

**COMPROMISE AND SETTLEMENT AGREEMENT**

This Compromise and Settlement Agreement (“Agreement”) is made between Plaintiffs (by and through Plaintiffs’ Counsel), the Assignee Defendants, the Trust, the Debtor, and the Bank (collectively referred to as “Parties”) for the purposes and for the consideration to be exchanged herein. All terms in this Agreement that appear in initial capital letters are defined terms that appear in the Glossary, which is attached to this Agreement as Exhibit A and is incorporated by reference in the body of this Agreement.

The Parties hereby recite and agree as follows:

**RECITALS**

A. The Bank is a California-chartered industrial bank, licensed and regulated by the California Department of Financial Institutions. It is currently in liquidation under the supervision of the Liquidation Court. The Bank continues to manage its assets and pay expenses in the ordinary course, but can make no distributions except with approval of the Liquidation Court. As of February 28, 2003, the Bank had total equity of \$21,226,028 comprised of total assets of approximately \$21,917,014 less liabilities of \$690,986. Total assets were comprised of approximately \$14,998,613 in cash and \$6,656,647 in net loan receivables. Attached as Exhibit B to this Agreement is a copy of that balance sheet.

B. Debtor was a sister-affiliate of the Bank. Debtor filed its voluntary petition under the Bankruptcy Code on March 5, 1999 in the Bankruptcy Court. Prior to the Petition Date, Debtor, together with some of its affiliated companies, was a specialized consumer finance company in the business of originating, underwriting, purchasing, servicing, and selling consumer finance receivables. In conducting its business, the Debtor originated, funded, sold, purchased or

serviced hundreds of thousands of HLTV Loans. On or about April 10, 2000, the Bankruptcy Court confirmed the Debtor's Plan. The terms of the Plan established the Trust. The Bankruptcy Court appointed David T. Obergfell Trustee of the Trust by order entered April 10, 2000. Pursuant to the terms of the Plan, the common parent of the Debtor and the Bank transferred all of the FPB Stock to the Trust and the Trust became the sole shareholder of the common stock of the Bank. The Trust was charged under the Plan with liquidating its holding in the Bank and distributing those proceeds to creditors in accordance with the Plan.

C. The Assignee Defendants, or some of them, are the current owners of various of the HLTV Loans described above. The Direct and Indirect Class Actions concern a number of those approximately 25,000 HLTV Loans.

D. Numerous consumer borrowers, by and through Plaintiffs' Counsel, initiated the Direct and Indirect Class Actions against, among others, the Bank and various of the Assignee Defendants who acquired, either directly from the Bank or indirectly through the Debtor, interests in such loans. In some of these actions, the Bank is not itself a named defendant, but the Assignee Defendants have in some of those suits filed third-party complaints against the Bank in those venues or in the Liquidation Proceeding, or both.

E. In addition, consumer borrowers, by and through Plaintiffs' Counsel, have brought Other Class Actions asserting similar claims against other originators or who sold loans to the Debtor or Debtor's affiliated companies and/or to various of the Assignee Defendants and other parties.

F. The gravamen of the complaints in the Direct Actions and the Indirect Actions (and, for that matter, the Other Class Actions) is that in making HLTV Loans, the Bank, the Debtor, and other originators, violated state and/or federal consumer protection laws arising from the terms of

such loans (including closing interest, fees, points, and other costs) contracted for or charged when such loans were originated).

G. As a result of the Direct and Indirect Actions, the Trust was unable to liquidate the Bank Stock as the Trust argues was mandated under the Plan. Moreover, the potential liability from the claims asserted in the Direct and Indirect Actions and the cross-complaints brought by the Assignee Defendants far exceeded the Bank's assets, and substantially impaired the value of such assets even if the Bank's defense of the actions was successful.

H. On October 31, 2001, in an effort to preserve its assets for the benefit of all potential claimants, the Bank commenced the Liquidation Proceeding before the Liquidation Court pursuant to California Corporation Code Section 1904. The Liquidation Court thereafter entered a claims procedure order whereby claimants were notified by publication and first-class mail of the procedure for filing claims against the Bank. The period for filing claims closed August 26, 2002. Any claimant served with rejection had until October 14, 2002 to file suit. A total of eight such suits were filed against the Bank as part of the Liquidation Proceeding.

I. On October 4, 2002, in an effort to preserve the assets of the Debtor's bankruptcy estate, the Trust filed the Trust Motion seeking an order of the Bankruptcy Court enforcing an injunction issued in connection with confirmation of the Plan to stop both the Direct and Indirect Actions and the Other Class Actions from continuing to proceed against: (a) FirstPlus Securitization Trusts; (b) Sovereign Bank, as it related to certain loans sold by the Debtor to Sovereign Bank; and (c) U. S. Bank, as it related to particular loans sold by the Debtor to U. S. Bank.

J. Among the disputes between the parties are: (1) the issues raised by the Trust Motion; (2) certification of any class in any of the Direct and Indirect Actions; (3) the rights of the

Liquidation Court to enjoin or proscribe the continuation of or rule upon issues that were also pending in the Direct and Indirect Actions; (4) the ability of consumer borrowers or their counsel to file class claims in the Liquidation Proceeding; (5) the necessity of the courts in the Direct Actions or the Indirect Actions to abstain from hearing the claims in light of the Liquidation Proceeding; (6) the Named Plaintiffs' claims and rights in the Liquidation Proceeding; (7) the Assignee Defendants' claims and rights in the Liquidation Proceeding; (8) U. S. Bank's claims and rights against the Trustee under the Plan as a result of the claim asserted in the Direct and Indirect Actions and the Other Class Actions; and (9) the ultimate distribution of the assets of the Bank in the Liquidation Proceeding. Moreover, the litigation over these issues continues to deplete the assets of the Bank that might ultimately be used to pay to the prevailing party.

K. On April 1-2, 2003, the Parties attended mediation in Phoenix, Arizona, in an effort to resolve the disputes between and among them, including those set forth in paragraph 10, above.

L. The purpose of the settlement is to permit the closing of Liquidation Proceeding. To that end, the Parties to this Agreement desire to resolve the Liquidation Proceeding and the specific claims, controversies, and disputes between and among them as such relate to: (1) the Plaintiffs' claims against the Bank in the Bank Litigation Courts; (2) the Named Plaintiffs' claims in the Liquidation Proceeding; (3) the Assignee Defendants' claims against the Bank and the Named Plaintiffs in the Bankruptcy Case and in the Liquidation Proceeding and their claims solely against the Bank (including third-party complaints) in the Bank Litigation Courts and in Liquidation Proceeding; (4) the Trust's rights and claims in the Bank Liquidation Proceeding; (5) certain claims of U.S. Bank under the Plan; and (6) all Plaintiff's claims (including those against the Bank and the Assignee Defendants) in the Hill/Cheek Class and in the Liquidation Proceeding. This resolution is intended to avoid the cost and risk of continued litigation and the

further depletion of the Bank's limited assets as set forth below. It is expressly understood that the Plaintiffs' claims, other than as described in (6) above, if any, against the Assignee Defendants and all others except the Bank shall be preserved in their entirety.

### **AGREEMENT**

**1. Authority of Parties; Necessity of Court Authorization; Deadline for Same.** Each of the Parties acknowledges that it is a condition precedent to final performance of this Settlement Agreement that they must obtain multiple judicial approvals of this Agreement. By their signatures to this Agreement, the parties commit that each of them shall take all reasonable and necessary action to obtain Final Orders for all necessary judicial approvals needed to implement this Agreement, including but not limited to the approvals of: (a) the Bankruptcy Court; (b) the Liquidation Court; and (c) the United States District Court for the Western District of Washington in which *Hill v. FirstPlus Bank*, No. CV01-1892R (W.D. Wash.) remains pending and was thereafter stayed in favor of the Liquidation Proceeding. In addition, each of the Parties commit to obtain the appropriate orders dismissing FirstPlus in Illinois Litigation and to either have such Order certified as final for purposes of appeal, sever the Bank such that the dismissal order becomes a Final Order, or otherwise secure the agreement of Plaintiffs and the class represented by Plaintiffs not to sue the Bank. However, if Final Orders for all necessary approval orders and other orders required by this paragraph are not obtained by December 31, 2003, this Agreement shall terminate, become null and void, and have no further force and effect, unless this deadline is extended by agreement of all Parties.

**2. Other Orders.** In addition to the judicial approvals specifically set forth above and dismissals and releases required below, the Parties recognize that additional orders (but not the DIDA Order) must be obtained to give effect to this Agreement, including, but not limited to

orders of dismissal of Bank from those Indirect Actions wherein it has been named as a third-party defendant and dismissal of the declaratory action in the Liquidation Court. If such orders are not obtained by the date referenced in Paragraph 1 above, this Agreement shall terminate, become null and void, and have no further force and effect, unless this deadline is extended by agreement of all Parties hereto.

**3. Other Approvals – First Plus Securitization Trust.** This agreement is conditioned upon and subject to the Owner Trustee of each FirstPlus Securitization Trust receiving no objection to this settlement after notice to all trust interests with a right to object or otherwise direct the owner trustee pursuant to Article IV of each respective Owner Trust Agreement. In the event the Owner Trustee of each FirstPlus Securitization Trust cannot enter into this Agreement by the deadline referenced in Paragraph 1 above, this Agreement shall be null and void and have no further effect, unless the deadline is extended by agreement of all the Parties hereto.

**4. Facilitation of Approval of Settlement Agreement.** The Parties recognize and agree that a key benefit of this Agreement is the reduction of the costs of litigation against the Bank to all Parties, in part, so as to preserve the assets of the Bank for distribution as contemplated by this Agreement and avoid the expenses and distractions caused the other Parties by the litigation now pending in the Bankruptcy Court and the Liquidation Court. Therefore, the Parties, through counsel, shall use their best efforts during the pendency of these matters in obtaining the necessary court orders to cause the Bankruptcy Court and, the Liquidation Court and the courts in the Direct Actions or Indirect Actions in which motions are pending against Bank and/or discovery is sought from the Bank, to enter or approve all necessary orders, stipulations, and/or motions to suspend any applicable deadlines for the filing of or responding to motions and the answering or serving of discovery now pending in such courts against the Bank, as well as in any

appellate courts to which orders of the Bank Litigation Courts have been challenged by the Bank or against the Bank. Such best efforts shall include the prompt execution of all stipulations, documents, and agreements necessary to obtain such approvals. In the event such orders are not entered by the required courts or if this Agreement shall terminate, all deadlines suspended pursuant to this paragraph shall be reinstated fifteen days after notice by facsimile by any party to all other parties to this Agreement or as otherwise provided for in any applicable order of any court PROVIDED THAT and anything to the contrary notwithstanding, this Agreement shall not require the Parties in the Direct or Indirect or Other Class Actions to suspend their actions, claims, and defenses against any party, other than the Bank, nor shall this Agreement interfere with the appeal of the Missouri-*Adkison* case or the adding of any other party defendants.

**5. Stipulation to Certification of a Class of Virginia and Washington Borrowers in the Liquidation Proceeding for the Purposes of Settlement.** The Bank hereby agrees and stipulates to: (1) an order certifying, for settlement purposes only, a class of Washington and Virginia consumers against Bank and the Assignee Defendants in the *Hill/Cheek* Action (hereinafter, collectively, the *Hill/Cheek* Class whether in the form of a single settlement class or multiple classes); (2) not opposing the appointment of some or all of the putative class representatives in the *Hill/Cheek* Action as class representatives of the *Hill/Cheek* Plaintiffs in the Liquidation Proceeding as may be decided among the *Hill/Cheek* Plaintiffs and the *Hill/Cheek* Counsel; and (3) not opposing the appointment of some or all of the *Hill/Cheek* Counsel as class counsel for the *Hill/Cheek* Plaintiffs in the Liquidation Proceeding as may be decided among the *Hill/Cheek* Plaintiffs and the *Hill/Cheek* Counsel. The certification of *Hill/Cheek* Class shall be binding only with respect to the settlement and this Agreement. In the event that this Agreement shall terminate for any reason, the settlement class certification order

shall be vacated by its terms, and the Liquidation Proceeding as well as the Direct and Indirect Actions shall revert to their status with respect to class certification as it existed prior to the date of the execution of this Agreement, and no use or inference from the settlement class or classes shall be used in any proceeding, including any of the Direct and Indirect Actions.

**6. Mandatory/Non-Opt Out Class.** The Parties agree to request that the Liquidation Court (and, as may be necessary, any of the courts in the Direct and Indirect Actions) recognize and approve certification of a the *Hill/Cheek* Class of in the *Hill/Cheek* Action under Federal Rule of Civil Procedure 23(b)(1) and/or 23(b)(2), or its equivalent under California procedure, such that it shall be a “mandatory” class. In the *Hill/Cheek* Action, the *Hill/Cheek* Class shall receive notice of the terms of the settlement by first-class mail, and shall have the right to appear and object, but they will not be permitted to “opt out” of the class if the settlement were to be approved. The costs of giving notice to the *Hill/Cheek* Class shall be borne by the Bank. In the event that the Liquidation Court fails to recognize and approve the *Hill/Cheek* Class in accordance with this paragraph, any party may withdraw from this Agreement. Upon that occurring, this Agreement shall be null and void and all deadlines suspended pursuant to paragraph 2 shall be reinstated as provided therein unless otherwise agreed to by the Parties in writing.

**7. Allowance and Treatment of *Hill/Cheek* Claim.** Upon obtaining Final Orders on all necessary court approvals of this Agreement, the *Hill/Cheek* Claim in favor the certified *Hill/Cheek* Class shall be allowed in the Liquidation Proceeding and paid on the following terms:

- a. A fund (the "Settlement Fund") shall be set aside in favor of the *Hill/Cheek* Class the amount of Five Million Dollars (\$5,000,000.00). The sum of five million dollars represents a contingent sum, and shall be deposited into an escrow. An escrow agent

- shall be appointed that is acceptable to the Parties, and shall be instructed to invest these sums in treasury securities, money market funds, certificates of deposit, or similar instruments pending distribution of the Settlement Fund as described below.
- b. The entire Settlement Fund, together with all of the interest accrued thereon during the entire period during which such principal funds are held in escrow under this paragraph, shall be distributed to the *Hill/Cheek* Class in the manner approved by the Liquidation Court in the event that the Plaintiffs in the Illinois Litigation “prevail” (as defined below) in the Illinois Litigation on the issue of “rate exportation.” Such distribution shall commence as soon as practicable following the entry of the DIDA Order.
  - c. One Million Dollars (\$1,000,000.00) from the Settlement Fund, together with all of the interest accrued thereon during the entire period during which such principal funds are held in escrow under this paragraph, shall be distributed to the *Hill/Cheek* Class in the manner approved by the Liquidation Court in the event that Plaintiffs in the Illinois Litigation do not prevail (as defined below) in the Illinois Litigation on the issue of “rate exportation.” Such distribution shall commence as soon as practicable following the entry of the DIDA Order.
  - d. Three Million Dollars (\$3,000,000.00) from the Settlement Fund together with all of the interest accrued thereon during the entire period during which such principal funds are held in escrow under this paragraph, shall be distributed to the *Hill/Cheek* Class in the manner approved by the Liquidation Court in the event that the Illinois litigation is settled or finally adjudicated without a resolution of the “rate exportation” issue. Such distribution shall commence as soon as practicable following the entry of

the DIDA Order including any order which has the effect of settling the Illinois Litigation without such a resolution.

- e. In the event the Settlement Fund is distributed to the *Hill/Cheek* Class pursuant to subparagraph c. or d. above, the undistributed portion of the Settlement Fund together with the interest accrued on the undistributed portion of the Settlement Fund during the entire period during which such principal funds are held in escrow under this paragraph shall be distributed to the Dorsey & Whitney LLP Trust Account for distribution to the Assignee Defendants in accordance with their Agreement.
- f. For purposes of determining whether the plaintiffs in the Illinois Litigation have “prevalled” with respect to the “rate exportation” issue, the parties shall refer to the DIDA Order.
- g. The distribution of the Settlement Fund shall be made upon approval by the Liquidation Court, which shall retain jurisdiction over the Parties and the Settlement Fund to enforce the terms of this Agreement.

**8. Releases and Dismissals—*Hill/Cheek* Class Plaintiffs.** Upon obtaining Final Orders on all necessary court approvals of this Agreement, the *Hill/Cheek* Plaintiffs and the *Hill/Cheek* Class shall release and forever discharge Bank, Debtor, the and Assignee Defendants and all other persons regarding loans originated by the Bank or the Debtor in the States of Virginia, Washington and those other states identified in the *Hill* Case from:

- a. Any and all claims, rights, damages, losses, demands, obligations, actions, causes of action, suits, cross-claims, matters, issues, debts, liens, contracts, liabilities, agreements, costs, or expenses, of any nature whatsoever, ascertained or unascertained, suspected or unsuspected, existing or claimed to exist, including

“Unknown Claims” (defined in Paragraph 8(b)) relating to or arising out of the claims which were made, or which could have been made, collectively, in the Direct and Indirect Actions and in the *Hill/Cheek* Action, or by the class certified therein against any of them regarding loans originated by the Bank or the Debtor in the States of Virginia, Washington and/or those other states identified in the *Hill* Case.

- b. Regarding the release of Unknown Claims, the *Hill/Cheek* Plaintiffs and the *Hill/Cheek* Class understand and acknowledge that it is possible that unknown losses or claims exist or that present losses may have been underestimated in amount or severity ("Unknown Claims"). The *Hill/Cheek* Plaintiffs and the *Hill/Cheek* Class have taken that into account in entering into this Agreement, and a portion of the consideration and the mutual covenants contained herein, having been bargained for between them, the Bank, the Assignee Defendants, and Debtor, with the knowledge of the possibility of such Unknown Claims, and were given in exchange for a full accord, satisfaction and discharge of all such claims. In this regard, the *Hill/Cheek* Plaintiffs and the *Hill/Cheek* Class waive all rights or benefits under California Civil Code §1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

- c. The *Hill/Cheek* Plaintiffs and the *Hill/Cheek* Class shall be barred from bringing any claim against the Bank’s officers, directors, and shareholders, including but not limited to any claims that could be asserted under California Corporations Code §2009(a) or under any such similar “survivorship” laws of any other state.

- d. Within 14 days of obtaining Final Orders on all necessary court approvals of this Agreement, and upon approval of the Settlement of the *Hill/Cheek Class* by the Liquidation Court, the Plaintiffs in the Direct Action *Hill v. FirstPlus Bank*, No. CV01-1892R (W.D. Wash.) shall move to dismiss with prejudice that case upon such terms and in such manner as the Court may require.

**9. Dismissal of Bank from the Illinois Litigation.** Within 14 days of obtaining Final Orders on all necessary court approvals of this Agreement, the Class Representative Plaintiffs in the Illinois Litigation shall move to dismiss Defendant FirstPlus Bank from that case upon such terms and in such manner as the Court may require.

**10. Allowance and Treatment of Trustee's Claims and Interest.** Upon obtaining Final Orders on all necessary court approvals of this Agreement, the Bank shall transfer the FPB Loan Pool to the Trustee in full satisfaction of The FPGI Creditor Trust claims and interest in the Bank in the Liquidation Proceeding. FPGI Creditor Trust shall set aside the first \$1,000,000 (One Million Dollars) from the FirstPlus Loan Pool collected on the loans to be used as set forth in paragraphs 14 and 16 below (the "Document Retention Fund"). The Trust shall treat all other proceeds of the Loan Pool, and at the conclusion of all Direct, Indirect and Other Class Actions, any balance remaining from the Document Retention Fund administered pursuant to paragraphs 14 and 16, as a payment on the WIB Note under the Plan.

**11. Allowance and Treatment of Assignee Defendants Claims and Interest.** Upon obtaining Final Orders on all necessary court approvals of this Agreement, the Bank shall transfer the entire residual or "remaining equity" to the Dorsey & Whitney LLP Trust Account for distribution to the Assignee Defendants in accordance with their agreement. The "remaining equity" will be available to be distributed among the Assignee Defendants for purposes of settling claims made

in the Direct and Indirect Actions, or to pay costs associated with the defense of such claims pursuant to a separate agreement by and between such Assignee Defendants. For purposes of this paragraph, "remaining equity" shall mean all the equity of the Bank that remains after (a) any final Administrative Expenses incurred by the Bank, (b) the creation of the Settlement Fund, as described in paragraph 7; and (c) the distributions to the Trustee of the FPB Loan Pool, as described in paragraph 10; provided, however, in the event the remaining equity made available to the Assignee Defendants as provided herein does not equal or exceed \$8.4 million, the Assignee Defendants may opt not to proceed with this settlement in accordance with their agreement, and the settlement shall be null and void and have no further force and effect. In addition, the Assignee Defendants shall receive any undistributed portion of the Settlement Fund as described in paragraph 7 above, which shall not be included in the calculation of remaining equity for purpose of 11(c) above.

To maximize "remaining equity," the Parties understand the Bank will undertake to sell the Charged Off Loans and any other remaining non-cash assets of the Bank (excluding the FPB Loan Pool), in a commercially reasonable manner while the Parties seek court approvals of this Agreement.

**12. Releases and Dismissals—Assignee Defendants.** Upon obtaining Final Orders on all necessary court approvals of this Agreement, the Assignee Defendants, and each of them, shall release and forever discharge Bank from:

- a. Any and all claims, rights, damages, losses, demands, obligations, actions, causes of action, suits, cross-claims, matters, issues, debts, liens, contracts, liabilities, agreements, costs, or expenses, of any nature whatsoever, ascertained or unascertained, suspected or unsuspected, existing or claimed to exist, including

“Unknown Claims” (defined in Paragraph 8(b)) relating to or arising out of the claims which were made, or which could have been made, collectively, in the Direct and Indirect Actions and in the *Hill/Cheek* Action, or any of them.

- b. Regarding the release of Unknown Claims, the Assignee Defendants understand and acknowledge that it is possible that unknown losses or claims exist or that present losses may have been underestimated in amount or severity. The Assignee Defendants have taken that into account in entering into this Agreement, and a portion of the consideration and the mutual covenants contained herein, having been bargained for between them and the Bank, with the knowledge of the possibility of such Unknown Claims, and were given in exchange for a full accord, satisfaction and discharge of all such claims, all, however, subject to the right of the Assignee Defendants right to opt out of this Agreement pursuant to paragraph 11(c). In this regard, the Assignee Defendants waive all rights or benefits under California Civil Code §1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

- c. The Assignee Defendants shall be barred from bringing any future claim against the Bank’s officers, directors, and shareholders, including but not limited to any claims that could be asserted under California Corporations Code §2009(a) or under any such similar “survivorship” laws of any other state; provided, however, this paragraph shall not constitute a release or bar of any proof of claim filed by

any Assignee Defendant in the Bankruptcy Case or a release or bar of any claim allowed under the Plan.

- d. Within 14 days of obtaining Final Orders on all necessary court approvals of this Agreement, the Assignee Defendants shall file dismissals with prejudice of their suits and claims against the Bank in each venue in which such actions have been filed, including but not limited to all of the venues in which a Direct Action or Indirect Action is pending.
- e. Within 14 days of obtaining Final Orders on all necessary court approvals of this Agreement, the Assignee Defendants shall file dismissals without prejudice of their claims, if any, against the Named Plaintiffs or the Plaintiffs in the Bankruptcy Case and/or the Liquidation Proceeding, it being agreed such claims, if any, shall be pursued in the Direct or Indirect Actions.

**13. Termination of Plan Injunction Proceeding.** Upon obtaining Final Orders for all necessary court approvals of this Agreement, the Trust and the Debtor and all other Parties to this Agreement shall abandon any right to assert or any claim that the Plan Injunction bars Plaintiffs from prosecuting the remaining Direct or Indirect or Other Class Actions in a form of order approved by Plaintiff's counsel, which shall be tendered to the Bankruptcy Court dismissing the Trust Motion with prejudice.

**14. Trustee/U. S. Bank Settlement.** The Trustee and U. S. Bank agree to fix and treat the U.S. Bank Obligation, with respect to the Trust, under Article 6.13 of the Plan as follows: (a) the amount of the U.S. Bank Obligation to be approved and allowed shall be \$10,000,000.00; (b) the filing by the Trustee and the Debtor of a motion to approve this Agreement shall be deemed, as required by Article 6.13 of the Plan, to be U.S. Bank's filing with the Bankruptcy Court of a

request for payment of the U.S. Bank Obligation and shall meet any service requirements of Article 6.13 of the Plan regarding same; and (c) shall pay the U.S. Bank Obligation from the Operating Reserve set forth in Article 7.1.3. of the Trust Agreement. The Trust, subject to Bankruptcy Court approval of this Agreement (which approval is a condition to all of U.S. Bank's releases provided for herein), shall place all proceeds of the Cash Flow Instrument and any remainder of the Document Retention Fund into the Operating Reserve, and except for an annual Trust expense reserve of \$200,000.00, pay the U.S. Bank Obligation from the Operating Reserve from Funds in the Operating Reserve, if available, on no less than a quarterly basis and prior to distribution in respect to any other claim. On the basis of the agreements contained herein, U.S. Bank shall hereby expressly release any claim to proceeds of the FPB Loan Pool (except the remainder of the Document Retention Fund, which remainder shall be distributed to U.S. Bank pursuant to this Agreement ) received by the Trustee, as well as any cash in possession of the Trustee as of August 11, 2003, notwithstanding anything to the contrary in Article 6.13 of the Plan. Nothing in this paragraph 14 shall prevent U.S. Bank from asserting or attempting to collect any U.S. Bank Obligation from the Debtor.

**15. Dismissal of the Bank Without Prejudice from the Remaining Direct Actions.** Upon obtaining the Final Orders for all necessary court approvals, the Plaintiffs in the *Adkison v. FirstPlus Bank* and Illinois Litigation shall dismiss the Bank without prejudice and such Plaintiffs covenant thereafter not to sue the Bank and agree that no further claims shall be asserted or re-asserted against the Bank or the Bank's assets; PROVIDED THAT and anything to the contrary notwithstanding, these dismissals of the Bank shall in no way prejudice any claims against or provide a defense for any Assignee Defendant. Specifically as to the dismissal without

prejudice of the Bank in *Adkison v. FirstPlus Bank*, this agreement by the Plaintiffs therein is a covenant not to sue the Bank pursuant to the terms of § 537.060 Revised Statutes of Missouri.

**16. Preservation of Information for Discovery in the Remaining Direct and Indirect and Other Class Actions.** Upon obtaining Final Orders for all necessary court approvals of this Agreement, the Bank and the Trust, within the confines of their respective financial condition and staffing (which shall include the set aside of \$1,000,000 discussed in paragraph 10 above), shall Preserve Information for use in discovery in the remaining Direct and Indirect and Other Class Actions, and shall agree that counsel for the Trust is an agent for service as to any such discovery which may be served upon him by first class mail; provided that any request for consumer borrower information shall not be made to the Trust or the Bank until and unless a stipulation addressing consumer privacy law issues is approved by the subject court, which shall be substantially in the same form as the stipulation and order issued in the Illinois Litigation regarding same. However, neither this agreement to Preserve Information nor anything else in this agreement shall afford Plaintiffs any greater right to obtain information than they presently have under the rules of procedure applicable to each of the remaining Direct and Indirect and Other Class Actions. Debtor and Bank shall not provide: (1) any information, documents, electronic data or other discovery to Plaintiffs that is not the subject of formal discovery originating from and in accordance with the procedural discovery rules of a court (except as related to service of process or subpoena) in which a Direct, Indirect or Other Class Action is pending, which discovery will include prior notice to all other parties with an opportunity to be heard and object in such court or such other court of appropriate jurisdiction or (2) any information, documents, electronic data or other discovery to Plaintiffs by way of subpoena except as such subpoena is procured with prior notice to all parties in the subject Direct, Indirect

or Other Class Action with an opportunity to be heard and object in such court or such other court of appropriate jurisdiction.

To the extent any discovery under this paragraph requires the Debtor or Bank to pay the fees or expenses of any third party, Plaintiffs' Counsel shall pay or reimburse the Debtor or Bank, as the case may be, for same, assuming that the Debtor or Bank has incurred such reimbursable fees after obtaining the approval of the Plaintiff's Counsel obligated to pay such fees. It is further understood that certain discovery may be required of the Bank or Debtor before this Agreement is fully consummated and neither this paragraph nor paragraph 2 above shall prevent such discovery during the pendency of this Agreement.

**17. Settlement Only.** This Settlement Agreement and the terms and conditions hereof are entered into solely for the purposes of settlement. This Settlement Agreement and the recitations herein are not intended to and shall have no impact on the rights or claims of any Plaintiffs against any Person not a party to this Settlement Agreement, nor, except to the extent recited above, does it waive, release, or impair the rights of any Party against any other Party in the Direct or Indirect Actions. If for any reason, the Agreement is not approved or does not become final, this Agreement and the Plaintiff Settlement Class, and anything said or done pursuant to the Agreement, or as part of the negotiations leading thereto, including but not limited any conditional, stipulated amendment of the *Hill/Cheek* Action and certification of a settlement class, shall be null and void and shall not be referred to or used in this or any other proceeding for any purpose. Neither this Agreement nor any document referred to herein nor any action taken to carry out this Agreement is, or may be construed as, or may be used as, an admission or concession by or against any Party on any point of fact or law, or of any alleged fault, wrongdoing or liability whatsoever.

**18. Parties Have Read Agreement and Been Represented by Counsel.** Each party warrants that it has read and understands the terms of this Agreement and is executing this agreement voluntarily and of its own accord and judgment. Each of the parties to this Agreement acknowledge and warrants that he, she or it has been represented by independent counsel and has executed this agreement after being fully advised by such counsel as to its effect and significance. This agreement is the result of negotiations by and among the parties and respective attorneys, and it is the product of cooperative efforts by the parties and their attorneys. All of the provisions of this Agreement shall be construed in an even manner, and not more strictly against any of the parties, and none of the parties will be considered the drafter of this Agreement for any particular provision of this Agreement.

**19. Entire Agreement.** The terms and conditions set forth in this Agreement constitute the complete and exclusive statement of the agreement between the Parties hereto relating to the subject matter of this Agreement, superseding all previous negotiations and understandings, and may not be contradicted by evidence of any prior or contemporaneous agreement. The Parties further intend that this Agreement constitutes the complete and exclusive statement of its terms as between the Parties hereto and that no extrinsic evidence whatsoever may be introduced in any judicial proceeding, if any, involving this Agreement.

**20. No Presumption Against Drafter.** The determination of the terms of, and the drafting of, this Agreement has been by mutual agreement after negotiation, with consideration by and participation of, all Parties hereto. The presumption that uncertainties in a contract are interpreted against the party causing an uncertainty to exist is hereby waived by all Parties.

**21. Binding on Successors.** This Agreement shall be binding upon the parties and their heirs, assigns, administrators, executors, legal representatives, and successors.

**22. No Modification or Waiver except by Writing.** No waiver or modification of this Agreement shall be valid unless it is set forth in writing and executed by the party against whom such waiver or modification is to be enforced and no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation between the parties arising out of or affecting this agreement unless this waiver is in writing and signed by the Parties as set forth above or, in their absence, by their counsel.

**23. No Partial Waiver.** The waiver by one party of any provision or breach of this Agreement shall not be deemed a waiver of any other provision or breach of this Agreement.

**24. Costs and Expenses.** Each Party to this Agreement shall pay its own attorneys' fees, costs, and expenses in connection with the negotiation and documentation of this Agreement. In the case of Plaintiffs' Counsel, their right to recover fees and costs shall be limited to a claim against, and not in addition to, the common fund that is being established pursuant to paragraph 5 of this Agreement.

**25. Execution by Facsimile and Counterparts.** Signatures to this Agreement may be exchanged by facsimile, and a facsimile of any Party's signature hereto shall constitute an original for all purposes. The Parties may execute this Agreement in counterparts, and execution of counterparts shall have the same force and effect as if all Parties had signed the same instrument.

**26. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California and the United States of America.

**27. Captions.** The headings or captions in this Agreement are for convenience and reference only, and do not control or affect the meaning or construction of any of the provisions herein.

**28. Representation of Authority.** Subject to paragraph 1, each of the undersigned parties hereby represents it is fully authorized to execute and deliver this Agreement and that all formalities and requirements attendant to the delivery and delivery of this agreement have been satisfied.

**29. Contractual Agreement.** The terms of this Agreement are contractual in nature.

**30. Notice.** Notice under this Agreement shall be delivered by certified mail, return receipt requested and facsimile as follows:

The FPGI Creditor Trust:

David T. Obergfell  
400 N. St. Paul, Suite #600  
Dallas, Texas 75201  
(214) 777-0282  
(214) 720-1450 (Fax)

Any Notice to the Trust shall be copied on:

Joseph A. Friedman  
Kane, Russell, Coleman & Logan, P.C.  
3700 Thanksgiving Tower  
1601 Elm Street  
Dallas, Texas 75201  
(214) 777-4200  
(214) 777-4299 (Fax)

To FirstPlus Bank:

David Johnson  
President  
FirstPlus Bank  
17210 Reynolds Avenue  
Irvine, CA 92614  
949-851-7100  
949-851-7115(fax)

Any notice to the Bank shall be copied on to:

William Stern  
Severson & Werson, P.C.  
1 Embarcadero Center  
26th Floor  
San Francisco, CA 94111  
415-398-3344  
415-956-0439(fax)

To Plaintiffs' Counsel:

Daniel O. Myers, Esq.  
Richardson, Patrick, Westbrook & Brickman, L.L.C.  
1037 Chuck Dawley Blvd., Bldg. A  
Post Office Box 1007

Mount Pleasant, SC 29464

\_\_\_\_\_  
\_\_\_\_\_  
(Fax)

Mike Vaughan, Esq.  
Walters, Bender, Strohbahn & Vaughan, P.C.  
2500 City Center Sq.  
1100 Main St.  
P.O. Box 26188  
Kansas City, MO 64196  
816-421-6620  
816-421-4747 (Fax)

To Assignee Defendants, the FirstPlus Trusts:

Pamela Wieder  
Vice-President  
U.S. Bank Trust Center  
180 East Fifth Street  
St. Paul, MN 55101949-851-7100  
(651) 244-0710  
(651) 244-5847 (fax)

Any notice to the FirstPlus Trusts shall be copied on to:

Leslie A. Greathouse  
Kutak Rock LLP  
444 W. 47<sup>th</sup> Street, Suite 200  
Kansas City, Missouri 64112-1914  
(816) 960-0090  
(816) 960- 0041 (fax)

And

Patrick McLaughlin  
Dorsey & Whitney LLP  
Suite 1500  
50 South Sixth Street  
Minneapolis, Minnesota 55402  
(612) 340-2600  
(612) 340-2868 (fax)

To German American Capital Corporation:

[To be Provided]

Any notice to GACC shall be copied on to:

Leslie A. Greathouse  
Kutak Rock LLP  
444 W. 47<sup>th</sup> Street, Suite 200  
Kansas City, Missouri 64112-1914  
(816) 960-0090

(816) 960- 0041 (fax)

And

Cyrus Benson III  
White & Case  
1155 Avenue of the Americas  
New York, New York 10036-2787  
(212) 819-8200  
(212) 354-8113 (fax)

To Assignee Defendants, Real Time Resolutions, Inc.:

Eric C. Green  
Real Time Resolutions, Inc.  
1750 Regal Row, Suite 120  
Dallas, TX 75235-2287  
(214) 599-6305  
(214) 599-6306 (fax)

Any notice to Real Time shall be copied on to:

Leslie A. Greathouse  
Kutak Rock LLP  
444 W. 47<sup>th</sup> Street, Suite 200  
Kansas City, Missouri 64112-1914  
(816) 960-0090  
(816) 960- 0041 (fax)

And

Anthony Petrocchi  
Weil & Petrocchi P.C.  
1601 Elm Street, Suite 1900  
Thanksgiving Tower Bldg., LB - 100  
Dallas, TX 75201  
(214) 969-7272  
(214) 880-7402 (fax)

[Other Assignee Defendants To be Provided]

**30. Resolution of Disputes.** The Liquidation Court shall retain exclusive jurisdiction over the interpretation, effectuation and implementation of this Agreement, and shall resolve any disputes concerning its meaning or effect; provided that the courts in which the Direct Actions are

pending shall have jurisdiction to determine the effect of the dismissals and/or covenants not to sue the Bank in those particular actions.

IN WITNESS HEREOF the undersigned, being duly authorized, have caused this Agreement to be executed on the dates shown below.

FIRSTPLUS BANK

THE FPGI CREDITOR TRUST

\_\_\_\_\_  
By: David Johnson  
President

\_\_\_\_\_  
By: David T. Obergfell  
Trustee

Plaintiff:

Plaintiff:

\_\_\_\_\_  
Jay Hill

\_\_\_\_\_  
Kimberly Hill

Plaintiff:

Plaintiff:

\_\_\_\_\_  
Michael Cheek

\_\_\_\_\_  
Deborah Cheek

Plaintiff:

Plaintiff:

\_\_\_\_\_  
Stephen Q. Adkison

\_\_\_\_\_  
Codi J. Adkison

Plaintiff:

Plaintiff:

\_\_\_\_\_  
Joseph Dundon

\_\_\_\_\_  
Keith Callender

Plaintiff:

Plaintiff:

\_\_\_\_\_  
Diana Callender

\_\_\_\_\_  
Tommy Speece

Plaintiff:

Real Time Resolutions, Inc.

\_\_\_\_\_  
Geraldine Speece

\_\_\_\_\_  
By: Eric Green, CEO

FirstPlus Home Loan Owners Trust No. 1997-2; FirstPlus Home Loan Owners Trust No. 1997-3; FirstPlus Home Loan Owners Trust No. 1997-4; FirstPlus Home Loan Owners Trust No. 1998-1; FirstPlus Home Loan Owners Trust No. 1998-2; FirstPlus Home Loan Owners Trust No. 1998-3; FirstPlus Home Loan Owners Trust No. 1998-4; and FirstPlus Home Loan Owners Trust No. 1998-5

FirstPlus Home Loan Trust 1996-2; FirstPlus Home Loan Owner Trust 1996-3; FirstPlus Home Loan Owner Trust 1996-4; FirstPlus Home Loan Owner Trust 1997-1

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By: [To come later]

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By: [To come later]

Master Financial, Inc.

Residential Funding Corporation

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By: [To come later]

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By: [To come later]

Sovereign Bank

U.S. Bank National Association, N.D.

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By: [To come later]

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By: [To come later]

GRMT Mortgage Loan Trust 2001

UBS Warburg Financial Services, Inc. f/k/a UBS Warburg Real Estate Securities, Inc. f/k/a Paine Webber Real Estate Securities, Inc.

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By: [To come later]

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By: [To come later]

German American Capital Corporation

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By: [To come later]

**EXHIBIT A**  
**GLOSSARY OF DEFINED TERMS**  
(FirstPlus Bank Settlement)

**Administrative Expenses** means all expenses of administration of the Liquidation Proceeding incurred by the Bank after February 28, 2003, including, but not limited to Professional Fees, Severance Cost, payroll, rent, insurance and other day to day operational cost of the Bank, and cost of distribution of monies and assets, after credit for: (1) the proceeds of Net Interest earned on the loans in the FPF Loan Pool during the period between after February 28, 2003 and the date of all necessary court approvals are obtained pursuant to paragraphs 1 and 2 of the Agreement, and (2) the proceeds of the Charged Off Loans.

**Agreement** means this “Compromise and Settlement Agreement.”

**Assignee Defendants** shall mean collectively: FirstPlus Home Loan Owner Trust No. 1997-2; FirstPlus Home Loan Owner Trust No. 1997-3; FirstPlus Home Loan Owner Trust No. 1997-4; FirstPlus Home Loan Owner Trust No. 1998-1; FirstPlus Home Loan Owner Trust No. 1998-2; FirstPlus Home Loan Owner Trust No. 1998-3; FirstPlus Home Loan Owner Trust No. 1998-4; FirstPlus Home Loan Owner Trust No. 1998-5; FirstPlus Home Loan Trust 1996-2; FirstPlus Home Loan Owner Trust 1996-3; FirstPlus Home Loan Owner Trust 1996-4; FirstPlus Home Loan Owner Trust 1997-1; Real Time Resolutions, Inc.; German American Capital Corporation; Master Financial, Inc.; Residential Funding Corporation; Sovereign Bank; U.S. Bank National Association, N.D.; GRMT Mortgage Loan Trust 2001; and UBS Warburg Real Estate Securities, Inc. f/k/a Paine Webber Real Estate Securities, Inc.

**Bank** means FirstPlus Bank.

**Bank Litigation Courts** means collectively the state and Federal courts in where Direct and Indirect Actions are pending against the Bank as of December 31, 2002.

**Bank Litigation States** means collectively the states in which Direct and Indirect Actions are pending as of December 31, 2002.

**Bank Stock** means the issued and outstanding capital stock of the Bank owned by the Trust.

**Bankruptcy Code** means Title 11 of the United States Code.

**Bankruptcy Court** means the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, or in the event such court ceases to exercise jurisdiction over the Debtor’s chapter 11 case, or such court as may have jurisdiction with respect to the reorganization of the Debtor under chapter 11 of the Bankruptcy Code.

**Bankruptcy Case** means the Debtor’s bankruptcy case pending in the Bankruptcy Court.

**Cash** means lawful currency of the United States of America.

**Charged Off Loans** means any loans or judgments owned by the Bank but not reflected on the Bank's balance sheet dated February 28, 2003.

**Claimant** means the party asserting a Claim.

**Debtor** means FirstPlus Financial, Inc., the reorganized chapter 11 debtor in case no. 99-31869-HCA-11.

**Department** means the California Department of Financial Institutions.

**DIDA Order** means (i) an order or judgment of the District Court, the Court of Appeals for the 7<sup>th</sup> Circuit, the United State Supreme Court or any other court presiding over Illinois Litigation that adjudicates the issue of rate exportation or approves a settlement without adjudicating the issue of rate exportation as to which the time to appeal, petition for *certiorari* or move for reargument or rehearing has expired and to which no appeal, petition for *certiorari*, or proceedings for reargument or rehearing shall then be pending or, (ii) in the event an appeal, writ of *certiorari*, reargument or rehearing thereof has been sought, such order shall have been affirmed by the highest court to which such order was appealed, or *certiorari* has been denied, or from which a reargument or rehearing was sought, and the time to take any further appeal, petition for *certiorari* or move for reargument or rehearing shall have expired; provided, that no order shall fail to be a DIDA Order solely because of the possibility that a motion pursuant to Rule 60 of the Federal Rule of Civil Procedure or other similar rule of procedure may be filed with respect to such order.

**Direct Action(s)** means collectively the four class action lawsuits in which the Bank is named as a defendant. In particular, they include: (1) *Adkison v. FirstPlus Bank*, No. CV100-3174-CC (Mo. Cir. Ct., Clay Co.); (2) *Hill v. FirstPlus Bank*, No. CV01-1892R (W.D. Wash.) [consolidated with No. C01-1004R]; (3) *Dundon v. FirstPlus Bank*, No. 01-408-GPM (S.D. Ill.); and (4) *Cheek v. FirstPlus Bank*, No. 6:01CV00044 (W.D. Va.).

**Document Retention Fund** shall have the meaning given in paragraph 10 of the Agreement.

**Final Order** means (i) an order or judgment of the Bankruptcy Court, the Liquidation Court, or those necessary orders from the courts presiding over any Direct or Indirect Action or any other court or adjudicative body as to which the time to appeal, petition for *certiorari*, or move for reargument or rehearing has expired and as to which no appeal, petition for *certiorari*, or other proceedings for reargument or rehearing shall then be pending or, (ii) in the event that an appeal, writ of *certiorari*, reargument, or rehearing thereof has been sought, such order shall have been affirmed by the highest court to which such order was appealed, or *certiorari* has been denied, or from which reargument or rehearing was sought, and the time to take any further appeal, petition for *certiorari* or move for reargument or rehearing shall have expired; provided, that no order

shall fail to be a Final Order solely because of the possibility that a motion pursuant to Rule 60 of the Federal Rule of Civil Procedure or other similar rule of procedure may be filed with respect to such order.

**FirstPlus Securitization Trusts** means each and every FirstPlus Home Loan Trust or FirstPlus Home Loan Owner Trust named as a defendant in any of the Direct, Indirect or Other Class Actions.

**FPB Loan Pool** means the loans that were held and owned and serviced by Bank as of February 28, 2003, including any principal payments, any other proceeds therefrom (excluding interest) after February 28, 2003, and all interest earned therefrom after all necessary orders are obtained pursuant to paragraphs 1 and 2 of the Agreement. These loans consist of a mix of HLTV loans, non-HLTV loans, FHA Title One loans, first deed-of-trust loans, commercial loans, recreational vehicle loans, and other loans. As of February 28, 2003, the net value of the FPB Loan Pool, after reserves, according to the Bank's balance sheet, was \$6,656,647 in net loan receivables. The balance sheet does not reflect, and the "FPB Loan Pool" therefore, does not include, any Charged Off Loans.

**Hill/Cheek Action** means the lawsuit styled *Jay Hill and Kimberly Hill, Michael Cheek and Deborah Cheek, on their own behalf and on behalf of others similarly situated, v. FirstPlus Bank*, filed in the Orange County Superior Court on October 11, 2002, bearing initial case number of 02CC00296. The "Hill/Cheek Action" shall and hereby does include any and all amended pleadings served subsequent to that "Class Action Complaint for Damages and Restitution."

**Hill/Cheek Case** means the lawsuit styled *Jay Hill and Kimberly Hill; Edward Mott and Tracy Mott; on their own behalf on behalf of all other similarly situated v. FirstPlus Bank, et al.*, Case No. CV01 1892P, filed the United States District Court for the Western District of Washington on November 21, 2001, containing the following class definition:

The Class consists of all person who obtained second mortgage loans from one of the constituent entities of FirstPlus Group secured by real property from January 1, 1996 through the present who were not provided with timely disclosures as required by the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.* ("TILA") and Federal Reserve Board Regulation A, 12 C.F.R. § 226, and all such person who were charged origination fees in excess of the rate set forth in the Consumer Loan Act RCW 31.04.005 *et seq.*, and/or were charged interest rates in excess of the interest rate set forth in the Washington Usury Law, RCW 19.52.030, for loans secured by real property in the state of Washington.

Excluded from the Class are Defendants, any entity in which any Defendant has a controlling interest, and Defendants' legal representatives, assigns, successors, officers, and employees. Also excluded are the judge to whom the case is

assigned and any member of the judge's immediate family. Also excluded are persons whose loans are secured by real property in the states of Illinois, Indiana, Maryland, Michigan, Missouri, North Carolina, Pennsylvania, Tennessee or Virginia. Also excluded is any person who timely opts out of this proceeding and any person who has given a valid release of the claims asserted in this suit.

**Hill/Cheek Claim** means the four claims filed as part of the Liquidation Proceeding and assigned claim numbers 764, 765, 867, and 868 by the claims administrator.

**Hill/Cheek Class** means the class that is being certified for settlement purposes pursuant to paragraph 4(1) of this Agreement.

**Hill/Cheek Counsel** means the law firms of Richardson, Patrick, Westbrook & Brickman, Hitchcock, Bowman & Schachter, Michie Hamlett Lowry Rasmussen & Tweel, P.C, and Tousley Brain Stephens, P.L.L.C.

**Hill/Cheek Plaintiffs** means Jay and Kimberly Hill, Michael and Deborah Cheek, on their own behalf and on behalf of others similarly situated, and any other persons whom the *Hill/Cheek* Counsel decide may be added as named plaintiffs for purposes of certifying a class for settlement purposes.

**HLTV Loan(s)** means Home Equity Loan(s) which, at the time of origination, had combined loan-to-value (LTV) ratios (combining both the first and second liens) in excess of 90% and as high as 125%.

**Home Equity Loan** means a first or second lien mortgage used by homeowners to borrow against the equity in their properties.

**Illinois Litigation** means *Dundon v. FirstPlus Bank*, No. 01-408-GPM (S.D. Ill.).

**Indemnity Claims** means any and all Claims asserted against the Bank by any direct or indirect assignee of any HLTV Loan, including but not limited Claims asserted by US Bank, Paine Webber, German American Capital Corporation and any FirstPlus Securitization Trust and their respective assignees.

**Indirect Action(s)** means collectively the four class action lawsuits in which only the Assignee Defendants, or some of them, have been named as defendants, not the Bank. In some of these Indirect Actions, the Bank has been named as a cross-defendant or third-party defendant. In particular, the Indirect Actions include: (1) *Harper v. FirstPlus Home Loan Owner Trust 1996-2, et al.*, No. 01-118287-CZ (Wayne Co., Mich., Circuit Ct.); (2) *Dash v. FirstPlus Home Loan Owner Trust 1996-2, et al.*, No. 1:01 CV 00923 (U.S.D.C., M.D. N.C.); (3) *Westell v. FirstPlus Bank, et al.*, No. GD-01-6841 (Allegheny Co., Penn., Court of Common Pleas); and (4) *Williams v. FirstPlus Bank, et al.*, No. 01-2901 (U.S.D.C., W.D. Tenn.).

**Liquidation Court** means the Superior Court for the State of California, Orange County California, or any appellate court, that has jurisdiction over the Liquidation Proceeding.

**Liquidation Proceeding** means the proceeding filed by the Bank on October 30, 2001 styled *In the Matter of the Dissolution of FirstPlus Bank*, Case No. 01CC13911 pending in Superior Court for the State of California, Orange County, California, including the various related actions filed under as part of the same case caption.

**Named Plaintiffs** means those Plaintiffs who are named as parties in the Liquidation Proceeding that is Jay and Kimberly Hill, Michael and Deborah Cheek, Stephen Q and Codi J. Adkinson, and Joseph Dunden.

**Net Interest** means interest earned on loans less reserves for loan losses under the Bank's existing reserve policies.

**Other Class Actions** means collectively those putative class actions other than the Direct and Indirect Actions that have been brought on account of HLTV Loans owned by or asserted to be owned by various of the Assignee Defendants or others and including without limitation, any actions which may have some affect, directly or indirectly, on any rights of or claims against the Debtor or the Trust or the assets or former assets of the Debtor or the Trust.

**Parties** means the signatories to this Agreement, as well as all persons or entities in privity with them.

**Person** means an individual, corporation, partnership, trust, business trust association, joint stock company, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, governmental authority, or any other form of entity not specifically listed herein.

**Petition Date** means October 30, 2001, the date of filing of the Liquidation Proceeding.

**Plaintiffs** means all individual consumer borrowers who received an HLTV Loan originated by the Bank when residing in the United States of America, including but not limited to the Bank Litigation States, unless the scope of such term is limited by context to a smaller geographical region or specific Direct, Indirect or Other Class Action.

**Plaintiffs' Counsel** shall mean Richardson, Patrick, Westbrook and Brickman, L.L.C., Walters, Bender, Strohhahn & Vaughan PC and Lawson & Fields, PC on behalf of themselves and any affiliated counsel in the Direct and Indirect Actions. **[To revise later]**

**Plan** means the Debtor's confirmed Plan of Reorganization under chapter 11 of the Bankruptcy Code.

**Preserve Information** means the preservation of any and all records, whether in hard copy or electronic format, pertaining to any Bank or Debtor borrower and relevant to a particular Direct, Indirect or Other Class Action, including the maintenance of existing storage facilities (or their equivalent) and existing computer equipment and using best efforts to retain existing personnel to operate such computer equipment (it being understood that the Bank will go out of business pursuant to this Agreement); provided, preservation shall not require the Bank or Trust to: (1) acquire new computer software equipment; (2) update, debug, or otherwise modify or improve existing computer equipment or software; (3) index, restore, classify, re-assemble or produce documents except as they presently exist and are presently indexed, classified or assembled; or (4) hire additional personnel.

**Professional** means a professional employed in the Bank in connection with the Liquidation Proceeding, the State Court Actions, or operations of the Bank.

**Professional Fees** are actual cost to the Bank to compensate or reimbursement of expenses of a Professional.

**Settlement Fund** means that fund established pursuant to paragraph 7 of the Agreement.

**Trust** means The FPGI Creditor Trust.

**Trustee** means David T. Obergfell, the Trustee of the Trust, and any successor trustee appointed pursuant to Section 3.8 of The FPGI Creditor Trust Agreement.

**Trust Motion** means the Trust's Second Amended Motion (1) To Enforce Plan Injunction and (2) For Sanctions for Violation of Plan Injunction and joinder thereto by FirstPlus Financial, Inc. as amended or as it may be amended.

**Unknown Claims** shall have the meaning given in paragraph 8(b) of the Agreement.

**US Bank** means U.S. Bank National Association N.D.