

EXHIBIT H
GLOBAL SETTLEMENT AGREEMENT

SETTLEMENT AGREEMENT

SETTLEMENT AGREEMENT (the “*Agreement*”), dated as of May 21, 2010, by and among (a) Washington Mutual, Inc. (“*WMI*”) and WMI Investment Corp. (“*WMIIC*” and, collectively with WMI, the “*Debtors*”), (b) JPMorgan Chase Bank, N.A. (“*JPMC*” and, collectively with those of JPMC’s affiliates that have filed proofs of claim against the Debtors and the Debtors’ chapter 11 estates or that are Acquisition JPMC Entities, as defined below, the “*JPMC Entities*”), (c) Federal Deposit Insurance Corporation, in its capacity as receiver for Washington Mutual Bank (“*FDIC Receiver*”), (d) Federal Deposit Insurance Corporation, in its corporate capacity (“*FDIC Corporate*”), (e) Appaloosa Management L.P. (“*Appaloosa*”), on behalf of Appaloosa Investment L.P., I, Palomino Fund Ltd., Thoroughbred Fund, L.P., and Thoroughbred Master Ltd. (collectively, and with Appaloosa, the “*Appaloosa Parties*” and each, an “*Appaloosa Party*”), (f) Centerbridge Partners, L.P. (“*Centerbridge*”), on behalf of Centerbridge Credit Advisors, LLC and Centerbridge Special Credit Advisors, LLC (collectively, and with Centerbridge, the “*Centerbridge Parties*,” and each, a “*Centerbridge Party*”), (g) Owl Creek Asset Management, L.P. (“*Owl Creek*”), on behalf of Owl Creek I, L.P., Owl Creek II, L.P., Owl Creek Overseas Fund, Ltd., Owl Creek Socially Responsible Investment Fund, Ltd., Owl Creek Asia I, L.P., Owl Creek Asia II, L.P., and Owl Creek Asia Master Fund, Ltd. (collectively, and with Owl Creek, the “*Owl Creek Parties*” and each, an “*Owl Creek Party*”), (h) Aurelius Capital Management, LP (“*Aurelius*”), on behalf of Aurelius Capital Partners, LP and Aurelius Investment, LLC and other managed fund entities (collectively, and with Aurelius, the “*Aurelius Parties*” and each, an “*Aurelius Party*”) and (i) the official committee of unsecured creditors appointed in the Debtors’ chapter 11 cases (the “*Creditors’ Committee*”). The signatories hereto are referred to hereinafter collectively as the “*Parties*” or individually as a “*Party*”. Capitalized terms used but not otherwise defined herein shall have the meanings set forth in Article I below.

RECITALS

A. On September 25, 2008, the Office of Thrift Supervision (the “*OTS*”), by order number 2008-36, closed Washington Mutual Bank (“*WMB*”), appointed the FDIC Receiver as receiver for WMB and advised that the FDIC Receiver was immediately taking possession of WMB’s assets.

B. On or about September 25, 2008, the FDIC Receiver, FDIC Corporate and JPMC entered into that certain Purchase and Assumption Agreement, Whole Bank, dated September 25, 2008, as amended, modified or supplemented prior to the date hereof (the “*Purchase and Assumption Agreement*”). JPMC has asserted various claims for indemnity against each of the FDIC Receiver and FDIC Corporate arising from the Purchase and Assumption Agreement, including, but not limited to, (1) claims for indemnity for and against any and all potential losses, claims or liabilities arising from or related to the mortgage origination and sale/securitization activities of WMB and its affiliates, including, without limitation, liabilities associated with the Complaint filed in the litigation styled Deutsche Bank National Trust Co. v. FDIC, No.

09-cv-01656 (RMC), currently pending in the D.C. District Court, as defined below, and (2) other claims for indemnity under Section 12.1(a)(9) of the Purchase and Assumption Agreement.

C. On September 26, 2008 (the “*Petition Date*”), each of the Debtors filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, as amended (the “*Bankruptcy Code*”), with the United States Bankruptcy Court for the District of Delaware (the “*Bankruptcy Court*”). By order, dated October 3, 2008, the Debtors’ chapter 11 cases are being jointly administered and are styled as In re Washington Mutual, Inc., et al., No. 08-12229 (MFW) (the “*Chapter 11 Cases*”).

D. On December 30, 2008, the Debtors filed with the FDIC Receiver a proof of claim against WMB’s receivership (the “*Receivership*” and, collectively with the FDIC Receiver and FDIC Corporate, sometimes hereinafter referred to as the “*FDIC Parties*”), asserting claims on behalf of the Debtors’ chapter 11 estates (the “*Debtors’ Claims*”). By letter, dated January 23, 2009, and entitled “*Notice of Disallowance*”, the FDIC Receiver disallowed the Debtors’ Claims.

E. On March 20, 2009, the Debtors commenced litigation (the “*WMI Action*”) against the FDIC by filing a Complaint, styled Washington Mutual, Inc. and WMI Investment Corp. v. FDIC, Case No. 09-00533, in the United States District Court for the District of Columbia (the “*D.C. District Court*”), challenging the FDIC Receiver’s disallowance of the Debtors’ Claims, and asserting, among other claims, a claim for the Disputed Accounts, as defined below, as deposits and several causes of action to avoid preferential or fraudulent transfers pursuant to the Bankruptcy Code and other applicable federal and state laws. On June 11, 2009, FDIC Corporate filed a motion to dismiss the claims asserted against FDIC Corporate and the FDIC Receiver filed an answer and counterclaims asserting claims against the Debtors and a motion to dismiss certain aspects of the Debtors’ complaint in the WMI Action. On July 13, 2009, the FDIC Receiver amended its counterclaims and added JPMC as an additional counterclaim defendant. JPMC and certain holders of funded indebtedness of WMB (collectively, the “*Bank Creditors*”) have intervened, and the Creditors’ Committee has moved to intervene, in the WMI Action. By order, dated January 7, 2010, the D.C. District Court ordered, among other things, that all proceedings in the WMI Action shall be stayed pending a determination by the Bankruptcy Court in the JPMC Action and the Turnover Action, each as defined below, as well as any pending or subsequent appeals.

F. On March 24, 2009, JPMC commenced litigation against the Debtors by filing a Complaint, styled JPMorgan Chase Bank, N.A. v. Washington Mutual, Inc., et al., Adversary Pro. No. 09-5-50551(MFW), in the Bankruptcy Court, asserting claims against the Debtors with respect to assets that JPMC claims to have acquired pursuant to the Purchase and Assumption Agreement (the “*JPMC Action*”) and named the FDIC Receiver as an additional defendant. On May 29, 2009, the Debtors filed an answer and counterclaims. JPMC filed a motion to dismiss such counterclaims, which motion was denied by the Bankruptcy Court on August 24, 2009. The Creditors’ Committee and the Bank Creditors have intervened in the JPMC Action.

G. On April 27, 2009, the Debtors commenced litigation against JPMC by filing a Complaint, styled Washington Mutual, Inc. et al. v. JPMorgan Chase Bank, N.A., Adversary Pro. No. 09-50934(MFW), in the Bankruptcy Court, seeking to recover the Disputed Accounts (the “**Turnover Action**”). JPMC filed a motion to dismiss the Turnover Action, which motion to dismiss was denied by the Bankruptcy Court on June 24, 2009. On July 6, 2009, JPMC filed an answer, counterclaims and a crossclaim that named the FDIC Receiver as an additional defendant in the Turnover Action. On July 27, 2009, the FDIC Receiver filed an answer to JPMC’s crossclaim. On August 11, 2009, JPMC filed an amended answer and counterclaims, which also named the FDIC Receiver as a counterclaim defendant. On August 20, 2009, the FDIC Receiver filed an answer to JPMC’s amended counterclaims. By motion, dated May 19, 2009 (the “**SJ Motion**”), the Debtors sought entry of an order granting summary judgment in their favor and directing turnover of the Disputed Accounts to WMI. A hearing to consider the SJ Motion was held on October 22, 2009 and the matter is *sub judice*. The Creditors’ Committee and the Bank Creditors have intervened in the Turnover Action.

H. On June 24, 2009, the Bankruptcy Court denied motions by the FDIC Receiver and JPMC to stay or dismiss the Turnover Action and the JPMC Action in favor of proceedings before the D.C. District Court in the WMI Action (the “**Bankruptcy Stay Motions**”). The Bankruptcy Stay Motions are the subject of pending appeals or, in the alternative, motions for leave to appeal to the United States District Court for the District of Delaware (the “**Delaware District Court**”) and to a motion by the FDIC Receiver for certification for immediate appeal to the United States Court of Appeals for the Third Circuit.

I. By order, dated January 30, 2009 (the “**Bar Date Order**”), the Bankruptcy Court established March 31, 2009, at 5:00 p.m. (Eastern Time) (the “**Bar Date**”), as the date and time by which all proofs of claim against the Debtors and their chapter 11 estates must be filed with the Bankruptcy Court in the manner and form set forth in the Bar Date Order.

J. On or prior to the Bar Date, JPMC and certain of the other JPMC Entities filed proofs of claim against the Debtors and their chapter 11 estates (collectively, the “**JPMC Claims**”), which JPMC Claims are listed on Exhibit “A” hereto. As of the date hereof, the Debtors have not interposed a substantive objection to the JPMC Claims.

K. On or prior to the Bar Date, the FDIC Receiver filed the following proof of claim against the Debtors and their chapter 11 estates (collectively, the “**FDIC Claim**”):

| <u>Claimant</u> | <u>Claim No.</u> | <u>Debtor</u> | <u>Claim Amount</u> |
|---|------------------|---------------|---------------------|
| Federal Deposit Insurance Corporation, as Receiver for Washington Mutual Bank | 2140 | WMI | Unliquidated |

As of the date hereof, the Debtors have not interposed a substantive objection to the FDIC Claim.

L. Proofs of claim have been filed, timely or otherwise, against the Debtors and their chapter 11 estates by holders, including the Bank Creditors, of funded indebtedness against WMB (collectively, the “**Bank Bondholder Claims**”), which Bank Bondholder Claims are listed on Exhibit “B” hereto. The Debtors, as joined by the Creditors’ Committee, have interposed an objection to the Bank Bondholder Claims.

M. Each of the Appaloosa Parties, the Centerbridge Parties, the Owl Creek Parties and the Aurelius Parties manage funds (such funds together with the Appaloosa Parties, the Centerbridge Parties, the Owl Creek Parties and the Aurelius Parties are sometimes hereinafter collectively referred to as the “**Settlement Note Holders**”) which hold, as of the date hereof, among other assets, claims against and/or equity interests in the Debtors and/or their chapter 11 estates (collectively, the “**Settlement Note Holdings**”), including, without limitation, the REIT Series, all as set forth on Exhibit “C” annexed hereto. On or prior to the Bar Date, proofs of claim or interests were filed relating to the Settlement Note Holdings held as of the date such proofs of claim were filed.

N. The Debtors have provided each of the Settlement Note Holders, and each of the Settlement Note Holders acknowledges that it has received, information and documentation necessary and sufficient to address the merits of the transactions contemplated herein and the execution and delivery of this Agreement.

O. From and after the Petition Date, the Debtors and JPMC have cooperated to, among other things, (1) determine the respective ownership of assets and responsibility for any corresponding liabilities, (2) facilitate the Debtors’ distillation of financial information and (3) prepare and file, with the assistance of the FDIC Receiver, consolidated tax returns for WMI, WMB and certain of their respective subsidiaries and Affiliates.

P. By order, dated June 24, 2009, the Bankruptcy Court authorized and permitted the Debtors to conduct discovery pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) in order to facilitate the Debtors’ inquiry into the existence of potential additional claims and causes of action of the Debtors and the Debtors’ chapter 11 estates against JPMC (the “**Rule 2004 Inquiry**”). By order, dated February 16, 2010, the Bankruptcy Court denied, without prejudice, the Debtors’ request to obtain discovery pursuant to Rule 2004 from certain entities and individuals.

Q. The WMI Entities and the JPMC Entities resolved all issues among them relating to the treatment of WaMu Savings Plan and, by order, dated July 27, 2009, the Bankruptcy Court approved such agreement and directed the amendment of the JPMC Action to remove claims and causes of action associated therewith.

R. By order, dated December 2, 2009, the Bankruptcy Court granted JPMC's Motion to Compel the Washington Mutual, Inc. Noteholders Group to Comply with Rule 2019 of the Federal Rules of Bankruptcy Procedure. On December 14, 2009, the WMI Noteholders Group filed a notice of appeal therefrom (the "**Rule 2019 Appeal**").

S. On December 15, 2009, counsel for WMI sent two letters, entitled (1) "Freedom of Information Act Request" and (2) "Expedited Request for FDIC Exempt Records and Information" (collectively, the "**Record Requests**"). The FOIA/PA Group of FDIC Corporate closed the Freedom of Information Act Request, FDIC Log No. 09-2053, on February 17, 2010.

T. Contemporaneous with the execution and delivery of this Agreement, the Debtors have filed with the Bankruptcy Court that certain Second Amended Joint Plan of Affiliated Debtors Pursuant to Chapter 11 of the United States Bankruptcy Code, dated May 21, 2010 (as the same may be amended or modified from time to time in accordance with the terms hereof and thereof, the "**Plan**") and a disclosure statement in connection therewith (the "**Disclosure Statement**").

U. The Parties have concluded that because of, among other things, the complexity, inherent delay and substantial expense of litigating the issues associated with the WMI Action, the JPMC Action, the Turnover Action, the Rule 2004 Inquiry, the Debtors' Claims, the JPMC Claims, the Bankruptcy Stay Motions and the appeals therefrom, the FDIC Claim and the asserted transfer of the Trust Preferred Securities and the consequent issuance of the REIT Series, each as defined below, the length of time necessary to resolve each of the issues presented therein, the complexity and uncertainty involved and the concomitant disruption to the Debtors' efforts to generate distributions for the benefit of the Debtors' creditors and of the FDIC Receiver's efforts to resolve matters with respect to the Receivership, it is in their respective best interests to resolve their disputes and related matters on the terms set forth in this Agreement and as embodied in the Plan. The Debtors further believe that the compromise and settlement provided herein is fair and reasonable, and in the best interests of the Debtors, the Debtors' estates and their creditors.

NOW, THEREFORE, the Parties, in consideration of the promises, covenants and agreements herein described and for other good and valuable consideration acknowledged by each of them to be satisfactory and adequate, and intending to be legally bound, do hereby mutually agree as follows:

ARTICLE I DEFINITIONS

Section 1.1. Recitals. The recitals set forth above are incorporated by reference and are explicitly made a part of this Agreement.

Section 1.2. Definitions. The following definitions shall apply to and constitute part of this Agreement and all schedules, exhibits and annexes hereto:

“Acquisition JPMC Entities” shall mean JPMC in its capacity as the **“Acquiring Bank”** pursuant to the Purchase and Assumption Agreement and each former subsidiary of WMB acquired pursuant to the Purchase and Assumption Agreement (including each entity into which such former subsidiary may have been merged, consolidated or liquidated), together with JPMC in its capacity as the **“Purchaser”** pursuant to the Purchase and Assumption Agreement.

“Actions” shall mean, collectively, the WMI Action, the JPMC Action, the Turnover Action, the Record Requests, the Rule 2004 Inquiry and the Bankruptcy Stay Motions, together with any and all appeals therefrom, the Rule 2019 Appeal and any proceeding arising from the motions, dated June 23, 2009, to withdraw the reference for the WMI Action and the JPMC Action, respectively.

“Admin Account” shall mean that certain account, Account No. xxxxxx1206, maintained by WMI at WMB and having a balance as of the Petition Date in the approximate amount of Fifty Two Million Six Hundred Thousand Dollars (\$52,600,000.00).

“Affiliate” shall mean, with respect to any specified entity, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such specified entity.

“Affiliate Managed Fund” shall mean, with respect to any specified entity, a fund, money market account, investment account or other account managed, directly or indirectly by such entity, by an Affiliate of such entity, by such entity’s investment manager, or by an Affiliate of such investment manager.

“Affiliated Banks” shall mean WMB and Washington Mutual Bank fsb (**“FSB”**).

“Allowed Claim” shall have the meaning ascribed to it in the Plan.

“American Savings Litigation” shall mean that certain litigation styled American Savings Bank, F.A. v. United States, No. 92-872C, currently pending in the United States Court of Federal Claims.

“Anchor Litigation” shall mean that certain litigation styled Anchor Savings Bank, FSB v. United States, No. 95-39C, pending in the United States Court of Federal Claims, and as an appeal in the United States Court of Appeals for Federal Circuit as Anchor Savings Bank, FSB v. United States, No. 2008-5175, -5182.

“Assumed Liabilities” shall mean, collectively, and except as otherwise set forth in this Agreement, the obligations, undertakings and liabilities expressly

assumed by JPMC and the Acquisition JPMC Entities herein, as follows: (a) to the extent payment or performance of such liability or obligation arising from or relating to the period from and after the Effective Date, all obligations, undertakings and liabilities relating to such payment or performance, and (b) to the extent payment or performance of such liability or obligation was due during the period prior to the Effective Date, all obligations, undertakings and liabilities relating to such payment or performance to the extent of, and in the amounts of, the contractual obligations, undertakings and liabilities arising from or relating to such obligations, undertakings and liabilities; provided, however, that, for purposes of clause (b) above, or to the extent that the delay in payment or performance thereof was due to the actions or inactions, as the case may be, of the WMI Entities, “*Assumed Liabilities*” shall not include (i) any damages or compensation for any default, failure to perform or delay in the performance or payment of any obligations, undertakings, or liabilities in connection with such assets or agreements, whether or not provided for in any agreement, document, applicable provision of law or otherwise, (ii) any damages, losses, liabilities, claims or causes of action that are based in tort or on any statute, regulation, rule or principle of applicable or common law or promulgated by governmental or regulatory authority or agency, or that otherwise are extra contractual, or (iii) any special, exemplary, consequential or punitive damages.

“*BKK Litigation*” shall mean that litigation styled California Dep’t. of Toxic Substances Control, et al. v. American Honda Motor Co, Inc., et al., No. CV05-7746 CAS (JWJ), currently pending in the United States District Court for the Central District of California.

“*Bond Indemnity*” shall mean that certain General Agreement of Indemnity, dated as of June 14, 1999, executed and delivered by WMI in connection with the issuance of the Bonds.

“*Bonded Obligations*” shall mean, collectively, those liabilities with respect to which the Bonding Companies issued the Bonds, whether or not such obligations are contingent, unliquidated or disputed.

“*Bonding Companies*” shall mean, collectively, Safeco Insurance Company and each other insurance or bonding company that issued Bonds pursuant to the Bond Indemnity.

“*Bonds*” shall mean the bonds issued by the Bonding Companies on behalf of one or more of the Affiliated Banks or their Affiliates, each as identified on Exhibit “D” hereto, together with the numbers of the respective proofs of claim which have been filed with the Bankruptcy Court in connection therewith.

“*Business Day*” shall mean a day other than a Saturday, a Sunday or any other day on which commercial banks in New York, New York are required or authorized to close by law or executive order.

“Buus Litigation” shall mean that certain litigation styled Buus v. Washington Mutual Pension Plan, et al., No. 07-CV-903 (MJP), currently pending in the United States District Court for the Western District of Washington.

“Claims” shall mean any and all claims, causes of action, liabilities, obligations, undertakings, damages, losses or other rights or remedies, whether at law or in equity, including, without limitation, all “claims” as defined in section 101(5) of the Bankruptcy Code.

“Confirmation Order” shall mean the order of the Bankruptcy Court confirming the Plan in accordance with section 1129 of the Bankruptcy Code, approving the compromise and settlement set forth in this Agreement and directing the consummation of the transactions contemplated herein, which order shall be in form and substance reasonably satisfactory to the Debtors, JPMC, the FDIC Receiver, FDIC Corporate, the Settlement Note Holders and the Creditors’ Committee.

“Disputed Accounts” shall mean the amounts and intercompany balances identified with the account numbers set forth on Exhibit “E” hereto.

“Effective Date” shall mean the first (1st) Business Day after the date on which all conditions to effectiveness set forth in Section 7.2 hereof shall have been satisfied or, to the extent not satisfied, waived in writing, in whole or in part, by each of the Parties.

“ERISA Litigation” shall mean that certain litigation styled In re Washington Mutual, Inc. ERISA Litigation, No. C07-1874 (MJP), currently pending in the United States District Court for the Western District of Washington.

“FDIC Escrow Account” shall mean the account established pursuant to the terms and conditions set forth in the Escrow Agreement attached hereto as Exhibit “F”.

“FDIC Order of Investigation” shall mean any “Order of Investigation” (or similarly titled investigative or regulatory action or proceeding) issued or commenced by, or in the name of, the FDIC Receiver or FDIC Corporate (as the case may be) pursuant to applicable provisions of the Federal Deposit Insurance Act, as amended, (including 12 U.S.C. §1818(n) and 12 U.S.C. §1821(d)(2)(l)) relating to any actual or potential investigation based upon, arising from, or in connection with the acts of former officers, directors, advisors and service providers of WMB or FSB (or their respective predecessors, successors or assigns). Without in any way limiting the foregoing, for purposes of this definition, subject matters covered by any such “Order of Investigation” shall include, but not be limited to, (a) compliance (or non-compliance) with applicable banking laws, rules and regulations, (b) fraudulent practices related to WMB’s retail banking, mortgage lending, small business lending and credit card operations and activities, (c) employee compensation and benefit arrangements, (d) the capitalization or under-capitalization of WMB, as the case may be, (e) the improper payment of dividends

or other payments by WMB or FSB, as the case may be, to WMI and (f) general allegations of fraud, breach of duty or gross negligence.

“FDIC Stay Relief Motion” shall mean the motion, dated November 4, 2009, filed by the FDIC Receiver in the Bankruptcy Court seeking relief from the automatic stay pursuant to section 362 of the Bankruptcy Code in order to exercise rights pursuant to Section 9.5 of the Purchase and Assumption Agreement.

“Final Order” shall mean an order or judgment of the Bankruptcy Court or other court of competent jurisdiction with respect to the applicable subject matter which has not been reversed, stayed, modified or amended and as to which (a) any right to appeal or seek certiorari, review, reargument, stay or rehearing has expired and no appeal or petition for certiorari, review, reargument, stay or rehearing is pending, or (b) an appeal has been taken or petition for certiorari, review, reargument, stay or rehearing has been filed and (i) such appeal or petition for certiorari, review, reargument, stay or rehearing has been resolved by the highest court to which the order or judgment was appealed or from which certiorari, review, reargument, stay or rehearing was sought or (ii) the time to appeal further or seek certiorari, review, reargument, stay or rehearing has expired and no such further appeal or petition for certiorari, review, reargument, stay or rehearing is pending; provided, however, that the possibility that a motion pursuant to Rule 60 of the Federal Rules of Civil Procedure or Bankruptcy Rule 9024 may be filed relating to such order shall not cause such order to not be a Final Order.

“Group” shall mean (a) for U.S. federal income Tax purposes, any affiliated group of corporations within the meaning of section 1504 of the IRC, and (b) for state, local or foreign Tax purposes, any group of corporations that filed (or was required to file) as a combined, unitary or consolidated group under state, local or foreign Tax laws, with respect to which, for purposes of both clause (a) and clause (b) hereof, (i) any of the WMI Entities (or any predecessors thereof) is or was a member and (ii) WMB (or any predecessor thereof) or any subsidiary of WMB (or any predecessor thereof) as of September 24, 2008 is or was also a member.

“Group Taxes” shall mean any Taxes of the Group, as well as any Taxes imposed by the State of California in 2008 on any member of the U.S. consolidated group of which WMI was the common parent, whether imposed on a separate return basis, or on a combined, unitary or consolidated group basis.

“Homeownership Carryback” shall mean Section 13 of the Worker Homeownership, and Business Assistance Act of 2009.

“Homeownership Carryback Refund Amount” shall mean the amount of U.S. federal income Tax refunds of Pre-2009 Group Taxes that are solely attributable to the Homeownership Carryback less any Homeownership Refund Taxes or any decreases in refunds that would have been receivable without the Homeownership Carryback.

“Homeownership Carryback Threshold” shall mean the amount of Net Tax Refunds that would be a receivable applying the Tax law in effect on the date of calculation, but with the provisions of the IRC amended by the Homeownership Carryback replaced by the provisions of the IRC that would be in effect if the Homeownership Carryback had not been enacted, and without taking into account any Refund Related Group Taxes in excess of the Refund Related Group Taxes that would have been incurred if the IRC had not been amended by the Homeownership Carryback.

“Homeownership Refund Taxes” shall mean Taxes imposed on the Group (or any member of the Group) that would not have been imposed on the Group (or any member of the Group) but for the receipt, by the Group, a member of the Group or any Party to this Agreement, of Tax refunds that are attributable to the Homeownership Carryback.

“IAA/FDIC” shall mean that certain letter agreement, dated November 19, 2008, between the Debtors, the Creditors’ Committee and the FDIC Receiver, as may be amended.

“IAA/JPMC” shall mean that certain Information Access Agreement, dated November 21, 2008, between the Debtors and JPMC, as amended.

“Interchange Litigation” shall mean, collectively, that certain litigation styled (a) In re Payment Card Interchange Fee and Merchant-Discout Antitrust Litigation, Master File No. 1:05-md-1720-JG-JO, currently pending in the United States District Court for the Eastern District of New York and (b) Attridge v. Visa U.S.A. Inc. et al., Case No. CGC-04-436920, currently pending in California Superior Court.

“IRC” shall mean the Internal Revenue Code of 1986, as amended from time to time, and any regulations promulgated thereunder.

“IRS” shall mean the Internal Revenue Service.

“Issuing Trusts” shall mean Washington Mutual Preferred (Cayman) I, Washington Mutual Preferred Funding Trust I, Washington Mutual Preferred Funding Trust II, Washington Mutual Preferred Funding Trust III and Washington Mutual Preferred Funding Trust IV.

“JPMC Allowed Unsecured Claim” shall mean, collectively and in the aggregate, the claims of JPMC set forth in Section 2.22 hereof, which claims shall be classified with and treated in the same manner as other allowed general unsecured claims pursuant to the Plan; provided, however, that, in the sole and absolute discretion of the Debtors, for purposes of this Agreement and the compromise and settlement embodied herein, each Allowed Claim comprising the JPMC Allowed Unsecured Claim may be counted as a separate claim for purposes of voting to accept or reject the Plan.

“JPMC Escrow Account” shall mean the account at JPMorgan Chase Bank, National Association, established pursuant to the terms and conditions set forth in the Escrow Agreement attached hereto as Exhibit “F”.

“Lakeview Plan” shall mean that certain Retirement Income Plan for the Salaried Employees of Lakeview Savings Bank, which plan is intended to satisfy the tax requirements of Section 401 of the IRC and is sponsored by WMI.

“Net Tax Refunds” shall mean the sum of (a) the amount of refunds of Pre-2009 Group Taxes deposited into the Refund Escrow Account plus (b) the amount of refunds of Pre-2009 Group Taxes actually received on or after the Petition Date by any Party (other than any refunds deposited in the Disputed Accounts and the WMI Accounts governed by Section 2.1 hereof), any current or future subsidiary of any Party, any entity that is or was a subsidiary of any Party at any time on or after the Petition Date, any entity that is or was an Affiliate at any time on or after the Petition Date of any Party, any successor of any Party (including, for the avoidance of doubt, any liquidating trust established pursuant to the Plan) or any member of any Group that, for whatever reason, has not been deposited in the Refund Escrow Account (treating, for all purposes under this definition of “Net Tax Refunds” and for all purposes under Section 2.4 hereof, any credit, offset or abatement of any post-2008 Group Taxes received by any person arising because of an entitlement to a refund of Pre-2009 Group Taxes as a refund of Pre-2009 Group Taxes actually received by such person), and shall be computed net of (i) any Pre-2009 Group Tax Liabilities and any contingency fee relating to such refunds, (ii) any fees and expenses described in the second-to-last sentence of Section 2.4(i) hereof and (iii) any out-of-pocket expenses incurred by WMI or JPMC after the date hereof and solely relating to services performed after the date hereof with respect to outside legal or other tax advisors (which, for the avoidance of doubt, does not include Alvarez & Marsal LLC or any of its Affiliates) that are participating in any proceeding with any Tax Authorities to resolve any issues with Pre-2009 Group Taxes. For the avoidance of doubt, the inclusion of clause (iii) in the preceding sentence shall not reduce the amount that the FDIC Receiver would be entitled to receive pursuant to the terms and provisions of Section 2.4 hereof.

“Person” shall mean an individual, corporation, limited liability corporation, professional corporation, limited liability partnership, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity and any spouses, heirs, predecessors, successors, representatives or assignees of any of the foregoing.

“Plan Contribution Assets” shall mean all right, title and interest of the WMI Entities, the JPMC Entities and the FDIC Parties in and to the assets set forth on Exhibit “G” hereto.

“Pre-2009 Group Taxes” shall mean Group Taxes determined, paid or imposed with respect to taxable periods ended on or prior to December 31, 2008

(including, for the avoidance of doubt, amounts that have been paid with respect to such period but may subsequently be refunded by a Tax Authority due to overpayment, a carryback of net operating losses, capital losses or other tax attributes, or a carryforward of net operating losses, capital losses or other tax attributes), and Refund Related Group Taxes. For the purpose of calculations made pursuant to this Agreement, any refund of Pre-2009 Group Taxes shall include both (a) the interest component of any such refund paid by a Tax Authority and (b) any interest otherwise earned on such refund prior to the date on which such refund is deposited into the Refund Escrow Account.

“Pre-2009 Group Tax Liabilities” shall mean any and all Pre-2009 Group Taxes:

(a) which, on or after the Petition Date, have been paid by, or on behalf of, the WMI Entities or any members of the Group (and, for the avoidance of doubt, including as “*payment*” the crediting or offsetting of any refunds of Pre-2009 Group Taxes against any non-Pre-2009 Group Taxes to which the WMI Entities or any members of the Group would otherwise have been entitled);

(b) which are unpaid but have been assessed against either of the WMI Entities (including any predecessor thereof) in their individual capacity or their capacity as common parent, key corporation or the like or any members of the Group, and in each case, such assessment has become final or has been reasonably agreed to with the relevant Taxing Authority pursuant to the procedures set forth in Section 2.4 hereof; or

(c) for which either of the WMI Entities (or any predecessor thereof) or any member of the Group is otherwise liable.

“Purchase Price” shall mean the consideration paid, sold, assigned and transferred by the Acquisition JPMC Entities pursuant to the 363 Sale and Settlement, including, without limitation, (a) the contribution and waiver of distributions with respect to the JPMC Allowed Unsecured Claim, (b) the waiver of any and all right, title and interest the Acquisition JPMC Entities may have in or to the Plan Contribution Assets being retained by the Debtors pursuant to the terms of this Agreement and the Plan, (c) the assumption of the Assumed Liabilities and (d) the payment of certain Allowed Claims pursuant to the Plan.

“Qualified Plans” shall mean, collectively, the Lakeview Plan and the WaMu Pension Plan.

“Refund Escrow Account” shall mean the account established pursuant to the terms and conditions of that certain Escrow Agreement, the form of which is attached hereto as Exhibit “F”.

“Refund Related Group Taxes” shall mean any U.S. federal income Taxes imposed on the Group or WMB, as a direct result of the allowance or receipt of any refunds, credits or offsets of Pre-2009 Group Taxes (including any interest

component of such refunds, credits or offsets) or the carryback of any net operating losses resulting in such refunds, credits or offsets, for which a cash or equivalent payment is made to the IRS either (1) by virtue of the allowance or receipt of such refunds, credits or offsets of Pre-2009 Group Taxes, or (2) on the triggering of any negative basis in the shares of WMB at the time of a deconsolidation of WMB. The maximum amount that shall be considered a Refund Related Group Tax under subsection (2) of this definition is the amount of U.S. federal income Taxes that would be imposed if the negative basis (if any) were no greater than the negative basis that would exist (if any) if the basis of the WMB shares held by WMI on December 31, 2008 were reduced by the total net operating losses used to offset Pre-2009 Group Taxes.

“REIT Series” shall mean, collectively, those certain (a) Series I Perpetual Non-Cumulative Fixed-To-Floating Preferred Stock, (b) Series J Perpetual Non-Cumulative Fixed Rate Preferred Stock, (c) Series L Perpetual Non-Cumulative Fixed-To-Floating Rate Preferred Stock, (d) Series M Perpetual Non-Cumulative Fixed-To-Floating Rate Preferred Stock, and (e) Series N Perpetual Non-Cumulative Fixed-To-Floating Rate Preferred Stock.

“REIT Trust Holders” shall mean those entities which are holders of record of the REIT Series as of the record date for purposes of voting to accept or reject the Plan, including, without limitation, the Settlement Note Holders.

“Related Actions” shall mean the Actions, the Texas Litigation or any claims objection process with respect to the JPMC Claims or the FDIC Claim or any similar proceeding that could have been brought by the Parties against any Releasees in the Bankruptcy Court or such other court of competent jurisdiction prior to the date hereof.

“Released Claims” shall mean, collectively, and except as otherwise provided herein or in the Plan, (a) any and all WMI Released Claims, JPMC Released Claims, FDIC Released Claims, Settlement Note Released Claims and Creditors’ Committee Released Claims, and (b) any and all Claims released or deemed to be released pursuant to the Plan, in each case pursuant to clauses (a) and (b) above, to the extent any such Claims arise in, relate to or have been or could have been asserted (i) in the Chapter 11 Cases, the Receivership or the Related Actions, (ii) that otherwise arise from or relate to any act, omission, event or circumstance relating to any WMI Entity, or any current or former subsidiary of any WMI Entity, or (iii) that otherwise arise from or relate to the Receivership, the Purchase and Assumption Agreement, the Chapter 11 Cases, the 363 Sale and Settlement, the Plan and the negotiations and compromises set forth in this Agreement and the Plan, excluding however, in the case of clauses (a) and (b) hereof, and subject to the provisions of Section 3.8 hereof, any and all claims that the JPMC Entities and the FDIC Parties are entitled to assert against each other or any other defenses thereto pursuant to the Purchase and Assumption Agreement, which claims and defenses shall continue to be governed by the Purchase and Assumption Agreement.

“Releasees” shall mean, collectively, the WMI Releasees, the JPMC Releasees, the FDIC Releasees, the Creditors’ Committee Releasees and the Settlement Note Releasees, each as defined below.

“Releasor” shall mean any Person that provides a release to any of the Releasees pursuant to the terms of this Agreement.

“Reorganized Debtors” shall mean WMI and WMIIC, as reorganized.

“Schedules” shall mean the schedules of liabilities, as such schedules have been or may be amended during the period up to and including the Effective Date, filed by the Debtors with the Bankruptcy Court pursuant to Rule 1007(b) of the Federal Rules of Bankruptcy Procedure.

“Tax Authority” shall mean any federal, state, local or foreign government, or agency, instrumentality or employee thereof, court or other body (if any) charged with the administration of any Law relating to Taxes.

“Tax Dispute Resolution Procedure” shall mean the procedures to be used by WMI, JPMC and the FDIC Receiver to reconcile issues associated with the calculation and estimation of Taxes, all as set forth in Section 2.4(i) hereof.

“Tax Return” shall mean any return, declaration, form, election letter, report, statement, estimates, information return, or other information filed or required to be filed with respect to any Taxes, including any schedule or attachment thereto or amendment thereof, including any claim for a Tax refund.

“Taxes” shall mean (a) all federal, state, local or foreign taxes, including, without limitation, all net income, alternative minimum, net worth or gross receipts, capital, value added, franchise, profits and estimated taxes, and (b) all interest, penalties, fines, additions to tax or additional amounts imposed by any Tax Authority or paid in connection with any item described in clause (a) hereof.

“Texas Litigation” shall mean that certain litigation styled American National Insurance Company v. FDIC, Case No. 09-1743 (RMC), currently pending in the D.C. District Court.

“363 Sale and Settlement” shall mean, collectively, the compromise and settlement set forth herein pursuant to Bankruptcy Rule 9019 and the Plan regarding, among other things, and including, without limitation, agreements with respect to the ownership of the Plan Contribution Assets and the sale, transfer and assignment pursuant to the Plan and sections 363 and 365 of the Bankruptcy Code (a) of any and all right, title and interest any of the WMI Entities may have in (i) the Trust Preferred Securities, (ii) any checks made out to or funds received by WMI, or otherwise for the benefit of the WMI Medical Plan, the JPMorgan Chase Flexible Benefits Plan for Heritage WaMu Active Employees and the JPMorgan Chase Flexible Benefits Plan for Heritage WaMu

Retirees, (iii) the JPMC Rabbi Trusts and the JPMC Policies, as defined below, (iv) the WaMu Pension Plan and the Lakeview Plan and all of the sponsor's interest in the assets contained in any trusts or otherwise associated with such plans, (v) the WMI Medical Plan, (vi) certain intellectual property set forth in Section 2.17 hereof, (vii) the Anchor Litigation, (viii) the Visa Shares, (ix) JPMC Wind Investment Portfolio LLC, (x) the Bonds, and (xi) certain tax refunds as set forth in Section 2.4 hereof, in the case of each of the foregoing (a)(i) through (a)(xi), to JPMC or its designee, free and clear of all liens, Claims, interests and encumbrances of any Person, other than the Claims, interests, liens and encumbrances of any JPMC Entity, if any, and (b) of any and all right, title and interest of an Acquisition JPMC Entity and any subsidiary or Affiliate of an Acquisition JPMC Entity may have in (i) HS Loan Corporation, (ii) the WMI Rabbi Trust and the WMI Policies, as defined below, (iii) the intellectual property referred to in Section 2.17 hereof, and (iv) certain tax refunds as set forth in Section 2.4 hereof, in the case of each of (b)(i) through (b)(iv) to the WMI Entities or their designee, free and clear of all liens, Claims, interests and encumbrances of any Person, other than the Claims, interests, liens and encumbrances of the WMI Entities; provided, however, that, in accordance with section 1146 of the Bankruptcy Code, the sales, transfers or assignments contemplated herein pursuant to the 363 Sale and Settlement shall not be subject to any transfer or stamp tax.

“Trust Preferred Holders” shall mean, collectively, all holders of any legal, equitable or beneficial interest in any Trust Preferred Securities, including the holders of record of any REIT Series as of the date on which the Bankruptcy Court approves the Disclosure Statement, including, without limitation, the Settlement Note Holders.

“Trust Preferred Securities” shall mean, collectively, those certain (a) Washington Mutual Preferred Funding (Cayman) I Ltd. 7.25% Perpetual Non-Cumulative Preferred Securities, Series A-1, (b) Washington Mutual Preferred (Cayman) I Ltd. 7.25% Perpetual Non-Cumulative Preferred Securities, Series A-2, (c) Washington Mutual Preferred Funding Trust I Fixed-to-Floating Rate Perpetual Non-Cumulative Trust Securities, (d) Washington Mutual Preferred Funding Trust II Fixed-to-Floating Rate Perpetual Non-Cumulative Trust Securities, (e) Washington Mutual Preferred Funding Trust III Fixed-to-Floating Rate Perpetual Non-Cumulative Trust Securities, and (f) Washington Mutual Preferred Funding Trust IV Fixed-to-Floating Rate Perpetual Non-Cumulative Trust Securities.

“Unknown Claims” shall mean any Released Claim, as defined herein, that any Releasor, as defined herein, does not know or suspect to exist in his, her or its favor at the time of giving the release in this Agreement that if known by him, her or it, might have affected his, her or its settlement and release in this Agreement. With respect to any and all Released Claims, each Releasor shall expressly waive or be deemed to have waived, and by operation of the Confirmation Order shall have waived the provisions, rights and benefits of California Civil Code § 1542 (to the extent it applies herein), which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTORS.

Each Releasor expressly waives, and shall be deemed to have waived, and by operation of the Confirmation Order shall have waived any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law or foreign law, that is similar, comparable or equivalent in effect to California Civil Code § 1542. The Releasors may hereafter discover facts in addition to or different from those that any of them now knows or believes to be true with respect to the subject matter of the Released Claims, but each Releasor shall expressly have and shall be deemed to have, and by operation of the Confirmation Order shall have fully, finally and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, that now exist or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including conduct that is negligent, reckless, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. Each Releasor acknowledges and shall be deemed to have acknowledged, and by operation of the Confirmation Order shall have acknowledged, that the foregoing waiver was separately bargained for and a key element of the settlement of which this release is a part.

“*Visa Shares*” shall mean the 3.147 million Class B shares of Visa Inc. held by WMI and set forth on the Schedules and/or WMI’s books and records as of the Petition Date.

“*WaMu Pension Plan*” shall mean that certain WaMu Pension Plan, which plan is intended to satisfy the tax requirements of Section 401 of the IRC and is sponsored by WMI.

“*WMI Accounts*” shall mean the accounts as set forth on Exhibit “E” hereto that are not Disputed Accounts.

“*WMI Entities*” shall mean WMI, WMIIC, Ahmanson Obligation Company, H.S. Loan Corporation, Marion Insurance Company, WAMU 1031 Exchange, WM Mortgage Reinsurance Company, Inc., WM Citation Holdings, LLC, Washington Mutual Finance Group, LLC, Soundbay Leasing LLC, WMGW Delaware Holdings LLC, WMI Rainier LLC and Washington Mutual Capital Trust.

“*WMI Medical Plan*” shall mean Washington Mutual, Inc. Flexible Benefits Plan.

“*Washington Mutual Escrow Account*” shall mean the account at Wells Fargo Bank, N.A. established pursuant to the terms and conditions set forth in the Escrow Agreement attached hereto as Exhibit “F”.

Section 1.3. Other Terms. Other terms may be defined elsewhere in this Agreement and, unless otherwise indicated, shall have such meaning throughout this Agreement. As used in this Agreement, any reference to any federal, state, local, or foreign law, including any applicable law, will be deemed also to refer to such law as amended and all rules and regulations promulgated thereunder, unless the context requires otherwise. The words “*include*”, “*includes*”, and “*including*” will be deemed to be followed by “*without limitation*”. Pronouns in masculine, feminine, or neuter genders will be construed to include any other gender, and words in the singular form will be construed to include the plural and vice versa, unless the context otherwise requires. The words “*this Agreement*”, “*herein*”, “*hereof*”, “*hereby*”, “*hereunder*”, and words of similar import refer to this Agreement as a whole and not to any particular subdivision unless expressly so limited.

Section 1.4. Interpretation. The Parties have participated jointly in the negotiation and drafting of this Agreement. If an ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the parties hereto and no presumption or burden of proof will arise favoring or disfavoring any party hereto because of the authorship of any provision of this Agreement.

ARTICLE II SETTLEMENT TERMS

Section 2.1. WMI Accounts and Disputed Accounts. On the Effective Date, and in partial consideration for the assets sold pursuant to the 363 Sale and Settlement, (a) the JPMC Entities and the FDIC Parties shall (i) waive any and all claims, rights and liabilities with respect to the WMI Accounts and the Disputed Accounts, including, without limitation, rights of setoff pursuant to section 553 of the Bankruptcy Code and other applicable law and (ii) take such actions, if any, as may be reasonably requested by WMI, including, without limitation, (A) filing with the Bankruptcy Court such notices or pleadings setting forth the waiver of any and all interest in the WMI Accounts and the Disputed Accounts by the JPMC Entities and the FDIC Parties and (B) seeking the dismissals referred to in Section 2.6(b) hereof, (b) the FDIC Parties shall waive and release any and all rights to seize or set off the WMI Accounts and the Disputed Accounts and any funds contained therein in accordance with Section 9.5 of the Purchase and Assumption Agreement, including, without limitation, by withdrawing, with prejudice, the FDIC Stay Relief Motion, and (c) JPMC shall pay to WMI, or such other of the WMI Entities as WMI shall designate, the amounts contained in the Disputed Accounts and the WMI Accounts as of the Effective Date, net of eighty percent (80%) of the amounts received by WMI during the period from the Petition Date up to and including the date hereof attributable to refunds of Pre-2009 Group Taxes deposited into the Disputed Accounts and the WMI Accounts (including the interest component of any such refunds and interest, if any, earned thereon), free and clear of all liens, Claims,

interests and encumbrances of any Person. Without limiting the generality of the foregoing, on and effective as of the Effective Date, JPMC, as successor to WMB, shall (y) release any security interest in or lien upon the Admin Account and the monies contained therein and (z) release and otherwise transfer the Admin Account and the funds contained therein in accordance with the direction of WMI. To ensure allocation of any funds credited to the WMI Accounts and the Disputed Accounts in accordance with the terms and provisions of this Agreement, as soon as practicable following execution and delivery of this Agreement, but in no event later than five (5) Business Days subsequent hereto, JPMC shall take any and all action as is appropriate or as WMI may reasonably request to verify all amounts credited or debited to the WMI Accounts and the Disputed Accounts from and after the Petition Date and shall provide copies of all such documentation to the FDIC Receiver contemporaneously with the delivery thereof to WMI.

Section 2.2. Deposit Account Interest. From and after the date hereof, interest shall continue to accrue or be deemed to accrue on the balances specified for the WMI Accounts and the Disputed Accounts at the greater of (a) three (3) basis points and (b) such other amount as may be quoted by JPMC as applicable to one, three and six month rates, as selected by WMI in its sole and absolute discretion.

Section 2.3. Trust Preferred Securities. On and effective as of the Effective Date, and pursuant to the 363 Sale and Settlement, (a) JPMC or its designee shall be deemed to be the sole legal, equitable, and beneficial owner of the Trust Preferred Securities for all purposes, (b) the WMI Entities and the FDIC Parties shall be deemed to have sold, transferred, and assigned any and all right, title and interest the WMI Entities may have or may ever have had in the Trust Preferred Securities, free and clear of any Claims, liens, interests and encumbrances of any Person, other than the Claims, interests, liens and encumbrances of JPMC, if any, (c) any obligation of WMI to transfer the Trust Preferred Securities to WMB, including in accordance with that certain Assignment Agreement, effective as of September 25, 2008, between WMI and WMB, shall be deemed to have been fully satisfied by the contribution to WMB of the Trust Preferred Securities as of September 25, 2008 and thereafter sold and transferred to JPMC in accordance with the Purchase and Assumption Agreement, (d) WMI and the FDIC Parties consent to the sale and transfer of such obligations to JPMC and the Trust Preferred Securities shall be deemed to have been transferred by WMI to JPMC in satisfaction of such obligation as of September 26, 2008, (e) with respect to matters related to the Trust Preferred Securities, all persons and entities shall be authorized and directed to take instructions solely from JPMC or its designee with respect to those items as to which the owner is entitled to give instructions, (f) any and all persons and entities shall be authorized and directed to take necessary, proper or advisable actions and all other actions reasonably requested or instructed by JPMC to record, reflect, transfer, vest, assign, convey, and maintain, as necessary, that a transfer of the Trust Preferred Securities was made to WMI (and subsequently by WMI to JPMC) and that JPMC is the sole legal, equitable, and beneficial owner of the Trust Preferred Securities as transferee of WMI, including, without limitation, by: (i) causing the applicable trustees, registrars,

paying agents, depository, and transfer agents to amend their records (including the securities registers of each Issuing Trust) to reflect a transfer of the Trust Preferred Securities to WMI and then to WMB, and to reflect JPMC as the sole legal, equitable, and beneficial owner of the Trust Preferred Securities; (ii) causing the trustees and boards of directors of the Issuing Trusts to take all necessary, proper and advisable action to reflect JPMC as the sole legal, equitable, and beneficial owner of the Trust Preferred Securities; and (iii) amending any agreements, articles, or declarations to reflect JPMC as the sole legal, equitable, and beneficial owner of the Trust Preferred Securities; and (g) all claims against the Debtors, the WMI Entities, the Acquisition JPMC Entities and the FDIC Parties with respect to the Trust Preferred Securities shall be released and withdrawn, with prejudice, including any claims under section 365(o) of the Bankruptcy Code or any priority claim under section 507(a)(9) of the Bankruptcy Code.

Section 2.4. Tax Matters. It is the understanding of the Parties that this Section 2.4 allocates (i) the Homeownership Carryback Refund Amount thirty-four and eight hundred twenty-two thousandths percent (34.822%) to the FDIC Receiver and sixty-five and one hundred seventy-eight thousandths (65.178%) to WMI, and (ii) all other Net Tax Refunds eighty percent (80%) to JPMC and twenty percent (20%) to WMI, and this Section 2.4 shall be interpreted in a manner consistent with this understanding.

(a) Cooperation; Control of Tax Matters.

(i) From and after the date hereof, WMI, JPMC and the FDIC Receiver (on behalf of WMB) shall cooperate with each other to maximize the amount of Net Tax Refunds received (which, for avoidance of doubt, includes taking such actions as necessary to ensure that net operating losses incurred in connection with Pre-2009 Group Taxes shall to the maximum extent possible be carried back in order to maximize Net Tax Refunds). Notwithstanding anything in this Agreement or otherwise to the contrary, WMI and the FDIC Receiver (on behalf of WMB) agree to make and shall make (or cause to be made), if not already made, any elections or filings necessary to ensure that the 2008 tax year shall be the tax year of the Group to which the 5-year carryback available under Section 172(b)(1)(H) of the Internal Revenue Code of 1986, as amended, shall apply (the "*Election*"). Each of WMI and the FDIC Receiver represent that it has not made any election or filing which would make the Election invalid or inoperative in any way.

(ii) From and after the date hereof, subject to the terms and provisions of Section 2.4(a)(iii) hereof, but without otherwise limiting the foregoing, WMI, JPMC and the FDIC Receiver shall jointly control and administer all Pre-2009 Group Tax matters, in respect of all relevant Tax years, that (x) relate to U.S. federal income tax and (y) are reasonably expected to have a material effect on the amount of Net Tax Refunds to which the FDIC Receiver is entitled under this Agreement, provided, however, that the FDIC Receiver's concurrence shall not be required with respect to any settlement offers made or accepted by WMI on or before May 21, 2010, the principal terms of which have been evidenced in writing (whether or not such offer or acceptance is conditioned upon approval of any supervising authority). For the avoidance of doubt,

the preceding sentence shall not apply to give the FDIC Receiver joint control of any proceedings related to any of the predecessor entities listed on Schedule 2.4(a). WMI and JPMC shall jointly control and administer all other Pre-2009 Group Tax matters, in respect of all relevant Tax years. From and after the date hereof, WMI, JPMC and the FDIC Receiver shall consult with and keep one another fully informed on all other Pre-2009 Group Tax matters that are jointly controlled by WMI, JPMC and the FDIC Receiver pursuant to the first sentence of this Section 2.4(a)(ii), and their ongoing discussions with the applicable Tax Authorities in respect of such Group Tax matters. From and after the date hereof, each of WMI and JPMC shall consult with and keep each other fully informed on all other Pre-2009 Group Tax matters and its ongoing discussions with the applicable Tax Authorities, and shall, from time-to-time, inform the FDIC Receiver of the status of all other Tax proceedings relating to Net Tax Refunds. For purposes of the foregoing, the administration of Pre-2009 Group Tax matters shall include, without limitation, the resolution of all current and pending Tax controversies (both administrative and judicial), the filing of any related carryback claims, elections, and other Tax Returns, and the entering into any other related agreements with a Tax Authority, except to the extent that such actions must be, pursuant to a legal or regulatory requirement, undertaken by the FDIC Receiver on behalf of WMB (or any subsidiary of WMB on or before September 24, 2008). For this purpose, JPMC and WMI will each have the right to participate in any meetings or proceedings related to the resolution of any Tax controversy that relates to the resolution of Pre-2009 Group Tax matters and each Party to this Agreement agrees to execute any forms, including (but not limited to) IRS Forms 2848, to authorize such participation upon the request of either JPMC or WMI; provided, however, in deciding whether to participate in any such meeting or proceeding, JPMC will give due consideration (in consultation with WMI and the FDIC Receiver) to whether participation by JPMC in any such meeting or proceeding would, in JPMC's sole discretion, materially adversely affect the resolution of the Pre-2009 Group Tax matters at issue and related proceedings. Similarly, the FDIC Receiver will have the right to participate in any meetings or proceedings related to the resolution of any Tax controversy that relates to the resolution of Pre-2009 Group Tax matters that are jointly controlled by WMI, JPMC and the FDIC Receiver pursuant to the first sentence of this Section 2.4(a)(ii), and each Party to this Agreement agrees to execute any forms, including (but not limited to) IRS Forms 2848, to authorize such participation upon the request of the FDIC Receiver; provided, however, in deciding whether to participate in any such meeting or proceeding, the FDIC Receiver will give due consideration (in consultation with WMI and JPMC) to whether participation by the FDIC Receiver in any such meeting or proceeding would, in the FDIC Receiver's sole discretion, materially adversely affect the resolution of the Pre-2009 Group Tax matters at issue and related proceedings. Notwithstanding WMI's and JPMC's control over the administration of certain Pre-2009 Group Tax matters, to the extent that any of the foregoing actions must be undertaken by the FDIC Receiver as a result of a legal or regulatory requirement, then the FDIC Receiver shall take any actions that are reasonably requested by WMI and JPMC jointly with respect to Pre-2009 Group Taxes. None of WMI, JPMC and the FDIC Receiver shall, with respect to Taxes, make or change any Tax election, change any annual Tax accounting period, adopt or change any method of Tax accounting, enter into