

EAST WEST BANCORP INC  
Form PRER14A  
February 02, 2010  
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## SCHEDULE 14A

**Proxy Statement Pursuant to Section 14(a) of the  
Securities Exchange Act of 1934  
(Amendment No. \_\_)**

Filed by the Registrant  Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement

**Confidential, for Use of the Commission Only** (as permitted by Rule 14a-6(e)(2))

Definitive Proxy Statement

Definitive Additional Materials

Soliciting Material Pursuant to §240.14a-12

**EAST WEST BANCORP, INC.**

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

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x No fee required.

.. Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which the transaction applies:

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(2) Aggregate number of securities to which the transaction applies:

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(3) Per unit price or other underlying value of the transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

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(4) Proposed maximum aggregate value of the transaction:

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(5) Total fee paid:

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.. Fee paid previously with preliminary materials.

.. Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

(1) Amount Previously Paid:

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(2) Form, Schedule or Registration Statement No.:

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(3) Filing Party:

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(4) Date Filed:

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**East West Bancorp, Inc.**

135 N. Los Robles Avenue, 7<sup>th</sup> Floor

Pasadena, California 91101

(626) 768-6000

**NOTICE OF SPECIAL MEETING OF STOCKHOLDERS TO BE HELD ON     , 2010**

Notice is hereby given that a special meeting of the stockholders (the Meeting ) of East West Bancorp, Inc. (the Company ) will be held at 135 N. Los Robles Ave., 6<sup>th</sup> Floor, Pasadena, California on     ,     , 2010, beginning at 2:00 p.m. Pacific Time, for the following purposes:

1. To approve the issuance of shares of common stock upon the conversion of the Company s recently issued 335,047 shares of Mandatorily Convertible Cumulative Non-Voting Perpetual Preferred Stock, Series C, as contemplated by the investment agreements described in the Proxy Statement and for purposes of NASDAQ Stock Market Rule 5635(d).
2. To approve the adjournment or postponement of the Meeting to a later date or dates, if necessary, to solicit additional Proxies if there are insufficient Proxies given prior to the time of the Meeting to constitute a quorum for purposes of the Meeting or to solicit additional Proxies in favor of the approval of the above proposal.

Submission of these proposals to our stockholders is required under the terms of the investment agreements described in the Proxy Statement.

**Our Board of Directors unanimously recommends that stockholders vote FOR each of Proposals 1 and 2.**

Properly signed and returned Proxy Cards permit the Proxyholders named therein to vote on such other business as may properly come before the Meeting and at any and all adjournments thereof, in the Proxyholders discretion. As of the date of mailing of this Proxy Statement, the Board of Directors of the Company is not aware of any other matters that may come before the Meeting. Only those stockholders of record at the close of business on February 12, 2010, will be entitled to notice of and to vote at the Meeting. The shares of common stock issued at the closing of the private placement may not be voted on the proposals, but such shares will count toward the presence of a quorum. A list of the stockholders will be available at the meeting and for the 10 days preceding the meeting at the Company s offices, 135 N. Los Robles Avenue, 7<sup>th</sup> Floor Pasadena, California 91101.

**Important Notice Regarding Availability of Proxy Materials**

**for the Special Meeting of Stockholders to be Held on     , 2010**

Pursuant to the Securities and Exchange Commission rules related to the availability of proxy materials, we have chosen to make our Proxy Statement and Proxy Card available on the Internet at the Investor Relations SEC Filings section of our corporate website at [www.eastwestbank.com](http://www.eastwestbank.com).

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YOUR VOTE IS VERY IMPORTANT. STOCKHOLDERS ARE URGED TO SIGN AND RETURN THE ENCLOSED PROXY IN THE POSTAGE PREPAID ENVELOPE AS PROMPTLY AS POSSIBLE, WHETHER OR NOT THEY PLAN TO ATTEND THE MEETING IN PERSON. STOCKHOLDERS WHO ATTEND THE MEETING MAY WITHDRAW THEIR PROXY AND VOTE IN PERSON IF THEY WISH TO DO SO.

By order of the Board of Directors

DOUGLAS P. KRAUSE  
*Corporate Secretary*

Pasadena, California

, 2010

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| endix A | Certificate of Designations for the Mandatorily Convertible Cumulative Non-Voting Perpetual Preferred Stock, Series C, par value \$0.001 per share. |
| endix B | Form of Investment Agreement by and between East West Bancorp, Inc. and the respective Investor thereto.  |
| endix C | Statement of Assets Acquired and Liabilities Assumed by East West Bank, dated as of November 6, 2009, and the accompanying notes                    |
| endix D | Pro Forma Combined Condensed Balance Sheet of United Commercial Bank  |

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**East West Bancorp, Inc.**

**PROXY STATEMENT**

**For**

**SPECIAL MEETING OF STOCKHOLDERS**

**To be held      , 2010**

**GENERAL INFORMATION**

This Proxy Statement is furnished in connection with the solicitation of Proxies by the Board of Directors ( Board of Directors ) of East West Bancorp, Inc. for use at its special meeting of stockholders ( Meeting ) to be held on      ,      , 2010, at 135 N. Los Robles Avenue, 7<sup>th</sup> Floor, Pasadena, California, at      p.m. Pacific Time and at any adjournment thereof. This Proxy Statement and the enclosed Proxy Card and other enclosures are first being mailed to stockholders on or about      , 2010. Only stockholders of record on February 12, 2010 ( Record Date ) are entitled to vote in person or by proxy at the Meeting or any adjournment thereof. The mailing address of East West Bancorp, Inc. 's principal executive office is 135 N. Los Robles Avenue, 7<sup>th</sup> Floor, Pasadena, California 91101; telephone (626) 768-6000.

**Matters to be Considered**

The matters to be considered and voted upon at the Meeting will be:

1. To approve the issuance of shares of common stock upon the conversion of East West Bancorp, Inc. 's recently issued 335,047 shares of Mandatorily Convertible Cumulative Non-Voting Perpetual Preferred Stock, Series C, as contemplated by the investment agreements described in the Proxy Statement and for purposes of NASDAQ Stock Market Rule 5635(d).
2. To approve the adjournment or postponement of the Meeting to a later date or dates, if necessary, to solicit additional Proxies if there are insufficient Proxies given prior to the time of the Meeting to constitute a quorum for purposes of the Meeting or to solicit additional Proxies in favor of the approval of the above proposal.

The Board of Directors unanimously recommends that stockholders vote **FOR** the issuance of shares of common stock upon the conversion of our recently issued 335,047 shares of Mandatorily Convertible Cumulative Non-Voting Perpetual Preferred Stock, Series C. The Board of Directors also recommends that you vote **FOR** any adjournment or postponement of the Meeting if necessary to solicit additional Proxies.

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**SUMMARY**

This section briefly summarizes selected information in this Proxy Statement and does not contain all of the information that may be important to you. You should carefully read this entire document and the other documents which are incorporated herein. We have not authorized any person to give any information or to make any representations other than the information and statements included in this Proxy Statement. You should not rely on any other information. The information contained in this Proxy Statement is correct only as of the date of this Proxy Statement, regardless of the date it is delivered. Our common stock is not a savings account, deposit, or other obligation of our bank subsidiary and is not insured by the Federal Deposit Insurance Corporation or any other governmental agency.

All references in this Proxy Statement to the *Company*, *we*, *us*, *our* or similar references mean East West Bancorp, Inc. and its successors, and include our consolidated subsidiaries where the context so requires. When we refer to *East West Bancorp, Inc.* in this Proxy Statement, we mean East West Bancorp, Inc. on an unconsolidated basis. When we refer to *East West Bank* or the *Bank* in this Proxy Statement, we mean East West Bank, our only bank subsidiary.

Each item in this summary contains a page reference directing you to a more complete discussion of that subject in this Proxy Statement.

**East West Bancorp, Inc. (Page 27)**

The Company is a bank holding company incorporated in Delaware on August 26, 1998 and registered under the Bank Holding Company Act of 1956, as amended. Our principal business is to serve as a holding company for East West Bank, a full-service California-based commercial bank serving consumers and businesses. Our principal office is located at 135 N. Los Robles Ave., 7th Floor, Pasadena, California 91101, and the telephone number is (626) 768-6000. A complete description of our business and the rules and regulations to which we and East West Bank are subject is contained in our most recent Annual Report on Form 10-K and is incorporated herein by reference.

**The Private Placement (Page 17)**

On November 6, 2009, we raised \$500 million in a private placement of 18,247,012 shares of our common stock, \$0.001 par value, and 335,047 shares of our newly authorized Mandatorily Convertible Cumulative Non-Voting Perpetual Preferred Stock, Series C, which we refer to in this Proxy Statement as Series C Preferred Stock, to certain qualified institutional buyers and accredited investors (collectively, the Investors ). The common stock sold represented 19.9% of our common stock outstanding.

**United Commercial Bank Acquisition**

*The Acquisition (Page 18)*

The purpose of the private placement was to bolster the Company's capital in contemplation of an acquisition by our wholly owned subsidiary, East West Bank, of approximately \$9.86 billion in assets and \$9.57 in liabilities of United Commercial Bank from the Federal Deposit Insurance Corporation (the FDIC ), as receiver for United Commercial Bank. The acquisition was made pursuant to the terms of a purchase and assumption agreement, dated November 6, 2009, entered into by and among East West Bank, the FDIC, as receiver for United Commercial Bank and the FDIC, by and for itself. In connection with the acquisition, East West Bank entered into a loss-sharing arrangement with the FDIC that covers approximately \$5.66 billion of United Commercial Bank's loans.

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### *Risks Related to the Acquisition (Page 9)*

The acquisition of United Commercial Bank involves certain risks associated with the integration of banks that have previously operated independently. A discussion of the risks associated with the acquisition is included in this Proxy Statement.

### *Information Regarding United Commercial Bank (Page 28)*

United Commercial Bank was a California state-chartered bank and wholly owned subsidiary of UCBH Holdings, Inc. based in San Francisco, California. As of October 23, 2009, it had total assets of approximately \$11.2 billion and total deposits of approximately \$7.5 billion. In accordance with the guidance provided in Staff Accounting Bulletin Topic 1:K, Financial Statements of Acquired Troubled Financial Institutions (the Staff Accounting Bulletin ) and a request for relief submitted to the SEC, we have omitted certain financial information of United Commercial Bank required by SEC regulations. An audited balance sheet of United Commercial Bank and the accompanying notes are attached to this Proxy Statement as *Appendix C*.

### **NASDAQ Approval Requirement (Page 18)**

Because our common stock is listed on the NASDAQ Global Select Market, we are subject to the NASDAQ Rules. NASDAQ Rule 5635(d) requires stockholder approval prior to the issuance of securities in connection with a transaction, other than a public offering, involving the sale, issuance or potential issuance by a company of common stock, or securities convertible into or exercisable for common stock, equal to 20% or more of the common stock or 20% or more of the voting power outstanding before the issuance for less than the greater of book value or market value of the stock. The 37,062,721 shares of common stock issuable upon conversion of the Series C Preferred Stock together with the common stock issued at the closing of the private placement will exceed 19.99% of the number of shares of our common stock and voting power outstanding prior to the private placement. The \$9.04 per share conversion price for the Series C Preferred Stock is less than the book value per share of our common stock. Accordingly, the issuance of the common stock upon conversion of the Series C Preferred Stock is subject to stockholder approval.

### **Series C Preferred Stock Terms (Page 21)**

This Proxy Statement contains a summary of the material terms of the preferences, limitations, voting powers and relative rights of the Series C Preferred Stock as contained in the Certificate of Designations for the Series C Preferred Stock, attached to this Proxy Statement as *Appendix A*, which include the following:

428,000 shares designated as Mandatorily Convertible Cumulative Non-Voting Perpetual Preferred Stock, Series C, par value of \$0.001 per share;

Mandatorily convertible upon shareholder approval and any applicable regulatory approvals;

Cumulative dividends payable semi-annually in arrears in cash and in kind in additional shares of Series C Preferred Stock if, when and as declared by the Board of Directors or a committee thereof;

Ranking on parity with respect to dividend rights and rights on liquidation, winding up and dissolution with our outstanding series of preferred stock and senior to our common stock;

No voting rights, except as required by law and with respect to certain limited matters;

A liquidation preference over common stock in an amount equal to \$1,000 per share, plus any accrued but unpaid dividends;



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Non- redeemable by the holders, but redeemable by us following the fifth anniversary of issuance;

Customary anti-dilution adjustment provisions;

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No preemptive rights;

9.9% ownership limitation;

Provisions for conversion upon the occurrence of a fundamental change in the Company.

**The Investment Agreements (Page 23)**

This Proxy Statement contains a summary of the material terms of the Investment Agreements, the form of which is attached as *Appendix B* to this Proxy Statement, which include the following:

An agreement to issue and sell 18,247,012 shares of common stock and 335,047 shares of Series C Preferred Stock, in the aggregate, to the Investors;

Customary representations and warranties relating to us, our business and our capital stock;

An agreement to seek stockholder approval as soon as reasonably practicable;

Registration rights;

Transfer restrictions;

Subscription rights;

Customary covenants;

Customary indemnification provisions;

Passivity and standstill commitments;

Provision for each party to bear its own expenses.

**Potential Consequences if Proposal 1 to convert the Series C Preferred Stock is approved (Page 25)**

Automatic conversion of the Series C Preferred Stock into shares of our common stock, subject to any applicable regulatory approval requirement;

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Dilution of the earnings per share and the book value per share of our common stock;

Receipt of identical rights and privileges associated with the common stock;

Elimination of dividend rights and liquidation preference of the Series C Preferred Stock;

Anticipated improvement in our balance sheet and regulatory capital levels;

Potential adverse impact on the trading patterns of our common stock.

### **Potential Consequences if Proposal 1 to convert the Series C Preferred Stock is not approved (Page 26)**

Series C Preferred Stock will remain outstanding in accordance with its terms;

Substantial cumulative dividends on the Series C Preferred Stock will be required to be paid (currently at an annual rate equal to 11% plus dividends payable in kind at an annual rate equal to 5%);

Additional stockholder meetings to approve the issuance of common stock upon conversion of the Series C Preferred Stock will be called every six months;

Payment of dividends on, and the redemption, purchase or acquisition of our junior or parity securities, including our outstanding common stock, will be restricted;

Series C Preferred Stock will retain a senior liquidation preference over shares of our common stock in connection with any liquidation of us.

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**Board Recommends Approval**

The Board of Directors unanimously recommends that stockholders vote FOR the issuance of shares of common stock upon the conversion of our recently issued 335,047 shares of Series C Preferred Stock. The Board of Directors also recommends that you vote FOR any adjournment or postponement of the Meeting if necessary to solicit additional Proxies.

**Where You Can Find More Information**

If you wish to receive more information about us, please write to: East West Bancorp, Inc., Attention: Investor Relations, 135 North Los Robles Ave., 7th Floor, Pasadena, CA 91101, or go to our website at [www.eastwestbank.com](http://www.eastwestbank.com) where you may view, print and download our public filings made with the Securities and Exchange Commission (the SEC), as well as other information about us.

We file annual, quarterly, and current reports, proxy statements and other information with the SEC. Our SEC filings are available to the public over the Internet at the SEC's web site at [www.sec.gov](http://www.sec.gov) and on the investor relations page of our website at [www.eastwestbank.com](http://www.eastwestbank.com). Except for those SEC filings incorporated by reference in this Proxy Statement, none of the other information on our website is part of this Proxy Statement. You may also read and copy any document we file with the SEC at its public reference facilities at 100 F Street N.E., Washington, D.C. 20549. You can also obtain copies of the documents upon the payment of a duplicating fee to the SEC. Please call the SEC at 1-800-SEC-0330 for further information on the operation of the public reference facilities.

You should review the information and exhibits included in the documents incorporated by reference into this Proxy Statement for further information about us. Statements in this Proxy Statement concerning any document we filed with the SEC are not intended to be comprehensive and are qualified by reference to those filings. You should review the complete document to evaluate such statements.

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**INFORMATION ABOUT THE SPECIAL MEETING AND VOTING**

**Who is entitled to vote? How many votes am I entitled to?**

Each holder of common stock is entitled to one vote, in person or by proxy, for each share of common stock standing in his or her name on our books as of the Record Date on any matter submitted to the stockholders. Our authorized capital stock consists of 200,000,000 shares of common stock, of which    shares were issued and outstanding on the Record Date. The shares of common stock issued at the closing of the private placement may not be voted on the proposals, but such shares will count toward the presence of a quorum.

**What vote is necessary to approve Proposal 1 and Proposal 2?**

Proposal 1 and Proposal 2 must each receive the affirmative vote of the majority of shares present in person or by proxy at the Meeting and entitled to vote in order to be approved.

**How many shares must be represented at the Meeting to constitute a quorum?**

The holders of a majority of the outstanding shares of each class of stock entitled to vote at the Meeting, present in person or represented by proxy, constitutes a quorum. There must be a quorum for the Meeting to be held. Your shares will be counted for purposes of determining if there is a quorum, whether representing votes FOR, AGAINST or ABSTAINED, if you either (i) are present and vote in person at the Meeting or (ii) have submitted a proxy on the Internet, by telephone or by properly submitting a Proxy Card or vote instruction form by mail.

**Who is paying the cost of solicitation of Proxies?**

This solicitation of Proxies is made on behalf of our Board of Directors and we will bear the costs of solicitation. The expense of preparing, assembling, printing and mailing this Proxy Statement and the materials used in this solicitation of Proxies also will be borne by us. It is contemplated that Proxies will be solicited principally through the mail, but our directors, officers and employees may solicit Proxies personally or by telephone. Although there is no formal agreement to do so, we may reimburse banks, brokerage houses and other custodians, nominees and fiduciaries for their reasonable expenses in forwarding these proxy materials to our stockholders. We do not intend at this time to utilize the services of other individuals or entities not employed by or affiliated with us in connection with the solicitation of Proxies.

**What is the difference between a holder of record and a beneficial owner of shares held in street name?**

*Holder of Record.* If your shares are registered directly in your name with our transfer agent, BNY Mellon Shareowner Services, you are considered the holder (or stockholder) of record with respect to those shares. As a holder of record, you should have received this Proxy Statement and a Proxy Card from us via BNY Mellon Shareowner Services.

*Beneficial Owner of Shares Held in Street Name.* If your shares are held in an account at a brokerage firm, bank, broker-dealer, or other similar organization acting as a nominee, then you are the beneficial owner of shares held in street name. The organization holding your account is considered the holder of record for purposes of voting at the Meeting. As a beneficial owner, you have the right to direct that organization on how to vote the shares held in your account. Accordingly, you should have received this Proxy Statement and a voting instruction form from that organization.

**How can I vote?**

*Holders of Record.* If you are a holder of record, you may vote either in person at the Meeting, via the Internet (by following the instructions provided on the Proxy Card), by telephone (by calling the toll free number found on the Proxy Card), or by mail (by filling out the Proxy Card and returning it in the envelope provided).

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*Beneficial Owner of Shares Held in Street Name.* If you hold your shares in street name, you should receive a voting instruction form from your brokerage firm, bank, broker-dealer or other nominee asking you how you want to vote your shares. If you do not, you should contact your brokerage firm, bank, broker-dealer or other nominee and obtain a voting instruction form from them. You may vote in person at the Meeting, but you must obtain a legal proxy from the organization that holds your shares.

### **Can I change or revoke my vote after I have voted?**

*Holders of Record.* If you are a holder of record, you may change or revoke your vote at any time before it is counted at the Meeting by:

notifying our Secretary in writing that you wish to revoke your proxy at the following address: East West Bancorp, Inc., Attention: Investor Relations, 135 North Los Robles Ave., 7th Floor, Pasadena, CA 91101, (626) 768-6000;

attending the Meeting and voting in person; or

submitting a later dated Proxy Card.

Attending the Meeting by itself will not automatically revoke your prior proxy. You must comply with one of the methods indicated above in order to revoke your proxy.

*Beneficial Owner of Shares Held in Street Name.* If you hold your shares in street name, please refer to the information in the materials provided by your brokerage firm, bank, broker-dealer or other nominee for an explanation of how to change or revoke your vote and of the effect of not indicating a vote.

### **What happens if I do not give specific voting instructions?**

*Holders of Record.* If you are a holder of record and you either (i) indicate when voting on the Internet or by telephone that you wish to vote as recommended by the Board of Directors or (ii) sign and return a Proxy Card without giving specific instructions, then the Proxy Holders will vote your shares in the manner recommended by the Board of Directors on all matters presented in this Proxy Statement and as the Proxy Holders may determine in their discretion with respect to any other matters properly presented for a vote at the Meeting.

*Beneficial Owner of Shares Held in Street Name.* If you are a beneficial owner of shares held in street name and do not provide the organization that holds your shares with specific voting instructions, under the rules of various national and regional securities exchanges, the organization that holds your shares may generally vote on routine matters but cannot vote on non-routine matters. If the organization that holds your shares does not receive instructions from you on how to vote your shares on a non-routine matter, the organization that holds your shares will inform the inspector of election that it does not have the authority to vote on this matter with respect to your shares. This is generally referred to as a broker non-vote.

We believe each of the Proposals will be considered non-routine under the rules of the New York Stock Exchange (which apply to brokers), and, therefore, there may be broker non-votes on each of the Proposals.

We will not use the discretionary authority granted by the Proxies voted against Proposal 1 to adjourn the Meeting to solicit additional votes to approve Proposal 1.

### **How are broker non-votes treated?**

Broker non-votes are counted for purposes of determining whether a quorum is present, but are not considered entitled to vote or as votes cast. For the purpose of determining whether the stockholders have approved Proposal 1 and Proposal 2, broker non-votes will have no effect on the vote.

### **How are abstentions treated?**

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Abstentions are counted for purposes of determining whether a quorum is present, and an abstention will have the same effect as a vote against these Proposals.

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**Are stockholders of the Company entitled to appraisal rights?**

Holders of common stock are not entitled to appraisal rights under the Delaware General Corporation Law in connection with the transactions described in this Proxy Statement.

**How will voting on any other business be conducted?**

We do not know of any other business to be conducted at the Meeting. For holders of record, if any other business is presented at the Meeting, any of the persons named on the Proxy Card as your designated Proxies may vote on that matter in his or her discretion. If you hold your shares in street name, please see the materials provided by your brokerage firm, bank, broker-dealer or other nominee for an explanation of how your shares will be voted on any other business. Any such matter must receive the affirmative vote of the majority of shares present in person or by proxy at the Meeting and entitled to vote (or any higher vote required by our Bylaws or the Delaware General Corporation Law) in order to be approved.

**Can I attend the Meeting and vote in person? How can I obtain directions to attend the Meeting?**

Any stockholder entitled to vote at the Meeting may attend the Meeting and vote in person. If you hold shares in street name and would like to attend the Meeting and vote in person, you will need to bring an account statement or other acceptable evidence of ownership of common stock as of the Record Date. Alternatively, in order to vote, you may contact the person in whose name your shares are registered and obtain a proxy from that person and bring it to the Meeting. To obtain directions to attend the Meeting, please call Investor Relations at (626) 768-6000.



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**RISKS RELATED TO THE ACQUISITION OF UNITED COMMERCIAL BANK**

*We may experience difficulties in integrating the operations of United Commercial Bank, which may negatively impact our business and earnings.*

The acquisition of United Commercial Bank involves the integration of East West Bank and United Commercial Bank, which have previously operated independently. The successful integration of operations of East West Bank and United Commercial Bank depends primarily upon our ability to consolidate operations, systems and procedures and to eliminate redundancies and costs. No assurance can be given that we will be able to integrate the banking operations without encountering difficulties including, without limitation, the loss of key employees and customers, the disruption of on-going business or possible inconsistencies in standards, controls, procedures and policies. Estimated cost savings and revenue enhancements are projected to come from various areas that our management has identified through the integration planning process. The elimination and consolidation of duplicate tasks at these banks are projected to result in annual cost savings. If we experience difficulty with the integration, we may not achieve all the economic benefits we expect to result from the acquisition, and this may hurt our business and earnings. In addition, we may experience greater than expected costs or difficulties relating to the integration of the business of United Commercial Bank and/or may not realize expected cost savings from the acquisition within the anticipated time frames.

*We may have difficulty integrating and retaining the deposits of United Commercial Bank.*

We may experience some attrition of former customers of United Commercial Bank following the FDIC receivership. Withdrawal of a material amount of such deposits could adversely impact our liquidity, profitability, business prospects, results of operations and cash flows. Any difficulties we may experience in integrating the operations of East West Bank and United Commercial Bank may also affect our retention of deposit accounts and former United Commercial Bank Customers.

*We may experience difficulty in managing the acquired United Commercial Bank loan portfolio within the limits of the loss protection provided by the FDIC.*

In connection with the United Commercial Bank acquisition, East West Bank entered into a loss-sharing agreement with the FDIC that covered approximately \$5.66 billion and \$38.0 million of United Commercial Bank's loans and other real estate owned, respectively. East West Bank will share in the losses, which begins with the first dollar of loss occurred, of the loan pools (including single family residential mortgage loans, commercial loans, foreclosed loan collateral and other real estate owned) covered (covered loans) under the loss-sharing agreement. Pursuant to the terms of the loss-sharing agreement, the FDIC is obligated to reimburse East West Bank 80% of eligible losses of up to \$2.05 billion with respect to covered loans. The FDIC will reimburse East West Bank for 95% of eligible losses in excess of \$2.05 billion with respect to covered loans. East West Bank has a corresponding obligation to reimburse the FDIC for 80% or 95%, as applicable, of eligible recoveries with respect to covered loans.

The loss-sharing agreement for commercial and single family residential mortgage loans is in effect for 5 years and 10 years, respectively, from the November 6, 2009 acquisition date and the loss recovery provisions are in effect for 8 years and 10 years, respectively, from the acquisition date. On January 14, 2020, East West Bank is required to pay to the FDIC 50% of the excess, if any of (i) \$410 million over (ii) the sum of (A) 25% of the asset discount plus (B) 25% of the Cumulative Shared-Loss Payments plus (C) the Cumulative Servicing Amount if net losses on covered loans subject to the stated threshold is not reached. Although we have substantial expertise in asset resolution, we cannot guarantee that we will be able to adequately manage the loan portfolio within the limits of the loss protection provided by the FDIC.

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**CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS**

This Proxy Statement contains or incorporates statements that we believe are forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Rule 175 promulgated thereunder, and Section 21E of the Securities Exchange Act of 1934, as amended, and Rule 3b-6 promulgated thereunder. These statements relate to our financial condition, results of operations, plans, objectives, future performance or business. They usually can be identified by the use of forward-looking language such as will likely result, may, are expected to, is anticipated, estimate, forecast, projected, intends to, or may include other similar words or phrases such as believes, plan, objective, continue, remain, or similar expressions, or future or conditional verbs such as will, would, should, could, might, can. You should not place undue reliance on these statements, as they are subject to risks and uncertainties, including but not limited to those described in the documents incorporated by reference, including statements made in our most recent Annual Report on Form 10-K, as updated by our subsequently filed Quarterly Report on Form 10-Q and our Current Reports on Form 8-K. When considering these forward-looking statements, you should keep in mind these risks and uncertainties, as well as any cautionary statements we may make. Moreover, you should treat these statements as speaking only as of the date they are made and based only on information then actually known to us.

There are a number of important factors that could cause future results to differ materially from historical performance and these forward-looking statements. Factors that might cause such a difference include, but are not limited to:

our ability to integrate United Commercial Bank and to achieve expected synergies, operating efficiencies or other benefits within expected time-frames, or at all, or within expected cost projections;

our ability to integrate and retain depositors and borrowers of United Commercial Bank;

our ability to manage the loan portfolio acquired from United Commercial Bank within the limits of the loss protection provided by the FDIC;

changes in our borrowers' performance on loans;

changes in the commercial and consumer real estate markets;

changes in our costs of operation, compliance and expansion;

changes in the economy, including inflation;

changes in government interest rate policies;

changes in laws or the regulatory environment;

changes in critical accounting policies and judgments;

changes in accounting policies or procedures as may be required by the Financial Accounting Standards Board or other regulatory agencies;

changes in the equity and debt securities markets;

changes in competitive pressures on financial institutions;

the effect of additional provision for loan losses;

the effect of any acquisition we may make;

the effect of any goodwill impairment;

fluctuations of our stock price;

the success and timing of our business strategies;

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the impact of reputational risk created by these developments on such matters as business generation and retention, funding and liquidity;

changes in our ability to receive dividends from our subsidiaries; and

political developments, wars or other hostilities that may disrupt or increase volatility in securities or otherwise affect economic conditions.

You should refer to our periodic and current reports filed with the SEC for further information on other factors which could cause actual results to be significantly different from those expressed or implied by these forward-looking statements. We undertake no obligation to update publicly any of these statements in light of future events.

**Table of Contents****SELECTED HISTORICAL FINANCIAL DATA OF EAST WEST BANCORP, INC.**

The following table sets forth certain of our consolidated financial data as of the end of and for each of the years in the five-year period ended December 31, 2008 and as of and for the nine months ended September 30, 2009 and 2008. The historical consolidated financial information as of the end of and for each of the years in the five-year period ended December 31, 2008, is derived from our audited consolidated financial statements, which are incorporated by reference into this Proxy Statement. The consolidated financial information as of and for the nine-month periods ended September 30, 2009 and 2008 is derived from our unaudited consolidated financial statements, which are incorporated by reference into this Proxy Statement. In our opinion, such unaudited consolidated financial statements include all adjustments (consisting of normal recurring adjustments) necessary for a fair presentation of our financial position and results of operations for such periods. Interim results for the nine months ended September 30, 2009 are not necessarily indicative of, and are not projections for, the results to be expected for the full year ending December 31, 2009. The selected historical financial data below is only a summary and should be read in conjunction with the consolidated financial statements that are incorporated by reference into this Proxy Statement and their accompanying notes.

|  | For the<br>Nine Months<br>Ending<br>9/30/2009 | For the<br>Nine Months<br>Ending<br>9/30/2008 | 2008   | For the Years Ending |            |            |            | 2004 |
|--|---|---|--|----------------------|------------|------------|------------|------|
|  | Unaudited                                     | Unaudited                                     | <i>(In thousands, except per share data)</i> |                      |            |            |            |      |
|  |   |   | 2007   | 2006                 | 2005       |            |            |      |
| <b>Summary of Operations (1)</b>                                       |   |   |  |                      |            |            |            |      |
| Interest and dividend income   | \$ 439,180                                    | \$ 514,951                                    | \$ 664,858                                   | \$ 773,607           | \$ 660,050 | \$ 411,399 | \$ 252,070 |      |
| Interest expense   | 175,359                                       | 236,641                                       | 309,694                                      | 365,613              | 292,568    | 131,284    | 52,897     |      |
| Net interest income  | 263,821                                       | 278,310                                       | 355,164                                      | 407,994              | 367,482    | 280,115    | 199,173    |      |
| Provision for loan losses  | 388,666                                       | 183,000                                       | 226,000                                      | 12,000               | 6,166      | 15,870     | 16,750     |      |
| Net interest income after provision for loan losses                    | (124,845)                                     | 95,310  | 129,164                                      | 395,994              | 361,316    | 264,245    | 182,423    |      |
| Noninterest (loss) income (2)  | (24,285)                                      | (24,199)                                      | (25,062)                                     | 49,520               | 33,920     | 29,649     | 31,938     |      |
| Noninterest expense  | 155,382                                       | 157,071                                       | 201,270                                      | 183,255              | 161,455    | 123,533    | 93,028     |      |
| (Loss) income before provision (benefit) for income taxes              | (304,512)                                     | (85,960)                                      | (97,168)                                     | 262,259              | 233,781    | 170,361    | 121,333    |      |
| (Benefit) provision for income taxes                                   | (126,790)                                     | (33,911)                                      | (47,485)                                     | 101,092              | 90,412     | 61,981     | 43,311     |      |
| Net Income before extraordinary item                                   | (177,722)                                     | (52,049)                                      | (49,683)                                     | 161,167              | 143,369    | 108,380    | 78,022     |      |
| extraordinary item, net of tax   | (5,366)                                       | 0   | 0  | 0                    | 0          | 0          | 0          |      |
| Net (loss) income  | \$ (183,088)                                  | (52,049)                                      | \$ (49,683)                                  | \$ 161,167           | \$ 143,369 | \$ 108,380 | \$ 78,022  |      |
| PREFERRED STOCK DIVIDENDS AND AMORTIZATION OF PREFERRED STOCK DISCOUNT | 42,986  | 4,089   | 9,474  |                      |            |            |            |      |
| NET (LOSS) INCOME AVAILABLE TO COMMON STOCKHOLDERS                     | \$ (226,074)                                  | \$ (56,138)                                   | \$ (59,157)                                  | \$ 161,167           | \$ 143,369 | \$ 108,380 | \$ 78,022  |      |
| <b>Per Common Share (1)</b>  |   |   |  |                      |            |            |            |      |
| Basic earnings per share   | \$ (3.19)                                     | \$ (0.90)                                     | \$ (0.94)                                    | \$ 2.63              | \$ 2.40    | \$ 2.03    | \$ 1.54    |      |
| Diluted earnings per share   | \$ (3.19)                                     | \$ (0.90)                                     | \$ (0.94)                                    | \$ 2.60              | \$ 2.35    | \$ 1.97    | \$ 1.49    |      |
| Common dividends per share   | \$ 0.04                                       | 0.30  | \$ 0.40                                      | \$ 0.39              | \$ 0.20    | \$ 0.20    | \$ 0.20    |      |
| Average number of shares outstanding, basic                            | 70,967  | 62,586  | 62,673                                       | 61,180               | 59,605     | 53,454     | 50,654     |      |
| Average number of shares outstanding, diluted                          | 70,967  | 62,586  | 62,673                                       | 62,093               | 60,909     | 55,034     | 52,297     |      |



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|   | For the<br>Nine Months<br>Ending<br>9/30/2009 | For the<br>Nine Months<br>Ending<br>9/30/2008 | 2008   | 2007          | For the Years Ending<br>2006 | 2005         | 2004         |
|---|---|---|--|---------------|------------------------------|--------------|--------------|
|   | Unaudited                                     | Unaudited                                     | <i>(In thousands, except per share data)</i> |               |                              |              |              |
| <b>At Period End (1)</b>                                  |   |   |  |               |                              |              |              |
| Total assets  | \$ 12,485,930                                 | \$ 11,722,316                                 | \$ 12,422,816                                | \$ 11,852,212 | \$ 10,823,711                | \$ 8,278,256 | \$ 6,028,880 |
| Loans receivable, net                                     | 8,156,838                                     | 8,111,231                                     | 8,069,377                                    | 8,750,921     | 8,182,172                    | 6,724,320    | 5,080,454    |
| Investment securities held-to-maturity                    | 781,331                                       |   | 122,317                                      |               |                              |              |              |
| Investment securities available-for-sale                  | 1,457,023                                     | 2,047,244                                     | 2,040,194                                    | 1,887,136     | 1,647,080                    | 869,837      | 534,452      |
| Deposits  | 8,668,557                                     | 7,536,349                                     | 8,141,959                                    | 7,278,914     | 7,235,042                    | 6,258,587    | 4,522,517    |
| Federal Home Loan Bank advances                           | 923,216                                       | 1,538,350                                     | 1,353,307                                    | 1,808,419     | 1,136,866                    | 617,682      | 860,803      |
| Stockholders equity                                       | 1,521,782                                     | 1,264,881                                     | 1,550,766                                    | 1,171,823     | 1,019,390                    | 734,138      | 514,309      |
| Common shares outstanding                                 | 91,694  | 63,623  | 63,746                                       | 63,137        | 61,431                       | 56,519       | 52,501       |
| Book value per common share                               | \$ 12.58                                      | \$ 16.54                                      | \$ 16.92                                     | \$ 18.56      | \$ 16.59                     | \$ 12.99     | \$ 9.80      |
| <b>Financial Ratios:</b>                                  |   |   |  |               |                              |              |              |
| <b>(1)</b>  |   |   |  |               |                              |              |              |
| Return on average assets                                  | (1.94)%                                       | (0.59)%                                       | (0.42)%                                      | 1.45%         | 1.46%                        | 1.55%        | 1.57%        |
| Return on average common equity                           | (27.46)                                       | (5.75)  | (5.41)                                       | 14.89         | 15.78                        | 18.27        | 17.86        |
| Return on average total equity                            | (16.09)                                       | (5.76)  | (3.99)                                       | 14.89         | 15.78                        | 18.27        | 17.86        |
| Common dividend payout ratio                              | N/A   | N/A   | N/A  | 15.27         | 8.35                         | 9.88         | 12.93        |
| Average stockholders equity to average assets             | 12.22   | 10.26   | 10.55  | 9.77          | 9.26                         | 8.48         | 8.77         |
| Net interest margin                                       | 2.97  | 3.35  | 3.19   | 3.94          | 3.98                         | 4.22         | 4.24         |
| Efficiency Ratio (3)                                      | 48.67   | 45.51   | 45.94  | 45.94         | 37.44                        | 36.53        | 36.08        |
| <b>Asset Quality Ratios: (1)</b>                          |   |   |  |               |                              |              |              |
| Net chargeoffs (recoveries) to average loans              | 5.63%   | 1.53%   | 1.64%  | 0.08%         | (0.01)%                      | 0.08%        | 0.12%        |
| Nonperforming assets to period end total assets           | 1.84  | 1.71  | 2.12   | 0.57          | 0.18                         | 0.36         | 0.10         |
| Allowance for loan losses to period end total gross loans | 2.74  | 2.14  | 2.16   | 1.00          | 0.95                         | 1.01         | 0.99         |

(1) The columnar information represents annual and or year end balances for the years 2008, 2007, 2006, 2005, and 2004. The information reflected for September 30, 2009 and 2008 represent nine month ending balances and the respective nine month period ending on that date. Certain ratios represented for the nine month periods are based on annualized information.

(2) 2008 includes other-than-temporary ( OTTI ) charges related to investment securities of \$73.2 million.

(3) Represents noninterest expense, excluding the amortization of intangibles, amortization and impairment writedowns of premiums on deposits acquired, impairment writedown on good will, and investments in affordable housing partnerships, divided by the aggregate of net interest income before provision for loan losses and noninterest income, excluding impairment writedowns on investment securities and other equity investment.





**Table of Contents****SUMMARY UNAUDITED PRO FORMA COMBINED CONDENSED BALANCE SHEET**

The following summary unaudited pro forma combined condensed balance sheet is designed to show how the United Commercial Bank acquisition might have affected our historical balance sheet if the acquisition had been completed at an earlier time. The unaudited pro forma balance sheet data assumes that the acquisition took place on September 30, 2009 and combines our unaudited consolidated balance sheet as of September 30, 2009 with United Commercial Bank's audited balance sheet as of November 6, 2009. The following should be read in connection with United Commercial Bank's audited balance sheet and the accompanying notes attached as *Appendix C* to this Proxy Statement, the Unaudited Pro Forma Combined Condensed Balance Sheet and the accompanying notes attached as *Appendix D* to this Proxy Statement, our unaudited consolidated balance sheet for the quarter ended September 30, 2009, and our audited consolidated financial statements that are incorporated by reference into this Proxy Statement.

The summary unaudited pro forma combined condensed balance sheet also reflects the completion, on November 6, 2009, of the private placement of \$500 million. We anticipate that the acquisition will provide the combined company with financial benefits that may include reduced operating expenses and opportunities to earn additional revenue.

The information set forth below, while helpful in illustrating the financial characteristics of the combined company under one set of assumptions, may not reflect all of these anticipated financial expenses and benefits and, accordingly, does not attempt to predict or suggest future results. It also is not necessarily indicative of the financial condition or results of operations of future periods or the financial condition or results of operations that actually would have been realized had the companies been combined during these periods.

**Pro Forma Combined Condensed Balance Sheets****(In thousands, except per share amounts)****(unaudited)**

|   | <b>As of</b>              |
|---|---------------------------|
|   | <b>September 30, 2009</b> |
| <b>Assets</b>                                     |                           |
| Cash and due from banks                           | \$ 731,605                |
| Securities and investments                        | 3,553,525                 |
| Loans receivable, net                             | 13,817,270                |
| Other real estate owned                           | 62,216                    |
| FDIC indemnification asset                        | 1,317,984                 |
| Goodwill  | 337,438                   |
| Other assets                                      | 1,277,849                 |
| <b>Total assets</b>                               | <b>\$ 21,097,887</b>      |
| <b>Liabilities and Stockholders' Equity</b>       |                           |
| Deposits  | \$ 15,198,421             |
| Borrowings  | 3,217,686                 |
| Other Liabilities                                 | 368,530                   |
| Stockholders' equity                              | 2,313,250                 |
| <b>Total liabilities and stockholders' equity</b> | <b>\$ 21,097,887</b>      |

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**RECENT DEVELOPMENTS**

On January 26, 2010, we announced our preliminary financial results for the quarter and twelve-month period ended December 31, 2009, and provided a preliminary forecast for the first quarter of 2010. The following presents an overview of those results. These items are subject to the risks and uncertainties relating to our business described under *Risk Factors* in this Proxy Statement and in our Annual Report on Form 10-K for the year ended December 31, 2008, as supplemented by our subsequently filed Quarterly Reports on Form 10-Q.

*Preliminary Forecast*

Management currently estimates that fully diluted earnings per share for the first quarter of 2010 will range from \$0.04 to \$0.08. This EPS guidance is based on the following assumptions:

Net interest margin between 3.80% and 3.90%

Provision for loan losses of approximately \$70.0 to \$80.0 million for the quarter

Noninterest expense flat from the fourth quarter of 2009

*Full Year 2009 Highlights*

**Increase in Balance Sheet** - Total asset increased to a record \$20.6 billion at year-end, an increase of \$8.2 billion or 66% year over year. Total deposits increased to \$15.0 billion, an increase of \$6.8 billion or 84% year over year. Year-to-date, East West Bank grew deposits organically by \$744.1 million or 9%, excluding the impact of the United Commercial Bank acquisition. Total gross loans receivable increased to \$14.1 billion, an increase of \$5.9 billion or 71% year over year. These increases in the balance sheet are primarily due to the acquisition of United Commercial Bank.

**Capital Strengthened** -During the full year 2009, we raised a total of \$607.8 million in capital. We issued \$107.8 million of common stock in July 2009 and \$165.0 million of common stock and \$335.0 million of mandatory convertible preferred stock in November 2009. As of December 31, 2009, East West Bank's Tier 1 risk-based and total risk-based capital ratios were 17.9% and 19.9%, respectively, significantly higher than the well capitalized requirement of 6% and 10%, respectively.

**Loan to Deposit Ratio** -Throughout 2009, East West Bank continued to further strengthen the balance sheet and decrease the loan to deposit ratio. As of December 31, 2009, the loan to deposit ratio was 94.3%, compared to 101.3% as of December 31, 2008.

**Allowance for Loan Losses Strengthened** -The allowance for loan loss was increased to \$238.8 million or a 34% increase year over year. The allowance for loan losses to gross non-covered loans was 2.80% at December 31, 2009 compared to 2.16% as of December 31, 2008. The allowance to nonaccrual loans ratio improved to 137.9% as of December 31, 2009, compared to 83.0% as of December 31, 2008.

**Reduced Exposures to Problem Credits** -Total land loans decreased \$206.2 million or 36% and total commitments on construction loans decreased \$1.0 billion or 63% year to date. As of December 31, 2009, outstanding balances on land and construction loans totaled only 5.9% of total gross loans receivable.

*Fourth Quarter Summary*

**Credit Quality Improved** Total nonperforming assets have improved to \$187.0 million, a decrease of \$43.2 million or 19% from prior quarter. Total nonperforming assets to total assets improved to 0.91% as of December 31, 2009, from 1.84% as of September 30, 2009. The decrease in nonperforming assets from the prior quarter is largely a result of a reduction in nonaccrual residential construction loans.

**Net Interest Margin Improved** Net interest income for the fourth quarter increased to \$219.5 million, a \$123.6 million increase over third quarter of 2009. The net interest margin for the fourth quarter

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increased to 5.46%, compared to 3.20% in the prior quarter. Excluding the impact of the yield adjustment to covered loans of \$74.4 million, net interest income increased to \$145.1 million and the net interest margin increased to 3.61% for the fourth quarter.

**Deposits Increased** Total deposits increased to a record \$15.0 billion at year-end 2009. In fourth quarter of 2009, deposits increased \$6.3 billion or 73% over prior quarter due primarily to the United Commercial Bank acquisition. East West Bank grew deposits organically by \$217.5 million for the quarter, excluding the impact of the United Commercial Bank acquisition.

As of the end of the fourth quarter, our Tier 1 leverage capital ratio increased to 11.7%, Tier 1 risk-based capital ratio increased to 17.9% and total risk-based capital ratio increased to 19.9%. East West Bank exceeds well capitalized requirements for all regulatory guidelines by over \$1 billion. Furthermore, East West Bank's pro forma tangible common equity to risk weighted assets ratio totaled 13.2% as of December 31, 2009.

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**PROPOSAL 1**

**APPROVAL OF THE ISSUANCE OF SHARES OF COMMON STOCK**

**UPON THE CONVERSION OF THE SERIES C PREFERRED STOCK**

Proposal 1 contemplates the issuance of approximately 37,062,721 shares of our common stock based on a conversion price of \$9.04 per share (subject to certain anti-dilution adjustments) upon conversion of the 335,047 shares of Series C Preferred Stock issued pursuant to the Investment Agreements.

**Background of the Private Placement**

Over a period of several weeks beginning in September 2009, our Board of Directors and management determined that it would be prudent to seek substantial additional capital in order to provide the Company with financial flexibility to pursue any desirable acquisition opportunities, to continue investing in our core businesses and to maintain our capital ratios well above previous target levels. The Board of Directors also concluded that, in light of a variety of factors, including capital markets volatility, general economic uncertainties and the speed with which FDIC-assisted acquisitions are completed, it was important that any process to raise additional capital be executed promptly and with a high degree of certainty of completion. In addition, the FDIC indicated a strong preference for the sale of additional capital securities prior to the purchase and assumption of the United Commercial Bank assets and liabilities. In contemplation of the foregoing and, in particular, our intention to bid for certain assets and liabilities of United Commercial Bank from the FDIC, as receiver for United Commercial Bank, we had discussions with a number of potential investors and explored a variety of capital-raising options over a several-week period, including issuing our common stock in a private placement or a public offering. Ultimately, our Board of Directors determined that a private placement to the Investors of a combination of our common stock and a newly authorized series of our preferred stock was the most effective and efficient means to address our capital needs with respect to the acquisition in a timely manner and was in the best interests of our stockholders. A public offering was deemed to be impractical, because, among other reasons, pursuant to the confidentiality agreements entered into with the FDIC, this potential pending material transaction could not have been discussed as part of a public offering. Because of the requirements of the NASDAQ rule described above, it was necessary to structure the private placement predominantly in the form of convertible preferred stock until we could obtain the necessary stockholder approval to issue common stock in exchange for the Series C Preferred Stock. Our Board of Directors and management considered the reputations of the Investors in the banking industry and determined that the private placement to the Investors was in the best interests of us and our stockholders.

On November 6, 2009, we issued and sold 18,247,012 shares of our common stock at a purchase price of \$9.04 per share and 335,047 shares of our newly authorized Series C Preferred Stock at a purchase price and liquidation preference of \$1,000 per share. We raised \$500 million in the private placement, pursuant to individual Investment Agreements with the Investors, several of whom were already our largest institutional stockholders. We paid a fee of \$14,020,000 to our financial advisor, which acted as placement agent in the private placement. Following the receipt of stockholder and, if applicable, regulatory approval (as described in more detail below), each share of the Series C Preferred Stock will automatically convert into shares of our common stock at an initial conversion price of \$9.04 per share, subject to customary anti-dilution adjustments.

Our Board of Directors recommends that stockholders vote **FOR** the Proposal 1, so that the Series C Preferred Stock will convert automatically into shares of common stock, thereby strengthening our common equity base as planned.

The private placement was exempt from SEC registration pursuant to Section 4(2) of the Securities Act of 1933, as amended, and Rule 506 of Regulation D promulgated thereunder.

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### **NASDAQ Shareholder Approval Requirement**

Because our common stock is listed on the NASDAQ Global Select Market, we are subject to the NASDAQ Rules. NASDAQ Rule 5635(d) requires stockholder approval prior to the issuance of securities in connection with a transaction, other than a public offering, involving the sale, issuance or potential issuance by a company of common stock, or securities convertible into or exercisable for common stock, equal to 20% or more of the common stock or 20% or more of the voting power outstanding before the issuance for less than the greater of book value or market value of the stock.

The 37,062,721 shares of common stock issuable upon conversion of the Series C Preferred Stock together with the common stock issued at the closing of the private placement will exceed 19.99% of the number of shares of our common stock and voting power outstanding prior to the private placement. The \$9.04 per share conversion price for the Series C Preferred Stock is less than the book value per share of our common stock. The book value of our common stock was \$12.58 per share based on our stockholders' equity divided by the total number of common shares outstanding as shown in our Quarterly Report on Form 10-Q for the period ended September 30, 2009, our most recent public filing with the SEC prior to the close of the private placement. Based on the consolidated closing bid price of our common stock as reported by NASDAQ on November 4, 2009, the trading day immediately prior to the effective date of the Investment Agreements, the market value of our common stock was \$8.36. However, because the sales price of \$9.04 was below our book value of \$12.58 per share, stockholder approval is required pursuant to NASDAQ Rule 5635(d).

Proposal 1 must receive the affirmative vote of the majority of shares present in person or by proxy at the Meeting and entitled to vote in order to be approved.

### **Reasons for the Acquisition of United Commercial Bank**

On November 6, 2009, we acquired certain assets and assumed certain liabilities of United Commercial Bank from the FDIC as receiver of United Commercial Bank. As a result of the acquisition, East West Bank has over \$20 billion in assets and is one of the largest independent banks headquartered in California and the largest bank in the nation focused on serving the Asian-American community. The acquisition included the insured and uninsured deposits of United Commercial Bank, but excluded certain brokered deposits and was made pursuant to the terms of a purchase and assumption agreement entered into by East West Bank and the FDIC on November 6, 2009, as discussed further below.

Our management has from time to time become aware of acquisition opportunities and has performed various levels of review related to potential acquisitions in the past. This particular transaction was attractive to us for a variety of reasons, including the:

ability to increase our market share in California; develop market share in New York, New England, Georgia, Texas and the Pacific Northwest domestically, as well as increase market share in Hong Kong and develop market share in Shanghai and Shantou, China;

attractiveness of immediate core deposit growth with low cost of funds given that over the past several years, organic core deposit growth has been exceptionally difficult as financial institutions compete for deposits; and

opportunities to enhance income and efficiency due to duplications of effort as we expect to enhance income by centralizing some duties and removing duplications of effort.

Based on these and other factors, including the level of FDIC loss protection related to the acquired loans, we believe that this acquisition has had and will continue to have a positive impact on our earnings, including an increase in East West Bank's net interest margin and efficiencies achieved through the elimination of duplicative operational processes. Prior to the commencement of discussions with the FDIC regarding the FDIC-assisted acquisition of United Commercial Bank, there were no negotiations, transactions or other material contacts

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between us and United Commercial Bank and/or its parent company, UCBH Holdings, Inc., regarding a business combination.

The acquisition has and we expect it to continue to positively affect our operating results in the near term. Based on our preliminary unaudited financial results for the fourth quarter 2009, net income for the fourth quarter 2009 was \$259.7 million, or \$1.96 per share, compared with a loss of \$68.5 million, or 91 cents per share, in the third quarter. The fourth-quarter earnings include a pre-tax gain of \$471.0 million from the acquisition of United Commercial Bank. Net interest income, excluding provision for loan losses, increased to \$219.5 million from \$95.9 million in the third quarter 2009. Provision for loan losses was \$140.0 million in the fourth quarter 2009.

We believe that the transaction will continue to improve our net interest income, as we earn more from interest earned on loans and investments than we pay in interest on deposits and borrowings.

The extent to which our operating results may be adversely affected by the acquired loans is offset to a significant extent by the shared-loss agreements and the related discounts reflected in the fair value of these assets at the acquisition date.

Another reason for the acquisition is that East West Bank and United Commercial Bank share a similar asset and borrower profile that we believe will facilitate the integration of the two banks. United Commercial Bank, headquartered in San Francisco, California, had total assets of approximately \$11.2 billion and total deposits of approximately \$7.5 billion as of October 23, 2009. Its focus was to provide commercial banking services to small- and medium-sized businesses and professionals in a variety of industries, as well as consumer and private client services to individuals.

The majority of the United Commercial Bank franchise was within East West Bank's existing footprint, including Hong Kong and China. United Commercial Bank and its subsidiaries, including United Commercial Bank (China) Limited, operated 50 California branches/offices located in the San Francisco Bay Area, Sacramento, Stockton, and Los Angeles and Orange Counties, nine branches in the State of New York, five branches in metropolitan Atlanta, Georgia, three branches in New England, two branches in the Pacific Northwest, a branch in Houston, Texas, branches in Hong Kong, Shanghai and Shantou, China, and representative offices in Beijing, Guangzhou and Shenzhen, China, and Taipei, Taiwan.

Following the acquisition, East West Bank now operates a total of 137 branches worldwide, including 112 branches in California and 21 branches in key markets across the United States, including New York, Atlanta, Boston, Houston, and Seattle. In addition, East West Bank now operates four full-service branches in Greater China, including two branches in Hong Kong, and branches in Shanghai and Shantou. East West Bank also has representative offices in Beijing, Guangzhou, Shanghai and Shenzhen, China, and Taipei, Taiwan. The acquisition of United Commercial Bank's assets also included United Commercial Bank (China) Limited, the subsidiary of United Commercial Bank headquartered in Shanghai, China. East West Bank's acquisition of this Chinese subsidiary has passed preliminary review by the China Banking Regulatory Commission. We have formed a dedicated management team to assist in the integration of the two franchises.

**The Purchase and Assumption Agreement**

The acquisition was made pursuant to the terms of a purchase and assumption agreement entered into by and among East West Bank, the FDIC, as receiver for United Commercial Bank, and the FDIC, by and for itself, on November 6, 2009. Under the terms of the purchase and assumption agreement, East West Bank acquired certain assets of United Commercial Bank with a fair value of approximately \$9.86 billion, including \$5.90 billion of loans, \$1.56 billion of investment securities, \$93.5 million of Federal Home Loan Bank stock, \$599.0 million of cash and cash equivalents, \$147.4 million of securities purchased under sale agreements, \$38.0 million of other real estate owned, and \$207.6 million of other assets. Liabilities with a fair value of approximately \$9.57 billion were also assumed, including \$6.53 billion of insured and uninsured deposits, but excluding certain brokered

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deposits, \$1.84 billion of Federal Home Loan ( FHLB ) advances, \$858.2 million of securities sold under agreements to repurchase, \$90.6 million in other borrowings and \$254.2 million of other liabilities. . The fair values of the assets acquired and liabilities assumed were determined based on the requirements of Financial Accounting Standards Board Topic 820: *Fair Value Measurements and Disclosures*. The Statement of Assets Acquired and Liabilities Assumed by East West Bank, dated as of November 6, 2009, and the accompanying notes, are attached to this Proxy Statement as *Appendix C*. The fair value amounts are subject to change for up to one year after the closing date of the acquisition as additional information relative to closing date fair values becomes available. The amounts are also subject to adjustments based upon final settlement with the FDIC. In addition, the tax treatment of FDIC assisted acquisitions is complex and subject to interpretations that may result in future adjustments of deferred taxes as of the acquisition date. The terms of the purchase and assumption agreement provide for the FDIC to indemnify East West Bank against claims with respect to liabilities of United Commercial Bank not assumed by East West Bank and certain other types of claims listed in the purchase and assumption agreement. This discussion reflects the status of these items to the best of management s knowledge as of the date of this Proxy Statement.

In connection with the acquisition of United Commercial Bank, East West Bank entered into a loss-sharing agreement (the shared-loss agreement ) with the FDIC that covered approximately \$5.66 billion and \$38.0 million of United Commercial Bank s loans and other real estate owned, respectively. East West Bank will share in the losses, which begins with the first dollar of loss occurred, of the loan pools (including single-family residential mortgage loans, commercial loans, foreclosed loan collateral and other real estate owned) covered ( covered loans ) under the shared-loss agreement. Pursuant to the terms of the shared-loss agreement, the FDIC is obligated to reimburse East West Bank 80% of eligible losses of up to \$2.05 billion with respect to covered loans. The FDIC will reimburse East West Bank for 95% of eligible losses in excess of \$2.05 billion with respect to covered loans. East West Bank has a corresponding obligation to reimburse the FDIC for 80% or 95%, as applicable, of eligible recoveries with respect to covered loans.

The shared-loss agreement for commercial and single-family residential mortgage loans is in effect for 5 years and 10 years, respectively, from the November 6, 2009 acquisition date. The loss recovery provisions with respect to eligible losses of up to \$2.05 billion are in effect for 8 years from the acquisition date and the loss recovery provisions with respect to eligible losses in excess of \$2.05 billion are in effect for 10 years from the acquisition date.

On January 14, 2020, East West Bank is required to pay to the FDIC 50% of the excess, if any, of (i) \$410 million over (ii) the sum of (A) 25% of the asset discount plus (B) 25% of the Cumulative Shared-Loss Payments plus (C) the Cumulative Servicing Amount if net losses on covered loans subject to the stated threshold is not reached. As of December 31, 2009, the estimate for this liability was zero.

The shared-loss agreements contain provisions regarding servicing procedures as specified in the purchase and assumption agreement with the FDIC. The expected net reimbursements under the shared-loss agreements were recorded at their estimated fair value of \$1.14 billion on the acquisition date.

East West Bank did not immediately acquire all the real estate, banking facilities, furniture or equipment of United Commercial Bank as part of the purchase and assumption agreement. East West Bank has the option to purchase or lease the real estate and furniture and equipment from the FDIC. The term of these options expires 90 days after November 6, 2009, unless extended by the FDIC. Acquisition costs of the real estate and furniture and equipment will be based on current appraisals and determined at a later date. Currently all banking facilities and equipment are being leased from the FDIC on a month-to-month basis.

East West Bank paid the FDIC a premium of approximately 1.1% for the right to assume all of the deposits of United Commercial Bank. In addition, the FDIC transferred to East West Bank all qualified financial contracts to which United Commercial Bank was a party and such contracts remain in full force and effect. Because this was an FDIC-assisted transaction of a failed bank, the shareholders of United Commercial Bank received no consideration as a result of East West Bank s acquisition of United Commercial Bank s assets.



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The assets of United Commercial Bank acquired and liabilities assumed have been accounted for under the acquisition method of accounting (formerly the purchase method). For income tax purposes, the acquisition will be accounted for as an asset purchase and the tax bases of assets acquired will be allocated based on fair values in accordance with the Internal Revenue Code and related regulations.

Because East West Bank is a California state bank member of the Federal Reserve System, prior approval of the acquisition was required and received from the Board of Governors of the Federal Reserve (the Federal Reserve Board) and the California Commissioner of Financial Institutions. East West Bank's acquisition of United Commercial Bank's Chinese subsidiary, United Commercial Bank (China) Limited, requires the approval of the China Banking Regulatory Commission and, as of the date of the acquisition, had passed such commission's preliminary review procedures. In the event that the China Banking Regulatory Commission does not approve the transfer of United Commercial Bank (China) Limited, East West Bank is entitled to require the FDIC to purchase United Commercial Bank (China) Limited. The term of this option expires 180 days after November 6, 2009, unless extended by the FDIC.

### **Series C Preferred Stock Terms**

The following is a summary of the material terms and provisions of the preferences, limitations, voting powers and relative rights of the Series C Preferred Stock as contained in the Certificate of Designations for the Series C Preferred Stock which has been filed with the Secretary of State of the State of Delaware. The Certificate of Designations is included as *Appendix A* attached to this Proxy Statement and is incorporated by reference herein. Stockholders are urged to carefully read the Certificate of Designations in its entirety. Although we believe this summary covers the material terms and provisions of the Series C Preferred Stock as contained in the Certificate of Designations, it may not contain all of the information that is important to you.

*Authorized Shares, Stated Value and Liquidation Preference.* We have designated 428,000 shares as Mandatorily Convertible Cumulative Non-Voting Perpetual Preferred Stock, Series C, which have a par value of \$0.001 per share and a stated value and liquidation preference of \$1,000 per share.

*Mandatory Conversion.* The Series C Preferred Stock of each holder will convert into shares of common stock on the third business day following the receipt by us and/or the holder of Series C Preferred Stock of the following: (i) the approval by the holders of our common stock of the conversion of the Series C Preferred Stock into common stock as required by the applicable NASDAQ rules and (ii) as to a holder, the expiration or termination of any waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended. The number of shares of common stock into which each share of Series C Preferred Stock is convertible is determined by dividing (i) the \$1,000 per share liquidation preference, plus all accrued and unpaid dividends, by (ii) the applicable conversion price, which is initially \$9.04 per share. The conversion price of the Series C Preferred Stock is subject to customary anti-dilution adjustments, including in connection with stock dividends and distributions, stock splits, subdivisions and combinations, distributions of cash, debt or assets and tender offers and exchange offer.

*Dividends.* Commencing on the date on which shares of Series C Preferred Stock were first issued, dividends will accrue and be payable semi-annually in arrears on May 1 and November 1 of each year (each, a Dividend Payment Date). Dividends will be payable, on a cumulative basis, in cash and in kind in additional shares of Series C Preferred Stock if, when and as declared by the Board of Directors or a duly authorized committee thereof for each outstanding share of Series C Preferred Stock as follows:

dividends at an annual rate equal to the special dividend rate (meaning the sum of (a) the greater of (i) LIBOR and (ii) 1% plus (b) 10%, (up to a maximum of 13%) multiplied by the sum of (A) the liquidation preference plus (B) all accrued and unpaid dividends for any prior dividend period, payable in cash; provided that, in the event the as-converted dividend for such dividend period is greater than

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the dividend calculated pursuant to the foregoing language, each outstanding share of Series C Preferred Stock will be entitled to receive, when and as declared by the Board of Directors, the as-converted dividend instead; and

dividends at an annual rate equal to 5% multiplied by the sum of (A) the liquidation preference plus (B) all accrued and unpaid dividends for any prior dividend period payable in kind in additional shares of Series C Preferred Stock with the number of shares to be issued determined by dividing the amount of the payable in kind dividend by the liquidation preference per share of Series C Preferred Stock.

No dividends will be paid in respect of the dividend period in which the Series C Preferred Stock converts into common stock.

Subject to limited exceptions, if dividends payable on all outstanding shares of the Series C Preferred Stock for any dividend period have not been declared and paid or declared and funds set aside therefor, we will not be permitted to declare or pay dividends with respect to, or redeem, purchase, or acquire any of our junior securities, or redeem, purchase or acquire any parity securities.

*Ranking.* The Series C Preferred Stock ranks, with respect to dividend rights and rights on liquidation, winding up and dissolution, on a parity with the Company's 8.00% Non-Cumulative Perpetual Convertible Preferred Stock, Series A, and Fixed Rate Cumulative Perpetual Preferred Stock, Series B, and with each other class or series of equity securities of the Company the terms of which do not expressly provide that such class or series will rank senior or junior to the Series C Preferred Stock as to dividend rights and rights on liquidation, winding-up and dissolution of the Company. The Series C Preferred Stock ranks senior to our common stock and any other class or series of our stock now existing or hereafter established, the terms of which do not expressly provide that it ranks on a parity with or senior to the Series C Preferred Stock as to dividend rights and rights on liquidation, winding-up and dissolution of the Company.

*Voting Rights.* The holders of the Series C Preferred Stock will not have any voting rights other than as required by law, except that the approval of the holders of a majority of the Series C Preferred Stock, voting as a single class, will be required with respect to certain matters, including (A) charter amendments adversely affecting the rights, preferences or privileges of the Series C Preferred Stock and (B) the creation of any series of senior equity securities.

*Liquidation.* In the event we voluntarily or involuntarily liquidate, dissolve or wind up, the holders of the Series C Preferred Stock will be entitled, before any distribution or payment out of our assets may be made to or set aside for the holders of any of our junior capital stock and subject to the rights of our creditors, to receive a liquidation distribution in an amount equal to \$1,000 per share, plus any accrued but unpaid dividends whether or not declared. If our assets or the proceeds thereof available for distribution among the holders of the Series C Preferred Stock and the holders of shares of all of our other capital stock ranking pari passu with the Series C Preferred Stock is insufficient to pay in full the liquidation preference and liquidation payments on all such other parity securities, then all of the assets available, or the proceeds thereof, after payment of any senior securities, will be distributed among the holders of the Series C Preferred Stock and the holders of the parity securities ratably. A merger, consolidation or sale of all or substantially all of our property or business is not deemed to be a liquidation under the Certificate of Designations.

*Redemption.* The Series C Preferred Stock is not redeemable by the holders, but may be redeemed by us following the fifth anniversary of its issuance at a redemption price per share equal to the greater of (i) 125% of the liquidation preference plus all accrued and unpaid dividends and (ii) 110% of the closing price of the common stock for trading day prior to the date of redemption multiplied by the number of shares of common stock into which one share of Series C Preferred Stock would be convertible on such date if such shares of Series C Preferred Stock were converted on that date following (assuming receipt of stockholder approval and, if applicable, regulatory approval); provided that, in no event will the redemption price exceed 150% of the amount calculated in accordance with clause (i) above.

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*Anti-dilution Provisions.* The conversion price of the Series C Preferred Stock is also subject to customary anti-dilution adjustments.

*Preemptive Rights.* Holders of the Series C Preferred Stock have no preemptive rights, although the Investors do have certain contractual subscription rights as provided in the Investment Agreements.

*Ownership Limitations; Non-Voting Common Stock.* If the payment of dividends in additional shares of Series C Preferred Stock would cause any Investor to exceed this 9.9% threshold, any shares in excess of such threshold payable to such Investor would be in the form of substitute preferred stock which would only convert to common when the threshold limitation would not be violated.

*Fundamental Change.* If the Company enters into a transaction constituting a consolidation or merger of the Company or similar transaction or any sale or other transfer of all or substantially all of the consolidated assets of the Company and its subsidiaries, taken as a whole (in each case pursuant to which its common stock will be converted into cash, securities or other property) or for certain reclassifications or exchanges of its common stock, then each share of Series C Preferred Stock will convert, effective on the day on which such share would automatically convert into common stock of the Company, into the securities, cash and other property receivable in the transaction by the holder of the number of shares of common stock into which such share of Series C Preferred Stock would then be convertible, assuming receipt of any applicable regulatory approval.

## **The Investment Agreements**

The following is a summary of the material terms of the Investment Agreements and is qualified in its entirety by reference to the form of Investment Agreement attached as *Appendix B* to this Proxy Statement and is incorporated by reference herein. You should read the form of Investment Agreement in its entirety because it, and not this Proxy Statement, is the legal document that governs the issuance of the Series C Preferred Stock.

*Purchase and Sale of Stock.* Pursuant to the Investment Agreements, we agreed to issue and sell 18,247,012 shares of common stock and 335,047 shares of the Series C Preferred Stock, in the aggregate, to the Investors.

*Representations and Warranties.* We made customary representations and warranties to the Investors relating to us, our business and our capital stock, including with respect to the shares of Series C Preferred Stock to be issued to the Investors pursuant to the Investment Agreement. The representations and warranties in the Investment Agreements were made for purposes of the Investment Agreements and are subject to qualifications and limitations agreed to by the respective parties in connection with negotiating the terms of the Investment Agreements, including being qualified by confidential disclosures made for the purposes of allocating contractual risk. In addition, certain representations and warranties were made as of a specific date, may be subject to a contractual standard of materiality different from what might be viewed as material to stockholders, or may have been used for purposes of allocating risk between the respective parties rather than establishing matters as facts. The representations and warranties and other provisions of the Investment Agreements should not be read alone, but instead should only be read together with the information provided elsewhere in this document and in the documents incorporated by reference into this document, including the periodic and current reports and statements that we file with the SEC.

*Agreement to Seek Stockholder Approval.* We agreed to call and hold the Meeting, as promptly as reasonably practicable, and to unanimously recommend and seek stockholder approval of Proposal 1. In addition, we agreed to prepare and file this Proxy Statement with the SEC, as well as, subject to the fiduciary duties of the Board of Directors, to use reasonable best efforts to solicit Proxies for the stockholder approval of the Proposal. If such approval is not obtained at the Meeting, we will call additional meetings and recommend approval of Proposal 1 to the stockholders every six months thereafter until such approval is obtained.

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*Registration Rights.* We have agreed that, within six months after the closing date of the private placement, we will prepare and file a shelf registration statement with the SEC covering all shares of common stock and Series C Preferred Stock issued under the Investment Agreements, any securities issuable upon conversion of the Series C Preferred Stock, and any additional shares of common stock or Series C Preferred Stock that may be issued from time to time pursuant to the Investment Agreements, including by way of stock dividends or stock splits or in connection with a combination of shares, recapitalization, merger or other reorganization. The Investors also have customary piggyback registration rights.

*Transfer Restrictions.* Each Investor will be generally prohibited from transferring the common stock, Series C Preferred Stock and the common stock issuable upon conversion of the Series C Preferred Stock for a period of six months following the closing date of the private placement. Subject to certain exceptions with respect to transfers effected after such six -month period, the Investor must reasonably believe that any transferee in any such transfer would not own more than 4.9% of the common stock (including common stock issuable upon conversion of the Series C Preferred Stock) after such transfer. Further, the securities issued to the Investors have not been registered and bear a legend specifying that such securities may not be transferred, sold or otherwise disposed of unless a registration statement relating to such securities is in effect under applicable federal and state securities laws or pursuant to an available exemption from registration.

*Subscription Rights.* The Investment Agreements provide the Investors, so long as they hold 50% of the securities purchased in the private placement, customary subscription rights for a period of six months (or three years in the case of Investors holding a minimum of 5% or more of our outstanding shares of common stock) to enable such Investors to maintain their proportionate ownership of our common stock. At any time that any Investor meets this ownership threshold and the Company makes any offering or sale of any equity, or any securities convertible or exchangeable into equity, subject to customary exceptions, each Investor may acquire at the same price and on the same terms, subject to certain limitations, that number of the securities being offered necessary to maintain its proportionate common stock equivalent interest in the Company. Under certain circumstances, Investors may acquire such securities at a discount to the price being offered to third parties.

*Other Covenants.* We also agreed to a number of customary covenants, including covenants (i) providing Investors holding a minimum of 5% or more of our outstanding shares of common stock to access to the books and records and to our management, (ii) with respect to the reservation and listing on NASDAQ of the common stock to be issued pursuant to the Investment Agreement and the common stock to be issued upon conversion of the Series C Preferred Stock and (iii) providing certain subscription rights to Investors in the event of certain issuances of equity securities by the Company.

*Indemnity.* We have agreed to customary indemnification provisions for the benefit of each Investor relating to certain losses suffered by each Investor arising from breaches of our representations, warranties and covenants in the Investment Agreements or relating to certain losses arising from actions, suits or claims relating to the Investment Agreements or the transactions contemplated thereby. Each Investor has agreed to customary indemnification provisions for the benefit of the Company relating to certain losses suffered by us arising from breaches of any Investor's breach of its representations, warranties and covenants in the Investment Agreements.

*Passivity and Standstill Commitments.* Each Investor has agreed to standstill and passivity commitments that apply until the earlier of (A) the third anniversary of the closing date and (B) such time as the Investor owns less than 5% of the outstanding shares of common stock. Among other things, Investors have agreed that, without prior written approval of the Company, the Investors will not:

acquire beneficial ownership of the Company's voting securities if such acquisition would result in the Investor or its affiliates (A) being deemed to control us within the meaning of the Bank Holding Company Act of 1956, as amended and the Change of Bank Control Act of 1978 as amended or the California Financial Code and the rules and regulations promulgated thereunder, (B) having beneficial ownership of 25% or more of the outstanding shares of a class of voting securities or the common stock (other than as a result of the exercise of the rights or obligations under the Investment Agreement);

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enter into or seek to enter into any acquisition transaction, merger or business combination relating to all or part of us or our subsidiaries;

make or participate in the solicitation of Proxies to vote or influence any person or entity with respect to the voting of any voting securities of us or our subsidiaries;

call a meeting of our stockholders or our subsidiaries, initiate a stockholder proposal or in any way participate in a group with respect to any voting securities of us; or act alone or in concert with others to exercise a controlling influence over the management, Board of Directors or policies of us or our subsidiaries;

bring any action or otherwise act to contest the validity of or seek a release from or waiver of the passivity and standstill provisions of the Investment Agreement.

*Expenses.* We and each Investor will each bear and pay our own costs and expenses in connection with the transactions contemplated by the Investment Agreements, except as may be subsequently agreed in writing between us and each Investor.

**Potential consequences if Proposal 1 to convert the Series C Preferred Stock is approved**

*Conversion of Series C Preferred Stock into Common Stock.* Upon receipt of the stockholder approval for Proposal 1, and subject to receipt of certain regulatory approvals, if applicable, each share of Series C Preferred Stock will be automatically converted into shares of common stock on the third business day following the date on which such approvals are obtained. Each outstanding share of Series C Preferred Stock will automatically be converted into such number of shares of common stock determined by dividing (i) \$1,000 (the purchase price per share of the Series C Preferred Stock) by (ii) the conversion price of the Series C Preferred Stock then in effect, subject to certain adjustments. The initial conversion price of the Series C Preferred Stock is \$9.04 per share.

*Dilution.* We will issue, through the conversion of the Series C Preferred Stock, 37,062,721 shares of common stock (in addition to the 18,247,012 shares of common stock previously issued at the closing of the private placement). As a result, we expect there to be a dilutive effect on both the earnings per share of our common stock and the book value per share of our common stock. In addition, our existing stockholders will incur substantial dilution to their voting interests and will own a smaller percentage of our outstanding capital stock. For additional information regarding the dilutive effect of the private placement, please see the section of this Proxy Statement captioned "Capitalization Table."

*Rights of Investors.* If stockholder approval is received, the rights and privileges associated with the common stock issued upon conversion of the Series C Preferred Stock will be identical to the rights and privileges associated with the common stock held by our existing common stockholders, including voting rights.

*Elimination of Dividend and Liquidation Rights of Holders of Series C Preferred Stock.* If the stockholder approval is received, subject to any applicable required regulatory approval for the conversion of the Series C Preferred Stock, all shares of Series C Preferred Stock will be cancelled. As a result, approval of the conversion of Series C Preferred Stock will result in the elimination of the dividend rights and liquidation preference existing in favor of the Series C Preferred Stock. For more information regarding such dividend rights and liquidation preference, see "Series C Preferred Stock Terms and Provisions" in this Proxy Statement.

*Improved Balance Sheet and Regulatory Capital Level.* Upon consummation of the private placement, we received aggregate gross proceeds of \$500 million, which strengthened our balance sheet and regulatory capital levels. Upon conversion of the Series C Preferred Stock to common stock, our regulatory capital levels will be further strengthened. For additional information regarding the effect of the private placement on our balance sheet and our regulatory capital ratios, please see the section of this Proxy Statement captioned "Capitalization Table."

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*Market Effects.* Despite the existence of certain restrictions on transfer, the issuance of shares of our common stock upon conversion of the Series C Preferred Stock may impact trading patterns and adversely affect the market price of our common stock. If significant quantities of our common stock are issued upon conversion of the Series C Preferred Stock and are sold (or if it is perceived that they may be sold) into the public market, the trading price of our common stock could be materially adversely affected.

The current ownership of our common stock following the consummation of the private placement is further described below in the section of this Proxy Statement captioned Beneficial Stock Ownership of Principal Stockholders and Management.

**Potential consequences if Proposal 1 to convert the Series C Preferred Stock is not approved**

*Series C Preferred Stock Remains Outstanding.* Unless the stockholder approval is received or unless our stockholders approve a similar proposal at a subsequent meeting, the Series C Preferred Stock will remain outstanding in accordance with its terms.

*Substantial Dividend Payments.* If stockholder approval is not obtained, the shares of Series C Preferred Stock will remain outstanding and, for so long as such shares remain outstanding, we will be required to pay substantial dividends on the Series C Preferred Stock, on a cumulative basis, at an annual rate equal to (X) the sum of (a) the greater of (i) LIBOR and (ii) 1% plus (b) 10% (up to a maximum of 13%), multiplied by the sum of (A) the liquidation preference plus (B) all accrued and unpaid dividends for any prior dividend period, payable in cash (or the as-converted dividend if it is higher), and (Y) dividends at an annual rate equal to 5% multiplied by the sum of (A) the liquidation preference plus (B) all accrued and unpaid dividends for any prior dividend period payable in kind in additional shares of Series C Preferred Stock.

As a hypothetical example based upon an annual rate of 1% (the current 3-month LIBOR rate is less than 1%) plus 10%, the dividend payments on the Series C Preferred Stock during the next twelve months if stockholder approval is not obtained are as follows:

|                     |                          |               |
|---------------------|--------------------------|---------------|
| On May 1, 2010      | Cash Dividend            | \$ 17,813,332 |
|                     | Payment in Kind Dividend | \$ 8,096,969  |
| On November 1, 2010 | Cash Dividend            | \$ 18,872,918 |
|                     | Payment in Kind Dividend | \$ 8,578,599  |

Total cumulative dividends that we would be required to pay on the Series C Preferred Stock during the next twelve months if stockholder approval is not obtained during that time is \$53,361,819. This hypothetical assumes an as-converted common stock dividend rate of 0%.

*Additional Stockholder Meetings.* We will call additional stockholder meetings and recommend approval of Proposal 1 at each meeting to the stockholders every six months, if necessary, thereafter until such approval is obtained pursuant to the provisions of the Investment Agreements. We will bear the costs of soliciting the approval of our stockholders in connection with these meetings.

*Restriction on Payment of Dividends.* For as long as the Series C Preferred Stock remains outstanding, if dividends payable on all outstanding shares of the Series C Preferred Stock have not been declared and paid, or declared and funds set aside therefor, we will not be permitted to declare or pay dividends with respect to, or redeem, purchase, or acquire any of our junior securities, or redeem, purchase or acquire any parity securities, subject to limited exceptions.

*Liquidation Preference.* For as long as the Series C Preferred Stock remains outstanding, it will retain a senior liquidation preference over shares of our common stock in connection with any liquidation of us and, accordingly, no payments will be made to holders of our common stock upon any liquidation of us unless the full liquidation preference on the Series C Preferred Stock is paid.

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**INFORMATION ABOUT EAST WEST BANCORP, INC.**

We are a Delaware corporation whose principal business is to serve as the holding company for East West Bank, a full-service commercial bank serving consumers and businesses with over 135 branches and/or representative offices worldwide. In addition to East West Bank, we have ten other subsidiaries, namely East West Insurance Services, Inc., East West Capital Trust I, East West Capital Trust II, East West Capital Statutory Trust III, East West Capital Trust IV, East West Capital Trust V, East West Capital Trust VI, East West Capital Trust VII, East West Capital Trust VIII, and East West Capital Trust IX.

As of December 31, 2009, we had total assets of approximately \$20.6 billion, total gross loans of approximately \$14.1 billion, total deposits of approximately \$15 billion and total shareholders' equity of approximately \$2.3 billion.

Our shares are traded on the NASDAQ Global Select Market under the symbol EWBC. Our principal office is located at 135 N. Los Robles Ave., 7th Floor, Pasadena, California 91101, and the telephone number is (626) 768-6000.

For more information about us, see [Where You Can Find More Information](#) beginning on page 5 of this Proxy Statement.

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**INFORMATION ABOUT UNITED COMMERCIAL BANK**

United Commercial Bank was a California state-chartered bank and wholly owned subsidiary of UCBH Holdings, Inc. based in San Francisco, California. As previously discussed, East West Bank acquired certain assets and assumed substantially all of the deposits and certain liabilities of United Commercial Bank pursuant to a purchase and assumption agreement with the FDIC.

*Discussion*

A narrative description of the anticipated effects of the acquisition on our financial condition, liquidity, capital resources and operating results is presented below. In accordance with the guidance provided in Staff Accounting Bulletin Topic 1:K, *Financial Statements of Acquired Troubled Financial Institutions* ( SAB 1:K ) and a request for relief submitted to the Securities and Exchange Commission, the Company has omitted certain financial information of United Commercial Bank required by Rule 3-05 of Regulation S-X. SAB 1:K provides relief from the requirements of Rule 3-05 of Regulation S-X under certain circumstances, including a transaction such as the United Commercial Bank acquisition, in which the registrant engages in an acquisition of a troubled financial institution for which audited financial statements are not reasonably available and in which federal assistance is an essential and significant part of the transaction. This discussion should be read in conjunction with our historical financial statements and the related notes, which have been filed with the SEC and the Statement of Assets Acquired and Liabilities Assumed by East West Bank, dated November 6, 2009, and accompanying notes (the Audited Statement ), which is attached hereto as *Appendix C*.

The acquisition increased East West Bank's total assets and total deposits, which are expected to positively affect East West Bank's operating results, to the extent East West Bank earns more from interest earned on its assets than it pays in interest on deposits and other borrowings. The ability of East West Bank to successfully collect interest and principal on loans acquired will also impact East West Bank's cash flows and operating results.

We have determined that the acquisition of the net assets of United Commercial Bank constitutes a business acquisition as defined by FASB Accounting Standard Codification Topic 805: *Business Combinations* . Accordingly, the assets acquired and liabilities assumed as of November 6, 2009 are presented at their fair values in the table below as required by that topic. In many cases, the determination of these fair values required management to make estimates about discount rates, future expected cash flows, market conditions and other future events that are highly subjective in nature and subject to change. These fair value estimates are subject to change for up to one year after the closing date of the acquisition as additional information relative to closing date fair values becomes available. East West Bank and the FDIC are engaged in ongoing discussions that may impact which assets and liabilities are ultimately acquired or assumed by East West Bank and/or the purchase price.

*Financial Condition*

In the acquisition, East West Bank purchased \$5.90 billion in loans at fair value, net of a \$1.71 billion discount. This amount represents approximately 42 % of its total loans (net of the allowance for loan losses) at November 30, 2009. Other real estate acquired was \$38.0 million at fair value. Approximately \$291.5 million in net after-tax gain, an FDIC indemnification asset of 1.1 billion and a \$74.4 million core deposit intangible were recorded in connection with this transaction.

East West Bank acquired \$599.0 million in cash and cash equivalents, \$1.56 billion in investment securities at fair value and \$147.4 million in securities purchased under sale agreements. A portion of the cash and securities acquired have been retained to create additional liquidity and a portion has been utilized to reduce the \$858.2 million of acquired securities sold under repurchase agreements.



**Table of Contents***Investment Portfolio*

East West Bank acquired \$1.56 billion of investment securities at estimated fair market value in the United Commercial Bank acquisition. The acquired securities were predominantly U.S. Treasury securities, U.S. Government agency and U.S. Government sponsored enterprise debt securities and U.S. Government agency and U.S. Government sponsored enterprise mortgage-backed securities.

The following table present the composition of the investment securities portfolio acquired at November 6, 2009:

|  | <b>November 6, 2009</b><br><b>(In thousands)</b> |
|--|--|
| U.S. Treasury securities   | \$ 301,853                                       |
| U.S. Government agency and sponsored enterprise debt securities            | 455,388  |
| U.S. Government agency and sponsored enterprise mortgage-backed securities | 779,503  |
| Corporate debt securities  | 6,101  |
| Other securities   | 18,601   |
| <br>Investment securities  | <br>\$ 1,561,446                                 |

In addition, East West Bank also acquired \$93.5 million in Federal Home Loan Bank ( FHLB ) Stock and investments in affordable housing partnerships with a fair value of \$41.6 million.

The following table presents a summary of yields and contractual maturities of the investment securities portfolio acquired at November 6, 2009:

|  | <b>Within One Year</b>        |              | <b>After One But Within Five Years</b> |              | <b>After Five But Within 10 Years</b> |              | <b>After Ten Years</b> |              | <b>Total</b>     |              |
|--|-------------------------------|--------------|--|--------------|---------------------------------------|--------------|------------------------|--------------|------------------|--------------|
|  | <b>Amount</b>                 | <b>Yield</b> | <b>Amount</b>                          | <b>Yield</b> | <b>Amount</b>                         | <b>Yield</b> | <b>Amount</b>          | <b>Yield</b> | <b>Amount</b>    | <b>Yield</b> |
|  | <b>(Dollars in thousands)</b> |              |  |              |                                       |              |                        |              |                  |              |
| U.S. Treasury securities   | \$ 181,676                    | 0.12%        | \$ 120,177                             | 1.14%        | \$                                    |              | \$                     |              | \$ 301,853       | 0.53%        |
| U.S. Government agency and sponsored enterprise debt securities            |                               |              | 120,853                                | 2.23%        | 334,535                               | 4.61%        |                        |              | 455,388          | 3.98%        |
| U.S. Government agency and sponsored enterprise mortgage-backed securities |                               |              | 2,498                                  | 4.41%        | 83,106                                | 4.34%        | 693,899                | 4.39%        | 779,503          | 4.38%        |
| Corporate debt securities  |                               |              | 6,101                                  | 2.16%        |                                       |              |                        |              | 6,101            | 2.16%        |
| Other securities   |                               |              |  |              | 2,747                                 | 5.11%        | 15,854                 | 5.11%        | 18,601           | 5.11%        |
| <br>Total investments  | <br>\$ 181,676                | <br>0.12%    | <br>\$ 249,629                         | <br>1.73%    | <br>\$ 420,388                        | <br>4.56%    | <br>\$ 709,753         | <br>4.40%    | <br>\$ 1,561,446 | <br>3.52%    |

Subsequent to November 6, 2009, \$1.25 billion of investment securities were sold with a gain of approximately \$2.4 million.

**Table of Contents***Covered loans*

The following table presents the balance of each major category of loans acquired in the United Commercial Bank acquisition as of November 6, 2009:

|   | November 6, 2009 |               |
|---|------------------|---------------|
|   | Amount           | % of<br>Loans |
| Real estate loans:  |                  |               |
| Residential single family                                 | \$ 656,862       | 9%            |
| Residential multifamily                                   | 1,185,739        | 16%           |
| Commercial and industrial real estate                     | 2,480,439        | 34%           |
| Construction  | 1,469,772        | 20%           |
| Total real estate loans                                   | 5,792,812        | 79%           |
| Other loans:  |                  |               |
| Commercial business                                       | 1,401,167        | 19%           |
| Other consumer  | 105,324          | 2%            |
| Total other loans   | 1,506,491        | 21%           |
| Total covered loans                                       | 7,299,303        | 100%          |
| Total discount resulting from acquisition date fair value | (1,638,871)      |               |
| Net Loans   | \$ 5,660,432     |               |

East West Bank also acquired other real estate owned with a fair value of \$38.0 million. East West Bank refers to the loans and other real estate owned acquired in the United Commercial Bank acquisition, as covered loans as East West Bank will be reimbursed by the FDIC for a substantial portion of any future losses on them under the terms of the shared-loss agreement. Covered loans do not include the acquired loans of United Commercial Bank (China) Limited with a fair value of \$236.5 million.

At the November 6, 2009 acquisition date, East West Bank estimated the fair value of the United Commercial Bank acquisition loan portfolio at \$5.90 billion, which represents the expected discounted cash flows from the portfolio. In estimating such fair value, the Bank (a) calculated the contractual amount and timing of undiscounted principal and interest payments (the undiscounted contractual cash flows) and (b) estimated the amount and timing of undiscounted expected principal and interest payments (the undiscounted expected cash flows). The amount by which the undiscounted expected cash flows exceed the estimated fair value (the accretable yield) is accreted into interest income over the life of the loans. The difference between the undiscounted contractual cash flows and the undiscounted expected cash flows represents the nonaccretable difference.

The nonaccretable difference represents an estimate of the credit risk in the United Commercial Bank acquisition loan portfolio at the acquisition date. The credit risk is not reflected in the allowance for loan losses.

As part of the loan portfolio fair value estimation, East West Bank established the FDIC indemnification asset, which represents the present value of the estimated losses on covered loans to be reimbursed by the FDIC. The FDIC indemnification asset will be reduced as losses are recognized on covered loans and loss sharing payments are received from the FDIC. Realized losses in excess of acquisition date estimates will increase the FDIC indemnification asset. Conversely, if realized losses are less than acquisition date estimates, the FDIC indemnification asset will be reduced by a charge to earnings.

Covered loans under the shared-loss agreements with the FDIC are reported in loans exclusive of the estimated FDIC indemnification asset. The covered loans acquired in the United Commercial Bank acquisition transaction are and will continue to be subject to East West Bank's internal and external credit review. As a result, if and when credit deterioration is noted subsequent to the November 6, 2009 acquisition date, such



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deterioration will be measured through East West Bank's loss reserving methodology and a provision for credit losses will be charged to earnings with a partially offsetting noninterest income item reflecting the increase to the FDIC indemnification asset.

A summary of the covered loans (excluding OREOs) acquired in the United Commercial Bank acquisition as of November 6, 2009 and the related discount is as follows:

|   | <b>Credit-impaired<br/>Loans</b> | <b>Other<br/>Loans<br/>(In thousands)</b> | <b>Total</b>        |
|---|----------------------------------|---|---------------------|
| <b>Real estate loans:</b>                                 |                                  |   |                     |
| Residential single family                                 | \$ 23,042                        | \$ 633,820                                | \$ 656,862          |
| Residential multifamily                                   | 164,754                          | 1,020,985                                 | 1,185,739           |
| Commercial and industrial real estate                     | 918,348                          | 1,562,091                                 | 2,480,439           |
| Construction  | 1,304,112                        | 165,660                                   | 1,469,772           |
| <b>Total real estate loans</b>                            | <b>2,410,256</b>                 | <b>3,382,556</b>                          | <b>5,792,812</b>    |
| <b>Other loans:</b>                                       |                                  |   |                     |
| Commercial business                                       | 702,486                          | 698,681                                   | 1,401,167           |
| Other consumer  | 636                              | 104,688                                   | 105,324             |
| <b>Total other loans</b>                                  | <b>703,122</b>                   | <b>803,369</b>                            | <b>1,506,491</b>    |
| <b>Total loans</b>  | <b>3,113,378</b>                 | <b>4,185,925</b>                          | <b>7,299,303</b>    |
| Total discount resulting from acquisition date fair value | (1,108,059)                      | (530,812)                                 | (1,638,871)         |
| <b>Net loans</b>  | <b>\$ 2,005,319</b>              | <b>\$ 3,655,113</b>                       | <b>\$ 5,660,432</b> |

Credit-impaired covered loans are those loans showing evidence of credit deterioration since origination and it is probable, at the date of acquisition, that the Bank will not collect all contractually required principal and interest payments. Generally, the acquired loans that meet the Bank's definition for nonaccrual status fall within the definition of credit-impaired covered loans.

The undiscounted contractual cash flows for the covered credit-impaired loans and covered other loans are \$3.41 billion and \$5.55 billion, respectively. The undiscounted estimated cash flows not expected to be collected for the covered credit-impaired loans and covered other loans are \$1.20 billion and \$1.06 billion, respectively.

The accretable yield on credit-impaired loans represents the amount by which the undiscounted expected cash flows exceed the estimated fair value. At November 6, 2009, such accretable yield was approximately \$208.1 million. Credit-impaired loans are reviewed each reporting period to determine whether any changes occurred in expected cash flows that would result in a reclassification from nonaccretable difference to accretable yield.

**Table of Contents***Contractual Maturity of Loan Portfolio*

The following table presents the maturity schedule with respect to certain individual categories of loans acquired and provides separate analyses with respect to fixed rate loans and floating rate loans as of November 6, 2009. The amounts shown in the table are unpaid balances.

|                                       | Within One<br>Year  | After One<br>But<br>Within Five<br>Years | More Than<br>Five<br>Years | Total               |
|---------------------------------------|---------------------|--|----------------------------|---------------------|
|                                       | (In thousands)      |  |                            |                     |
| <b>Real estate loans:</b>             |                     |  |                            |                     |
| Residential single family             | \$                  | \$                                       | \$ 656,862                 | \$ 656,862          |
| Residential multifamily               |                     |  | 1,185,739                  | 1,185,739           |
| Commercial and industrial real estate | 570                 | 1,698,352                                | 781,517                    | 2,480,439           |
| Construction                          | 1,433,380           | 36,392                                   |                            | 1,469,772           |
| <b>Total real estate loans</b>        | <b>1,433,950</b>    | <b>1,734,744</b>                         | <b>2,624,118</b>           | <b>5,792,812</b>    |
| <b>Other loans:</b>                   |                     |  |                            |                     |
| Commercial business                   | 278,310             | 1,122,857                                |                            | 1,401,167           |
| Other consumer                        | 4,008               | 2,751                                    | 98,565                     | 105,324             |
| <b>Total other loans</b>              | <b>282,318</b>      | <b>1,125,608</b>                         | <b>98,565</b>              | <b>1,506,491</b>    |
| <b>Total loans</b>                    | <b>\$ 1,716,268</b> | <b>\$ 2,860,352</b>                      | <b>\$ 2,722,683</b>        | <b>\$ 7,299,303</b> |
| <b>Total fixed rate</b>               | <b>\$ 55,061</b>    | <b>\$ 908,892</b>                        | <b>\$ 471,441</b>          | <b>\$ 1,435,394</b> |
| <b>Total variable rate</b>            | <b>1,661,208</b>    | <b>1,951,460</b>                         | <b>2,251,241</b>           | <b>5,863,909</b>    |
| <b>Total</b>                          | <b>\$ 1,716,269</b> | <b>\$ 2,860,352</b>                      | <b>\$ 2,722,682</b>        | <b>\$ 7,299,303</b> |

*Deposits*

The United Commercial Bank acquisition increased East West Bank's deposits by \$6.53 billion at November 6, 2009. The following table presents a summary of the deposits acquired and the average interest rates in effect at the acquisition date:

|   | November 6, 2009       |       |
|---|------------------------|-------|
|   | Amount                 | Rate  |
|   | (Dollars in thousands) |       |
| Non-interest bearing                        | \$ 898,383             |       |
| Interest checking                           | 289,591                | 0.21% |
| Money market                                | 436,819                | 0.56% |
| Savings                                     | 654,060                | 0.45% |
| <b>Time deposits:</b>                       |                        |       |
| Less than \$100,000                         | 1,971,798              | 2.28% |
| \$100,000 or greater                        | 2,267,891              | 1.71% |
| <b>Time deposits fair value adjustment:</b> |                        |       |
| Less than \$100,000                         | 5,859                  |       |
| \$100,000 or greater                        | 5,462                  |       |
| <b>Total deposits</b>                       | <b>\$ 6,529,864</b>    |       |



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At November 6, 2009, scheduled maturities of time deposits were as follows:

| <b>Year of Maturity</b> | <b>November 6, 2009<br/>(In thousands)</b> |
|-------------------------|--|
| 2009                    | \$ 1,291,488                               |
| 2010                    | 2,863,384                                  |
| 2011                    | 80,684                                     |
| 2012                    | 2,387                                      |
| 2013 & thereafter       | 1,746                                      |
| <b>Total</b>            | <b>\$ 4,239,689</b>                        |

*Borrowings*

As of November 6, 2009, there was \$1.74 billion principal balance of borrowings outstanding from the FHLB with a fair value of \$1.84 billion. The borrowings are both term and callable advances and were secured by a blanket lien on eligible loans plus securities. The amount of callable advances at November 6, 2009 was \$800 million. The maturities shown are the contractual maturities for all advances.

The following table summarizes the principal balance of FHLB advances outstanding and weighted average interest rates at November 6, 2009:

| <b>Year of Maturity</b> | <b>Principal Balance<br/>(Dollars in thousands)</b> | <b>Rate</b> |
|-------------------------|---|-------------|
| 2009                    | \$ 200,000  | 3.96%       |
| 2010                    | 690,026   | 2.20%       |
| 2011                    | 45,367  | 4.78%       |
| 2013                    | 175,000   | 4.55%       |
| 2014                    | 50,000  | 4.43%       |
| 2015                    | 200,000   | 4.46%       |
| 2016                    | 125,000   | 4.33%       |
| 2017                    | 250,000   | 4.07%       |
| 2020                    | 6,159   | 5.07%       |
| <b>Total</b>            | <b>\$ 1,741,552</b>                                 |             |

At November 6, 2009, United Commercial Bank had securities sold under repurchase agreements with a fair value balance of \$858.2 million with a maturity date ranging from December, 2009 to November, 2017. East West Bank extinguished all of these liabilities by the end of December 31, 2009.

The following table summarizes the fair value of the repurchase agreements outstanding, maturity and the weighted average interest rate as of November 6, 2009:

| <b>Year of Maturity</b> | <b>Fair Value<br/>(Dollars in thousands)</b> | <b>Rate</b> |
|-------------------------|--|-------------|
| 2009                    | \$ 19,450                                    | 0.20%       |
| 2010                    | 54,021                                       | 0.34%       |
| 2011                    | 53,909                                       | 5.00%       |
| 2016                    | 174,048                                      | 4.73%       |
| 2017                    | 556,816                                      | 3.08%       |

Total

\$ 858,244



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In the United Commercial Bank acquisition, East West Bank assumed \$6.53 billion in deposits at fair value. This amount represents approximately 45% of the Bank's total deposits of \$14.65 billion at November 30, 2009. East West Bank also assumed \$1.84 billion in FHLB advances, at fair value.

In its assumption of the deposit liabilities, East West Bank determined that the customer relationships associated with these deposits have intangible value. East West Bank applied FASB Accounting Standard Codification Topic 805, *Business Combination*, which prescribes the accounting for goodwill and other intangible assets, such as core deposit intangibles in a business combination. East West Bank determined the fair value of a core deposit intangible asset totaling approximately \$74.4 million, which will be amortized based on the estimated economic benefits received. In determining the valuation amount, deposits were analyzed based on factors such as type of deposit, deposit retention, interest rates, age of deposit relationships, and the maturities of time deposits.

### *Operating Results and Cash Flows*

Our management has from time to time become aware of acquisition opportunities and has performed various levels of review related to potential acquisitions in the past. This particular transaction was attractive to us for a variety of reasons, including the:

ability to increase our market share in California; develop market share in New York, New England, Georgia, Texas and the Pacific Northwest domestically, as well as increase market share in Hong Kong and develop market share in Shanghai and Shantou internationally ;

attractiveness of immediate core deposit growth with low cost of funds given that over the past several years, organic core deposit growth has been exceptionally difficult as financial institutions compete for deposits; and

opportunities to enhance income and efficiency due to duplications of effort as we expect to enhance income by centralizing some duties and removing duplications of effort.

Based on these and other factors, including the level of FDIC support related to the acquired loans, we believe that this acquisition will have an immediate positive impact on its earnings such as increase in the Bank's net interest margin and efficiencies achieved through the elimination of duplicative operational processes.

We expect that the acquisition will positively affect its operating results in the near term. We believe that the transaction will improve our net interest income, as we earn more from interest earned on its loans and investments than it pays in interest on deposits and borrowings.

The extent to which our operating results may be adversely affected by the acquired loans is offset to a significant extent by the shared-loss agreements and the related discounts reflected in the fair value of these assets at the acquisition date. In accordance with the provisions of FASB Accounting Standard Codification Topic 310-30, *Receivables*, the fair values of the acquired loans reflect an estimate of expected losses related to the acquired loans. As a result, East West Bank's operating results would only be adversely affected by loan losses of the acquired loans to the extent that such losses exceed the expected losses reflected in the fair value of the acquired loans at the acquisition date. In addition, to the extent that the stated interest rate on acquired loans was not considered a market rate of interest at the acquisition date, appropriate adjustments to the acquisition-date fair value were recorded. These adjustments mitigate the risk associated with the acquisition of loans earning a below market rate of return.

Topic 310-30 applies to a loan with evidence of deterioration of credit quality since origination, acquired by completion of a transfer for which it is probable, at acquisition, that the investor will be unable to collect all contractually required payments receivable. Topic 310-30 prohibits carrying over or creating an allowance for loan losses upon initial recognition for loans that fall under its scope. On the acquisition date, the estimate of the contractual principal and interest payments for all impaired loans acquired in the acquisition was \$3.41 billion

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and the estimated fair value of the loans was \$2.00 billion, net of an accretable yield of \$208.1 million. These amounts were determined based upon the estimated remaining life of the underlying loans, which include the effects of estimated prepayments, expected credit losses and market liquidity and interest rates.

On the acquisition date, the unpaid principal balance for all non-impaired loans acquired in the acquisition was \$4.19 billion and the estimated fair value of the loans totaled \$3.66 billion. The fair value of non-impaired loans was determined based upon the estimated remaining life of the underlying loans, which include the effects of estimated prepayments, expected credit losses and adjustments related to market liquidity and prevailing interest rates at the acquisition date.

The shared-loss agreements will likely have a material impact on the cash flows and operating results of East West Bank in both the short-term and the long-term. In the short-term, it is likely that there will be a significant amount of the covered loans that will experience deterioration in payment performance or will be determined to have inadequate collateral values to repay the loans. In such instances, East West Bank will likely no longer receive payments from the borrowers, which will impact cash flows. The shared-loss agreements may not fully offset the financial effects of such a situation. However, if a loan is subsequently charged off or charged down after the Bank exhausts its best efforts at collection, the shared-loss agreements will cover a substantial portion of the loss associated with the covered assets.

The effects of the shared-loss agreements on cash flows and operating results in the long-term will be similar to the short-term effects described above. The long-term effects that East West Bank may experience will depend primarily on the ability of the borrowers under the various loans covered by the shared-loss agreements to make payments over time. As the shared-loss agreements cover up to a 10-year period, changing economic conditions will likely impact the timing of future charge-offs and the resulting reimbursements from the FDIC. East West Bank believes that any recapture of interest income and recognition of cash flows from the borrowers or received from the FDIC may be recognized unevenly over this period, as we exhaust our collection efforts under its normal practices. In addition, East West Bank recorded substantial discounts related to the purchase of these covered loans. A portion of these discounts will be accretable to income over the economic life of the underlying loans and will be dependent upon the timing and success of East West Bank's collection efforts on the covered loans.

### *Liquidity and Capital Resources*

East West Bank believes that its liquidity position will be improved as a result of this transaction. East West Bank acquired \$599.0 million in cash and cash equivalents, as well as \$1.56 billion of investment securities. Subsequent to November 6, 2009, \$1.25 billion of investment securities were sold with a gain of approximately \$2.4 million. The remaining securities provide monthly cash flows in the form of principal and interest payments. These additions to East West Bank's balance sheet represent additional support for its liquidity needs.

Deposits in the amount of \$6.53 billion were also assumed. Of this amount, \$1.19 billion were in the form of highly liquid transaction accounts. Certificates of deposit comprised \$4.24 billion of total deposits, or 65%. Through December 31, 2009, the Bank has retained substantially all of the deposits assumed.

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Below are the November 30, 2009 relevant regulatory ratios reflecting the United Commercial Bank acquisition. East West Bank remains well-capitalized after taking into consideration the results of the transaction and a private placement of common stock public offering completed immediately prior to the acquisition:

|                                 |        |
|---------------------------------|--------|
| Tier 1 leverage ratio           | 12.44% |
| Tier 1 risk based capital ratio | 15.86% |
| Total risk based capital ratio  | 17.74% |

*Financial Statements*

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**THE BOARD OF DIRECTORS RECOMMENDS THAT YOU VOTE FOR PROPOSAL 1.**

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**PROPOSAL 2**

**ADJOURNMENT OR POSTPONEMENT OF THE MEETING**

If we fail to receive a sufficient number of votes to constitute a quorum to hold the Meeting or to approve Proposal 1, we may propose to adjourn or postpone the Meeting, whether or not a quorum is present, for a period of not more than 30 days, to (i) constitute a quorum for purposes of the Meeting or (ii) solicit additional Proxies in favor of the approval of the Proposal 1, as necessary. We will not use the discretionary authority granted by the proxies voted against Proposal 1 to adjourn the Meeting to solicit additional votes to approve Proposal 1.

We currently do not intend to propose adjourning or postponing the Meeting if there are sufficient votes represented at the Meeting to approve Proposal 1.

**THE BOARD OF DIRECTORS RECOMMENDS THAT YOU VOTE FOR PROPOSAL 2**

**INTERESTS OF CERTAIN PERSONS IN MATTERS TO BE ACTED UPON**

One of our directors, Ms. Peggy Cherng, participated in the private placement through investment vehicles affiliated with or controlled by her by purchasing 20,000 shares of our Series C Preferred Stock at a purchase price and liquidation preference of \$1,000 per share for an aggregate purchase price of \$20,000,000. Upon receipt of stockholder approval, such shares will convert to 2,212,389 shares of our common stock at a conversion price of \$9.04 per share, which price is above the market value of our common as of the trading day immediately prior to the effective date of her Investment Agreement. Prior to the private placement, Ms. Cherng owned 142,471 shares of our common stock. Accordingly, if stockholder approval is obtained, Ms. Cherng will own 2,354,860 shares of our common stock upon conversion of her Series C Preferred Stock representing approximately % of our outstanding shares of common stock as of the Record Date.

No other directors, executive officers or non-executive officer employees or their affiliates participated in the private placement.

**Table of Contents****BENEFICIAL STOCK OWNERSHIP OF PRINCIPAL STOCKHOLDERS AND MANAGEMENT**

The following table sets forth the beneficial ownership of our common stock as of January 29, 2010, by (i) each person known to us to own more than 5% of the outstanding common stock, (ii) our directors, (iii) our Chief Executive Officer, Chief Financial Officer and the three other highest compensated executive officers and our subsidiaries whose total annual compensation in 2008 exceeded \$100,000 (the Named Executives), and (iv) all our executive officers and directors and subsidiaries, as a group:

| Name and Address of Beneficial Owner  | Common Stock                              |                     |
|---|---|---------------------|
|   | Number of Shares Beneficially Owned(1)(2) | Percent of Class(2) |
| The Vanguard Group (3)<br><br>455 Devon Park Drive<br><br>Wayne, Pennsylvania 19087                     | 14,330,579                                | 9.27%               |
| Corsair Access, LLC (4)<br><br>717 Fifth avenue, 24 <sup>th</sup> Floor<br><br>New York, New York 10022 | 11,172,700                                | 7.23%               |
| FMR LLC(5)<br><br>82 Devonshire Street<br><br>Boston, Massachusetts 02109                               | 9,859,748                                 | 6.38%               |
| T. Rowe Price(6)<br><br>100 E. Pratt Street<br><br>Baltimore, Maryland 21202                            | 9,178,861                                 | 5.94%               |
| Wells Fargo & Company(7)<br><br>420 Montgomery Street<br><br>San Francisco, California 94163            | 7,957,900                                 | 5.15%               |
| Peggy Cherng  | 1,821,771                                 | 1.18%               |
| Dominic Ng  | 603,326                                   | *                   |
| John Lee (8)  | 344,022                                   | *                   |
| Julia S. Gouw (9)   | 282,313                                   | *                   |
| Keith W. Renken   | 71,623                                    | *                   |
| Donald S. Chow  | 62,766                                    | *                   |
| Herman Y. Li  | 55,415                                    | *                   |
| Wellington Chen   | 42,789                                    | *                   |
| Jack C. Liu   | 37,950                                    | *                   |
| Rudolph I. Estrada (10)   | 24,981                                    | *                   |
| Andrew S. Kane  | 16,573                                    | *                   |
| Irene H. Oh   | 4,023                                     | *                   |
| <b>All Directors and Named Executive Officers, as a group (12 persons)</b>                              | <b>3,339,502</b>                          | <b>2.16%</b>        |

\* Less than 1%.

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- (1) Except as otherwise noted and except as required by applicable community property laws, each person has sole voting and disposition powers with respect to the shares.
- (2) Shares which the person (or group) has the right to acquire within 60 days after the Record Date are deemed to be outstanding in calculating the ownership and percentage ownership of the person (or group). The ownership shares and percentages assume the conversion of the preferred Series C Shares to common shares . Specifically, the following individuals have the right to acquire the shares indicated after their names upon the exercise of such stock options: Mr. Ng, 273,840; Mr. Chen, 19,189; Ms. Cherng, 20,000; Mr. Chow, 13,145; Mr. Estrada, 10,000; Ms. Gouw, 66,677; Mr. Li, 20,000; Mr. Liu, 17,000; Ms. Oh 1,732; and Mr. Renken, 20,000. The aggregate number of shares issuable upon the exercise of options currently exercisable held by the directors and officers as a group, is 461,583.

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- (3) Based on shares purchased from the private placement offering effective November 6, 2009.
- (4) Based on 13G filed with the Securities and Exchange Commission on January 13, 2010, by Corsair Access, LLC.
- (5) Based on 13G filed with the Securities and Exchange Commission on February 17, 2009 by FMR LLC. Also includes 1,520,580 shares acquired by Fidelity Funds in the private placement, effective November 6, 2009.
- (6) Based on Schedule 13G filed with the Securities and Exchange Commission on February 12, 2009, by T. Rowe Price Associates, Inc. These securities are owned by various individual and institutional investors, representing 8.5% of the shares outstanding, which T. Rowe Price Associates, Inc. (Price Associates) serves as investment adviser with power to direct investments and/or sole power to vote the securities. For purposes of the reporting requirements of the Securities and Exchange Act of 1934, as amended, Price Associates is deemed to be a beneficial owner of such securities; however, Price Associates expressly disclaims that it is, in fact, the beneficial owner of such securities. Also includes 1,292,497 shares acquired by T. Rowe Price in the private placement, effective November 6, 2009.
- (7) Based on Schedule 13G filed with the Securities and Exchange Commission on October 13, 2009 by Wells Fargo & Company. Also includes 760,292 shares acquired by Met West Capital in the private placement, effective November 6, 2009.
- (8) 296,830 of these shares are held in the John M. Lee Trust for which Mr. Lee has voting and investment power.
- (9) 2,000 of these shares are owned by family members for whom Ms. Gouw has voting and investment power; Ms. Gouw disclaims any beneficial interest in such shares.
- (10) 2,414 of these shares are held in the Summit Group Profit Sharing Plan for which Mr. Estrada has voting and investment power.

**Table of Contents****CAPITALIZATION**

The following table sets forth our consolidated capitalization and regulatory capital ratios as of September 30, 2009, on an actual basis and on a pro forma basis as adjusted to give effect to the issuance of 18,247,012 shares of common stock and 335,047 shares of Series C Preferred Stock, for a total purchase price of \$500 million, which Series C Preferred Stock will be convertible into an aggregate of approximately 37,062,721 shares of our common stock based on a conversion price of \$9.04 per share, as if such transactions occurred at September 30, 2009. The following table does not take into account the acquisition of United Commercial Bank.

The following data should be read in conjunction with Management's Discussion and Analysis of Financial Condition and Results of Operations and the consolidated financial statements and the notes thereto from our Annual Report on Form 10-K for the fiscal year ended December 31, 2008, and our Quarterly Report on Form 10-Q for the nine-month period ended September 30, 2009. Certain amounts included in the Pro Forma As Adjusted column contain estimates, including estimates of fair value and issuance costs, which may not reflect actual amounts upon conversion of the Series C Preferred Stock.

| September 30, 2009  | Actual<br>(dollars in thousands, except<br>per share data) | Pro Forma As<br>Adjusted (1) |
|---|--|------------------------------|
| <b>Stockholders' Equity:</b>  |  |                              |
| Preferred stock, \$0.001 par value, 5,000,000 shares authorized; Series A, non-cumulative convertible, 200,000 shares issued and 85,741 shares outstanding; Series B, cumulative, 306,546 shares issued and outstanding; Series C, cumulative, 335,047 issued and outstanding | \$ 367,922   | \$ 702,969                   |
| Common stock, \$0.001 par value, 200,000,000 shares authorized; 98,442,732 shares issued; 91,693,532 shares outstanding   | 98   | 116                          |
| Additional paid-in capital - common stock   | 929,558  | 1,094,493                    |
| Retained earnings   | 351,721  | 351,721                      |
| Treasury stock, at cost - 6,749,200 shares  | (104,338)  | (104,338)                    |
| Accumulated other comprehensive loss, net of tax  | (23,179)   | (23,179)                     |
| <b>Total stockholders' equity</b>   | <b>\$ 1,521,782</b>  | <b>\$ 2,021,782</b>          |
| Book value per common share   | \$ 12.58   |                              |
| Book value per common share on an as-converted basis (2)  |  | \$ 11.24                     |
| <b>Regulatory Capital Ratios:</b>   |  |                              |
| For the Company:  |  |                              |
| Leverage Ratio  | 10.6%  | 14.1%                        |
| Tier 1 Capital  | 13.1%  | 18.0%                        |
| Total Capital   | 15.1%  | 20.1%                        |
| For East West Bank:   |  |                              |
| Leverage Ratio  | 9.7%   | 9.9%                         |
| Tier 1 Capital  | 11.9%  | 12.0%                        |
| Total Capital   | 13.9%  | 14.0%                        |

(1) Assumes an estimate of issuance costs, including professional, filing and other fees associated with the private placement.

(2) Assumes a conversion of 335,047 shares of Series C Preferred Stock at \$9.04 per share, or approximately 37,062,721 shares of common stock.



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**OTHER BUSINESS**

Management knows of no business that will be presented for consideration at the Meeting other than as stated in the Notice of Meeting. If, however, other matters are properly brought before the Meeting, it is the intention of the Proxyholders to vote the shares represented thereby on such matters in accordance with the recommendation of the Board of Directors and authority to do so is included in the Proxy.

**PROPOSALS OF STOCKHOLDERS**

Proposals of stockholders intended to be included in the proxy materials for the 2010 annual meeting of stockholders must have been received by the Secretary of East West Bancorp, 135 N. Los Robles Avenue, 7<sup>th</sup> Floor, Pasadena, California 91101 by December 24, 2009. A copy of the bylaws specifying the stockholder proposal requirements will be furnished to any stockholder upon written request to the Secretary.

Under Rule 14a-8 adopted by the SEC under the Securities and Exchange Act of 1934, as amended, proposals of stockholders must conform to certain requirements as to form and may be omitted from the proxy statement and proxy under certain circumstances. In order to avoid unnecessary expenditures of time and money by stockholders and by us, stockholders are urged to review this rule and, if questions arise, to consult legal counsel prior to submitting a proposal.

SEC rules also establish a different deadline for submission of stockholder proposals that are not intended to be included in our proxy statement with respect to discretionary voting (the Discretionary Vote Deadline). The Discretionary Vote Deadline for the 2010 annual meeting of stockholders is March 9, 2010. If a stockholder gives notice of such a proposal after the Discretionary Vote Deadline, Proxyholders will be allowed to use their discretionary voting authority to vote against the stockholder proposal without discussion when and if the proposal is raised at the 2010 annual meeting of stockholders.

**INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE**

The SEC allows us to incorporate by reference information we file with it, which means that we can disclose important information to you by referring you to other documents. The information incorporated by reference is considered to be a part of this Proxy Statement, and information that we file later with the SEC will automatically update and supersede this information. In all cases, you should rely on the later information over different information included in this Proxy Statement.

We incorporate by reference the documents listed below and all future filings we make with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, or the Exchange Act, prior to the termination of the offering, except to the extent that any information contained in such filings is deemed furnished in accordance with SEC rules:

Our Annual Report on Form 10-K for the fiscal year ended December 31, 2008, filed with the SEC on March 3, 2009 (as amended on March 3 and March 6, 2009) including portions incorporated by reference therein to our Definitive Proxy Statement on Schedule 14A, filed with the SEC on April 30, 2009;

Our Quarterly Reports on Form 10-Q for the fiscal quarter ended March 31, 2008 filed on May 11, 2009, for the fiscal quarter ended June 30, 2009 filed on August 10, 2009, and for the fiscal quarter ended September 30, 2009 filed on November 4, 2009;

Our Current Reports on Form 8-K filed with the SEC on April 8, 2009, May 1, 2009, July 1, 2009, July 17, 2009 (two filings, one of which was amended and restated on July 20, 2009), July 20,

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2009 (three filings), July 24, 2009, October 26, 2009, November 12, 2009, December 4, 2009, January 22, 2010, and February 1, 2010;

The description of our common stock, which is registered under Section 12 of the Securities Exchange Act, in our Form 8-A filed with the SEC on October 2, 1998, including any subsequently filed amendments and reports updating such description. These documents contain important information about us and our financial condition. Information contained in this Proxy Statement supersedes information incorporated by reference that we have filed with the SEC prior to the date of this Proxy Statement while information that we file with the SEC after the date of this Proxy Statement that is incorporated by reference will automatically update and supersede this information.

Our filings are available on our website, [www.eastwestbank.com](http://www.eastwestbank.com). Information contained in or linked to our website is not a part of this Proxy Statement. You may also request a copy of these filings, at no cost, by writing or telephoning us at:

East West Bancorp, Inc.

Attn.: Investor Relations

135 North Los Robles Avenue, 7th Floor

Pasadena, California 91101

(626) 768-6000

**EAST WEST BANCORP, INC.**

**DOUGLAS P. KRAUSE**  
Corporate Secretary

Pasadena, California

, 2010

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**APPENDIX A**  
**CERTIFICATE OF DESIGNATIONS**  
**OF**  
**MANDATORILY CONVERTIBLE CUMULATIVE NON-VOTING PERPETUAL**  
**PREFERRED STOCK, SERIES C**  
**OF**  
**EAST WEST BANCORP, INC.**

Pursuant to Section 151 of the  
General Corporation Law  
of the State of Delaware

The undersigned, Douglas P. Krause, Executive Vice President, General Counsel and Corporate Secretary of East West Bancorp, Inc., a Delaware corporation (the *Corporation*), hereby certifies that, in accordance with Sections 103, 141 and 151(g) of the General Corporation Law of the State of Delaware, a duly authorized committee (the *Committee*) of the Board of Directors hereby makes this Certificate of Designations and hereby states and certifies that pursuant to the authority conferred upon the Board of Directors by the Certificate of Incorporation of the Corporation, as amended (as such may be amended, modified or restated from time to time, the *Certificate of Incorporation*), and pursuant to the authority conferred upon the Committee by the by-laws of the Corporation and the duly adopted resolutions of the Board of Directors, the Committee duly adopted the following resolutions:

**RESOLVED**, that pursuant to Article VI of the Certificate of Incorporation (which authorizes 5,000,000 shares of preferred stock, par value \$0.001 per share (the *Preferred Stock*)), the Committee hereby fixes the powers, designations, preferences and relative, participating, optional and other special rights, and the qualifications, limitations and restrictions, of a series of Preferred Stock.

**RESOLVED**, that each share of such series of Preferred Stock shall rank equally in all respects and shall be subject to the following provisions.

**RIGHTS AND PREFERENCES**

*Section 1. Designation.* There is hereby created out of the authorized and unissued shares of preferred stock of the Corporation a series of preferred stock designated as the Mandatorily Convertible Cumulative Non-Voting Perpetual Preferred Stock, Series C (the *Series C Preferred Stock*). The number of shares constituting such series shall be 428,000. The par value of the Series C Preferred Stock shall be \$.001 per share, and the liquidation preference shall be \$1,000 per share.

*Section 2. Ranking.* The Series C Preferred Stock will, with respect to dividend rights and rights on liquidation, winding up and dissolution, rank (i) on a parity with the Corporation's 8.00% Non-Cumulative Perpetual Convertible Preferred Stock, Series A, and Fixed Rate Cumulative Perpetual Preferred Stock, Series B, and with each other class or series of equity securities of the Corporation the terms of which do not expressly provide that such class or series will rank senior or junior to the Series C Preferred Stock as to dividend rights and rights on liquidation, winding-up and dissolution of the Corporation (collectively referred to as *Parity Securities*), and (ii) senior to the Corporation's common stock, par value \$.001 per share (the *Common Stock*), and each other class or series of capital stock of the Corporation outstanding or established after the Effective Date by the Corporation the terms of which do not expressly provide that it ranks on a parity with or senior to the Series C Preferred Stock as to dividend rights and rights on liquidation, winding-up and dissolution of the Corporation (collectively referred to as *Junior Securities*). The Corporation has the power to authorize and/or issue additional shares or classes or series of Junior Securities or Parity Securities without the consent of the Holders.

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*Section 3. Definitions.* The following initially capitalized terms shall have the following meanings, whether used in the singular or the plural:

- (a) *Affiliate* of any specified Person means any other Person directly or indirectly controlling or controlled by or under common control with such specified Person. For the purposes of this definition, control when used with respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms controlling and controlled have meanings correlative to the foregoing.
- (b) *Applicable Conversion Price* means the Conversion Price in effect at any given time.
- (c) *As-Converted Dividend* means, with respect to any Section 4 Dividend Period, the product of (i) the pro forma per share semi-annual Common Stock dividend derived by (A) annualizing the last dividend declared during such Section 4 Dividend Period on the Common Stock and (B) dividing such annualized dividend by two and (ii) the number of shares of Common Stock into which a share of Series C Preferred Stock would then be convertible (assuming receipt of the Stockholder Approval and, if applicable, the Regulatory Approval); *provided, however*, that for any Section 4 Dividend Period with respect to which no dividend on the Common Stock has been declared, the As-Converted Dividend shall be \$0.00.
- (d) *BHC Act* means the Bank Holding Company Act of 1956, as amended.
- (e) *BHC Affiliated Person* means, with respect to any Person, its Affiliates which for purposes of this definition include all affiliates as defined in the BHC Act or Regulation Y of the Board of Governors of the Federal Reserve.
- (f) *Business Day* means any day that is not Saturday or Sunday and that, in New York City, is not a day on which banking institutions generally are authorized or obligated by law or executive order to be closed.
- (g) *Certificate of Designations* means this Certificate of Designations of East West Bancorp, Inc., dated November 6, 2009.
- (h) *CIBC Act* means the Change in Bank Control Act of 1978, as amended.
- (i) *Closing Price* of the Common Stock (or other relevant capital stock or equity interest) on any date of determination means the closing sale price or, if no closing sale price is reported, the last reported sale price of the shares of the Common Stock (or other relevant capital stock or equity interest) on The NASDAQ Global Select Market on such date. If the Common Stock (or other relevant capital stock or equity interest) is not traded on The NASDAQ Global Select Market on any date of determination, the Closing Price of the Common Stock (or other relevant capital stock or equity interest) on such date of determination means the closing sale price as reported in the composite transactions for the principal U.S. national or regional securities exchange on which the Common Stock (or other relevant capital stock or equity interest) is so listed or quoted, or, if no closing sale price is reported, the last reported sale price on the principal U.S. national or regional securities exchange on which the Common Stock (or other relevant capital stock or equity interest) is so listed or quoted, or if the Common Stock (or other relevant capital stock or equity interest) is not so listed or quoted on a U.S. national or regional securities exchange, the last quoted bid price for the Common Stock (or other relevant capital stock or equity interest) in the over-the-counter market as reported by Pink OTC Markets Inc. or similar organization, or, if that bid price is not available, the market price of the Common Stock (or other relevant capital stock or equity interest) on that date as determined by a nationally recognized independent investment banking firm retained by the Corporation for this purpose.

For purposes of this Certificate of Designations, all references herein to the *Closing Price* and *last reported sale price* of the Common Stock (or other relevant capital stock or equity interest) on The NASDAQ Global Select Market shall be such closing sale price and last reported sale price as reflected on the website of The NASDAQ Global Select Market (<http://www.nasdaq.com>) and as reported by Bloomberg Professional

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Service; *provided* that in the event that there is a discrepancy between the closing sale price or last reported sale price as reflected on the website of The NASDAQ Global Select Market and as reported by Bloomberg Professional Service, the closing sale price and last reported sale price on the website of The NASDAQ Global Select Market shall govern.

(j) *Common Stock* has the meaning set forth in Section 2.

(k) *Corporation* means East West Bancorp, Inc., a Delaware corporation.

(l) *Conversion Price* means for each share of Series C Preferred Stock, \$9.04, *provided* that the foregoing shall be subject to adjustment or limitation as set forth herein.

(m) *Current Market Price* means, on any date, the average of the daily Closing Price per share of the Common Stock or other securities on each of the five consecutive Trading Days preceding the earlier of the day before the date in question and the day before the Ex-Date with respect to the issuance or distribution giving rise to an adjustment to the Conversion Price pursuant to Section 10.

(n) *Effective Date* means the date on which shares of the Series C Preferred Stock are first issued.

(o) *Exchange Property* has the meaning set forth in Section 11(a).

(p) *Ex-Date*, when used with respect to any issuance or distribution, means the first date on which the Common Stock or other securities trade without the right to receive the issuance or distribution giving rise to an adjustment to the Conversion Price pursuant to Section 10.

(q) *Holder* means the Person in whose name the shares of the Series C Preferred Stock are registered, which may be treated by the Corporation as the absolute owner of the shares of Series C Preferred Stock for the purpose of making payment and settling the related conversions and for all other purposes.

(r) *Investment Agreement* means the Investment Agreement, effective as provided in Section 6.14 therein, as may be amended from time to time, between the Corporation and the Holder.

(s) *Junior Securities* has the meaning set forth in Section 2.

(t) *LIBOR* means, with respect to any Section 4 Dividend Period, the rate for deposits in U.S. dollars for a three-month period that appears on Bloomberg Screen US0003M Index <GO> page (or other applicable page) as of 11:00 a.m. (London time) on the second London Banking Day preceding the first day of that Section 4 Dividend Period. If the rate described above does not appear on such Bloomberg Screen page, LIBOR will be determined on the basis of the rates at which deposits in U.S. dollars for a three-month period and in a principal amount of not less than \$1,000,000 are offered to prime banks in the London interbank market by four major banks in the London interbank market selected by the Corporation, at approximately 11:00 a.m., London time on the second London Banking Day preceding the first day of that Section 4 Dividend Period. The Corporation will request the principal London office of each of such banks to provide a quotation of its rate. If at least two such quotations are provided, LIBOR with respect to that Section 4 Dividend Period will be the arithmetic mean (rounded upward if necessary to the nearest .00001 of 1%) of such quotations. If fewer than two quotations are provided, LIBOR with respect to that Section 4 Dividend Period will be the arithmetic mean (rounded upward if necessary to the nearest .00001 of 1%) of the rates quoted by three major banks in New York, New York, selected by the Corporation, at approximately 11:00 a.m., New York City time, on the first day of that Section 4 Dividend Period for loans in U.S. dollars to leading European banks for a three-month period and in a principal amount of not less than \$1,000,000. However, if the banks selected by the Corporation to provide quotations are not quoting as described above, LIBOR for that Section 4 Dividend Period will be the same as LIBOR as determined for the previous Section 4 Dividend Period, or in the case of the first Section 4 Dividend Period, the most recent rate that could have been determined in accordance with the first sentence of this paragraph had the Series C Preferred Stock been outstanding. The establishment of LIBOR will be final and binding in the absence of manifest error.

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- (u) *Liquidation Preference* means, as to the Series C Preferred Stock, \$1,000 per share (as adjusted for any split, subdivision, combination, consolidation, recapitalization or similar event with respect to the Series C Preferred Stock).
- (v) *London Banking Day* means any day on which commercial banks are open for general business (including dealings in deposits in U.S. dollars) in London.
- (w) *Mandatory Conversion Date* means, with respect to the shares of Series C Preferred Stock of any Holder, the third Business Day after which the Corporation and/or such Holder, as applicable as to a Holder, has received the Stockholder Approval (or if a Reorganization Event has theretofore been consummated, the date of consummation of such Reorganization Event) and, if applicable, the Regulatory Approvals necessary to permit such Holder to convert such shares of Series C Preferred Stock into authorized Common Stock without such conversion resulting in a Violation or, in the case of the Regulatory Approval, a violation of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations thereunder, *provided, however*, that if a Mandatory Conversion Date would otherwise occur on or after an Ex-Date for an issuance or distribution that results in an adjustment of the Conversion Price pursuant to Section 10 and on or before the Record Date for such issuance or distribution, such Mandatory Conversion Date shall instead occur on the first calendar day after the Record Date for such issuance or distribution.
- (x) *Notice of Mandatory Conversion* has the meaning set forth in Section 9(a).
- (y) *Parity Securities* has the meaning set forth in Section 2.
- (z) *Person* means a legal person, including any individual, corporation, estate, partnership, joint venture, association, joint-stock company, limited liability company or trust.
- (aa) *PIK Dividend* has the meaning in Section 4(b).
- (bb) *Record Date* has the meaning set forth in Section 4(d).
- (cc) *Regulatory Approval* means, as to any Holder, to the extent applicable and required to permit such Holder to convert such Holder's shares of Series C Preferred Stock into Common Stock and to own such Common Stock without such Holder being in violation of applicable law, rule or regulation, the receipt of approvals and authorizations of, filings and registrations with, notifications to, or expiration or termination of any applicable waiting period under, the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations thereunder.
- (dd) *Reorganization Event* has the meaning set forth in Section 11(a).
- (ee) *Section 4 Dividend Payment Date* has the meaning set forth in Section 4(b).
- (ff) *Section 4 Dividend Period* has the meaning set forth in Section 4(c).
- (gg) *Series C Preferred Stock* has the meaning set forth in Section 1.
- (hh) *Special Dividend* has the meaning set forth in Section 4(b).
- (ii) *Special Dividend Rate* means, with respect to any Section 4 Dividend Period, the sum of (a) the greater of (i) LIBOR and (ii) 1.0% plus (b) 10.0%; *provided however* if such amount is greater than 13.0%, the Special Dividend Rate shall be 13.0%.
- (jj) *Stockholder Approval* means the stockholder approval necessary to approve the conversion of the Series C Preferred Stock into Common Stock for purposes of Rule 5635(d) of the Nasdaq Stock Market Rules.

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(kk) *Substitute Preferred Stock* means a series of the Corporation's Preferred Stock, par value \$.001, that (as to each share) shall have the same terms as the Series C Preferred Stock except that it will be convertible into shares of Common Stock at (and only at) such time as (x) Holder (together with its BHC Affiliated Persons) (1) does not own, and is not deemed for applicable bank regulatory purposes to own, 10% or more of the total number of any class of Voting Securities of the Corporation, and then only to the extent that such conversion would not result in Holder and its BHC Affiliated Persons owning or being deemed for applicable bank regulatory purposes to own 10% or more of the total number of any class of voting securities of the Corporation, or (2) transfers such shares of Substitute Preferred Stock (and, in the case of this clause (2), such shares of Substitute Preferred Stock shall become convertible into shares of Common Stock, subject to clause (y) below, at any time commencing immediately following such transfer) (A) in a widely distributed public offering, (B) to a person that is acquiring at least a majority of the voting securities of the Corporation (not including voting securities such person is acquiring from Holder) or (C) to persons that Holder reasonably believes would not own for applicable bank regulatory purposes more than 2% of the Common Stock or any class of the Corporation's voting securities after such transfer, and upon any such transfer such shares of Substitute Preferred Stock shall be immediately convertible into such shares of Common Stock by the transferee, and (y) the Corporation has obtained the Stockholder Approval. If the Company elects to issue in satisfaction of its obligations under Section 4(h) depositary shares for Substitute Preferred Stock instead of shares of Substitute Preferred Stock directly (for example, depositary shares each representing a 1/100th interest in a share of Substitute Preferred Stock, with each share of Substitute Preferred Stock having entitlements as to dividends and upon liquidation corresponding to 100 shares of Series C Preferred Stock, and convertible into 100 shares of Series C Preferred Stock), then the provisions of Section 4(h) with respect to Substitute Preferred Stock shall be read *mutatis mutandis* to give effect to the issuance of depositary shares.

(ll) *Trading Day* means a day on which the shares of Common Stock:

(i) are not suspended from trading on any national or regional securities exchange or association or over-the-counter market at the close of business; and

(ii) have traded at least once on the national or regional securities exchange or association or over-the-counter market that is the primary market for the trading of the Common Stock.

(mm) *Violation* means a violation of the stockholder approval requirements of Rule 5635 of the Nasdaq Stock Market Rules.

(nn) *Voting Securities* has the meaning set forth in the BHC Act and any rules or regulations promulgated thereunder.

*Section 4. Dividends.* (a) From and after the Effective Date, the Holders shall be entitled to receive, when, as and if declared by the Board of Directors or a duly authorized committee of the Board of Directors, out of funds legally available therefor, cumulative dividends of the type and in the amounts determined as set forth in this Section 4, and no more.

(b) Commencing on the Effective Date, dividends shall accrue and shall be payable semi-annually in arrears on May 1 and November 1 of each year (each, a *Section 4 Dividend Payment Date* ) or, if any such day is not a Business Day, the next Business Day. Dividends payable pursuant to this Section 4, if, when and as declared by

the Board of Directors or a duly authorized committee of the Board of Directors, will be, for each outstanding share of Series C Preferred Stock, payable in cash and/or in kind in additional shares of Series C Preferred Stock as follows:

(i) dividends at an annual rate equal to the Special Dividend Rate multiplied by the sum of (A) the Liquidation Preference plus (B) all accrued and unpaid dividends for any prior Section 4 Dividend Period that are payable on such share of Series C Preferred Stock, payable in cash (such dividend, the *Special Dividend* ); *provided* that, in the event that the As-Converted Dividend for such Section 4 Dividend Period

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is greater than the Special Dividend, each outstanding share of Series C Preferred Stock shall be entitled to receive, when and as declared by the Board of Directors, the As-Converted Dividend rather than the Special Dividend; and

(ii) dividends at an annual rate equal to 5.0% multiplied by the sum of (A) the Liquidation Preference plus (B) all accrued and unpaid dividends for any prior Section 4 Dividend Period that are payable on such share of Series C Preferred Stock, payable in kind in additional shares of Series C Preferred Stock (each such dividend, a *PIK Dividend* ). With respect to the payment of any PIK Dividend, the number of shares of Series C Preferred Stock to be issued in payment of such PIK Dividend with respect to each outstanding share of Series C Preferred Stock shall be determined by dividing (i) the amount of the PIK Dividend by (ii) the Liquidation Preference per share of Series C Preferred Stock. To the extent that any Dividend would result in the issuance of a fractional share of Series C Preferred Stock to any Holder, then the amount of such fraction multiplied by the Liquidation Preference shall be paid in cash (unless there are no legally available funds with which to make such cash payment, in which event such cash payment shall be made as soon as possible thereafter).

(c) Dividends payable pursuant to Section 4 will be computed on the basis of a 360-day year of twelve 30-day months and, for any Section 4 Dividend Period greater or less than a full Section 4 Dividend Period, will be computed on the basis of the actual number of days elapsed in the period divided by 360. The period from the Effective Date to but excluding May 1, 2010 and each period from and including a Section 4 Dividend Payment Date to but excluding the following Section 4 Dividend Payment Date is herein referred to as a *Section 4 Dividend Period* .

(d) Each dividend will be payable to Holders of record as they appear in the records of the Corporation on the applicable record date (each, a *Record Date* ), which with respect to dividends payable pursuant to this Section 4, shall be on the fifteenth day of the month immediately prior to the month in which the relevant Section 4 Dividend Payment Date occurs. The Corporation shall at all times reserve and keep available out of its authorized and unissued Series C Preferred Stock, the full number of shares of Series C Preferred Stock required for purposes of paying all PIK Dividends that may become payable.

(e) Dividends on the Series C Preferred Stock are cumulative. Such dividends shall begin to accrue and be cumulative from the Effective Date (in the case of the shares of Series C Preferred Stock issued on the Effective Date) or from the Section 4 Dividend Payment Date in respect of which such shares were issued or were scheduled to be issued (in the case of shares of Series C Preferred Stock issued or scheduled to be issued in connection with a PIK Dividend), shall compound at the relevant rate on each subsequent Section 4 Dividend Payment Date (*i.e.* , no dividends shall accrue on another dividend unless and until the first Section 4 Dividend Payment Date for such other dividends has passed without such other dividends having been paid on such date) and shall be payable semi-annually in arrears on each Section 4 Dividend Payment Date, commencing with the first such Section 4 Dividend Payment Date.

(f) So long as any shares of Series C Preferred Stock remain outstanding, if all dividends payable pursuant to Section 4 on all outstanding shares of the Series C Preferred Stock for any Section 4 Dividend Period have not been declared and paid, or declared and funds set aside therefor, the Corporation shall not (x) declare or pay dividends with respect to, or, directly or indirectly, redeem, purchase or acquire any of its Junior Securities or (y) directly or indirectly, redeem, purchase or acquire any of its Parity Securities, other than, in each case, (i) redemptions, purchases or other acquisitions of Junior Securities or Parity Securities in connection with any employment contract, benefit plan or other similar arrangement with or for the benefit of any one or more employees, officers, directors or consultants or in connection with a dividend reinvestment plan, (ii) any declaration of a dividend in connection with any stockholders' rights plan, or the issuance of rights, stock or other property under any stockholders' rights plan, or the redemption or repurchase of rights pursuant thereto, (iii) conversions or exchanges of Junior Securities or Parity Securities for Junior Securities or Parity Securities and (iv) any purchase of fractional interests in shares of the Corporation's capital stock pursuant to the conversion or exchange provisions of such capital stock or the securities being converted or exchanged. If



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dividends payable pursuant to Section 4 for any Section 4 Dividend Payment Date are not paid in full, or declared and funds set aside therefor on the shares of the Series C Preferred Stock and there are issued and outstanding shares of Parity Securities with the same Section 4 Dividend Payment Date (or, in the case of Parity Securities having dividend payment dates different from the Section 4 Dividend Payment Dates, on a dividend payment date falling within a Section 4 Dividend Period applicable to such Section 4 Dividend Payment Date), then all dividends declared on shares of the Series C Preferred Stock and such Parity Securities on such date or dates, as the case may be, shall be declared pro rata so that the respective amounts of such dividends shall bear the same ratio to each other as full semi-annual dividends per share payable on the shares of the Series C Preferred Stock pursuant to Section 4 and all such Parity Securities otherwise payable on such Section 4 Dividend Payment Date (or, in the case of Parity Securities having dividend payment dates different from the Section 4 Dividend Payment Dates, on a dividend payment date falling within a Section 4 Dividend Period applicable to such Section 4 Dividend Payment Date) (subject to such dividends on such Parity Securities having been declared by the Board of Directors out of legally available funds and including, in the case of any such Parity Securities that bear cumulative dividends, all accrued but unpaid dividends) bear to each other. However, the foregoing provisions shall not restrict the ability of any Affiliate of the Corporation to engage in any market making transactions in Junior Securities in the ordinary course of business.

(g) If the Mandatory Conversion Date with respect to any share of Series C Preferred Stock is prior to the Section 4 Dividend Payment Date applicable to any Section 4 Dividend Period, the Holder of such share of Series C Preferred Stock will not have the right to receive any dividends on the Series C Preferred Stock with respect to such Section 4 Dividend Period, provided that this shall not affect any rights to receive any accrued but unpaid dividends on the Series C Preferred Stock attributable to any Section 4 Dividend Period completed prior to the Mandatory Conversion Date.

(h) Notwithstanding anything to the contrary contained in this Certificate of Designations, any PIK Dividend to be paid pursuant to this Certificate of Designations shall be paid to the extent (but only to the extent) that payment of such PIK Dividend would not cause or result in any Holder and its BHC Affiliated Persons, collectively, being deemed to own, control or have the power to vote, for purposes of the BHC Act or the CIBC Act or Section 700 et. seq. of the California Financial Code and any rules and regulations promulgated thereunder, Voting Securities which (assuming, for this purpose only, full conversion and/or exercise of all such securities) would represent 10.0% or more of any class of Voting Securities of the Corporation outstanding at such time (excluding for purposes of this calculation any reduction in the percentage of Voting Securities such Holder and its BHC Affiliated Persons so owns, controls or has the power to vote resulting from transfers by the Holder and its Affiliates of securities of the Corporation acquired by the Holder pursuant to its Investment Agreement). In the event that payment of a PIK Dividend would be restricted or prohibited by the preceding sentence, then the Corporation shall instead pay such PIK Dividend (or portion thereof) to such Holder by delivering to such Holder certificates for shares of Substitute Preferred Stock (which may be in the form of depositary shares and, in either case, such shares of Substitute Preferred Stock or depositary shares may be issued in book-entry form). In the event that Substitute Preferred Stock is to be issued in accordance with this Section 4(h), the Corporation shall take all actions necessary to authorize, create and issue such series of Substitute Preferred Stock having terms consistent with this Certificate of Designations and otherwise reasonably acceptable to the applicable Holder in all respects. The number of shares of Substitute Preferred Stock to be delivered pursuant to this Section 4(h) shall be equal to the number of shares of Series C Preferred Stock that would have been paid to such Holder in connection with the PIK Dividend but for the restriction set forth in the first sentence of this Section 4(h).

(i) The Corporation, in satisfaction of its obligation to issue preferred stock under any provision of this Certificate of Designations to any Holder, may, in order to minimize the number of its authorized and unissued shares of preferred stock used for such purpose, issue depositary shares for such preferred stock, with such depositary shares and underlying preferred stock being in such denominations as the Corporation and such Holder shall mutually agree.

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*Section 5. Liquidation.* (a) In the event the Corporation voluntarily or involuntarily liquidates, dissolves or winds up, the Holders at the time shall be entitled to receive liquidating distributions in an amount equal to the greater of (i) the Liquidation Preference per share of Series C Preferred Stock and Substitute Preferred Stock, if any, plus an amount equal to any accrued but unpaid dividends, whether or not declared, thereon to and including the date of such liquidation and (ii) 110% of the payment or distribution to which such Holders would be entitled if the Series C Preferred Stock were converted into Common Stock immediately before such liquidation, dissolution or winding-up, out of assets legally available for distribution to the Corporation's stockholders, before any distribution of assets is made to the holders of the Common Stock or any other Junior Securities. After payment of the full amount of such liquidation distribution, the Holders shall not be entitled to any further participation in any distribution of assets by the Corporation.

(b) In the event the assets of the Corporation available for distribution to stockholders upon any liquidation, dissolution or winding-up of the affairs of the Corporation, whether voluntary or involuntary, shall be insufficient to pay in full the amounts payable with respect to all outstanding shares of the Series C Preferred Stock and the corresponding amounts payable on any Parity Securities, Holders and the holders of such Parity Securities shall share ratably in any distribution of assets of the Corporation in proportion to the full respective liquidating distributions to which they would otherwise be respectively entitled.

(c) The Corporation's consolidation or merger with or into any other entity, the consolidation or merger of any other entity with or into the Corporation, or the sale of all or substantially all of the Corporation's property or business will not constitute its liquidation, dissolution or winding up.

*Section 6. Maturity.* The Series C Preferred Stock shall be perpetual unless converted in accordance with this Certificate of Designations.

*Section 7. Redemptions.*

(a) ***Optional Redemption.*** The Series C Preferred Stock may not be redeemed by the Corporation prior to November 6, 2014. The Corporation, at its option, may redeem in whole at any time the shares of Series C Preferred Stock at the time outstanding, upon notice given as provided in Section 7(c) below, at a redemption price per share payable in cash equal to the greater of (i) 125.0% of the sum of (A) the Liquidation Preference, plus (B) all accrued and unpaid dividends, whether or not declared, up to, but excluding, the date fixed for redemption and (ii) 110% of (A) the number of shares of Common Stock into which a share of Series C Preferred Stock would be convertible on the Trading Day immediately prior to the date fixed for redemption (assuming receipt of Stockholder Approval and, if applicable, the Regulatory Approval) multiplied by (B) the Closing Price of Common Stock on such Trading Day; *provided* that in no event shall such redemption price exceed 150% of the amount determined in accordance with clause (i) above. The redemption price for any shares of Series C Preferred Stock shall be payable on the redemption date to the Holder of such shares against surrender of the certificate(s) evidencing such shares to the Corporation or its agent. Any declared but unpaid dividends payable on a redemption date that occurs subsequent to a Record Date for a Section 4 Dividend Period shall not be paid to the Holder entitled to receive the redemption price on the redemption date, but rather shall be paid to the holder of record of the redeemed shares on such Record Date.

(b) ***No Sinking Fund.*** The Series C Preferred Stock will not be subject to any mandatory redemption, sinking fund or other similar provisions. Holders of Series C Preferred Stock will have no right to require redemption of any shares of Series C Preferred Stock.

(c) ***Notice of Redemption.*** Notice of every redemption of shares of Series C Preferred Stock shall be given by first class mail, postage prepaid, addressed to the Holders of the shares to be redeemed at their respective last addresses appearing on the books of the Corporation. Such mailing shall be at least 30 days and not more than 60 days before the date fixed for redemption; *provided, however*, that failure to give such notice by mail, or any defect in such notice or in the mailing thereof, to any Holder of shares of Series C Preferred Stock designated for

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redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series C Preferred Stock to be so redeemed except as to the Holder to whom the Corporation has failed to give such notice or except as to the Holder to whom notice was defective. Notwithstanding the foregoing, if the Series C Preferred Stock or any depositary shares representing interests in the Series C Preferred Stock are issued in book-entry form through The Depository Trust Company or any other similar facility, notice of redemption may be given to the Holders of Series C Preferred Stock at such time and in any manner permitted by such facility. Each such notice given to a Holder shall state: (1) the redemption date; (2) the number of shares of Series C Preferred Stock to be redeemed and, if less than all the shares held by such Holder are to be redeemed, the number of such shares to be redeemed from such Holder; (3) the redemption price (or manner of determination of the redemption price); and (4) the place or places where certificates for such shares are to be surrendered for payment of the redemption price.

(d) ***Effectiveness of Redemption.*** If notice of redemption has been duly given as provided in Section 7(c) and if on or before the redemption date specified in the notice all funds necessary for the redemption have been set aside by the Corporation, separate and apart from its other funds, in trust for the *pro rata* benefit of the Holders of the shares called for redemption, so as to be and continue to be available therefor, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date unless the Corporation defaults in the payment of the redemption price, in which case such rights shall continue until the redemption price is paid, dividends shall cease to accrue on all shares so called for redemption, all shares so called for redemption shall no longer be deemed outstanding and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the Holders thereof to receive the amount payable on such redemption, without interest. Any funds unclaimed at the end of two years from the redemption date shall, to the extent permitted by law, be released to the Corporation, after which time the Holders of the shares so called for redemption shall look only to the Corporation for payment of the redemption price of such shares. Shares of outstanding Series C Preferred Stock that are redeemed, purchased or otherwise acquired by the Corporation, or converted into another series of Preferred Stock, shall be cancelled and shall revert to authorized but unissued shares of Preferred Stock undesignated as to series.

***Section 8. Mandatory Conversion.*** Effective as of the close of business on the Mandatory Conversion Date with respect to the shares of Series C Preferred Stock of a Holder, all such Holder's shares of Series C Preferred Stock shall automatically convert into shares of Common Stock as set forth below. The number of shares of Common Stock into which a share of Series C Preferred Stock shall be convertible shall be determined by dividing (i) the Liquidation Preference, plus all accrued and unpaid dividends, whether or not declared, with respect to any Section 4 Dividend Period completed prior to the Mandatory Conversion Date (but not with respect to the Section 4 Dividend Period in which the Mandatory Conversion Date occurs), by (ii) the Applicable Conversion Price (subject to the conversion procedures of Section 9 hereof). Upon conversion, Holders shall receive cash in lieu of fractional shares in accordance with Section 13 hereof.

***Section 9. Conversion Procedures.***

(a) Each Holder shall, promptly upon receipt of each Regulatory Approval applicable to such Holder, provide written notice to the Corporation of such receipt. Upon occurrence of the Mandatory Conversion Date with respect to shares of any Holder, the Corporation shall provide notice of such conversion to such Holder (such notice a *Notice of Mandatory Conversion*). In addition to any information required by applicable law or regulation, the Notice of Mandatory Conversion with respect to such Holder shall state, as appropriate:

(i) the Mandatory Conversion Date;

(ii) the number of shares of Common Stock to be issued upon conversion of each share of Series C Preferred Stock held of record by such Holder and subject to such mandatory conversion; and

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(iii) if certificates are to be issued, the place or places where certificates for shares of Series C Preferred Stock held of record by such Holder are to be surrendered for issuance of certificates representing shares of Common Stock.

(b) Effective immediately prior to the close of business on the Mandatory Conversion Date with respect to any shares of Series C Preferred Stock dividends shall no longer be declared on any such shares of Series C Preferred Stock and such shares of Series C Preferred Stock shall cease to be outstanding, in each case, subject to the right of the Holder to receive any declared and unpaid dividends on such share to the extent provided in Section 4(g) and any other payments to which such Holder is otherwise entitled pursuant to Section 8, Section 11 or Section 13 hereof, as applicable.

(c) No allowance or adjustment, except pursuant to Section 10, shall be made in respect of dividends payable to holders of the Common Stock of record as of any date prior to the close of business on the Mandatory Conversion Date with respect to any share of Series C Preferred Stock. Prior to the close of business on the Mandatory Conversion Date with respect to any share of Series C Preferred Stock, shares of Common Stock issuable upon conversion thereof, or other securities issuable upon conversion of, such share of Series C Preferred Stock shall not be deemed outstanding for any purpose, and the Holder thereof shall have no rights with respect to the Common Stock or other securities issuable upon conversion (including voting rights, rights to respond to tender offers for the Common Stock or other securities issuable upon conversion and rights to receive any dividends or other distributions on the Common Stock or other securities issuable upon conversion) by virtue of holding such share of Series C Preferred Stock.

(d) Shares of Series C Preferred Stock duly converted in accordance with this Certificate of Designations, or otherwise reacquired by the Corporation, will resume the status of authorized and unissued preferred stock, undesignated as to series and available for future issuance. The Corporation may from time-to-time take such appropriate action as may be necessary to reduce the authorized number of shares of Series C Preferred Stock; *provided, however*, that the Corporation shall not take any such action if such action would reduce the authorized number of shares of Series C Preferred Stock below the number of shares of Series C Preferred Stock then outstanding.

(e) The Person or Persons entitled to receive the Common Stock and/or cash, securities or other property issuable upon conversion of Series C Preferred Stock shall be treated for all purposes as the record holder(s) of such shares of Common Stock and/or securities as of the close of business on the Mandatory Conversion Date with respect thereto. In the event that a Holder shall not by written notice designate the name in which shares of Common Stock and/or cash, securities or other property (including payments of cash in lieu of fractional shares) to be issued or paid upon conversion of shares of Series C Preferred Stock should be registered or paid or the manner in which such shares should be delivered, the Corporation shall be entitled to register and deliver such shares, and make such payment, in the name of the Holder and in the manner shown on the records of the Corporation.

(f) On the Mandatory Conversion Date with respect to any share of Series C Preferred Stock, certificates representing shares of Common Stock shall be issued and delivered to the Holder thereof or such Holder's designee (or, at the Corporation's option such shares shall be registered in book-entry form) upon presentation and surrender of the certificate evidencing the Series C Preferred Stock to the Corporation and, if required, the furnishing of appropriate endorsements and transfer documents and the payment of all transfer and similar taxes.

*Section 10. Anti-Dilution Adjustments.*

(a) The Conversion Price shall be subject to the following adjustments; provided, however, that notwithstanding anything to the contrary contained in this Certificate of Designations, any adjustment to the Conversion Price to be made pursuant to this Certificate of Designations shall be made to the extent (but only to the extent) that such adjustment would not cause or result in any Holder and its BHC Affiliated Persons,

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collectively, being deemed to own, control or have the power to vote, for purposes of the BHC Act or the CIBC Act and any rules and regulations promulgated thereunder, Voting Securities which (assuming, for this purpose only, full conversion and/or exercise of all such securities) would represent 25.0% or more of any class of Voting Securities of the Corporation outstanding at such time (excluding for purposes of this calculation any reduction in the percentage of Voting Securities such Holder and its BHC Affiliated Persons so owns, controls or has the power to vote resulting from transfers by the Holder and its Affiliates of securities of the Corporation acquired by the Holder pursuant to the Investment Agreement); provided, further, however, that any adjustment (or portion thereof) prohibited pursuant to this Section 10(a) shall be postponed and implemented on the first date on which such implementation would not result in the condition described above in this Section 10(a):

(i) *Stock Dividends and Distributions.* If the Corporation pays dividends or other distributions on the Common Stock in shares of Common Stock, then the Conversion Price in effect immediately prior to the Ex-Date for such dividend or distribution will be multiplied by the following fraction:

$$\frac{OS_0}{OS_1}$$

Where,

$OS_0$  = the number of shares of Common Stock outstanding immediately prior to Ex-Date for such dividend or distribution.

$OS_1$  = the sum of the number of shares of Common Stock outstanding immediately prior to the Ex-Date for such dividend or distribution plus the total number of shares of Common Stock constituting such dividend or distribution.

For the purposes of this clause (i), the number of shares of Common Stock at the time outstanding shall not include shares acquired by the Corporation. If any dividend or distribution described in this clause (i) is declared but not so paid or made, the Conversion Price shall be readjusted, effective as of the date the Board of Directors publicly announces its decision not to make such dividend or distribution, to such Conversion Price that would be in effect if such dividend or distribution had not been declared.

(ii) *Subdivisions, Splits and Combination of the Common Stock.* If the Corporation subdivides, splits or combines the shares of Common Stock, then the Conversion Price in effect immediately prior to the effective date of such share subdivision, split or combination will be multiplied by the following fraction:

$$\frac{OS_0}{OS_1}$$

Where,

$OS_0$  = the number of shares of Common Stock outstanding immediately prior to the effective date of such share subdivision, split or combination.

$OS_1$  = the number of shares of Common Stock outstanding immediately after the opening of business on the effective date of such share subdivision, split or combination.

For the purposes of this clause (ii), the number of shares of Common Stock at the time outstanding shall not include shares acquired by the Corporation. If any subdivision, split or combination described in this clause (ii) is announced but the outstanding shares of Common Stock are not subdivided, split or combined, the Conversion Price shall be readjusted, effective as of the date the Board of Directors publicly announces its decision not to subdivide, split or combine the outstanding shares of Common Stock, to such Conversion Price that would be in effect if such subdivision, split or combination had not been announced.

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(iii) *Issuance of Stock Purchase Rights.* If the Corporation issues to all holders of the shares of Common Stock rights or warrants (other than rights or warrants issued pursuant to a stockholders' rights plan, a dividend reinvestment plan or share purchase plan or other similar plans) entitling them, for a period of up to 45 days from the date of issuance of such rights or warrants, to subscribe for or purchase the shares of Common Stock at less than the Current Market Price on the date fixed for the determination of

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stockholders entitled to receive such rights or warrants, then the Conversion Price in effect immediately prior to the Ex-Date for such distribution will be multiplied by the following fraction:

$$\frac{OS_0 + Y}{OS_0 + X}$$

Where,

$OS_0$  = the number of shares of Common Stock outstanding immediately prior to the Ex-Date for such distribution.

$X$  = the total number of shares of Common Stock issuable pursuant to such rights or warrants.

$Y$  = the number of shares of Common Stock equal to the aggregate price payable to exercise such rights or warrants divided by the Current Market Price on the date fixed for the determination of stockholders entitled to receive such rights or warrants.

For the purposes of this clause (iii), the number of shares of Common Stock at the time outstanding shall not include shares acquired by the Corporation. The Corporation shall not issue any such rights or warrants in respect of shares of the Common Stock acquired by the Corporation. In the event that such rights or warrants described in this clause (iii) are not so issued, the Conversion Price shall be readjusted, effective as of the date the Board of Directors publicly announces its decision not to issue such rights or warrants, to the Conversion Price that would then be in effect if such issuance had not been declared. To the extent that such rights or warrants are not exercised prior to their expiration or shares of Common Stock are otherwise not delivered pursuant to such rights or warrants upon the exercise of such rights or warrants, the Conversion Price shall be readjusted to such Conversion Price (but giving effect to any other adjustments that may have been made with respect to the Conversion Price pursuant to the terms of this Certificate of Designations) that would then be in effect had the adjustment made upon the issuance of such rights or warrants been made on the basis of the delivery of only the number of shares of Common Stock actually delivered. In determining the aggregate offering price payable for such shares of Common Stock, there shall be taken into account any consideration received for such rights or warrants and the value of such consideration (if other than cash, to be determined in a reasonable manner by the Board of Directors).

(iv) *Debt or Asset Distributions.* If the Corporation distributes to all holders of shares of Common Stock evidences of indebtedness, shares of capital stock, securities, cash or other assets (excluding any dividend or distribution referred to in clause (i) above, any rights or warrants referred to in clause (iii) above, any dividend or distribution paid exclusively in cash, any consideration payable in connection with a tender or exchange offer made by the Corporation or any of its applicable subsidiaries, and any dividend of shares of capital stock of any class or series, or similar equity interests, of or relating to a subsidiary or other business unit in the case of certain spin-off transactions as described below), then the Conversion Price in effect immediately prior to the Ex-Date for such distribution will be multiplied by the following fraction:

$$\frac{SP_0 - FMV}{SP_0}$$

Where,

$SP_0$  = the Current Market Price per share of Common Stock on such date.

$FMV$  = the fair market value of the portion of the distribution applicable to one share of Common Stock on such date as determined by the Board of Directors.

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In a spin-off, where the Corporation makes a distribution to all holders of shares of Common Stock consisting of capital stock of any class or series, or similar equity interests of, or relating to, a subsidiary or other business unit, the Conversion Price will be adjusted on the fifteenth Trading Day after the effective

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date of the distribution by multiplying such Conversion Price in effect immediately prior to such fifteenth Trading Day by the following fraction:

$$\frac{MP_0}{MP_0 + MP_s}$$

Where,

$MP_0$  = the average of the Closing Prices of the Common Stock over the first ten Trading Days commencing on and including the fifth Trading Day following the effective date of such distribution.

$MP_s$  = the average of the Closing Prices of the capital stock or equity interests representing the portion of the distribution applicable to one share of Common Stock over the first ten Trading Days commencing on and including the fifth Trading Day following the effective date of such distribution, or, if not traded on a national or regional securities exchange or over-the-counter market, the fair market value of the capital stock or equity interests representing the portion of the distribution applicable to one share of Common Stock on such date as determined by the Board of Directors.

In the event that such distribution described in this clause (iv) is not so paid or made, the Conversion Price shall be readjusted, effective as of the date the Board of Directors publicly announces its decision not to pay or make such dividend or distribution, to the Conversion Price that would then be in effect if such dividend or distribution had not been declared.

(v) *Cash Distributions.* If the Corporation makes a distribution consisting exclusively of cash to all holders of the Common Stock, excluding (a) any cash dividend on the Common Stock to the extent a corresponding cash dividend pursuant to Section 4, or a Special Dividend in accordance with Section 4, is paid on the Series C Preferred Stock, (b) any cash that is distributed in a Reorganization Event or as part of a spin-off referred to in clause (iv) above,

(c) any dividend or distribution in connection with the Corporation's liquidation, dissolution or winding up, and (d) any consideration payable in connection with a tender or exchange offer made by the Corporation or any of its subsidiaries, then in each event, the Conversion Price in effect immediately prior to the Ex-Date for such distribution will be multiplied by the following fraction:

$$\frac{SP_0 + DIV}{SP_0}$$

Where,

$SP_0$  = the Closing Price per share of Common Stock on the Trading Day immediately preceding the Ex-Date.

$DIV$  = the amount per share of Common Stock of the cash distribution, as determined pursuant to the introduction to this paragraph (v). In the event that any distribution described in this clause (v) is not so made, the Conversion Price shall be readjusted, effective as of the date the Board of Directors publicly announces its decision not to pay such distribution, to the Conversion Price which would then be in effect if such distribution had not been declared.

(vi) *Self Tender Offers and Exchange Offers.* If the Corporation or any of its subsidiaries successfully completes a tender or exchange offer for the Common Stock where the cash and the value of any other consideration included in the payment per share of the Common Stock exceeds the Closing Price per share of the Common Stock on the Trading Day immediately succeeding the expiration of the tender or exchange offer, then the Conversion Price in effect at the close of business on such immediately succeeding Trading Day will be multiplied by the following fraction:

$$\frac{OS_0 \times SP_0}{OS_0 \times SP_0}$$

$$AC + (SP_0 \times OS_1)$$

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Where,

$SP_0$  = the Closing Price per share of Common Stock on the Trading Day immediately succeeding the expiration of the tender or exchange offer.

$OS_0$  = the number of shares of Common Stock outstanding immediately prior to the expiration of the tender or exchange offer, including any shares validly tendered and not withdrawn.

$OS_1$  = the number of shares of Common Stock outstanding immediately after the expiration of the tender or exchange offer, giving effect to consummation of the acquisition of all shares validly tendered or exchanged (and not withdrawn) in connection with such tender or exchange.

AC = the aggregate cash and fair market value of the other consideration payable in the tender or exchange offer, as determined by the Board of Directors.

In the event that the Corporation, or one of its subsidiaries, is obligated to purchase shares of Common Stock pursuant to any such tender offer or exchange offer, but the Corporation, or such subsidiary, is permanently prevented by applicable law from effecting any such purchases, or all such purchases are rescinded, then the Conversion Price shall be readjusted to be such Conversion Price that would then be in effect if such tender offer or exchange offer had not been made.

(vii) *Rights Plans.* To the extent that the Corporation has a rights plan in effect with respect to the Common Stock on the Mandatory Conversion Date, upon conversion of any shares of the Series C Preferred Stock, Holders will receive, in addition to the shares of Common Stock, the rights under the rights plan, unless, prior to the Mandatory Conversion Date, the rights have separated from the shares of Common Stock, in which case the Conversion Price will be adjusted at the time of separation as if the Corporation had made a distribution to all holders of the Common Stock as described in clause (iv) above, subject to readjustment in the event of the expiration, termination or redemption of such rights.

(b) Subject to the limitations set forth in the provisos to the first paragraph of Section 10(a), the Corporation may make such decreases in the Conversion Price, in addition to any other decreases required by this Section 10, if the Board of Directors deems it advisable to avoid or diminish any income tax to holders of the Common Stock resulting from any dividend or distribution of shares of Common Stock (or issuance of rights or warrants to acquire shares of Common Stock) or from any event treated as such for income tax purposes or for any other reason.

(c) (i) All adjustments to the Conversion Price shall be calculated to the nearest  $\frac{1}{10}$  of a cent. No adjustment in the Conversion Price shall be required if such adjustment would be less than \$0.01; *provided*, that any adjustments which by reason of this subparagraph are not required to be made shall be carried forward and taken into account in any subsequent adjustment; *provided further* that on the Mandatory Conversion Date adjustments to the Conversion Price will be made with respect to any such adjustment carried forward and which has not been taken into account before such date.

(ii) No adjustment to the Conversion Price shall be made if Holders may participate in the transaction that would otherwise give rise to an adjustment, as a result of holding the Series C Preferred Stock (including without limitation pursuant to Section 4 hereof), without having to convert the Series C Preferred Stock, as if they held the full number of shares of Common Stock into which a share of the Series C Preferred Stock may then be converted.

(iii) The Applicable Conversion Price shall not be adjusted:

(A) upon the issuance of any shares of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Corporation's securities and the investment of additional optional amounts in shares of Common Stock under any such plan;

(B) upon the issuance of any shares of Common Stock or rights or warrants to purchase those shares pursuant to any present or future employee, director or consultant benefit plan or program of or assumed by the Corporation or any of its subsidiaries;



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(C) upon the issuance of any shares of Common Stock pursuant to any option, warrant, right or exercisable, exchangeable or convertible security outstanding as of the date shares of the Series C Preferred Stock were first issued and not substantially amended thereafter;

(D) for a change in the par value or no par value of Common Stock; or

(E) for accrued and unpaid dividends on the Series C Preferred Stock.

(d) Whenever the Conversion Price is to be adjusted in accordance with Section 10(a) or Section 10(b), the Corporation shall: (i) compute the Conversion Price in accordance with Section 10(a) or Section 10(b), taking into account the \$0.01 threshold set forth in Section 10(c) hereof; (ii) as soon as practicable following the occurrence of an event that requires an adjustment to the Conversion Price pursuant to Section 10(a) or Section 10(b), taking into account the one percent threshold set forth in Section 10(c) hereof (or if the Corporation is not aware of such occurrence, as soon as practicable after becoming so aware), provide, or cause to be provided, a written notice to the Holders of the occurrence of such event; and (iii) as soon as practicable following the determination of the revised Conversion Price in accordance with Section 10(a) or Section 10(b) hereof, provide, or cause to be provided, a written notice to the Holders setting forth in reasonable detail the method by which the adjustment to the Conversion Price was determined and setting forth the revised Conversion Price.

*Section 11. Reorganization Events.* (a) In the event that, prior to the Mandatory Conversion Date with respect to the shares of Series C Preferred Stock of any Holder there occurs:

(i) any consolidation, merger or other similar business combination of the Corporation with or into another Person, in each case pursuant to which the Common Stock will be converted into cash, securities or other property of the Corporation or another Person;

(ii) any sale, transfer, lease or conveyance to another Person of all or substantially all of the property and assets of the Corporation, in each case pursuant to which the Common Stock will be converted into cash, securities or other property of the Corporation or another Person;

(iii) any reclassification of the Common Stock into securities including securities other than the Common Stock; or

(iv) any statutory exchange of the outstanding shares of Common Stock for securities of another Person (other than in connection with a merger or acquisition);

(any such event specified in this Section 11(a), a *Reorganization Event* ); then each share of such Holder's Series C Preferred Stock and Substitute Preferred Stock, if any, outstanding immediately prior to such Reorganization Event shall remain outstanding but shall automatically convert, effective as of the close of business on the Mandatory Conversion Date with respect to the shares of Series C Preferred Stock of such Holder (with the term *Regulatory Approval* applied for such purpose, as applicable, to the surviving entity in such Reorganization Event and its securities included in the Exchange Property (as defined below)), into the type and amount of securities, cash and other property receivable in such Reorganization Event by the holder (excluding the counterparty to the Reorganization Event or an Affiliate of such counterparty) of the number of shares of Common Stock obtained by dividing (x) the Liquidation Preference, plus all accrued and unpaid dividends, whether or not declared, up to, but excluding such date, by (y) the Applicable Conversion Price as of such date (such securities, cash and other property, the *Exchange Property* ). In the event that a Reorganization Event referenced in Section 11(a) involves common stock as all or part of the consideration being offered in a fixed exchange ratio transaction, the fair market value per share of such common stock shall be determined by reference to the average of the closing prices of such common stock for the ten Trading Day period ending immediately prior to the consummation of such Reorganization Event.

(b) In the event that holders of the shares of Common Stock have the opportunity to elect the form of consideration to be received in such transaction, the consideration that the Holders are entitled to receive shall be deemed to be the types and amounts of consideration received by the majority of the holders of the shares of Common Stock that affirmatively make an election.

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(c) The above provisions of this Section 11 shall similarly apply to successive Reorganization Events and the provisions of Section 10 shall apply to any shares of capital stock of the Corporation (or any successor) received by the holders of the Common Stock in any such Reorganization Event.

(d) The Corporation (or any successor) shall, within seven days of the consummation of any Reorganization Event, provide written notice to the Holders of such consummation of such event and of the kind and amount of the cash, securities or other property that constitutes the Exchange Property. Failure to deliver such notice shall not affect the operation of this Section 11.

(e) The Corporation shall not enter into any agreement for a transaction constituting a Reorganization Event unless such agreement provides for or does not interfere with or prevent (as applicable) conversion of the Series C Preferred Stock into the Exchange Property in a manner that is consistent with and gives effect to this Section 11.

*Section 12. Voting Rights.* (a) Holders will not have any voting rights, including the right to elect any directors, except (i) voting rights, if any, required by law, and (ii) voting rights, if any, described in this Section 12.

(b) So long as any shares of Series C Preferred Stock are outstanding, the vote or consent of the Holders of a majority of the shares of Series C Preferred Stock at the time outstanding, voting as a single class, given in person or by proxy, either in writing without a meeting or by vote at any meeting called for the purpose, will be necessary for effecting or validating any of the following actions, whether or not such approval is required by Delaware law:

(i) any amendment, alteration or repeal (including by means of a merger, consolidation or otherwise) of any provision of the Certificate of Incorporation (including this Certificate of Designations) or the Corporation's bylaws that would alter or change the rights, preferences or privileges of the Series C Preferred Stock so as to affect them adversely;

(ii) any amendment or alteration (including by means of a merger, consolidation or otherwise) of the Corporation's Certificate of Incorporation to authorize, or create, or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of the Corporation's capital stock ranking senior to the Series C Preferred Stock in the payment of dividends or in the distribution of assets on any liquidation, dissolution or winding up of the Corporation; or

(iii) the consummation of a binding share exchange or reclassification involving the Series C Preferred Stock or a merger or consolidation of the Corporation with another entity, except that the Holders will have no right to vote under this provision or under Delaware law if in each case (x) the Series C Preferred Stock remains outstanding or, in the case of any such merger or consolidation with respect to which the Corporation is not the surviving or resulting entity, is converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, that is an entity organized and existing under the laws of the United States of America, any state thereof or the District of Columbia, and (y) such Series C Preferred Stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the Holders thereof than the rights, preferences, privileges and voting powers of the Series C Preferred Stock, taken as a whole.

*provided, however,* that any increase in the amount of the authorized preferred stock or any securities convertible into preferred stock or the creation and issuance, or an increase in the authorized or issued amount, of any series of preferred stock or any securities convertible into preferred stock ranking equally with and/or junior to the Series C Preferred Stock with respect to the payment of dividends (whether such dividends are cumulative or non-cumulative) and/or the distribution of assets upon the Corporation's liquidation, dissolution or winding up will not, in and of itself, be deemed to adversely affect rights, preferences or privileges of the Series C Preferred Stock and, notwithstanding any provision of Delaware law, Holders will have no right to vote solely by reason of such an increase, creation or issuance.

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(c) Notwithstanding the foregoing, Holders shall not have any voting rights if, at or prior to the effective time of the act with respect to which such vote would otherwise be required, all outstanding shares of Series C Preferred Stock shall have been converted into shares of Common Stock.

*Section 13. Fractional Shares.*

(a) No fractional shares of Common Stock will be issued as a result of any conversion of shares of Series C Preferred Stock.

(b) In lieu of any fractional share of Common Stock otherwise issuable in respect of any mandatory conversion pursuant to Section 8 hereof, the Corporation shall pay an amount in cash (computed to the nearest cent) equal to the same fraction of the Closing Price of the Common Stock determined as of the second Trading Day immediately preceding the Mandatory Conversion Date.

(c) If more than one share of the Series C Preferred Stock is surrendered for conversion at one time by or for the same Holder, the number of full shares of Common Stock issuable upon conversion thereof shall be computed on the basis of the aggregate number of shares of the Series C Preferred Stock so surrendered.

*Section 14. Reservation of Common Stock.*

(a) Following the receipt of the Stockholder Approval, the Corporation shall at all times reserve and keep available out of its authorized and unissued Common Stock or shares acquired by the Corporation, solely for issuance upon the conversion of shares of Series C Preferred Stock as provided in this Certificate of

Designations and Substitute Preferred Stock, if any, free from any preemptive or other similar rights, such number of shares of Common Stock as shall from time to time be issuable upon the conversion of all the shares of Series C Preferred Stock and Substitute Preferred Stock, if any, then outstanding, assuming that the Applicable Conversion Price equaled \$9.04. For purposes of this Section 14(a), the number of shares of Common Stock that shall be deliverable upon the conversion of all outstanding shares of Series C Preferred Stock shall be computed as if at the time of computation all such outstanding shares were held by a single Holder.

(b) Notwithstanding the foregoing, the Corporation shall be entitled to deliver upon conversion of shares of Series C Preferred Stock, as herein provided, shares of Common Stock acquired by the Corporation (in lieu of the issuance of authorized and unissued shares of Common Stock), so long as any such acquired shares are free and clear of all liens, charges, security interests or encumbrances.

(c) All shares of Common Stock delivered upon conversion of the Series C Preferred Stock or Substitute Preferred Stock, if any, shall be duly authorized, validly issued, fully paid and non-assessable, free and clear of all liens, claims, security interests and other encumbrances.

(d) Prior to the delivery of any securities that the Corporation shall be obligated to deliver upon conversion of the Series C Preferred Stock, the Corporation shall use its reasonable best efforts to comply with all federal and state laws and regulations thereunder requiring the registration of such securities with, or any approval of or consent to the delivery thereof by, any governmental authority.

(e) The Corporation hereby covenants and agrees that, if at any time the Common Stock shall be listed on The NASDAQ Global Select Market or any other national securities exchange or automated quotation system, the Corporation will, if permitted by the rules of such exchange or automated quotation system, list and keep listed, so long as the Common Stock shall be so listed on such exchange or automated quotation system, all the Common Stock issuable upon conversion of the Series C Preferred Stock.

*Section 15. Replacement Certificates.*

(a) The Corporation shall replace any mutilated certificate at the Holder's expense upon surrender of that certificate to the Corporation. The Corporation shall replace certificates that become destroyed, stolen or lost at

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the Holder's expense upon delivery to the Corporation of satisfactory evidence that the certificate has been destroyed, stolen or lost, together with any indemnity that may be required by the Corporation.

(b) The Corporation shall not be required to issue any certificates representing the Series C Preferred Stock on or after the Mandatory Conversion Date. In place of the delivery of a replacement certificate following the Mandatory Conversion Date, the Corporation, upon delivery of the evidence and indemnity described in clause (a) above, shall deliver the shares of Common Stock pursuant to the terms of the Series C Preferred Stock formerly evidenced by the certificate.

*Section 16. Miscellaneous.*

(a) All notices referred to herein shall be in writing, and, unless otherwise specified herein, all notices hereunder shall be deemed to have been given upon the earlier of receipt thereof or three Business Days after the mailing thereof if sent by registered or certified mail (unless first-class mail shall be specifically permitted for such notice under the terms of this Certificate of Designations) with postage prepaid, addressed: (i) if to the Corporation, to its office at 135 North Los Robles Ave., 7th Floor, Pasadena, California 91101, Attention: Treasury Department, with a copy to the Corporation's Legal Department at 135 North Los Robles Ave., 7th Floor, Pasadena, California 91101, Attention: Tom Tolda, or (ii) if to any Holder, to such Holder at the address of such Holder as listed in the stock record books of the Corporation, or (iii) to such other address as the Corporation or any such Holder, as the case may be, shall have designated by notice similarly given.

(b) The Corporation shall pay any and all stock transfer and documentary stamp taxes that may be payable in respect of any issuance or delivery of shares of Series C Preferred Stock or shares of Common Stock or other securities issued on account of Series C Preferred Stock pursuant hereto or certificates representing such shares or securities. The Corporation shall not, however, be required to pay any such tax that may be payable in respect of any transfer involved in the issuance or delivery of shares of Series C Preferred Stock or Common Stock or other securities in a name other than that in which the shares of Series C Preferred Stock with respect to which such shares or other securities are issued or delivered were registered, or in respect of any payment to any Person other than a payment to the registered holder thereof, and shall not be required to make any such issuance, delivery or payment unless and until the Person otherwise entitled to such issuance, delivery or payment has paid to the Corporation the amount of any such tax or has established, to the satisfaction of the Corporation, that such tax has been paid or is not payable.

(c) All payments on the shares of Series C Preferred Stock shall be subject to withholding and backup withholding of tax to the extent required by applicable law, subject to applicable exemptions, and amounts withheld, if any, shall be treated as received by the holders thereof.

(d) No share of Series C Preferred Stock shall have any rights of preemption whatsoever under this Certificate of Designations as to any securities of the Corporation, or any warrants, rights or options issued or granted with respect thereto, regardless of how such securities, or such warrants, rights or options, may be designated issued or granted.

(e) The shares of Series C Preferred Stock shall not have any voting powers, preferences or relative, participating, optional or other special rights, or qualifications, limitations or restrictions thereof, other than as set forth herein or in the Certificate of Incorporation or as provided by applicable law.

(f) The Corporation covenants (1) not to treat the Series C Preferred Stock as preferred stock for purposes of Section 305 of the Internal Revenue Code of 1986, as amended, except as otherwise required by applicable law; and (2) that all payments of PIK Dividends shall be made free and clear of, and without any deduction or withholding for any taxes; *provided* that if the Corporation deducts or withholds any amount in respect of any PIK Dividend payment to any Holder, the PIK Dividend payment to such Holder shall be increased as necessary so that after making all deductions and withholdings (including deductions and withholdings applicable to additional sums payable under this provision) such Holder receives an amount equal to the amount it would have received had no such deductions or withholdings been made.



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**RESOLVED**, that all actions taken by the officers and directors of the Corporation or any of them in connection with the foregoing resolutions through the date hereof be, and they hereby are, ratified and approved.

**IN WITNESS WHEREOF**, EAST WEST BANCORP , INC. has caused this Certificate of Designations to be signed by Douglas P. Krause its Executive Vice President, General Counsel and Corporate Secretary this 6th day of November, 2009.

**EAST WEST BANCORP, INC .**

**By:**                    /s/ DOUGLAS P. KRAUSE

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**APPENDIX B**

**FORM OF INVESTMENT AGREEMENT**

effective as provided in Section 6.14

between

**EAST WEST BANCORP, INC.**

and

**THE PURCHASER PARTY HERETO**

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- Exhibit A: Preferred Stock Certificate of Designations
- Exhibit B: Escrow Agreement
- Exhibit C: Purchaser Side Letter (if executed by Purchaser)

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**INVESTMENT AGREEMENT**, effective as provided in Section 6.14 (this *Agreement* ), between East West Bancorp. Inc., a Delaware corporation (the *Company* ) and the person set forth on the signature page hereto under the caption *Purchaser* ( *Purchaser* ).

**RECITALS:**

A. *The Investment.* The Company intends to sell to Purchaser, and Purchaser intends to purchase from the Company, as an investment in the Company, (i) shares of a mandatorily convertible cumulative non-voting perpetual preferred stock, par value \$0.001, of the Company, having the terms set forth on *Exhibit A* (the *Convertible Preferred Stock* ) and (ii) shares of common stock, par value \$0.001 per share, of the Company (the *Common Stock* ), all as described herein.

B. *The Securities.* The term *Securities* refers collectively to (i) the shares of Convertible Preferred Stock and Common Stock purchased under this Agreement and (ii) the shares of Common Stock into which the Convertible Preferred Stock is convertible. When purchased, the Convertible Preferred Stock will have the terms set forth in a certificate of designations for the Convertible Preferred Stock in the form attached as *Exhibit A* (the *Preferred Stock Certificate of Designations* ) made a part of the Company's Certificate of Incorporation (the *Certificate of Incorporation* ) by the filing of the Preferred Stock Certificate of Designations with the Secretary of State of the State of Delaware (the *Delaware Secretary* ).

**NOW, THEREFORE**, in consideration of the premises, and of the representations, warranties, covenants and agreements set forth herein, the parties agree as follows:

**ARTICLE I**

**PURCHASE; ESCROW; CLOSING**

1.1 *Purchase.* On the terms and subject to the conditions set forth herein, Purchaser will purchase from the Company, and the Company will sell to Purchaser, the number of shares of Convertible Preferred Stock and Common Stock set forth on the signature page hereto.

1.2 *Escrow; Closing.* (a) Unless Purchaser is a Section 1.2(c) Purchaser, concurrent with the signing hereof, (i) Purchaser has deposited the Purchase Price with Mellon Investor Services LLC, as Escrow Agent (the *Escrow Agent* ) pursuant to that certain Escrow Agreement (in the form attached hereto as Exhibit B) among Purchaser, the Company, the Escrow Agent and the other parties thereto (as it may be amended or otherwise modified from time to time, the *Escrow Agreement* ) and (ii) the Company has issued instructions to BNY Mellon Shareowner Services, the Company's transfer agent (the *Transfer Agent* ) authorizing the issuance, in book-entry form, to Purchaser of the Securities specified on Purchaser's signature page hereto concurrent with the Escrow Agent's release of the Purchase Price to the Company pursuant to the Escrow Agreement; provided, however, that if the Company and Purchaser shall have agreed (as indicated on Purchaser's signature pages hereto) that Purchaser will receive Securities in certificated form (any such Purchaser, a *Certificate Purchaser* ) then the instructions referenced in the preceding clause (ii) shall instead instruct the Transfer Agent to issue such specified Securities in certificated form.

(b) Unless Purchaser is a Section 1.2(c) Purchaser, pursuant to the terms of the Escrow Agreement, on the date so specified for release of funds from the Escrow Account to the Company (such date, the *Closing Date* ), and such release of funds and issuance of Securities, the *Closing* ), the Escrow Agent shall release the Purchase Price to the Company and the Transfer Agent shall issue the Securities to Purchaser as provided in the instructions referred to in paragraph (a) above. If Purchaser and the Company have previously agreed (as indicated on Purchaser's signature page hereto) that Purchaser may rely on Section 1.2(c) instead of on Sections 1.2(a) and (b), such Purchaser is a *Section 1.2(c) Purchaser* .

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(c) If Purchaser and the Company have previously agreed (as indicated on Purchaser's signature page hereto) that Purchaser may rely on this Section 1.2(c) instead of on Sections 1.2(a) and (b) (any such Purchaser, a *Section 1.2(c) Purchaser*), then with respect to Purchaser Section 1.2(a) and Section 1.2(b) shall not apply and shall have no force and effect, and this Section 1.2(c) shall apply instead. This Section 1.2(c) shall not apply and shall have no force or effect for any Purchaser that is not a Section 1.2(c) Purchaser. If Purchaser is a Section 1.2(c) Purchaser, then at 1:00 p.m. (Eastern Time) on the Closing Date (as defined below) (i) Purchaser shall pay the Purchase Price by wire transfer of immediately available funds to an account designated by the Company and (ii) the Company shall issue instructions to BNY Mellon Shareowner Services, the Company's transfer agent (the *Transfer Agent*) to issue, in book-entry form (or, if the Company and Purchaser shall have agreed (as indicated on Purchaser's signature pages hereto) that Purchaser will receive Securities in certificated form (any such Purchaser, a *Certificate Purchaser*), then in certificated form) the Securities specified on Purchaser's signature page hereto concurrent with Purchaser's payment of the Purchase Price to the Company. The Company anticipates that the P&A Closing will occur on November 6, 2009. If Purchaser is a Section 1.2(c) Purchaser, then the *Closing Date* shall be November 6, 2009, unless the Federal Deposit Insurance Corporation shall have notified the P&A Closing will not occur on November 6, 2009. In the event that the Federal Deposit Insurance Corporation notifies the Company that the P&A Closing will not occur on November 6, 2009 (or any other Scheduled Date as contemplated by this paragraph), the Company will provide Purchaser notice thereof. Upon notice from the Federal Deposit Insurance Corporation of a different scheduled date for the P&A Closing (any such date, the *Scheduled Date*), the Company shall promptly provide Purchaser notice thereof. Unless the Federal Deposit Insurance Corporation shall have notified the Company that the P&A Closing will not occur on a particular Scheduled Date, then the *Closing Date* shall mean such Scheduled Date. The *Closing* means the transfer of funds and issuance of Securities as contemplated hereby.

**ARTICLE II****REPRESENTATIONS AND WARRANTIES**

2.1 *Disclosure*. (a) On or prior to November 2, 2009, the Company delivered to Purchaser and Purchaser delivered to the Company a schedule (a *Disclosure Schedule*) setting forth, among other things, items the disclosure of which is necessary or appropriate either in response to an express disclosure requirement contained in a provision hereof or as an exception to one or more representations or warranties contained in Section 2.2 with respect to the Company, or in Section 2.3 with respect to Purchaser, or to one or more covenants contained in Article III.

(b) As used in this Agreement, any reference to any fact, change, circumstance or effect being *material* with respect to the Company means such fact, change, circumstance or effect is material in relation to the business, assets, results of operations or financial condition of the Company and the Company Subsidiaries taken as a whole. As used in this Agreement, the term *Material Adverse Effect* means any circumstance, event, change, development or effect that, individually or in the aggregate, (1) is material and adverse to the business, assets, results of operations or financial condition of the Company and Company Subsidiaries taken as a whole or (2) would materially impair the ability of the Company to perform its obligations under this Agreement or to consummate the Closing; *provided, however*, that in determining whether a Material Adverse Effect has occurred, there shall be excluded any effect to the extent resulting from the following: (A) changes, after November 2, 2009, in U.S. generally accepted accounting principles (*GAAP*) or regulatory accounting principles generally applicable to banks, savings associations or their holding companies, (B) changes, after November 2, 2009, in applicable laws, rules and regulations or interpretations thereof by Governmental Entities, (C) actions or omissions of the Company expressly required by the terms of this Agreement or taken with the prior written consent of Purchaser, (D) changes in general economic, monetary or financial conditions, including changes in prevailing interest rates, credit markets, secondary mortgage market conditions or housing price appreciation/depreciation trends, (E) changes in the market price or trading volumes of the Common Stock or the Company's other securities



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(but not the underlying causes of such changes), (F) the failure of the Company to meet any internal or public projections, forecasts, estimates or guidance (including guidance as to earnings drivers ) for any period ending on or after December 31, 2008 (but not the underlying causes of such failure), (G) changes in global or national political conditions, including the outbreak or escalation of war or acts of terrorism, and (H) the public disclosure of this Agreement or the transactions contemplated hereby; except, with respect to clauses (A), (D) and (G), to the extent that the effects of such changes have a disproportionate effect on the Company and the Company Subsidiaries, taken as a whole, relative to other similarly situated banks, savings associations or their holding companies generally.

(c) *Previously Disclosed* with regard to (1) a party means information set forth on its Disclosure Schedule, *provided, however*, that disclosure in any section of such Disclosure Schedule shall apply only to the indicated section of this Agreement except to the extent that it is reasonably apparent from the face of such disclosure that such disclosure is relevant to another section of this Agreement, and (2) the Company means information publicly disclosed by the Company in (A) its Annual Report on Form 10-K for the fiscal year ended December 31, 2008, as filed by it with the Securities and Exchange Commission ( *SEC* ) on March 2, 2009 (the *Company 10-K* ), (B) its Definitive Proxy Statement on Schedule 14A, as filed by it with the SEC on April 30, 2009, (C) any Current Report on Form 8-K filed or furnished by it with the SEC since January 1, 2009 and publicly available prior to November 2, 2009 or (D) its Quarterly Reports on Form 10-Q for the periods ending March 31, 2009 and June 30, 2009, as filed with the SEC on May 11, 2009 and August 10, 2009, respectively, (excluding any risk factor disclosures contained in such documents under the heading *Risk Factors* and any disclosure of risks included in any forward-looking statements disclaimer or other statements that are similarly non-specific and are predictive or forward-looking in nature).

**2.2 Representations and Warranties of the Company.** Except as Previously Disclosed, the Company represents and warrants to Purchaser, as of November 2, 2009 and as of the Closing Date (except to the extent made only as of a specified date in which case as of such date), that:

(a) *Organization and Authority.* (1) The Company is a corporation duly organized and validly existing under the laws of the State of Delaware, is duly qualified to do business and is in good standing in all jurisdictions where its ownership or leasing of property or the conduct of its business requires it to be so qualified and where failure to be so qualified would have a Material Adverse Effect, and has the corporate power and authority to own its properties and assets and to carry on its business as it is now being conducted. The Company is duly registered as a bank holding company under the Bank Holding Company Act of 1956, as amended ( *BHC Act* ). The Company has furnished to Purchaser true, correct and complete copies of the Certificate of Incorporation and bylaws as in effect on November 2, 2009.

(2) Each Company Significant Subsidiary is duly organized and validly existing under the laws of its jurisdiction of organization, is duly qualified to do business and is in good standing in all jurisdictions where its ownership or leasing of property or the conduct of its business requires it to be so qualified and where failure to be so qualified would have a Material Adverse Effect, and has the corporate power and authority and governmental authorizations to own its properties and assets and to carry on its business as it is being conducted. The Company's principal depository institution subsidiary is duly organized and validly existing as a California chartered bank and its deposit accounts are insured up to applicable limits by the Federal Deposit Insurance Corporation, all premiums and assessments required to be paid in connection therewith have been paid when due and no proceedings for the termination of such insurance are pending or threatened. As used herein, *Subsidiary* means, with respect to any person, any corporation, partnership, joint venture, limited liability company or other entity (x) of which such person or a subsidiary of such person is a general partner or (y) of which a majority of the voting securities or other voting interests, or a majority of the securities or other interests of which having by their terms ordinary voting power to elect a majority of the board of directors or persons performing similar functions with respect to such entity, is directly or indirectly owned by such person and/or one or more subsidiaries thereof; *Company Subsidiary* means any

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Subsidiary of the Company; *Company Significant Subsidiary* means any Significant Subsidiary of the Company; and *Significant Subsidiary* means, with respect to any person, any Subsidiary that would constitute a significant Subsidiary of such person within the meaning of Rule 1-02 of Regulation S-X of the SEC. Schedule 2.2(b) contains a correct and complete list of the Company Subsidiaries as of November 2, 2009.

(b) *Capitalization*. The authorized capital stock of the Company consists of 200,000,000 shares of Common Stock and 5,000,000 shares of preferred stock, \$0.001 par value per share of the Company (the *Company Preferred Stock* ). As of the close of business on October 27, 2009 (the *Capitalization Date* ), there were 91,731,833 shares of Common Stock outstanding and 392,287 shares of Company Preferred Stock outstanding, consisting of 85,741 shares of 8.00% Non-Cumulative Perpetual Convertible Preferred Stock, Series A, and 306,546 shares of Fixed Rate Cumulative Perpetual Preferred Stock, Series B. Since the Capitalization Date and through November 2, 2009, except in connection with this Agreement and the transactions contemplated hereby, the Company has not (i) issued or authorized the issuance of any shares of Common Stock or Company Preferred Stock, or any securities convertible into or exchangeable or exercisable for shares of Common Stock or Company Preferred Stock, (ii) reserved for issuance any shares of Common Stock or Company Preferred Stock or (iii) repurchased or redeemed, or authorized the repurchase or redemption of, any shares of Common Stock or Company Preferred Stock. As of the close of business on the Capitalization Date, other than an aggregate of 3,586,565 shares of Common Stock which have been reserved for issuance, no shares of Common Stock or Company Preferred Stock were reserved for issuance. All of the issued and outstanding shares of Common Stock and Company Preferred Stock have been duly authorized and validly issued and are fully paid, nonassessable and free of preemptive rights, with no personal liability attaching to the ownership thereof. No bonds, debentures, notes or other indebtedness having the right to vote on any matters on which the stockholders of the Company may vote ( *Voting Debt* ) are issued and outstanding. As of the November 2, 2009, except (i) pursuant to any cashless exercise provisions of any Company stock options or pursuant to the surrender of shares to the Company or the withholding of shares by the Company to cover tax withholding obligations under the Benefit Plans, and (ii) as set forth elsewhere in this Section 2.2(b), the Company does not have and is not bound by any outstanding subscriptions, options, warrants, calls, commitments or agreements of any character calling for the purchase or issuance of, or securities or rights convertible into or exchangeable for, any shares of Common Stock or Company Preferred Stock or any other equity securities of the Company or Voting Debt or any securities representing the right to purchase or otherwise receive any shares of capital stock of the Company (including any rights plan or agreement).

(c) *Company's Subsidiaries*. The Company owns, directly or indirectly, all of the issued and outstanding shares of capital stock of or all other equity interests in each of the Company Significant Subsidiaries, free and clear of any liens, charges, adverse rights or claims, pledges, covenants, title defects, security interests and other encumbrances of any kind ( *Liens* ), and all of such shares or equity interests are duly authorized and validly issued and are fully paid, nonassessable and free of preemptive rights, with no personal liability attaching to the ownership thereof. No Company Subsidiary has or is bound by any outstanding subscriptions, options, warrants, calls, commitments or agreements of any character calling for the purchase or issuance of any shares of capital stock, any other equity security or any Voting Debt of such Company Subsidiary or any securities representing the right to purchase or otherwise receive any shares of capital stock, any other equity security or Voting Debt of such Company Subsidiary.

(d) *Authorization*. (1) The Company has the corporate power and authority to enter into this Agreement and to carry out its obligations hereunder. The execution, delivery and performance of this Agreement by the Company and the consummation of the transactions contemplated hereby have been duly and unanimously authorized by the board of directors of the Company (the *Board of Directors* ). This Agreement has been duly and validly executed and delivered by the Company and, assuming due authorization, execution and delivery by Purchaser, is a valid and binding obligation of the Company enforceable against the Company in accordance with its terms (except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer and similar laws of

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general applicability relating to or affecting creditors' rights or by general equity principles). No other corporate proceedings are necessary for the execution and delivery by the Company of this Agreement, the performance by it of its obligations hereunder or the consummation by it of the transactions contemplated hereby, subject, in the case of the authorization and issuance of the shares of Common Stock to be issued on conversion of the Convertible Preferred Stock to be purchased under this Agreement, to receipt of the approval by the Company's stockholders of the Stockholder Proposal. The only vote of the stockholders of the Company required to approve the conversion of the Convertible Preferred Stock into Common Stock for purposes of Rule 5635 of the Nasdaq Stock Market Rules, is a majority of the total votes cast on such proposal.

(2) Neither the execution and delivery by the Company of this Agreement, nor the consummation of the transactions contemplated hereby, nor compliance by the Company with any of the provisions hereof (including the conversion provisions of the Convertible Preferred Stock), will (A) violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, or result in the loss of any benefit or creation of any right on the part of any third party under, or accelerate the performance required by, or result in a right of termination or acceleration of, or result in the creation of any Lien upon any of the material properties or assets of the Company or any Company Subsidiary under any of the terms, conditions or provisions of (i) subject in the case of the authorization and issuance of the shares of Common Stock to be issued on conversion of the Convertible Preferred Stock to be purchased under this Agreement, to receipt of the approval by the Company's stockholders of the Stockholder Proposal, its Certificate of Incorporation or bylaws (or similar governing documents) or the certificate of incorporation, charter, bylaws or other governing instrument of any Company Significant Subsidiary or (ii) any note, bond, mortgage, indenture, deed of trust, license, lease, agreement or other instrument or obligation to which the Company or any Company Significant Subsidiary is a party or by which it may be bound, or to which the Company or any Company Significant Subsidiary or any of the properties or assets of the Company or any Company Subsidiary may be subject, or (B) subject to compliance with the statutes and regulations referred to in Section 2.2(e), violate any law, statute, ordinance, rule, regulation, permit, concession, grant, franchise or any judgment, ruling, order, writ, injunction or decree applicable to the Company or any Company Subsidiary or any of their respective properties or assets except in the case of clauses (A)(ii) and (B) for such violations, conflicts and breaches as would not reasonably be expected to have a Material Adverse Effect.

(e) *Governmental Consents.* Other than the securities or blue sky laws of the various states and the authorization for listing on the NASDAQ Global Select Market of the shares of Common Stock to be sold pursuant to this Agreement and the shares of Common Stock into which the Convertible Preferred Stock is convertible, no material notice to, registration, declaration or filing with, exemption or review by, or authorization, order, consent or approval of, any court, administrative agency or other governmental authority, whether federal, state, local or foreign, or any applicable industry self-regulatory organization (each, a *Governmental Entity*), or expiration or termination of any statutory waiting period, is necessary for the consummation by the Company of the transactions contemplated by this Agreement.

(f) *Financial Statements.* Each of the consolidated balance sheets of the Company and the Company Subsidiaries and the related consolidated statements of income, stockholders' equity and cash flows, together with the notes thereto (collectively, the *Company Financial Statements*), included in any Company Report filed with the SEC prior to November 2, 2009, (1) have been prepared from, and are in accordance with, the books and records of the Company and the Company Subsidiaries, (2) complied as to form, as of their respective date of filing with the SEC, in all material respects with applicable accounting requirements and with the published rules and regulations of the SEC with respect thereto, (3) have been prepared in accordance with GAAP applied on a consistent basis during the periods involved and (4) present fairly in all material respects the consolidated financial position of the Company and the Company Subsidiaries as of the dates set forth therein and the consolidated results of operations, changes in

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stockholders' equity and cash flows of the Company and the Company Subsidiaries for the periods stated therein, subject, in the case of any unaudited financial statements, to normal recurring year-end adjustments.

(g) *Reports.* (1) Since December 31, 2006, the Company and each Company Subsidiary has timely filed all material reports, registrations, documents, filings, statements and submissions, together with any amendments thereto, that it was required to file with any Governmental Entity (the foregoing, collectively, the *Company Reports* ) and has paid all material fees and assessments due and payable in connection therewith. As of their respective dates of filing, the Company Reports complied in all material respects with all statutes and applicable rules and regulations of the applicable Governmental Entities. To the knowledge of the Company, as of November 2, 2009, there are no outstanding comments from the SEC or any other Governmental Entity with respect to any Company Report. In the case of each such Company Report filed with or furnished to the SEC, such Company Report did not, as of its date or if amended prior to November 2, 2009, as of the date of such amendment, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements made in it, in light of the circumstances under which they were made, not misleading and complied as to form in all material respects with the applicable requirements of the Securities Act of 1933, as amended (the *Securities Act* ) and the Securities Exchange Act of 1934, as amended (the *Exchange Act* ). With respect to all other Company Reports, the Company Reports were complete and accurate in all material respects as of their respective dates. No executive officer of the Company or any Company Subsidiary has failed in any respect to make the certifications required of him or her under Section 302 or 906 of the Sarbanes-Oxley Act of 2002.

(2) The records, systems, controls, data and information of the Company and the Company Subsidiaries are recorded, stored, maintained and operated under means (including any electronic, mechanical or photographic process, whether computerized or not) that are under the exclusive ownership and direct control of the Company or the Company Subsidiaries or their accountants (including all means of access thereto and therefrom), except for any non-exclusive ownership and non-direct control that would not reasonably be expected to have a material adverse effect on the system of internal accounting controls described below in this Section 2.2(g). The Company (A) has implemented and maintains disclosure controls and procedures (as defined in Rule 13a-15(e) of the Exchange Act) to ensure that material information relating to the Company, including the consolidated Company Subsidiaries, is made known to the chief executive officer and the chief financial officer of the Company by others within those entities, and (B) has disclosed, based on its most recent evaluation prior to November 2, 2009, to the Company's outside auditors and the audit committee of the Board of Directors (x) any significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting (as defined in Rule 13a-15(f) of the Exchange Act) that are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information and (y) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls over financial reporting. Since December 31, 2007 and until November 2, 2009, (A) neither the Company nor any Company Subsidiary nor, to the knowledge of the Company, any director, officer, employee, auditor, accountant or representative of the Company or any Company Subsidiary has received or otherwise had or obtained knowledge of any material complaint, allegation, assertion or claim, whether written or oral, regarding the accounting or auditing practices, procedures, methodologies or methods of the Company or any Company Subsidiary or their respective internal accounting controls, including any material complaint, allegation, assertion or claim that the Company or any Company Subsidiary has engaged in questionable accounting or auditing practices, and (B) no attorney representing the Company or any Company Subsidiary, whether or not employed by the Company or any Company Subsidiary, has reported evidence of a material violation of securities laws, breach of fiduciary duty or similar violation by the Company or any of its officers, directors, employees or agents to the Board of Directors or any committee thereof or to any director or officer of the Company.

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(h) *Properties and Leases.* Except as would not reasonably be expected to have a Material Adverse Effect, the Company and the Company Subsidiaries have good and marketable title to all real properties and all other properties and assets owned by them, in each case free from Liens that would affect the value thereof or interfere with the use made or to be made thereof by them. Except as would not reasonably be expected to have a Material Adverse Effect, the Company and the Company Subsidiaries hold all leased real or personal property under valid and enforceable leases with no exceptions that would interfere with the use made or to be made thereof by them.

(i) *Taxes.* (1) Each of the Company and the Company Subsidiaries has (x) duly and timely filed (including pursuant to applicable extensions granted without penalty) all material Tax Returns required to be filed by it and such Tax Returns are true and complete in all material respects and (y) paid in full all material Taxes due or made adequate provision in the financial statements of the Company (in accordance with GAAP) for any such Taxes, whether or not shown as due on such Tax Returns; (2) no material deficiencies for any Taxes have been proposed, asserted or assessed in writing against or with respect to any Taxes due by or Tax Returns of the Company or any of the Company Subsidiaries which deficiencies have not since been resolved, except for Taxes proposed, asserted or assessed that are being contested in good faith by appropriate proceedings and for which reserves adequate in accordance with GAAP have been provided; (3) there are no material Liens for Taxes upon the assets of either the Company or the Company Subsidiaries except for statutory Liens for current Taxes not yet due or Liens for Taxes that are being contested in good faith by appropriate proceedings and for which reserves adequate in accordance with GAAP have been provided; (4) none of the Company or any of the Company Subsidiaries has been a distributing corporation or a controlled corporation in any distribution occurring during the last two years in which the parties to such distribution treated the distribution as one to which Section 355 of the Internal Revenue Code of 1986, as amended (the *Code*) is applicable; (5) none of the Company or any Company Subsidiary has engaged in any transaction that is a listed transaction for federal income tax purposes within the meaning of Treasury Regulations section 1.6011-4, which has not yet been the subject of an audit that has been completed and resolved; and (6) assuming for these purposes that each share of Convertible Preferred Stock purchased from the Company hereunder (including all such shares purchased by Other Purchasers pursuant to Investment Agreements effective as of the same date as this Agreement) is immediately after such purchase converted into shares of Common Stock (assuming for all purposes of this clause (6) that the relevant price per share of Common Stock is the Closing Price (as defined in the Preferred Stock Certificate of Designations) as of the Trading Day (as defined in the Preferred Stock Certificate of Designations) immediately preceding November 2, 2009), none of the issuances of Securities, together with any issuances of Securities to Other Purchasers pursuant to such other Investment Agreements, will cause the Company to undergo an ownership change for purposes of Section 382 of the Code. For purposes of this Agreement, *Taxes* shall mean all taxes, charges, levies, penalties or other assessments imposed by any United States federal, state, local or foreign taxing authority, including any income, excise, property, sales, transfer, franchise, payroll, withholding, social security or other taxes, together with any interest, penalties, addition to tax, or additional amount attributable thereto, any liability attributable to the foregoing as a transferee and any payments made or owing to any other person measured by such taxes, charges, levies, penalties or other assessment, whether pursuant to a tax indemnity agreement, tax sharing payment or otherwise (other than pursuant to commercial agreements or Benefit Plans). For purposes of this Agreement, *Tax Return* shall mean any return, report, information return or other document (including any related or supporting information) required to be filed with any taxing authority with respect to Taxes, including all information returns relating to Taxes of third parties, any claims for refunds of Taxes and any amendments or supplements to any of the foregoing.

(j) *Absence of Certain Changes.* Since June 30, 2009 until November 2, 2009, (1) the Company and the Company Subsidiaries have conducted their respective businesses in all material respects in the ordinary course, consistent with prior practice, (2) except for publicly disclosed ordinary dividends on the Common Stock and outstanding Company Preferred Stock, the Company has not made or declared any distribution in cash or in kind to its stockholders or issued or repurchased any shares of its capital stock or other equity interests and (3) no event or events have occurred that has had or would reasonably be expected to have a Material Adverse Effect.

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(k) *No Undisclosed Liabilities.* Neither the Company nor any of the Company Subsidiaries has any liabilities or obligations of any nature (absolute, accrued, contingent or otherwise) which are not properly reflected or reserved against in the Company Financial Statements to the extent required to be so reflected or reserved against in accordance with GAAP, except for (1) liabilities that have arisen since June 30, 2009 in the ordinary and usual course of business and consistent with past practice, (2) contractual liabilities under (other than liabilities arising from any breach or violation of) agreements Previously Disclosed or not required by this Agreement to be so disclosed and (3) liabilities that have not had and would not reasonably be expected to have a Material Adverse Effect.

(l) *Offering of Securities.* Neither the Company nor any person acting on its behalf has taken any action (including any offering of any securities of the Company under circumstances which would require the integration of such offering with the offering of any of the Securities to be issued pursuant to this Agreement under the Securities Act, and the rules and regulations of the SEC promulgated thereunder) which might subject the offering, issuance or sale of any of the Securities to Purchaser pursuant to this Agreement to the registration requirements of the Securities Act.

(m) *Status of Securities.* The shares of Common Stock and shares of Convertible Preferred Stock (upon filing of the related Preferred Stock Certificate of Designations with the Delaware Secretary) to be issued pursuant to this Agreement have been duly authorized by all necessary corporate action. When issued and sold against receipt of the consideration therefor as provided in this Agreement, such shares will be validly issued, fully paid and nonassessable, will not subject the holders thereof to personal liability and will not be subject to preemptive rights of any other stockholder of the Company. The shares of Common Stock issuable upon the conversion of the Convertible Preferred Stock or Substitute Preferred Stock (as defined in the Preferred Stock Certificate of Designations), if any, will, upon receipt of the approval by the Company's stockholders of the Stockholder Proposal and filing of the related Preferred Stock Certificate of Designations with the Delaware Secretary, have been duly authorized by all necessary corporate action and when so issued upon such conversion will be validly issued, fully paid and nonassessable, will not subject the holders thereof to personal liability and will not be subject to preemptive rights of any other stockholder of the Company.

(n) *Litigation and Other Proceedings.* There is no pending or, to the knowledge of the Company, threatened, claim, action, suit, investigation or proceeding, against the Company or any Company Subsidiary or to which any of their assets are subject, nor is the Company or any Company Subsidiary subject to any order, judgment or decree, in each case except as would not reasonably be expected to have a Material Adverse Effect. Except as would not reasonably be expected to have a Material Adverse Effect, there is no unresolved violation, criticism or exception by any Governmental Entity with respect to any report or relating to any examinations or inspections of the Company or any Company Subsidiaries.

(o) *Compliance with Laws.* The Company and each Company Subsidiary have all material permits, licenses, franchises, authorizations, orders and approvals of, and have made all filings, applications and registrations with, Governmental Entities that are required in order to permit them to own or lease their properties and assets and to carry on their business as presently conducted and that are material to the business of the Company or such Company Subsidiary. The Company and each Company Subsidiary has complied in all respects and is not in default or violation in any respect of, and none of them is, to the knowledge of the Company, under investigation with respect to or, to the knowledge of the Company, has been threatened to be charged with or given notice of any violation of, any applicable domestic (federal, state or local) or foreign law, statute, ordinance, license, rule, regulation, policy or guideline, order, demand, writ, injunction, decree or judgment of any Governmental Entity, other than such noncompliance, defaults or violations that would not reasonably be expected to have a Material Adverse Effect. Except for statutory or regulatory restrictions of general application, no Governmental Entity has placed any material restriction on the business or properties of the Company or any Company Subsidiary.

(p) *Labor.* Employees of the Company and the Company Subsidiaries are not represented by any labor union nor are any collective bargaining agreements otherwise in effect with respect to such employees. No

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labor organization or group of employees of the Company or any Company Subsidiary has made a pending demand for recognition or certification, and there are no representation or certification proceedings or petitions seeking a representation proceeding presently pending or threatened to be brought or filed with the National Labor Relations Board or any other labor relations tribunal or authority. There are no organizing activities, strikes, work stoppages, slowdowns, lockouts, material arbitrations or material grievances, or other material labor disputes pending or threatened against or involving the Company or any Company Subsidiary.

(q) *Company Benefit Plans.*

(1) Except as has not had or would not reasonably be expected to have a Material Adverse Effect, (A) with respect to each Benefit Plan, the Company and the Company Subsidiaries have complied, and are now in compliance, in all respects, with all provisions of ERISA, the Code and all laws and regulations applicable to such Benefit Plan; and (B) each Benefit Plan has been administered in all respects in accordance with its terms. *Benefit Plan* means any employee welfare benefit plan within the meaning of Section 3(1) of the Employee Retirement Income Security Act of 1974, as amended ( *ERISA* ), any employee pension benefit plan within the meaning of Section 3(2) of ERISA and any bonus, incentive, deferred compensation, vacation, stock purchase, stock option, severance, employment, change of control or fringe benefit plan, program, agreement or policy.

(2) Except as has not had or would not reasonably be expected to have a Material Adverse Effect, and except for liabilities fully reserved for or identified in the Financial Statements, no claim has been made, or to the knowledge of the Company threatened, against the Company or any of the Company Subsidiaries related to the employment and compensation of employees or any Benefit Plan, including any claim related to the purchase of employer securities or to expenses paid under any defined contribution pension plan.

(3) Except as has not had or would not reasonably be expected to have a Material Adverse Effect, neither the Company nor the Company Subsidiaries has incurred any withdrawal liability as a result of a complete or partial withdrawal from a multiemployer plan , as that term is defined in Part I of Subtitle E of Title IV of ERISA, that has not been satisfied in full.

(4) Except as would not reasonably be expected to have a Material Adverse Effect, (A) neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby will (i) result in any payment (including severance, unemployment compensation, excess parachute payment (within the meaning of Section 280G of the Code), forgiveness of indebtedness or otherwise) becoming due to any current or former employee, officer or director of the Company or any Company Subsidiary from the Company or any Company Subsidiary under any Benefit Plan or otherwise, (ii) increase any benefits otherwise payable under any Benefit Plan, (iii) result in any acceleration of the time of payment or vesting of any such benefits, (iv) require the funding or increase in the funding of any such benefits or (v) result in any limitation on the right of the Company or any Company Subsidiary to amend, merge, terminate or receive a reversion of assets from any Benefit Plan or related trust and (B) neither the Company nor any Company Subsidiary has taken, or permitted to be taken, any action that required, and no circumstances exist that will require the funding, or increase in the funding, of any benefits or resulted, or will result, in any limitation on the right of the Company or any Company Subsidiary to amend, merge, terminate or receive a reversion of assets from any Benefit Plan or related trust.

(r) *Risk Management Instruments.* Except as has not had or would not reasonably be expected to have a Material Adverse Effect, all material derivative instruments, including, swaps, caps, floors and option agreements, whether entered into for the Company's own account, or for the account of one or more of the Company Subsidiaries, were entered into (1) only in the ordinary course of business, (2) in accordance with prudent practices and in all material respects with all applicable laws, rules, regulations and regulatory policies and (3) with counterparties believed to be financially responsible at the time; and each of them constitutes the valid and legally binding obligation of the Company or one of the Company Subsidiaries,

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enforceable in accordance with its terms. Neither the Company or the Company Subsidiaries, nor, to the knowledge of the Company, any other party thereto, is in breach of any of its material obligations under any such agreement or arrangement.

(s) *Agreements with Regulatory Agencies.* Neither the Company nor any Company Subsidiary is subject to any cease-and-desist or other similar order or enforcement action issued by, or is a party to any written agreement, consent agreement or memorandum of understanding with, or is a party to any commitment letter or similar undertaking to, or is a recipient of any extraordinary supervisory letter from, or is subject to any capital directive by, or since December 31, 2007, has adopted any board resolutions at the request of, any Governmental Entity that currently restricts in any material respect the conduct of its business or that in any material manner relates to its capital adequacy, its liquidity and funding policies and practices, its ability to pay dividends, its credit, risk management or compliance policies, its internal controls, its management or its operations or business (each item in this sentence, a *Regulatory Agreement*), nor has the Company or any Company Subsidiary been advised since December 31, 2007 and until November 2, 2009 by any Governmental Entity that it is considering issuing, initiating, ordering, or requesting any such Regulatory Agreement. The Company and each Company Subsidiary are in compliance in all material respects with each Regulatory Agreement to which it is party or subject, and neither the Company nor any Company Subsidiary has received any notice from any Governmental Entity indicating that either the Company or any Company Subsidiary is not in compliance in all material respects with any such Regulatory Agreement.

(t) *Environmental Liability.* There is no legal, administrative, arbitral or other proceeding, claim, action or notice of any nature seeking to impose, or that could result in the imposition of, on the Company or any Company Subsidiary, any liability or obligation of the Company or any Company Subsidiary with respect to any environmental health or safety matters or any private or governmental, health or safety investigations or remediation activities of any nature arising under common law or under any local, state or federal environmental, health or safety statute, regulation or ordinance, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (*CERCLA*), pending or, to the Company's knowledge, threatened against the Company or any Company Subsidiary the result of which has had or would reasonably be expected to have a Material Adverse Effect; to the Company's knowledge, there is no reasonable basis for, or circumstances that are reasonably likely to give rise to, any such proceeding, claim, action, investigation or remediation; and to the Company's knowledge, neither the Company nor any Company Subsidiary is subject to any agreement, order, judgment, decree, letter or memorandum by or with any Governmental Entity or third party imposing any such environmental liability.

(u) *Anti-takeover Provisions Not Applicable.* Assuming the accuracy of Purchaser's representations and warranties set forth in Section 2.3(d), the Board of Directors has taken all necessary action to ensure that the transactions contemplated by this Agreement will be deemed to be exceptions to the provisions of Section 203 of the Delaware General Corporation Law and that any other similar moratorium, control share, fair price, takeover or interested stockholder law does not apply to this Agreement or to any of the transactions contemplated hereby.

(v) *Knowledge as to Conditions.* As of November 2, 2009, the Company knows of no reason why any regulatory approvals and, to the extent necessary, any other approvals, authorizations, filings, registrations, and notices required or otherwise a condition to the consummation of the transactions contemplated by this Agreement will not be obtained.

(w) *Brokers and Finders.* Except for Deutsche Bank Securities Inc., neither the Company nor any Company Subsidiary nor any of their respective officers, directors, employees or agents, has employed any broker or finder or incurred any liability for any financial advisory fees, brokerage fees, commissions or finder's fees, and no broker or finder has acted directly or indirectly for the Company or any Company Subsidiary, in connection with this Agreement or the transactions contemplated hereby.

(x) *Money Laundering Laws.* The operations of the Company and Company Subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting



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requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the *Money Laundering Laws*) and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any Company Subsidiary with respect to the Money Laundering Laws is pending or, to the knowledge of the Company, threatened, except, in each case, as would not reasonably be expected to have a Material Adverse Effect.

(y) *OFAC*. Neither the Company nor any Company Subsidiary nor, to the knowledge of the Company, any director, officer, agent, employee or affiliate of the Company or any Company Subsidiary is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department (*OFAC*); and the Company will not directly or indirectly use the proceeds of the offering, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of any person currently subject to any U.S. sanctions administered by OFAC.

(z) *Concurrent Agreements*. On or prior to November 2, 2009, Other Purchasers have entered into Investment Agreements, each effective as of the same date as this Agreement, pursuant to which such Other Purchasers agree to purchase shares of Common Stock and Convertible Preferred Stock for an aggregate amount of not less than \$300,000,000 less the Purchase Price.

2.3 *Representations and Warranties of Purchaser*. Except as Previously Disclosed, Purchaser hereby represents and warrants to the Company, as of November 2, 2009 and as of the Closing Date (except to the extent made only as of a specified date, in which case as of such date), that:

(a) *Organization and Authority*. Purchaser is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, is duly qualified to do business and is in good standing in all jurisdictions where its ownership or leasing of property or the conduct of its business requires it to be so qualified and where failure to be so qualified would be reasonably expected to materially and adversely affect Purchaser's ability to perform its obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis, and Purchaser has the corporate or other power and authority and governmental authorizations to own its properties and assets and to carry on its business as it is now being conducted.

(b) *Authorization*. (1) Purchaser has the corporate or other power and authority to enter into this Agreement and to carry out its obligations hereunder. The execution, delivery and performance of this Agreement by Purchaser and the consummation of the transactions contemplated hereby have been duly authorized by Purchaser's board of directors, general partner or managing members, as the case may be (if such authorization is required), and no further approval or authorization by any of its partners or other equity owners, as the case may be, is required. This Agreement has been duly and validly executed and delivered by Purchaser and assuming due authorization, execution and delivery by the Company, is a valid and binding obligation of Purchaser enforceable against Purchaser in accordance with its terms (except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer and similar laws of general applicability relating to or affecting creditors' rights or by general equity principles).

(2) Neither the execution, delivery and performance by Purchaser of this Agreement, nor the consummation of the transactions contemplated hereby, nor compliance by Purchaser with any of the provisions hereof, will (A) violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, or accelerate the performance required by, or result in a right of termination or acceleration of, or result in the creation of any Lien upon any of the properties or assets of Purchaser under any of the terms, conditions or provisions of (i) its certificate of limited partnership or partnership agreement or similar governing documents or (ii) any note, bond, mortgage, indenture,

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deed of trust, license, lease, agreement or other instrument or obligation to which Purchaser is a party or by which it may be bound, or to which Purchaser or any of the properties or assets of Purchaser may be subject, or (B) subject to compliance with the statutes and regulations referred to in the next paragraph, violate any law, statute, ordinance, rule or regulation, permit, concession, grant, franchise or any judgment, ruling, order, writ, injunction or decree applicable to Purchaser or any of its properties or assets except in the case of clauses (A)(ii) and (B) for such violations, conflicts and breaches as would not reasonably be expected to materially and adversely affect Purchaser's ability to perform its respective obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis.

(3) No notice to, registration, declaration or filing with, exemption or review by, or authorization, order, consent or approval of, any Governmental Entity, nor expiration or termination of any statutory waiting period, is necessary for Purchaser to purchase the Securities to be acquired at the Closing pursuant to this Agreement.

(c) *Purchase for Investment.* Purchaser acknowledges that the Securities have not been registered under the Securities Act or under any state securities laws. Purchaser (1) is acquiring the Securities pursuant to an exemption from registration under the Securities Act solely for investment with no present intention to distribute any of the Securities to any person, (2) will not sell or otherwise dispose of any of the Securities, except in compliance with the registration requirements or exemption provisions of the Securities Act and any other applicable securities laws, (3) has such knowledge and experience in financial and business matters and in investments of this type that it is capable of evaluating the merits and risks of its investment in the Securities and of making an informed investment decision, and (4) is an accredited investor (as that term is defined by Rule 501 of the Securities Act).

(d) *Ownership.* Except as set forth on the signature pages hereto, as of November 2, 2009, neither Purchaser nor any of its Affiliates (other than (i) any portfolio company with respect to which Purchaser is not the party exercising control over investment decisions and (ii) if Purchaser is an Institutional Investor, its non-controlled Affiliates) are the owners of record or the Beneficial Owners of shares of Common Stock or securities convertible into or exchangeable for Common Stock. Purchaser shall be considered an *Institutional Investor* if (i) Purchaser is a registered investment company pursuant to the Investment Company Act of 1940, as amended, serves as common investment advisor to multiple investment advisory accounts on behalf of which Securities are being purchased hereunder and which accounts are set forth on an Schedule A to Purchaser's signature page hereto or is one of multiple investment advisory accounts with a common investment advisor on behalf of which Securities are being purchased hereunder and which accounts are set forth on Schedule A to Purchaser's signature page hereto and (ii) the Company has checked the appropriate box on Purchaser's signature page hereto indicating that Purchaser is an Institutional Investor for purposes of this Agreement.

(e) *[Reserved]*

(f) *Knowledge as to Conditions.* As of November 2, 2009, Purchaser does not know of any reason why any regulatory approvals and, to the extent necessary, any other approvals, authorizations, filings, registrations, and notices required or otherwise a condition to the consummation by it of the transactions contemplated by this Agreement will not be obtained.

(g) *Brokers and Finders.* Neither Purchaser nor its Affiliates, any of their respective officers, directors, employees or agents has employed any broker or finder or incurred any liability for any financial advisory fees, brokerage fees, commissions or finder's fees, and no broker or finder has acted directly or indirectly for Purchaser, in connection with this Agreement or the transactions contemplated hereby, in each case, whose fees the Company would be required to pay (other than pursuant to the reimbursement of expenses provisions of Section 6.2).

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**ARTICLE III**

**COVENANTS**

*3.1 Filings; Other Actions.*

(a) Purchaser, on the one hand, and the Company, on the other hand, will cooperate and consult with the other and use reasonable best efforts to prepare and file all necessary documentation, to effect all necessary applications, notices, petitions, filings and other documents, and to obtain all necessary permits, consents, orders, approvals and authorizations of, or any exemption by, all third parties and Governmental Entities, and the expiration or termination of any applicable waiting period, necessary or advisable to consummate the transactions contemplated by this Agreement, and to perform the covenants contemplated by this Agreement. Each party shall execute and deliver both before and after the Closing such further certificates, agreements and other documents and take such other actions as the other parties may reasonably request to consummate or implement such transactions or to evidence such events or matters. In particular, Purchaser will, to the extent required, use its reasonable best efforts to promptly obtain or submit, and the Company will cooperate as may reasonably be requested by Purchaser to help Purchaser promptly obtain or submit, as the case may be, as promptly as practicable, the approvals and authorizations of, filings and registrations with, and notifications to, or expiration or termination of any applicable waiting period, under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the *HSR Act* ) or applicable competition or merger control laws of other jurisdictions, all notices to and, to the extent required by applicable law or regulation, consents, approvals or exemptions from bank regulatory authorities, for the transactions contemplated by this Agreement. Without limiting the foregoing, to the extent required, Purchaser and the Company shall prepare and file a Notification and Report Form pursuant to the HSR Act in connection with the transactions contemplated by this Agreement as promptly as practicable after the Closing Date (and in any event within 15 business days after the P&A Closing). Purchaser and the Company will have the right to review in advance, and to the extent practicable each will consult with the other, in each case subject to applicable laws relating to the exchange of information, all the information relating to such other party, and any of their respective Affiliates, which appears in any filing made with, or written materials submitted to, any third party or any Governmental Entity in connection with the transactions to which it will be party contemplated by this Agreement. In exercising the foregoing right, each of the parties hereto agrees to act reasonably and as promptly as practicable.