SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement") is made as of this 9th day of December, 2008, by, between, and among the following undersigned parties:

The Plaintiff Federal Deposit Insurance Corporation ("FDIC"), as receiver of NetBank, Alpharetta, GA; and Felita Williams and Williams Financial, LLC fka Delta Mortgage Group, Inc. (collectively the "Settling Defendants") (individually, the FDIC, and the Settling Defendants may be referred to herein as "Party" and collectively as the "Parties").

RECITALS

WHEREAS:

Prior to September 27, 2008, NetBank ("Bank") was a depository institution organized and existing under the laws of the United States;

On September 27, 2008, the Bank was closed by the Office of Thrift Supervision and pursuant to 12 U.S.C. § 1821(c), the FDIC was appointed receiver. In accordance with 12 U.S.C. § 1821(d), the FDIC as receiver succeeded to all rights, titles, powers and privileges of the Bank, including those with respect to its assets.

Among the assets to which the FDIC as receiver succeeded were any and all of the Bank's claims, demands, and causes of actions against its brokers and title companies arising from the performance, nonperformance and manner of performance of their respective functions, duties and acts for the Bank.

On August 28, 2006, NetBank filed a complaint for money damages against certain persons, including the Settling Defendants, who had acted as mortgage brokers in the transactions referenced in said complaint. On October 20, 2008, after the FDIC had been appointed receiver of the Bank, the District Court for the Eastern District of Missouri granted the FDIC's request to substitute itself as the real party in interest in this action. Those claims for damages are now pending in the United States District Court for the Eastern District of Missouri in *FDIC v. Williams* CASE NO.: 4 06 CV 01295 HEA (the "Mortgage Broker Action"). The

Settling Defendants have denied liability for the FDIC's claims.

The undersigned parties deem it in their best interests to enter into this Agreement to avoid the uncertainty, trouble, and expense of further litigation.

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

SECTION I: Payment to FDIC

A. As an essential covenant and condition to this Agreement, the Settling Defendants and the FDIC agree to enter into a joint motion for consent judgment against Felita Williams and Williams Financial, LLC fka Delta Mortgage Group, Inc. in the amount of one hundred fifty one thousand three hundred and eighty seven dollars ($151,387.00), plus post judgment interest at the rate of .93% from the date the judgment is entered through the date that the judgment is fully satisfied. The form of the Joint Motion for Consent Judgment is attached hereto, identified as Exhibit 1 and incorporated herein by this reference. Settling Defendants shall execute, through their attorney, the attached Joint Motion for Consent Judgment on or before December 26, 2008. In addition, as an essential covenant and condition to this Agreement and upon the execution of an original, or originals in counterpart, of this Agreement by each of the undersigned Parties to this Agreement, but no later than December 26, 2008, Felita Williams will tender a payment in the amount of one thousand dollars ($1,000.00) ("Lump Sum Payment"). If the Lump Sum Payment is not timely made interest shall accrue thereon starting on December 27, 2009 and continuing through the date of payment, calculated at the simple rate of ten percent (10%) percent per annum. The Lump Sum Payment shall be delivered to FDIC by certified or cashier's check drawn upon a depository institution acceptable to FDIC.

B. In addition, and without waiving any other rights that the FDIC may have, in the event that the Lump Sum Payment and an executed copy of the Joint Motion for Consent Judgment are not both received by the FDIC on or before January 5, 2009, then, the FDIC, in its sole discretion, shall have the right to declare this Agreement null and void, shall have the right to extend this Agreement for any period of time until the Lump Sum Payment (including all accrued interest) and executed Joint Motion for Consent Judgment is received, and/or shall have the right to enforce this Agreement, expressly including the right to specific performance, against the Settling Defendants, in which event the Settling Defendants agree to jurisdiction in Federal District Court in Missouri in this case and agree to pay all of the FDIC's actual attorney's fees expended in enforcing the terms of this Agreement.

C. The FDIC has the right to initiate post judgment discovery and post judgment remedies against Felita Williams and her property immediately upon the execution of this Settlement Agreement. These rights will cease ten (10) years after December 2, 2008, on December 1, 2018.

D. If Felita Williams should file for relief under any chapter of the Bankruptcy Code, the debt evidenced by this Agreement shall be deemed non-dischargeable and presentation of this Settlement Agreement shall be *prima facie* and irrefutable evidence of said non-dischargeability.

SECTION II: Releases

A. Release of Individual Settling Defendants by FDIC.

Effective upon the payment of the settlement funds the FDIC, for itself and its successors and assigns, hereby releases and discharges each of the Settling Defendants and their respective heirs, executors, administrators, representatives, successors and assigns, from any and all claims, demands, obligations, damages, actions, and causes of action, direct or indirect, in law or in equity, belonging to the FDIC, that arise from or relate to, the performance, nonperformance, or manner of performance of the Settling Defendants' respective functions, duties and actions as alleged in the Mortgage Broker Action.

B. Release of FDIC by the Settling Defendants.

Effective simultaneously with the release granted in PARAGRAPH II.A. above, the

Settling Defendants, on behalf of themselves individually, and their respective heirs, executors, administrators, agents, representatives, successors and assigns, hereby release and discharge FDIC, and its employees, officers, directors, representatives, successors and assigns, from any and all claims, demands, obligations, damages, actions, and causes of action, direct or indirect, in law or in equity, that arise from or relate to causes of action alleged in the Mortgage Broker Action.

C. Express Reservations From Releases By FDIC.

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

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

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

c. which are not expressly released in Paragraph II.A.

2. Notwithstanding any other provision, nothing in this Agreement shall be construed or interpreted as limiting, waiving, releasing or compromising the jurisdiction and authority of the FDIC in the exercise of its supervisory or regulatory authority or to diminish its ability to institute administrative enforcement proceedings seeking removal, prohibition or any other administrative enforcement action.

3. Notwithstanding any other provision, this Agreement does not purport to waive, or intend to waive, any claims which could be brought by the United States through either the Department of Justice, the United States Attorney's Office for the District of Missouri or any other federal judicial district. In addition, the FDIC specifically reserves the right to seek court ordered restitution pursuant to the relevant provisions of the Victim and Witness Protection Act,

18 U.S.C. § 3663, et. seq., if appropriate.

4. Settling Defendants recognize FDIC's requirement to cooperate with local and/or federal law enforcement agencies.

SECTION III: Representations and Acknowledgements

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

B. Binding Effect. Each of the undersigned persons represents and warrants that they are a party hereto or are authorized to sign this Agreement on behalf of the respective party, and that they have the full power and authority to bind such party to each and every provision of this Agreement. This Agreement shall be binding upon and inure to the benefit of the undersigned parties and their respective heirs, executors, administrators, representatives, successors and assigns.

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

D. Entire Agreement and Amendments. This Agreement constitutes the entire agreement and understanding between and among the undersigned parties concerning the matters set forth herein. This Agreement may not be amended or modified except by another written instrument signed by the party or parties to be bound thereby, or by their respective authorized attorney(s) or other representative(s). Time is of the essence in this Agreement.

E. Specific Representations Warranties and Disclaimer. The settling parties expressly acknowledge that in determining to settle the claims released here, the FDIC has reasonably and justifiably relied upon the accuracy of financial information in the affidavits submitted. If, in their affidavits, the settling parties have failed to disclose any interest, legal, equitable, or beneficial, in any asset, the settling parties agree to cooperate fully with the FDIC to transfer their interest in the asset to the FDIC and to sign any and all documents necessary to transfer their interest in the asset to the FDIC. Moreover, if, in their affidavits the settling parties have failed to disclose any interest, legal, equitable, or beneficial, in any asset, the FDIC in its sole discretion, may exercise one or more or all of the following remedies: (a) the FDIC may declare the releases granted to the settling parties as null and void; (b) the FDIC may retain the Settlement Funds; (c) the FDIC may sue the settling parties for damages, an injunction, and specific performance for the breach of this agreement; and (d) the FDIC may seek to vacate any dismissal order and reinstate the FDIC's claims against the settling parties. The settling parties agree that if, in their affidavits, they have failed to disclose any interest, legal, equitable, or beneficial, in any asset, the settling parties consent to the reinstatement of FDIC's claims and waive any statute of limitations that would bar any of the FDIC's claims against them.

F. <u>Reasonable Cooperation.</u>

1. The undersigned parties agree to cooperate in good faith to effectuate all the terms and conditions of this Settlement Agreement, including doing or causing their agents and attorneys to do, whatever is reasonably necessary to effectuate the signing, delivery, execution, filing, recording, and entry, of any documents necessary to perform the terms of this Agreement.

2. Further, the Settling Defendants agree to cooperate fully with the FDIC in connection with any action required under this Agreement. Any such cooperation that involves any out of pocket costs is subject to reasonable reimbursement by the FDIC pursuant to its internal guidelines and policy for such reimbursement. Such cooperation shall consist of:

a. producing all documents requested by the FDIC, without the necessity of subpoena, as determined by the FDIC, in its sole discretion, to be relevant to the Bank;

b. making themselves available upon request by the FDIC at reasonable times and places for interviews regarding facts, as determined by the FDIC in its sole discretion, to be relevant to the Bank;

c. appearing to testify, upon request by the FDIC, in any matter determined by the FDIC in its sole discretion, to be related to the Bank, without the necessity of subpoena;

d. signing truthful affidavits upon request by the FDIC, regarding any matter, as determined by the FDIC in its sole discretion, to be relevant to the Bank.

G. <u>Advice of Counsel.</u> Each party hereby acknowledges that it has consulted with and obtained the advice of counsel prior to executing this Agreement, and that this Agreement has been explained to that party by his or her counsel.

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

(b)(6)

FEDERAL DEPOSIT INSURANCE CORPORATION

(b)(6)

Date: 1/26/08

BY: [redacted]
Emily [redacted]
Supervisory Counsel

[redacted]

Date: 12/19/2008

Felita Williams

(b)(6)

Date: 12/19/2008

Wi[redacted]

BY[redacted]
Felita Williams, President