

This SETTLEMENT AND RELEASE AGREEMENT (“Agreement”) is made as of the date on which it is signed by the last party to execute this Agreement and is subject to approval by the Court and the satisfaction of the other Approval Conditions. The parties to this Agreement are the Named Plaintiffs, as identified on **Schedule 1**, both individually and as the proposed representatives of the U.S. Bank Direct Loans Settlement Class, and U.S. Bank National Association ND and U.S. Bank National Association as the purchasers, assignees, owners, holders, or servicers of the U.S. Bank Direct Loans (the “Settling Defendants”). The Named Plaintiffs, the Settling Defendants, and the U.S. Bank Direct Loans Settlement Class Members are collectively referred to as the “Parties.” Capitalized terms that are otherwise not defined shall have the meanings set forth in Section 2.

WHEREAS, the following civil actions are pending against the Settling Defendants with respect to U.S. Bank Direct Loans in a state or federal court in Missouri: *Baker v. Century Financial Group, Inc.*, Case No. CV100-4294, filed June 28, 2000 (Cir. Ct. Clay County, Missouri); *Beaver v. First Consumers Mortgage, Inc.*, Case No. 00-CV-215097-01, filed June 23, 2000 (Cir. Ct. Jackson County, Missouri) (consolidated with *Beaver v. First Consumers Mortgage, Inc.*, Case No. 03-CV-213643, filed May 28, 2003 (Cir. Ct. Jackson County, Missouri)); *Couch v. SMC Lending, Inc.*, Case No. 7CV-100-4332, filed June 29, 2000 (Cir. Ct. Clay County, Missouri); *Gilmor v. Preferred Credit Corporation*, Case No. CV100-4263, filed June 27, 2000 (Cir. Ct. Clay County, Missouri), *removed*, Case No. 10-0189-CV-W-ODS (W.D. Mo.); *Hall v. American West Financial*, Case No. 00CV218553-01, filed July 28, 2000 (Cir. Ct. Jackson County, Missouri); and *Thomas v. U.S. Bank Nat. Ass’n, ND*, Case No. 04-CV-83549-01, filed June 2, 2004 (Cir. Ct. Platte County, Missouri), *removed*, Case No. 11-6013-CV-SJ-SOW (W.D. Mo.) (collectively, the “Missouri Cases”); and

WHEREAS, the plaintiffs in each of the Missouri Cases are asserting claims against a number of defendants, including the Settling Defendants, for alleged violations of the Missouri Second Mortgage Loans Act (“MSMLA”), §§ 408.231-408.241 RSMo, and seek compensatory and punitive damages and other relief on their own behalf, and on behalf of various classes of consumer borrowers similarly situated as a result of certain loan fees and interest amounts that the plaintiffs contend the Settling Defendants directly or indirectly charged, contracted for or received in connection with more than 1,500 Missouri Second Mortgage Loans, made to the members of the U.S. Bank Direct Loans Settlement Class by lenders other than the Settling Defendants, and which were purchased by, assigned to, or otherwise acquired and/or serviced by the Settling Defendants, or either of them; and

WHEREAS, the Settling Defendants deny the claims and causes of action being asserted against them in the Missouri Cases and deny and dispute that they are in any way liable to the plaintiffs or any of the members of the putative or certified classes in any of the Missouri Cases; and

WHEREAS, the Settling Defendants nevertheless desire to settle on a global basis the claims being asserted against them in the Missouri Cases on the terms and conditions set forth herein to avoid the burden, expense, and uncertainty of continued litigation, and in order to put to rest all controversies that have been or could be raised against the Settling Defendants in the Missouri Cases; and

WHEREAS, Plaintiffs’ Counsel and counsel for the Settling Defendants have thoroughly investigated the facts relating to the claims alleged in the Missouri Cases and the events and transactions underlying those claims, through formal and informal discovery, and have made a thorough study of the legal principles applicable to the claims as asserted against the Settling

Defendants; and

WHEREAS, Plaintiffs' Counsel and counsel for the Settling Defendants have formally mediated and engaged in extensive arm's length negotiations concerning the settlement of the claims and causes of action being asserted against the Settling Defendants in the Missouri Cases; and

WHEREAS, the Parties have reached a global agreement, subject to Court approval and the satisfaction of the other Approval Conditions, to resolve the Missouri Cases as between the Named Plaintiffs and the U.S. Bank Direct Loans Settlement Class, on one hand, and the Settling Defendants, on the other hand, in accordance with the terms set forth herein; and

WHEREAS, the Named Plaintiffs and Plaintiffs' Counsel have concluded that a global settlement with the Settling Defendants as stated herein will be fair, just, equitable, reasonable, adequate and in the best interests of the Named Plaintiffs and the U.S. Bank Direct Loans Settlement Class based upon their investigation, study, negotiations and discovery taken in the Missouri Cases, and taking into account the contested issues involved, the expense and time necessary to prosecute each of the Missouri Cases against the Settling Defendants through trial, the delays and the risks and costs of further prosecution of the Missouri Cases against the Settling Defendants, the uncertainties of complex litigation, the benefits to be received pursuant to this Settlement, and the fact that the Non-U.S. Bank Direct Loans Borrowers will continue to pursue their claims on the Missouri Second Mortgage Loans in the Missouri Cases against the defendant lenders, assignees and servicers other than the Released Persons; and

WHEREAS, the parties have agreed that the Named Plaintiffs will commence a lawsuit in the Circuit Court of Jackson County, Missouri (the "Court") upon execution of this Agreement in order to consolidate and efficiently resolve in a single proceeding the numerous MSMLA

claims being asserted against the Settling Defendants with respect to the U.S. Bank Direct Loans in the Missouri Cases (the “Litigation”); and

WHEREAS, the Parties acknowledge and agree that this Agreement constitutes a global compromise in settlement of the claims and causes of action that have been or could be raised by the Named Plaintiffs and any of the U.S. Bank Direct Loans Settlement Class Members against any of the Settling Defendants and other Released Persons as to the U.S. Bank Direct Loans in both the Litigation and the Missouri Cases, but shall in no way release, discharge or affect the existing or future claims, causes of action, remedies, and/or rights to relief of (1) any members of the U.S. Bank Direct Loans Settlement Class who timely opt-out of and exclude themselves from the Settlement as provided in this Agreement; (2) the Non-U.S. Bank Direct Loans Borrowers; or (3) the Named Plaintiffs and U.S. Bank Direct Loans Settlement Class Members against any person, association or entity other than the Settling Defendants and other Released Persons.

NOW THEREFORE, the Parties, each intending to be legally bound and acknowledging the sufficiency of the consideration and undertakings set forth herein, do hereby agree, subject to approval of the Court of this Agreement and the satisfaction of the other Approval Conditions that the Released Claims against the Released Persons are fully and finally compromised and settled as follows:

1. **Denial of Liability; No Admissions**

The Parties are entering into this Agreement for the sole purpose of resolving vigorously disputed claims that have arisen between them and in the interest of avoiding the burdens, expense, and risks of further litigation. By entering into any preliminary settlement discussions, agreeing to the terms of this Agreement, or seeking the approval of this Settlement, the Parties are not making any admissions or concessions, whatsoever, with respect to any claims or

defenses alleged or asserted, or any factual or legal assertions in the Missouri Cases or the Litigation. Neither this Agreement nor any of its terms or provisions nor any of the negotiations between the Parties or their counsel shall be construed as an admission or concession by any of the Parties or their counsel of anything whatsoever including, but not limited to, any of the following: (i) the alleged violation or breach of contract or duty, any alleged fraud, misrepresentation or deception, or any alleged violation of any federal, state, or local law, rule, regulation, guideline or legal requirement (or any other applicable law, rule, regulation, guideline or legal requirement); or (ii) the merits of any defenses that the Settling Defendants asserted or could have asserted. Except as necessary in a proceeding to enforce the Agreement, the Agreement and its terms and provisions shall not be offered or received as evidence in any action or proceeding for any purpose, including any effort to establish: (a) any liability or admission on the part of the Released Persons or their respective parent or subsidiary companies, or to establish the existence of any condition constituting a violation of or non-compliance with any federal, state, local or other applicable law, rule, regulation, guideline or other legal requirement; (b) the truth or relevance of any fact alleged by the Named Plaintiffs; (c) the existence of any class alleged by the Named Plaintiffs; (d) the propriety of class certification if the Missouri Cases or the Litigation were to be litigated rather than settled; (e) the validity of any claim or any defense that has been or could have been asserted in the Missouri Cases or the Litigation; (f) that the consideration to be given to the U.S. Bank Direct Loans Settlement Class Members hereunder represents the amount which could be or would have been recovered by any such persons after trial; or (g) the propriety of class certification in any other proceeding or action. The Parties expressly agree that, in the event the Settlement does not become final and effective because the Approval Conditions are not satisfied, no Party will use or attempt to use any

conduct or statement of any other Party in connection with this Agreement, or any effort to seek approval of the Agreement, to affect or prejudice any other Party's procedural or substantive rights in any litigation. The Settling Defendants expressly reserve all procedural and substantive rights and defenses to all claims and causes of action and do not waive any such rights or defenses in the event that the Approval Conditions are not satisfied.

## 2. **Definitions**

As used in this Agreement, the following terms shall be defined as set forth below:

2.1 **Active Loan.** "Active Loan" means any U.S. Bank Direct Loan that is owned by a Settling Defendant and has not been fully paid as of the Effective Date.

2.2 **Aggregate Valid Claim Amount.** "Aggregate Valid Claim Amount" means the aggregate dollar amount of all Valid Claim Amounts.

2.3 **Aggregate Valid Claim Cash Amount.** "Aggregate Valid Claim Cash Amount" means an amount equal to the Aggregate Valid Claim Amount minus the total of the principal indebtedness outstanding with respect to all Active Loans for which Valid Claims were submitted.

2.4 **Approval Conditions.** "Approval Conditions" means all of the conditions precedent to the effectiveness of this Agreement as set forth in Section 16.

2.5 **Claim.** "Claim" means an attempt by a U.S. Bank Direct Loans Settlement Class Member to obtain a U.S. Bank Direct Loans Settlement Class Member Payment and/or the satisfaction of any outstanding indebtedness claimed to be owed on an Active Loan through the submission of a Claim Form pursuant to the Settlement. "Claim" includes an original Claim and any amendments or corrections thereto.

2.6 **Claim Amount.** "Claim Amount" means the settlement compensation payable

with respect to each U.S. Bank Direct Loan relating to a person (or persons) listed on **Exhibit F**, either in cash or by deeming as paid in full any principal indebtedness remaining due on an Active Loan, if the U.S. Bank Direct Loan is the subject of a Valid Claim. The Claim Amount for each U.S. Bank Direct Loan shall be set forth on **Schedule 3** and shall be calculated by: (i) calculating the sum of the challenged loan fees paid with respect to the U.S. Bank Direct Loan, the interest paid with respect to the U.S. Bank Direct Loan, and an additional amount representing prejudgment interest accruing at the rate of 9% per year on the challenged loan fees from the date of the Note and on the interest paid amounts from the actual or estimated date of payment, all as shown on **Schedule 3** (which amounts may have been modified from the amounts shown on **Schedule 2** as a result of challenges made pursuant to Section 8(j)); and then (ii) dividing that sum as calculated in subsection (i) by the total of all challenged loan fees, interest paid, and claimed prejudgment interest with respect to all U.S. Bank Direct Loans as shown on **Schedule 3**; and then (iii) multiplying that quotient by the Net Distributable Settlement Amount.

2.7 **Claim Form.** “Claim Form” means the form that must be used to make a Claim, a copy of which is attached hereto as **Exhibit B**.

2.8 **Class Counsel.** “Class Counsel” shall mean Plaintiffs’ Counsel, Walters Bender Strohbehn & Vaughan, P.C., 2500 City Center Square, 1100 Main Street, Kansas City, Missouri 64105.

2.9 **Class Mail Notice.** “Class Mail Notice” means a document in a form substantially the same as that attached hereto as **Exhibit A**.

2.10 **Class Member.** “Class Member” means a “U.S. Bank Direct Loans Settlement Class Member” as defined in Section 2.41 below.

2.11 **Effective Date.** The “Effective Date” is the date when all of the Approval Conditions set forth in Section 16 have been satisfied or waived in writing to the extent that they may be waived under applicable law and the Settlement thereby becomes effective in all respects.

2.12 **Estimated Claim Amount.** “Estimated Claim Amount” means the estimate of the settlement compensation payable with respect to each U.S. Bank Direct Loan relating to a person (or persons) listed on **Exhibit F**, either in cash or by deeming as paid in full any principal indebtedness remaining due on an Active Loan, if the U.S. Bank Direct Loan is the subject of a Valid Claim. The Estimated Claim Amount for each U.S. Bank Direct Loan, other than Non-Qualifying Loans, shall be set forth on **Schedule 2** and shall be calculated by: (i) calculating the sum of the challenged loan fees paid with respect to the U.S. Bank Direct Loan, the interest paid with respect to the U.S. Bank Direct Loan, and an additional amount representing prejudgment interest accruing at the rate of 9% per year on the challenged loan fees from the date of the Note and on the interest paid amounts from the actual or estimated date of payment, all as shown on **Schedule 2**; (ii) dividing that sum by the total of all challenged loan fees, interest paid, and claimed prejudgment interest with respect to all U.S. Bank Direct Loans listed on **Schedule 2**; and then (iii) multiplying that result by an amount, which is equal to the Gross Settlement Amount less the amount of incentive awards, litigation expenses and costs, and attorney’s fees that the Court will be asked to approve pursuant to Sections 10(a), 10(b) and 10(c) and less the Estimated Claim Amounts for Non-Qualifying Loans. The Estimated Claim Amount for each Non-Qualifying Loan (a U.S. Bank Direct Loan that was not subject to the MSMLA because the interest rate charged on the loan was less than 10% or because the loan documents show the loan did not violate the MSMLA’s prohibition against excessive fees) shall be set forth on **Schedule 2**.



and shall be \$250.00.

2.13 **Final Approval Date.** “Final Approval Date” means the date on which the Final Approval Order is entered.

2.14 **Final Approval Order.** “Final Approval Order” means an Order of the Court in a form substantially the same as that attached hereto as **Exhibit D**, finally approving this Agreement and the Settlement pursuant to Mo. Rule 52.08.

2.15 **Final Hearing Date.** “Final Hearing Date” means the date set by the Court for the hearing on final approval of the Settlement.

2.16 **Final Judgment.** “Final Judgment” means a Judgment of the Court in a form substantially the same as that attached hereto as **Exhibit E**.

2.17 **Gross Settlement Amount.** “Gross Settlement Amount” means \$92,000,000.00 to be made available for distribution under the Settlement subject to the adjustments and limitations set forth herein.

2.18 **Litigation.** “Litigation” means the class action lawsuit that the Named Plaintiffs will file in the Circuit Court of Jackson County, Missouri upon execution of the Agreement pursuant to Section 6 below.

2.19 **Litigation Classes.** “Litigation Classes” means the putative or certified classes of Missouri second mortgage borrowers alleged by the plaintiffs and/or defined by the Courts in the Missouri Cases.

2.20 **Missouri Cases.** “Missouri Cases” means the following: *Baker v. Century Financial Group, Inc.*, Case No. CV100-4294, filed June 28, 2000 (Cir. Ct. Clay County, Missouri); *Beaver v. First Consumers Mortgage, Inc.*, Case No. 00-CV-215097-01, filed June 23, 2000 (Cir. Ct. Jackson County, Missouri) (consolidated with *Beaver v. First Consumers*

*Mortgage, Inc.*, Case No. 03-CV-213643, filed May 28, 2003 (Cir. Ct. Jackson County, Missouri)); *Couch v. SMC Lending, Inc.*, Case No. 7CV-100-4332, filed June 29, 2000 (Cir. Ct. Clay County, Missouri); *Gilmor v. Preferred Credit Corporation*, Case No. CV100-4263, filed June 27, 2000 (Cir. Ct. Clay County, Missouri), *removed*, Case No. 10-0189-CV-W-ODS (W.D. Mo.); *Hall v. American West Financial*, Case No. 00CV218553-01, filed July 28, 2000 (Cir. Ct. Jackson County, Missouri); and *Thomas v. U.S. Bank Nat. Ass'n, ND*, Case No. 04-CV-83549-01, filed June 2, 2004 (Cir. Ct. Platte County, Missouri), *removed*, Case No. 11-6013-CV-SJ-SOW (W.D. Mo.).

2.21 **Missouri Second Mortgage Loan.** “Missouri Second Mortgage Loan” means a mortgage loan of the type defined in § 408.231.1 RSMo that is or was secured in whole or in part by a junior, second or subordinated interest in residential real estate located in the state of Missouri.

2.22 **Named Plaintiffs.** “Named Plaintiffs” means the individuals identified on **Schedule 1**, and each of them, and any person(s) claiming by, through and/or under any or all of them.

2.23 **Net Distributable Settlement Amount.** “Net Distributable Settlement Amount” means the Net Settlement Amount less the amount of any awards for attorney’s fees or attorney compensation approved and awarded to Class Counsel by the Court pursuant to Section 10(c) below.

2.24 **Net Settlement Amount.** “Net Settlement Amount” means the Gross Settlement Amount less the following: (a) any incentive awards approved by the Court and paid to the Named Plaintiffs pursuant to Section 10(a); and (b) any litigation expenses and/or costs approved by the Court and awarded to Class Counsel pursuant to Section 10(b).

**2.25 Non-U.S. Bank Direct Loans Borrower.** “Non-U.S. Bank Direct Loans Borrower” means any member of any of the Litigation Classes in any of the Missouri Cases who obtained a Missouri Second Mortgage Loan that was **not** a U.S. Bank Direct Loan, provided, however, that if such person also obtained a U.S. Bank Direct Loan, that person shall be considered a Non-U.S. Bank Direct Loans Borrower only with respect to the Missouri Second Mortgage Loan that was not a U.S. Bank Direct Loan. “Non-U.S. Bank Direct Loans Borrower” includes, but is not limited to, Named Plaintiffs James and Jill Baker, Jeffrey A. and Michelle A. Cox, William S. and Linda A. Springer, Danita S. Couch, Jack T. Chastain, Sr., David R. and Nancy J. Beebe, Dana S. and Melanie D. Hall, Philip M. and Sharon K. Schrier, and the following additional plaintiffs in the Missouri Cases: Shirley D. Morrow, Michael P. and Shellie Gilmor, Michael E. and Lois A. Harris, Leo E. Parvin, Jr., Mark and Thomasina Shipman, William and Marion Jones, Bruce and Mary James, Kevin and Susan Schaefer, David and Nicole Warkentien, John and Jeanne Rumans, Patricia Ann Worthy, Derrick and Alethia Rockett, William and Carole Hudson, James and Kathleen Woodward, Jeffrey Weathersby, Debra Mooney, Joseph and Amy Black, Jack L. and Hilda M. Beaver, Douglas A. and Tammi S. Kronos, Michael M. and Vivian C. Wolfe, Samuel Smith, Jr., DeAnthony Thomas and Susan Jelinek-Thomas, as to their December 12, 1997 Missouri Second Mortgage Loan, George Bennett, Daniel and Sandra Emily, Mark Fisher, Rachelle Hamrick, Thomas and Maritza Kartman, Michael and Yolanda Lorge, Alan R. and Jackie Parks, John R. and Jeanne E. Rumans, Jason C. and Janet L. Thrasher and Donn A. Wright and Theresa A. Klein-Wright.

**2.26 Plaintiffs’ Counsel.** “Plaintiffs’ Counsel” means Walters Bender Strohbehn & Vaughan, P.C., 2500 City Center Square, 1100 Main Street, Kansas City, Missouri 64105.

**2.27 Preliminary Approval Order.** “Preliminary Approval Order” means an Order

of the Court preliminarily approving the Settlement, conditionally or preliminarily certifying a class for settlement purposes, directing the issuance of a class notice and scheduling a settlement hearing in accordance with Mo. Rule 52.08, in a form substantially similar to that attached hereto as **Exhibit C**.

2.28 **Releasors.** “Releasors” means Named Plaintiffs Steven M. Rich, DeAnthony Thomas and Susan Jelinek-Thomas, as to their October 5, 1998 Missouri Second Mortgage Loan, and Ted Varns and Raye Ann Varns and all U.S. Bank Direct Loans Settlement Class Members and each of their respective heirs, executors, administrators, assigns, legal representatives, trustees, guardians, predecessors, and successors, and any other person claiming by or through any or all of them. The Releasors shall not include any of the following: (a) any members of the U.S. Bank Direct Loans Settlement Class, whether or not identified on **Exhibit F**, who opt out of and exclude themselves from the Settlement in accordance with Section 11; and (b) the Non-U.S. Bank Direct Loans Borrowers, including, but not limited to the Named Plaintiffs identified as Non-U.S. Bank Direct Loans Borrowers in Section 2.25 above:. It is understood that the releases to be given by the Releasors shall only release the Released Persons from the Released Claims, and nothing more, as provided herein.

2.29 **Released Persons.** “Released Persons” shall mean (a) the Settling Defendants, individually and together with the affiliates, parent companies and subsidiary companies listed on **Exhibit G**; (b) all servicers who serviced the U.S. Bank Direct Loans after they were sold, assigned, or conveyed to the Settling Defendants or either of them; (c) any person, association, or entity to whom any of the Settling Defendants or either of them sold, assigned, or conveyed the U.S. Bank Direct Loans, and any subsequent purchaser or assignee of the U.S. Bank Direct Loans; (d) any loan servicer who serviced the U.S. Bank Direct Loans after they were conveyed

to another person, association, or entity by any of the Settling Defendants or either of them; and (e) said Released Persons' respective past and present officers, directors, shareholders, employees, attorneys (including any consultants hired by counsel), accountants, insurers, heirs, executors, and administrators, predecessors, successors, and assigns. Notwithstanding anything in this Agreement to the contrary, the term "Released Persons" **does not include any of the following**: (i) FirstPlus Bank, FirstPlus Financial, Inc., SMC Lending, Inc., Century Financial Group, First Consumers Mortgage Corporation FCMC Financial, Preferred Credit Corporation, Premier Associates Mortgage Co., American West Financial, or any other person, association and/or entity that originated or made any Missouri Second Mortgage Loans who is not a Released Person; (ii) the Master Financial Defendants, Franklin Credit Management Corporation, Wells Fargo Bank, N.A., including any predecessor or other companies acquired or merged into Wells Fargo, German American Capital Corporation ("GACC"), Ace Securities Corporation ("Ace"), Ace Securities Corp. Home Loan Trust 1999-A and its trustees with respect to the loans sold to, assigned to or otherwise acquired by the Ace Securities Corp. Home Loan Trust 1999-A (collectively, "Ace Trust"), Sovereign Bank, and any other current and/or former defendant named in any of the Missouri Cases other than the Settling Defendants and the other Released Persons as defined herein; (iii) any person, association or entity, who is not a Released Person, that serviced any of the U.S. Bank Direct Loans before the U.S. Bank Direct Loans were sold, assigned, transferred or conveyed to the Settling Defendants; (iv) any person, association or entity that serviced any of the loans of any of the Non-U.S. Bank Direct Loans Borrowers as to those loans; (v) any person, association or entity to whom any of the U.S. Bank Direct Loans were sold, assigned, transferred and/or conveyed prior to the sale, assignment, transference or conveyance to the Settling Defendants, or either of them; or (vi) any person, association or entity to whom any of the loans of any of the Non-U.S. Bank Direct Loans

Borrowers were sold, assigned or otherwise transferred or conveyed.

2.30 **Released Claims.** “Released Claims” means any and all claims, demands, actions, causes of action, rights, offsets, setoffs, suits, damages, lawsuits, liens, costs, surcharges, losses, attorney’s fees, expenses or liabilities of any kind whatsoever, in law or in equity, for any relief whatsoever, including monetary, injunctive or declaratory relief, rescission, general, compensatory, special, liquidated, indirect, incidental, consequential or punitive damages, as well as any and all claims for treble damages, penalties, interest, attorney’s fees, costs or expenses, whether known or unknown, alleged or not alleged in the Missouri Cases or the Litigation, suspected or unsuspected, contingent or vested, accrued or not accrued, liquidated or unliquidated, matured or unmatured, that in any way concern, relate to, or arise out of the U.S. Bank Direct Loans and which any of the Releasers have had, or now have, from the beginning of time up through and including the Effective Date, against the Released Persons, including but not limited to, any and all claims arising out of or relating to: (1) allegations that were or could have been asserted against the Released Persons in the Missouri Cases or the Litigation in any way relating to the U.S. Bank Direct Loans Settlement Class Members’ U.S. Bank Direct Loans; (2) any activities of the Released Persons with respect to the U.S. Bank Direct Loans including, without limitation, any alleged representations, misrepresentations, disclosures, incorrect disclosures, failures to disclose, acts (legal or illegal), omissions, failures to act, deceptions, acts of unconscionability, unfair business practices, breaches of contract, usury, unfulfilled promises, breaches of warranty or fiduciary duty, conspiracy, excessive fees collected, or violations of any consumer protection statute, any state unfair trade practice statute, or any other body of case, statutory or common law or regulation, federal or state, including but not limited to the Missouri Second Mortgage Loans Act, Mo.Rev.Stat. §§ 408.231, *et seq.*, or any other similar state statute;

the Truth in Lending Act, 15 U.S.C. §§ 1601, *et seq.*, and its implementing regulations, 12 C.F.R. part 226; the Home Ownership and Equity Protection Act, 15 U.S.C. §§ 1639, *et seq.*, and its implementing regulation, 12 C.F.R. part 226.31-32; the Real Estate Settlement Procedures Act, 12 U.S.C. § 2601, and its implementing regulation, 24 C.F.R. part 3500; the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691, *et seq.*, and its implementing regulation, 12 C.F.R. part 202; the Home Mortgage Disclosure Act, 12 U.S.C. §§ 2801, *et seq.*, and its implementing regulation, 12 C.F.R. part 203; the Fair Housing Act, 42 U.S.C. §§ 3601, *et seq.*; the Fair Credit Reporting Act, 15 U.S.C. §§ 1681, *et seq.*; the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692, *et seq.*; and the Federal Trade Commission Act, 15 U.S.C. §§ 45, *et seq.*; and/or (3) any conduct undertaken by any of the Released Persons to defend the Missouri Cases or the Litigation, including but not limited to, any alleged improper discovery conduct and/or any request for sanctions in this Litigation. It is the intention of the Releasers to provide a general release of the Released Claims against the Released Persons; provided, however, that anything in this Agreement to the contrary notwithstanding, the term Released Claims does not include: (1) any claims of any kind or type by the Named Plaintiffs and/or any other Releaser against any person, association or entity that is not a Released Person, whether such claims arise out of or relate to U.S. Bank Direct Loans or some other conduct, transaction, loan or occurrence; or (2) any claims of any kind or type by any Non-U.S. Bank Direct Loans Borrower including, but not limited to, any claims against the Settling Defendants with respect to any Missouri Second Mortgage Loan that is not a U.S. Bank Direct Loan.

2.31 **Settlement.** “Settlement” means the compromise in settlement memorialized by this Agreement.

2.32 **Settlement Cash Amount.** “Settlement Cash Amount” means an amount equal

to the sum of the Total Litigation Costs Amount and the Aggregate Valid Claim Cash Amount.

2.33 **Settlement Fund.** “Settlement Fund” means the Qualified Settlement Fund established pursuant to Section 4(b).

2.34 **Settlement Fund Administrator.** “Settlement Fund Administrator” means the person who shall serve as administrator of the Settlement Fund within the meaning of Treasury Regulation 1.468B-2(k)(3).

2.35 **Settlement Hearing.** “Settlement Hearing” means the hearing on final approval of the partial class action settlement memorialized by this Agreement.

2.36 **Settling Defendants.** “Settling Defendants” means U.S. Bank National Association ND and U.S. Bank National Association as the purchasers, assignees, owners, holders, or servicers of the U.S. Bank Direct Loans, and each of them..

2.37 **Settling Defendants’ Counsel.** “Settling Defendants’ Counsel” means Dorsey & Whitney LLP, Suite 1500, 50 South Sixth Street, Minneapolis, Minnesota 55402.

2.38 **Total Litigation Costs Amount.** “Total Litigation Costs Amount” means the total of the incentive awards, the litigation costs and expenses, and the attorneys’ fee award approved by the Court pursuant to Sections 10(a), 10(b) and 10(c).

2.39 **U.S. Bank Direct Loan.** “U.S. Bank Direct Loan” means any Missouri Second Mortgage Loan that was originated by a lender other than U.S. Bank National Association ND or U.S. Bank National Association and that was purchased by, assigned to, or otherwise acquired or serviced by the Settling Defendants, or either of them. A U.S. Bank Direct Loan does not include any Missouri Second Mortgage Loan that was purchased by, conveyed or assigned to, or otherwise acquired or serviced by U.S. Bank National Association as trustee, owner trustee, co-owner trustee, or indenture trustee for or with respect and relation to any trust into which any



Missouri Second Mortgage Loans were deposited or conveyed.

2.40 **U.S. Bank Direct Loans Settlement Class.** “U.S. Bank Direct Loans Settlement Class” shall have the meaning set forth in Section 3(a) below. The “U.S. Bank Direct Loans Settlement Class” does not include any person who was not an obligor on (i.e., did not sign a Note for) a U.S. Bank Direct Loan, provided, however, that if a member of the U.S. Bank Direct Loans Settlement Class has died, became a debtor in a bankruptcy case under Chapter 7 or Chapter 13 after obtaining his or her U.S. Bank Direct Loan, or in some other way voluntarily or involuntarily transferred his or her rights under a U.S. Bank Direct Loan, said person’s heir, representative, bankruptcy trustee, successor or assign also shall be deemed a member of the U.S. Bank Direct Loans Settlement Class.

2.41 **U.S. Bank Direct Loans Settlement Class Member.** “U.S. Bank Direct Loans Settlement Class Member” (also “Class Member”) means a member of the U.S. Bank Direct Loans Settlement Class who does not timely opt out of the Settlement pursuant to Section 11 below. If a U.S. Bank Direct Loans Settlement Class Member has died, became a debtor in a bankruptcy case under Chapter 7 or Chapter 13 after obtaining his or her U.S. Bank Direct Loan, or in some other way voluntarily or involuntarily transferred his or her rights under a U.S. Bank Direct Loan, said U.S. Bank Direct Loans Settlement Class Member’s heir, representative, bankruptcy trustee, successor or assign also shall be deemed a U.S. Bank Direct Loans Settlement Class Member.

2.42 **U.S. Bank Direct Loans Settlement Class Member Payment.** “U.S. Bank Direct Loans Settlement Class Member Payment” means the allocated portion of the Aggregate Valid Claim Cash Amount to be paid to each U.S. Bank Direct Loans Settlement Class Member pursuant to the Settlement.

2.43 **Valid Claim.** “Valid Claim” means a Claim submitted on a Claim Form furnished to the Class Member for his or her U.S. Bank Direct Loan that: (a) is mailed or delivered to Class Counsel within the time prescribed in Section 8(f); (b) includes copies of any required documentation as set forth below in this Section; and (c) is signed by the Class Member (or his or her heir, representative, successor or assign); provided, however, that if a Class Member became a debtor in bankruptcy under Chapter 7 or 13 after obtaining his or her U.S. Bank Direct Loan, a Claim Form may be signed by either the debtor Class Member or the bankruptcy trustee to be a Valid Claim. If subject to a challenge pursuant to Section 8(i) and 8(j), Mr. McLeod will determine whether or not a Claim is a Valid Claim pursuant to Section 8(k). **A Claim Form mailed or delivered to Class Counsel after the time prescribed in Section 8(f) cannot be a Valid Claim.** In the event there was (or is) more than one obligor on the Note for any U.S. Bank Direct Loan, all such borrower and co-borrower Class Members (or if deceased or unable to sign the Claim Form their heirs, representatives, successors or assigns) must sign a Claim Form (separately signed Claim Forms will be accepted) for the Claim to be a Valid Claim; provided, however, that if a Class Member became a debtor in a bankruptcy case under Chapter 7 or Chapter 13 after obtaining his or her Trust Loan, a Claim Form may be signed by either the Class Member or the bankruptcy trustee to be a Valid Claim. If an heir, representative, successor or assign of a deceased Class Member signs a Claim Form, a copy of the death certificate of the Class Member and an affidavit, declaration or other documentation showing the authority of any such heir(s), representative(s), successor(s) or assign(s) to sign the Claim Form must be provided within the time prescribed in Section 8(f) for the Claim to be a Valid Claim. If a representative, successor or assign of a Class Member other than a deceased Class Member signs a Claim Form, he or she must within the time prescribed in Section 8(f)

provide a copy of the Power of Attorney, Order, or other documentation showing his or her authority to sign the Claim Form for the Claim to be a Valid Claim; provided, however, that any bankruptcy trustee signing a Claim Form shall not be required to provide any such Orders or other documentation for the Claim to be a Valid Claim. Claim Forms may be corrected or amended notwithstanding the fact that the Class Member's original claim submission may have been challenged or the subject of a dispute resolved under Section 8, but any such corrected or amended Claim Forms must be timely mailed or delivered to be a Valid Claim. For purposes of this Agreement, a Claim Form: (a) shall be deemed to have been "mailed" to Class Counsel on the date postmarked, if mailed via the United States Postal Service, or on the date delivered to any commercial courier service (e.g., Federal Express, UPS, DHL, etc.) for delivery to Class Counsel; and (b) shall be deemed to have been "delivered" to Class Counsel on the date that it is delivered to and received by an individual employed by Class Counsel.

2.44 **Valid Claim Amount.** "Valid Claim Amount" means the Claim Amount of a Class Member who has submitted a Valid Claim.

### 3. **Certification of the U.S. Bank Direct Loans Settlement Class**

a. The Parties agree that the Court should certify and approve the following class of persons for purposes of settlement only:

All persons who, on or after May 16, 1994, obtained a Missouri Second Mortgage Loan that was originated by a lender other than U.S. Bank National Association ND or U.S. Bank National Association, secured by a mortgage or a deed of trust on residential real property located in the state of Missouri, and purchased by, assigned to, or otherwise acquired or serviced by U.S. Bank National Association ND or U.S. Bank National Association, and who did not timely exclude themselves from a litigation class previously certified in any of the following cases:

- *Baker v. Century Financial Group, Inc.*, Case No. CV100-4294, filed June 28, 2000 (Cir. Ct. Clay County, Missouri)

- *Beaver v. First Consumers Mortgage, Inc.*, Case No. 00-CV-215097-01, filed June 23, 2000 (Cir. Ct. Jackson County, Missouri) (consolidated with *Beaver v. First Consumers Mortgage, Inc.*, Case No. 03-CV-213643, filed May 28, 2003 (Cir. Ct. Jackson County, Missouri))
- *Couch v. SMC Lending, Inc.*, Case No. 7CV-100-4332, filed June 29, 2000 (Cir. Ct. Clay County, Missouri)
- *Gilmor v. Preferred Credit Corporation*, Case No. CV100-4263, filed June 27, 2000 (Cir. Ct. Clay County, Missouri), *removed*, Case No. 10-0189-CV-W-ODS (W.D. Mo.)
- *Hall v. American West Financial*, Case No. 00CV218553-01, filed July 28, 2000 (Cir. Ct. Jackson County, Missouri)

If any of these persons have died, became a debtor in a bankruptcy case under Chapter 7 or Chapter 13 after obtaining his or her U.S. Bank Direct Loan, or in some other way voluntarily or involuntarily transferred his or her rights under a U.S. Bank Direct Loan, said person's heir, representative, bankruptcy trustee, successor or assign also shall be deemed a member of the U.S. Bank Direct Loans Settlement Class (defined herein as the "U.S. Bank Direct Loans Settlement Class").

b. A list of the members of the U.S. Bank Direct Loans Settlement Class who are currently known to be or to have been obligors on (i.e., signed the Notes as borrowers or co-borrowers for) the corresponding U.S. Bank Direct Loans and the last known mailing address of each is attached to this Agreement as **Exhibit F**. The Settling Defendants, and each of them, represent, warrant and declare that it has acted in good faith and has employed its best efforts and due diligence in identifying the members of the U.S. Bank Direct Loans Settlement Class that are members of the Litigation Classes and that, to the best of its knowledge, each of the persons identified on **Exhibit F** is or was an obligor on (i.e., signed the Note as borrower or co-borrower for) the corresponding U.S. Bank Direct Loan; provided, however, that the accuracy of **Exhibit F** is presumptive and may be rebutted by affidavit, declaration or other documentation. Although attached to the Agreement, the Parties shall file **Exhibit F** with the Court under seal to protect the private and confidential nature of the borrowers' personal information and data. U.S.

Bank Direct Loans Settlement Class Members will be bound by the release provisions of this Settlement to the extent set forth herein, whether or not they are listed on **Exhibit F**.

c. **Exhibit F** shall constitute the list of individuals to whom the notice of the Settlement and Lawsuit shall be mailed pursuant to Mo. Rule 52.08 and Section 8(a) below. Prior to mailing notice to the Class, Plaintiffs' Counsel shall: (i) have the right to update the addresses on **Exhibit F** as deemed necessary in their discretion by use of the United States Postal Service's National Change of Address database or some other address database service (e.g., Accurint, Intelius, TLO); and (ii) update **Exhibit F** to include the bankruptcy trustee information provided pursuant to Section 5(b). Plaintiffs' Counsel shall provide a dated update of **Exhibit F** to Settling Defendants' Counsel, which the Parties will file with the Court under seal and which shall be deemed part of this Agreement. The Settling Defendants at their own expense shall provide additional notice of the Litigation and Settlement by publication pursuant to Mo. Rule 52.08 and Section 8(d) below.

d. Any members of the U.S. Bank Direct Loans Settlement Class who do not timely exclude themselves from the Settlement as provided herein shall be a U.S. Bank Direct Loans Settlement Class Member.

#### 4. **Settlement Consideration**

a. Subject to the satisfaction of all Approval Conditions, the Settling Defendants agree to deem paid and satisfied principal indebtedness of Active Loans as required by Section 4(d) and further agree to pay cash settlement consideration to the U.S. Bank Direct Loans Settlement Class Members in accordance with this Agreement in an amount equal to the Aggregate Valid Claim Cash Amount. The total cash consideration to be paid by the Settling Defendants shall not exceed the Settlement Cash Amount; provided, however, that in addition to

the Settlement Cash Amount, the Settling Defendants shall refund by paying to the Settlement Fund all of the interest collected or received on any Active Loans relating to Valid Claims after May 31, 2011 to the Class Members who paid such interest pursuant to Section 4(d).

b. The Settling Defendants shall fund the Settlement as follows: (i) by paying the Aggregate Valid Claim Cash Amount within five (5) business days of either the Effective Date or the date on which all challenges to the Claims are resolved, whichever is later; (ii) by paying the incentive awards and litigation expenses approved and awarded to the Named Plaintiffs and Class Counsel pursuant to Sections 10(a) and (b) within ten (10) business days of the Final Approval Date; and (iii) by paying the attorney's fees awarded pursuant to Section 10(c) within ten (10) business days of the Final Approval Date. Except as provided in Sections 4(d) and 8(d), the Settling Defendants shall not be required to make any other payments pursuant to the Settlement or Agreement. The Settling Defendants shall make all of the payments identified in this Section 4(b) via wire transfer to the Settlement Fund pursuant to written instructions received from the Settlement Fund Administrator. If the Settlement Fund Administrator does not provide wiring instructions on or before the Final Approval Date, the deadlines for making the payments identified in this Section 4(b) shall be extended by the length of the delay in providing the wiring instructions. Class Counsel shall establish the Settlement Fund at Missouri Bank and Trust Company of Kansas City within ten (10) business days after entry of the Preliminary Approval Order, subject to subsequent funding in accordance with this Agreement. The parties intend that the Settlement Fund will qualify as a Qualified Settlement Fund under Section 468B of the Internal Revenue Code of 1986, as amended (the "Code"), the Settlement Fund shall be established, operated and managed in accordance with Treasury Regulations Sections 1.468B-1 to 1.468B-5, and all transfers of cash or property to or from the Settlement Fund shall be made in

compliance with such Treasury Regulations. The Settlement Fund Administrator shall make all payments required to be made to Class Counsel, the Named Plaintiffs and Class Members pursuant to the terms of this Agreement, pay all taxes imposed on the income of the Settlement Fund, and arrange for the preparation and filing of all tax reports, tax forms and tax returns required to be filed by the Settlement Fund, including all Forms 1099. All taxes on the income of the Settlement Fund, and all costs and expenses related to the opening, operation, management and closing of the Settlement Fund, shall be paid solely out of the Settlement Fund. All distributions from the Settlement Fund shall be made by the Settlement Fund Administrator in accordance with the terms of this Agreement. The Settling Defendants shall have no responsibility for or liability with respect to the investment, allocation or distribution of funds of the Settlement Fund; the determination, administration, calculation, or payment of claims or distributions from the Settlement Fund; the payment or withholding of any taxes or the filing of any tax returns, forms or notices with respect to the income of or distributions from the Settlement Fund. The Settling Defendants shall supply to the Settlement Fund Administrator the statement described in Treasury Regulation Section 1.468B-3(e)(2), 26 C.F.R. § 1.468B-3(e)(2), no later than February 15<sup>th</sup> of the year following each calendar year in which the Settling Defendants (or some other person on behalf of the Settling Defendants) make a transfer to the Settlement Fund.

c. The funds deposited in the Settlement Fund pursuant to Section 4(b)(iii), including any interest earned on said funds, shall be returned to the Settling Defendants in the event the Agreement is rescinded, terminated, or vacated, or if the Effective Date does not occur for any reason.

d. On the Effective Date or the date on which all challenges to the Claims are

resolved, whichever is later, all principal indebtedness outstanding with respect to each Active Loan relating to a Valid Claim and held by the Settling Defendants shall be deemed paid and satisfied by the Settling Defendants. Said principal amounts so deemed paid and satisfied shall reduce the amounts that remain owing with respect to the Valid Claim Amounts of the U.S. Bank Direct Loans Settlement Class Members and shall be subject to the payment of attorney's fees as provided in Section 19(b). As of the Effective Date or five (5) business days of the date on which all challenges to the Claims are resolved, whichever is later, the Settling Defendants shall inform the servicers of any Active Loans of the substance of this Agreement and request that they take appropriate steps in accordance with the loan servicer's normal practices to: (i) reflect satisfaction in full of all mortgage indebtedness and to release the lien of any mortgage associated with Active Loans relating to Valid Claims as of the Effective Date; and (ii) discontinue the collection of any interest on Active Loans relating to Valid Claims after the Effective Date and return any interest collected or received on any such loans after May 31, 2011 to the U.S. Bank Direct Loans Settlement Class Members who paid such interest by payment to the Settlement Fund pursuant to Section 4(b). The failure of any servicer to deem an Active Loan as fully paid and to reflect such satisfaction in full of the mortgage indebtedness relating to said Active Loan shall be deemed a breach of this Agreement by the Settling Defendants if such failure is not corrected after notification to the Settling Defendants' Counsel and the expiration of a reasonable cure period after notification is received.

**5. Loan Data and Documents**

a. **Schedule 2** attached hereto sets forth for each U.S. Bank Direct Loan made to a person identified on **Exhibit F**: (i) a calculation of what is claimed as having been paid with respect to that U.S. Bank Direct Loan in challenged loan fees; (ii) a calculation of what is shown



by the payment histories as having been paid with respect to that U.S. Bank Direct Loan in interest; (iii) an amount representing prejudgment interest accruing at the rate of 9% per year on the challenged loan fees from the date of the Note and on the interest paid amounts from the actual or estimated date of payment; and (iv) the Estimated Claim Amount, calculated as set forth in Section 2.12. The stated calculations of challenged loan fees, interest paid by the borrower(s), prejudgment interest claims, and Estimated Claim Amounts have been derived from the loan data provided by the Settling Defendants or, in the absence of such data, on the calculations of Plaintiffs' Counsel and their economic consultants, both of which shall be deemed by the Parties to be accurate and admissible for purposes of the Settlement.

b. Within fourteen (14) days of the date on which the Agreement is executed, the Settling Defendants shall deliver to Plaintiffs' Counsel a listing of those persons identified on **Exhibit F** who became a debtor in a bankruptcy case under Chapter 7 or Chapter 13 after obtaining their U.S. Bank Direct Loan from the originating lender. Said listing shall identify for each such bankruptcy the venue and case number of the proceeding and the name and address of any trustee(s). The information to be provided by the Settling Defendants shall be based on a good faith inquiry and diligent review of available records by the Settling Defendants. The names and addresses of any trustees identified by the Settling Defendants shall be added to **Exhibit F**.

## **6. Commencement of the Litigation**

The Parties agree that the Named Plaintiffs shall commence a class action lawsuit against the Settling Defendants in the Circuit Court of Jackson County, Missouri (the "Litigation") upon execution of the Agreement. The Settling Defendants agree that they shall not seek to remove the Litigation to federal court or encourage others to do so. The Litigation shall be the vehicle

through which the numerous MSMLA claims being asserted against the Settling Defendants in the Missouri Cases with respect to the U.S. Bank Direct Loans can be consolidated and thereby efficiently and expeditiously settled and resolved in a single proceeding pursuant to the terms and conditions of this Agreement.

7. **Preliminary Approval Order**

Within twenty (20) days of the date on which this Agreement is executed, the Named Plaintiffs shall file a motion in the Litigation requesting the Court to enter a Preliminary Approval Order substantially similar to **Exhibit C**, which shall:

a. Certify the proposed U.S. Bank Direct Loans Settlement Class pursuant to Mo. Rule 52.08 for settlement purposes;

b. Preliminarily approve the Settlement and Agreement as fair, reasonable and adequate under Mo. Rule 52.08 subject to a final determination by the Court;

c. Approve the appointment of the Named Plaintiffs as representatives of the U.S. Bank Direct Loans Settlement Class for settlement purposes;

d. Approve the appointment of Plaintiffs' Counsel as "Class Counsel" for the U.S. Bank Direct Loans Settlement Class for settlement purposes;

e. Approve a form of notice of the Litigation and Settlement substantially similar to the Class Mail Notice attached as **Exhibit A** to be mailed by first-class mail to the persons identified on the updated **Exhibit F**;

f. Approve a form of "Publication Notice" attached as **Exhibit H** to be paid for by the Settling Defendants in addition to the amounts they have agreed to pay under Section 4 above;

g. Approve a form for making claims substantially similar to the Claim Form

attached as **Exhibit B**;

h. Direct Class Counsel to mail the approved form of mailed notice and claim form to the persons identified on the updated **Exhibit F** at the stated addresses within five (5) days after entry of the Preliminary Approval Order;

i. Direct the Settling Defendants to publish the "Publication Notice" attached as **Exhibit H** in accordance with Section 8(d);

j. Establish a procedure for the members of the U.S. Bank Direct Loans Settlement Class to opt out of the Settlement and setting a date, approximately sixty (60) days after the mailing of the Class Mail Notice, after which no member of the U.S. Bank Direct Loans Settlement Class shall be allowed to opt out of the U.S. Bank Direct Loans Settlement Class;

k. Establish a procedure for U.S. Bank Direct Loans Settlement Class Members to make a Claim under the Settlement and setting a date, approximately one hundred and twenty (120) days after the mailing of the Class Mail Notice, for U.S. Bank Direct Loans Settlement Class Members to mail or deliver their Claim Forms to Class Counsel, after which date a Claim cannot be deemed a Valid Claim;

l. Establish a procedure for the U.S. Bank Direct Loans Settlement Class Members to appear at the Fairness Hearing and/or object to the Settlement and setting a date, approximately sixty (60) days after the mailing of the Class Mail Notice, after which no U.S. Bank Direct Loans Settlement Class Member shall be allowed to object;

m. Establish a procedure for the U.S. Bank Direct Loans Settlement Class Members to intervene in the Litigation and setting a date, approximately sixty (60) days after the mailing of the Class Mail Notice, after which no U.S. Bank Direct Loans Settlement Class Member shall be allowed to intervene;

n. Schedule a hearing for final approval of the Agreement and the Settlement (the “Fairness Hearing”);

o. Stay the Litigation until further order of the Court, other than as may be necessary to effectuate the Settlement and carry out the terms of the Agreement or the responsibilities related or incidental thereto; and

p. Contain such other and further provisions consistent with the terms and provisions of this Agreement as the Court deems advisable.

**8. Notice to Class, Claims Process and Claims Administration**

a. Within five (5) days of the Preliminary Approval Order, Class Counsel shall mail a Class Mail Notice substantially in the form attached as **Exhibit A**, to the U.S. Bank Direct Loans Settlement Class as identified on the updated **Exhibit F**, together with a Claim Form substantially in the form attached as **Exhibit B**. Class Counsel shall prepare and include with the Class Mail Notice a separate Claim Form for each U.S. Bank Direct Loan obtained by the persons to whom the Class Mail Notice is sent. Plaintiffs’ Counsel shall have discretion to re-format the Class Mail Notice and/or Claim Form in any reasonable manner to minimize processing and mailing costs and for the sake of clarity, but shall in no way alter or change the wording or content of either the Class Mail Notice or Claim Form without prior approval of the Settling Defendants and the Court. In the case of any inconsistency between the Class Mail Notice and this Agreement, this Agreement shall control.

b. Class Counsel will promptly re-mail any returned Class Mail Notices, with Claim Forms, to any current address discovered or disclosed after mailing. To the extent any Class Mail Notices and Claim Forms are returned, Class Counsel shall undertake reasonable efforts to locate a current address and promptly re-mail the Class Mail Notices and Claim Form(s) to the

new address.

c. Among other things, the Class Mail Notice shall inform members of the U.S. Bank Direct Loans Settlement Class that they have (i) sixty (60) days from the date on which the Class Mail Notice and Claim Form was mailed to them to exclude themselves from the Settlement as provided in Section 11; (ii) one hundred twenty (120) days to timely make a Valid Claim as provided in Section 8(f); and (iii) sixty (60) days from the date on which the Class Mail Notice was mailed to them to object to the Settlement or intervene as provided in Section 12.

d. Within seven (7) days of the Preliminary Approval Order, the Settling Defendants shall publish the "Publication Notice" attached hereto as **Exhibit H** one time in newspapers of general distribution in the State of Missouri.

e. Except as otherwise provided herein, and with the exception of the cost of publishing the "Publication Notice" pursuant to Section 8(d), which shall be paid for by the Settling Defendants, Class Counsel shall incur and pay all claims processing and settlement administration costs and expenses including, but not limited to, the costs associated with verifying any last known addresses provided by the Settling Defendants, the costs of printing and mailing the Class Mail Notice and Claim Form, the cost of providing extra Claim Forms, the cost of modifying or establishing a website and/or mailing address and toll free number for borrowers to use, the time and expense needed to receive, process, review and determine the validity of all Claims submitted, the time and expense to be incurred in responding to borrower inquiries and requests, handling returned mail, calculating, processing and mailing Class Member payments, preparing any requisite IRS Form 1099's for the Class Member payments, and any Settlement Fund Administrator fees.

f. U.S. Bank Direct Loans Settlement Class Members shall have one hundred

twenty (120) days from the deadline for mailing the Class Mail Notice to mail or deliver their Claim Forms to Class Counsel.

g. Class Counsel shall catalog all Claims submitted by U.S. Bank Direct Loans Settlement Class Members and shall, as soon as reasonably possible after the receipt of the Claim Forms, periodically provide copies of the submitted Claim Forms in electronic form to the Settling Defendants.

h. Class Counsel may contact any Class Member with regard to the Settlement or Agreement. Class Counsel may contact any Class Member who submits an incomplete or unsigned Claim Form and may advise any such Class Member to submit a corrected or amended Claim Form.

i. Class Counsel shall review the Claims as submitted by U.S. Bank Direct Loans Settlement Class Members and shall provide written lists to Settling Defendants' Counsel to identify those Claims that Class Counsel determines to be Valid Claims for payment (referred to as a "Valid Claims List"). Within twenty-one (21) days of receiving any such Valid Claims List, the Settling Defendants shall provide Class Counsel with a written list of any Claim identified on the Valid Claims List that the Settling Defendants challenge as not being a Valid Claim. The Parties shall confer as soon as is reasonably practicable and attempt to resolve the challenge. If a resolution cannot be reached within five (5) business days of the challenge, the Parties shall submit the challenge to Rich McLeod for final determination as provided in Section 8(k) below. Such challenges must be submitted to Mr. McLeod within fourteen (14) business days of the impasse or be forever waived. The Settling Defendants shall have the right to challenge a Claim only on the grounds that the Claim is fraudulent, that a Claim Form has not been signed and submitted by every Class Member who must sign the Claim Form for the Claim to be a Valid

Claim pursuant to Section 2.43, that the person executing the Claim Form is not the heir, representative, bankruptcy trustee, successor or assign of a Class Member, that the person signing the Claim Form as the heir, representative, bankruptcy trustee, successor or assign of a Class Member has not provided the documentation required pursuant to Section 2.43 with respect to their authority to sign the Claim Form, or that the Claim Form is not timely. The Settling Defendants may not challenge a Claim for any other reason including, without limitation, any challenge that (i) a claimant's U.S. Bank Direct Loan was not a junior or "second" mortgage loan, (ii) a claimant's loan was a "business" loan, or otherwise exempted from the provisions of the MSMLA, (iii) a claimant failed to correct or complete the borrower or co-borrower contact information in the Claim Form; (iv) a Claim Form was signed by a non-Class Member provided that the Claim Form was signed by every Class Member who must sign the Claim Form for the Claim to be a Valid Claim pursuant to Section 2.43; or (v) the Estimated Claim Amount as calculated by Class Counsel and shown on **Schedule 2** is incorrect. The limitations and procedures set forth in this Section 8(i) shall apply to each Valid Claims List that Class Counsel provides.

j. Class Counsel and/or any Class Member may at any time before a Valid Claim is submitted for payment pursuant to Section 8(i) above, challenge the accuracy of the loan data as submitted by the Settling Defendants and/or the Estimated Claim Amount. Any such challenge may be based on Class Counsel's or the Class Member's own information and investigation and/or on consultations with and information obtained from any other person having knowledge of such data or to whom the data relates. Class Counsel shall promptly apprise the Settling Defendants of any such challenge and provide all supporting documents and the Parties shall confer as soon as is reasonably practicable and attempt to resolve the challenge. If a resolution

cannot be reached within five (5) business days of the challenge, the Parties shall submit the challenge to Rich McLeod for final determination as provided in Section 8(k) below. Such challenges must be submitted to Mr. McLeod for resolution and decision within five (5) business days of the impasse or be forever waived.

k. Any unresolved challenges to a Claim must be submitted to Rich McLeod within the specified times for final determination. Absent a request by Mr. McLeod or an agreement of the Parties, which shall at all times act in good faith, any challenge submitted to Mr. McLeod shall be resolved within five (5) business days of submission. The challenger shall bear the burden of persuasion and proof to cause Mr. McLeod to decide the challenge in its favor. All challenges shall be presented through written statements, documentary evidence, and/or affidavits, or as Mr. McLeod may otherwise require; provided, however, that under no circumstances shall the appearance of any Class Member be required or compelled and, absent an agreement of the Parties, no non-documentary discovery shall be allowed. Documents presented in conjunction with a dispute need not be admissible in evidence so long as the contents are found by Mr. McLeod to be reliable. The Parties shall bear and pay their own attorney's fees and expenses incurred with respect to all challenges. A Party who does not prevail on any challenge shall pay for the time and expenses of Mr. McLeod in resolving the challenge in addition to any other sums payable by the non-prevailing Party under the Agreement. The determinations of Mr. McLeod shall be final and binding on the Parties, and without any right of further challenge or appeal. Any determination by Mr. McLeod that alters the amount of any Class Member's Estimated Claim Amount shall be reflected in the Claim Amounts set forth on **Schedule 3**. If for whatever reasons Mr. McLeod is unable or refuses to serve in the capacity contemplated by the Agreement, or to resolve a challenge within the



specified time, the Parties shall jointly request the Court to appoint a substitute arbiter to resolve the challenge in lieu of Mr. McLeod in accordance with the terms of the Agreement.

l. Any Claims identified by Class Counsel as a Valid Claim on any Valid Claims List that the Settling Defendants do not timely challenge, and any challenged Claim that is determined to be a Valid Claim, shall be paid from the Settlement Fund, which shall be funded by the Settling Defendants within the time prescribed in Section 4(b) above.

m. All U.S. Bank Direct Loans Settlement Class Members shall be bound by the Settlement, this Agreement, and the Releases, whether or not she or he submits a Claim or Valid Claim.

## **9. Releases**

a. On the Effective Date, in exchange for the agreement by the Settling Defendants to deem indebtedness satisfied and to pay amounts to the Settlement Fund pursuant to the terms and conditions of this Agreement, and for other good and valuable consideration, each of the Releasors, by operation of this Release and the judgment set forth in the Final Order and Judgment, shall be deemed without further action by any person or the Court (i) to have fully, finally and forever released, settled, compromised, relinquished, and discharged any and all of the Released Persons of and from any and all Released Claims, (ii) to have consented to dismiss the Released Claims of the Releasors against the Released Persons with prejudice in the Missouri Cases and to dismiss the Litigation with prejudice, and (iii) to be forever barred and enjoined from instituting or further prosecuting in any forum whatsoever including, but not limited to, any state, federal, or foreign court, or regulatory agency, the Released Claims. The Parties agree that the Released Persons will suffer irreparable harm if any Class Member takes action inconsistent with this Section 9(a), and that, in such event, the Released Persons may seek an injunction as to

such action without further showing of irreparable harm.

b. The Releasors acknowledge and agree that they are aware that they may hereafter discover material or immaterial facts in addition to or different from those which they now know or believe to be true with respect to the subject matter of the Releases, but that it is their intention to, and they do hereby, upon the Effective Date of this Agreement, fully, finally and forever settle and release each and every of the Released Persons from each and every Released Claim, known or unknown, suspected or unsuspected, accrued or not accrued, contingent or matured, which now exist, may hereafter exist, or may heretofore have existed, without regard to the subsequent discovery or existence of such different or additional facts.

c. Subject to Court approval, each Class Member shall be bound by this Agreement and all of their claims shall be dismissed with prejudice and released even if they never received actual prior notice of the Litigation or the Settlement in the form of the Class Mail Notice or otherwise. The Releases and agreements contained in this Section 9 shall apply to and bind all Class Members, whether or not they have made a Claim, including those Class Members whose Class Mail Notices are returned as undeliverable, and those for whom no current address can be found, if any.

#### **10. Incentive Award and Attorney's Fees and Costs**

a. The Named Plaintiffs, and each of them, may petition the Court for the payment of an incentive award in a total amount not to exceed the respective amounts stated on **Schedule 1** for the Named Plaintiffs in recognition of services rendered for the benefit of the U.S. Bank Direct Loans Settlement Class throughout the course of the Missouri Cases and the Litigation. Any such incentive award shall be in addition to the amount to be paid on the Named Plaintiffs' individual Claims. The amount of any incentive award approved by the Court and any interest

attributable to said amount while in the Settlement Fund shall be deducted, along with litigation expenses and costs awarded under Section 10(b), from the Gross Settlement Amount to determine the Net Settlement Amount from which any award of attorney's fees to Class Counsel shall be deducted to determine the Net Distributable Settlement Amount. The Settling Defendants will not object to the Named Plaintiffs' applications for, or receipt of, incentive awards in the above-stated amounts. To the extent the Court approves an incentive award in an amount less than any of the "not to exceed" amounts stated above, the difference and any interest attributable to said amount while in the Settlement Fund shall be included in and treated as a part of the Net Settlement Amount.

b. Class Counsel and/or the Named Plaintiffs may petition the Court for an award of litigation expenses and costs with respect to the Missouri Cases, the Litigation and this Settlement not to exceed \$223,856.78. The amount of any such award and any interest attributable to said amount while in the Settlement Fund shall be deducted, along with the incentive awards approved by the Court under Section 10(a), from the Gross Settlement Amount to determine the Net Settlement Amount from which any award of attorney's fees to Class Counsel shall be deducted to determine the Net Distributable Settlement Amount. The Settling Defendants will not object to Class Counsel and/or the Named Plaintiffs' application for, or receipt of, an award of litigation expenses and/or costs in the above amount. To the extent the Court awards litigation expenses and/or costs in an amount that is less than the "not to exceed" amount stated above, the difference and any interest attributable to said amount while in the Settlement Fund shall be included in and treated as a part of the Net Settlement Amount.

c. Class Counsel and/or the Named Plaintiffs may also petition the Court for an award of attorney's fees not to exceed forty-five percent (45%) of the Net Settlement Amount.

The amount of any such fee award approved by the Court award and any interest attributable to said amount while in the Settlement Fund shall be deducted from the Net Settlement Amount to determine the Net Distributable Settlement Amount and the individual Claim Amounts. Solely for purposes of calculating the amount of any fee payment to which Class Counsel is entitled, the amount of any principal indebtedness deemed paid and satisfied by the Settling Defendants for any Active Loans shall be deemed a payment in cash to the Class Member allegedly owing such indebtedness and the portion of the attorney's fees attributable to the loan shall be calculated as if the Class Member had received the amount of the indebtedness forgiven and discharged in cash. The Settling Defendants will not object to Class Counsel and/or the Named Plaintiffs' application for, or receipt of, an award of attorney's fees in the above amount. To the extent the Court awards attorney's fees in an amount that is less than the "not to exceed" amount stated above, the difference and any interest attributable to said amount while in the Settlement Fund shall be included in and treated as a part of the Net Distributable Settlement Amount.

**11. Opt Outs/Exclusion from the Settlement**

a. Procedure for Opt Outs. The deadline for exclusion requests shall be set forth in the Preliminary Approval Order. Any exclusion request (opt out) must be in writing and include the name, address, telephone number, and last four digits of the Social Security Number of each individual seeking to opt out and a statement that the individual is a member of the U.S. Bank Direct Loans Settlement Class and that he or she and all co-borrowers named on the individual's promissory note is (are) seeking exclusion from the Settlement. Any exclusion request must be personally signed by each person (borrower) who signed the promissory note in connection with the subject U.S. Bank Direct Loan, unless such person has died or in some other way voluntarily or involuntarily transferred his or her rights under the U.S. Bank Direct Loan. In that event, the

heir, representative, successor or assign of such person must sign the exclusion request and submit sufficient documentation showing his, her or its authority to sign. If the Class Member became a debtor in a bankruptcy case under Chapter 7 or Chapter 13 after obtaining his or her U.S. Bank Direct Loan, the bankruptcy trustee may submit an exclusion request. The bankruptcy trustee must sign the exclusion request and submit a copy of an Order or other such official notice pursuant to which he or she has been appointed and is currently acting as a bankruptcy trustee with the authority to sign the exclusion request. Any exclusion request must include a reference to the Litigation: "Thomas v. U.S. Bank National Association ND, Case No. \_\_\_\_\_" and be mailed to:

R. Frederick Walters  
Walters Bender Strohbahn & Vaughan, P.C.  
2500 City Center Square  
1100 Main Street  
Kansas City, MO 64105  
(on behalf of the U.S. Bank Direct Loans Settlement  
Class)

and

Peter W. Carter  
Dorsey & Whitney LLP  
50 South Sixth Street  
Suite 1500  
Minneapolis, MN 55402  
(on behalf of the Settling Defendants)

To be considered timely and effective, an exclusion request must be received on or before the date established by the Court in the Preliminary Approval Order. No person may opt out of the Settlement by having an actual or purported agent or attorney submit an exclusion request on said person's behalf. Nor may an exclusion request be submitted or made on behalf of any group of persons. Each member of the U.S. Bank Direct Loans Settlement Class who does not submit an exclusion request substantially in compliance with this Section 11 shall be included in the

U.S. Bank Direct Loans Settlement Class and be deemed an U.S. Bank Direct Loans Settlement Class Member. For purposes of determining timeliness, an exclusion request shall be deemed to have been submitted when received by either Class Counsel or Settling Defendants' Counsel. On or before the date of the Final Approval Hearing, Class Counsel shall provide the Court with a list of all persons who have timely and adequately filed a request to be excluded from the Settlement.

b. Validity of Opt-Outs. The Parties shall agree as to whether a communication from a Class Member is a successful Opt-Out. Any Party may dispute the validity of an Opt-Out or purported Opt-Out. In the event of a dispute, the Court will decide the issue after notice and hearing. Plaintiffs' Counsel shall, after such agreement and resolution of any disputes, create and deliver to Settling Defendants' Counsel a "Final Opt-Out List," which shall identify all Successful Opt-Outs, and be attached to the Final Approval Order. Any Class Member who does not submit a timely Opt-Out, and otherwise comply with all requirements for opting out as provided in this Agreement or as otherwise ordered by the Court, or who otherwise does not qualify as a successful Opt-Out, shall be bound by this Agreement, this Settlement and the Releases.

c. Effect of Opt Outs. Subject to Court approval, all members of the U.S. Bank Direct Loans Settlement Class who do not timely opt out of the Settlement shall be deemed U.S. Bank Direct Loans Settlement Class Members and shall be bound by this Agreement and the Released Claims shall be dismissed with prejudice and deemed released as of the Effective Date, even if a U.S. Bank Direct Loans Settlement Class Member did not receive actual notice of the Litigation or Settlement.

d. Bankruptcy Trustees. In instances where a member of the U.S. Bank Direct

Loans Settlement Class became a debtor in a bankruptcy case under Chapter 7 or Chapter 13 after obtaining his, her, or their U.S. Bank Direct Loan, and said class member opts out of the Settlement, the Chapter 7 or 13 bankruptcy trustee also shall be deemed to have opted out of the Settlement. Conversely, if the Chapter 7 or 13 bankruptcy trustee opts out of the Settlement, the class member also shall be deemed to have opted out. If neither the member of the U.S. Bank Direct Loans Settlement Class nor the Chapter 7 or 13 bankruptcy trustee opts out of the Settlement, both shall be bound by the Release provisions of Section 9.

e. Excessive Opt Outs. If the aggregate amount of the Estimated Claim Amounts of those persons deemed to have timely and adequately excluded themselves from the Settlement exceeds \$1 million in the aggregate, then the Settling Defendants, acting jointly and in their sole discretion, may rescind and cancel this Agreement, in which event each and every obligation under the Agreement shall cease to be of any force and effect, and this Agreement and any orders entered in connection therewith shall be vacated, rescinded, canceled, and annulled. If the Settling Defendants exercise this option, the Parties shall return to the status quo in the Missouri Cases, the Litigation shall be dismissed without prejudice by consent of the Parties as if the Parties had never entered into this Agreement or commenced the Litigation, and any Party may reassert their claims against the other Party or Parties as provided in Section 17. In addition, and in such event, this Agreement and all negotiations, court orders and proceedings relating thereto, shall be deemed as being without prejudice to the rights or claims of the Parties, and any evidence of or relating to the Settlement, this Agreement and all negotiations shall be non-discoverable and inadmissible in the Missouri Cases or otherwise. The Settling Defendants must provide Class Counsel with written notice of their intent to exercise the option afforded to them pursuant to this Section 11(e) at least five (5) business days before the Final Hearing Date or be

forever barred from doing so, provided that the Final Hearing Date shall be at least twenty (20) days after the deadline to opt out.

**12. Objections to the Settlement/Intervention**

a. Procedure for Objections. Any U.S. Bank Direct Loans Settlement Class Member who wishes to object to the Settlement or to the incentive awards or the awards of expenses, costs or attorney's fees must file a written notice of objection with the Court as provided below (the "Notice of Objection") on or before the date established by the Court in the Preliminary Approval Order. For purposes of determining timeliness, a Notice of Objection shall be deemed to have been submitted when filed with the Clerk of the Court. Copies of the Notice of Objection also must be delivered to the following on or before the date for filing an objection as stated in the Preliminary Approval Order:

R. Frederick Walters  
Walters Bender Strohbehn & Vaughan, P.C.  
2500 City Center Square  
1100 Main Street  
Kansas City, MO 64105  
(on behalf of the U.S. Bank Direct Loans  
Settlement Class)

and

Peter W. Carter  
Dorsey & Whitney LLP  
50 South Sixth Street  
Suite 1500  
Minneapolis, MN 55402  
(on behalf of the Settling Defendants)

The Notice of Objection must be in writing, and shall specifically include:

- (i) The name, address, and telephone number of the class member filing the objection;
- (ii) A statement of each objection asserted;



- (iii) A detailed description of the facts underlying each objection;
- (iv) Any loan documents in the possession or control of the objector and relied upon by the objector as a basis for the objection;
- (v) If the objector is represented by counsel, a detailed description of the legal authorities supporting each objection;
- (vi) If the objector plans to utilize expert opinion and/or testimony as part of the objection(s), a written expert report from all proposed experts;
- (vii) If the objector plans to call a witness or present other evidence at the hearing, the objector must state the identity of the witness and identify any documents by attaching them to the objection and provide any other evidence that the objector intends to present;
- (viii) A statement of whether the objector intends to appear at the hearing;
- (ix) A copy of any exhibits which the objector may offer during the hearing; and
- (x) A reference to the Litigation (i.e., Thomas v. U.S. Bank National Association ND, Case No. \_\_\_\_\_.”

Attendance at the final hearing is not necessary. Any U.S. Bank Direct Loans Settlement Class Member who does not make his or her objection in the manner provided above shall be deemed to have waived such objection and shall forever be foreclosed and barred from making any objection to the fairness, adequacy, or reasonableness of the Settlement or to any provision of this Agreement.

b. Intervention. Any U.S. Bank Direct Loans Settlement Class Member who wishes to intervene in the Litigation must file and serve his or her motion to intervene with the Court in accordance with the Missouri Rules of Civil Procedure on or before the date prescribed in the Preliminary Approval Order.

### 13. Certifications to the Court

- a. On or before the Final Hearing Date, Class Counsel shall file with the Court in the

Litigation an affidavit verifying that the court-approved Class Mail Notices have been sent by first-class mail.

b. On or before the Final Hearing Date, Class Counsel shall file with the Court an affidavit verifying that they have complied with the procedures described in Section 8(b) with respect to all Class Mail Notices returned as undeliverable.

c. On or before the Final Hearing Date, Settling Defendants' Counsel shall file with the Court in the Litigation an affidavit verifying that the court-approved Publication Notice has been published.

**14. Representations and Stipulations**

a. The Settling Defendants, and each of them, represent, warrant and declare that they have acted in good faith and have employed their best efforts and due diligence in identifying the members of the U.S. Bank Direct Loans Settlement Class as listed on **Exhibit F** and in producing the loan data and documents and loan payment and payoff information from which the Estimated Claim Amounts and Claim Amounts are and will be derived.

b. The Parties jointly stipulate, acknowledge and agree that neither this Agreement nor a Party's decision to negotiate and/or execute the Agreement can be used to show or establish that a Party's conduct during the Litigation, including that of counsel, gives rise to or constitutes a waiver of the attorney-client, common interest or joint defense privilege or work product doctrines.

c. The Parties jointly stipulate, acknowledge and agree for purposes of the Settlement that based on the loan files, payment histories and other information and documents produced in the case, the Missouri Second Mortgage Loans of the Non-U.S. Bank Direct Loans Borrowers are not U.S. Bank Direct Loans, and thus, the Non-U.S. Bank Direct Loans Borrowers

cannot recover any damages, penalties or other relief from the Settling Defendants with respect to the U.S. Bank Direct Loans. The Parties agree that a finding and/or conclusion to this effect shall be included in the Final Approval Order, but such a finding and/or conclusion by the Court shall not in any way be deemed a holding that the Non-U.S. Bank Direct Loans Borrowers have released any claims of any kind or type with respect to any of the Missouri Second Mortgage Loans.

d. Plaintiffs' Counsel represents, warrants and declares to the Settling Defendants that they have not been retained by any existing client or contacted by any potential client to commence a new lawsuit or pursue any claims or right of relief against the Settling Defendants, or either of them, with respect to any of the Released Claims and that they have not been informed of an intention on the part of any member of the U.S. Bank Direct Loans Settlement Class to opt out of the Settlement. Plaintiffs' Counsel agrees that they will not solicit the right to legally represent any person, including any member or members of the U.S. Bank Direct Loans Settlement Class who opt(s) out of the U.S. Bank Direct Loans Settlement Class and Settlement, with respect to the Released Claims, but this Agreement does not (and shall not) in any way prohibit or restrict Class Counsel from undertaking such representation if requested by any such person or persons.

e. The Named Plaintiffs and U.S. Bank Direct Loans Settlement Class Members agree to credit, satisfy and offset against any judgment that may be entered in favor of the Named Plaintiffs and/or the U.S. Bank Direct Loans Settlement Class Members in the Missouri Cases that equitable portion of their damages or any other claimed form of monetary relief ("Damages") which relate to the U.S. Bank Direct Loans and which were caused by the acts or fault, if any, of the Released Persons as hereafter may be determined at trial or other disposition

of the Missouri Cases or any other action. The Named Plaintiffs and U.S. Bank Direct Loans Settlement Class Members further agree to release and discharge that portion of their claims for Damages in the Missouri Cases which relate to the U.S. Bank Direct Loans and which may hereafter, by trial or other disposition of the Missouri Cases or any other action, be determined to be the portion of fault for which any or all of the Released Persons are liable.

**15. Final Approval Order and Final Judgment**

a. The Parties agree that the hearing on the final approval of the Settlement shall not occur earlier than ninety-five (95) days after entry of the Preliminary Approval Order.

b. The Named Plaintiffs and Class Counsel agree that they will request the Court to enter, after the hearing on final approval of this Agreement, a Final Approval Order substantially in the form attached as **Exhibit D**. In accordance with **Exhibit D**, the Final Approval Order will certify the U.S. Bank Direct Loans Settlement Class as defined in Section 3(a) and find that the Settlement and Agreement are fair, reasonable, and adequate and in the best interests of the U.S. Bank Direct Loans Settlement Class. The Final Approval Order will require the Parties to carry out the provisions of this Agreement.

c. The Named Plaintiffs and Class Counsel agree that they will request the Court to enter a Final Judgment in the Litigation in a form substantially the same as that attached as **Exhibit E** after the Final Approval Hearing. In accordance with **Exhibit E**, the Final Judgment will dismiss all claims and motions of the Named Plaintiffs and U.S. Bank Direct Loans Settlement Class Members pending against the Settling Defendants in the Litigation on the merits and with prejudice, declare that the U.S. Bank Direct Loans Settlement Class Members are bound by the Releases set forth in Section 9 of this Agreement as of the Effective Date, declare that the Named Plaintiffs and U.S. Bank Direct Loans Settlement Class Members shall

credit, satisfy and offset against any judgment that may be entered in favor of the Named Plaintiffs and/or the U.S. Bank Direct Loans Settlement Class Members in the Missouri Cases that equitable portion of their Damages which relate to the U.S. Bank Direct Loans and which were caused by the acts or fault, if any, of the Released Persons as hereafter may be determined at trial or other disposition of the Missouri Cases or any other action, declare that the Named Plaintiffs and U.S. Bank Direct Loans Settlement Class Members shall release and discharge that portion of their claims for Damages in the Missouri Cases which relate to the U.S. Bank Direct Loans and which may hereafter, by trial or other disposition of the Missouri Cases or any other action, be determined to be the portion of fault for which any or all of the Released Persons are liable, find and/or conclude that the Non-U.S. Bank Direct Loans Borrowers cannot recover any damages, penalties or other relief from the Settling Defendants with respect to any Missouri Second Mortgage Loans at issue in any of the Missouri Cases because said loans are not U.S. Bank Direct Loans (which finding and/or conclusion shall not be deemed a holding that the Non-U.S. Bank Direct Loans Borrowers have released any claims of any kind or type with respect to the Missouri Second Mortgage Loans), find and/or conclude that any and all claims against the Released Persons for contribution and non-contractual indemnity related to or arising from the Released Claims or from any claims of the Named Plaintiffs and/or the U.S. Bank Direct Loans Settlement Class Members in the Missouri Cases with respect to the U.S. Bank Direct Loans are permanently barred, prohibited and enjoined, and reserve continuing jurisdiction over the enforcement of this Agreement and over the Settlement Fund, the administration and distribution of the amounts in the Settlement Fund and, if necessary, vacating and/or setting aside the Final Judgment in the event the Settlement does not (or cannot) become effective pursuant to Section 11(e) or 16.

16. **Effectiveness of Settlement Agreement/Approval Conditions**

a. The “Effective Date” of this Agreement shall be the date when each and all of the following Approval Conditions have occurred, at which point the Settlement shall be deemed effective in all respects:

i. This Agreement has been signed by the Named Plaintiffs, the Settling Defendants, Plaintiffs’ Counsel, and Settling Defendants’ Counsel;

ii. A Preliminary Approval Order has been entered by the Court in a form substantially similar to that attached as **Exhibit C**, granting preliminary approval of this Agreement, and approving a form of Class Mail Notice and Published Notice, as provided in Section 8 above;

iii. The Court-approved Class Mail Notice, with Claim Form, has been duly mailed to the members of the U.S. Bank Direct Loans Settlement Class as ordered by the Court;

iv. The Court-approved Publication Notice has been published as ordered by the Court;

v. A Final Approval Order has been entered by the Court in a form substantially similar to that attached as **Exhibit D** as provided in Section 15(b) above;

vi. A Final Judgment has been entered by the Court, in a form substantially similar to that attached as **Exhibit E**, as provided in Section 15(c) above;

vii. The Final Approval Order and the Final Judgment entered as provided in Sections 15(b) and 15(c) have become final because of (a) the expiration of the time for an appeal therefrom without any appeal having been taken or, (b) if review of the order, or any portion thereof, is sought by any person, the matter has been fully and finally

resolved by the appellate court(s) and the time for seeking any higher level of appellate review has expired; and

viii. Any court approvals required in any of the Missouri Cases under Federal Rule of Civil Procedure 23(e) or Missouri Rule of Civil Procedure 52.08(e) have been obtained and the courts in each of the Missouri Cases have entered the findings, conclusions and Orders set forth in Section 18, provided, however, that the Settling Defendants have the right to waive the requirement that the courts in each of the Missouri Cases must enter the findings, conclusions and Orders set forth in Section 18;

b. If any material portion of the Agreement, the Final Approval Order, or the Final Judgment is vacated, voided, modified, or otherwise altered by the Court or on appeal, any Party may, in its sole discretion, within seven (7) days of such ruling, declare that the Agreement has failed to become effective and the Agreement shall cease to be of any force and effect as provided in Section 17.

**17. Failure of Condition**

If the Settlement or Agreement fails to become effective as provided in Section 11(e) or any of the Approval Conditions fail to occur, then the Agreement, the conditional settlement class certification provided herein, the Settlement (including any modifications made with the consent of the Parties), and any action(s) taken or to be taken in connection therewith, shall be terminated and shall become null and void and have no further force or effect, the Preliminary Approval Order shall be vacated, the Parties shall be restored to their respective positions existing prior to the execution of this Agreement and any dismissal order or Final Judgment entered in the Missouri Cases, shall be vacated, rescinded, canceled, annulled and deemed “void” and/or “no longer equitable” and/or set aside for a reason that otherwise “justifies relief” for

purposes of Mo. Rule 74.06 and Fed.R.Civ.P. 60 and the Parties shall be returned to the status quo prior to entering into this Agreement with respect to the claims and defenses and all other aspects of the Missouri Cases as if this Agreement had never been entered into and the Litigation had never been filed, except that the provisions of Section 1 shall survive and remain binding on the Parties and effective in all respects regardless of the reasons for such failure of condition. In such event, any Party may reassert their claims against the other Party or Parties in the Missouri Cases; provided, however, that if at such time any of the Missouri Cases is or has been terminated or otherwise concluded, or if the Named Plaintiffs and/or the U.S. Bank Direct Loans Settlement Class Members are precluded from reasserting their claims against the Settling Defendants in any of the Missouri Cases after requesting the Court to allow them to do so, then such Named Plaintiffs and U.S. Bank Direct Loans Settlement Class Members may commence a new lawsuit or proceeding against the Settling Defendants, or either of them, to pursue the claims and causes of action that they are currently asserting in the Missouri Cases as if the claims had been reasserted in the Missouri Cases as stated and intended herein. If any such new lawsuits or proceedings are commenced, the Settling Defendants shall not be deemed to have waived any factual or legal defenses or arguments or any procedural or substantive rights, including the right of removal to the extent that the new lawsuit or proceeding is filed on behalf of a putative class whose members were parties to a lawsuit that had previously been successfully removed to federal court. In all such circumstances, this Agreement and all negotiations, court orders and proceedings relating thereto shall be without prejudice to the rights of any and all parties hereto, and evidence relating to the Agreement and all negotiations shall not be admissible or discoverable in the Missouri Cases or otherwise.

**18. Dismissal of or Exclusion from the Missouri Cases**



The Parties agree that as soon as practicable they will file the motion(s), notice(s), or stipulation(s) necessary to voluntarily dismiss the Missouri Cases against the Settling Defendants and all other Released Persons as to the Released Claims “with prejudice,” with the dismissal Orders contingent upon the satisfaction of all prerequisites for achieving the Effective Date except for the entry of the dismissal Order and with each Party to bear its own costs, and/or otherwise request the respective court to approve the dismissal of or to otherwise exclude the U.S. Bank Direct Loans Settlement Class Members from any borrower class certified or to be certified in each case as provided herein. The Parties will request the Courts in each of the Missouri Cases to include within their respective dismissal Orders an express finding and/or conclusion to the effect that (a) per the Parties’ Settlement and stipulations herein, the Non-U.S. Bank Direct Loans Borrowers cannot recover any damages, penalties or other relief from the Settling Defendants with respect to any of the U.S. Bank Direct Loans before the Court (which finding and/or conclusion shall not be deemed a holding that the Non-U.S. Bank Direct Loans Borrowers have released any claims of any kind or type with respect to the Missouri Second Mortgage Loans) and (b) any and all claims against the Released Persons for contribution and non-contractual indemnity related to or arising from the Released Claims or from any claims of the Named Plaintiffs and/or the U.S. Bank Direct Loans Settlement Class Members in the Missouri Cases with respect to the U.S. Bank Direct Loans are permanently barred, prohibited and enjoined.

**19. Distribution of the Settlement Fund**

a. Within five (5) business days of the Final Approval Date or the date on which all challenges to the Claims are resolved, whichever is later, Class Counsel shall calculate the Net Settlement Amount and Net Distributable Settlement Amount.

b. Within ten (10) business days of the Final Approval Date, the Settlement Fund

Administrator shall pay to Class Counsel the attorney's fees awarded pursuant to Section 10(c). Class Counsel agrees to return and refund said attorney's fees to the Settling Defendants in the event the Settlement is rescinded, terminated, or vacated, or if the Effective Date does not arrive for any reason.

c. Within ten (10) business days of the Final Approval Date or the date on which all challenges to the Claims are resolved, whichever is later, Class Counsel shall deliver to Settling Defendants' Counsel and shall file under seal with the Court a **Schedule 3**. **Schedule 3** will provide for each U.S. Bank Direct Loan made to a person listed on **Exhibit F**: (i) the final calculation of the amounts paid with respect to the U.S. Bank Direct Loan in challenged loan fees; (ii) the final calculation of the amounts paid with respect to the U.S. Bank Direct Loan in interest; (iii) the final calculation of the prejudgment interest claim; and (iv) the Claim Amount.

d. Within two (2) business days of the Effective Date or the date on which all challenges to the Claims are resolved, whichever is later, the Settling Defendants shall provide Class Counsel with a schedule stating (i) the principal loan indebtedness still owing with respect to the Active Loans that relate to Valid Claims; and (ii) the amount of any interest received on any such loans after May 31, 2011, which shall be refunded to the Class Members with respect to such Active Loans.

e. Within ten (10) business days of the Effective Date or the date on which all challenges to the Claims are resolved, whichever is later, Plaintiffs' Counsel shall provide a **Schedule 4** to Settling Defendants' Counsel and shall file **Schedule 4** under seal with the Court. **Schedule 4** shall provide the following for each U.S. Bank Direct Loan that was the subject of a Valid Claim: (i) the Valid Claim Amount for the loan (which shall be equal to the Claim Amount for that loan as listed on **Schedule 3**); (ii) the principal loan indebtedness still owing with respect

to the U.S. Bank Direct Loan if it is an Active Loan; and (iii) an amount equal to the Valid Claim Amount minus the principal loan indebtedness still owing with respect to the U.S. Bank Direct Loan if it is an Active Loan. **Schedule 4** shall also provide the Aggregate Valid Claim Amount and the Aggregate Valid Claim Cash Amount.

f. The Settlement Fund Administrator shall be responsible for and shall administer and oversee the distribution of U.S. Bank Direct Loans Settlement Class Member Payments from the Settlement Fund in accordance with this Agreement and **Schedule 4**.

g. Within twenty-five (25) business days of the Effective Date or the date on which all challenges to the Claims are resolved, whichever is later, the Settlement Fund Administrator shall: (i) deduct and pay from the Settlement Fund the incentive and expense awards approved by the Court as provided in Sections 10(a) and 10(b) above, together with interest; (ii) deduct and pay from the Settlement Fund the interest collected or received after May 31, 2011, that must be returned to U.S. Bank Direct Loans Settlement Class Members as set forth in Section 4(d); and (iii) distribute the balance (i.e., the Aggregate Valid Claim Cash Amount), together with interest, to the Class Members listed on **Schedule 4** in payment of the respective amounts due as stated on **Schedule 4**.

h. Only one U.S. Bank Direct Loans Settlement Class Member Payment shall be made from the Settlement Fund per U.S. Bank Direct Loan. The distributions shall be made by check(s) drawn jointly payable to all persons who qualify as the U.S. Bank Direct Loans Settlement Class Members with respect to the U.S. Bank Direct Loans Settlement Class Member Payment for the respective U.S. Bank Direct Loan; provided, however, that the U.S. Bank Direct Loan of any U.S. Bank Direct Loans Settlement Class Member listed on **Schedule 4** that is an Active Loan shall be deemed paid off as of the Effective Date if a Valid Claim from the Class

Member was received, and the outstanding amount of the loan principal shall be deemed paid and shall reduce the amount that remains owing with respect to that Class Member's Valid Claim Amount dollar for dollar.

i. The Settlement Fund Administrator shall mail the U.S. Bank Direct Loans Settlement Class Member Payments as provided in this Section 19 directly to the Class Members at the addresses shown on the updated **Exhibit F** or, in the event a Class Member became a debtor in a bankruptcy case under Chapter 7 or Chapter 13 after obtaining his or her U.S. Bank Direct Loan, to the Chapter 7 or Chapter 13 trustee, with notice of said mailing to the debtor Class Member(s). The Settlement Fund Administrator will re-mail any returned checks to any new address disclosed. To the extent any check is returned, the Settlement Fund Administrator shall undertake reasonable efforts to locate a current address for said Class Member and re-mail the check.

j. If any Class Member refuses to accept receipt of a U.S. Bank Direct Loans Settlement Class Member Payment check, or fails to cash a U.S. Bank Direct Loans Settlement Class Member Payment check within thirty (30) days of receipt, Class Counsel shall undertake reasonable efforts to locate and/or contact the Class Member and inquire about receiving or cashing the check. Within two hundred and ten (210) days of the Effective Date, the Settlement Fund Administrator shall file a report with the Court confirming that the entirety of the Aggregate Valid Claim Cash Amount was distributed to the U.S. Bank Direct Loans Settlement Class Members as U.S. Bank Direct Loans Settlement Class Member Payments according to **Schedule 4** and checks cashed or, if such a confirmation cannot be provided, explaining the efforts undertaken to distribute the unclaimed checks to the Class Members, itemizing the amount of the checks that are unclaimed as of the date that is one hundred and eighty (180) days

after the Effective Date, and verifying that the amount of the unclaimed checks shall be returned to the Settling Defendants. The Settlement Fund Administrator shall return the amount of any unclaimed checks to the Settling Defendants.

k. Any Class Member who receives or is deemed to have received a distribution payment pursuant to the Settlement shall be solely responsible for allocating and distributing the payment between or among all co-borrowers on his or her U.S. Bank Direct Loan, regardless of whether the distribution check is made out to all or some of the borrowers. Class Members who receive a distribution payment pursuant to the Settlement are also solely responsible for forwarding, allocating or distributing the payment to or between or among any bankruptcy trustees or other persons to whom the Class Member may have assigned an interest in his or her U.S. Bank Direct Loan.

l. U.S. Bank Direct Loans Settlement Class Members shall be responsible for paying any taxes due on the payments made to them.

m. The Settlement Fund Administrator shall be responsible for preparing, filing, addressing and mailing any requisite IRS Form 1099s.

n. The Released Persons shall have no responsibility for and no liability whatsoever for or with respect to the investment, allocation or distribution of funds of the Settlement Fund, the determination, administration, calculation, or payment of Valid Claim Amounts, the payment or withholding of any taxes, the filing of any tax returns, forms, or notices with respect to the income of or distributions from the Settlement Fund, or any losses incurred in connection therewith.

o. No person shall have any claim against the Released Persons, Class Counsel, the Settlement Fund Administrator or any agent designated pursuant to this Agreement based upon

any distributions made substantially in accordance with this Agreement or any Orders of the Court.

p. The Settling Defendants have no obligation to pay cash amounts in excess of the Settlement Cash Amount and any interest they are obligated to refund under Section 4(d). The Settling Defendants' payment obligations are limited by, among other things, the number of Class Members who submit Valid Claims, which means that the ultimate payment obligation limit of each of the Settling Defendants will be reduced only to the extent that U.S. Bank Direct Loans Settlement Class Members holding Claims fail to submit Valid Claims as contemplated by the Settlement. The Named Plaintiffs and Plaintiffs' Counsel shall be entitled to receive the full amount of the incentive, expense and attorney's fees awards pursuant to Section 10 regardless of the number of Valid Claims that are submitted by the U.S. Bank Direct Loans Settlement Class Members.

q. Because the Settling Defendants' commitment to make payments under this Agreement are subject to conditions precedent as are described in this Agreement, including the Approval Conditions, and because the Settling Defendants shall have no obligation to fund any qualified settlement fund or to pay any U.S. Bank Direct Loans Settlement Class Member except as all conditions precedent, including the Approval Conditions, have been satisfied, and because any settlement proceeds otherwise available to any U.S. Bank Direct Loans Settlement Class Member shall remain the property of the Settling Defendants until the full satisfaction of such conditions precedent, including the Approval Conditions, the Settling Defendants will not be subject to any forfeiture or additional obligation in respect to any amounts ultimately not paid in accordance with this Agreement, to any *cy pres* or comparable relief, to any unclaimed property or escheat claims or the like. The failure of any U.S. Bank Direct Loans Settlement Class

Member to be paid so long as the Settling Defendants satisfy their obligations under this Agreement shall inure to the benefit of reducing the total amount the Settling Defendants pay in respect to the Settlement.

**20. Public Comments and Press Releases**

a. Before the Motion for Preliminary Approval of Class Action Settlement is filed, neither the Parties nor any of their counsel shall issue any press release or have other communications with the media regarding the Settlement, except as required by law. After the Motion for Preliminary Approval of Class Action Settlement is filed, the Named Plaintiffs and Plaintiffs' Counsel agree that they shall not issue any press release regarding the Settlement but the Parties, including the Named Plaintiffs or Plaintiffs' Counsel, may respond to any inquiries from the press about the Settlement.

b. Nothing in this Agreement shall prohibit Plaintiffs' Counsel from: (i) contacting or communicating with Class Members about any matters including, without limitation, the Settlement, the Agreement, the U.S. Bank Direct Loans, the Class Mail Notice, or a Claim or Claim Form; (ii) posting the Agreement or other documents, or the terms or other details of the Settlement, on a website; or (iii) providing legal advice to their clients or to any member of the U.S. Bank Direct Loans Settlement Class.

c. Neither the Parties nor their counsel shall make any public comments that would undermine the Settlement, adversely affect the ability of the Parties to obtain final approval of the Settlement, or disparage any other Party or counsel for any Party.

**21. General Provisions**

a. Stay of Proceedings. The Parties stipulate and agree that all proceedings in the Missouri Cases involving the U.S. Bank Direct Loans shall be stayed until twenty (20) days after

termination or purported termination of this Agreement. No such stay, however, shall prevent the filing of any motions, affidavits, and other matters needed to effectuate the Settlement.

b. Best Efforts. Plaintiffs' Counsel and Settling Defendants' Counsel shall use their best efforts to effect the consummation and implementation of the settlement contemplated hereunder.

c. Ongoing Cooperation. The Parties shall work cooperatively to execute or file all documents and perform all acts necessary and proper to effectuate the terms of the Settlement and this Agreement, and to obtain any court approvals required under Federal Rule of Civil Procedure 23(e) and Missouri Rule of Civil Procedure 52.08(e). If the Federal Courts require the parties to maintain actions in Federal Court, or require the Settlement to be approved in Federal Court, the Parties agree to cooperate to obtain that approval. The execution of any documents must take place prior to the Final Hearing Date.

d. Separate Settlement. The Settlement and Agreement stand on their own and are separate and distinct from (and in no way dependent on) the settlement reached between certain other plaintiffs and U.S. Bank National Association with respect to the loans other than the U.S. Bank Direct Loans. The ineffectiveness, termination or nullification of this Settlement or Agreement shall not in any way affect the enforceability of or otherwise cancel any other settlement, and vice versa.

e. Entire Agreement. This Agreement constitutes the full, complete and entire understanding and agreement of and between the Named Plaintiffs and the U.S. Bank Direct Loans Settlement Class Members, on the one hand, and the Settling Defendants, on the other hand, with respect to the Settlement and the Released Claims against the Released Persons. This Agreement supersedes any and all prior oral or written understandings, agreements, term sheets



and arrangements executed or made by or between the Parties with respect to the Settlement and the Released Claims against the Released Persons. Except for those set forth expressly in this Agreement, there are no agreements, covenants, promises, representations or arrangements between the Parties with respect to the Settlement and/or the Released Claims against the Released Persons.

f. Modification in Writing. This Agreement may be altered, amended, modified or waived, in whole or in part, only in a writing signed by all Parties. This Agreement may not be verbally amended, altered, modified or waived, in whole or in part.

g. Duplicate Originals/Execution in Counterpart. The Parties, Plaintiffs' Counsel and Settling Defendants' Counsel shall sign two copies of the Agreement and each such copy shall be considered an original. This Agreement may be signed in one or more counterparts. Any photocopies of the executed Agreement (including facsimile copies of the signature pages), shall have the same force and effect and shall be as legally binding and enforceable as the original.

h. No Reliance. Each Party to this Agreement warrants that he, she or it is acting upon his, her, or its independent judgment and upon the advice of his, her, or its own counsel and not in reliance upon any warranty or representation, express or implied, of any nature or kind by any other Party or Parties, other than the warranties and representations expressly made in this Agreement.

i. Governing Law. This Agreement shall be interpreted, construed, enforced, and administered in accordance with the laws of the state of Missouri, without regard to conflict of laws rules. Any action to enforce the Agreement must be filed in the Circuit Court of Jackson County, Missouri. Solely for purposes of interpreting, enforcing and administering the

Agreement, the Settling Defendants, the Named Plaintiffs and the U.S. Bank Direct Loans Settlement Class Members waive any objection that any such Party may now have or hereafter have as to the venue of such suit, action, or proceeding and irrevocably consent to the jurisdiction of the Jackson County Court in any such suit, action or proceeding, and agree to accept and acknowledge service of any and all process which may be served in any such suit, action or proceeding.

j. Reservation of Jurisdiction. Notwithstanding the entry of a judgment on the Released Claims, the Court shall retain jurisdiction over the interpretation, effectuation, enforcement, administration, and implementation of this Agreement, including the issuance of an injunction against any actions brought by a U.S. Bank Direct Loans Settlement Class Member in violation of the Final Judgment.

k. Binding on Successors. This Agreement shall be binding on and shall inure to the benefit of the Parties and their respective successors, assigns, executors, administrators, heirs and legal representatives.

l. Mutual Preparation. This Agreement shall not be construed more strictly against one party than another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that because of the arm's length negotiations between the Parties, all Parties have contributed to the preparation of this Agreement.

m. Gender Neutrality. All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all other genders, and the singular shall include the plural and vice versa.

n. No Other Financial Obligations on the Settling Defendants. Other than the amounts expressly stated and provided for herein, the Settling Defendants shall not be liable or

obligated to pay any fees, expenses, costs or disbursements to the Named Plaintiffs, Class Counsel or the U.S. Bank Direct Loans Settlement Class Members, either directly or indirectly, in connection with the Missouri Cases, the Litigation or the administration of the Settlement or this Agreement. Any miscellaneous settlement administration expenses of any kind shall be advanced by Class Counsel and reimbursed from the amounts in the Settlement Fund, subject to the Court's approval.

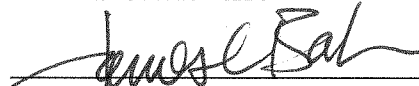
o. Authority. With respect to themselves, each of the Parties to this Agreement represents, covenants and warrants that (i) they have the full power and authority to enter into and consummate all transactions contemplated by this Agreement and have duly authorized the execution, delivery and performance of this Agreement and (ii) the person executing this Agreement has the full right, power and authority to enter into this Agreement on behalf of the party for whom he/she has executed this Agreement, and the full right, power and authority to execute any and all necessary instruments in connection herewith, and to fully bind such party to the terms and obligations of this Agreement.

p. Exhibits. The exhibits and schedules attached to this Agreement are incorporated herein as though fully set forth.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have caused this Agreement to be executed as of the last date written below.

Dated: July 30, 2012

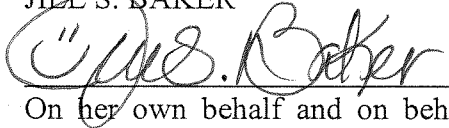
JAMES C. BAKER



On his own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

Dated: 1/30, 2012

JILL S. BAKER



On her own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

DAVID R. BEEBE

Dated: \_\_\_\_\_, 2012

On his own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

NANCY J. BEEBE

Dated: \_\_\_\_\_, 2012

On her own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

DANITA S. COUCH

Dated: \_\_\_\_\_, 2012

On her own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

JACK T. CHASTAIN, SR.

Dated: \_\_\_\_\_, 2012

On his own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

JEFFREY A. COX

Dated: \_\_\_\_\_, 2012

On his own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

JILL S. BAKER

Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
On her own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

DAVID R. BEEBE

Dated: 7-30, 2012

David R. Beebe  
On his own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

NANCY J. BEEBE

Dated: 7,30, 2012

Nancy J. Beebe  
On her own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

DANITA S. COUCH

Dated: \_\_\_\_\_, 2012

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On her own behalf and on behalf of the U.S.  
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Dated: \_\_\_\_\_, 2012

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JEFFREY A. COX

Dated: \_\_\_\_\_, 2012

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On his own behalf and on behalf of the U.S.  
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JILL S. BAKER

Dated: \_\_\_\_\_, 2012

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On her own behalf and on behalf of the U.S.  
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Dated: 7-30, 2012

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On his own behalf and on behalf of the U.S.  
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Dated: \_\_\_\_\_, 2012

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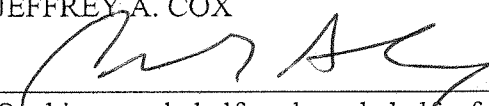
JACK T. CHASTAIN, SR.

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JEFFREY A. COX

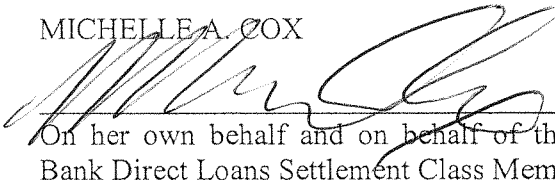
Dated: <sup>July</sup> ~~\_\_\_\_\_~~ 30, 2012

  
\_\_\_\_\_  
On his own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.



Dated: July 30, 2012

MICHELLE A. COX

  
On her own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

DANA S. HALL

Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
On his own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

MELANIE D. HALL

Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
On her own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

STEVEN M. RICH

Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
On his own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

PHILIP M. SCHRIER

Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
On his own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

SHARON K. SCHRIER

Dated: \_\_\_\_\_, 2012

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MICHELLE A. COX

Dated: \_\_\_\_\_, 2012

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DANA S. HALL

Dated: July 30, 2012

*Dana S. Hall*  
On his own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

MELANIE D. HALL

Dated: \_\_\_\_\_, 2012

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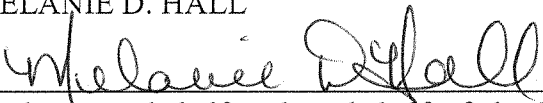
DANA S. HALL

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MELANIE D. HALL

Dated: \_\_\_\_\_, 2012

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On her own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

STEVEN M. RICH

Dated: 28 July, 2012

Steven M. Rich  
\_\_\_\_\_  
On his own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

PHILIP M. SCHRIER

Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
On his own behalf and on behalf of the U.S.  
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SHARON K. SCHRIER

Dated: \_\_\_\_\_, 2012

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MICHELLE A. COX

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Dated: July 30, 2012

  
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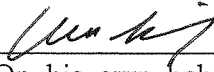
SHARON K. SCHRIER

Dated: July 30, 2012

  
\_\_\_\_\_  
On her own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

WILLIAM S. SPRINGER

Dated: 31 July 2012

  
\_\_\_\_\_  
On his own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

LINDA A. SPRINGER

Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
On her own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

DEANTHONY THOMAS

Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
On his own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

SUSAN JELINEK-THOMAS

Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
On her own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

TED VARNIS

Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
On his own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

RAYE ANN VARNIS

Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
On her own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

WILLIAM S. SPRINGER

Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
On his own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

LINDA A. SPRINGER

Dated: 11-30, 2012

Linda A. Springer  
On her own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

DEANTHONY THOMAS

Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
On his own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

SUSAN JELINEK-THOMAS

Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
On her own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

TED VARNS

Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
On his own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

RAYE ANN VARNS

Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
On her own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

WILLIAM S. SPRINGER

Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
On his own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

LINDA A. SPRINGER

Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
On her own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

DEANTHONY THOMAS

Dated: 7/28/12, 2012

DeAnthony Thomas  
On his own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

SUSAN JELINEK-THOMAS

Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
On her own behalf and on behalf of the U.S.  
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TED VARNIS

Dated: \_\_\_\_\_, 2012

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RAYE ANN VARNIS

Dated: \_\_\_\_\_, 2012

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Bank Direct Loans Settlement Class Members.



WILLIAM S. SPRINGER

Dated: \_\_\_\_\_, 2012

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On his own behalf and on behalf of the U.S.  
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LINDA A. SPRINGER

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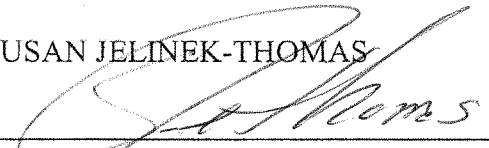
DEANTHONY THOMAS

Dated: \_\_\_\_\_, 2012

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Bank Direct Loans Settlement Class Members.

SUSAN JELINEK-THOMAS

Dated: 7-28, 2012

  
\_\_\_\_\_  
On her own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

TED VARNIS

Dated: \_\_\_\_\_, 2012

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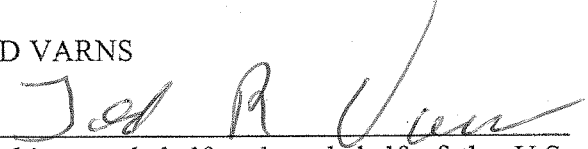
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TED VARNS

Dated: 7/30, 2012

  
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Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
On his own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

RAYE ANN VARNS

Dated: July 30, 2012

Raye Ann Varns  
\_\_\_\_\_  
On her own behalf and on behalf of the U.S.  
Bank Direct Loans Settlement Class Members.

Dated: 4/9, 2012

U.S. BANK NATIONAL ASSOCIATION ND

By: [Signature]

Title: SVP Assistant Sec.

Dated: 8/9, 2012

U.S. BANK NATIONAL ASSOCIATION

By: [Signature]

Title: SVP Assistant Sec.

Plaintiffs' Counsel/Class Counsel

Dated: \_\_\_\_\_, 2012

By: \_\_\_\_\_

Settling Defendants' Counsel

Dated: 8/9, 2012

By: [Signature]

Attorneys' Lien Released and Waived, as of  
Final Approval and Payment of Sums Ordered  
For Attorney's Fees and Costs

Dated: \_\_\_\_\_, 2012

By: \_\_\_\_\_  
Walters Bender Strohhahn & Vaughan, P.C.

U.S. BANK NATIONAL ASSOCIATION ND

Dated: \_\_\_\_\_, 2012

By: \_\_\_\_\_

Title: \_\_\_\_\_

U.S. BANK NATIONAL ASSOCIATION

Dated: \_\_\_\_\_, 2012

By: \_\_\_\_\_

Title: \_\_\_\_\_

Plaintiffs' Counsel/Class Counsel

Dated: Aug 1, 2012

By: Roy Frederick Walters

Settling Defendants' Counsel

Dated: \_\_\_\_\_, 2012

By: \_\_\_\_\_

Attorneys' Lien Released and Waived, as of  
Final Approval and Payment of Sums Ordered  
For Attorney's Fees and Costs

Dated: Aug 1, 2012

By: Roy Frederick Walters  
Walters Bender Strohhahn & Vaughan, P.C.

## **EXHIBITS AND SCHEDULES**

Exhibit A – Class Mail Notice

Exhibit B – Claim Form

Exhibit C – Preliminary Approval Order

Exhibit D – Final Approval Order

Exhibit E – Final Judgment

Exhibit F – U.S. Bank Direct Loans Settlement Class List

Exhibit G – List of U.S. Bank affiliates

Exhibit H – Publication Notice

Schedule 1 – List of Named Plaintiffs/Proposed Incentive Awards

Schedule 2 – Schedule of Challenged Loan Fees, Interest Payments, Prejudgment Interest Claims and Estimated Claim Amounts

Schedule 3 – Schedule of Challenged Loan Fees, Interest Payments and Claim Amounts

Schedule 4 – Schedule of Valid Claim Amounts, Loan Indebtedness, and Amounts Owing After Subtraction of Loan Indebtedness