf of the Creditors' Trust Beneficiaries. The assets comprising the

Creditors' Trust Assets will be treated for tax purposes as being transferred by the Debtor to the Creditors' Trust Beneficiaries pursuant to the Plan in exchange for their Allowed Class 3 Claims and then by the Creditors' Trust Beneficiaries to the Creditors' Trust in exchange for the Creditors' Trust Interests in the Creditors' Trust. The Creditors' Trust Beneficiaries shall be treated as the grantors and owners of the Creditors' Trust. Upon the transfer of the Creditors' Trust Assets, the Creditors' Trust shall succeed to all of the Debtor's rights, title and interest in the Creditors' Trust Assets, and the neither Debtor nor the Reorganized Debtor will have any further interest in or with respect to the Creditors' Trust.

#### 1.4 Nature and Purpose of the Creditors' Trust.

(a) The Creditors' Trust is organized and established as a trust solely for the purposes set forth in Section 7.01 of the Plan pursuant to which the Creditors' Trustee, subject to the terms and conditions contained herein and in the Plan, is to (i) administer the Creditors' Trust Assets, (ii) review and reconcile, including where appropriate object to, any Claims, (iii) prosecute, settle, adjust, retain, and enforce any Litigation Claims, (iv) make any distributions, as provided for under this Agreement and the Plan, and (v) liquidate the Creditors' Trust Assets (including the Reorganized Debtor Common Stock). The Creditors' Trust is intended to qualify as a liquidating trust pursuant to United States Treasury Regulation section 301.7701-4(d). The primary purpose of the Creditors' Trust is to liquidate and resolve any outstanding claims against the Debtor's estate and the Creditors' Trust Assets with no objective to continue or engage in the conduct of a trade or business, and shall take no action inconsistent with such qualification except to the extent reasonably necessary to preserve or enhance the liquidation value of the Creditors' Trust Assets, and consistent with the liquidating purpose of the Creditors' Trust.

(b) This Creditors' Trust Agreement is intended to create a trust and a trust relationship and to be governed and construed in all respects as a trust. The Creditors' Trust is not intended to be, and shall not be deemed to be or treated as, a general partnership, limited partnership, joint venture, corporation, joint stock company or association, nor shall the Creditors' Trustee, the Committee, the Debtor or Reorganized Debtor, or the Creditors' Trust Beneficiaries, or any of them, for any purpose be, or be deemed to be or treated in any way whatsoever to be, liable or responsible hereunder as partners or joint ventures. The relationship of the Creditors' Trust Beneficiaries to the Creditors' Trustee shall be solely that of beneficiaries of a trust and shall not be deemed a principal or agency relationship, and their rights shall be limited to those conferred upon them by this Creditors' Trust Agreement.

#### 1.5 Relationship to, and Incorporation of, the Plan and Confirmation Order.

This Creditors' Trust Agreement is to aid in the implementation of the Plan and the Confirmation Order, and therefore this Creditors' Trust Agreement hereby incorporates the provisions of the Plan and the Confirmation Order by this reference. To that end, the Creditors' Trustee shall have full power and authority to take any action consistent with the purpose and provisions of the Plan and to seek any orders from the Bankruptcy Court in furtherance of implementation of the Plan, in each case solely to the extent such actions or orders are in furtherance of this Creditors' Trust Agreement, but in each case subject in all respects to and solely to the extent not inconsistent with the terms of the Plan. To the extent that there is an

express conflict between the provisions of this Creditors' Trust Agreement, the provisions of the Plan, and/or the Confirmation Order, each such document shall have controlling effect in the following rank order: (1) the Confirmation Order; (2) the Plan; and (3) this Creditors' Trust Agreement.

1.6 Funding of the Creditors' Trust.

The Creditors' Trustee shall establish a segregated account maintained by the Creditors' Trustee to be funded initially with the Expense Reserve in an initial amount of \$5 million and thereafter with all Cash received by the Creditors' Trustee or the Creditors' Trust (including any proceeds of the D&O Claims). The amount held in the Expense Reserve will be set by the Creditors' Trustee in its sole discretion. All costs, expenses, and obligations incurred by the Creditors' Trust in administering the Plan, or in any manner connected, incidental, or related thereto, including those of attorneys, accountants, and other persons employed to assist in the administration and distribution of the Creditors' Trust Assets (including any amounts paid to professionals for the Committee for its prosecution of the D&O Claims ("Committee Expenses")), shall be a charge against such assets. The reasonable costs and expenses incurred by the Creditors' Trustee in performing the duties set forth in the Plan, all compensation and reimbursement of the Creditors' Trustee, and the Committee Expenses shall be paid from the Expense Reserve or with Creditors' Trust Assets. Except as expressly provided herein, none of the Debtor, the Committee, or the Reorganized Debtor shall have any liability for any cost or expense of the Creditors' Trust, and the liabilities of the Creditors' Trust shall not be individual liabilities of the Creditors' Trustee. Any failure or inability of the Creditors' Trust to obtain funding will not affect the enforceability of the rights of the Creditors' Trust.

1.7 Appointment as Representative.

Except as otherwise provided in the Plan, on the Effective Date, the Creditors' Trustee, and not the Reorganized Debtor, shall be deemed the estate's representative in accordance with Section 1123 of the Bankruptcy Code (except with respect to the D&O Claims) and shall be granted standing to, and have all the rights and powers conferred upon the Creditors' Trustee in the Creditors' Trust Agreement, the Plan, or the Confirmation Order, including, without limitation, the right to (i) effect all actions and execute all agreements, instruments and other documents necessary to implement the provisions of the Creditors' Trust Agreement and the Plan; (ii) administer the Creditors' Trust Assets, including prosecuting, settling, abandoning or compromising any actions that are or relate to the Creditors' Trust Assets; (iii) administer the Plan, including reviewing and reconciling, and where appropriate objecting to, any Claims and making any subsequent distributions required under the Plan and this Agreement, (iv) employ and compensate professionals and other agents consistent with the Plan, provided, however, that any such compensation shall be paid by the Creditors' Trust to the extent not inconsistent with the status of the Creditors' Trust as a liquidating trust within the meaning of Treas. Reg. § 301.7701-4(d) for federal income tax purposes; and (v) control attorney/client privilege relating to or arising from the Creditors' Trust Assets. As of the Effective Date, the Creditors' Trustee is deemed to be acting in the capacity of a bankruptcy trustee, receiver, liquidator, conservator, rehabilitator, or creditors' committee or any similar official who has been appointed to take control of, supervise, manage or liquidate the Debtor and its assets.

ARTICLE 2

CREDITORS' TRUST INTERESTS

2.1 Allocation of Creditors' Trust Interests.

The allocation of the Creditors' Trust Interests shall be accomplished as set forth in the Plan.

2.2 Interests Beneficial Only.

The ownership of a Creditors' Trust Interest shall not entitle any Creditors' Trust Beneficiary to any title in or to the Creditors' Trust Assets (which title shall be vested in the Creditors' Trust, and to the extent required by applicable law, in the Creditors' Trustee on behalf of the Creditors' Trust) or to any right to call for a partition or division of the Creditors' Trust Assets.

2.3 Evidence of Beneficial Interests.

(a) The Creditors' Trust Interests shall be represented solely by book entries on the books and records of the Creditors' Trust and no certificates shall be issued thereon.

2.4 Exemption from Registration.

The Parties hereto intend that the rights of the Creditors' Trust Beneficiaries arising under this Creditors' Trust Agreement shall not be "securities" under applicable laws, but none of the Parties hereto represent or warrant that such rights shall not be securities or shall be entitled to exemption from registration under applicable securities laws. If such rights constitute securities, the Parties hereto intend for the exemption from registration provided by section 1145 of the Bankruptcy Code and under applicable securities laws to apply to their issuance under the Plan.

2.5 Transfer and Exchange.

(a) No transfer, assignment, pledge, hypothecation or other disposition of a Creditors' Trust Interest may be effected following the Distribution Record Date set forth in the Plan, and the Creditor's Trustee shall have no duty to recognize any such purported transfer, except to the extent set forth in an order of the Bankruptcy Court, which the Creditors' Trustee shall have no duty to seek.

(b) The Creditors' Trustee shall maintain a register of the Creditors' Trust Beneficiary's to the extent required by the Plan (the "Trust Register").

2.6 Change of Address.

A Creditors' Trust Beneficiary may, after the Effective Date, select an alternative distribution address or provide wire transfer instructions for any distribution by providing notice to the Creditors' Trustee including such address or instructions. Such notification will be

effective only upon receipt by the Creditors' Trustee. Absent receipt of such notice by the Creditors' Trustee, the Creditors' Trustee shall not recognize any such change of distribution address.

## 2.7 Tax Identification Numbers.

The Creditors' Trustee may require any direct payee of distributions on account of Creditors' Trust Interests to furnish to the Creditors' Trustee its social security number or employer or taxpayer identification number as assigned by the Internal Revenue Service and complete any related documentation (including a Form W-8 or Form W-9) and the Creditors' Trustee may condition any distribution to any such payee upon the receipt of such information and the receipt of such other documents as the Creditors' Trustee reasonably requests.

## ARTICLE 3

### THE CREDITORS' TRUSTEE

#### 3.1 Role of the Creditors' Trustee.

In furtherance of and consistent with the purpose of the Creditors' Trust and the Plan, the Creditors' Trustee, subject to the terms and conditions contained herein, in the Plan and in the Confirmation Order, shall (i) hold the Creditors' Trust Assets for the benefit of the Creditors' Trust Beneficiaries, (ii) administer the Plan, including reviewing and reconciling, including where appropriate objecting to, any Claims, and making any subsequent distributions required under the Plan, (iii) prosecute, settle, adjust, retain, and enforce any Litigation Claims, (iv) make any distributions as provided for under the Plan and this Creditors' Trust Agreement, and (v) liquidate the Creditors' Trust Assets (including the Reorganized Debtor Common Stock). Subject to the provisions of this Creditors' Trust Agreement, the Creditors' Trustee shall be responsible for all decisions and duties with respect to administration of the Plan, including claim review and reconciliation, the Creditors' Trust and the Creditors' Trust Assets. In all circumstances, the Creditors' Trustee shall use reasonable commercial efforts to act in the best interests of the entirety of the Creditors' Trust Beneficiaries of the Creditors' Trust and in furtherance of the purpose of the Creditors' Trust. The Creditors' Trustee shall be subject to and bound by the terms of the Confidentiality and Common Interest Agreement.

#### 3.2 Authority of the Creditors' Trustee.

In connection with the administration of the Creditors' Trust, in addition to any and all of the powers enumerated elsewhere herein, the Creditors' Trustee is authorized to perform any and all acts necessary and desirable to accomplish the purposes of this Creditors' Trust Agreement and the provisions of the Plan within the bounds of the Plan and applicable law. The Creditors' Trustee shall, in an expeditious but orderly manner, liquidate and convert to Cash the Creditors' Trust Assets, make timely distributions and not unduly prolong the duration of the Creditors' Trust. The liquidation of the Creditors' Trust Assets may be accomplished either through the prosecution, compromise and settlement, abandonment or dismissal of any or all the Creditors' Trust Assets, or otherwise.

Subject to the limitations set forth in this Section, the Creditors' Trustee shall have the right to pursue, not pursue, release, abandon, and/or settle any and all Litigation Claims and Creditors' Trust Assets (including any counterclaims asserted against the Creditors' Trust) as the Creditors' Trustee determines is in the best interests of the Creditors' Trust Beneficiaries. To the extent that any action has been taken to prosecute or otherwise resolve any Litigation Claims prior to the Effective Date by the Debtor and/or the Committee, on the Effective Date the Creditors' Trustee shall be substituted for the Debtor and/or the Committee in connection therewith in accordance with Rule 25 of the Federal Rules of Civil Procedure, made applicable to the litigation by Rule 7025 of the Federal Rules of Bankruptcy Procedure and the caption with respect to such pending litigation shall be changed to the following: "[Trustee], as Creditors' Trustee for the Doral Financial Creditors' Trust, et al. v. [Defendant]". Subject to any limitations contained herein or in the Plan, the Creditors' Trustee shall have the following powers and authorities:

(a) To the extent that the Creditors' Trust cannot do so, to hold legal title to any and all rights of the holders of the Creditors' Trust Interests in or arising from the Creditors' Trust Assets, and on behalf of the Creditors' Trust collect and receive any and all money and other property belonging to the Creditors' Trust or deposit to an account to be held at an account to be established and, the right to vote any claim or interest relating to the Creditors' Trust Assets in a case under the Bankruptcy Code and receive any distribution with respect thereto;

(b) obtain final resolution of all Disputed Claims existing as of the Effective Date, and to liquidate the claims belonging to the Creditors' Trust, including the Litigation Claims, and the sale or other disposition of other Creditors' Trust Assets, and the final distribution of all the Creditors' Trust Assets in accordance with the Plan;

(c) exercise and perform the rights, powers, and duties held by the Debtor's estate with respect to the Creditors' Trust Assets, including the authority under section 1123(b)(3) of the Bankruptcy Code and the Plan, and shall be deemed to be acting in the capacity of a bankruptcy trustee, receiver, liquidator, conservator, rehabilitator, creditors' committee or any similar official who has been appointed to take control of, supervise, manage or liquidate the Debtor and its assets, to provide for the prosecution, settlement, adjustment, retention, and enforcement of the Creditors' Trust Assets, and to review, reconcile, and where appropriate, object to any Claims;

(d) protect and enforce the rights to the Creditors' Trust Assets by any method deemed appropriate, including by judicial proceedings or pursuant to any applicable bankruptcy, insolvency, moratorium or similar law and general principles of equity;

(e) if necessary, obtain and maintain reasonable insurance coverage with respect to the liabilities and obligations of the Creditors' Trustee under the Plan and this Creditors' Trust Agreement;

(f) without further order of the Bankruptcy Court, employ various professionals, including counsel, tax advisors, consultants, and financial advisors, as the Creditors' Trustee deems necessary to aid it in fulfilling its obligations under this Creditors' Trust Agreement and the Plan, including contingency fee arrangements when appropriate.



Professionals engaged by the Creditors' Trustee shall not be required to file applications in order to receive compensation for services rendered and reimbursement of actual out-of-pocket expenses incurred. All such compensation and reimbursement shall be a charge against the Creditors' Trust Assets, including any Litigation Proceeds;

(g) retain and approve compensation arrangements of an independent public accounting firm to perform such reviews and/or audits of the financial books and records of the Creditors' Trust as may be required by this Creditors' Trust Agreement and applicable laws and as may be reasonable and appropriate in the Creditors' Trustee's discretion and to prepare and file any tax returns, informational returns, or periodic or current reports as required by applicable laws, for the Creditors' Trust as may be required. Subject to the foregoing, the Creditors' Trustee may commit the Creditors' Trust to and shall pay such independent public accounting firm reasonable compensation for services rendered and reasonable and documented out-of-pocket expenses incurred, and all such compensation and reimbursement shall be a charge against the Creditors' Trust Assets, including any Litigation Proceeds;

(h) subject to the Confidentiality and Common Interest Agreement to the extent applicable, assert, enforce, release, or waive any privilege or any defense on behalf of the Creditors' Trust, the Creditors' Trust Assets, or the Creditors' Trust Beneficiaries, as applicable;

(i) invest all assets held in the Creditors' Trust, including any Litigation Proceeds and income earned by the Creditors' Trust (pending periodic distributions in accordance with the provisions of the Plan) in short term certificates of deposit in banks or other savings institutions, or other temporary, liquid investments, such as Treasury bills, and withdraw funds of the Creditors' Trust, make distributions, incur obligations for reasonable and necessary expenses in liquidating and converting the Creditors' Trust Assets to Cash, and pay taxes and other obligations; provided, however, that such actions shall be taken by the Creditors' Trustee consistent with the Creditors' Trust's status as a liquidating trust within the meaning of United States Treasury Regulation section 301.7701-4(d) and in accordance with Rev. Proc. 94-45, 1994-2 C.B. 684;

(j) request any appropriate tax determination with respect to the Creditors' Trust, including a determination pursuant to section 505 of the Bankruptcy Code;

(k) subject to applicable securities laws, if any, establish and maintain a website, to the extent the Creditors' Trustee deems necessary, for the purpose of providing notice of Creditors' Trust activities in lieu of sending written notice to holders of Creditors' Trust Interests, subject to providing notice of the establishment of such website to holders;

(l) establish procedures for distributions to be made to Allowed Class 4 Claims and Allowed Class 5 Claims (each as defined in the Plan), but only upon the occurrence of Class 4 Trigger Event or Class 5 Trigger Event (each as defined in the Plan), as applicable;

(m) take or refrain from taking any and all actions the Creditors' Trustee reasonably deems necessary for the continuation, protection, and maximization of the Creditors' Trust Assets consistent with the purposes hereof, take all steps and execute all instruments and documents necessary to effectuate the Creditors' Trust, and take all actions necessary to comply

with the Confirmation Order, the Plan and this Creditors' Trust Agreement and the obligations thereunder and hereunder;

(n) liquidate any remaining Creditors' Trust Assets, and provide for the distributions therefrom in accordance with the provisions of the Plan and this Creditors' Trust Agreement;

(o) exercise such other powers and authority as may be vested in or assumed by the Creditors' Trustee by any Final Order, or as may be necessary and proper to carry out the provisions of the Plan relating to the Creditors' Trust;

(p) evaluate and determine strategy with respect to the Creditors' Trust Assets, and hold, pursue, prosecute, adjust, arbitrate, compromise, release, settle or abandon the Creditors' Trust Assets on behalf of the Creditors' Trust; and

(q) take steps to terminate the Creditors' Trust when the liquidation and distributions contemplated by the Plan have occurred.

### 3.3 Limitation of the Creditors' Trustee's Authority.

(a) Notwithstanding anything herein to the contrary, the Creditors' Trustee shall not (i) be authorized to engage in any trade or business (except to the extent reasonably necessary to preserve or enhance the liquidation value of the Creditors' Trust Assets), (ii) take any actions inconsistent with administration of the Plan and the orderly liquidation of the Creditors' Trust Assets as are required or contemplated by applicable law, the Confirmation Order, the Plan and this Creditors' Trust Agreement, (iii) be authorized to engage in any investments or activities inconsistent with the treatment of the Creditors' Trust as a liquidating trust within the meaning of United States Treasury Regulation section 301.7701-4(d) and in accordance with Rev. Proc. 94-45, 1994-2 C.B. 684, (iv) take any action in contravention of this Creditors' Trust Agreement, or (v) take any action that would jeopardize treatment of the Creditors' Trust as a grantor trust for U.S. federal income tax purposes under sections 671-677 of the Internal Revenue Code of 1986, as amended (the "IRC"), or any successor provisions thereof.

(b) The Creditors' Trustee, acting on behalf of the Creditors' Trust, shall agree to comply with, and shall not take any actions inconsistent with or seek to modify or seek relief from, any provision of the Plan or the Confirmation Order, without an order so providing from the Bankruptcy Court.

### 3.4 Payment of Creditors' Trust Expenses.

(a) The Creditors' Trustee may incur any reasonable and necessary fees and expenses in administering the Plan and the Creditors' Trust, reviewing, reconciling, and where appropriate, objecting to Claims, pursuing the Litigation Claims, managing the Creditors' Trust Assets and making distributions on account of Claims and Creditors' Trust Interests. All fees, expenses, and costs of the Creditors' Trust shall be paid by, and solely be the obligation of, the Creditors' Trust, and not an obligation of the Creditors' Trustee individually.

(b) The Creditors' Trustee shall maintain the Expense Reserve as a reserve to pay fees and expenses anticipated to be incurred in the future for the purposes set forth in Sections 3.4(a) and 3.5 herein and expend the assets of the Expense Reserve to pay such fees and expenses as and when they become due.

(c) Notwithstanding any other provision of this Creditors' Trust Agreement to the contrary, the Creditors' Trustee shall not be required to take any action or enter into or maintain any claim, demand, action or proceeding relating to the Creditors' Trust unless it shall have funds in the Expense Reserve or Creditors' Trust Assets reasonably expected to be sufficient for that purpose.

### 3.5 Reimbursement.

The Creditors' Trust shall reimburse the Reorganized Debtor and the Committee for all reasonable and documented out-of-pocket expenses incurred after the Effective Date (including for reasonable legal fees of Committee professionals, travel accommodations, electronic discovery and other forensic investigation and analysis and courier and mail service) solely in performing their obligations under this Creditors' Trust Agreement, the Plan and the Confidentiality and Common Interest Agreement, including, but not limited to, the Committee's prosecution of the D&O Claims. The Creditors' Trust shall provide reimbursement for all such reasonable out-of-pocket expenses incurred within thirty (30) days of receipt of an appropriately detailed written invoice. For the avoidance of doubt, nothing in this Creditors' Trust Agreement or the Confidentiality and Common Interest Agreement shall be interpreted as imposing on the Creditors' Trustee any obligation to reimburse any person other than the Reorganized Debtor or the Committee for any legal fees or expenses incurred in connection with this Creditors' Trust Agreement or the Confidentiality and Common Interest Agreement, or the production of documents or information generally.

### 3.6 Distributions.

(a) The Creditors' Trustee shall make distributions to holders of Creditors' Trust Interests from time to time in accordance with the terms of this Creditors' Trust Agreement.

(b) The Creditors' Trust may withhold from amounts distributable to any person any and all amounts, determined in the Creditors' Trustee's reasonable sole discretion, required by any law, regulation, rule, ruling, directive, or other governmental requirement (including tax withholding relating to wage claims). Any such amount withheld shall, to the extent paid over to a taxing or other governmental authority, be treated as having been distributed to the person from whom such amount was withheld.

(c) The Creditors' Trustee shall retain a distribution agent ("Distribution Agent") for the effective administration and distribution of amounts payable to the Creditors' Trust Beneficiaries and all costs and expenses of the Distribution Agent shall be paid from the Expense Reserve and other available Creditors' Trust Assets.

3.7 Tenure, Removal, and Replacement of the Creditors' Trustee.

(a) The Creditors' Trustee will serve until resignation and the appointment of a successor pursuant to subsection (b) below, removal pursuant to subsection (c) below, Disability (as defined below), or death (if applicable).

(b) The Creditors' Trustee may resign by filing written notice with the Bankruptcy Court not less than thirty (30) days' prior. Such resignation will become effective on the later to occur of (i) the day specified in such notice, and (ii) the appointment of a successor Creditors' Trustee as provided herein and the acceptance by such successor Creditors' Trustee of such appointment.

(c) The Creditors' Trustee or any successor Creditors' Trustee appointed pursuant to the Plan and this Creditors' Trust Agreement may be removed as Creditors' Trustee with or without Cause (as defined below) by the Bankruptcy Court after notice and a hearing.

(d) In the event that the Creditors' Trustee is removed, resigns, or otherwise ceases to serve as Creditors' Trustee, the Bankruptcy Court shall appoint a successor Creditors' Trustee.

(e) Immediately upon the appointment of any successor Creditors' Trustee, all rights, powers, duties, authority, and privileges of the predecessor Creditors' Trustee hereunder will be vested in and undertaken by the successor Creditors' Trustee without any further act; and the successor Creditors' Trustee will not be liable personally for any act or omission of the predecessor Creditors' Trustee. Any successor Creditors' Trustee appointed hereunder shall execute an instrument accepting such appointment and assuming all of the obligations of the predecessor Creditors' Trustee hereunder, and such successor shall be subject to the same qualifications and shall have the same rights, powers, duties, and discretion, and otherwise be in the same position, as the originally named Creditors' Trustee. References herein to the Creditors' Trustee shall be deemed to refer to any successor Creditors' Trustee acting hereunder.

(f) Upon the appointment of a successor Creditors' Trustee, the predecessor Creditors' Trustee (or the duly appointed legal representative of a deceased Creditors' Trustee or a Creditors' Trustee suffering a Disability) shall, if applicable, when requested in writing by the successor Creditors' Trustee, execute and deliver an instrument or instruments conveying and transferring to such successor Creditors' Trustee upon the trust herein expressed, without recourse to the predecessor Creditors' Trustee, all the estates, properties, rights, powers and trusts of such predecessor Creditors' Trustee, and shall duly assign, transfer, and deliver to such successor Creditors' Trustee all property and money held hereunder, and all other assets and documents relating to the Creditors' Trust, the Creditors' Trust Assets, or the Creditors' Trust Interests then in such predecessor Creditors' Trustee's possession and held hereunder.

(g) During any period in which there is a vacancy in the position of Creditors' Trustee, the Bankruptcy Court may appoint an interim Creditors' Trustee (the "Interim Trustee") upon request made by any holder of a Creditors' Trust Interest. The Interim Trustee shall be subject to all the terms and conditions applicable to a Creditors' Trustee hereunder.

(h) The Creditors' Trustee shall, during the period that the Creditors' Trustee serves as Creditors' Trustee under this Creditors' Trust Agreement and following the termination of this Creditors' Trust Agreement or following its removal or resignation hereunder, hold strictly confidential and not use for personal gain any material, non-public information of or pertaining to any entity to which any of the Creditors' Trust Assets relates or of which the Creditors' Trustee has become aware in the Creditors' Trustee's capacity as Creditors' Trustee, except as otherwise required by law.

(i) For purposes of this Section 3.7 herein, the following terms shall have the following meanings:

(i) "Cause" means fraud, self-dealing, intentional misrepresentation, gross negligence, or willful misconduct.

(ii) "Disability" of the Creditors' Trustee shall have occurred if, as a result of the Creditors' Trustee's incapacity due to physical or mental illness as determined by a physician selected by the Creditors' Trustee, the Creditors' Trustee shall have been substantially unable to perform its duties hereunder for three (3) consecutive months or for an aggregate of 180 days during any period of twelve (12) consecutive months.

### 3.8 Books and Records.

The Creditors' Trustee shall maintain in respect of the Creditors' Trust and the holders of Creditors' Trust Interests good and sufficient books and records relating to the Creditors' Trust Assets and income of the Creditors' Trust and the payment of, expenses of, liabilities of, and claims against or assumed by, the Creditors' Trust in such detail and for such period of time as may be necessary to enable it to make full and proper accounting in respect thereof. Such books and records shall be maintained as reasonably necessary to facilitate compliance with the tax reporting requirements of the Creditors' Trust and the requirements of Article 7 herein. Nothing in this Creditors' Trust Agreement requires the Creditors' Trustee to file any accounting or seek approval of any court with respect to the administration of the Creditors' Trust, or as a condition for managing any payment or distribution out of the Creditors' Trust Assets.

### 3.9 Inquiries into the Creditors' Trustee's Authority.

Except as otherwise set forth in this Creditors' Trust Agreement or in the Plan, no person dealing with the Creditors' Trust shall be obligated to inquire into the authority of the Creditors' Trustee in connection with the protection, conservation or disposition of the Creditors' Trust Assets.

### 3.10 Compliance with Laws.

(a) The Creditors' Trustee shall ensure that any and all distributions from the Creditors' Trust shall be in compliance with applicable laws, including applicable federal and state securities laws.

(b) If the Creditors' Trustee determines, with the advice of counsel, that the Creditors' Trust is required to comply with registration and reporting requirements of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), the Trust Indenture Act of 1939, as amended, or the Investment Company Act of 1940, as amended, then the Creditors' Trustee shall take commercially reasonable efforts to comply with such registration and reporting requirements, if any, and file periodic reports with the U.S. Securities and Exchange Commission to the extent required by law.

### 3.11 Creditors' Trustee Compensation and Reimbursement.

The Creditors' Trustee shall receive compensation from the Creditors' Trust as follows:

(a) The Creditors' Trustee shall receive the compensation set forth on Exhibit A to this Agreement. Compensation for any successor Creditors' Trustee shall be on such similar terms, or as otherwise approved by the Bankruptcy Court.

(b) In addition, the Creditors' Trust will reimburse the Creditors' Trustee out of the Expense Reserve or other funds in the Creditors' Trust for all reasonable and documented out-of-pocket expenses incurred by the Creditors' Trustee in connection with the performance of the Creditors' Trustee's duties hereunder and under the Plan.

(c) The fees and expenses payable to the Creditors' Trustee shall be paid to the Creditors' Trustee without necessity for review or approval by the Bankruptcy Court or any other person. All such compensation and reimbursement shall be paid from the Creditors' Trust out of the Expense Reserve or other available funds in the Creditors' Trust.

### 3.12 Reliance by the Creditors' Trustee.

Except as otherwise provided herein:

(a) The Creditors' Trustee may rely, and shall be protected in acting upon, any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, or other paper or document believed by the Creditors' Trustee to be genuine and to have been signed or presented by the proper party or parties.

(b) Persons dealing with the Creditors' Trustee shall look only to the Creditors' Trust Assets to satisfy any liability incurred by the Creditors' Trustee to such person in carrying out the terms of this Creditors' Trust Agreement, and none of the Creditors' Trustee, the Committee, or the Reorganized Debtor shall have any personal obligation to satisfy any such liability.

(c) The Creditors' Trustee may conclusively rely upon advice of counsel with respect to legal matters.

3.13 Standard of Care; Exculpation.

Neither the Creditors' Trustee nor any of the Creditors' Trustee's duly designated agents or representatives or professionals shall be liable for any act or omission taken or omitted to be taken by the Creditors' Trustee except in the event that there is a Final Order of a court of competent jurisdiction determining that the Creditors' Trustee committed fraud, self-dealing, intentional misrepresentation, gross negligence, or willful misconduct. The Creditors' Trustee may, in connection with the performance of the Creditors' Trustee's functions, and in the Creditors' Trustee's sole and absolute discretion, consult with the Creditors' Trustee's attorneys, accountants, financial advisors and agents, and shall not be liable for any act taken, omitted to be taken, or suffered to be done in accordance with advice or opinions rendered by such persons. Notwithstanding such authority, the Creditors' Trustee shall be under no obligation to consult with the Creditors' Trust's attorneys, accountants, financial advisors or agents, and the Creditors' Trustee's good faith determination not to do so shall not result in the imposition of liability on the Creditors' Trustee, unless such determination is based on gross negligence, recklessness, willful misconduct, or knowing violation of law.

3.14 No Further Liability.

(a) The Creditors' Trustee shall have no liability for any actions or omissions in accordance with this Creditors' Trust Agreement or the Plan unless arising out of their gross negligence, recklessness, willful misconduct, or knowing violation of law. In performing its duties under this Creditors' Trust Agreement or the Plan, the Creditors' Trustee shall have no liability for any action taken by the Creditors' Trustee in accordance with the advice of counsel, accountants, appraisers and other professionals retained by the Creditors' Trust. Without limiting the generality of the foregoing, the Creditors' Trustee may rely without independent investigation on copies of orders of the Bankruptcy Court reasonably believed by the Creditors' Trustee to be genuine, and shall have no liability for actions taken in reliance thereon. None of the provisions of this Creditors' Trust Agreement shall require the Creditors' Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights and powers. The Creditors' Trustee may rely without inquiry upon writings delivered to it under the Plan which the Creditors' Trustee reasonably believes to be genuine and to have been given by a proper person. Notwithstanding the foregoing, nothing in this Section 3.14 shall relieve the Creditors' Trustee from any liability for any actions or omissions arising out of their gross negligence, recklessness, willful misconduct, or knowing violation of law. Any action taken or omitted to be taken by the Creditors' Trustee with the approval of the Bankruptcy Court will conclusively be deemed not to constitute gross negligence, recklessness, willful misconduct, or knowing violation of law.

(b) Neither the Creditors' Trustee nor its professionals will be liable for punitive, exemplary, consequential, special or other damages for a breach of this Creditors' Trust Agreement under any circumstances.

## ARTICLE 4

### TAX MATTERS

#### 4.1 Treatment of Creditors' Trust Assets Transfer.

Notwithstanding Section 1.2(a) herein, all parties shall treat, for U.S. federal income tax purposes, the transfer of each of the Creditors' Trust Assets to the Creditors' Trust, including any amounts or other assets subsequently transferred to the Creditors' Trust (but only at such time as actually transferred), as a transfer of the Creditors' Trust Assets to the Creditors' Trust Beneficiaries (to the extent of the value of their respective interests in such Creditors' Trust Assets), followed by a transfer of such Creditors' Trust Assets by the Creditors' Trust Beneficiaries (to the extent of the value of their respective interests in such Creditors' Trust Assets) to the Creditors' Trust in exchange for beneficial interests in the Creditors' Trust.

#### 4.2 Income Tax Status.

For U.S. federal income tax purposes (and for purposes of all state, local and other jurisdictions to the extent applicable), the Creditors' Trust shall be treated as a grantor trust pursuant to IRC sections 671-677, or any successor provisions thereof. To the extent consistent with Revenue Procedure 94-45 and not otherwise inconsistent with this Creditors' Trust Agreement, this Creditors' Trust Agreement shall be construed so as to satisfy the requirements for liquidating trust status. For all purposes of this Creditors' Trust Agreement, (i) the Creditors' Trust Beneficiaries will be treated as the grantors, deemed owners and beneficiaries of the Creditors' Trust, and (ii) any items of income, gain, loss, deduction and credit of the Creditors' Trust shall be allocated for U.S. federal income tax purposes to the Creditors' Trust Beneficiaries. The Creditors' Trust shall at all times be administered so as to constitute a domestic trust for U.S. federal income tax purposes.

#### 4.3 Valuation of Creditors' Trust Assets as of Effective Date.

Promptly after the Effective Date, a valuation expert selected by the Creditors' Trustee in its discretion (the "Valuation Expert") shall determine the final fair market value as of the Effective Date of all Creditors' Trust Assets transferred to the Creditors' Trust, and the Creditors' Trustee shall provide notice thereof to each Creditors' Trust Beneficiary. The Creditors' Trust Beneficiaries, the Creditors' Trust and the Creditors' Trustee will be required to use such Valuation Expert's final valuation consistently and solely for all U.S. federal income tax purposes, including for determining tax basis and gain or loss. For the avoidance of doubt, the Valuation Expert's final valuation shall not be binding on the Creditors' Trust Beneficiaries, the Creditors' Trust or the Creditors' Trustee for any purpose other than U.S. federal income tax purposes, and the valuation shall not impair or prejudice any rights, claims, powers, duties, authority, and privileges of the Creditors' Trust Beneficiaries, the Creditors' Trust or the Creditors' Trustee except with respect to U.S. federal income tax purposes. The Creditors' Trustee also shall file (or cause to be filed) any other statements, returns or disclosure relating to the Creditors' Trust that are required by any governmental unit. The Creditors' Trustee may, in its discretion, seek the intervention of the Bankruptcy Court to resolve any dispute regarding the valuation of the Creditors' Trust Assets.



#### 4.4 Tax Returns.

The Creditors' Trustee shall file U.S. federal income tax returns for the Creditors' Trust as a grantor trust in accordance with United States Treasury Regulation section 1.671-4(a) and report, but not pay tax on, the Creditors' Trust's tax items of income, gain, loss, deduction and credit ("CT Tax Items"). The holders of Creditors' Trust Interests shall report their respective shares of such CT Tax Items on their respective U.S. federal income tax returns and pay any resulting U.S. federal income tax liability. In addition, the Creditors' Trust shall file in a timely manner such other tax returns, including any state and local tax returns, as are required by applicable law and pay any taxes shown as due thereon out of the Creditors' Trust Assets (or the income or proceeds thereof). Within a reasonable time following the end of the taxable year, the Creditors' Trust shall send to each Creditors' Trust Beneficiary a separate statement setting forth the Creditors' Trust Beneficiary's share of CT Tax Items and will instruct each such Creditors' Trust Beneficiary to report such items on its applicable income tax return. The Creditors' Trust may provide each Creditors' Trust Beneficiary with a copy of the Form 1041 for the Creditors' Trust (without attaching any other Creditors' Trust Beneficiary's Schedule K-1 or other applicable information form) along with such Creditors' Trust Beneficiary's Schedule K-1 or other applicable information form in order to satisfy the foregoing requirement. The Creditors' Trust shall allocate the CT Tax Items with respect to each Creditors' Trust Beneficiary in the manner and to the extent required by applicable law.

#### 4.5 Treatment of Claims Reserves.

The Creditors' Trust shall file all income tax returns with respect to any income attributable to the Claims Reserves and shall pay the federal, state and local income taxes attributable to the Claims Reserves, based on the items of income, deduction, credit or loss allocable thereto. All Creditors' Trust Beneficiaries shall report, for income tax purposes, consistent with the foregoing. In the event, and to the extent, any Cash retained on account of Disputed Claims in the Claims Reserves is insufficient to pay the portion of any such tax attributable to the taxable income arising from the assets allocable to, or retained on account of, Disputed Claims, such taxes shall be (i) reimbursed from any subsequent Cash amounts retained on account of Disputed Claims, or (ii) to the extent such Disputed Claims have subsequently been resolved, deducted from any amounts distributable by the Creditors' Trustee as a result of the resolutions of such Disputed Claims.

#### 4.6 Expedited Determination of Taxes.

The Creditors' Trustee may request an expedited determination of taxes of the Creditors' Trust under Bankruptcy Code section 505(b) for all returns filed for, or on behalf of, the Creditors' Trust for all taxable periods through the dissolution of the Creditors' Trust.

#### 4.7 Withholding of Taxes; Creditors' Trust Taxes.

The Creditors' Trust shall comply with all withholding and reporting requirements imposed by any federal, state, local or foreign taxing authority, and all distributions made by the Creditors' Trust to the Creditors' Trust Beneficiaries shall be subject to any such withholding and reporting requirements. To the extent that the operation of the Creditors' Trust or the liquidation

of the Creditors' Trust Assets creates a tax liability imposed on the Creditors' Trust, the Creditors' Trust shall timely pay such tax liability out of the Creditors' Trust Assets (or the income or proceeds thereof) and any such payment shall be considered a cost and expense of the operation of the Creditors' Trust payable without Bankruptcy Court order. The Creditors' Trust may reserve a sum, the amount of which shall be determined by the Creditors' Trustee, sufficient to pay the accrued or potential tax liability arising out of the operations of the Creditors' Trust or the operation of the Creditors' Trust Assets. The Creditors' Trustee, on behalf of the Creditors' Trust, may enter into agreements with taxing authorities or other governmental units for the payment of such amounts as may be withheld. Any such tax liability or any withholding tax suffered by or paid by the Creditors' Trust which is attributable to the identity, residency, nonresidency or other status of any particular Creditors' Trust Beneficiary shall be economically borne by such Creditors' Trust Beneficiary either as an offset to amounts otherwise distributable to such Creditors' Trust Beneficiary or otherwise. All Creditors' Trust Beneficiaries shall be required to provide any information necessary to comply with all withholding and reporting requirements.

## ARTICLE 5

### DISTRIBUTIONS

#### 5.1 Distributions.

The Creditors' Trustee shall make distributions to the holders of Creditors' Trust Interests (each, a "Distribution") of all such Cash on hand (including any Cash received from the Debtor on the Effective Date, or from any permitted investments under the Plan) except such amounts (i) that would have been distributable to the holders of Claims that are Disputed (each, a "Disputed Claim") if such Disputed Claims had been Allowed prior to the time of such Distribution, (ii) that are reasonably necessary to meet contingent liabilities of the Creditors' Trust and to maintain the value of the Creditors' Trust Assets, (iii) that are necessary to pay expenses of the Creditors' Trust (including, but not limited to, any taxes imposed on the Creditors' Trust or in respect of its assets and the reasonable out-of-pocket fees and expenses of the Creditors' Trustee), and (iv) that are necessary to satisfy other liabilities incurred by the Creditors' Trust in accordance with the Plan or this Agreement. Each Distribution by the Creditors' Trustee to the Creditors' Trust Beneficiaries shall be consistent with the terms set forth in the Plan, any applicable order of the Bankruptcy Court, and this Creditors' Trust Agreement. The Creditors' Trustee shall determine in its sole discretion the timing of all distributions.

Specifically with respect to Disputed Claims, the Creditors' Trustee shall retain for the benefit of each holder of a Disputed Claim, Creditors' Trust Interests (and the Cash attributable thereto), in an amount equal to the distributions which would have been made to the holder of such Disputed Claim if it were an Allowed Claim in an amount equal to the lesser of (i) the amount of the Disputed Claim asserted by the holder of such Disputed Claim, (ii) the amount in which the Disputed Claim shall be estimated by the Bankruptcy Court pursuant to Bankruptcy Code § 502 for purposes of allowance, which amount, unless otherwise ordered by the Bankruptcy Court, shall constitute and represent the maximum amount in which such Claim may ultimately become an Allowed Claim or (iii) such other amount as may be agreed upon by the holder of such Disputed Claim and the Creditors' Trustee. Holders of Claims shall not be entitled to interest, dividends, or accruals on Distributions, regardless of whether such

Distributions are delivered on or at any time after the Effective Date. No payments or distributions shall be made with respect to all or any portion of any Disputed Claim pending the entire resolution thereof by Final Order.

Notwithstanding the foregoing, the Creditors' Trustee may determine, in its sole discretion that the Creditors' Trustee or a designated disbursing agent shall not make a Distribution to the holder of a Claim on the basis that the Creditors' Trustee has not yet determined whether to object to such Claim and such Claim shall be treated as a Disputed Claim for purposes of Distributions under the Plan until the Creditors' Trustee (x) determines not to object to such Claim (or the Claims Objection Deadline has passed), (y) agrees with the holder of such Claim to Allow such Claim in an agreed upon amount or (z) objects to such Claim, or objects to the holder of such Claim's request for allowance of such Claim, and such Claim is Allowed by a Final Order.

#### 5.2 Manner of Payment or Distribution.

(a) Subject to the provisions of this Article 5, each holder of Creditors' Trust Interests shall receive its Pro Rata share of any Distribution.

(b) All distributions made by the Creditors' Trustee to holders of Creditors' Trust Interests shall be payable by the Creditors' Trustee directly to the holders of Creditors' Trust Interests of record as of the twentieth (20th) day prior to the date scheduled for the Distribution, unless such day is not a Business Day, then such date for the Distribution shall be the following Business Day.

(c) Any and all Distributions hereunder shall be made in compliance with applicable laws, including but not limited to, applicable federal and state securities laws.

(d) The Creditors' Trustee may abandon, in any commercially reasonable manner (including abandonment or donation to a charitable organization of his or her choice), any property that the Creditors' Trustee reasonably concludes is of no benefit to the Creditors' Trust Beneficiaries.

(e) Any Creditors' Trust Assets available for Distribution shall be applied (a) first, to pay or reimburse, as applicable, the reasonable, documented out-of-pocket fees, costs, expenses and liabilities of the Creditors' Trust and the Creditors' Trustee and the Committee Expenses, and (b) second, to distributions to Creditors' Trust Beneficiaries.

#### 5.3 Delivery of Creditors' Trust Distributions.

All distributions under this Creditors' Trust Agreement to any holder of Creditors' Trust Interests, shall be made at the address of such holder as set forth in the Trust Register or at such other address or in such other manner as such holder of Creditors' Trust Interests shall have specified for payment purposes in a written notice to the Creditors' Trustee at least twenty (20) days prior to such distribution date. If any distribution to any Creditors' Trust Beneficiary is returned as undeliverable, and after reasonable efforts the Creditors' Trustee has not been able to determine the current address of the Creditors' Trust Beneficiary, such undeliverable or unclaimed distribution shall be deemed unclaimed property 120 days after the date of such

distribution and shall be reallocated to the remaining Creditors' Trust Beneficiaries and shall be distributed in accordance with this Creditors' Trust Agreement and the Plan, and Creditors' Trust Beneficiaries that may have been entitled to such distributions shall be discharged and forever barred. Such undeliverable or unclaimed distributions shall not be subject to (i) any claims by such Creditors' Trust Beneficiary, or (ii) the unclaimed property or escheat laws of any state or governmental unit.

## ARTICLE 6

### INDEMNIFICATION

#### 6.1 Indemnification of the Creditors' Trustee.

(a) To the fullest extent permitted by law, the Creditors' Trust, to the extent of its assets legally available for that purpose, will indemnify and hold harmless the Creditors' Trustee and each of its respective directors, members, shareholders, partners, officers, agents, professionals or employees (collectively, the "Creditors' Trust Indemnified Parties" and each a "Creditors' Trust Indemnified Party") from and against any and all loss, cost, damage, expense (including fees and expenses of attorneys and other advisors and any court costs incurred by any Creditors' Trust Indemnified Party) or liability by reason of anything any Creditors' Trust Indemnified Party did, does or refrains from doing for the business or affairs of the Creditors' Trust, except to the extent that it is finally judicially determined by a court of competent jurisdiction that the loss, cost, damage, expense or liability resulted from the Creditors' Trust Indemnified Party's gross negligence, recklessness, willful misconduct, or knowing violation of law.

(b) Notwithstanding any provision herein to the contrary, the Creditors' Trust Indemnified Parties shall be entitled to obtain advances from the Creditors' Trust to cover their reasonable expenses of defending themselves in any claim, action, or proceeding brought against them as a result of the acts and omissions, actual or alleged, of a Creditors' Trust Indemnified Party in its capacity as such, provided, however, that the Creditors' Trust Indemnified Parties receiving such advances shall repay the amounts so advanced to the Creditors' Trust immediately upon the entry of a final, non-appealable judgment or order finding that such Creditors' Trust Indemnified Parties were not entitled to any indemnity under the provisions of this Section 6.1. The foregoing indemnity in respect of any Creditors' Trust Indemnified Party shall survive the termination, resignation or removal of such Creditors' Trust Indemnified Party from the capacity for which they are indemnified. Termination or modification of the Creditors' Trust Agreement shall not affect any indemnification rights or obligations then existing.

(c) The rights to indemnification under this Section 6.1 are not exclusive of other rights which any Creditors' Trust Indemnified Party may otherwise have at law or in equity, including common law rights to indemnification or contribution. Nothing in this Section 6.1 will affect the rights or obligations of any person (or the limitations on those rights or obligations) under this Creditors' Trust Agreement or any other agreement or instrument to which that person is a party.

ARTICLE 7

REPORTS TO CREDITORS' TRUST BENEFICIARIES

7.1 Reports.

The Creditors' Trustee shall file annual reports with the Bankruptcy Court describing (i) the prosecution and resolution of the Creditors' Trust Assets, and (ii) expenditures, receipts, and distributions of the Creditors' Trust.

ARTICLE 8

TERM; TERMINATION OF THE CREDITORS' TRUST

8.1 Term; Termination of the Creditors' Trust.

(a) The Creditors' Trust will be dissolved no later than five (5) years from the Effective Date; provided, however, that the Bankruptcy Court, upon motion by a party in interest, on notice with an opportunity for a hearing, may extend the term of the Creditors' Trust for a finite period if (i) such extension is necessary to the purpose of the Creditors' Trust, (ii) the Creditors' Trustee receives an opinion of counsel or a ruling from the Internal Revenue Service stating that such extension would not adversely affect the status of the Creditors' Trust as a liquidating trust for U.S. federal income tax purposes, and (iii) such extension is obtained within the six (6) month period prior to the Creditors' Trust's fifth (5th) anniversary or the end of the immediately preceding extension period, as applicable.

(b) Upon dissolution of the Creditors' Trust, any remaining Cash on hand, including any Cash in the Claims Reserve and Expense Reserve, and other assets, with the exception of any Litigation Claims or D&O Claims, will be distributed to the Creditors' Trust Beneficiaries in accordance with the Plan and Article 5 of this Creditors' Trust Agreement, provided that de minimis amounts (less than \$10,000) will be payable to charity.

(c) If for any reason the Creditors' Trust shall terminate and be deemed wound up prior to the entry of a Final Order resolving the Litigation Claims or the D&O Claims (by way of judgment, settlement or otherwise) and receipt by the Creditors' Trust of all amounts to which the Creditors' Trust may be entitled, notwithstanding anything to the contrary set forth herein, the distribution of any proceeds recovered at any time on account of the Litigation Claims or the D&O Claims shall be made in accordance with Article 5 of this Creditors' Trust Agreement.

8.2 Continuance of the Creditors' Trustee for Winding Up.

After the termination of the Creditors' Trust and for the purpose of liquidating and winding up the affairs of the Creditors' Trust, the Creditors' Trustee shall continue to act as such until the Creditors' Trustee's duties have been fully performed. Prior to the final distribution of all of the remaining Creditors' Trust Assets, the Creditors' Trustee shall be entitled to reserve from such assets any and all amounts required to provide for the Creditors' Trustee's own costs

and expenses in accordance with Section 3.11 herein until such time as the winding up of the Creditors' Trust is completed. Upon termination of the Creditors' Trust, subject to the terms and conditions contained in the Confidentiality and Common Interest Agreement, the Creditors' Trustee shall retain for a period of two (2) years, as a cost of administering the Creditors' Trust, the books, records, Creditors' Trust Beneficiary lists, the Trust Register, and other documents and files that have been delivered to or created by the Creditors' Trustee. Subject to the terms and conditions contained in the Confidentiality and Common Interest Agreement, at the Creditors' Trustee's discretion, all of such records and documents may, but need not, be destroyed at any time after two (2) years from the completion and winding up of the affairs of the Creditors' Trust. Except as otherwise specifically provided herein, upon the termination of the Creditors' Trust, the Creditors' Trustee shall have no further duties or obligations hereunder.

## ARTICLE 9

### AMENDMENT AND WAIVER

Any substantive provision of this Creditors' Trust Agreement, except for this Article 9 and Section 1.5 herein, may be amended or waived in writing by the Creditors' Trustee, upon approval of the Bankruptcy Court and provision of reasonable notice to the Committee (if still in existence). Technical amendments to this Creditors' Trust Agreement may be made, as necessary to clarify this Creditors' Trust Agreement or enable the Creditors' Trustee to effectuate the terms of this Creditors' Trust Agreement, by the Creditors' Trustee; provided, however, that all amendments of this Creditors' Trust Agreement shall be consistent with the Plan and the purpose and intention of the Creditors' Trust to liquidate in an expeditious but orderly manner the Creditors' Trust Assets in accordance with United States Treasury Regulation section 301.7701-4(d) and Section 1.4 herein.

## ARTICLE 10

### MISCELLANEOUS PROVISIONS

#### 10.1 Intention of Parties to Establish a Liquidating Trust.

The Creditors' Trust is intended to be classified as a liquidating trust for U.S. federal income tax purposes and, to the extent provided by law, shall be governed and construed in all respects as such a trust and any ambiguity herein shall be construed consistent herewith and, if necessary, this Creditors' Trust Agreement may be amended in accordance with Article 9 herein to comply with such U.S. federal income tax laws, which amendments may apply retroactively.

#### 10.2 Reimbursement of Trust Costs.

If the Creditors' Trustee, the Creditors' Trust, the Committee, or any Debtor or Reorganized Debtor, as the case may be, is the prevailing party in a dispute regarding the provisions of this Creditors' Trust Agreement or the enforcement thereof, the Creditors' Trustee, the Creditors' Trust, the Committee, or any Debtor or Reorganized Debtor, as the case may be, shall be entitled to collect any and all costs, reasonable and documented out-of-pocket expenses

and fees, including attorneys' fees, from the non-prevailing party incurred in connection with such dispute or enforcement action. To the extent that the Creditors' Trust has advanced such amounts, the Creditors' Trust may recover such amounts from the non-prevailing party.

10.3 Laws as to Construction.

Except to the extent the Bankruptcy Code or Federal Rules of Bankruptcy Procedure are applicable, this Creditors' Trust Agreement shall be governed by, and construed and enforced in accordance with, the federal laws of the United States and, to the extent there is no applicable federal law, the domestic laws of the State of Delaware, without giving effect to the principles of conflicts of law thereof.

10.4 Jurisdiction.

The Bankruptcy Court shall have the exclusive jurisdiction with respect to any action relating to or arising from the Creditors' Trust.

10.5 Severability.

If any provision of this Creditors' Trust Agreement or the application thereof to any person or circumstance shall be finally determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Creditors' Trust Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and such provision of this Creditors' Trust Agreement shall be valid and enforced to the fullest extent permitted by law.

10.6 Notices.

(a) All notices, requests or other communications to the Parties hereto shall be in writing and shall be sufficiently given only if: (i) delivered in person; (ii) sent by electronic or facsimile communication (as evidenced by an electronic mail return receipt or confirmed fax transmission report, respectively); (iii) sent by registered or certified mail, return receipt requested; or (iv) sent by commercial delivery service or courier. Until a change of address is communicated, as provided below, all notices, requests and other communications shall be sent to the parties at the following addresses or facsimile numbers:

(i) If to the Creditors' Trustee, to:

Lauren Krueger  
c/o Drivetrain LLC  
630 Third Avenue, 21st Floor  
New York, NY 10017  
Tel: (212) 856-9700  
Email: lkrueger@drivetrainadvisors.com

With a copy to:

Brian D. Pfeiffer  
Schulte Roth & Zabel LLP  
919 Third Avenue  
New York, NY 10022  
Tel: (212) 756-2000  
Email: brian.pfeiffer@srz.com

(ii) If to the Committee, to:

Brian D. Pfeiffer  
Schulte Roth & Zabel LLP  
919 Third Avenue  
New York, NY 10022  
Tel: (212) 756-2000  
Email: brian.pfeiffer@srz.com

(iii) If to a Creditors' Trust Beneficiary: to the name and address set forth on the Trust Register, provided that general notices to all Creditors' Trust Beneficiaries may be made by posting such notice to a website identified in advance for communication with Creditors' Trust Beneficiaries.

(b) All notices shall be effective and shall be deemed delivered: (i) if by personal delivery, delivery service or courier, on the date of delivery; (ii) if by electronic mail or facsimile communication, on the date of receipt or confirmed transmission of the communication; and (iii) if by mail, on the date of receipt. Any Party from time to time may change its address, facsimile number or other information for the purpose of notices to that Party by giving notice specifying such change to the other Party hereto.

10.7 Fiscal Year.

The fiscal year of the Creditors' Trust will begin on the first day of January and end on the last day of December of each year.

10.8 Headings.

The section headings contained in this Creditors' Trust Agreement are solely for convenience of reference and shall not affect the meaning or interpretation of this Creditors' Trust Agreement or of any term or provision hereof.

10.9 Counterparts,

This Creditors' Trust Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original instrument, but all together shall constitute one agreement.

10.10 Entire Agreement.



This Creditors' Trust Agreement (including the Recitals), the Confirmation Order, and the Plan constitute the entire agreement by and among the Parties hereto and there are no representations, warranties, covenants or obligations except as set forth herein or therein. This Creditors' Trust Agreement, the Plan and the Confirmation Order supersede all prior and contemporaneous agreements, understandings, negotiations, discussions, written or oral, of the Parties hereto, relating to any transaction contemplated hereunder. Except as otherwise specifically provided herein, in the Plan or in the Confirmation Order, nothing in this Creditors' Trust Agreement is intended or shall be construed to confer upon or to give any person other than the Parties hereto and their respective heirs, administrators, executors, successors, or assigns any right to remedies under or by reason of this Creditors' Trust Agreement.

10.11 Rules of Interpretation.

For purposes of this Creditors' Trust Agreement, unless otherwise provided herein: (a) whenever from the context it is appropriate, each term, whether stated in the singular or the plural, will include both the singular and the plural; (b) the words "herein," "hereof," "hereto," "hereunder" and other words of similar import refer to this Creditors' Trust Agreement as a whole and not to any particular section, subsection or clause contained in this Creditors' Trust Agreement; (c) the rules of construction set forth in 11 U.S.C. § 102 will apply; and (d) the term "including" shall be construed to mean "including, but not limited to," "including, without limitation," or words of similar import.

10.12 Effectiveness.

This Creditors' Trust Agreement shall become effective on the Effective Date.

10.13 No Waiver.

The Reorganized Debtor and the Creditors' Trustee agree that no failure or delay by either party in exercising any right, power or privilege hereunder will operate as a waiver thereof, and that no single or partial exercise thereof will preclude any other or further exercise thereof or the exercise of any right, power and privilege hereunder.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, the Parties hereto have either executed and acknowledged this Creditors' Trust Agreement, or caused it to be executed and acknowledged on their behalf by their duly authorized officers all as of the date first above written.

DORAL FINANCIAL CORPORATION (for itself, as  
Debtor and Debtor in Possession)

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By:  
Title:

OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS OF DORAL FINANCIAL CORPORATION

---

By:  
Title:

LAUREN KRUEGER, as Creditors' Trustee

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[\_\_\_\_], as [Distribution Agent]

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By:  
Title:

**EXHIBIT A**

**Compensation Terms**

The Creditors' Trustee shall be entitled to the following compensation:

- **Monthly Compensation.** \$15,000 per month for the first twelve (12) months following the Effective Date; and \$10,000 per month thereafter ("Monthly Compensation").
- **Additional Compensation.** In addition to Monthly Compensation, the Creditors' Trustee shall be entitled to the following (the "Additional Compensation"):
  - With respect to the first \$10,000,000 of aggregate distributions to holders of Creditors' Trust Interests, a payment equal to 1.25% of the amount of such distribution(s);
  - With respect to aggregate distributions to holders of Creditors' Trust Interests in excess of \$10,000,000 and up to \$20,000,000, a payment equal to 1.50% times the amount of such distribution(s);
  - With respect to aggregate distributions to holders of Creditors' Trust Interests in excess of \$20,000,000, a payment equal to 2.00% times the amount of such distribution(s).
  - Notwithstanding the foregoing, the Creditors' Trustee shall not be entitled to Additional Compensation with respect to any remainder of the \$5 million deposited into the Expense Reserve after satisfaction of Creditors' Trust Expenses.

Additional Compensation shall be paid to the Creditors' Trustee within five (5) days following each distribution to holders of Creditors' Trust Interests.

**EXHIBIT B**

(Disclosure of Compensation to be Paid to the Creditors' Trustee)

\* \* \*

The Creditors' Trustee shall be entitled to the following compensation:

- Monthly Compensation. \$15,000 per month for the first twelve (12) months following the Effective Date; and \$10,000 per month thereafter ("Monthly Compensation").
- Additional Compensation. In addition to Monthly Compensation, the Creditors' Trustee shall be entitled to the following (the "Additional Compensation"):
  - With respect to the first \$10,000,000 of aggregate distributions to holders of Creditors' Trust Interests, a payment equal to 1.25% of the amount of such distribution(s);
  - With respect to aggregate distributions to holders of Creditors' Trust Interests in excess of \$10,000,000 and up to \$20,000,000, a payment equal to 1.50% times the amount of such distribution(s);
  - With respect to aggregate distributions to holders of Creditors' Trust Interests in excess of \$20,000,000, a payment equal to 2.00% times the amount of such distribution(s).
  - Notwithstanding the foregoing, the Creditors' Trustee shall not be entitled to Additional Compensation with respect to any remainder of the \$5 million deposited into the Expense Reserve after satisfaction of Creditors' Trust Expenses.
  - Additional Compensation shall be paid to the Creditors' Trustee within five (5) days following each distribution to holders of Creditors' Trust Interests.

**EXHIBIT C**

(Disclosure of Creditors' Trustee, Director of Reorganized Debtor)

\* \* \*

<b>Individual</b>	<b>Capacity</b>
Lauren Krueger	Creditors' Trustee
Lauren Krueger	Director of Reorganized Debtor

**EXHIBIT D**

(Disclosure of Expense Reserve)

\* \* \*

The Creditors' Trust will be funded initially with the Expense Reserve in an initial amount of \$5 million and thereafter with cash received by the Creditors' Trust. From and after the initial funding of the Expense Reserve, the amount held as the Expense Reserve will be set by the Creditors' Trustee in its sole discretion.

**EXHIBIT E**

(List of Executory Contracts to be Assumed and Assigned to Creditors' Trust)

\* \* \*

<b>Contract Counterparty Name and Address</b>	<b>Contract Description</b>
Complete Discovery Source 345 Park Avenue New York, NY 10154 Attn: Joseph Wheeler, Jr.	Statement of Work: Data storage, access, and management
Consulting Agreement, dated 2/1/2016, with Juan Carlos Bonilla	Consulting Services
ESB Solutions Group	Consulting Services
Iron Mountain Information Management, LLC Las Flores Ind. Park State Road #3 Rio Grande, PR 00745	Two (2) file storage agreements, titled "Customer Agreement", dated 1/28/15 and 2/23/15 Customer Acct Nos.: J0856, DFINS
Mikinbin, LLC 8200 NW 41 <sup>st</sup> Street, Suite 130 Doral, FL 33166	Server co-location agreement

**EXHIBIT F**

(Preserved Causes of Action)

\* \* \*

The following is a non-exclusive list and is provided for informational purposes only and shall be without prejudice to any rights of the Creditors' Trust or the Committee:

1. Claims asserted by the Debtor in Professional Integrated Services Corp. v. Doral Financial Corporation, et al., KDP 2010-1693 (806), P.R. Ct. of First Instance, San Juan;
2. Claims asserted by the Debtor in Doral Financial Corporation, et al. v. First Bancorp, KAC 2009-1321 (803), Sup. Ct. of San Juan;
3. Claims asserted by the Debtor in Doral Financial Corporation v. Mario Levis, Adv. Proc. No. 14-00176, Case No. 14-2953 (Bankr. D.P.R.);
4. "D&O Claims" as defined in the Plan; and
5. "Litigation Claims" as defined in the Plan.

In accordance with section 1123(b) of the Bankruptcy Code, the Creditors' Trust (or the Committee with respect to the D&O Claims) shall retain and may enforce all rights to commence and pursue, as appropriate, any and all claims and causes of action of Doral Financial Corporation, whether arising before or after the Petition Date, including, but not limited to, any actions specifically enumerated in this Plan Supplement (collectively, the "Causes of Action"), and such rights to commence, prosecute, or settle such Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date. The Creditors' Trust or Committee, as applicable, may pursue any and all Causes of Action in accordance with the best interests of the Creditors' Trust Beneficiaries. No entity may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any Causes of Action against it as any indication that the Creditors' Trust or Committee will not pursue any and all available Causes of Action against it. The Creditors' Trust or the Committee, as applicable, expressly reserves all rights to prosecute any and all Causes of Action against any entity. Unless any Causes of Action against an entity are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or a Court order, the Creditors' Trust or the Committee, as applicable, expressly reserves all Causes of Action, for later adjudication, and, therefore, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable, or otherwise), or laches, shall apply to Causes of Action upon, after, or as a consequence of the confirmation or consummation of the Plan.