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12
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

14 MAUREEN HARROLD, individually and on
15 behalf of all others similarly situated,

16 Plaintiff,

17 v.

18 MUFG UNION BANK, N.A.,

19 Defendant.
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Case No. BC680214

**(Assigned for All Purpose to the Honorable
Yvette M. Palazuelos, Dept. 9)**

**PLAINTIFF'S SECOND
SUPPLEMENTAL MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF UNOPPOSED MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: January 25, 2024
Time: 10:00 a.m.

Action Filed: October 19, 2017

Amended Complaint Filed: July 29, 2020
Trial Date: None Set

1 Plaintiff files this supplemental brief in response to the Court’s September 5, 2023 Tentative
2 Ruling (“Order”) regarding Plaintiff’s Unopposed Motion for Preliminary Approval of Class Action
3 Settlement (“Motion”), in which the Court requested revisions to the Settlement Agreement and
4 Releases and the Notices.¹ Attached as *Exhibit A* is the Amended Settlement Agreement and
5 Releases executed by the Parties, including the revised Email Notice/Postcard Notice and Long
6 Form Notice attached as Exhibits 1 and 2 to the Agreement. Attached as *Exhibit B* is a redlined
7 version of the Amended Settlement Agreement and Releases showing the changes from the original
8 Settlement Agreement, including the revised Email Notice/Postcard Notice and Long Form Notice.
9 The Parties believe they have addressed all matters addressed in the Order, and Plaintiff respectfully
10 requests entry of the Preliminary Approval Order without a hearing.

11 Specifically, in accordance with the Court’s Order, the parties made the following changes
12 to the original settlement agreement and notices:

13 **1. Revise the settlement and notice to disclose the *cy pres* to the class.**

14 Paragraph 107.c. of the Agreement now references California Jump\$tart Coalition as the
15 proposed *cy pres* recipient. Question 15 on the Long Form Notice also discloses that information.

16 **2. Revise the releases in ¶¶109 and 115 so that the releases only take place upon the full
17 funding/payment of the settlement.**

18 Paragraph 109 of the Agreement is now paragraph 108 and has been revised accordingly.

19 Paragraph 115 has been eliminated from the original Agreement because the Releases will
20 not be effective before Settlement Class Member Payments are made to the Settlement Class
21 Members. See *Ex. B* at p. 29.

22 **3. Revise the Notice:**

23 **a. Ensure that the notice provides the maximum requested deductions. The
24 Court cannot award any costs or fees not disclosed in the notice to the class.**

25 The Email Notice/Postcard Notice (Ex. 1 to Agreement) and the Long Form Notice (Ex. 2
26

27 ¹ The capitalized terms used herein are defined and have the same meaning as used in the Settlement
28 Agreement and Releases attached to the Motion as *Exhibit A* unless otherwise stated.

1 to Agreement) have been revised to identify “not to exceed” numbers for Class Counsel’s attorneys’
2 fees and their litigation costs, both of which will be deductions from the Settlement Fund. (*See Ex.*
3 *B* Notices at p. 40 (Email Notice/Postcard Notice) and p. 45 (Long Form Notice).) The maximum
4 Incentive Award to be requested for the Class Representative also appears in the Notices. (*Id.* at p.
5 40 (Email Notice/Postcard Notice) and p. 45 (Long Form Notice).)

6 **b. Ensure that the notice discloses the fee split.**

7 The Email/Short-Form Notice (Ex. 1 to Agreement) and the Long-Form Notice (Ex. 2 to
8 Agreement) have been revised to state the following fee split, subject to the Court’s approval:
9 McCune Law Group and The Kick Law Firm, APC will collectively receive 25% of the total
10 attorneys’ fees or their relative lodestar, whichever is greater; Tycko and Zavareei LLP and
11 Kopelowitz Ostrow P.A. will each receive 40% of the remainder of the attorneys’ fees; and
12 KalieGold PLLC will receive the final 20% of the attorneys’ fees. *See Ex. B* redlined Notices at p.
13 40 (EmailNotice/Postcard Notice) and p. 45 (Long Form Notice).)

14 ****

15 After Plaintiff and Defendant MUFG Union Bank, National Association reached an
16 agreement to settle this Action, U.S. Bank National Association acquired MUFG Union Bank,
17 National Association, so the real party in interest in the Action is now U.S. Bank National
18 Association, as successor in interest to MUFG Union Bank, National Association. Thus, the Parties
19 to the Amended Settlement Agreement and Releases are Plaintiff and U.S. Bank National
20 Association, as successor in interest to MUFG Union Bank, National Association. The amended
21 Agreement includes numerous revisions to reflect the change to the real party in interest.

22 **4. Conclusion.**

23 Based on the foregoing and the evidence and arguments in the Motion itself, as well as the
24 Supplemental Memorandum of Points and Authorities in Support of Unopposed Motion for
25 Preliminary Approval of Class Action Settlement filed on August 15, 2023, Plaintiff respectfully
26 requests the Court grant Preliminary Approval of the Agreement and enter the proposed Preliminary
27 Approval Order filed contemporaneously with the Motion. When the Court does so and sets the
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1 Final Approval Hearing date (no sooner than 180 days after the Court grants Preliminary Approval),
2 the Parties will submit a version of the proposed Preliminary Approval Order that fills in the
3 deadlines preceding the Final Approval Hearing consistent with Section V of the Motion.

4 DATED: December 29, 2023

TYCKO & ZAVAREEI LLP

5 By: 
6 Andrea Gold (*Pro Hac Vice*)

7 *Attorneys for Plaintiff Maureen Harrold*

8 DATED: December 29, 2023

KOPELOWITZ OSTROW P.A.

9
10 By: 
11 Jonathan M. Streisfeld (*Pro Hac Vice*)

12 *Attorneys for Plaintiff Maureen Harrold*

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EXHIBIT A

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

MAUREEN HARROLD, on behalf of herself
and all others similarly situated,

Plaintiff,

vs.

MUFG UNION BANK, N.A.,

Defendant.

CASE NO. BC680214

AMENDED SETTLEMENT AGREEMENT AND RELEASES

This Amended Settlement Agreement and Releases (“Settlement” or “Agreement”)¹, dated as of December 5, 2023, is entered into by Plaintiff, Maureen Harrold, individually and on behalf of the Settlement Class, and Defendant, U.S. Bank National Association as successor in interest to MUFG Union Bank, National Association. The Parties hereby agree to the following terms in full settlement of the Action, subject to Final Approval by the Superior Court for the State of California.

I. Recitals

1. On October 19, 2017, Plaintiff filed the Action and alleged that MUFG Union Bank, National Association (“Union Bank”) charged Overdraft Fees on Debit Card Transactions that authorized against a positive balance but settled against a negative balance due to intervening charges. Plaintiff alleged that this practice is prohibited by the terms of Union Bank’s standardized “All About Personal Account & Services Disclosure and Agreement” (hereinafter “Account Agreement”).

¹ All capitalized terms herein have the meanings ascribed to them in Section II or various places in the Agreement.

2. On February 13, 2018, Plaintiff served her First Set of Requests for Production and First Set of Special Interrogatories on Union Bank, which were directed as issues regarding the arbitration provision and enforceability thereof. Union Bank served its responses on March 23, 2018. This led to the production of copies of the relevant versions of the Account Agreement and production of other documents pertaining to Plaintiff's Account relationship.

3. On March 2, 2018, Union Bank filed a Motion to Compel Arbitration on the basis that the Account Agreement included an arbitration provision mandating individual arbitration of Plaintiff's claims. On April 30, 2018, Plaintiff filed a Response in Opposition to the Motion to Compel Arbitration. On May 14, 2018, Union Bank filed its Reply in support of its Motion to Compel Arbitration.

4. On May 30, 2018, the Court heard oral argument on the Motion to Compel Arbitration and granted the Motion, ruling that the Parties agreed in the Account Agreement to delegate the authority to determine the enforceability of the arbitration provision to the arbitrator.

5. On August 15, 2018, Plaintiff submitted her Demand for Arbitration, wherein she incorporated her Complaint. On September 4, 2018, Union Bank submitted its Response to Plaintiff's Demand for Arbitration. On October 16, 2018, the Honorable Candace Cooper was appointed as the Arbitrator in the matter.

6. On February 5, 2019, the Superior Court action was transferred from Judge John Shepard Wiley to Judge Yvette M. Palazuelos.

7. On March 7, 2019, Plaintiff submitted her Amended Demand for Arbitration in the Arbitration, attached to which was Plaintiff's First Amended Class Action Complaint, and her Motion to Declare Arbitration Agreement Unenforceable before Arbitrator Cooper. On April 29, 2019, Union Bank submitted its Opposition to the Motion to Declare Arbitration Agreement Unenforceable. On May 13, 2019, Plaintiff submitted her Reply in support of the Motion to

Declare Arbitration Agreement Unenforceable.

8. On May 21, 2019, Arbitrator Cooper held a hearing on the Motion to Declare Arbitration Agreement Unenforceable.

9. On June 12, 2019, Plaintiff filed a Notice of Supplemental Authority in support of her Motion to Declare Arbitration Agreement Unenforceable. On June 21, 2019, Union Bank filed its Response to the Notice of Supplemental Authority.

10. On July 2, 2019, Plaintiff filed a Second Notice of Supplemental Authority in support of her Motion to Declare Arbitration Agreement Unenforceable. On July 19, 2019, Union Bank filed its Response to the Second Notice of Supplemental Authority.

11. On August 19, 2019, Arbitrator Cooper entered an Order denying Plaintiff's Motion to Declare Arbitration Agreement Unenforceable.

12. On September 4, 2019, Arbitrator Cooper held a status conference in the matter, wherein counsel for Plaintiff sought permission to file a supplemental brief on the "poison pill" issue raised in her Motion to Declare Arbitration Clause Unenforceable. The Arbitrator permitted further briefing and both Parties submitted supplemental briefing. That briefing concluded on September 20, 2019.

13. On December 15, 2019, Arbitrator Cooper issued her Supplemental Order re Arbitrability, wherein she ruled that because the waiver of public injunctive relief in the arbitration agreement was unenforceable, the "poison pill" provision rendered the entire arbitration provision null and void. Arbitrator Cooper thus rescinded portions of her prior Order regarding Arbitrability and dismissed the Arbitration.

14. On March 3, 2020, counsel for Plaintiff submitted a declaration in Superior Court regarding the status of the case, including the arbitration rulings made, and sought a lift of the stay of proceedings. On March 6, 2020, counsel for Union Bank submitted a Response and Objection

to the Declaration of Plaintiff's counsel. On March 10, 2020, Counsel for Plaintiff submitted her Reply.

15. On March 24, 2020, Union Bank filed a Motion to Vacate the Arbitration Award and, on April 9, 2020, Plaintiff filed her Opposition. Union Bank filed its Reply on June 4, 2020. On July 23, Plaintiff filed a Notice of Supplemental Authority.

16. On July 27, 2020, the Court denied Defendant's Motion to Vacate Arbitration Award. The Court lifted the stay of the proceedings and ordered that Plaintiff's First Amended Complaint be filed and served within 5 court days.

17. Plaintiff filed with the Court and served her First Amended Complaint on July 28, 2020.

18. On September 14, 2020, Union Bank filed its Answer to the First Amended Complaint, which included a general denial of the allegations and affirmative defenses.

19. Union Bank notified Plaintiff of its intent to move to reassign the case to a judicial referee under California Code of Civil Procedure Section 638, which Plaintiff opposed. The Parties submitted briefing on Defendant's Motion to Compel Judicial Reference, which was fully briefed as of February 1, 2021. The Court issued its tentative ruling on the Motion for Judicial Reference on February 4, 2021, to which the Parties submitted. That tentative ruling became the Order of the Court on February 8, 2021. The Court granted the Motion to Compel Judicial Reference.

20. The Parties met and conferred at length as to the identification and appointment of a Judicial Referee and, on April 13, 2021, submitted a Joint Status Report wherein they agreed to proceed in judicial reference before the Honorable Rita "Sunny" Miller (Ret.). Judge Miller was appointed as the Judicial Referee on April 21, 2021.

21. The Parties began exploring settlement and, thus, delayed starting the judicial reference proceedings on the merits of Plaintiff's claims. Those settlement talks did not progress,

and, on November 18, 2021, the Parties submitted a Joint Status Report asked to move forward with the judicial reference proceedings.

22. On November 12, 2021, Plaintiff served her Second Set of Interrogatories and Second Set of Requests for Production, to which Union Bank responded on January 19, 2022.

23. On November 30, 2021, the Parties had a case management conference with Judge Miller, during which Union Bank raised its intent to move for judgment on the pleadings. Thereafter, on December 10, 2021, the Parties submitted a Stipulation Regarding the Case Schedule to Judge Miller and, on December 13, 2021, Judge Miller entered an Order approving the proposed schedule.

24. On January 25, 2022, Union Bank filed its Motion for Judgment on the Pleadings.

25. On February 14, 2022, Plaintiff and Union Bank submitted a joint stipulation to stay the case pending mediation. They had re-engaged in settlement discussion and agreed to a private mediation.

26. Judge Miller entered an Order staying the case pending mediation on March 21, 2022, which Order stayed the time for Plaintiff to respond to the Motion for Judgment on the Pleadings.

27. In addition to arbitration-related discovery, which resulted in the production of all relevant Account agreements for the Class Period, Plaintiff and Union Bank engaged in informal discovery regarding an estimate of the aggregate amount of relevant overdraft fees assessed during the Class Period as well as analyzed and estimated the most probable calculation of damages recoverable by Plaintiff and the Class.

28. Plaintiff and Union Bank participated in a full-day mediation on April 22, 2022, with mediator Robert Meyer, Esq. of JAMS. They reached an agreement in principle to settle the matter, with the material terms memorialized in a Term Sheet dated May 4, 2022.

29. Plaintiff and Union Bank filed a Joint Status Report on May 5, 2022, confirming their agreement in principle and requesting that the Court continue the stay of all deadlines in the Action.

30. Following the stay of all deadlines in the Action, Plaintiff and Union Bank worked together to obtain the necessary Account-level transaction data for Plaintiff's expert to analyze to identify Accountholders in the Settlement Class and their respective APSN Fees. Plaintiff's expert has completed that analysis.

31. Plaintiff and Union Bank agreed to settle the Action in its entirety, without any admission of liability, with respect to all Released Claims of every Releasing Party (definitions below). U.S. Bank National Association thereafter acquired Union Bank, so the Defendant in the Action is now U.S. Bank National Association, as successor in interest to Union Bank. The Parties intend this Agreement to bind Plaintiff, Defendant, and all Settlement Class Members.

NOW, THEREFORE, in light of the foregoing, for good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Parties agree, subject to approval by the Court, as follows.

II. Definitions

In addition to the terms defined at various points within this Agreement, the following Defined Terms apply throughout this Agreement:

32. "Account" means any consumer checking account that was maintained by Union Bank in California.

33. "Accountholder" means any person who has or had any interest, whether legal or equitable, in an Account during the Class Period, and includes Current Accountholders and Past Accountholders.

34. "Action" means *Harrold v. Union Bank, N.A.*, Superior Court of California, Case

No. BC680214.

35. “APSN Fees” means Overdraft Fees that Union Bank charged and did not refund on Debit Card Transactions, during the Class Period, where there was a positive available balance at the time the transaction was authorized, but an insufficient balance at the time the transaction was presented to Union Bank for payment and posted to an Accountholder’s Account.

36. “Class Counsel” means:

KOPELOWITZ OSTROW P.A.
Jonathan M. Streisfeld, Esq.
1 West Las Olas Blvd.
Suite 500
Fort Lauderdale, FL 33301

TYCKO & ZAVAREEI, LLP
Andrea R. Gold, Esq.
1828 L Street NW
Suite 1000
Washington, DC 20036

and such other counsel as are identified in Class Counsel’s request for attorneys’ fees and costs.

37. “Class Period” means the period from October 19, 2013 through February 28, 2019.

38. “Class Representative” means Maureen Harrold.

39. “Court” means the Superior Court for the State of California.

40. “Current Accountholder” means a Settlement Class Member who had an Account that migrated to and is maintained at U.S. Bank (defined below) as of the date of Preliminary Approval or the Effective Date as specified herein.

41. “Debit Card” means a card or similar device issued or provided by Union Bank, including a debit card, check card, or automated teller machine (“ATM”) card, that can or could be used to debit funds from an Account by Point of Sale and/or ATM transactions.

42. “Debit Card Transaction” means a Point of Sale or ATM transaction using a Debit Card.

43. “Defendant” or “U.S. Bank” means U.S. Bank National Association, as successor in interest to MUFG Union Bank, National Association.

44. “Effective Date” shall be the later of: (1) 10 days after the time period has expired to appeal the judgment entered after the entry of the Final Approval Order without any appeal or motion to vacate judgment being filed; or (2) if an appeal of the judgment entered after the entry of Final Approval Order is taken, then the earlier of 10 days after the entry of an order dismissing the appeal or 10 days after the appeal has been finally resolved in the appellate court of last resort without any right to appeal or seek further review from another appellate court.

45. “Email Notice” means a short form of notice that shall be sent by email to Accountholders in the Settlement Class who agreed to receive account statements by email in the form attached as *Exhibit 1*.

46. “Escrow Account” means the interest-bearing account to be established by the Settlement Administrator consistent with the terms and conditions described in Section IV below.

47. “Final Approval” means the date that the Court enters the Final Approval Order granting final approval to the Settlement and determines the amount of attorneys’ fees and costs awarded to Class Counsel and the amount of any Incentive Award to the Class Representative.

48. “Final Approval Hearing” is the hearing held before the Court wherein the Court will consider granting Final Approval to the Settlement and further determine the amount of attorneys’ fees and costs awarded to Class Counsel and the amount of any Incentive Award to the Class Representative.

49. “Final Approval Order” means the final order that the Court enters granting Final Approval to the Settlement. The proposed Final Approval Order shall be in a form agreed upon by the Parties and shall be substantially in the form attached as an exhibit to the motion for Final Approval. Final Approval Order also includes the orders, which may be entered separately, determining the amount of attorneys’ fees and costs awarded to Class Counsel and the amount of any Incentive Award to the Class Representative.

50. “Incentive Award” means any Court ordered payment to Plaintiff for serving as Class Representative, which is in addition to any payment due Plaintiff as a Settlement Class Member.

51. “Long Form Notice” means the form of notice that shall be posted on the Settlement Website and shall be available to the Settlement Class by mail on request made to the Settlement Administrator in the form attached as *Exhibit 2*.

52. “Net Settlement Fund” means the Settlement Fund, minus Court approved attorneys’ fees and costs to Class Counsel and any Court approved Incentive Award to Plaintiff.

53. “Notice” means the notices that the Parties will ask the Court to approve in connection with the motion for Preliminary Approval of the Settlement.

54. “Notice Program” means the methods provided for in this Agreement for giving the Notice and consists of Postcard Notice, Email Notice, and Long Form Notice, which shall be substantially in the forms as the exhibits attached to the motion for Preliminary Approval.

55. “Opt-Out Period” means the period that begins the day after the earliest date on which the Notice is first distributed, and that ends no later than 30 days before the Final Approval Hearing. The deadline for the Opt-Out Period will be specified in the Notice.

56. “Overdraft Fee” means any fee assessed to an Accountholder for items paid when the Account has insufficient funds.

57. “Party” means each of Plaintiff or Defendant, and “Parties” collectively means Plaintiff and Defendant.

58. “Past Accountholder” means a Settlement Class Member who had an Account that did not migrate to U.S. Bank and/or was closed as of the date of Preliminary Approval or the Effective Date as specified herein.

59. “Plaintiff” means Maureen Harrold.

60. “Postcard Notice” shall mean the short form of notice that shall be sent by mail to Accountholders in the Settlement Class who did not agree to receive notices by email, or for whom the Settlement Administrator is unable to send Email Notice using the email address provided by Defendant, in the form attached as *Exhibit 1*.

61. “Preliminary Approval” means the date that the Court enters, without material change, an order preliminarily approving the Settlement, substantially in the form of the exhibit attached to the motion for Preliminary Approval.

62. “Preliminary Approval Order” means the order granting Preliminary Approval of this Settlement.

63. “Releases” means all the releases contained in Section XII.

64. “Released Claims” means all claims to be released as specified in Section XII.

65. “Released Parties” means Defendant and each of its present and former parents, subsidiaries, divisions, affiliates, predecessors, successors and assigns, and the present and former directors, officers, employees, agents, insurers, members, attorneys, advisors, consultants, representatives, partners, joint venturers, independent contractors, wholesalers, resellers, distributors, retailers, predecessors, successors, and assigns of each of them.

66. “Releasing Party” means each Settlement Class Member, and each of his or her respective executors, representatives, heirs, predecessors, assigns, beneficiaries, successors, bankruptcy trustees, guardians, joint tenants, tenants in common, tenants by entireties, agents, attorneys, and all those who claim through the Settlement Class Member or on the Settlement Class Member’s behalf.

67. “Settlement Administrator” means Kroll Settlement Administration LLC. Settlement Class Counsel and Defendant may, by agreement, substitute a different organization as Settlement Administrator, subject to approval by the Court if the Court has previously approved

the Settlement preliminarily or finally. In the absence of agreement, either Settlement Class Counsel or Defendant may move the Court to substitute a different organization as Settlement Administrator, upon a showing that the responsibilities of Settlement Administrator have not been adequately executed by the incumbent.

68. “Settlement Administration Costs” means all costs and fees of the Settlement Administrator regarding notice and settlement administration.

69. “Settlement Class” means all MUFG Union Bank, National Association consumer checking Accountholders in California who were assessed one or more APSN Fee during the Class Period. Excluded from the Settlement Class is Defendant, its parents, subsidiaries, affiliates, officers, and directors; all Accountholders in the Settlement Class who make a timely election to be excluded by opting-out; and all judges and judicial referees assigned to these proceedings and their immediate family members.

70. “Settlement Class Member” means Plaintiff and any member of the Settlement Class who has not opted-out of the Settlement and who is entitled to the benefits of the Settlement, including a Settlement Class Member Payment.

71. “Settlement Class Member Payment” means the cash distribution that will be made from the Net Settlement Fund to each Settlement Class Member, pursuant to the payment allocation terms of the Settlement.

72. “Settlement Fund” means the \$5,000,000.00 common cash fund Defendant is obligated to pay under the Settlement. The Settlement Fund will be funded into an escrow account established by the Settlement Administrator within 10 days of the Court’s entry of the Preliminary Approval Order.

73. “Settlement Website” means the website that the Settlement Administrator will establish as a means for the Settlement Class to obtain notice of and information about the

Settlement, through and including hyperlinked access to this Agreement, the Long Form Notice, Preliminary Approval Order, Final Approval Order, final judgment, and such other documents as the Parties agree to post or that the Court orders posted on the website. These documents shall remain on the Settlement Website at least until Final Approval. The URL of the Settlement Website shall be www.harroldunionbankoverdraftlitigation.com, or such other URL as Class Counsel and Defendant agree upon in writing. The Settlement Website shall not include any advertising and shall not bear or include the Defendant's logo or Defendant's trademarks.

III. Certification of the Settlement Class

74. For Settlement purposes only, Plaintiff will file, and Defendant will not oppose, a motion consistent with this Agreement to certify the Settlement Class under CAL. R. CT. 3.769(d).

IV. Settlement Consideration and Escrow Account

75. Subject to approval by the Court, Defendant shall establish a cash Settlement Fund of \$5,000,000.00 and separately further pay the Settlement Administration Costs. The Settlement Fund shall be used to pay Settlement Class Members their respective Settlement Class Member Payments; any and all attorneys' fees and costs awarded to Class Counsel; any Incentive Award to the Class Representative; and any *cy pres* payment required under this Agreement. Defendant shall not be responsible for any other payments under this Agreement.

76. The Settlement Fund shall be paid by Defendant into the Escrow Account within 10 days of Preliminary Approval.

77. The funds in the Escrow Account shall be deemed a "qualified settlement fund" within the meaning of United States Treasury Reg. § 1.468B-1 at all times since creation of the Escrow Account. All taxes (including any estimated taxes, and any interest or penalties relating to them) arising with respect to the income earned by the Escrow Account or otherwise, including any taxes or tax detriments that may be imposed upon Defendant, Defendant's counsel, Plaintiff,

and/or Class Counsel with respect to income earned by the Escrow Account, for any period during which the Escrow Account does not qualify as a “qualified settlement fund” for the purpose of federal or state income taxes or otherwise (collectively “Taxes”), shall be paid out of the Escrow Account. Defendant and Defendant's counsel and Plaintiffs and Class Counsel shall have no liability or responsibility for any of the Taxes. The Escrow Account shall indemnify and hold Defendant and Defendant’s counsel and Plaintiff and Class Counsel harmless for all Taxes (including, without limitation, Taxes payable by reason of any such indemnification).

78. Plaintiff agrees that all of her Accounts (including any Accounts she holds jointly with others) with Defendant will be closed within 60 calendar days of the date of the execution of this Agreement.

V. Settlement Approval

79. Upon execution of this Agreement by all Parties, Class Counsel shall promptly move the Court for an order granting Preliminary Approval of this Settlement. The proposed Preliminary Approval Order that will be attached to the motion shall be in a form agreed upon by Class Counsel and Defendant. The motion for Preliminary Approval shall, among other things, request that the Court: (1) approve the terms of the Settlement as within the range of fair, adequate, and reasonable; (2) provisionally certify the Settlement Class pursuant to CAL. R. CT. 3.769(d) for settlement purposes only; (3) approve the Notice Program set forth herein and approve the form and content of the Notices of the Settlement; (4) approve the procedures set forth herein below for Accountholders in the Settlement Class to opt-out from the Settlement Class or to object to the Settlement; (5) stay the Action pending Final Approval of the Settlement; and (6) schedule a Final Approval Hearing for a time and date mutually convenient for the Court, Class Counsel, and counsel for Defendant, at which the Court will conduct an inquiry into the fairness of the Settlement, determine whether it was made in good faith, and determine whether to approve the

Settlement and Class Counsel's application for attorneys' fees and costs and for an Incentive Award to the Class Representative.

VI. Discovery and Settlement Data

80. Class Counsel and Union Bank engaged in certain informal discovery related to liability and damages. Additionally, for purposes of effectuating the Settlement, Union Bank made available to Class Counsel and its expert, certain data for the entirety of the Class Period that allowed Plaintiff's expert to determine the Accountholders in the Settlement Class and ultimately the amount of alleged Settlement Class Member damages. Because Plaintiff's expert did not have access to Accountholders in the Settlement Class names or Account numbers, Plaintiff's expert provided his results to Union Bank, which created a list of Accountholders in the Settlement Class and their electronic mail and postal addresses. Defendant will provide that list to the Settlement Administrator to provide Notice and for use in distributing Settlement Class Member Payments.

VII. Settlement Administrator

81. The Settlement Administrator shall administer various aspects of the Settlement as described in the next paragraph hereafter and perform such other functions as are specified for the Settlement Administrator elsewhere in this Agreement, including, but not limited to, effectuating the Notice Program and distributing the Settlement Fund as provided herein.

82. The duties of the Settlement Administrator, in addition to other responsibilities that are described in the preceding paragraph and elsewhere in this Agreement, are as follows:

a. Use the name and address information for Accountholders in the Settlement Class provided by Defendant in connection with the Notice Program approved by the Court, for the purpose of distributing the Postcard Notice and sending the Email Notice, and later mailing distribution checks to Past Accountholder Settlement Class Members, and to Current Accountholder Settlement Class Members where it is not feasible or reasonable for Defendant to

make the payment by a credit to the Settlement Class Members' Accounts;

b. Establish and maintain a post office box for requests to opt-out from the Settlement Class;

c. Establish and maintain the Settlement Website;

d. Establish and maintain an automated toll-free telephone line for Accountholders in the Settlement Class to call with Settlement-related inquiries, and answer the frequently asked questions of the Settlement Class who call with or otherwise communicate such inquiries;

e. Respond to any mailed Settlement Class inquiries;

f. Process all opt-out requests from the Settlement Class;

g. Provide weekly reports to Class Counsel and Defendant's counsel that summarizes the number of opt-out requests received that week, the total number of opt-out requests received to date, and other pertinent information;

h. In advance of the Final Approval Hearing, prepare an affidavit to submit to the Court confirming that the Notice Program was completed, describing how the Notice Program was completed, providing the names of each Accountholder in the Settlement Class who timely and properly opted-out from the Settlement Class, and other information as may be necessary to allow the Parties to seek and obtain Final Approval.

i. Distribute Settlement Class Member Payments by check to Past Accountholder Settlement Class Members;

j. Provide to Defendant the amount of the Settlement Class Member Payments to Current Accountholder Settlement Class Members from the Settlement Fund and instruct Defendant to initiate the credits by direct deposit of Settlement Class Member Payments to Current Accountholder Settlement Class Members.

k. If residual funds exist after the first distribution, repay Defendant for the amount of

Settlement Administration Costs it paid;

l. Pay invoices, expenses, and costs upon approval by Class Counsel and Defendant, as provided in this Agreement; and

m. Any other Settlement-administration-related function at the instruction of Class Counsel and Defendant's counsel, including, but not limited to, verifying that the Settlement Funds has been distributed.

83. The Settlement Administrator provided a reasonable estimated bid to administer the Notice Program and otherwise perform the duties of Settlement Administrator required by this Agreement (see <https://www.kroll.com/en/services/settlement-administration>). The reasonableness of the bid accounts for the direct costs associated with the Notice Program and the later distribution of Settlement Class Member Payments following entry of the Final Approval Order, and the hourly rates for the work of the Settlement Administrator to perform the tasks required by this Agreement are competitively priced. The Settlement Administrator has procedures in place to protect the security of class data and adequate insurance in the event of a data breach or defalcation of funds.

84. Defendant shall pay the Settlement Administration Costs. Residual Funds, if any, shall be paid first to Defendant to reimburse it for these costs as indicated in Section XI.

VIII. Notice to Settlement Class

85. As soon as practicable after Preliminary Approval of the Settlement, at the direction of Class Counsel and Defendant's counsel, the Settlement Administrator shall implement the Notice Program provided herein, using the forms of Notice approved by the Court. The Notice shall include, among other information: a description of the material terms of the Settlement; a date by which Accountholders in the Settlement Class may exclude themselves from or "opt-out" of the Settlement Class; a date by which Settlement Class Members may object to the Settlement;

the location and date of the Final Approval Hearing; and the address of the Settlement Website at which Accountholders in the Settlement Class may access this Agreement and other related documents and information. Class Counsel and Defendant shall insert the correct dates and deadlines in the Notice before the Notice Program commences, based upon those dates and deadlines set by the Court in the Preliminary Approval Order. Notices provided under or as part of the Notice Program shall not bear or include the Defendant's logo or trademarks or the return address of Defendant, or otherwise be styled to appear to originate from Defendant. The Long Form Notice will be translated to Spanish language and a Spanish language notation will be made on the Postcard Notice and Email Notice regarding the available translated Long Form Notice.

86. The Notice also shall include a procedure for members of the Settlement Class to opt-out of the Settlement Class. An Accountholder in the Settlement Class may opt-out of the Settlement Class at any time during the Opt-Out Period, provided the opt-out notice is postmarked no later than the last day of the Opt-Out Period. Requests to opt-out of the Settlement must be mailed to the Settlement Administrator. Any Accountholder in the Settlement Class who does not timely and validly request to opt-out shall be bound by the terms of this Agreement. If an Account has more than one Accountholder, and if one Accountholder opts-out himself or herself from the Settlement Class, then all Accountholders on that Account shall be deemed to have opted-out of the Settlement with respect to that Account, and no Accountholder shall be entitled to a payment under the Settlement.

87. The Notice also shall include a procedure for Settlement Class Members to make a written objection to the Settlement and/or to Class Counsel's application for attorneys' fees and costs and/or Incentive Award for the Class Representative. Written objections to the Settlement, to the application for fees and costs, and/or to the Incentive Award must be mailed to the Settlement Administrator and not filed with the Court. For a written objection to be considered by the Court,

the objection must be submitted no later than the last day of the Opt-Out Period, as specified in the Notice. If submitted by mail, a written objection shall be deemed to have been submitted when posted if received with a postmark date indicated on the envelope if mailed first-class postage prepaid and addressed in accordance with the instructions. If submitted by private courier (*e.g.*, Federal Express), an objection shall be deemed to have been submitted on the shipping date reflected on the shipping label.

88. Written objections should include the following:

- a. the name of the Action;
- b. the objector's full name, address, and telephone number;
- c. all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel;
- d. a statement confirming whether the objector or any counsel for the objector intends to personally appear and/or testify at the Final Approval Hearing; and
- e. the objector's signature (an attorney's signature is not sufficient).

89. Notice shall be provided to Accountholders in the Settlement Class in three different ways: (a) Email Notice to Accountholders for whom Defendant has email addresses; (b) Postcard Notice to those Accountholders for whom Defendant does not have email addresses; and (c) Long Form Notice with greater detail than the Email Notice and Postcard Notice, which shall be available on the Settlement Website and/or via mail upon request by an Accountholder in the Settlement Class. Not all Accountholders in the Settlement Class will receive all three forms of Notice, as detailed herein.

90. The Email Notice, Postcard Notice, and Long Form Notice shall be in forms approved by the Court, and substantially similar to the notice forms attached hereto as *Exhibits 1* and *2*. The Parties may by mutual written consent make non-substantive changes to the Notices

without Court approval.

91. Defendant has made available the necessary data to Class Counsel's expert to determine the Accountholders in the Settlement Class. Defendant will bear the expense of extracting the necessary data made available to Class Counsel's expert for analysis, and Class Counsel shall be responsible for paying Class Counsel's expert, who analyzed the data provided to determine the Accountholders in the Settlement Class and the amount of the Settlement Class's alleged damages.

92. Once the Settlement Administrator has the list for Accountholders in the Settlement Class, the Settlement Administrator shall send out Email Notice to all Accountholders in the Settlement Class receiving Notice by that method. For those Accountholders in the Settlement Class for whom Defendant does not have email addresses, the Settlement Administrator shall run the physical addresses provided by Defendant through the National Change of Address Database and shall mail to all such Accountholders in the Settlement Class Postcard Notice. The initial Mailed Postcard and Email Notice shall be referred to as "Initial Mailed Notice."

93. The Settlement Administrator shall perform reasonable address traces for Initial Mailed Notice postcards that are returned as undeliverable. By way of example, a "reasonable" tracing procedure would be to run addresses of returned postcards through the Lexis/Nexis database that can be utilized for such purpose. No later than 60 days before the Final Approval Hearing, the Settlement Administrator shall complete the re-mailing of Postcard Notice to those Accountholders in the Settlement Class whose new addresses were identified as of that time through address traces ("Notice Re-mailing Process"). The Settlement Administrator shall also send Postcard Notice to all Accountholders in the Settlement Class whose emails were returned as undeliverable and complete such Notice pursuant to the deadlines described herein as they relate to the Notice Re-mailing Process. The Opt-Out Period shall be extended for a period of 15 days

for any Accountholder in the Settlement Class that is sent a Postcard Notice as part of the Notice Re-mailing Process.

94. The Notice Program shall be completed no later than 60 days before the Final Approval Hearing.

95. The Settlement Administrator shall maintain a database showing mail and email addresses to which each Notice was sent and any Notices that were not delivered by mail and/or email. In addition to weekly updates to the Parties regarding the progress of the Notice Program and the declaration or affidavit by the Settlement Administrator in advance of the Final Approval Hearing and in support of the motion for Final Approval, a summary report of the Notice Program shall be provided to the Parties three days prior to the Final Approval Hearing. The database maintained by the Settlement Administrator regarding the Notices shall be available to the Court upon request. It shall otherwise be confidential and shall not be disclosed to any third party as it contains bank account information for each member of the Settlement Class. Protecting bank account information is in the best interest of the Settlement Class.

96. Costs related to the Notice Program shall be paid by Defendant. Residual Funds, if any, shall be paid first to Defendant to reimburse it for these costs, as indicated in Section XI.

97. Within the provisions set forth in this Section VIII, further specific details of the Notice Program shall be subject to the agreement of Class Counsel and Defendant.

IX. Final Approval Order and Judgment

98. Plaintiff's motion for Preliminary Approval of the Settlement will include a request to the Court for a scheduled Final Approval Hearing date and location. Plaintiff shall file her motion for Final Approval of the Settlement no later than 45 days before the Final Approval Hearing. At the Final Approval Hearing, the Court will hear argument on Plaintiff's motion for Final Approval of the Settlement, and on Class Counsel's application for attorneys' fees and costs

and for the Incentive Award for the Class Representative. In the Court's discretion, the Court also will hear argument at the Final Approval Hearing from any Settlement Class Members (or their counsel) who object to the Settlement or to Class Counsel's application for attorneys' fees and costs or the Incentive Award application. If the date or location of the Final Approval Hearing changes, that information will be included on the Settlement Website for the Settlement Class's benefit. Notice to Settlement Class Members of final judgment will be posted on the Settlement Website.

99. At or following the Final Approval Hearing, the Court will determine whether to enter the Final Approval Order granting Final Approval of the Settlement and final judgment thereon, and whether to approve Class Counsel's application for attorneys' fees and costs and Incentive Award for the Class Representative. Such proposed Final Approval Order shall, among other things:

- a. Determine that the Settlement is fair, adequate, and reasonable;
- b. Finally certify the Settlement Class for settlement purposes only;
- c. Determine that the Notice provided satisfies Due Process requirements;
- d. Bar and enjoin every Releasing Party from asserting any of the Released Claims; bar and enjoin every Releasing Party from pursuing any Released Claims against Defendant or its affiliates at any time, including during any appeal from the Final Approval Order; and retain jurisdiction over the enforcement of the Court's injunctions;
- e. Release Defendant and the other Released Parties from the Released Claims; and
- f. Reserve the Court's continuing and exclusive jurisdiction over the Parties to this Agreement, including Defendant, all Settlement Class Members, and all objectors, to administer, supervise, construe, and enforce this Agreement in accordance with its terms.

X. Calculation and Disbursement of Settlement Class Member Payments

100. The calculation and implementation of payment allocations of the Settlement Fund shall be done by Class Counsel and its expert for the purpose of compensating Settlement Class Members. The methodology provided for herein will be applied to the data as consistently, sensibly, and conscientiously as reasonably possible, recognizing and taking into consideration the nature and completeness of the data and the purpose of the computations. Consistent with its contractual, statutory, and regulatory obligations to maintain the security of and protect its customers' private financial information, Defendant made available such data and information as was reasonably needed by Class Counsel and its expert to confirm and/or effectuate the calculations and payment allocations contemplated by this Agreement. Class Counsel shall confer with Defendant's counsel concerning any additional data and information needed.

101. The Net Settlement Fund shall be paid *pro rata* to the Settlement Class Members using the following calculation:

a. The dollar amount of the Net Settlement Fund divided by the total number of APSN Fees paid by all members of the Settlement Class, which yields a per-fee amount;

b. Multiply the per-fee amount by the total number of APSN Fees for each Settlement Class Member; and

c. This results in the individual Settlement Class Member Payment amount.

102. The Parties agree the foregoing payment allocation formula is exclusively for purposes of computing, in a reasonable and efficient fashion, the amount of any Settlement Class Member Payment each Settlement Class Member should receive from the Net Settlement Fund. The fact that this payment allocation formula will be used is not intended and shall not be used for any other purpose or objective whatsoever.

103. To estimate the dollar amount that Settlement Class Members will receive, the

Parties agree that the best estimate of the per-fee amount is \$8.14, which is calculated by multiplying \$33.00 (OD Fee amount charged throughout the Class Period) by 37% (estimated percentage of recovery from the settlement) and then reducing that amount by 33.33% (the maximum amount that Class Counsel are entitled to seek for attorneys' fees). The actual per-fee amount that will be included in the Settlement Class Member Payments will be slightly reduced by the additional award of Class Counsel's litigation costs and the Incentive Award to the Class Representative.

104. Within 15 days after the Effective Date, the Settlement Administrator shall identify to Defendant the full amount of Settlement Class Member Payments, along with the amount of each Settlement Class Member Payment to be credited to Current Accountholders' Accounts.

105. As soon as practicable but no later than 60 days from the Effective Date, Defendant and the Settlement Administrator shall distribute the Net Settlement Fund to Settlement Class Members, as follows:

a. Settlement Class Member Payments to Current Accountholders shall be made by a credit to those Accountholders' U.S. Bank National Association accounts maintained at the time of the credit. The Settlement Administrator shall transfer the funds necessary for Defendant to make these credits at least 10 days before Defendant's deadline to make the credits. Defendant shall notify Current Accountholders of any such credit on the Account statement on which the credit is reflected by stating "APSN Fee Refund" or something similar. Defendant will bear any costs associated with implementing the credits and notification required by this paragraph. If by the deadline for Defendant to apply credits of Settlement Class Member Payments to Current Accountholders' Accounts, Defendant is unable to complete certain credits, or it is not feasible or reasonable to make the payment by a credit, Defendant shall deliver the total amount of such unsuccessful Settlement Class Member Payment credits to the Settlement Administrator to be paid by check in accordance

with subparagraph b. below.

b. Settlement Fund Payments to Past Accountholders will be made by check with an appropriate legend, in a form approved by Class Counsel and Defendant's counsel, to indicate that it is from the Settlement Fund. Checks will be cut and mailed by the Settlement Administrator and will be sent to the addresses that the Settlement Administrator identifies as valid. Checks shall be valid for 180 days. For jointly held Accounts, checks will be payable to all Accountholders, and will be mailed to the first Accountholder listed on the Account. The Settlement Administrator will make reasonable efforts to locate the proper address for any intended recipient of Settlement Funds whose check is returned by the Postal Service as undeliverable (such as by running addresses of returned checks through the Lexis/Nexis database that can be utilized for such purpose), and will re-mail it once to the updated address, or, in the case of a jointly held Account, and in the Settlement Administrator's discretion, to an Accountholder other than the one listed first. In the event of any complications arising in connection with the issuance or cashing of a check, the Settlement Administrator shall provide written notice to Class Counsel and Defendant's counsel. Absent specific instructions from Class Counsel and Defendant's counsel, the Settlement Administrator shall proceed to resolve the dispute using its best practices and procedures to ensure that the funds are fairly and properly distributed to the person or persons who are entitled to receive them. All costs associated with the process of printing and mailing the checks and any accompanying communication to Past Accountholders shall be borne by Defendant.

106. The amount of the Net Settlement Fund attributable to uncashed or returned checks sent by the Settlement Administrator shall be held by the Settlement Administrator for up to one year from the date that the Settlement Administrator mails the first distribution check. During this time, the Settlement Administrator shall make a reasonable effort to locate intended recipients of Settlement Class Member Payments whose checks were returned (such as by running addresses of

returned checks through the Lexis/Nexis database that can be utilized for such purpose) to effectuate delivery of such checks. The Settlement Administrator shall make only one such additional attempt to identify updated addresses and re-mail or re-issue a distribution check to those for whom an updated address was obtained.

XI. Disposition of Residual Funds

107. Within one year after the date the Settlement Administrator mails the first Settlement Class Member Payment, any remaining amounts resulting from uncashed checks (“Residual Funds”) shall be distributed as follows:

a. First, any Residual Funds shall be payable to Defendant for the amount that it paid for Settlement Administration Costs.

b. Second, any Residual Funds remaining after distribution shall be distributed on a *pro rata* basis to participating Settlement Class Members who received Settlement Class Member Payments, to the extent feasible and practical in light of the costs of administering such subsequent payments, unless the amounts involved are too small to make individual distributions economically feasible or other specific reasons exist that would make such further distributions impossible or unfair. Should such a second distribution be made, Current Accountholders shall receive an Account credit and Past Accountholders will receive a check. Any second distribution checks shall be valid for 90 days.

c. Third, in the event the costs of preparing, transmitting and administering such subsequent payments to Settlement Class Members do not make individual distributions economically feasible or practical or other specific reasons exist that would make such further distributions impossible or unfair, or if such a second distribution is made and Residual Funds still remain, Class Counsel and Defendant shall seek the Court’s approval to distribute the Residual Funds to a *cy pres* recipient in accordance with California Code of Civil Procedure Section 384.

The Parties shall propose California JumpStart Coalition (<https://cajumpstart.org/about-us>) as the *cy pres* recipient, an entity that is a nonprofit organization or foundation to support projects that will benefit the Settlement Class or similarly situated persons and works to promote financial literacy in California. The Parties counsel shall identify their lack of interest or involvement in the governance or work of the *cy pres* recipient in a declaration supporting the request to approve the *cy pres* recipient.

d. Within 30 days after the date on which checks issued from the first distribution are no longer valid, the Parties shall submit a report to the Court identifying the total amount that was actually paid to Settlement Class and whether the Parties request approval of a second distribution or whether instead the *cy pres* payment should be made. The report will also request Court-approval of the *cy pres* recipient(s) for any residual funds that remain following the second distribution or that should immediately be paid in the event that there will be no second distribution. The final judgment shall be amended for that purpose pursuant to California Code of Civil Procedure Section 384.

e. All costs of any second distribution, including Defendant's internal costs of crediting Settlement Class Member Accounts, shall come from the Residual Funds, and Defendant is not required to pay these costs as Settlement Administration Costs. Costs for delivery of Residual Funds to a *cy pres* recipient shall also come from the Residual Funds.

XII. Releases

108. As of the date Defendant completes an Account credit for a Settlement Class Member Payment or the date the Settlement Administrator sends a Settlement Class Member Payment by check, the Releasing Party shall automatically be deemed to have fully and irrevocably released and forever discharged the Released Parties of and from any and all liabilities, rights, claims, actions, causes of action, demands, damages, costs, attorneys' fees, losses and remedies,

whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, based on contract, tort or any other theory, that result from, arise out of, are based upon, or relate to the conduct, omissions, duties or matters during the Class Period that were or could have been alleged in the Action relating to the assessment of APSN Fees by Defendant (“Released Claims”).

109. Each Settlement Class Member is barred and permanently enjoined from bringing on behalf of themselves, or through any person purporting to act on their behalf or purporting to assert a claim under or through them, any of the Released Claims against Defendant in any forum, action, or proceeding of any kind.

110. With respect to all Released Claims, Plaintiff agrees that she is expressly waiving and relinquishing to the fullest extent permitted by law (a) the provisions, rights and benefits conferred by Section 1542 of the California Civil Code, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

and (b) any law of any state or territory of the United States, federal law or principle of common law, or of international or foreign law, that is similar, comparable or equivalent to Section 1542 of the California Civil Code.

111. Plaintiff or any Settlement Class Member may hereafter discover facts other than or different from those that he/she knows or believes to be true with respect to the subject matter of the claims released herein, or the law applicable to such claims may change. Nonetheless, each of those individuals expressly agrees that, as of the Effective Date, he/she shall have automatically and irrevocably waived and fully, finally, and forever settled and released any known or unknown,

suspected or unsuspected, asserted or unasserted, liquidated or unliquidated, and contingent or non-contingent claims with respect to all of the matters described in or subsumed by herein. Further, each of those individuals agrees and acknowledges that he/she shall be bound by this Agreement, including by the release herein and that all of their claims in the Action shall be released, whether or not such claims are concealed or hidden; without regard to subsequent discovery of different or additional facts and subsequent changes in the law; and even if he/she never receives actual notice of the Settlement and/or never receives a distribution of funds or credits from the Settlement.

112. In addition to the releases made by Plaintiff and Settlement Class Members above, Plaintiff, including each and every one of her agents, representatives, attorneys, heirs, assigns, or any other person acting on her behalf or for her benefit, and any person claiming through her, makes the additional following general release of all claims, known or unknown, in exchange and consideration of the Settlement set forth in this Agreement. This named Plaintiff agrees to a general release of the Released Parties from all claims, demands, rights, liabilities, grievances, demands for arbitration, and causes of action of every nature and description whatsoever, known or unknown, pending or threatened, asserted or that might have been asserted, whether brought in tort or in contract, whether under state or federal or local law.

113. Nothing in this Agreement shall operate or be construed to release any claims or rights that Defendant has to recover any past, present, or future amounts that may be owed by Plaintiff or by any Settlement Class Member on his/her accounts, loans, or any other debts with Defendant, pursuant to the terms and conditions of such accounts, loans, or any other debts. Likewise, nothing in this Agreement shall operate or be construed to release any defenses or rights of set-off that Plaintiff or any Settlement Class Member has, other than with respect to the claims expressly released by this Agreement, in the event Defendant and/or its assigns seeks to recover

any past, present, or future amounts that may be owed by Plaintiff or by any Settlement Class Member on his/her accounts, loans, or any other debts with Defendant, pursuant to the terms and conditions of such accounts, loans, or any other debts.

XIII. Payment of Attorneys' Fees and Costs and Incentive Award

114. Defendant agrees that Class Counsel shall be entitled to request an award of reasonable attorneys' fee of up to 33.33% of the Settlement Fund and request reimbursement of reasonable costs, to be determined by the Court. Any award of attorneys' fees and costs to Class Counsel shall be payable solely out of the Settlement Fund. The Parties agree that the Court's failure to approve, in whole or in part, any award for attorneys' fees shall not prevent the Settlement Agreement from becoming effective, nor shall it be grounds for termination.

115. The application for attorneys' fees and costs to be awarded to Class Counsel and for an Incentive Award for the Class Representative shall be filed not later than 75 days before the Final Approval Hearing.

116. Within seven days of the Court's entry of the Final Approval Order, the Settlement Administrator shall pay Class Counsel all Court-approved attorneys' fees and costs from the Settlement Fund. In the event the award of attorneys' fees is reduced on appeal, or if the Effective Date does not occur (either because approval of the Settlement is overturned or the Agreement is terminated for any reason), Class Counsel shall reimburse the Settlement Fund, within 10 business days of the entry of the order reducing the fees, overturning the approval of the Settlement on appeal, or the termination of the Agreement, the difference between the amount distributed and the reduced amount (in the event of a reduction) or the entirety of the amount (in the event approval is overturned or the Agreement is terminated).

117. After the attorneys' fees and costs have been paid to Class Counsel by the Settlement Administrator, Class Counsel shall be solely responsible for distributing each Class

Counsel firm's allocated share of such fees and costs to that firm. Defendant shall have no responsibility for any allocation, and no liability whatsoever to any person or entity claiming any share of the funds to be distributed for payment of attorneys' fees and costs or any other payments from the Settlement Fund not specifically described herein.

118. In the event the Effective Date does not occur, or the attorneys' fees or cost award is reduced following an appeal, each counsel and their law firms who have received any payment of such fees or costs shall be jointly and severally liable for the entirety. Further, each counsel and their law firms consent to the jurisdiction of the Court for the enforcement of this provision.

119. Defendant agrees that Class Counsel shall be entitled to request the Court to approve an Incentive Award to the Plaintiff as the Class Representative in an amount up to \$10,000.00, to be approved by the Court. The Incentive Award is to be paid by the Settlement Administrator to the Class Representative within 10 days of the Effective Date. The Incentive Award shall be paid to the Class Representative in addition to Class Representative's Settlement Class Member Payment. The Parties agree that the Court's failure to approve an Incentive Award, in whole or in part, shall not prevent the Settlement Agreement from becoming effective, nor shall it be grounds for termination.

120. The Parties negotiated and reached agreement regarding attorneys' fees and costs and the Incentive Award only after reaching agreement on all other material terms of this Settlement.

XIV. Termination of Settlement

121. This Settlement may be terminated by either Class Counsel or Defendant by serving on counsel for the opposing Party and filing with the Court a written notice of termination within 15 days (or such longer time as may be agreed in writing between Class Counsel and Defendant) after any of the following occurrences:

- a. Class Counsel and Defendant agree to termination;
- b. the Court rejects, materially modifies, materially amends, or changes, or declines to grant Preliminary Approval or Final Approval;
- c. an appellate court vacates or reverses the Final Approval Order, and the Settlement is not reinstated and finally approved without material change by the Court on remand within 360 days after such reversal;
- d. any court incorporates into, or deletes or strikes from, or modifies, amends, or changes, the Preliminary Approval Order, Final Approval Order, or the Settlement in a way that Class Counsel or Defendant seeking to terminate the Settlement reasonably considers material;
- e. the Effective Date does not occur; or
- f. any other ground for termination provided for elsewhere in this Agreement.

122. Defendant also shall have the right to terminate the Settlement by serving on Class Counsel and filing with the Court a notice of termination within 15 days after its receipt from the Settlement Administrator of any report indicating that the number of Accountholders in the Settlement Class who timely opt-out from the Settlement Class equals or exceeds 5% of the total Accountholders in the Settlement Class.

XV. Effect of a Termination

123. The grounds upon which this Agreement may be terminated are set forth herein above. In the event of a termination, this Agreement shall be considered null and void; all of Plaintiff's, Class Counsel's, and Defendant's obligations under the Settlement shall cease to be of any force and effect; and the Parties shall return to the status *quo ante* in the Action as if the Parties had not entered into this Agreement. In addition, in the event of such a termination, all of the Parties' respective pre-Settlement rights, claims and defenses will be retained and preserved.

124. In the event of termination, Defendant shall have no right to seek reimbursement

from Plaintiff's Class Counsel, or the Settlement Administrator, for Settlement Administration Costs paid by Defendant. After payment of any invoices or other fees or costs mentioned in this Agreement that have been incurred and are due to be paid from the Settlement Fund, to the extent any such fees or costs have been incurred given Defendant's obligation to directly pay Settlement Administration Costs, the Settlement Administrator shall return the balance of the Settlement Fund to Defendant within seven calendar days of termination.

125. The Settlement shall become effective on the Effective Date unless earlier terminated in accordance with the provisions hereof.

126. Certification of the Settlement Class shall have no bearing in deciding whether the claims asserted in the Action are or were appropriate for class treatment in the absence of settlement. If this Agreement terminates or is nullified, the provisional class certification shall be vacated by its terms, and the Action shall revert to the status that existed before execution of this Agreement. Thereafter, Plaintiff shall be free to pursue any claims available to her, and Defendant shall be free to assert any defenses available to it, including but not limited to, denying the suitability of this case for class treatment. Nothing in this Agreement shall be argued or deemed to estop any Party from the assertion of such claims and defenses.

127. In the event the Settlement is terminated in accordance with the provisions of this Agreement, any discussions, offers, or negotiations associated with this Settlement shall not be discoverable or offered into evidence or used in the Action or any other action or proceeding for any purpose. In such event, all Parties to the Action shall stand in the same position as if this Agreement had not been negotiated, made, or filed with the Court.

XVI. No Admission of Liability

128. Defendant continues to dispute its liability for the claims alleged in the Action and maintains that its overdraft practices and representations concerning those practices complied, at

all times, with applicable laws and regulations and the terms of the account agreements with its Accountholders. Defendant does not admit any liability or wrongdoing of any kind, by this Agreement or otherwise. Defendant has agreed to enter into this Agreement to avoid the further expense, inconvenience, and distraction of burdensome and protracted litigation, and to be completely free of any further claims that were asserted or could possibly have been asserted in the Action.

129. Class Counsel believe that the claims asserted in the Action have merit, and they have examined and considered the benefits to be obtained under the proposed Settlement set forth in this Agreement, the risks associated with the continued prosecution of this complex, costly, and time-consuming litigation, and the likelihood of success on the merits of the Action. Class Counsel fully investigated the facts and law relevant to the merits of the claims, conducted significant informal discovery, and conducted independent investigation of the challenged practices. Class Counsel concluded that the proposed Settlement set forth in this Agreement is fair, adequate, reasonable, and in the best interests of the Accountholders in the Settlement Class.

130. The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties either previously or in connection with the negotiations or proceedings connected with this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made, or an acknowledgment or admission by any party of any fault, liability, or wrongdoing of any kind whatsoever.

131. Neither the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (a) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim made by the Plaintiff or Accountholders in the Settlement Class, or of any wrongdoing or liability of the Released Parties; or (b) is or may be

deemed to be, or may be used as, an admission of, or evidence of, any fault or omission of any of the Released Parties, in the Action or in any proceeding in any court, administrative agency, or other tribunal.

132. In addition to any other defenses Defendant may have at law, in equity, or otherwise, to the extent permitted by law, this Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit or other proceeding that may be instituted, prosecuted, or attempted in breach of this Agreement or the Releases contained herein.

XIX. Miscellaneous Provisions

133. Gender and Plurals. As used in this Agreement, the masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates.

134. Binding Effect. This Agreement shall be binding upon, and inure to for the benefit of, the successors and assigns of every Releasing Party and the Released Parties.

135. Cooperation of Parties. The Parties to this Agreement agree to cooperate in good faith to prepare and execute all documents, to seek Court approval, uphold Court approval, and do all things reasonably necessary to complete and effectuate the Settlement described in this Agreement.

136. Obligation to Meet and Confer. Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties shall consult with each other and certify to the Court that they have consulted.

137. Integration. This Agreement constitutes a single, integrated written contract expressing the entire agreement of the Parties relative to the subject matter hereof. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any Party

hereto, except as provided for herein.

138. No Conflict Intended. Any inconsistency between the headings used in this Agreement and the text of the paragraphs of this Agreement shall be resolved in favor of the text.

139. Governing Law. Except as otherwise provided herein, the Agreement shall be construed in accordance with, and be governed by, the laws of the State of California, without regard to the principles thereof regarding choice of law.

140. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all Parties do not sign the same counterparts. Original signatures are not required. Any signature submitted by facsimile or through email of an Adobe PDF shall be deemed an original.

141. Jurisdiction. The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain jurisdiction with respect to the administration, consummation, and enforcement of the Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice Program and the Settlement Administrator. As part of their agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose. The Court shall retain jurisdiction over the enforcement of the Court's injunction barring and enjoining every Releasing Party from asserting any of the Released Claims and from pursuing any Released Claims against Defendant or its affiliates at any time, including during any appeal from the Final Approval Order.

142. Notices. All notices to Class Counsel and Defendant's counsel provided for herein,

shall be sent by email with a hard copy sent by overnight mail to:

KOPELOWITZ OSTROW P.A.
Jonathan M. Streisfeld, Esq.
1 West Las Olas Blvd., Suite 500
Fort Lauderdale, Florida 33301
Email: streisfeld@kolawyers.com
Class Counsel

TYCKO & ZAVAREEI, LLP
Andrea Gold, Esq.
1828 L Street Northwest
Suite 1000
Washington, DC 20036
Email: agold@tzlegal.com
Class Counsel

DAVIS WRIGHT TREMAINE LLP
Nancy R. Thomas, Esq.
865 South Figueroa Street
Suite 2400
Los Angeles, CA 90017-2566
Email: nancythomas@dwt.com
Counsel for Defendant

The notice recipients and addresses designated above may be changed by written notice.

Upon the request of any of the Parties, the Parties agree to promptly provide each other with copies of objections, requests for exclusion, or other filings received as a result of the Notice program.

143. Modification and Amendment. This Agreement may not be amended or modified, except by a written instrument signed by Class Counsel and counsel for Defendant and, if the Settlement has been approved preliminarily by the Court, approved by the Court.

144. No Waiver. The waiver by any Party of any breach of this Agreement by another Party shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Agreement.

145. Authority. Class Counsel (for the Plaintiff and the Settlement Class Members), and counsel for Defendant (for Defendant), represent and warrant that the persons signing this

Agreement on their behalf have full power and authority to bind every person, partnership, corporation, or entity included within the definitions of Plaintiff and Defendant to all terms of this Agreement. Any person executing this Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party on whose behalf he or she signs this Agreement to all of the terms and provisions of this Agreement.

146. Agreement Mutually Prepared. Neither Defendant nor Plaintiff, nor any of them, shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

147. Independent Investigation and Decision to Settle. The Parties understand and acknowledge that they: (a) have performed an independent investigation of the allegations of fact and law made in connection with this Action; and (b) that even if they may hereafter discover facts in addition to, or different from, those that they now know or believe to be true with respect to the subject matter of the Action as reflected in this Agreement, that will not affect or in any respect limit the binding nature of this Agreement. Defendant has provided and is providing information that Plaintiff reasonably requests to identify Accountholders in the Settlement Class and the alleged damages they incurred. The Parties agree that this Settlement is reasonable and will not attempt to renegotiate or otherwise void or invalidate or terminate the Settlement irrespective of what any unexamined data later shows. It is the Parties' intention to resolve their disputes in connection with this Action pursuant to the terms of this Agreement now and thus, in furtherance of their intentions, the Agreement shall remain in full force and effect notwithstanding the discovery of any additional facts or law, or changes in law, and this Agreement shall not be subject to rescission or modification by reason of any changes or differences in facts or law, subsequently occurring or otherwise.

148. Receipt of Advice of Counsel. Each Party acknowledges, agrees, and specifically warrants that he, she, or it has fully read this Agreement and the Releases contained herein, received independent legal advice with respect to the advisability of entering into this Agreement and the Releases, and the legal effects of this Agreement and the Releases, and fully understands the effect of this Agreement and the Releases.

Signature Page Follows

Dated: Dec 15, 2023

maureen harrold
maureen harrold (Dec 15, 2023 15:10 PST)

MAUREEN HARROLD
Plaintiff

Dated: Dec 15, 2023

Jonathan Streisfeld
Jonathan Streisfeld (Dec 15, 2023 08:45 EST)

Jonathan M. Streisfeld, Esq.
KOPELOWITZ OSTROW P.A.
Class Counsel

Dated: Dec 15, 2023

Andrea Gold
Andrea Gold (Dec 15, 2023 09:20 EST)

Andrea Gold, Esq.
TYCKO & ZAVAREEI LLP
Class Counsel

Dated: _____

U.S. BANK NATIONAL ASSOCIATION, as
successor in interest to MUFG UNION BANK,
NATIONAL ASSOCIATION

By: _____
ITS _____

Dated: _____

Nancy R. Thomas, Esq.
DAVIS WRIGHT TREMAINE LLP
Counsel for Defendant

Dated: _____

MAUREEN HARROLD
Plaintiff

Dated: _____

Jonathan M. Streisfeld, Esq.
KOPELOWITZ OSTROW P.A.
Class Counsel

Dated: _____

Andrea Gold, Esq.
TYCKO & ZAVAREEI.LLP
Class Counsel

Dated: 12-26-2023

U.S. BANK NATIONAL ASSOCIATION, as
successor in interest to MUFG UNION BANK,
NATIONAL ASSOCIATION

Derek Farrar (Derek Farrar)
By: *SVP Head of Personal Deposits*
ITS _____

Dated: 12-27-2023

Nancy R. Thomas

Nancy R. Thomas, Esq.
DAVIS WRIGHT TREMAINE LLP
Counsel for Defendant

Exhibit 1 – Email and Postcard Notice

Maureen Harrold v MUFG Union Bank, N.A.
Case No. BC680214

NOTICE OF PENDING CLASS ACTION AND PROPOSED SETTLEMENT

IF YOU WERE CHARGED CERTAIN OVERDRAFT FEES ON A UNION BANK CONSUMER CHECKING ACCOUNT FROM OCTOBER 19, 2013 THROUGH FEBRUARY 28, 2019, THEN YOU MAY BE ENTITLED TO A PAYMENT OR CREDIT FROM A CLASS ACTION SETTLEMENT

Para una notificación en español, visite nuestro sitio de web: [\[INSERT WEBSITE ADDRESS\]](#)

This is not a solicitation from a lawyer.

The Superior Court for the State of California, County of Los Angeles has authorized this Notice.

You may be a member of the Settlement Class in *Maureen Harrold v. MUFG Union Bank, N.A.*, in which the Plaintiff, Maureen Harrold, alleges that Defendant MUFG Union Bank, National Association, now succeeded in interest by U.S. Bank National Association (the “Bank”), improperly assessed and collected APSN Fees on certain debit card transactions. The Bank maintains it did nothing wrong, but has agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of litigation. The Court has not decided which side is right.

If you are a member of the Settlement Class and the Settlement is approved, you may be entitled to receive a cash payment from a \$5,000,000.00 Settlement Fund. The Court has preliminarily approved this Settlement. It will hold a Final Approval Hearing on [\[INSERT DATE\]](#). At that hearing, the Court will consider whether to grant Final Approval to the Settlement, and whether to approve payment from the Settlement Fund of up to \$10,000.00 as an Incentive Award to the Class Representative; up to 33.33%, or \$1,666,650.00, of the Settlement Fund as attorneys’ fees; and reimbursement of Class Counsel’s litigation costs not to exceed \$_____. Subject to the Court’s approval, the attorneys’ fees will be split as follows: McCune Law Group and The Kick Law Firm, APC will collectively receive 25% of the total attorneys’ fees or their relative lodestar, whichever is greater; Tycko & Zavareei LLP and Kopelowitz Ostrow P.A. will each receive 40% of the remainder of the attorneys’ fees; and KalielGold PLLC will receive the final 20% of the attorneys’ fees. If the Court grants Final Approval of the Settlement and you do not opt-out from the Settlement, you will release your right to bring any claim covered by the Settlement. In exchange, the Bank has agreed to issue a credit to your Account or a cash payment to you if you are no longer a customer.

To obtain a Long Form class notice and other important documents, please visit [\[INSERT WEBSITE ADDRESS\]](#). Alternatively, you may call [\[INSERT PHONE #\]](#).

If you do not want to participate in this Settlement—you do not want to receive a credit or cash payment and you do not want to be bound by any judgment entered in this case—you may exclude yourself by submitting an opt-out request postmarked no later than [\[PARTIES TO INSERT DATE\]](#). If you want to object to this Settlement because you think it is not fair, adequate, or reasonable, you may object by submitting a written objection postmarked no later than [\[PARTIES TO INSERT DATE\]](#). You may learn more about the opt-out and objection procedures by visiting [\[PARTIES TO PROVIDE WEBSITE ADDRESS\]](#) or by calling [\[Insert Phone #\]](#).

If you do not take any action, you will be legally bound by the Settlement and any orders or judgment entered in the Action, and will fully, finally, and forever give up any rights to prosecute certain claims against the Bank.

Exhibit 2 – Long Form Notice

*Maureen Harrold v MUFG Union Bank, N.A.
Case No. BC680214*

NOTICE OF PENDING CLASS ACTION AND PROPOSED SETTLEMENT

**READ THIS NOTICE FULLY AND CAREFULLY; THE PROPOSED
SETTLEMENT MAY AFFECT YOUR RIGHTS!**

**IF YOU WERE CHARGED CERTAIN OVERDRAFT FEES ON A UNION
BANK CONSUMER CHECKING ACCOUNT FROM OCTOBER 19, 2013
THROUGH FEBRUARY 28, 2019, THEN YOU MAY BE ENTITLED TO A
PAYMENT OR CREDIT FROM A CLASS ACTION SETTLEMENT**

This is not a solicitation from a lawyer.

The Superior Court for the State of California, County of Los Angeles has authorized this Notice.

A Settlement has been reached in a class action lawsuit claiming that MUFG Union Bank, National Association, now succeeded in interest by U.S. Bank National Association, breached its contract with Accountholders and improperly assessed and collected APSN Fees on certain debit card transactions. U.S. Bank National Association, as successor-in-interest to MUFG Union Bank, National Association is referred to in this Notice as “the Bank.” The Bank maintains it did nothing wrong; however, it has agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of litigation. The Court has not decided which side is right.

A cash Settlement Fund of \$5,000,000.00 has been established to pay Settlement Class Member Payments and any attorneys’ fees and costs and Incentive Award ordered by the Court. Current and Past Accountholders assessed APSN Fees by MUFG Union Bank, National Association (“Union Bank”) may be eligible for a Settlement Class Member Payment from the Settlement Fund.

Your legal rights are affected whether you act or don’t act. Read this notice carefully.

SUMMARY OF YOUR OPTIONS AND THE LEGAL EFFECT OF EACH OPTION	
DO NOTHING AND RECEIVE A PAYMENT OR ACCOUNT CREDIT	If you don’t do anything and the Settlement is approved, you will receive a payment or account credit from the Settlement Fund so long as you do not opt-out of or exclude yourself from the Settlement (described in the next box).

<p>OPT-OUT FROM THE SETTLEMENT; RECEIVE NO PAYMENT BUT RELEASE NO CLAIMS</p>	<p>You can choose to exclude yourself from the Settlement or “opt-out.” This means you choose not to participate in the Settlement. You will keep your individual claims against the Bank, but you will not receive a payment or account credit. If you opt-out of the Settlement, but want to recover against the Bank, you will have to file a separate lawsuit or claim.</p>
<p>OBJECT TO THE SETTLEMENT</p>	<p>You may mail an objection to the Settlement Administrator explaining why you believe the Court should reject the Settlement. If the Settlement is approved and your objection is overruled by the Court, then you may receive a payment or account credit, and you will not be able to sue the Bank for the claims asserted in this Action. If the Court agrees with your objection, then the Settlement may not be approved.</p>

These rights and options – *and the deadlines to exercise them* – along with the material terms of the Settlement are explained in this Notice.

The Court in charge of this Action still has to decide whether to approve the Settlement. Payments and account credits will be provided if the Court approves the Settlement and after any appeals, if filed, are resolved. Please be patient.

BASIC INFORMATION

1. What is this lawsuit about?

The lawsuit that is being settled is entitled *Maureen Harrold v. MUFJ Union Bank, N.A.* It is pending in the Superior Court for the State of California, County of Los Angeles, Case No. BC680214. The case is a class action. That means that the Class Representative, Maureen Harrold, is an individual who is acting on behalf of Accountholders who were assessed certain Overdraft Fees called “APSN Fees” from October 19, 2013, through February 28, 2019. APSN Fees means Overdraft Fees that Union Bank charged and did not refund on debit card transactions, during the Class Period, where there was a positive available balance at the time the transaction was authorized, but an insufficient balance at the time the transaction was presented to Union Bank for payment and posted to an Accountholder’s account. The Class Representative has asserted claims for breach of the Account Agreement, violations of the California Unfair Competition Law and California Consumer Legal Remedies Act, and statutory fraud.

The First Amended Complaint in this lawsuit is posted on the Settlement Website and contains all of the allegations and claims asserted against Union Bank. The Bank maintains that it did nothing wrong, but has agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of litigation. The Court has not decided which side is right.

After the end of the class period in this lawsuit, U.S. Bank National Association acquired Union Bank. That is why the real party in interest in the lawsuit is now U.S. Bank National Association,

as successor-in-interest to Union Bank.

2. Why did I receive this Notice of this lawsuit?

You received this Notice because Union Bank's records indicated that you were charged one or more APSN Fees that are the subject of this Action. You may be a member of the Settlement Class. The Court directed that Notice be sent to all Accountholders in the Settlement Class because each such Accountholder has a right to know about the proposed Settlement and the options available to him or her before the Court decides whether to approve the Settlement.

3. Why did the Parties settle?

In any lawsuit, there are risks and potential benefits that come with a trial versus settling at an earlier stage. It is the Class Representative's and her lawyers' job to identify when a proposed settlement offer is good enough that it justifies recommending settling the case instead of continuing to trial. In a class action, the Class Representative's lawyers, known as Class Counsel, make this recommendation to the Class Representative. The Class Representative has the duty to act in the best interests of the class as a whole and, in this case, it is her belief, as well as Class Counsel's opinion, that this Settlement is in the best interest of all Accountholders in the Settlement Class.

In Class Counsel's opinion, there is legal uncertainty about whether a judge or a jury will find that Union Bank was contractually and otherwise legally obligated not to assess the APSN Fees at issue. Even if it was contractually wrong to assess these fees or Union Bank misrepresented the practice, there is uncertainty about whether the Class Representative's claims are subject to other defenses that might result in no or less recovery to Accountholders in the Settlement Class. Even if the Class Representative was to win at trial, there is no assurance that the Accountholders in the Settlement Class would be awarded more than the current Settlement amount and it may take years of litigation before any payments would be made. By settling, and based on Class Counsel's experience, the Accountholders in the Settlement Class will avoid these and other risks and the delays associated with continued litigation.

While the Bank disputes the allegations in the lawsuit and denies any liability or wrongdoing, it enters into the Settlement solely to avoid the cost, delay, and uncertainty of further proceedings in the litigation.

WHO IS IN THE SETTLEMENT

4. How do I know if I am part of the Settlement?

If you received Email Notice or Postcard Notice, then Union Bank's records indicated that you may be a member of the Settlement Class and entitled to receive a payment or credit to your Account.

YOUR OPTIONS

5. What options do I have with respect to the Settlement?

You have three options: (1) do nothing and you will receive a payment or account credit according to the terms of this Settlement; (2) opt-out of the Settlement; or (3) participate in the Settlement, but object to it. Each of these options is described in a separate section below.

6. What are the critical deadlines?

There is no deadline to receive a Settlement payment or account credit. If you do nothing and the Settlement is approved, then you will get a payment or credit.

The deadline for sending a letter to the Settlement Administrator to opt-out of the Settlement is [REDACTED].

The deadline to send a written objection to the Settlement Administrator to object to the Settlement is also [REDACTED].

7. How do I decide which option to choose?

If you do not wish to participate in the Settlement and be sent a payment or account credit and be bound by the release, then you should opt-out. Likewise, if you believe that you could receive more money by pursuing your claims on your own (with or without an attorney that you could hire) and you are comfortable with the risk that you might lose your case or get less than you would in this Settlement, then you may want to consider opting out.

If you believe the settlement is unreasonable, unfair, or inadequate, you can object to the Settlement terms. The Court will consider timely objections. The Court will decide whether to approve the Settlement and the award of attorneys' fees, litigation costs, an Incentive Award, and Settlement Administration Costs. If the Court decides not to approve the Settlement, then the Settlement will be void and no payments or account credits will be issued pursuant to its terms. If the Court approves the Settlement, whether or not it grants the requests for attorneys' fees, litigation costs, an Incentive Award, or Settlement Administration Costs in full, then you will still be sent a payment or receive an account credit and will be bound by the Settlement, including the release of claims.

If you want to participate in the Settlement, then you do not have to do anything; you will be sent a payment or account credit if the Settlement is approved by the Court.

8. What has to happen for the Settlement to be approved?

The Court has to decide that the Settlement is fair, reasonable, and adequate before it will approve it. The Court already has granted Preliminary Approval of the Settlement, which is why you received a Notice. The Court will make a final decision regarding the Settlement at the Final Approval Hearing, which is currently scheduled for [REDACTED], 20[REDACTED]. The location of the hearing is set forth below.

THE SETTLEMENT PAYMENT

9. How much is the Settlement?

The Bank has agreed to create a Settlement Fund of \$5,000,000.00.

As discussed separately below, attorneys' fees (not to exceed \$1,666,650.00), litigation costs (not to exceed \$ _____), and the Incentive Award of up to \$10,000.00 to the Class Representative will be paid out of the Settlement Fund. Assuming all of those requested disbursements are approved in full by the Court, the Net Settlement Fund of \$ _____ will be divided among all Settlement Class Members entitled to Settlement Class Member Payments based on a formula described in the Settlement and stated in response to Question 12 below.

10. How much of the Settlement Fund will be used to pay for attorneys' fees and costs?

Class Counsel will request the Court to approve attorneys' fees of up to \$1,666,650.00 or 33.33% of the Settlement Fund, and will request reimbursement for litigation costs incurred in filing and litigating the Action. Class Counsel will file an application to make this request no later than _____, 202_. Subject to the Court's approval, the attorneys' fees will be split as follows: McCune Law Group and The Kick Law Firm, APC will collectively receive 25% of the total attorneys' fees or their relative lodestar, whichever is greater; Tycko & Zavareei LLP and Kopelowitz Ostrow P.A. will each receive 40% of the remainder of the attorneys' fees; and KalielGold PLLC will receive the final 20% of the attorneys' fees. You will be able to access this application on the Settlement Website or by reviewing it by inserting the case number BC680214 on the Court's online docket at <https://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>. The Court will decide the amount of the attorneys' fees and costs based on a number of factors, including the risk associated with bringing the case on a contingency basis, the amount of time spent on the case, the amount of costs incurred to prosecute the case, the quality of the work, and the outcome of the case.

11. How much of the Settlement Fund will be used to pay the Class Representatives an Incentive Award?
--

Class Counsel will request that the Class Representative be paid an Incentive Award in the amount of up to \$10,000.00 for her filing and pursuit of the Action. The Incentive Award must be approved by the Court. Class Counsel will file the application for this request with the Court no later than _____, 202_. You will be able to access this application on the Settlement Website or by reviewing it by inserting the case number BC680214 on the Court's online docket at <https://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>.

12. How much will my payment be?

The balance of the Settlement Fund after attorneys' fees and costs and the Incentive Award, also

known as the Net Settlement Fund, will be divided among all Settlement Class Members entitled to Settlement Class Member Payments in accordance with the formula outlined in the Settlement and summarized below:

Assuming all requested disbursements from the Settlement Fund described above are approved in full, there will be a Net Settlement Fund of \$ [REDACTED] that shall be paid *pro rata* to the Settlement Class Members using the following calculation: The dollar amount of the Net Settlement Fund divided by the total number of APSN Fees paid by all members of the Settlement Class, which yields a per-fee amount; multiply the per-fee amount by the total number of APSN Fees for each Settlement Class Member; and this results in the individual Settlement Class Member Payment. The estimated average Settlement Class Member Payment for each Settlement Class Member is \$ [REDACTED]. It is important to note that this is an estimate and the actual number may be different once the number of opt-outs are considered and if disbursements from the Settlement Fund are approved in different amounts.

Current Accountholders at the time the Settlement is effective and who are entitled to a Settlement Class Member Payment will receive a credit to their Accounts for the amount they are entitled to receive. Past Accountholders at the time the Settlement is effective and who are entitled to receive a Settlement Class Member Payment shall receive a check from the Settlement Administrator.

13. What am I giving up to stay in the Settlement Class?

If you stay in the Settlement Class, all of the decisions by the Court will bind you, and you give the Bank a “release.” A release means you cannot sue, continue to sue, or be part of any other lawsuit against the Bank about the legal issues in this case. As of the date when the Settlement Administrator mails you a check or Defendant credits your Account, you shall automatically be deemed to have fully and irrevocably released and forever discharged the Bank of and from any and all liabilities, rights, claims, actions, causes of action, demands, damages, costs, attorneys’ fees, losses and remedies, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, based on contract, tort or any other theory, that result from, arise out of, are based upon, or relate to the conduct, omissions, duties or matters during the Class Period that were or could have been alleged in the Action relating to the assessment of APSN Fees.

Additional details, including a more extensive list of the parties related to the Bank that will be released as part of the Settlement and regarding the scope of the release can be found in Section XII of the Settlement Agreement. The Settlement Agreement is available at [www.\[insertaddress\].com](http://www.[insertaddress].com).

14. Do I have to do anything if I want to participate in the Settlement?

No. If you are an Accountholder in the Settlement Class, then you may be entitled to receive a payment or credit for APSN Fees without having to make a claim, unless you choose to opt-out of the Settlement.

15. When will I receive my payment or account credit?

The Court will hold a Final Approval Hearing on [REDACTED], 202_, at [REDACTED] a.m/p.m. to consider whether the Settlement should be approved. If the Court approves the Settlement, then payments should be made or credits should be issued within 60 days of the Effective Date. However, if someone objects to the Settlement, and the objection is sustained, then there may be no Settlement. Even if all objections are overruled and the Court approves the Settlement, an objector could appeal, and it might take months or even years to have the appeal resolved, which would delay any payment.

Any Residual Funds from uncashed checks remaining after the initial payments to Settlement Class Members, after reimbursing the Bank for the amount it paid for Settlement Administration Costs, will be distributed on a *pro rata* basis to participating Settlement Class Members who received Settlement Class Member Payments, to the extent feasible and practical in light of the costs of administering such subsequent payments, unless the amounts involved are too small to make individual distributions economically feasible or other specific reasons exist that would make such further distributions impossible or unfair.

Subject to Court approval, in the event the costs of preparing, transmitting and administering such subsequent payments to Settlement Class Members do not make individual distributions economically feasible or practical or other specific reasons exist that would make such further distributions impossible or unfair, or if such a second distribution is made and Residual Funds still remain, the total amount of uncashed checks will create a residual amount held by the Settlement Administrator which shall be paid to an appropriate *cy pres* recipient agreed to by the Parties and approved by the Court. The proposed *cy pres* recipient is California Jump\$tart Coalition.

EXCLUDING YOURSELF FROM THE SETTLEMENT

16. How do I opt-out of the Settlement?

If you do not wish to participate in the Settlement and be bound by the release, and you do not want to receive a payment or credit, or if you want to keep any right you may have to sue the Bank for the claims alleged in this lawsuit, then you must opt-out of the Settlement.

To opt-out, you **must** send a letter to the Settlement Administrator that you want to be excluded. Your letter can simply say “I hereby elect to be excluded from the settlement in the *Maureen Harrold v. MUFG Union Bank* class action.” Be sure to include your name, the last four digits of your account number(s) or former account number(s), address, telephone number, and email address. Your exclusion or opt-out request must be postmarked by [REDACTED], and sent to:

Maureen Harrold v. Union Bank Settlement Administrator
ADDRESS OF THE SETTLEMENT ADMINISTRATOR

17. What happens if I opt-out of the Settlement?

If you opt-out of the Settlement, you will preserve and not give up any of your rights to sue the Bank for the claims alleged in this case. However, you will not be entitled to receive a payment or credit from the Settlement.

In the event an account has multiple Accountholders and one such individual opts-out of the Settlement, all of the Accountholders will be deemed to have opted-out of the Settlement.

OBJECTING TO THE SETTLEMENT

18. How do I notify the Court that I do not like the Settlement?

You can object to the Settlement or any part of it that you do not like **IF** you do not opt-out of the Settlement. (Accountholders in the Settlement Class who opt-out have no right to object to how other Accountholders in the Settlement Class are treated.) To object, you may send a written document by mail or private courier (e.g., Federal Express) to the Settlement Administrator at the address below. Do not send your objection to the Court. Your written objection should include the following information:

- a. the name of the Action;
- b. the objector's full name, address, and telephone number;
- c. all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel;
- d. a statement confirming whether the objector or any counsel for the objector intends to personally appear and/or testify at the Final Approval Hearing (see Question 23 below); and
- e. the objector's signature (an attorney's signature is not sufficient).

All written objections must be post-marked no later than [REDACTED], 202_, and must be mailed to the Settlement Administrator as follows:

ADDRESS OF THE SETTLEMENT ADMINISTRATOR

19. What is the difference between objecting and requesting to opt-out of the Settlement?

Objecting is telling the Court that you do not believe the Settlement is fair, reasonable, and adequate for the Settlement Class, and asking the Court to reject it. You can object only if you do not opt-out of the Settlement. If you object to the Settlement and do not opt-out, then you are entitled to a payment or credit from Net Settlement Fund if the Settlement is approved, but you will be bound by the release of claims you might have against the Bank.

Opting-out is telling the Court that you do not want to be part of the Settlement, and do not want to receive a payment or credit for APSN Fees or release claims you might have against the Bank for the claims alleged in this lawsuit.

20. What happens if I object to the Settlement?

The Court will consider the objection. If the Court sustains your objection, or the objection of any other member of the Settlement Class, then there may be no Settlement; provided, however, that an objection to Class Counsel’s requested attorneys’ fees and costs or to the requested Incentive Award amount, may result in approval of the Settlement but the award of a lower attorneys’ fee and cost amount or lower Incentive Award. If you object, but the Court overrules your objection and any other objection(s), then you will be part of the Settlement. If the Court approves the Settlement, then the objector will participate in the Settlement. If the Court does not approve the settlement, then there is no Settlement.

THE COURT’S FINAL APPROVAL HEARING

21. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at [REDACTED] a.m./p.m. on [REDACTED], 202[REDACTED] at the Superior Court of the State of California, County of Los Angeles, Spring Street Courthouse, which is located at 312 N. Spring Street, Los Angeles, California 90012, unless otherwise noticed by the Court. At this hearing, the Court will consider whether the Settlement is fair, reasonable and adequate. If there are objections, the Court will consider them. The Court may also decide how much to award Class Counsel for attorneys’ fees and litigation costs and the amount of the Incentive Award to the Class Representative. The hearing may be virtual, in which case the instructions to participate shall be posted on the Settlement Website at [www.\[REDACTED\]](http://www.[REDACTED]). Also, if the date and/or location of the Final Approval Hearing changes, that information will be posted on the same website. If the hearing is in-person, participants will be required to adhere to any Court-imposed social distancing requirements, including wearing a mask, if the Court has such a policy in effect on the date of the hearing. Notice of the final judgment entered by the Court will be given on the Settlement Website.

22. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. You may attend if you desire to do so. If you have submitted an objection, then you may want to attend.

23. May I speak at the hearing?

If you have objected, you may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must include with your written objection, described in Question 17 above, a statement like, “I hereby give notice that I intend to appear at the Final Approval Hearing.” The Court will consider your objection even if you do not appear.

THE LAWYERS REPRESENTING YOU

24. Do I have a lawyer in this case?

The Court ordered that the lawyers and their law firms referred to in this Notice as Class Counsel will represent you and the other members of the Settlement Class. However, you may retain a lawyer to represent you at your own expense.

25. Do I have to pay the lawyer for accomplishing this result?

No. Class Counsel will be paid directly from the Settlement Fund for the legal services provided to accomplish the Settlement for Settlement Class Members' benefit. Class Counsels' award of attorneys' fees and costs is deducted from the Settlement Fund, reducing that amount in calculating the Net Settlement Fund that Settlement Class Members will be paid.

26. Who determines what the attorneys' fees and costs will be?

The Court will be asked to approve the amount of attorneys' fees at the Final Approval Hearing. Class Counsel will file an application for attorneys' fees and costs before the Final Approval Hearing, which will specify the amounts being sought as discussed above. You may review a copy of the attorneys' fee and cost application at the Settlement Website, [WEBSITE], or by inserting the case number BC680214 on the Court's online docket at <https://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>.

GETTING MORE INFORMATION

This Notice only summarizes the proposed Settlement. More details are contained in the Settlement Agreement, which can be viewed/obtained online at the Settlement Website, [WEBSITE]; in person at the Clerk of the Superior Court of the State of California, County of Los Angeles, which is located at Spring Street Courthouse, 312 North Spring Street, Los Angeles, CA 90012; by contacting the Settlement Administrator (details below) and requesting a copy; or by inserting the case number BC680214 on the Court's online docket at <https://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>.

For additional information about the Settlement and/or to obtain a copy of the Settlement Agreement, or to change your address for purposes of receiving a payment, you should contact the Settlement Administrator as follows:

Maureen Harrold v. Union Bank Settlement Administrator

For more information, you also can contact the Class Counsel as follows:

Jonathan M. Streisfeld
KOPELOWITZ OSTROW P.A.
One West Las Olas Boulevard, Suite 500
Fort Lauderdale, Florida 33301
954-525-4100
streisfeld@kolawyers.com

Andrea Gold
TYCKO & ZAVAREEI LLP
1828 L Street NW, Suite 1000
Washington, DC 20036
202-973-0900
agold@tzlegal.com

PLEASE DO NOT CONTACT THE COURT OR ANY REPRESENTATIVE OF U.S. BANK NATIONAL ASSOCIATION CONCERNING THIS NOTICE OR THE SETTLEMENT.

EXHIBIT B

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

MAUREEN HARROLD, on behalf of herself
and all others similarly situated,

Plaintiff,

vs.

MUFG UNION BANK, N.A.,

Defendant.

CASE NO. BC680214

AMENDED SETTLEMENT AGREEMENT AND RELEASES

This Amended Settlement Agreement and Releases (“Settlement” or “Agreement”)¹, dated as of ~~January 25~~December 5, 2023, is entered into by Plaintiff, Maureen Harrold, individually and on behalf of the Settlement Class, and Defendant, U.S. Bank National Association as successor in interest to MUFG Union Bank, ~~N.A.~~National Association. The Parties hereby agree to the following terms in full settlement of the Action, subject to Final Approval by the Superior Court for the State of California.

I. Recitals

1. On October 19, 2017, Plaintiff filed the Action and alleged that ~~Defendant~~MUFG Union Bank, National Association (“Union Bank”) charged Overdraft Fees on Debit Card Transactions that authorized against a positive balance but settled against a negative balance due to intervening charges. Plaintiff alleged that this practice is prohibited by the terms of ~~Defendant’s~~Union Bank’s standardized “All About Personal Account & Services Disclosure and Agreement” (hereinafter “Account Agreement”).

¹ All capitalized terms herein have the meanings ascribed to them in Section II or various places in the Agreement.

2. On February 13, 2018, Plaintiff served her First Set of Requests for Production and First Set of Special Interrogatories on ~~Defendant~~Union Bank, which were directed as issues regarding the arbitration provision and enforceability thereof. ~~Defendant~~Union Bank served its responses on March 23, 2018. This led to the production of copies of the relevant versions of the Account Agreement and production of other documents pertaining to Plaintiff's Account relationship.

3. On March 2, 2018, ~~Defendant~~Union Bank filed a Motion to Compel Arbitration on the basis that the Account Agreement included an arbitration provision mandating individual arbitration of Plaintiff's claims. On April 30, 2018, Plaintiff filed a Response in Opposition to the Motion to Compel Arbitration. On May 14, 2018, ~~Defendant~~Union Bank filed its Reply in support of its Motion to Compel Arbitration.

4. On May 30, 2018, the Court heard oral argument on the Motion to Compel Arbitration and granted the Motion, ruling that the Parties agreed in the Account Agreement to delegate the authority to determine the enforceability of the arbitration provision to the arbitrator.

5. On August 15, 2018, Plaintiff submitted her Demand for Arbitration, wherein she incorporated her Complaint. On September 4, 2018, ~~Defendant~~Union Bank submitted its Response to Plaintiff's Demand for Arbitration. On October 16, 2018, the Honorable Candace Cooper was appointed as the Arbitrator in the matter.

6. On February 5, 2019, the Superior Court action was transferred from Judge John Shepard Wiley to Judge Yvette M. Palazuelos.

7. On March 7, 2019, Plaintiff submitted her Amended Demand for Arbitration in the Arbitration, attached to which was Plaintiff's First Amended Class Action Complaint, and her Motion to Declare Arbitration Agreement Unenforceable before Arbitrator Cooper. On April 29, 2019, ~~Defendant~~Union Bank submitted its Opposition to the Motion to Declare Arbitration

Agreement Unenforceable. On May 13, 2019, Plaintiff submitted her Reply in support of the Motion to Declare Arbitration Agreement Unenforceable.

8. On May 21, 2019, Arbitrator Cooper held a hearing on the Motion to Declare Arbitration Agreement Unenforceable.

9. On June 12, 2019, Plaintiff filed a Notice of Supplemental Authority in support of her Motion to Declare Arbitration Agreement Unenforceable. On June 21, 2019, ~~Defendant~~Union Bank filed its Response to the Notice of Supplemental Authority.

10. On July 2, 2019, Plaintiff filed a Second Notice of Supplemental Authority in support of her Motion to Declare Arbitration Agreement Unenforceable. On July 19, 2019, ~~Defendant~~Union Bank filed its Response to the Second Notice of Supplemental Authority.

11. On August 19, 2019, Arbitrator Cooper entered an Order denying Plaintiff's Motion to Declare Arbitration Agreement Unenforceable.

12. On September 4, 2019, Arbitrator Cooper held a status conference in the matter, wherein counsel for Plaintiff sought permission to file a supplemental brief on the "poison pill" issue raised in her Motion to Declare Arbitration Clause Unenforceable. The Arbitrator permitted further briefing and both Parties submitted supplemental briefing. That briefing concluded on September 20, 2019.

13. On December 15, 2019, Arbitrator Cooper issued her Supplemental Order re Arbitrability, wherein she ruled that because the waiver of public injunctive relief in the arbitration agreement was unenforceable, the "poison pill" provision rendered the entire arbitration provision null and void. Arbitrator Cooper thus rescinded portions of her prior Order regarding Arbitrability and dismissed the Arbitration.

14. On March 3, 2020, counsel for Plaintiff submitted a declaration in Superior Court regarding the status of the case, including the arbitration rulings made, and sought a lift of the stay

of proceedings. On March 6, 2020, counsel for ~~Defendant~~Union Bank submitted a Response and Objection to the Declaration of Plaintiff's counsel. On March 10, 2020, Counsel for Plaintiff submitted her Reply.

15. On March 24, 2020, ~~Defendant~~Union Bank filed a Motion to Vacate the Arbitration Award and, on April 9, 2020, Plaintiff filed her Opposition. ~~Defendant~~Union Bank filed its Reply on June 4, 2020. On July 23, Plaintiff filed a Notice of Supplemental Authority.

16. On July 27, 2020, the Court denied Defendant's Motion to Vacate Arbitration Award. The Court lifted the stay of the proceedings and ordered that Plaintiff's First Amended Complaint be filed and served within 5 court days.

17. Plaintiff filed with the Court and served her First Amended Complaint on July 28, 2020.

18. On September 14, 2020, ~~Defendant~~Union Bank filed its Answer to the First Amended Complaint, which included a general denial of the allegations and affirmative defenses.

19. ~~Defendant~~Union Bank notified Plaintiff of its intent to move to reassign the case to a judicial referee under California Code of Civil Procedure Section 638, which Plaintiff opposed. The Parties submitted briefing on Defendant's Motion to Compel Judicial Reference, which was fully briefed as of February 1, 2021. The Court issued its tentative ruling on the Motion for Judicial Reference on February 4, 2021, to which the Parties submitted. That tentative ruling became the Order of the Court on February 8, 2021. The Court granted the Motion to Compel Judicial Reference.

20. The Parties met and conferred at length as to the identification and appointment of a Judicial Referee and, on April 13, 2021, submitted a Joint Status Report wherein they agreed to proceed in judicial reference before the Honorable Rita "Sunny" Miller (Ret.). Judge Miller was appointed as the Judicial Referee on April 21, 2021.

21. The Parties began exploring settlement and, thus, delayed starting the judicial reference proceedings on the merits of Plaintiff's claims. Those settlement talks did not progress, and, on November 18, 2021, the Parties submitted a Joint Status Report asked to move forward with the judicial reference proceedings.

22. On November 12, 2021, Plaintiff served her Second Set of Interrogatories and Second Set of Requests for Production, to which ~~Defendant~~Union Bank responded on January 19, 2022.

23. On November 30, 2021, the Parties had a case management conference with Judge Miller, during which ~~Defendant~~Union Bank raised its intent to move for judgment on the pleadings. Thereafter, on December 10, 2021, the Parties submitted a Stipulation Regarding the Case Schedule to Judge Miller and, on December 13, 2021, Judge Miller entered an Order approving the proposed schedule.

24. On January 25, 2022, ~~Defendant~~Union Bank filed its Motion for Judgment on the Pleadings.

25. On February 14, 2022, ~~the Parties~~Plaintiff and Union Bank submitted a joint stipulation to stay the case pending mediation. ~~The Parties~~They had re-engaged in settlement discussion and agreed to a private mediation.

26. Judge Miller entered an Order staying the case pending mediation on March 21, 2022, which Order stayed the time for Plaintiff to respond to the Motion for Judgment on the Pleadings.

27. In addition to arbitration-related discovery, which resulted in the production of all relevant Account agreements for the Class Period, ~~the Parties~~Plaintiff and Union Bank engaged in informal discovery regarding an estimate of the aggregate amount of relevant overdraft fees assessed during the Class Period as well as analyzed and estimated the most probable calculation

of damages recoverable by Plaintiff and the Class.

28. ~~The Parties~~Plaintiff and Union Bank participated in a full-day mediation on April 22, 2022, with mediator Robert Meyer, Esq. of JAMS. ~~The Parties~~They reached an agreement in principle to settle the matter, with the material terms memorialized in a Term Sheet dated May 4, 2022.

29. ~~The Parties~~Plaintiff and Union Bank filed a Joint Status Report on May 5, 2022, confirming their agreement in principle and requesting that the Court continue the stay of all deadlines in the Action.

30. Following the stay of all deadlines in the Action, ~~the Parties~~Plaintiff and Union Bank worked together to obtain the necessary Account-level transaction data for Plaintiff's expert to analyze to identify Accountholders in the Settlement Class and their respective APSN Fees. Plaintiff's expert has completed that analysis.

31. ~~The Parties now agree~~Plaintiff and Union Bank agreed to settle the Action in its entirety, without any admission of liability, with respect to all Released Claims of ~~the Releasing Parties (definitions below)~~every Releasing Party (definitions below). U.S. Bank National Association thereafter acquired Union Bank, so the Defendant in the Action is now U.S. Bank National Association, as successor in interest to Union Bank. The Parties intend this Agreement to bind Plaintiff, Defendant, and all Settlement Class Members.

NOW, THEREFORE, in light of the foregoing, for good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Parties agree, subject to approval by the Court, as follows.

II. Definitions

In addition to the terms defined at various points within this Agreement, the following Defined Terms apply throughout this Agreement:

32. “Account” means any consumer checking account that was maintained by ~~Defendant~~Union Bank in California.

33. “Accountholder” means any person who has or had any interest, whether legal or equitable, in an Account during the Class Period, and includes Current Accountholders and Past Accountholders.

34. “Action” means *Harrold v. Union Bank, N.A.*, Superior Court of California, Case No. BC680214.

35. “APSN Fees” means Overdraft Fees that ~~Defendant~~Union Bank charged and did not refund on Debit Card Transactions, during the Class Period, where there was a positive available balance at the time the transaction was authorized, but an insufficient balance at the time the transaction was presented to ~~Defendant~~Union Bank for payment and posted to an Accountholder’s Account.

36. “Class Counsel” means:

KOPELOWITZ OSTROW P.A.
Jonathan M. Streisfeld, Esq.
1 West Las Olas Blvd.
Suite 500
Fort Lauderdale, FL 33301

TYCKO & ZAVAREEI, LLP
Andrea R. Gold, Esq.
1828 L Street NW
Suite 1000
Washington, DC 20036

and such other counsel as are identified in Class Counsel’s request for attorneys’ fees and costs.

37. “Class Period” means the period from October 19, 2013 through February 28, 2019.

38. “Class Representative” means Maureen Harrold.

39. “Court” means the Superior Court for the State of California.

40. “Current Accountholder” means a Settlement Class Member who ~~is an~~ Accountholder had an Account that migrated to and is maintained at U.S. Bank (defined below) as of the date of Preliminary Approval or the Effective Date as specified herein.

41. “Debit Card” means a card or similar device issued or provided by Union Bank, including a debit card, check card, or automated teller machine (“ATM”) card, that can or could be used to debit funds from an Account by Point of Sale and/or ATM transactions.

42. “Debit Card Transaction” means a Point of Sale or ATM transaction using a Debit Card.

43. “Defendant” or “U.S. Bank” means U.S. Bank National Association, as successor in interest to MUFG Union Bank, N.A. National Association.

44. “Effective Date” shall be the later of: (1) 10 days after the time period has expired to appeal the judgment entered after the entry of the Final Approval Order without any appeal or motion to vacate judgment being filed; or (2) if an appeal of the judgment entered after the entry of Final Approval Order is taken, then the earlier of 10 days after the entry of an order dismissing the appeal or 10 days after the appeal has been finally resolved in the appellate court of last resort without any right to appeal or seek further review from another appellate court.

45. “Email Notice” means a short form of notice that shall be sent by email to Accountholders in the Settlement Class who agreed to receive account statements by email in the form attached as *Exhibit 1*.

46. “Escrow Account” means the interest-bearing account to be established by the Settlement Administrator consistent with the terms and conditions described in Section IV below.

47. “Final Approval” means the date that the Court enters the Final Approval Order granting final approval to the Settlement and determines the amount of attorneys’ fees and costs awarded to Class Counsel and the amount of any Incentive Award to the Class Representative.

48. “Final Approval Hearing” is the hearing held before the Court wherein the Court will consider granting Final Approval to the Settlement and further determine the amount of attorneys’ fees and costs awarded to Class Counsel and the amount of any Incentive Award to the

Class Representative.

49. “Final Approval Order” means the final order that the Court enters granting Final Approval to the Settlement. The proposed Final Approval Order shall be in a form agreed upon by the Parties and shall be substantially in the form attached as an exhibit to the motion for Final Approval. Final Approval Order also includes the orders, which may be entered separately, determining the amount of attorneys’ fees and costs awarded to Class Counsel and the amount of any Incentive Award to the Class Representative.

50. “Incentive Award” means any Court ordered payment to Plaintiff for serving as Class Representative, which is in addition to any payment due Plaintiff as a Settlement Class Member.

51. “Long Form Notice” means the form of notice that shall be posted on the Settlement Website and shall be available to the Settlement Class by mail on request made to the Settlement Administrator in the form attached as *Exhibit 2*.

52. “Net Settlement Fund” means the Settlement Fund, minus Court approved attorneys’ fees and costs to Class Counsel and any Court approved Incentive Award to Plaintiff.

53. “Notice” means the notices that the Parties will ask the Court to approve in connection with the motion for Preliminary Approval of the Settlement.

54. “Notice Program” means the methods provided for in this Agreement for giving the Notice and consists of Postcard Notice, Email Notice, and Long Form Notice, which shall be substantially in the forms as the exhibits attached to the motion for Preliminary Approval.

55. “Opt-Out Period” means the period that begins the day after the earliest date on which the Notice is first distributed, and that ends no later than 30 days before the Final Approval Hearing. The deadline for the Opt-Out Period will be specified in the Notice.

56. “Overdraft Fee” means any fee assessed to an Accountholder for items paid when

the Account has insufficient funds.

57. “Party” means each of Plaintiff or Defendant, and “Parties” collectively means Plaintiff and Defendant.

58. “Past Accountholder” means a Settlement Class Member who ~~ishad an Account that did not an Accountholder migrate to U.S. Bank and/or was closed~~ as of the date of Preliminary Approval or the Effective Date as specified herein.

59. “Plaintiff” means Maureen Harrold.

60. “Postcard Notice” shall mean the short form of notice that shall be sent by mail to Accountholders in the Settlement Class who did not agree to receive notices by email, or for whom the Settlement Administrator is unable to send Email Notice using the email address provided by Defendant, in the form attached as *Exhibit I*.

61. “Preliminary Approval” means the date that the Court enters, without material change, an order preliminarily approving the Settlement, substantially in the form of the exhibit attached to the motion for Preliminary Approval.

62. “Preliminary Approval Order” means the order granting Preliminary Approval of this Settlement.

63. “Releases” means all the releases contained in Section XII.

64. “Released Claims” means all claims to be released as specified in Section XII.

65. “Released Parties” means Defendant and each of its present and former parents, subsidiaries, divisions, affiliates, predecessors, successors and assigns, and the present and former directors, officers, employees, agents, insurers, members, attorneys, advisors, consultants, representatives, partners, joint venturers, independent contractors, wholesalers, resellers, distributors, retailers, predecessors, successors, ~~including, but not limited to, U.S. Bank National Association,~~ and assigns of each of them.

66. “Releasing ~~Parties~~Party” means ~~Plaintiff and all~~ each Settlement Class ~~Members~~Member, and each of ~~their~~his or her respective executors, representatives, heirs, predecessors, assigns, beneficiaries, successors, bankruptcy trustees, guardians, joint tenants, tenants in common, tenants by entirety, agents, attorneys, and all those who claim through ~~them~~the Settlement Class Member or on ~~their~~the Settlement Class Member’s behalf.

67. “Settlement Administrator” means Kroll Settlement Administration LLC. Settlement Class Counsel and Defendant may, by agreement, substitute a different organization as Settlement Administrator, subject to approval by the Court if the Court has previously approved the Settlement preliminarily or finally. In the absence of agreement, either Settlement Class Counsel or Defendant may move the Court to substitute a different organization as Settlement Administrator, upon a showing that the responsibilities of Settlement Administrator have not been adequately executed by the incumbent.

68. “Settlement Administration Costs” means all costs and fees of the Settlement Administrator regarding notice and settlement administration.

69. “Settlement Class” means all MUFG Union Bank, ~~N.A.~~National Association consumer checking Accountholders in California who were assessed one or more APSN Fee during the Class Period. Excluded from the Settlement Class is Defendant, its parents, subsidiaries, affiliates, officers, and directors; all Accountholders in the Settlement Class who make a timely election to be excluded by opting-out; and all judges and judicial referees assigned to these proceedings and their immediate family members.

70. “Settlement Class Member” means Plaintiff and any member of the Settlement Class who has not opted-out of the Settlement and who is entitled to the benefits of the Settlement, including a Settlement Class Member Payment.

71. “Settlement Class Member Payment” means the cash distribution that will be made

from the Net Settlement Fund to each Settlement Class Member, pursuant to the payment allocation terms of the Settlement.

72. “Settlement Fund” means the \$5,000,000.00 common cash fund Defendant is obligated to pay under the Settlement. The Settlement Fund will be funded into an escrow account established by the Settlement Administrator within 10 days of the Court’s entry of the Preliminary Approval Order.

73. “Settlement Website” means the website that the Settlement Administrator will establish as a means for the Settlement Class to obtain notice of and information about the Settlement, through and including hyperlinked access to this Agreement, the Long Form Notice, Preliminary Approval Order, Final Approval Order, final judgment, and such other documents as the Parties agree to post or that the Court orders posted on the website. These documents shall remain on the Settlement Website at least until Final Approval. The URL of the Settlement Website shall be www.harroldunionbankoverdraftlitigation.com, or such other URL as Class Counsel and Defendant agree upon in writing. The Settlement Website shall not include any advertising and shall not bear or include the Defendant’s logo or Defendant’s trademarks.

~~74. “Union Bank” means MUFG Union Bank, N.A.~~

III. Certification of the Settlement Class

~~75.~~74. For Settlement purposes only, Plaintiff will file, and Defendant will not oppose, a motion consistent with this Agreement to certify the Settlement Class under CAL. R. CT. 3.769(d).

IV. Settlement Consideration and Escrow Account

~~76.~~75. Subject to approval by the Court, Defendant shall establish a cash Settlement Fund of \$5,000,000.00 and separately further pay the Settlement Administration Costs. The Settlement Fund shall be used to pay Settlement Class Members their respective Settlement Class Member Payments; any and all attorneys’ fees and costs awarded to Class Counsel; any Incentive Award

to the Class Representative; and any *cy pres* payment required under this Agreement. Defendant shall not be responsible for any other payments under this Agreement.

~~77.76.~~ The Settlement Fund shall be paid by Defendant into the Escrow Account within 10 days of Preliminary Approval.

~~78.77.~~ The funds in the Escrow Account shall be deemed a “qualified settlement fund” within the meaning of United States Treasury Reg. § 1.468B-1 at all times since creation of the Escrow Account. All taxes (including any estimated taxes, and any interest or penalties relating to them) arising with respect to the income earned by the Escrow Account or otherwise, including any taxes or tax detriments that may be imposed upon Defendant, Defendant’s counsel, Plaintiff, and/or Class Counsel with respect to income earned by the Escrow Account, for any period during which the Escrow Account does not qualify as a “qualified settlement fund” for the purpose of federal or state income taxes or otherwise (collectively “Taxes”), shall be paid out of the Escrow Account. Defendant and Defendant's counsel and Plaintiffs and Class Counsel shall have no liability or responsibility for any of the Taxes. The Escrow Account shall indemnify and hold Defendant and Defendant’s counsel and Plaintiff and Class Counsel harmless for all Taxes (including, without limitation, Taxes payable by reason of any such indemnification).

~~79.78.~~ Plaintiff agrees that all of her Accounts (including any Accounts she holds jointly with others) with Defendant will be closed within 60 calendar days of the date of the execution of this Agreement.

V. Settlement Approval

~~80.79.~~ Upon execution of this Agreement by all Parties, Class Counsel shall promptly move the Court for an order granting Preliminary Approval of this Settlement. The proposed Preliminary Approval Order that will be attached to the motion shall be in a form agreed upon by Class Counsel and Defendant. The motion for Preliminary Approval shall, among other things,

request that the Court: (1) approve the terms of the Settlement as within the range of fair, adequate, and reasonable; (2) provisionally certify the Settlement Class pursuant to CAL. R. CT. 3.769(d) for settlement purposes only; (3) approve the Notice Program set forth herein and approve the form and content of the Notices of the Settlement; (4) approve the procedures set forth herein below for Accountholders in the Settlement Class to opt-out from the Settlement Class or to object to the Settlement; (5) stay the Action pending Final Approval of the Settlement; and (6) schedule a Final Approval Hearing for a time and date mutually convenient for the Court, Class Counsel, and counsel for Defendant, at which the Court will conduct an inquiry into the fairness of the Settlement, determine whether it was made in good faith, and determine whether to approve the Settlement and Class Counsel's application for attorneys' fees and costs and for an Incentive Award to the Class Representative.

VI. Discovery and Settlement Data

~~81-80.~~ Class Counsel and ~~Defendant have~~Union Bank engaged in certain informal discovery related to liability and damages. Additionally, for purposes of effectuating the Settlement, ~~Defendant~~Union Bank made available to Class Counsel and its expert, certain data for the entirety of the Class Period that allowed Plaintiff's expert to determine the Accountholders in the Settlement Class and ultimately the amount of alleged Settlement Class Member damages. Because Plaintiff's expert ~~will~~did not have access to Accountholders in the Settlement Class names or Account numbers, Plaintiff's expert ~~will provide~~provided his results to ~~Defendant~~Union Bank, which ~~will then create~~created a list of Accountholders in the Settlement Class and their electronic mail and postal addresses, ~~which.~~ Defendant will ~~be provided~~provide that list to the Settlement Administrator to provide Notice and for use in distributing Settlement Class Member Payments.

VII. Settlement Administrator

~~82-81.~~ The Settlement Administrator shall administer various aspects of the Settlement as

described in the next paragraph hereafter and perform such other functions as are specified for the Settlement Administrator elsewhere in this Agreement, including, but not limited to, effectuating the Notice Program and distributing the Settlement Fund as provided herein.

~~83-82.~~ The duties of the Settlement Administrator, in addition to other responsibilities that are described in the preceding paragraph and elsewhere in this Agreement, are as follows:

a. Use the name and address information for Accountholders in the Settlement Class provided by Defendant in connection with the Notice Program approved by the Court, for the purpose of distributing the Postcard Notice and sending the Email Notice, and later mailing distribution checks to Past Accountholder Settlement Class Members, and to Current Accountholder Settlement Class Members where it is not feasible or reasonable for Defendant to make the payment by a credit to the Settlement Class Members' Accounts;

b. Establish and maintain a post office box for requests to opt-out from the Settlement Class;

c. Establish and maintain the Settlement Website;

d. Establish and maintain an automated toll-free telephone line for Accountholders in the Settlement Class to call with Settlement-related inquiries, and answer the frequently asked questions of the Settlement Class who call with or otherwise communicate such inquiries;

e. Respond to any mailed Settlement Class inquiries;

f. Process all opt-out requests from the Settlement Class;

g. Provide weekly reports to Class Counsel and ~~Defendant~~Defendant's counsel that summarizes the number of opt-out requests received that week, the total number of opt-out requests received to date, and other pertinent information;

h. In advance of the Final Approval Hearing, prepare an affidavit to submit to the Court confirming that the Notice Program was completed, describing how the Notice Program was

completed, providing the names of each Accountholder in the Settlement Class who timely and properly opted-out from the Settlement Class, and other information as may be necessary to allow the Parties to seek and obtain Final Approval.

i. Distribute Settlement Class Member Payments by check to Past Accountholder Settlement Class Members;

j. Provide to Defendant the amount of the Settlement Class Member Payments to Current Accountholder Settlement Class Members from the Settlement Fund and instruct Defendant to initiate the credits by direct deposit of Settlement Class Member Payments to Current Accountholder Settlement Class Members.

k. If residual funds exist after the first distribution, repay Defendant for the amount of Settlement Administration Costs it paid;

l. Pay invoices, expenses, and costs upon approval by Class Counsel and Defendant, as provided in this Agreement; and

m. Any other Settlement-administration-related function at the instruction of Class Counsel and ~~Defendant~~Defendant's counsel, including, but not limited to, verifying that the Settlement Funds has been distributed.

84.83. The Settlement Administrator provided a reasonable estimated bid to administer the Notice Program and otherwise perform the duties of Settlement Administrator required by this Agreement (see <https://www.kroll.com/en/services/settlement-administration>). The reasonableness of the bid accounts for the direct costs associated with the Notice Program and the later distribution of Settlement Class Member Payments following entry of the Final Approval Order, and the hourly rates for the work of the Settlement Administrator to perform the tasks required by this Agreement are competitively priced. The Settlement Administrator has procedures in place to protect the security of class data and adequate insurance in the event of a data breach

or defalcation of funds.

~~85.84.~~ Defendant shall pay the Settlement Administration Costs. Residual Funds, if any, shall be paid first to Defendant to reimburse it for these costs as indicated in Section XI.

VIII. Notice to Settlement Class

~~86.85.~~ As soon as practicable after Preliminary Approval of the Settlement, at the direction of Class Counsel and Defendant's ~~Counsel~~counsel, the Settlement Administrator shall implement the Notice Program provided herein, using the forms of Notice approved by the Court. The Notice shall include, among other information: a description of the material terms of the Settlement; a date by which Accountholders in the Settlement Class may exclude themselves from or "opt-out" of the Settlement Class; a date by which Settlement Class Members may object to the Settlement; the location and date of the Final Approval Hearing; and the address of the Settlement Website at which Accountholders in the Settlement Class may access this Agreement and other related documents and information. Class Counsel and Defendant shall insert the correct dates and deadlines in the Notice before the Notice Program commences, based upon those dates and deadlines set by the Court in the Preliminary Approval Order. Notices provided under or as part of the Notice Program shall not bear or include the Defendant's logo or trademarks or the return address of Defendant, or otherwise be styled to appear to originate from Defendant. The Long Form Notice will be translated to Spanish language and a Spanish language notation will be made on the Postcard Notice and Email Notice regarding the available translated Long Form Notice.

~~87.86.~~ The Notice also shall include a procedure for members of the Settlement Class to opt-out of the Settlement Class. An Accountholder in the Settlement Class may opt-out of the Settlement Class at any time during the Opt-Out Period, provided the opt-out notice is postmarked no later than the last day of the Opt-Out Period. Requests to opt-out of the Settlement must be mailed to the Settlement Administrator. Any Accountholder in the Settlement Class who does not

timely and validly request to opt-out shall be bound by the terms of this Agreement. If an Account has more than one Accountholder, and if one Accountholder opts-out himself or herself from the Settlement Class, then all Accountholders on that Account shall be deemed to have opted-out of the Settlement with respect to that Account, and no Accountholder shall be entitled to a payment under the Settlement.

~~88.87.~~ The Notice also shall include a procedure for Settlement Class Members to make a written objection to the Settlement and/or to Class Counsel's application for attorneys' fees and costs and/or Incentive Award for the Class Representative. Written objections to the Settlement, to the application for fees and costs, and/or to the Incentive Award must be mailed to the Settlement Administrator and not filed with the Court. For a written objection to be considered by the Court, the objection must be submitted no later than the last day of the Opt-Out Period, as specified in the Notice. If submitted by mail, a written objection shall be deemed to have been submitted when posted if received with a postmark date indicated on the envelope if mailed first-class postage prepaid and addressed in accordance with the instructions. If submitted by private courier (*e.g.*, Federal Express), an objection shall be deemed to have been submitted on the shipping date reflected on the shipping label.

~~89.88.~~ Written objections should include the following:

- a. the name of the Action;
- b. the objector's full name, address, and telephone number;
- c. all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel;
- d. a statement confirming whether the objector or any counsel for the objector intends to personally appear and/or testify at the Final Approval Hearing; and
- e. the objector's signature (an attorney's signature is not sufficient).

~~90.89.~~ Notice shall be provided to Accountholders in the Settlement Class in three different ways: (a) Email Notice to Accountholders for whom Defendant has email addresses; (b) Postcard Notice to those Accountholders for whom Defendant does not have email addresses; and (c) Long Form Notice with greater detail than the Email Notice and Postcard Notice, which shall be available on the Settlement Website and/or via mail upon request by an Accountholder in the Settlement Class. Not all Accountholders in the Settlement Class will receive all three forms of Notice, as detailed herein.

~~91.90.~~ The Email Notice, Postcard Notice, and Long Form Notice shall be in forms approved by the Court, and substantially similar to the notice forms attached hereto as *Exhibits 1* and *2*. The Parties may by mutual written consent make non-substantive changes to the Notices without Court approval.

~~92.91.~~ Defendant has made available the necessary data to Class Counsel's expert to determine the Accountholders in the Settlement Class. Defendant will bear the expense of extracting the necessary data made available to Class Counsel's expert for analysis, and Class Counsel shall be responsible for paying Class Counsel's expert, who analyzed the data provided to determine the Accountholders in the Settlement Class and the amount of the Settlement Class's alleged damages.

~~93.92.~~ Once the Settlement Administrator has the list for Accountholders in the Settlement Class, the Settlement Administrator shall send out Email Notice to all Accountholders in the Settlement Class receiving Notice by that method. For those Accountholders in the Settlement Class for whom Defendant does not have email addresses, the Settlement Administrator shall run the physical addresses provided by Defendant through the National Change of Address Database and shall mail to all such Accountholders in the Settlement Class Postcard Notice. The initial Mailed Postcard and Email Notice shall be referred to as "Initial Mailed Notice."

94.93. The Settlement Administrator shall perform reasonable address traces for Initial Mailed Notice postcards that are returned as undeliverable. By way of example, a “reasonable” tracing procedure would be to run addresses of returned postcards through the Lexis/Nexis database that can be utilized for such purpose. No later than 60 days before the Final Approval Hearing, the Settlement Administrator shall complete the re-mailing of Postcard Notice to those Accountholders in the Settlement Class whose new addresses were identified as of that time through address traces (“Notice Re-mailing Process”). The Settlement Administrator shall also send Postcard Notice to all Accountholders in the Settlement Class whose emails were returned as undeliverable and complete such Notice pursuant to the deadlines described herein as they relate to the Notice Re-mailing Process. The Opt-Out Period shall be extended for a period of 15 days for any Accountholder in the Settlement Class that is sent a Postcard Notice as part of the Notice Re-mailing Process.

95.94. The Notice Program shall be completed no later than 60 days before the Final Approval Hearing.

96.95. The Settlement Administrator shall maintain a database showing mail and email addresses to which each Notice was sent and any Notices that were not delivered by mail and/or email. In addition to weekly updates to the Parties regarding the progress of the Notice Program and the declaration or affidavit by the Settlement Administrator in advance of the Final Approval Hearing and in support of the motion for Final Approval, a summary report of the Notice Program shall be provided to the Parties three days prior to the Final Approval Hearing. The database maintained by the Settlement Administrator regarding the Notices shall be available to the Court upon request. It shall otherwise be confidential and shall not be disclosed to any third party as it contains bank account information for each member of the Settlement Class. Protecting bank account information is in the best interest of the Settlement Class.

~~97.96.~~ Costs related to the Notice Program shall be paid by Defendant. Residual Funds, if any, shall be paid first to Defendant to reimburse it for these costs, as indicated in Section XI.

~~98.97.~~ Within the provisions set forth in this Section VIII, further specific details of the Notice Program shall be subject to the agreement of Class Counsel and Defendant.

IX. Final Approval Order and Judgment

~~99.98.~~ Plaintiff's motion for Preliminary Approval of the Settlement will include a request to the Court for a scheduled Final Approval Hearing date and location. Plaintiff shall file her motion for Final Approval of the Settlement no later than 45 days before the Final Approval Hearing. At the Final Approval Hearing, the Court will hear argument on Plaintiff's motion for Final Approval of the Settlement, and on Class Counsel's application for attorneys' fees and costs and for the Incentive Award for the Class Representative. In the Court's discretion, the Court also will hear argument at the Final Approval Hearing from any Settlement Class Members (or their counsel) who object to the Settlement or to Class Counsel's application for attorneys' fees and costs or the Incentive Award application. If the date or location of the Final Approval Hearing changes, that information will be included on the Settlement Website for the Settlement Class's benefit. Notice to Settlement Class Members of final judgment will be posted on the Settlement Website.

~~100.99.~~ At or following the Final Approval Hearing, the Court will determine whether to enter the Final Approval Order granting Final Approval of the Settlement and final judgment thereon, and whether to approve Class Counsel's application for attorneys' fees and costs and Incentive Award for the Class Representative. Such proposed Final Approval Order shall, among other things:

- a. Determine that the Settlement is fair, adequate, and reasonable;
- b. Finally certify the Settlement Class for settlement purposes only;

- c. Determine that the Notice provided satisfies Due Process requirements;
- d. Bar and enjoin ~~al~~every Releasing ~~Parties~~Party from asserting any of the Released Claims; bar and enjoin ~~al~~every Releasing ~~Parties~~Party from pursuing any Released Claims against Defendant or its affiliates at any time, including during any appeal from the Final Approval Order; and retain jurisdiction over the enforcement of the Court's injunctions;
- e. Release Defendant and the other Released Parties from the Released Claims; and
- f. Reserve the Court's continuing and exclusive jurisdiction over the Parties to this Agreement, including Defendant, all Settlement Class Members, and all objectors, to administer, supervise, construe, and enforce this Agreement in accordance with its terms.

X. Calculation and Disbursement of Settlement Class Member Payments

~~101.100.~~ The calculation and implementation of payment allocations of the Settlement Fund shall be done by Class Counsel and its expert for the purpose of compensating Settlement Class Members. The methodology provided for herein will be applied to the data as consistently, sensibly, and conscientiously as reasonably possible, recognizing and taking into consideration the nature and completeness of the data and the purpose of the computations. Consistent with its contractual, statutory, and regulatory obligations to maintain the security of and protect its customers' private financial information, Defendant ~~shall make~~made available such data and information as ~~may~~was reasonably ~~be~~ needed by Class Counsel and its expert to confirm and/or effectuate the calculations and payment allocations contemplated by this Agreement. Class Counsel shall confer with Defendant's counsel concerning any ~~sue~~additional data and information needed.

~~102.101.~~ The Net Settlement Fund shall be paid *pro rata* to the Settlement Class Members using the following calculation:

- a. The dollar amount of the Net Settlement Fund divided by the total number of APSN

Fees paid by all members of the Settlement Class, which yields a per-fee amount;

b. Multiply the per-fee amount by the total number of APSN Fees for each Settlement Class Member; and

c. This results in the individual Settlement Class Member Payment amount.

~~103.102.~~ The Parties agree the foregoing payment allocation formula is exclusively for purposes of computing, in a reasonable and efficient fashion, the amount of any Settlement Class Member Payment each Settlement Class Member should receive from the Net Settlement Fund. The fact that this payment allocation formula will be used is not intended and shall not be used for any other purpose or objective whatsoever.

~~104.103.~~ To estimate the dollar amount that Settlement Class Members will receive, the Parties agree that the best estimate of the per-fee amount is \$8.14, which is calculated by multiplying \$33.00 (OD Fee amount charged throughout the Class Period) by 37% (estimated percentage of recovery from the settlement) and then reducing that amount by 33.33% (the maximum amount that Class Counsel are entitled to seek for attorneys' fees). The actual per-fee amount that will be included in the Settlement Class Member Payments will be slightly reduced by the additional award of Class Counsel's litigation costs and the Incentive Award to the Class Representative.

~~105.104.~~ Within 15 days after the Effective Date, the Settlement Administrator shall identify to Defendant the full amount of Settlement Class Member Payments, along with the amount of each Settlement Class Member Payment to be credited to Current Accountholders' Accounts.

~~106.105.~~ As soon as practicable but no later than 60 days from the Effective Date, Defendant and the Settlement Administrator shall distribute the Net Settlement Fund to Settlement Class Members, as follows:

a. Settlement Class Member Payments to Current Accountholders shall be made by a credit to those Accountholders' ~~Accounts~~U.S. Bank National Association accounts maintained ~~individually~~ at the time of the credit. The Settlement Administrator shall transfer the funds necessary for Defendant to make these credits at least 10 days before Defendant's deadline to make the credits. Defendant shall notify Current Accountholders of any such credit on the Account statement on which the credit is reflected by stating "APSN Fee Refund" or something similar. Defendant will bear any costs associated with implementing the credits and notification required by this paragraph. If by the deadline for Defendant to apply credits of Settlement Class Member Payments to Current Accountholders' Accounts, Defendant is unable to complete certain credits, or it is not feasible or reasonable to make the payment by a credit, Defendant shall deliver the total amount of such unsuccessful Settlement Class Member Payment credits to the Settlement Administrator to be paid by check in accordance with subparagraph b. below.

b. Settlement Fund Payments to Past Accountholders will be made by check with an appropriate legend, in a form approved by Class Counsel and ~~Defendant Counsel~~Defendant's counsel, to indicate that it is from the Settlement Fund. Checks will be cut and mailed by the Settlement Administrator and will be sent to the addresses that the Settlement Administrator identifies as valid. Checks shall be valid for 180 days. For jointly held Accounts, checks will be payable to all Accountholders, and will be mailed to the first Accountholder listed on the Account. The Settlement Administrator will make reasonable efforts to locate the proper address for any intended recipient of Settlement Funds whose check is returned by the Postal Service as undeliverable (such as by running addresses of returned checks through the Lexis/Nexis database that can be utilized for such purpose), and will re-mail it once to the updated address, or, in the case of a jointly held Account, and in the Settlement Administrator's discretion, to an Accountholder other than the one listed first. In the event of any complications arising in connection with the

issuance or cashing of a check, the Settlement Administrator shall provide written notice to Class Counsel and Defendant's ~~Counsel~~counsel. Absent specific instructions from Class Counsel and Defendant's ~~Counsel~~counsel, the Settlement Administrator shall proceed to resolve the dispute using its best practices and procedures to ensure that the funds are fairly and properly distributed to the person or persons who are entitled to receive them. All costs associated with the process of printing and mailing the checks and any accompanying communication to Past Accountholders shall be borne by Defendant.

~~107.106.~~_____ The amount of the Net Settlement Fund attributable to uncashed or returned checks sent by the Settlement Administrator shall be held by the Settlement Administrator for up to one year from the date that the Settlement Administrator mails the first distribution check. During this time, the Settlement Administrator shall make a reasonable effort to locate intended recipients of Settlement Class Member Payments whose checks were returned (such as by running addresses of returned checks through the Lexis/Nexis database that can be utilized for such purpose) to effectuate delivery of such checks. The Settlement Administrator shall make only one such additional attempt to identify updated addresses and re-mail or re-issue a distribution check to those for whom an updated address was obtained.

XI. Disposition of Residual Funds

~~108.107.~~_____ Within one year after the date the Settlement Administrator mails the first Settlement Class Member Payment, any remaining amounts resulting from uncashed checks ("Residual Funds") shall be distributed as follows:

a. First, any Residual Funds shall be payable to Defendant for the amount that it paid for Settlement Administration Costs.

b. Second, any Residual Funds remaining after distribution shall be distributed on a *pro rata* basis to participating Settlement Class Members who received Settlement Class Member

Payments, to the extent feasible and practical in light of the costs of administering such subsequent payments, unless the amounts involved are too small to make individual distributions economically feasible or other specific reasons exist that would make such further distributions impossible or unfair. Should such a second distribution be made, Current Accountholders shall receive an Account credit and Past Accountholders will receive a check. Any second distribution checks shall be valid for 90 days.

c. Third, in the event the costs of preparing, transmitting and administering such subsequent payments to Settlement Class Members do not make individual distributions economically feasible or practical or other specific reasons exist that would make such further distributions impossible or unfair, or if such a second distribution is made and Residual Funds still remain, Class Counsel and Defendant shall seek the Court's approval to distribute the Residual Funds to a *cy pres* recipient in accordance with California Code of Civil Procedure Section 384. The Parties shall propose California ~~Council on Economic Education~~JumpStart Coalition (<https://cajumpstart.org/about-us>) as the *cy pres* recipient, an entity that is a nonprofit organization or foundation to support projects that will benefit the Settlement Class or similarly situated persons and works to promote financial literacy in California. The Parties counsel shall identify their lack of interest or involvement in the governance or work of the *cy pres* recipient in a declaration supporting the request to approve the *cy pres* recipient.

d. Within 30 days after the date on which checks issued from the first distribution are no longer valid, the Parties shall submit a report to the Court identifying the total amount that was actually paid to Settlement Class and whether the Parties request approval of a second distribution or whether instead the *cy pres* payment should be made. The report will also request Court-approval of the *cy pres* recipient(s) for any residual funds that remain following the second distribution or that should immediately be paid in the event that there will be no second

distribution. The final judgment shall be amended for that purpose pursuant to California Code of Civil Procedure Section 384.

e. All costs of any second distribution, including Defendant's internal costs of crediting Settlement Class Member Accounts, shall come from the Residual Funds, and Defendant is not required to pay these costs as Settlement Administration Costs. Costs for delivery of Residual Funds to a *cy pres* recipient shall also come from the Residual Funds.

XII. Releases

~~109.108.~~ As of the ~~Effective Date, the Releasing Parties~~ date Defendant completes an Account credit for a Settlement Class Member Payment or the date the Settlement Administrator sends a Settlement Class Member Payment by check, the Releasing Party shall automatically be deemed to have fully and irrevocably released and forever discharged the Released Parties of and from any and all liabilities, rights, claims, actions, causes of action, demands, damages, costs, attorneys' fees, losses and remedies, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, based on contract, tort or any other theory, that result from, arise out of, are based upon, or relate to the conduct, omissions, duties or matters during the Class Period that were or could have been alleged in the Action relating to the assessment of APSN Fees by Defendant ("Released Claims").

~~110.109.~~ Each Settlement Class Member is barred and permanently enjoined from bringing on behalf of themselves, or through any person purporting to act on their behalf or purporting to assert a claim under or through them, any of the Released Claims against Defendant in any forum, action, or proceeding of any kind.

~~111.110.~~ With respect to all Released Claims, Plaintiff agrees that she is expressly waiving and relinquishing to the fullest extent permitted by law (a) the provisions, rights and benefits conferred by Section 1542 of the California Civil Code, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

and (b) any law of any state or territory of the United States, federal law or principle of common law, or of international or foreign law, that is similar, comparable or equivalent to Section 1542 of the California Civil Code.

~~112.111.~~ Plaintiff or any Settlement Class Member may hereafter discover facts other than or different from those that he/she knows or believes to be true with respect to the subject matter of the claims released herein, or the law applicable to such claims may change. Nonetheless, each of those individuals expressly agrees that, as of the Effective Date, he/she shall have automatically and irrevocably waived and fully, finally, and forever settled and released any known or unknown, suspected or unsuspected, asserted or unasserted, liquidated or unliquidated, and contingent or non-contingent claims with respect to all of the matters described in or subsumed by herein. Further, each of those individuals agrees and acknowledges that he/she shall be bound by this Agreement, including by the release herein and that all of their claims in the Action shall be released, whether or not such claims are concealed or hidden; without regard to subsequent discovery of different or additional facts and subsequent changes in the law; and even if he/she never receives actual notice of the Settlement and/or never receives a distribution of funds or credits from the Settlement.

~~113.112.~~ In addition to the releases made by Plaintiff and Settlement Class Members above, Plaintiff, including each and every one of her agents, representatives, attorneys, heirs, assigns, or any other person acting on her behalf or for her benefit, and any person claiming through her, makes the additional following general release of all claims, known or unknown, in

exchange and consideration of the Settlement set forth in this Agreement. This named Plaintiff agrees to a general release of the Released Parties from all claims, demands, rights, liabilities, grievances, demands for arbitration, and causes of action of every nature and description whatsoever, known or unknown, pending or threatened, asserted or that might have been asserted, whether brought in tort or in contract, whether under state or federal or local law.

~~114.113.~~ Nothing in this Agreement shall operate or be construed to release any claims or rights that Defendant has to recover any past, present, or future amounts that may be owed by Plaintiff or by any Settlement Class Member on his/her accounts, loans, or any other debts with Defendant, pursuant to the terms and conditions of such accounts, loans, or any other debts. Likewise, nothing in this Agreement shall operate or be construed to release any defenses or rights of set-off that Plaintiff or any Settlement Class Member has, other than with respect to the claims expressly released by this Agreement, in the event Defendant and/or its assigns seeks to recover any past, present, or future amounts that may be owed by Plaintiff or by any Settlement Class Member on his/her accounts, loans, or any other debts with Defendant, pursuant to the terms and conditions of such accounts, loans, or any other debts.

~~115. — The Parties agree that it is in the best interests of the Settlement Class Members that the above releases will be effective before Settlement Class Member Payments are received because the releases are limited to the Released Claims and payments will be automatic and made within 60 days of the Effective Date.~~

XIII. Payment of Attorneys' Fees and Costs and Incentive Award

~~116.114.~~ Defendant agrees that Class Counsel shall be entitled to request an award of reasonable attorneys' fee of up to 33.33% of the Settlement Fund and request reimbursement of reasonable costs, to be determined by the Court. Any award of attorneys' fees and costs to Class Counsel shall be payable solely out of the Settlement Fund. The Parties agree that the Court's

failure to approve, in whole or in part, any award for attorneys' fees shall not prevent the Settlement Agreement from becoming effective, nor shall it be grounds for termination.

~~117.115.~~ The application for attorneys' fees and costs to be awarded to Class Counsel and for an Incentive Award for the Class Representative shall be filed not later than 75 days before the Final Approval Hearing.

~~118.116.~~ Within seven days of the Court's entry of the Final Approval Order, the Settlement Administrator shall pay Class Counsel all Court-approved attorneys' fees and costs from the Settlement Fund. In the event the award of attorneys' fees is reduced on appeal, or if the Effective Date does not occur (either because approval of the Settlement is overturned or the Agreement is terminated for any reason), Class Counsel shall reimburse the Settlement Fund, within 10 business days of the entry of the order reducing the fees, overturning the approval of the Settlement on appeal, or the termination of the Agreement, the difference between the amount distributed and the reduced amount (in the event of a reduction) or the entirety of the amount (in the event approval is overturned or the Agreement is terminated).

~~119.117.~~ After the attorneys' fees and costs have been paid to Class Counsel by the Settlement Administrator, Class Counsel shall be solely responsible for distributing each Class Counsel firm's allocated share of such fees and costs to that firm. Defendant shall have no responsibility for any allocation, and no liability whatsoever to any person or entity claiming any share of the funds to be distributed for payment of attorneys' fees and costs or any other payments from the Settlement Fund not specifically described herein.

~~120.118.~~ In the event the Effective Date does not occur, or the attorneys' fees or cost award is reduced following an appeal, each counsel and their law firms who have received any payment of such fees or costs shall be jointly and severally liable for the entirety. Further, each counsel and their law firms consent to the jurisdiction of the Court for the enforcement of this

provision.

~~121.119.~~ Defendant agrees that Class Counsel shall be entitled to request the Court to approve an Incentive Award to the Plaintiff as the Class Representative in an amount up to \$10,000.00, to be approved by the Court. The Incentive Award is to be paid by the Settlement Administrator to the Class Representative within 10 days of the Effective Date. The Incentive Award shall be paid to the Class Representative in addition to Class Representative's Settlement Class Member Payment. The Parties agree that the Court's failure to approve an Incentive Award, in whole or in part, shall not prevent the Settlement Agreement from becoming effective, nor shall it be grounds for termination.

~~122.120.~~ The Parties negotiated and reached agreement regarding attorneys' fees and costs and the Incentive Award only after reaching agreement on all other material terms of this Settlement.

XIV. Termination of Settlement

~~123.121.~~ This Settlement may be terminated by either Class Counsel or Defendant by serving on counsel for the opposing Party and filing with the Court a written notice of termination within 15 days (or such longer time as may be agreed in writing between Class Counsel and Defendant) after any of the following occurrences:

- a. Class Counsel and Defendant agree to termination;
- b. the Court rejects, materially modifies, materially amends, or changes, or declines to grant Preliminary Approval or Final Approval;
- c. an appellate court vacates or reverses the Final Approval Order, and the Settlement is not reinstated and finally approved without material change by the Court on remand within 360 days after such reversal;
- d. any court incorporates into, or deletes or strikes from, or modifies, amends, or

changes, the Preliminary Approval Order, Final Approval Order, or the Settlement in a way that Class Counsel or Defendant seeking to terminate the Settlement reasonably considers material;

- e. the Effective Date does not occur; or
- f. any other ground for termination provided for elsewhere in this Agreement.

~~124.122.~~ Defendant also shall have the right to terminate the Settlement by serving on Class Counsel and filing with the Court a notice of termination within 15 days after its receipt from the Settlement Administrator of any report indicating that the number of Accountholders in the Settlement Class who timely opt-out from the Settlement Class equals or exceeds 5% of the total Accountholders in the Settlement Class.

XV. Effect of a Termination

~~125.123.~~ The grounds upon which this Agreement may be terminated are set forth herein above. In the event of a termination, this Agreement shall be considered null and void; all of Plaintiff's, Class Counsel's, and Defendant's obligations under the Settlement shall cease to be of any force and effect; and the Parties shall return to the status *quo ante* in the Action as if the Parties had not entered into this Agreement. In addition, in the event of such a termination, all of the Parties' respective pre-Settlement rights, claims and defenses will be retained and preserved.

~~126.124.~~ In the event of termination, Defendant shall have no right to seek reimbursement from Plaintiff's Class Counsel, or the Settlement Administrator, for Settlement Administration Costs paid by Defendant. After payment of any invoices or other fees or costs mentioned in this Agreement that have been incurred and are due to be paid from the Settlement Fund, to the extent any such fees or costs have been incurred given Defendant's obligation to directly pay Settlement Administration Costs, the Settlement Administrator shall return the balance of the Settlement Fund to Defendant within seven calendar days of termination.

~~127.125.~~ The Settlement shall become effective on the Effective Date unless earlier

terminated in accordance with the provisions hereof.

~~128.126.~~ Certification of the Settlement Class shall have no bearing in deciding whether the claims asserted in the Action are or were appropriate for class treatment in the absence of settlement. If this Agreement terminates or is nullified, the provisional class certification shall be vacated by its terms, and the Action shall revert to the status that existed before execution of this Agreement. Thereafter, Plaintiff shall be free to pursue any claims available to her, and Defendant shall be free to assert any defenses available to it, including but not limited to, denying the suitability of this case for class treatment. Nothing in this Agreement shall be argued or deemed to estop any Party from the assertion of such claims and defenses.

~~129.127.~~ In the event the Settlement is terminated in accordance with the provisions of this Agreement, any discussions, offers, or negotiations associated with this Settlement shall not be discoverable or offered into evidence or used in the Action or any other action or proceeding for any purpose. In such event, all Parties to the Action shall stand in the same position as if this Agreement had not been negotiated, made, or filed with the Court.

XVI. No Admission of Liability

~~130.128.~~ Defendant continues to dispute its liability for the claims alleged in the Action and maintains that its overdraft practices and representations concerning those practices complied, at all times, with applicable laws and regulations and the terms of the account agreements with its Accountholders. Defendant does not admit any liability or wrongdoing of any kind, by this Agreement or otherwise. Defendant has agreed to enter into this Agreement to avoid the further expense, inconvenience, and distraction of burdensome and protracted litigation, and to be completely free of any further claims that were asserted or could possibly have been asserted in the Action.

~~131.129.~~ Class Counsel believe that the claims asserted in the Action have merit, and

they have examined and considered the benefits to be obtained under the proposed Settlement set forth in this Agreement, the risks associated with the continued prosecution of this complex, costly, and time-consuming litigation, and the likelihood of success on the merits of the Action. Class Counsel fully investigated the facts and law relevant to the merits of the claims, conducted significant informal discovery, and conducted independent investigation of the challenged practices. Class Counsel concluded that the proposed Settlement set forth in this Agreement is fair, adequate, reasonable, and in the best interests of the Accountholders in the Settlement Class.

~~132.130.~~ The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties either previously or in connection with the negotiations or proceedings connected with this Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made, or an acknowledgment or admission by any party of any fault, liability, or wrongdoing of any kind whatsoever.

~~133.131.~~ Neither the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (a) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim made by the Plaintiff or Accountholders in the Settlement Class, or of any wrongdoing or liability of the Released Parties; or (b) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault or omission of any of the Released Parties, in the Action or in any proceeding in any court, administrative agency, or other tribunal.

~~134.132.~~ In addition to any other defenses Defendant may have at law, in equity, or otherwise, to the extent permitted by law, this Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit or other proceeding that may be instituted, prosecuted, or attempted in breach of this Agreement or the

Releases contained herein.

XIX. Miscellaneous Provisions

~~135.~~133. Gender and Plurals. As used in this Agreement, the masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates.

~~136.~~134. Binding Effect. This Agreement shall be binding upon, and inure to for the benefit of, the successors and assigns of ~~the every~~ Releasing ~~Parties~~Party and the Released Parties.

~~137.~~135. Cooperation of Parties. The Parties to this Agreement agree to cooperate in good faith to prepare and execute all documents, to seek Court approval, uphold Court approval, and do all things reasonably necessary to complete and effectuate the Settlement described in this Agreement.

~~138.~~136. Obligation to Meet and Confer. Before filing any motion in the Court raising a dispute arising out of or related to this Agreement, the Parties shall consult with each other and certify to the Court that they have consulted.

~~139.~~137. Integration. This Agreement constitutes a single, integrated written contract expressing the entire agreement of the Parties relative to the subject matter hereof. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any Party hereto, except as provided for herein.

~~140.~~138. No Conflict Intended. Any inconsistency between the headings used in this Agreement and the text of the paragraphs of this Agreement shall be resolved in favor of the text.

~~141.~~139. Governing Law. Except as otherwise provided herein, the Agreement shall be construed in accordance with, and be governed by, the laws of the State of California, without regard to the principles thereof regarding choice of law.

~~142.~~140. Counterparts. This Agreement may be executed in any number of

counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all Parties do not sign the same counterparts. Original signatures are not required. Any signature submitted by facsimile or through email of an Adobe PDF shall be deemed an original.

~~143.141.~~ Jurisdiction. The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain jurisdiction with respect to the administration, consummation, and enforcement of the Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice Program and the Settlement Administrator. As part of their agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose. The Court shall retain jurisdiction over the enforcement of the Court's injunction barring and enjoining ~~aHevery~~ Releasing ~~Parties~~Party from asserting any of the Released Claims and from pursuing any Released Claims against Defendant or its affiliates at any time, including during any appeal from the Final Approval Order.

~~144.142.~~ Notices. All notices to Class Counsel and Defendant's counsel provided for herein, shall be sent by email with a hard copy sent by overnight mail to:

KOPELOWITZ OSTROW P.A.
Jonathan M. Streisfeld, Esq.
1 West Las Olas Blvd., Suite 500
Fort Lauderdale, Florida 33301
Email: streisfeld@kolawyers.com
Class Counsel

TYCKO & ZAVAREEI, LLP
Andrea Gold, Esq.
1828 L Street Northwest
Suite 1000

Washington, DC 20036
Email: agold@tzlegal.com
Class Counsel

~~MORRISON & FOERSTER~~DAVIS WRIGHT

Nancy R. Thomas, Esq.
~~707 Wilshire Boulevard~~
865 South Figueroa Street
Suite 2400
Los Angeles, CA 90017-~~3543~~2566
Email: nancythomas@dwt.com
Counsel for Defendant

The notice recipients and addresses designated above may be changed by written notice. Upon the request of any of the Parties, the Parties agree to promptly provide each other with copies of objections, requests for exclusion, or other filings received as a result of the Notice program.

~~145.143.~~ Modification and Amendment. This Agreement may not be amended or modified, except by a written instrument signed by Class Counsel and counsel for Defendant and, if the Settlement has been approved preliminarily by the Court, approved by the Court.

~~146.144.~~ No Waiver. The waiver by any Party of any breach of this Agreement by another Party shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Agreement.

~~147.145.~~ Authority. Class Counsel (for the Plaintiff and the Settlement Class Members), and counsel for Defendant (for Defendant), represent and warrant that the persons signing this Agreement on their behalf have full power and authority to bind every person, partnership, corporation, or entity included within the definitions of Plaintiff and Defendant to all terms of this Agreement. Any person executing this Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party on whose behalf he or she signs this Agreement to all of the terms and provisions of this Agreement.

~~148.146.~~ Agreement Mutually Prepared. Neither Defendant nor Plaintiff, nor any of

them, shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

~~149.~~147. Independent Investigation and Decision to Settle. The Parties understand and acknowledge that they: (a) have performed an independent investigation of the allegations of fact and law made in connection with this Action; and (b) that even if they may hereafter discover facts in addition to, or different from, those that they now know or believe to be true with respect to the subject matter of the Action as reflected in this Agreement, that will not affect or in any respect limit the binding nature of this Agreement. Defendant has provided and is providing information that Plaintiff reasonably requests to identify Accountholders in the Settlement Class and the alleged damages they incurred. The Parties agree that this Settlement is reasonable and will not attempt to renegotiate or otherwise void or invalidate or terminate the Settlement irrespective of what any unexamined data later shows. It is the Parties' intention to resolve their disputes in connection with this Action pursuant to the terms of this Agreement now and thus, in furtherance of their intentions, the Agreement shall remain in full force and effect notwithstanding the discovery of any additional facts or law, or changes in law, and this Agreement shall not be subject to rescission or modification by reason of any changes or differences in facts or law, subsequently occurring or otherwise.

~~150.~~148. Receipt of Advice of Counsel. Each Party acknowledges, agrees, and specifically warrants that he, she, or it has fully read this Agreement and the Releases contained herein, received independent legal advice with respect to the advisability of entering into this Agreement and the Releases, and the legal effects of this Agreement and the Releases, and fully understands the effect of this Agreement and the Releases.

Signature Page Follows

Dated: _____

MAUREEN HARROLD
Plaintiff

Dated: _____

Jonathan M. Streisfeld, Esq.
KOPELOWITZ OSTROW P.A.
Class Counsel

Dated: _____

Andrea Gold, Esq.
TYCKO & ZAVAREEI LLP
Class Counsel

Dated: _____

U.S. BANK NATIONAL ASSOCIATION, as
successor in interest to MUFG UNION BANK,
N.A. NATIONAL ASSOCIATION

By: _____
ITS _____

Dated: _____

Nancy R. Thomas, Esq.
MORRISON & FOERSTER DAVIS WRIGHT TR
Counsel for Defendant

Exhibit 1 – Email and Postcard Notice

Maureen Harrold v MUFG Union Bank, N.A.

Case No. BC680214

NOTICE OF PENDING CLASS ACTION AND PROPOSED SETTLEMENT

IF YOU WERE CHARGED CERTAIN OVERDRAFT FEES ON A UNION BANK CONSUMER CHECKING ACCOUNT FROM OCTOBER 19, 2013 THROUGH FEBRUARY 28, 2019, THEN YOU MAY BE ENTITLED TO A PAYMENT OR CREDIT FROM A CLASS ACTION SETTLEMENT

Para una notificación en español, visite nuestro sitio de web: [\[INSERT WEBSITE ADDRESS\]](#)

This is not a solicitation from a lawyer.

The Superior Court for the State of California, County of Los Angeles has authorized this Notice.

You may be a member of the Settlement Class in *Maureen Harrold v. MUFG Union Bank, N.A.*, in which the Plaintiff, Maureen Harrold, alleges that Defendant MUFG Union Bank, ~~N.A.~~ (“~~Union National Association, now succeeded in interest by U.S. Bank~~”²) ~~National Association (the “Bank”)~~, improperly assessed and collected APSN Fees on certain debit card transactions. ~~Union~~The Bank maintains it did nothing wrong, but has agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of litigation. The Court has not decided which side is right.

If you are a member of the Settlement Class and the Settlement is approved, you may be entitled to receive a cash payment from a \$5,000,000.00 Settlement Fund. The Court has preliminarily approved this Settlement. It will hold a Final Approval Hearing on [\[INSERT DATE\]](#). At that hearing, the Court will consider whether to grant Final Approval to the Settlement, and whether to approve payment from the Settlement Fund of up to \$10,000.00 as an Incentive Award to the Class Representative; up to 33.33%, or \$1,666,650.00, of the Settlement Fund as attorneys’ fees; and reimbursement of ~~litigation costs.~~Class Counsel’s litigation costs not to exceed \$ _____. Subject to the Court’s approval, the attorneys’ fees will be split as follows: McCune Law Group and The Kick Law Firm, APC will collectively receive 25% of the total attorneys’ fees or their relative lodestar, whichever is greater; Tycko & Zavareei LLP and Kopelowitz Ostrow P.A. will each receive 40% of the remainder of the attorneys’ fees; and KanielGold PLLC will receive the final 20% of the attorneys’ fees. If the Court grants Final Approval of the Settlement and you do not opt-out from the Settlement, you will release your right to bring any claim covered by the Settlement. In exchange, ~~Union~~the Bank has agreed to issue a credit to your Account or a cash payment to you if you are no longer a customer.

To obtain a Long Form class notice and other important documents, please visit [\[INSERT WEBSITE ADDRESS\]](#). Alternatively, you may call [\[INSERT PHONE #\]](#).

If you do not want to participate in this Settlement—you do not want to receive a credit or cash payment and you do not want to be bound by any judgment entered in this case—you may exclude yourself by submitting an opt-out request postmarked no later than [\[PARTIES TO INSERT DATE\]](#). If you want to object to this Settlement because you think it is not fair, adequate, or reasonable, you may object by submitting a written objection postmarked no later than [\[PARTIES TO INSERT DATE\]](#). You may learn more about the opt-out and objection procedures by visiting [\[PARTIES TO PROVIDE WEBSITE ADDRESS\]](#) or by calling [\[Insert Phone #\]](#).

If you do not take any action, you will be legally bound by the Settlement and any orders or judgment entered in the Action, and will fully, finally, and forever give up any rights to prosecute certain claims against ~~Union~~the Bank.

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Exhibit 2 – Long Form Notice

*Maureen Harrold v MUFG Union Bank, N.A.
Case No. BC680214*

NOTICE OF PENDING CLASS ACTION AND PROPOSED SETTLEMENT

**READ THIS NOTICE FULLY AND CAREFULLY; THE PROPOSED
SETTLEMENT MAY AFFECT YOUR RIGHTS!**

**IF YOU WERE CHARGED CERTAIN OVERDRAFT FEES ON A UNION
BANK CONSUMER CHECKING ACCOUNT FROM OCTOBER 19, 2013
THROUGH FEBRUARY 28, 2019, THEN YOU MAY BE ENTITLED TO A
PAYMENT OR CREDIT FROM A CLASS ACTION SETTLEMENT**

This is not a solicitation from a lawyer.

The Superior Court for the State of California, County of Los Angeles has authorized this Notice.

A Settlement has been reached in a class action lawsuit claiming that MUFG Union Bank, ~~N.A. (“Union Bank”)~~National Association, now succeeded in interest by U.S. Bank National Association, breached its contract with Accountholders and improperly assessed and collected APSN Fees on certain debit card transactions. ~~Union~~U.S. Bank National Association, as successor-in-interest to MUFG Union Bank, National Association is referred to in this Notice as “the Bank.” The Bank maintains it did nothing wrong; however, it has agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of litigation. The Court has not decided which side is right.

A cash Settlement Fund of \$5,000,000.00 has been established to pay Settlement Class Member Payments and any attorneys’ fees and costs and Incentive Award ordered by the Court. Current ~~Accountholders who have~~ and Past Accountholders ~~who had assessed APSN Fees by MUFG Union Bank-consumer checking account(s), National Association (“Union Bank”)~~ may be eligible for a Settlement Class Member Payment from the Settlement Fund.

Your legal rights are affected whether you act or don’t act. Read this notice carefully.

SUMMARY OF YOUR OPTIONS AND THE LEGAL EFFECT OF EACH OPTION

**DO NOTHING AND
RECEIVE A PAYMENT
OR ACCOUNT CREDIT**

If you don’t do anything and the Settlement is approved, you will receive a payment or account credit from the Settlement Fund so long as you do not opt-out of or exclude yourself from the Settlement (described in the next box).

<p>OPT-OUT FROM THE SETTLEMENT; RECEIVE NO PAYMENT BUT RELEASE NO CLAIMS</p>	<p>You can choose to exclude yourself from the Settlement or “opt-out.” This means you choose not to participate in the Settlement. You will keep your individual claims against Union<u>the</u> Bank, but you will not receive a payment or account credit. If you opt-out of the Settlement, but want to recover against Union<u>the</u> Bank, you will have to file a separate lawsuit or claim.</p>
<p>OBJECT TO THE SETTLEMENT</p>	<p>You may mail an objection to the Settlement Administrator explaining why you believe the Court should reject the Settlement. If the Settlement is approved and your objection is overruled by the Court, then you may receive a payment or account credit, and you will not be able to sue Union<u>the</u> Bank for the claims asserted in this Action. If the Court agrees with your objection, then the Settlement may not be approved.</p>

These rights and options – *and the deadlines to exercise them* – along with the material terms of the Settlement are explained in this Notice.

The Court in charge of this Action still has to decide whether to approve the Settlement. Payments and account credits will be provided if the Court approves the Settlement and after any appeals, if filed, are resolved. Please be patient.

BASIC INFORMATION

1. What is this lawsuit about?

The lawsuit that is being settled is entitled *Maureen Harrold v. MUFJ Union Bank, N.A.* It is pending in the Superior Court for the State of California, County of Los Angeles, Case No. BC680214. The case is a class action. That means that the Class Representative, Maureen Harrold, is an individual who is acting on behalf of ~~current and past Union Bank~~ Accountholders who were assessed certain Overdraft Fees called “APSN Fees” from October 19, 2013, through February 28, 2019. APSN Fees means Overdraft Fees that Union Bank charged and did not refund on debit card transactions, during the Class Period, where there was a positive available balance at the time the transaction was authorized, but an insufficient balance at the time the transaction was presented to Union Bank for payment and posted to an Accountholder’s account. The Class Representative has asserted claims for breach of the Account Agreement, violations of the California Unfair Competition Law and California Consumer Legal Remedies Act, and statutory fraud.

The First Amended Complaint in this lawsuit is posted on the Settlement Website and contains all of the allegations and claims asserted against Union Bank. ~~Union~~The Bank maintains that it did nothing wrong, but has agreed to settle the lawsuit to avoid the cost, delay, and uncertainty of litigation. The Court has not decided which side is right.

After the end of the class period in this lawsuit, U.S. Bank National Association acquired Union Bank. That is why the real party in interest in the lawsuit is now U.S. Bank National Association,

as successor-in-interest to Union Bank.

2. Why did I receive this Notice of this lawsuit?

You received this Notice because Union Bank's records ~~indicate~~indicated that you were charged one or more APSN Fees that are the subject of this Action. You may be a member of the Settlement Class. The Court directed that Notice be sent to all Accountholders in the Settlement Class because each such Accountholder has a right to know about the proposed Settlement and the options available to him or her before the Court decides whether to approve the Settlement.

3. Why did the Parties settle?

In any lawsuit, there are risks and potential benefits that come with a trial versus settling at an earlier stage. It is the Class Representative's and her lawyers' job to identify when a proposed settlement offer is good enough that it justifies recommending settling the case instead of continuing to trial. In a class action, the Class Representative's lawyers, known as Class Counsel, make this recommendation to the Class Representative. The Class Representative has the duty to act in the best interests of the class as a whole and, in this case, it is her belief, as well as Class Counsel's opinion, that this Settlement is in the best interest of all Accountholders in the Settlement Class.

In Class Counsel's opinion, there is legal uncertainty about whether a judge or a jury will find that Union Bank was contractually and otherwise legally obligated not to assess the APSN Fees at issue. Even if it was contractually wrong to assess these fees or Union Bank misrepresented the practice, there is uncertainty about whether the Class Representative's claims are subject to other defenses that might result in no or less recovery to Accountholders in the Settlement Class. Even if the Class Representative was to win at trial, there is no assurance that the Accountholders in the Settlement Class would be awarded more than the current Settlement amount and it may take years of litigation before any payments would be made. By settling, and based on Class Counsel's experience, the Accountholders in the Settlement Class will avoid these and other risks and the delays associated with continued litigation.

While ~~Union~~the Bank disputes the allegations in the lawsuit and denies any liability or wrongdoing, it enters into the Settlement solely to avoid the cost, delay, and uncertainty of further proceedings in the litigation.

WHO IS IN THE SETTLEMENT

4. How do I know if I am part of the Settlement?

If you received Email Notice or Postcard Notice, then Union Bank's records ~~indicate~~indicated that you may be a member of the Settlement Class and entitled to receive a payment or credit to your Account.

YOUR OPTIONS

5. What options do I have with respect to the Settlement?

You have three options: (1) do nothing and you will receive a payment or account credit according to the terms of this Settlement; (2) opt-out of the Settlement; or (3) participate in the Settlement, but object to it. Each of these options is described in a separate section below.

6. What are the critical deadlines?

There is no deadline to receive a Settlement payment or account credit. If you do nothing and the Settlement is approved, then you will get a payment or credit.

The deadline for sending a letter to the Settlement Administrator to opt-out of the Settlement is .

The deadline to send a written objection to the Settlement Administrator to object to the Settlement is also .

7. How do I decide which option to choose?

If you do not wish to participate in the Settlement and be sent a payment or account credit and be bound by the release, then you should opt-out. Likewise, if you believe that you could receive more money by pursuing your claims on your own (with or without an attorney that you could hire) and you are comfortable with the risk that you might lose your case or get less than you would in this Settlement, then you may want to consider opting out.

If you believe the settlement is unreasonable, unfair, or inadequate, you can object to the Settlement terms. The Court will consider timely objections. The Court will decide whether to approve the Settlement and the award of attorneys' fees, litigation costs, an Incentive Award, and Settlement Administration Costs. If the Court decides not to approve the Settlement, then the Settlement will be void and no payments or account credits will be issued pursuant to its terms. If the Court approves the Settlement, whether or not it grants the requests for attorneys' fees, litigation costs, an Incentive Award, or Settlement Administration Costs in full, then you will still be sent a payment or receive an account credit and will be bound by the Settlement, including the release of claims.

If you want to participate in the Settlement, then you do not have to do anything; you will be sent a payment or account credit if the Settlement is approved by the Court.

8. What has to happen for the Settlement to be approved?

The Court has to decide that the Settlement is fair, reasonable, and adequate before it will approve it. The Court already has granted Preliminary Approval of the Settlement, which is why you received a Notice. The Court will make a final decision regarding the Settlement at the Final Approval Hearing, which is currently scheduled for , 20 . The location of the hearing is set forth below.

THE SETTLEMENT PAYMENT

9. How much is the Settlement?

~~Union~~The Bank has agreed to create a Settlement Fund of \$5,000,000.00.

As discussed separately below, attorneys' fees (~~estimated~~not to ~~be~~exceed \$1,666,650.00), litigation costs (~~estimated~~not to ~~be~~exceed \$ _____), and the Incentive Award of up to \$10,000.00 to the Class Representative will be paid out of the Settlement Fund. Assuming all of those requested disbursements are approved in full by the Court, the Net Settlement Fund of \$ _____ will be divided among all Settlement Class Members entitled to Settlement Class Member Payments based on a formula described in the Settlement and stated in response to Question 12 below.

10. How much of the Settlement Fund will be used to pay for attorneys' fees and costs?

Class Counsel will request the Court to approve attorneys' fees of up to \$1,666,650.00 or 33.33% of the Settlement Fund, and will request reimbursement for litigation costs incurred in filing and litigating the Action. Class Counsel will file an application to make this request no later than _____, 2022-202 . Subject to the Court's approval, the attorneys' fees will be split as follows: McCune Law Group and The Kick Law Firm, APC will collectively receive 25% of the total attorneys' fees or their relative lodestar, whichever is greater; Tycko & Zavareei LLP and Kopelowitz Ostrow P.A. will each receive 40% of the remainder of the attorneys' fees; and KalieGold PLLC will receive the final 20% of the attorneys' fees. You will be able to access this application on the Settlement Website or by reviewing it by inserting the case number BC680214 on the Court's online docket at <https://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>. The Court will decide the amount of the attorneys' fees and costs based on a number of factors, including the risk associated with bringing the case on a contingency basis, the amount of time spent on the case, the amount of costs incurred to prosecute the case, the quality of the work, and the outcome of the case.

11. How much of the Settlement Fund will be used to pay the Class Representatives an Incentive Award?

Class Counsel will request that the Class Representative be paid an Incentive Award in the amount of up to \$10,000.00 for her filing and pursuit of the Action. The Incentive Award must be approved by the Court. Class Counsel will file the application for this request with the Court no later than _____, 2022-202 . You will be able to access this application on the Settlement Website or by reviewing it by inserting the case number BC680214 on the Court's online docket at <https://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>.

12. How much will my payment be?

The balance of the Settlement Fund after attorneys' fees and costs and the Incentive Award, also known as the Net Settlement Fund, will be divided among all Settlement Class Members entitled to Settlement Class Member Payments in accordance with the formula outlined in the Settlement and summarized below:

Assuming all requested disbursements from the Settlement Fund described above are approved in full, there will be a Net Settlement Fund of \$ [REDACTED] that shall be paid *pro rata* to the Settlement Class Members using the following calculation: The dollar amount of the Net Settlement Fund divided by the total number of APSN Fees paid by all members of the Settlement Class, which yields a per-fee amount; multiply the per-fee amount by the total number of APSN Fees for each Settlement Class Member; and this results in the individual Settlement Class Member Payment. The estimated average Settlement Class Member Payment for each Settlement Class Member is \$ [REDACTED]. It is important to note that this is an estimate and the actual number may be different once the number of opt-outs are considered and if disbursements from the Settlement Fund are approved in different amounts.

Current Accountholders at the time the Settlement is effective and who are entitled to a Settlement Class Member Payment will receive a credit to their Accounts for the amount they are entitled to receive. Past Accountholders at the time the Settlement is effective and who are entitled to receive a Settlement Class Member Payment shall receive a check from the Settlement Administrator.

13. What am I giving up to stay in the Settlement Class?

If you stay in the Settlement Class, all of the decisions by the Court will bind you, and you give Unionthe Bank a "release." A release means you cannot sue, continue to sue, or be part of any other lawsuit against Unionthe Bank about the legal issues in this case. As of the Effective Date when the Settlement Administrator mails you a check or Defendant credits your Account, you shall automatically be deemed to have fully and irrevocably released and forever discharged Unionthe Bank of and from any and all liabilities, rights, claims, actions, causes of action, demands, damages, costs, attorneys' fees, losses and remedies, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, based on contract, tort or any other theory, that result from, arise out of, are based upon, or relate to the conduct, omissions, duties or matters during the Class Period that were or could have been alleged in the Action relating to the assessment of APSN Fees.

Additional details, including a more extensive list of the parties related to Unionthe Bank whothat will be released as part of the Settlement and regarding the scope of the release can be found in Section XII of the Settlement Agreement. The Settlement Agreement is available at [www.\[insertaddress\].com](http://www.[insertaddress].com).

14. Do I have to do anything if I want to participate in the Settlement?

No. If you are an Accountholder in the Settlement Class, then you may be entitled to receive a payment or credit for APSN Fees without having to make a claim, unless you choose to opt-out of the Settlement.

15. When will I receive my payment or account credit?

The Court will hold a Final Approval Hearing on [REDACTED], 202_, at [REDACTED] a.m/p.m. to consider whether the Settlement should be approved. If the Court approves the Settlement, then payments should be made or credits should be issued within 60 days of the Effective Date. However, if someone objects to the Settlement, and the objection is sustained, then there may be no Settlement. Even if all objections are overruled and the Court approves the Settlement, an objector could appeal, and it might take months or even years to have the appeal resolved, which would delay any payment.

Any Residual Funds from uncashed checks remaining after the initial payments to Settlement Class Members, after reimbursing Unionthe Bank for the amount it paid for Settlement Administration Costs, will be distributed on a *pro rata* basis to participating Settlement Class Members who received Settlement Class Member Payments, to the extent feasible and practical in light of the costs of administering such subsequent payments, unless the amounts involved are too small to make individual distributions economically feasible or other specific reasons exist that would make such further distributions impossible or unfair.

Subject to Court approval, in the event the costs of preparing, transmitting and administering such subsequent payments to Settlement Class Members do not make individual distributions economically feasible or practical or other specific reasons exist that would make such further distributions impossible or unfair, or if such a second distribution is made and Residual Funds still remain, the total amount of uncashed checks will create a residual amount held by the Settlement Administrator which shall be paid to an appropriate *cy pres* recipient agreed to by the Parties and approved by the Court. The proposed cy pres recipient is California Jump\$tart Coalition.

EXCLUDING YOURSELF FROM THE SETTLEMENT

16. How do I opt-out of the Settlement?

If you do not wish to participate in the Settlement and be bound by the release, and you do not want to receive a payment or credit, or if you want to keep any right you may have to sue Unionthe Bank for the claims alleged in this lawsuit, then you must opt-out of the Settlement.

To opt-out, you **must** send a letter to the Settlement Administrator that you want to be excluded. Your letter can simply say “I hereby elect to be excluded from the settlement in the *Maureen Harrold v. MUFJ Union Bank* class action.” Be sure to include your name, the last four digits of your account number(s) or former account number(s), address, telephone number, and email address. Your exclusion or opt-out request must be postmarked by [REDACTED], and sent to:

Maureen Harrold v. Union Bank Settlement Administrator
ADDRESS OF THE SETTLEMENT ADMINISTRATOR

17. What happens if I opt-out of the Settlement?

If you opt-out of the Settlement, you will preserve and not give up any of your rights to sue

Unionthe Bank for the claims alleged in this case. However, you will not be entitled to receive a payment or credit from the Settlement.

In the event an account has multiple Accountholders and one such individual opts-out of the Settlement, all of the Accountholders will be deemed to have opted-out of the Settlement.

OBJECTING TO THE SETTLEMENT

18. How do I notify the Court that I do not like the Settlement?

You can object to the Settlement or any part of it that you do not like **IF** you do not opt-out of the Settlement. (Accountholders in the Settlement Class who opt-out have no right to object to how other Accountholders in the Settlement Class are treated.) To object, you may send a written document by mail or private courier (e.g., Federal Express) to the Settlement Administrator at the address below. Do not send your objection to the Court. Your written objection should include the following information:

- a. the name of the Action;
- b. the objector's full name, address, and telephone number;
- c. all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel;
- d. a statement confirming whether the objector or any counsel for the objector intends to personally appear and/or testify at the Final Approval Hearing (see Question 23 below); and
- e. the objector's signature (an attorney's signature is not sufficient).

All written objections must be post-marked no later than _____, ~~2022~~202, and must be mailed to the Settlement Administrator as follows:

ADDRESS OF THE SETTLEMENT ADMINISTRATOR

19. What is the difference between objecting and requesting to opt-out of the Settlement?

Objecting is telling the Court that you do not believe the Settlement is fair, reasonable, and adequate for the Settlement Class, and asking the Court to reject it. You can object only if you do not opt-out of the Settlement. If you object to the Settlement and do not opt-out, then you are entitled to a payment or credit from Net Settlement Fund if the Settlement is approved, but you will be bound by the release of claims you might have against Unionthe Bank.

Opting-out is telling the Court that you do not want to be part of the Settlement, and do not want to receive a payment or credit for APSN Fees or release claims you might have against Unionthe Bank for the claims alleged in this lawsuit.

20. What happens if I object to the Settlement?

The Court will consider the objection. If the Court sustains your objection, or the objection of any other member of the Settlement Class, then there may be no Settlement; provided, however, that an objection to Class Counsel’s requested attorneys’ fees and costs or to the requested Incentive Award amount, may result in approval of the Settlement but the award of a lower attorneys’ fee and cost amount or lower Incentive Award. If you object, but the Court overrules your objection and any other objection(s), then you will be part of the Settlement. If the Court approves the Settlement, then the objector will participate in the Settlement. If the Court does not approve the settlement, then there is no Settlement.

THE COURT’S FINAL APPROVAL HEARING

21. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at [redacted] a.m./p.m. on [redacted], 202[redacted] at the Superior Court of the State of California, County of Los Angeles, Spring Street Courthouse, which is located at 312 N. Spring Street, Los Angeles, California 90012, unless otherwise noticed by the Court. At this hearing, the Court will consider whether the Settlement is fair, reasonable and adequate. If there are objections, the Court will consider them. The Court may also decide how much to award Class Counsel for attorneys’ fees and litigation costs and the amount of the Incentive Award to the Class Representative. The hearing may be virtual, in which case the instructions to participate shall be posted on the Settlement Website at [www.\[redacted\]](http://www.[redacted]). Also, if the date and/or location of the Final Approval Hearing changes, that information will be posted on the same website. If the hearing is in-person, participants will be required to adhere to any Court-imposed social distancing requirements, including wearing a mask, if the Court has such a policy in effect on the date of the hearing. Notice of the final judgment entered by the Court will be given on the Settlement Website.

22. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. You may attend if you desire to do so. If you have submitted an objection, then you may want to attend.

23. May I speak at the hearing?

If you have objected, you may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must include with your written objection, described in Question 17 above, a statement like, “I hereby give notice that I intend to appear at the Final Approval Hearing.” The Court will consider your objection even if you do not appear.

THE LAWYERS REPRESENTING YOU

24. Do I have a lawyer in this case?

The Court ordered that the lawyers and their law firms referred to in this Notice as Class Counsel will represent you and the other members of the Settlement Class. However, you may retain a

lawyer to represent you at your own expense.

25. Do I have to pay the lawyer for accomplishing this result?

No. Class Counsel will be paid directly from the Settlement Fund for the legal services provided to accomplish the Settlement for Settlement Class Members' benefit. Class Counsels' award of attorneys' fees and costs is deducted from the Settlement Fund, reducing that amount in calculating the Net Settlement Fund that Settlement Class Members will be paid.

26. Who determines what the attorneys' fees and costs will be?

The Court will be asked to approve the amount of attorneys' fees at the Final Approval Hearing. Class Counsel will file an application for attorneys' fees and costs before the Final Approval Hearing, which will specify the amounts being sought as discussed above. You may review a copy of the attorneys' fee and cost application at the Settlement Website, [WEBSITE], or by inserting the case number BC680214 on the Court's online docket at <https://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>.

GETTING MORE INFORMATION

This Notice only summarizes the proposed Settlement. More details are contained in the Settlement Agreement, which can be viewed/obtained online at the Settlement Website, [WEBSITE]; in person at the Clerk of the Superior Court of the State of California, County of Los Angeles, which is located at Spring Street Courthouse, 312 North Spring Street, Los Angeles, CA 90012; by contacting the Settlement Administrator (details below) and requesting a copy; or by inserting the case number BC680214 on the Court's online docket at <https://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>.

For additional information about the Settlement and/or to obtain a copy of the Settlement Agreement, or to change your address for purposes of receiving a payment, you should contact the Settlement Administrator as follows:

Maureen Harrold v. Union Bank Settlement Administrator

For more information, you also can contact the Class Counsel as follows:

Jonathan M. Streisfeld
KOPELOWITZ OSTROW P.A.
One West Las Olas Boulevard, Suite 500
Fort Lauderdale, Florida 33301
954-525-4100
streisfeld@kolawyers.com

Andrea Gold
TYCKO & ZAVAREEI LLP
1828 L Street NW, Suite 1000
Washington, DC 20036
202-973-0900
agold@tzlegal.com

PLEASE DO NOT CONTACT THE COURT OR ANY REPRESENTATIVE OF UNION U.S. BANK NATIONAL ASSOCIATION CONCERNING THIS NOTICE OR THE SETTLEMENT.

1 Hassan A. Zavareei (CA Bar No. 181547)
hzavareei@tzlegal.com
2 Andrea R. Gold*
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4 Washington, District of Columbia 20006
Telephone: (202) 973-0900
5 Facsimile: (202) 973-0950

6 Jonathan M. Streisfeld*
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7 KOPELOWITZ OSTROW
FERGUSON WEISELBERG GILBERT
8 One West Las Olas Boulevard, Suite 500
Fort Lauderdale, Florida 33301
9 Telephone: (954) 525-4100
Facsimile: (954) 525-4300

10 **pro hac vice*

11 *Attorneys for Plaintiff Maureen Harrold*

12
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**
15

16 MAUREEN HARROLD, individually and on
behalf of all others similarly situated,

17 Plaintiff,

18 v.

19
20 MUFG UNION BANK, N.A.,

21 Defendant.
22
23

Case No. BC680214

PROOF OF SERVICE

**(Assigned for All Purpose to the Honorable
Yvette M. Palazuelos, Dept. 9)**

Date: January 25, 2024
Time: 10:00 a.m.

Action Filed: October 19, 2017

Amended Complaint Filed: July 29, 2020
Trial Date: None Set

24 At the time of service, I was over 18 years of age and not a party to this action. I am employed
25 in the state of California. My business address is 1970 Broadway, Suite 1070, Oakland, CA 94612.

26 On December 29, 2023, I served true copies of the following documents described as:

27 **PLAINTIFF'S SECOND SUPPLEMENTAL MEMORANDUM OF POINTS**
AND AUTHORITIES IN SUPPORT OF UNOPPOSED MOTION FOR
28 **PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

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on the interested parties in this action as follows:

DAVIS WRIGHT TREMAINE LLP
Nancy R. Thomas, Esq. (State Bar No. 236185)
865 South Figueroa Street, Suite 2400
Los Angeles, CA 90017-2566

*Attorneys for Defendant, U.S. Bank National Association as successor in interest to MUFG
Union Bank, National Association*

[X] BY ONE LEGAL: I transmitted a correct and true attachment of the document(s) to the parties
listed above using the court's e-filing system.

I declare under penalty of perjury under the laws of the State of California that the above is
true and correct.

Executed: December 29, 2023

/s/ Linda Zhu _____
Linda Zhu