

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement") is made as of this 3rd day of May 2013, by, between, and among the following undersigned parties:

The Federal Deposit Insurance Corporation as receiver of Washington Mutual Bank ("FDIC"), and Deloitte & Touche LLP ("Deloitte"). (Individually, the FDIC, and Deloitte may be referred to herein as a "Party" and collectively as the "Parties").

RECITALS

WHEREAS:

Prior to September 25, 2008, Washington Mutual Bank ("Bank") was a depository institution;

On September 25, 2008, the Bank was closed by the Office of Thrift Supervision and pursuant to 12 U.S.C. § 1821(c), the FDIC was appointed receiver. In accordance with 12 U.S.C. § 1821(d), the FDIC as receiver succeeded to all rights, titles, powers and privileges of the Bank, including those with respect to its assets.

Among the assets acquired by the FDIC were any and all of the Bank's claims, demands, and causes of actions against its former directors, officers, accountants, professionals, employees and other third parties arising from the performance, nonperformance and manner of performance of their respective functions, duties and acts as professionals or employees of the Bank;

The FDIC believes it has claims against Deloitte, which served at various times as the Bank's independent registered public accounting firm. Deloitte denies that it has any liability for any potential claims by the FDIC and Deloitte denies that the FDIC has any basis for any claim against Deloitte. This Agreement was reached after lengthy negotiations, which consisted of open and good faith discussions of complex issues. The Parties agree that this Agreement is not an admission of liability by Deloitte. The Parties deem it in their best interests to enter into this Agreement to avoid the uncertainty, trouble, and expense of litigation.

NOW, THEREFORE, in consideration of the promises, undertakings, payments, and releases stated herein, the sufficiency of which consideration is hereby acknowledged, the undersigned Parties agree, each with the other, as follows:

SECTION I: Payment to FDIC

A. As an essential covenant and condition to this Agreement, Deloitte agrees to pay the FDIC, the sum of FIFTEEN MILLION TWO-HUNDRED FIFTY THOUSAND Dollars (\$15,250,000 U.S.) less \$15,280, which represents 50 percent of the mediator's fees and costs ("the Settlement Funds"), within 30 calendar days of receipt of a counterpart original or signed pdf of this Agreement executed on behalf of the FDIC.

B. The Settlement Funds shall be delivered to the FDIC by direct wire transfer into an account designated by the FDIC. In the event that the Settlement Funds are not delivered to the FDIC (or its counsel) within the time period specified herein, interest shall accrue on all unpaid amounts at the rate of 5% per annum until the date of payment.

C. In addition, and without waiving any other rights that the FDIC may have, in the event that all Settlement Funds (including all accrued interest) are not received by the FDIC within the time period specified herein, then the FDIC, in its sole discretion, shall have the following mutually exclusive remedies: 1) the FDIC shall have the right to extend this Agreement for any period of time until it receives all Settlement Funds (including all accrued interest), in which event the Parties agree that Deloitte will also pay the FDIC for all reasonable costs, including reasonable attorney's fees, expended by the FDIC in connection with Deloitte's failure to make timely delivery of the Settlement Funds; or 2) the FDIC shall have the right to enforce this Agreement against Deloitte for failing to deliver the Settlement Funds, in which event the Parties agree to jurisdiction in Federal District Court in the District of Columbia and that the prevailing party in any such action shall be entitled to recover from the other party all reasonable costs, including reasonable attorney's fees, expended in the prosecution or defense of such action, as the case may be.

SECTION II: Releases

A. Release of Deloitte by The FDIC.

Effective upon receipt in full of the Settlement Funds plus any accrued interest and any reasonable costs, including reasonable attorney's fees, as provided above, and except as provided in PARAGRAPH II.D., the FDIC, for itself and its successors and assigns, hereby and forever generally releases and discharges Deloitte & Touche LLP, Deloitte LLP, Deloitte Tax LLP, Deloitte Financial Advisory Services LLP, Deloitte Consulting LLP, Deloitte Services LP (collectively, the "Deloitte Entities"), each of their predecessors, their present and former parent companies, subsidiaries and affiliates, their respective present and former officers, directors, employees, partners, members, principals, stockholders, agents, subrogees, and attorneys, and the respective successors, predecessors, assigns, heirs, executors, spouses, trustees, administrators, attorneys, insurers, servants, agents and representatives of any of the foregoing persons or entities (collectively, including the Deloitte Entities, the "Deloitte Releasees"), of and from any and all claims, causes of action, debts, suits, rights of action, dues, sums of money, accounts, bonds, bills, covenants, contracts, controversies, agreements, promises, damages, judgments, variances, executions, demands, rights, liabilities, losses or obligations of any kind or nature whatsoever, whether known or unknown, suspected or unsuspected, disclosed or undisclosed, at law or in equity, whether or not asserted, threatened, or alleged, including any claims for attorneys' fees, costs or other expenses, which the FDIC now has, owns or holds, or at any time before ever had, owned or held, or which have been, could have been, or could in the future be asserted directly, indirectly, individually, representatively, derivatively or in any other capacity, provided such claims arise from or relate to (i) the performance, nonperformance, or manner of performance of Deloitte's respective functions, duties and actions as the Bank's independent registered public accounting firm (the "FDIC Potential Claims"); (ii) any of the acts, omissions, representations, facts, events, circumstances, matters, claims, transactions, occurrences or subject matters alleged or which could have been alleged as part of the FDIC Potential Claims; or (iii) any services that any of the Deloitte Releasees performed or were engaged to perform with

respect to the Bank or its present or former parent companies, subsidiaries, affiliates, divisions or predecessors, provided such services were performed for or on behalf of the Bank, or its present or former parent companies, subsidiaries, affiliates, divisions or predecessors, and provided this subsection (iii) shall not release any claim related to any services that any of the Deloitte Releasees performed or were engaged to perform (if any) after September 25, 2008, the date that the Bank was closed. Notwithstanding the foregoing, this release shall not in any way impair or restrict the rights of the FDIC to enforce the terms of this Agreement.

B. Release of The FDIC by Deloitte.

Effective simultaneously with the release granted in PARAGRAPH II.A. above, the Deloitte Entities hereby release and discharge the FDIC, and all of the FDIC's respective present and former officers, directors, employees, agents, subrogees, attorneys, trustees, administrators, insurers, servants, agents and representatives (collectively, the "FDIC Releasees"), of and from any and all claims, causes of action, debts, suits, rights of action, dues, sums of money, accounts, bonds, bills, covenants, contracts, controversies, agreements, promises, damages, judgments, variances, executions, demands, rights, liabilities, losses or obligations of any kind or nature whatsoever, whether known or unknown, suspected or unsuspected, disclosed or undisclosed, at law or in equity, whether or not asserted, threatened, or alleged, including any claims for attorneys' fees, costs or other expenses, which the Deloitte Entities now have, own or hold, or at any time before ever had, owned or held, or which have been, could have been, or could in the future be asserted directly, indirectly, individually, representatively, derivatively or in any other capacity, provided such claims relate to, or are in any way based upon, or arise out of, or are in any way connected with (i) the performance, nonperformance, or manner of performance of Deloitte's respective functions, duties and actions as the Bank's independent registered public accounting firm (the "Deloitte Potential Claims"); (ii) any of the acts, omissions, representations, facts, events, circumstances, matters, claims, transactions, occurrences or subject matters alleged or which could have been alleged as part of the Deloitte Potential Claims; or (iii) any services any of the Deloitte Releasees performed or were engaged to perform with respect to the Bank or

its present or former parents, subsidiaries, affiliates, divisions or predecessors, irrespective of whom such services are claimed to have been performed for or on behalf of, provided this subsection (iii) shall not release any claim related to any services that any of the Deloitte Releasees performed or were engaged to perform (if any) after September 25, 2008, the date that the Bank was closed. Notwithstanding the foregoing, this release shall not in any way impair or restrict the rights of Deloitte to enforce the terms of this Agreement.

C. Releases Extend to Unknown Claims

The Parties understand and agree that the releases in PARAGRAPHS II.A and II.B are intended to and do operate as full and final releases of all claims within the scope of Paragraphs II.A and II.B, respectively including all unknown or unanticipated claims, rights, demands, actions, obligations, liabilities, and causes of action of every kind and character. The Parties acknowledge that they may have claims, and may have sustained damages, expenses, and losses, within the scope of those respective paragraphs, that are presently unknown or not suspected, and that such claims, damages, expenses, and losses, if any, might give rise to additional damages, expenses, or losses in the future that are not now anticipated by the Parties, or might have affected their decision to enter into such releases. The Parties understand that they may hereafter discover facts different from what they now believe to be true, which if known, could have materially affected their decisions or such releases, but the Parties confirm their intention to waive all such potential claims, including unknown claims and any claims or rights based on different or additional facts. The Parties accordingly expressly waive and relinquish, to the fullest extent permitted by law, any and all provisions, rights and benefits that they may have under federal law or any law of any state or territory of the United States or any foreign country, or principle of common law, which would limit the effect of their release to those claims actually

known or suspected to exist at the time of execution of this release, such as the provisions of Section 1542 of the California Civil Code, which provide as follows:

"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 must have materially affected his or her settlement with the debtor."

D. Express Reservations From Releases.

1. Notwithstanding any other provision, by this Agreement, the FDIC does not release, and expressly preserves fully and to the same extent as if the Agreement had not been executed, any claims or causes of action:

a. against Deloitte or any other person or entity for liability, if any, incurred as the maker, endorser or guarantor of any promissory note or indebtedness payable or owed by them to FDIC, the Bank, other financial institutions, or any other person or entity, including without limitation any claims acquired by FDIC as successor in interest to the Bank or any person or entity other than Bank;

b. against any person or entity not expressly released in this Agreement; and

c. which are not expressly released in Paragraph IIA or IIC. above.

2. Notwithstanding any other provision, nothing in this Agreement shall be construed or interpreted as limiting, waiving, releasing or compromising the jurisdiction and authority of the Federal Deposit Insurance Corporation in the exercise of its supervisory or regulatory authority or to diminish its ability to institute administrative enforcement proceedings seeking removal, prohibition or any other administrative enforcement action which may arise by operation of law, rule or regulation.

3. Notwithstanding any other provision, this Agreement does not purport to waive, or intend to waive, any claims which could be brought by any agency or instrumentality of the United States government other than the FDIC.

4. Notwithstanding any other provision, by this Agreement, Deloitte does not release, and expressly preserves fully and to the same extent as if the Agreement had not been executed, any claims or causes of action:

- a. against any person or entity not expressly released in this Agreement; or
- b. which are not expressly released in Paragraph II.B. or II.C. above.

E. Deloitte Release of Claims Against Certain Third Parties.

The Deloitte Entities hereby (i) covenant not to bring or assert and (ii) agree to waive and release, any and all claims (including but not limited to insurance recovery claims), actions, causes of action, or defenses of any kind or nature whatsoever, which, directly or indirectly give rise to a right of relief by any of the WMI Releasees¹ against any of the FDIC Parties² under Section 3.6 of the Second Amended and Restated Settlement Agreement dated February 7, 2011. For the avoidance of doubt, nothing herein shall prevent Deloitte from filing a claim for insurance recovery, provided that doing so does not give rise, directly or indirectly, to a right of relief by any of the WMI Releasees against any of the FDIC Parties under Section 3.6 of the Second Amended and Restated Settlement Agreement dated February 7, 2011.

SECTION III: Waiver of Dividends and Proceeds From Litigation

To the extent, if any, that Deloitte was a shareholder of the Bank and by virtue thereof, or for any other reason is entitled to a dividend, payment, or other distribution upon resolution of the receivership of the Bank or proceeds in any litigation that has been or could be brought against the United States based on or arising out of, in whole or in part, the closing of the Bank or any alleged acts or omissions by the OTS, FDIC or the United States government in connection with the Bank, or its receivership, it hereby knowingly assigns to the FDIC any and all rights, titles and interest in and to any and all such dividends, payments or other distributions, or such other proceeds.

¹ WMI Releasees shall have the same meaning as that term is defined in the Second Amended And Restated Settlement Agreement, dated as of February 7, 2011 (the "February 7, 2011 Settlement Agreement").

² FDIC Parties shall have the same meaning as that term is defined in the February 7, 2011 Settlement Agreement.

SECTION IV: Allocation of Settlement Proceeds

The FDIC intends to allocate the proceeds of the above settlement among the losses that the Bank incurred on its single family residential mortgage loan portfolios involving HELOC, Option ARM and Subprime loans originated or acquired by the Bank on or after March 1, 2006, which loans were held by the Bank at the Receiver Date, on a *pro rata* basis based upon the amount of loss, if any, associated with each such loan. Deloitte shall have no responsibility for such allocation, and the allocation shall have no effect on any of the Parties' rights or obligations under this Agreement in any way.

SECTION V: Representations and Acknowledgements

A. No Admission of Liability. The undersigned Parties each acknowledge and agree that the matters set forth in this Agreement constitute the settlement and compromise of disputed claims, and that this Agreement is not an admission or evidence of liability by any of them regarding any claim.

B. Execution in Counterparts. This Agreement may be executed in counterparts by one or more of the Parties named herein and all such counterparts when so executed shall together constitute the final Agreement, as if one document had been signed by all Parties hereto; and each such counterpart, upon execution and delivery, shall be deemed a complete original, binding the Party or Parties subscribed thereto upon the execution by all Parties to this Agreement.

C. Binding Effect. Each of the undersigned persons represents and warrants that they are authorized to sign this Agreement on behalf of the respective Party for which they are signing, and that they have the full power and authority to bind such Party, as well as all of the present and former parent companies, subsidiaries and affiliates of the respective Party, to each and every provision of this Agreement that is applicable thereto. This Agreement shall be binding upon and inure to the benefit of the undersigned Parties and their respective heirs, executors, administrators, representatives, successors and assigns.

D. Choice of Law. This Agreement shall be interpreted, construed and enforced according to applicable federal law, or in its absence, the laws of the State of Washington.

E. Entire Agreement and Amendments. This Agreement constitutes the entire agreement and understanding between and among the undersigned Parties concerning the matters set forth herein. This Agreement may not be amended or modified except by another written instrument signed by the Party or Parties to be bound thereby, or by their respective authorized attorney(s) or other representative(s).

F. Reasonable Cooperation. The undersigned Parties agree to cooperate in good faith to effectuate all the terms and conditions of this Agreement including doing or causing their agents and attorneys to do whatever is reasonably necessary to effectuate the signing, execution and delivery of any documents necessary to perform the terms of this Agreement.

G. No Construction Against Drafter. This Agreement shall not be construed more strictly against one Party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of the Parties, it being recognized that this Agreement is the result of arm's length negotiations among the Parties, and all Parties have contributed substantially and materially to the preparation of this Agreement.

H. No Confidentiality. The disclosure of this Agreement is controlled by 12 U.S.C. § 1821(s). Thus, the FDIC is allowed to disclose the investigation and/or this Agreement as required by law, or as the FDIC in its sole discretion deems appropriate in the course of the FDIC's fulfillment of its responsibilities. Similarly, Deloitte may disclose its investigation and/or this Agreement as required by law, or as it deems appropriate in its sole discretion.

I. Advice of Counsel. Each Party hereby acknowledges that it has consulted with and obtained the advice of counsel prior to executing this Agreement, and that this Agreement has been explained to that Party by his or her counsel.

J. Notices. If any Party is required to give notice to another Party under this

Agreement, such notice shall be (i) delivered personally, (ii) sent by Federal Express (or another recognized overnight or two-day courier) requesting next or second business day delivery, (iii) sent by facsimile, or (iv) sent by United States certified or registered mail, postage prepaid, return receipt requested. Any such notice shall be deemed given when (i) so delivered personally, (ii) if sent by express courier, one or two business days (as the case may be) following delivery to the courier, (iii) on the date sent by facsimile, with confirmation of transmission, if sent during normal business hours of the recipient, or, if not, then on the next business day, or (iv) if sent by certified or registered mail, three business days after the date of deposit in the United States mail to the respective address of the Party as set forth below, with copies sent to the persons indicated below:

If to the FDIC:

Barry S. Rosen
James Rolfes
Reed Smith LLP
10 S. Wacker Dr., 40th Floor
Chicago, IL 60606
Telephone: (312) 207-6483
Facsimile: (312) 207-6400

Leonard J. DePasquale
Supervisory Counsel
Federal Deposit Insurance Corporation
3501 North Fairfax Drive, VS-B-7058
Arlington, VA 22226
Telephone: (703) 562-2063

Barry Gottfried
Counsel
Federal Deposit Insurance Corporation
3501 North Fairfax Drive, VS-B-7018
Arlington, VA 22226
Telephone: (703) 562-2519

If to Deloitte:

Peter A. Waki
Latham & Watkins LLP
505 Montgomery Street, Suite 2000
San Francisco, CA 94111
(415) 391-0600
(415) 395-8095(fax)

James J. Farrell
Latham & Watkins LLP
355 S. Grand Ave.
Los Angeles, CA 90071
(213) 485-1234
(213) 891-8763 (fax)

William F. Lloyd
Howard Smith
Office of General Counsel
Deloitte LLP
1633 Broadway
New York, NY 10019

Jeffrey Cole
Office of General Counsel
Deloitte LLP
555 Mission Street, Suite 1400
San Francisco, CA 94105

or to such other address as the recipient Party has specified by prior written notice to the sending Party (or in the case of counsel, to such other readily ascertainable business address as such counsel may hereafter maintain). If more than one method for sending notice as set forth above is used, the earliest notice date established as set forth above shall control.

K. Construction. The descriptive headings of this Agreement are for convenience only and shall not affect the construction or interpretation of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by each of them or their duly authorized representatives on the dates hereinafter subscribed.

FEDERAL DEPOSIT INSURANCE CORPORATION
as Receiver for Washington Mutual Bank

(b)(6)

Date: May 3, 2013

BY:

TITLE: Counsel

PRINT NAME: Barry H. Gottfried

DELOITTE & TOUCHE LLP

(b)(6)

Date: MAY 10, 2013

BY:

TITLE: Partner

PRINT NAME: ELLEN BASILICO