

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

LISA MORRIS, MICHAEL BUI, TUMIKA
WILLIAMS, ALBERT EDGE and KRISTEN
VALPERGA on behalf of themselves and all
others similarly situated,

Plaintiffs,

vs.

BANK OF AMERICA, N.A.,

Defendant.

CASE NO. 3:18-CV-157-RJC-DSC

STIPULATION AND SETTLEMENT AGREEMENT AND RELEASE

Subject to approval by the Court, this Stipulation and Settlement Agreement and Release (“Settlement Agreement”) is made and entered into by (1) Plaintiffs Lisa Morris, Michael Bui, Tumika Williams, Albert Edge, and Kristen Valperga (“Class Representatives”), individually and as representatives of the Settlement Class (defined below) and (2) Bank of America, N.A. (“BANA”). The Class Representatives and BANA are collectively referred to herein as “the Parties.” The Parties intend this Settlement Agreement to fully and finally resolve and settle all released rights and claims to the extent set forth below and subject to the terms and conditions set forth below.

RECITALS

1. Plaintiff Lisa Morris, an Oklahoma resident, filed this class action on March 29, 2018, alleging that BANA breached its customer agreements, converted her funds, was unjustly enriched, and violated the North Carolina Unfair and Deceptive Trade Practices Act, N.C.G.S.

§ 75.1-1, *et seq.* (the “NCUDTPA”) and the Oklahoma Consumer Protection Act, 15 OK Stat. § 15-753, *et seq.* (the “OCA”) by (i) charging insufficient funds and overdraft fees (“NSF/OD Fees”) in connection with reinitiated automated clearinghouse (“ACH”) transactions (“Retry Transaction Fee Claims”), (ii) charging NSF/OD Fees in connection with certain BANA-to-BANA account transactions (“Intrabank Transaction Fee Claims”), and (iii) assessing monthly maintenance fees on savings accounts, which Plaintiff contended should have been waived (“MMF Claims”) (collectively, the “Action”). *See* ECF No. 1.

2. On June 6, 2018, Plaintiff Morris filed an amended class action complaint adding Plaintiff Michael Bui, a California resident, as a class representative for the Retry Transaction Fee Claims in the Action, as well as a claim for violation of California’s Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 *et seq.* (the “UCL”). *See* ECF No. 15.

3. On July 12, 2018, Plaintiffs Morris and Bui filed a second amended class action complaint adding Plaintiff Tumika Williams, a Georgia resident, as a class representative with respect to new allegations challenging BANA’s practice of applying deposits to previously assessed NSF/OD Fees before processing upcoming debits (“Fee Accrual Claims”), as well as a claim for violation of the Georgia Fair Business Practices Act, O.C.G.A. § 10-1-390 *et seq.* (the “GFBPA”). *See* ECF No. 19.

4. On August 27, 2018, BANA moved to dismiss the second amended class action complaint under Rule 12(b)(6) of the Federal Rules of Civil Procedure. *See* ECF Nos. 22-23.

5. On January 8, 2019, United States Magistrate Judge David S. Cayer issued a memorandum opinion and recommendation (“M&R”) granting in part and denying in part BANA’s motion to dismiss, and specifically, dismissing with prejudice Plaintiffs’ claims for conversion, unjust enrichment, breach of the implied covenant of good faith and fair dealing, and

denying the motion as to the claims for breach of contract and for violations of the NCUDDTPA, the UCL, the OCPA, and the GFBPA. *See* ECF No. 38.

6. On January 22, 2019, BANA filed a partial objection to that part of the Magistrate Judge's M&R denying BANA's motion to dismiss Plaintiffs' claims for violation of the NCUDDTPA, the UCL, the OCPA, and the GFBPA. *See* ECF No. 39. Plaintiffs filed a response in support of the M&R.

7. On March 29, 2019, the Court adopted in part and declined to adopt in part the Magistrate Judge's M&R. *See* ECF No. 42. Specifically, the Court adopted that part of the M&R dismissing Plaintiffs' claims for conversion, unjust enrichment, breach of the implied covenant of good faith and fair dealing, and denying BANA's motion to dismiss as to the claims for violation of the NCUDDTPA and the UCL. The Court declined to adopt the M&R with respect to Plaintiffs' claims for violations of the OCPA and the GFBPA, instead, dismissing those claims. *Id.* Thus, the only claims remaining in the Action are for (1) breach of contract, (2) violation of the UCL, and (3) violation of the NCUDDTPA. *Id.*

8. Following the Court's Order on the Motion to Dismiss, and after the Court issued a Scheduling Order, the Parties began an extensive discovery effort that lasted nearly two years.

9. On November 5, 2018, Plaintiff Kristen Valperga filed a class action complaint against BANA in the United States District Court, Northern District of California, San Francisco Division, Case No. 3:18-cv-06724-RS, asserting almost identical allegations and claims to those asserted in the Action in connection with the Retry Transaction Fee Claims, including for breach of contract and breach of the covenant of good faith and fair dealing, violation of the UCL, and unjust enrichment (the "Valperga Action").

10. Plaintiff Kristen Valperga dismissed the Valperga Action without prejudice on June 6, 2019 and her counsel made appearances in the Morris Action.

11. On January 14, 2020, Plaintiffs Morris, Bui, and Williams filed the operative third amended class action complaint adding Plaintiff Albert Edge, a North Carolina resident, as a class representative with respect to the Retry Transaction Fee Claims in the Action, and asserting the following remaining claims for (1) breach of contract, (2) violation of the UCL, and (3) violation of the NCUATPA. *See* ECF No. 64.

12. BANA filed an answer to the third amended class action complaint on January 28, 2020. *See* ECF No. 66.

13. Throughout the Morris Action, the Parties engaged in extensive discovery, exchanging tens of thousands of pages of documents and then taking depositions of BANA's representatives and some of the Class Representatives. BANA produced documents related to its NSF/OD practices such as bank contractual agreements, marketing and internal studies on NSF/OD fees, customer complaints related to its fees, and documents showing how much money it made from the disputed fees at issue, among others.

14. Specifically, on May 7, 2019, Plaintiffs served on Defendant: (1) First Set of Interrogatories, (2) First Set of Requests for Production, and (3) Rule 30(b)(6) Deposition Notice.

15. On or about June 24, 2019, Plaintiffs sent Defendant a proposed (1) Protective Order, (2) ESI Protocol, and (3) ESI search terms.

16. The parties immediately began meeting and conferring on various discovery issues, such as custodial ESI searches and the production of data on resubmitted ACH transactions.

17. Plaintiffs filed their notice of intent to serve a non-party subpoena on the National Automated Clearinghouse Association ("NACHA").

18. Plaintiffs then negotiated extensively for production of documents and deposition testimony with NACHA.

19. Plaintiffs ultimately deposed a NACHA corporate representative on November 10, 2020.

20. Plaintiffs filed their notice of intent to serve non-party subpoenas on four non-party banks, which they served on May 29, 2020: JP Morgan Chase, First Hawaiian Bank, Klein Bank and First Citizens Bank.

21. Plaintiffs then negotiated for production of documents with these entities. With respect to JP Morgan Chase, Plaintiffs engaged in motions practice in order to seek production of documents JP Morgan Chase did not wish to produce.

22. On November 7, 2019, Plaintiffs served on Defendant: (1) Second Set of Interrogatories, (2) Third Set of Requests for Production.

23. On January 23, 2020, Plaintiffs served on Defendant: (1) Third Set of Interrogatories, (2) Third Set of Requests for Production

24. On October 7, 2019, Defendant produced documents [BANA_MORRIS- 00000001 - BANA_MORRIS-00001413], which Plaintiffs promptly reviewed.

25. On October 25, 2019, Defendant produced documents [BANA_MORRIS- 00001414 - BANA_MORRIS-00005484], which Plaintiffs promptly reviewed.

26. On November 1, 2019, Defendant produced documents [BANA_MORRIS- 00005485 - BANA_MORRIS-00006842], which Plaintiffs promptly reviewed.

27. On December 6, 2019, Defendant produced documents [BANA_MORRIS- 00006843- BANA_MORRIS-00007334], which Plaintiffs promptly reviewed.

28. On December 23, 2019, Defendant produced documents [BANA_MORRIS-00007335 - BANA_MORRIS-00008953], which Plaintiffs promptly reviewed.

29. On January 23, 2020, Defendant produced documents [BANA_MORRIS-00008954 - BANA_MORRIS-00010564], which Plaintiffs promptly reviewed.

30. On January 29, 2020, and pursuant to a subpoena, third party Global Lending produced documents [BANA_01.24.2020_Global Lending_00000001-BANA_01.24.2020_Global Lending_00000017], which Plaintiffs promptly reviewed.

31. On February 4, 2020, third party Paypal produced documents [BANA_01.28.2020_Paypal_00000001 - BANA_01.28.2020_Paypal_00000030], which Plaintiffs promptly reviewed.

32. On February 21, 2020, third party Citibank produced documents [BANA_02.03.2020_Citibank_00000001 BANA_02.03.2020_Citibank_00000004], which Plaintiffs promptly reviewed.

33. On February 27, 2020, Defendant produced documents [BANA_MORRIS-00010565 - BANA_MORRIS-00010685], which Plaintiffs promptly reviewed.

34. On March 3, 2020, third party Citibank produced documents [BANA_03.02.2020_Citibank_00000001 - BANA_03.02.2020_Citibank_00000055], which Plaintiffs promptly reviewed.

35. On March 9, 2020, third party Farmers Insurance produced documents [BANA_03.05.2020_Farmers_00000001 - BANA_03.05.2020_Farmers_00000015], which Plaintiffs promptly reviewed.

36. On March 23, 2020, Defendant produced document [BANA_MORRIS-00010686], which Plaintiffs promptly reviewed.

37. On March 27, 2020, Defendant produced documents [BANA_MORRIS-00010687 - BANA_MORRIS-00010688], which Plaintiffs promptly reviewed.

38. On April 10, 2020, Defendant produced documents [BANA_MORRIS-00010689 - BANA_MORRIS-00041604], which Plaintiffs promptly reviewed.

39. On April 24, 2020, Defendant produced documents [BANA_MORRIS-00041605 - BANA_MORRIS-00067321], which Plaintiffs promptly reviewed.

40. On May 18, 2020, Defendant produced documents [BANA_MORRIS-00067322 - BANA_MORRIS-00067431], which Plaintiffs promptly reviewed.

41. Over the course of several weeks, the Parties negotiated a stipulation bringing into evidence the deposit agreements and account disclosures of certain banks on April 10, 2020.

42. On October 8, 2019, Plaintiffs responded to Defendant's First Set of Interrogatories, First Set of Requests for Admission, and First Set of Requests for Production and produced documents.

43. The Parties thereafter met and conferred extensively regarding those responses.

44. On December 18, 2019, Plaintiffs served supplemental responses to Defendant's First Set of Requests for Admission.

45. The Parties thereafter met and conferred extensively regarding those responses.

46. On November 22, 2019, Plaintiffs deposed a BANA corporate representative in Charlotte, NC.

47. On December 12, 2019, Plaintiffs deposed a BANA corporate representative in Los Angeles, CA.

48. On November 18, 2020, Plaintiffs deposed BANA employee Cathy Pullen.

49. On September 17, 2020, Plaintiffs noticed the depositions of BANA employees Barry Hallman, Kevin Condon, Riaz Bhamani, Eric Reeves, Christopher Wong, Preston Taylor. Plaintiffs were preparing to take those depositions when the Parties agreed in principle to resolve the Action.

50. While discovery was ongoing, the Parties participated in two formal mediations with Judge Layn Phillips (ret.), as well as several post-mediation telephone conferences. The Parties first mediated in person on August 26, 2019. The mediation did not result in a settlement. The Parties then attended a virtual mediation over a year later with Judge Phillips, on September 8, 2020. The second mediation also did not result in a settlement but brought the Parties closer together.

51. After several more months of litigation, including engaging in extensive meet and confer regarding discovery and depositions, the Parties reached agreement on all material terms of a settlement on December 20, 2020 after accepting a mediator's proposal.

52. The Parties filed a notice of settlement on December 28, 2020. *See* ECF No. 79.

53. The Court then directed the Parties to file a motion for preliminary approval of a class settlement by April 28, 2021 by text order dated January 4, 2021, which was extended to May 12, 2021 by request of the parties.

54. The Parties are ready and willing to make and enter into this Settlement Agreement to settle the claims of Class Representatives and all putative class members in the Action.

55. The Parties recognize that the outcome of the Action is uncertain, and that a final resolution through the litigation process would likely require several years of protracted adversarial litigation and appeals; involve substantial risk and expense; and could result in additional expenses associated with possible future litigation raising similar or duplicative claims.

Class Counsel have concluded, after inquiry and investigation of the facts, that the terms of this Settlement Agreement are fair, reasonable, adequate, and in the best interests of the Settlement Class; and the Parties and their counsel have agreed to resolve the Action as a class action settlement according to the terms of this Settlement Agreement.

56. BANA denies all wrongdoing and liability and denies that Class Representatives' claims entitle them or the class members to any relief and deny that anyone was harmed by the conduct the Class Representatives allege. Nevertheless, BANA desires to settle Class Representatives' and the putative class members' claims on the terms described herein, solely for the purpose of avoiding the burden, expense, risk, and uncertainty of continuing litigation, and in order to put the litigation to rest.

57. Without any admission or concession whatsoever by the Parties as to the strength or weakness of the merits of the claims and defenses asserted in the Action, it is hereby stipulated and agreed by the undersigned, on behalf of Plaintiffs, the Settlement Classes, and BANA that all Released Claims against BANA be fully and forever settled, compromised, released, and dismissed on the merits with prejudice on the following terms and conditions, subject to the Court's approval:

AGREEMENT

1. DEFINITIONS

As used in this Settlement Agreement, the terms defined below shall have the meanings assigned to them when capitalized in the same fashion as in this Section 1 of this Settlement Agreement.

1.1. "Action" means the above-captioned action, *Lisa Morris, et al., v. Bank of America, N.A.*, 3:18-cv-157-RJC-DSC pending in United States District Court for the Western District of

North Carolina, Charlotte Division, including all actions consolidated thereunder or that may be consolidated thereunder in the future.

1.2. “Attorneys’ Fees” means the attorneys’ fees and costs related to this Settlement Agreement that Class Counsel intend to seek under Section 10 of this Settlement Agreement.

1.3. “BANA” means Defendant Bank of America, N.A.

1.4. “BANA’s Counsel” or “Defendant’s Counsel” means Brian A. Kahn, Carolee A. Hoover, and Jasmine K. Gardner of McGuireWoods LLP, and James W. McGarry and Laura A. Stoll of Goodwin Procter LLP.

1.5. “CAFA Notice” means notice of this proposed settlement to the United States Attorney General and appropriate state Attorneys General, as provided by the Class Action Fairness Act of 2005, 28 U.S.C. § 1715.

1.6. “Class Counsel” means David M. Wilkerson and Larry McDevitt of The Van Winkle Law Firm, Jeffrey D. Kaliel and Sophia Gold of Kaliel Gold PLLC, and James J. Pizzirusso of Hausfeld LLP.

1.7. “Class Fees” means Retry Transaction Fees, Intrabank Transaction Fees and/or Fee Accrual Claim Fees (*see* Section 3.1).

1.8. “Class Notice” means the notice of this Settlement and Final Approval Hearing, which is to be sent to the Settlement Class substantially in the manner set forth in this Agreement and approved by the Court, consistent with the requirements of Due Process and Rule 23, and substantially in the form of Exhibits A (Email Notice), B (Postcard Notice), and C (Long Form Notice), attached hereto.

1.9. “Class Period” means the period beginning on July 1, 2014 and ending on the date on which the Court enters Preliminary Approval Order of the Settlement.

1.10. “Class Representatives” means Plaintiffs Lisa Morris, Michael Bui, Tumika Williams, Albert Edge, and Kristen Valperga.

1.11. “Court” means the United States District Court for the Western District of North Carolina, Charlotte Division.

1.12. “Effective Date” shall mean the next business day following the last date on which a notice of appeal directed to the entry of the Final Approval Order and Judgment could have been timely filed but with no notice of appeal having been filed; or, should a notice of appeal be filed, it shall mean the next business day after the Final Approval Order and Judgment is affirmed, all appeals are dismissed, and no further appeal is permitted.

1.13. “Fee and Expense Award” means the amount of Attorneys’ Fees and reimbursement of expenses, if any, awarded by the Court to Class Counsel pursuant to a motion made under Section 10 herein, which will be paid out of the Settlement Amount.

1.14. “Final Approval” means the approval of this Settlement Agreement by the Court at or following the Final Fairness Hearing, and entry of the Final Approval Order on the Court’s docket.

1.15. “Final Approval Order” means a final order and judgment in which the Court gives Final Approval to the Settlement Agreement and dismisses with prejudice Class Representatives’ and Settlement Class Members’ claims and enters a judgment according to the terms set forth herein.

1.16. “Final Fairness Hearing” means the hearing at which the Court will consider and finally decide whether to approve this Settlement Agreement, enter the Final Approval Order, and make other such rulings contemplated by this Settlement Agreement.

1.17. “Fourth Amended Class Action Complaint” means the operative Fourth Amended Complaint filed concurrently with the Motion for Preliminary Approval of the Settlement, which shall be in substantially the same form as Exhibit E, and as further set forth herein in Paragraph 15.3 of this Settlement Agreement.

1.18. “Intrabank Transaction” means a Settlement Class Member’s attempt to make an Automated Clearing House (ACH) payment from their BANA consumer checking account to another BANA account (e.g., BANA mortgage, BANA home equity line of credit, BANA credit card).

1.19. “Intrabank Transaction Fees” means NSF and/or OD fees that a Settlement Class Member paid but were not refunded in connection with an Intrabank Transaction.

1.20. “Notice Plan” means the plan for sending notice to members of the proposed Settlement Class, as set forth in Section 5.

1.21. “Notice Period” means the period of time running from the date the Settlement Administrator commences the Notice Plan until such Notice Plan is complete. The Notice Period must commence within seven (7) calendar days after the entry the Settlement Class List is finalized, as set forth in Paragraph 5.1 and be completed as soon as is practicable.

1.22. “NSF Fee” means insufficient funds fee.

1.23. “Opt-Out Deadline” or “Objection Deadline” means the date by which a written objection to this Settlement Agreement or a request for exclusion submitted by a member of the Settlement Class must be postmarked and/or filed with the Court, and mailed to Class Counsel and to BANA’s Counsel at the addresses provided in the Class Notice, which shall be designated as 105 days after the Court issues the Preliminary Approval Order.

1.24. “OD Fee” means overdraft fee.

1.25. “Person” means a natural person, firm, association, organization, partnership, business, trust, limited liability company, corporation, or public entity.

1.26. “Practice Change” means BANA’s agreement to cease assessing NSF or OD Fees on automated clearinghouse entries labeled by the merchant as a “RETRY PYMT” for a period of at least five (5) years beginning on either February 28, 2022 or 180 calendar days from Final Approval of the Settlement, whichever is later.

1.27. “Preliminary Approval” means preliminary approval of the Settlement Agreement by the Court, conditional certification of the Settlement Class, and approval of the method and content of the Class Notice to the Settlement Class Members.

1.28. “Preliminary Approval Order” means the Order submitted to the Court granting Preliminary Approval of the Settlement, which shall be substantially in the form of Exhibit D attached hereto.

1.29. “Released Claims” means any individual, class, representative, group or collective claim, liability, right, demand, suit, matter, obligation, damage, loss, action or cause of action, of every kind and description, that a Releasing Party has or may have, including assigned claims, whether known or Unknown Claims, contingent or absolute, suspected or unsuspected, disclosed or undisclosed, accrued or un-accrued, latent or patent, contingent or non-contingent, liquidated or un-liquidated, at law or in equity, matured or un-matured, apparent or unapparent, that Class Representatives or Settlement Class Members raised or could have raised in the Action or the Valperga Action, or which they could raise in the future, in any court, tribunal, forum, or proceeding, arising out of or relating in any way to the allegations made in the Action and the Valperga Action, with the sole and limited exception of the MMF Claims, which are not included in the Released Claims. Other than the excluded MMF Claims, the Released Claims described

herein include, but are not limited to, claims or defenses concerning Retry Transaction Fees, Intrabank Transaction Fees, and the Fee Accrual Claims, and any violation and/or alleged violation of state and/or federal law, whether common law or statutory, arising from or relating to the conduct, acts, and/or omissions described in this paragraph.

1.30. “Released Parties” refers to BANA and each of its present, former, and future parents, predecessors, successors, assigns, assignees, affiliates, conservators, divisions, departments, subdivisions, owners, partners, principals, trustees, creditors, shareholders, joint ventures, co-venturers, officers, and directors (whether acting in such capacity or individually), attorneys, vendors, accountants, nominees, agents (alleged, apparent, or actual), representatives, employees, managers, administrators, and each person or entity acting or purporting to act for them or on their behalf, including, but not limited to, Bank of America Corporation and all of its subsidiaries and affiliates.

1.31. “Releasing Parties” means Class Representatives and Settlement Class Members, and any Person claiming by or through the Class Representatives and each Settlement Class Member, including their respective past, present and future heirs, children, spouses, beneficiaries, conservators, executors, estates, administrators, assigns, attorney, agents, consultants, and any other representatives of any of these persons and entities.

1.32. “Retry Transaction Fees” means an insufficient fund and/or overdraft Fee in connection with an ACH entry on a consumer checking account that (a) was resubmitted by the merchant or the merchant’s bank with a “RETRY PYMT” indicator after the initial request for payment was declined or (b) was preceded by another returned ACH entry submitted by the same merchant in the same amount within the last six calendar days, so long as the merchant did not use

the “RETRY PYMT” indicator on any transaction with any BANA customer within the same calendar year as the second entry.

1.33. “Service Award” means the total of any monetary award ordered to be paid to one or more of the Class Representatives, inclusive, as set forth in Section 11 herein.

1.34. “Settlement” means the Agreement between the Class Representatives, on behalf of themselves and as the proposed representatives of the Settlement Class, and BANA to settle and compromise the Class Representatives’ and the Settlement Class Members’ claims in the Action, as memorialized in this Settlement Agreement and accompanying documents attached hereto.

1.35. “Settlement Administrator” means the qualified third-party administrator and agent agreed to by the Parties and approved and appointed by the Court in the Preliminary Approval Order to administer the Settlement, including providing the Class Notice. The Parties agree to recommend that the Court appoint Epiq as the notice provider and Settlement Administrator.

1.36. “Settlement Administration Expenses” means the costs and expenses reasonably and actually incurred in obtaining the services of the Settlement Administrator to facilitate the Settlement, including but not limited to costs of identifying Class Members, printing and mailing the Class Notice, and mailing settlement checks to Class Members, and related services.

1.37. “Settlement Agreement” means this Settlement Agreement and Release.

1.38. “Settlement Amount” or “Settlement Fund” means the amount of seventy-five million dollars (\$75,000,000.00), which BANA will be obligated to pay to the Settlement Administrator, as set forth in Section 6, and only if all other contingencies outlined in Section 6 are met.

1.39. “Settlement Class” or “Settlement Classes” means, collectively, the “Retry Transaction Class,” the “Intrabank Transaction Class,” and the “Fee Accrual Class,” as further defined below.

1.40. “Settlement Class Member” means any person who falls within the definition of the Settlement Classes and who does not submit a valid request for exclusion from the Settlement Class.

1.41. “Settlement Payment(s)” means the payments from the Settlement Amount to be made to Settlement Class Members according to the payment allocation described herein.

1.42. “Settlement Website” means the website to be created, launched, and maintained by the Settlement Administrator which shall provide access to relevant case documents including the Notice, the operative complaint, and other relevant documents. The Settlement Website shall remain accessible until at least thirty (30) calendar days after the Effective Date.

1.43. “Successful Opt-Out(s)” means the Person or Persons who timely and validly exercised his, her, or their right to be excluded from the Settlement Class by the deadline provided in the Class Notice, to be at least thirty (30) days after completion of the Notice Plan, but shall not include persons whose requests for exclusion are not valid or are otherwise void pursuant to Section 9 below.

1.44. “Third Amended Class Action Complaint” means the Third Amended Complaint filed in the Action (ECF No. 64).

1.45. “Unknown Claims” means any claim arising out of or related to Retry Transaction Fees, Intrabank Transaction Fees, and the Fee Accrual Process that a Releasing Party does not know or suspect exists in his, her or its favor at the time of the release of the Released Claims as against the Released Parties, including without limitation those which, if known, might have

affected the decision to enter into the Settlement. The Settlement is intended to extinguish all Released Claims arising out of Retry Transaction Fees, IntraBank Transaction Fees, and the Fee Accrual Process, and, consistent with such intentions, the Releasing Parties shall waive their rights to the extent permitted by state law, federal law, foreign law or principle of common law, which may have the effect of limiting the release set forth above. Class Representatives, on behalf of themselves and the Releasing Parties, expressly waive and release any and all provisions, rights, and benefits conferred by California Civil Code Section 1542, and by any law of any other jurisdiction, or principle of common law, that is similar, comparable, or equivalent in effect to California Civil Code Section 1542 with respect to the release of claims. California Civil Code Section 1542 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.

In making this waiver of rights, the Class Representatives, on behalf of themselves and the Releasing Parties, acknowledge that they and Settlement Class Members may 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 this release, but that it is their intention, as Class Representatives and on behalf of the Settlement Class Members, to fully, finally and forever settle and release any and all claims released hereby known or unknown, suspected or unsuspected, which now exist, or heretofore existed, or may hereafter exist, and without regard to the subsequent discovery or existence of such

additional or different facts for any potential claims arising out of or related to Retry Transaction Fees, Intrabank Transaction Fees, and the Fee Accrual Claims. The Class Representatives, and the Settlement Class Members by operation of the judgment, shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of “Released Claims” was separately bargained for, constitutes separate consideration for, and was a key element of the Settlement and was relied upon by the BANA in entering into the Settlement.

1.46. “Valperga Action” means the action entitled, *Kristen Valperga, et al., v. Bank of America, N.A.*, 3:18-cv-06724 in United States District Court for the Northern District of California, San Francisco Division.

1.47. As used herein, the plural of any defined term includes the singular thereof and *vice versa*, except where the context requires otherwise. All references to days shall be interpreted to mean calendar days, unless otherwise noted. When a deadline or date falls on a weekend or a legal holiday, the deadline or date shall be extended to the next day that is not a weekend day or legal holiday.

1.48. Other terms are defined in the text of this Settlement Agreement, and shall have the meaning given to those terms in the text. It is the intent of the Parties in connection with all documents related to the Settlement that defined terms as used in other documents shall have the meaning given to them in this Settlement Agreement.

2. SETTLEMENT CONSIDERATION

2.1. BANA shall implement the Practice Change.

2.2. BANA shall pay the Settlement Amount in accordance with Paragraph 6.

2.3. BANA will update its account disclosures as related to the Practice Change, as well as Intrabank Transfer Fees and fees related to Fee Accrual Claims.

3. SETTLEMENT CLASSES

3.1. In order to effectuate the Settlement, the Parties agree and consent, for settlement purposes only, that the requirements of Fed. R. Civ. P. 23(a) and Fed. R. Civ. P. 23(b)(3) are satisfied, and subject to Court approval, the following Settlement Classes shall be certified:

Retry Transaction Class: All holders of BANA consumer checking and/or savings accounts who, during the Class Period, paid and were not refunded a Retry Transaction Fee;

Intrabank Transaction Class: All holders of BANA consumer checking and/or savings accounts who, during the Class Period, paid but were not refunded one or more Intrabank Transaction Fees; and

Fee Accrual Class: All holders of BANA consumer checking and/or savings accounts who, during the Class Period, paid and were not refunded an OD and/or an NSF Fee on a consumer checking and/or savings account transaction that would not have been assessed if BANA had delayed the posting of previously assessed NSF/OD fees until the posting of a deposit that was sufficient to cover those fees, all outstanding debit transactions and any additional debit transactions made that day (“Fee Accrual Class Fees”).

3.2. The Parties’ agreement as to certification of the Settlement Classes is solely for purposes of effectuating a settlement and for no other purpose. BANA retains all of its objections, arguments, and defenses with respect to class certification, and reserves all rights to contest class certification, if the Settlement set forth in this Settlement Agreement does not receive the Court’s final approval, if the Court’s approval is reversed or vacated on appeal, if this Settlement Agreement is terminated as provided herein, or if the settlement set forth in this Settlement Agreement otherwise fails to become effective. The Parties acknowledge that there has been no stipulation to any classes or certification of any classes for any purpose other than effectuating the Settlement, and that if the Settlement set forth in this Settlement Agreement does not receive the Court’s final approval, if the Court’s approval is reversed or vacated on appeal, if this Settlement Agreement is terminated as provided herein, or if the settlement set forth in this Settlement

Agreement otherwise fails to become effective, this agreement as to certification of the Settlement Classes becomes null and void ab initio, and this Settlement Agreement or any other Settlement-related statement may not be cited regarding certification of the Settlement Classes, or in support of an argument for certifying a class for any purpose related to this or any other proceeding.

3.3. The Parties agree that the following Class Representatives are adequate representatives of the Settlement Classes as follows: (1) Retry Transaction Class: Lisa Morris, Michael Bui, Albert Edge and Kristen Valperga; (2) Intrabank Transaction Class: Lisa Morris; (3) Accrual Fee Class: Tumika Williams.

4. MOTION FOR PRELIMINARY APPROVAL

4.1. Filing of Motion for Preliminary Approval. On or before April 28, 2021, Class Counsel shall file this Settlement Agreement with the Court together with a Motion for Preliminary Approval, which will seek: (i) certification of the Settlement Classes solely for settlement purposes, pursuant to Fed. R. Civ. P. 23(a) and Fed. R. Civ. P. 23(b)(3); (ii) Preliminary Approval of the Settlement set forth in this Settlement Agreement as fair, reasonable, and adequate within the meaning of Fed. R. Civ. P. 23; (iii) appointment of Class Representatives as representatives of their respective classes; (iv) approval of the proposed Class Notice, which shall be in substantially the same forms as the Class Notices attached hereto as Exhibits A (Email Notice), B (Postcard Notice), and C (Long Form Notice) (collectively, the “Class Notices”), and the Notice Plan set forth in Section 5; and (v) appointment of the Settlement Administrator.

4.2. Preliminary Approval Order. Class Counsel agrees that the proposed Preliminary Approval Order to be filed together with the Motion for Preliminary Approval will be in substantially the same form as Exhibit D. The Preliminary Approval Order shall (i) preliminarily approve the Settlement memorialized in this Settlement Agreement as fair, reasonable, and

adequate, including the material terms of this Settlement Agreement; (ii) set a date for a Final Fairness Hearing; (iii) state that if final approval of the settlement is not obtained, the settlement is null and void, and the Parties will revert to their positions ex ante without prejudice to their rights, claims, or defenses; (iv) approve the proposed Class Notices in the forms attached hereto as Exhibits A through C, and authorize their dissemination to the Settlement Class; (v) set deadlines consistent with this Settlement Agreement for mailing of the Class Notices, the filing of objections, the filing of motions, and the filing of papers in connection with the Final Fairness Hearing; (vi) appoint and approve the Settlement Administrator; (vii) set deadlines by which Class Counsel shall file their motion for attorneys' fees and Class Representatives shall file their motion(s) for service awards, which shall be at least thirty (30) calendar days prior to the Opt-Out Deadline; (viii) state that any appeal of the Court's order on the motion for attorneys' fees or the motion(s) for service awards shall have no effect on the Court's final approval of the Settlement; and (ix) prohibit and preliminarily enjoin Class Representatives, all Settlement Class Members (excepting those who are Successful Opt-Outs), and Class Counsel from commencing, prosecuting, or assisting in any lawsuit against the Released Parties that asserts or purports to assert matters within the scope of the Release during the time between entry of the Preliminary Approval Order and final determination by the Court regarding whether to finally approve the Settlement. BANA agrees that it will not oppose the entry of the Preliminary Approval Order, provided it is substantially in the form of Exhibit D hereto and consistent with the material terms of the Settlement. Without implication of limitation, BANA's agreement that it will not oppose the entry of the Preliminary Approval Order shall not be an admission or concession by it that a class was appropriate in the Action (other than for purposes of this Settlement) or would be appropriate in

any other matter, and/or that any relief was appropriate in the Action, for litigation purposes, or would be appropriate in any other matter.

4.3. If Preliminary Approval of the Settlement Agreement is entered by the Court, Class Representatives and Settlement Class Members shall seek, and BANA shall support, entry of a Final Judgment and Order of Dismissal that: (i) certifies the Settlement Classes pursuant to Fed. R. Civ. P. 23(a) and Fed. R. Civ. P. 23(b)(3) solely for the purpose of the settlement; (ii) approves finally the Settlement set forth in this Settlement Agreement and its terms as being a fair, reasonable, and adequate settlement as to Settlement Class Members within the meaning of Fed. R. Civ. P. 23 and directing its consummation according to its terms; (iii) finds that the Class Notices constitute due, adequate, and sufficient notice of the Settlement set forth in this Settlement Agreement and the Final Fairness Hearing and meets the requirements of due process and the Federal Rules of Civil Procedure; (iv) directs that, as to the Released Parties, the Action shall be dismissed with prejudice and, except as provided for in this Settlement Agreement, without award of costs; (v) orders that the Releasing Parties are permanently enjoined and barred from instituting, commencing, or prosecuting any action or other proceeding asserting any Released Claims against any Released Party; (vi) retains with the Court exclusive jurisdiction over the Settlement and this Settlement Agreement, including the administration and consummation of the Settlement; and (vii) determines under Fed. R. Civ. P. 54(b) that there is no just reason for delay and directs that the judgment of dismissal as to BANA shall be final and entered forthwith.

5. NOTICE PLAN

5.1. Preparation and Production of Settlement Class List. BANA or its agent shall compile a list of Settlement Class Members and provide to the Settlement Administrator within twenty-one (21) calendar days after the Preliminary Approval Order (the “Class List”), which shall include the total number of Class Fees for each Settlement Class Member, whether the Settlement Class Member is a current accountholder with BANA, as well as all known physical addresses and email addresses in BANA’s possession, custody, or control, for the Settlement Class Members. The Settlement Administrator shall use this information for the sole purpose of identifying the current physical addresses and/or email addresses for the Settlement Class Members. Within twenty-one (21) calendar days after the Preliminary Approval Order, BANA will also provide the Class List to Class Counsel for Class Counsel’s validation purposes. However, the Class List provided to Class Counsel will not include any personal identifying information related to Class Members. Class Counsel shall have fourteen (14) calendar days therefrom to raise any objections to the Class List.

5.2. Dissemination of Class Notice. For purposes of providing Court-approved class notices and establishing that the best practicable notice has been given, Class Notice will be provided as follows:

5.2.1. For those Settlement Class Members who are current accountholders of BANA, and have agreed to receive account statements from BANA electronically, the Settlement Administrator shall send the Email Notice to each such Settlement Class Member's last known email address, in a manner that is calculated to avoid being caught and excluded by spam filters or other devices intended to block mass email. For any emails that are returned undeliverable, the Settlement Administrator shall send a Postcard Notice in the manner described below. The Email Notice shall inform Settlement Class Members how they may request a copy of the Long Form Notice.

5.2.2. For those Settlement Class members who are current accountholders of BANA who have not agreed to receive account statements electronically, or who are no longer BANA accountholders, the Postcard Notice shall be mailed to these members by first class United States mail to the last known or best available mailing address.

5.2.3. The Settlement Administrator shall obtain updates, if any, to the addresses contained therein to any of the following using (i) information reasonably available from a Lexis-Nexis or alternative persons search performed as to each Settlement Class Member, (ii) information reasonably available from the National Change of Address ("NCOA") database maintained by the United States Postal Service ("Postal Service"), or (iii) such additional efforts as the Settlement Administrator reasonably believes are appropriate to identify updated addresses, if any, for each Settlement Class Member and/or as the Court may direct. The resulting list shall be the Class List.

5.2.4. Within seven (7) business days after the Class Member List is finalized as set forth in Paragraph 5.1, the Settlement Administrator shall begin the process of mailing the Class Notice(s) to each Settlement Class Member using the Class List by first-class U.S. mail, postage prepaid, and shall complete that process as soon as is practicable. The Settlement Administrator shall format the Class Notice(s) and otherwise administer the notice process in a reasonable manner to minimize costs.

5.2.5. For up to forty-five (45) calendar days following the last date on which the Settlement Administrator mailed Class Notice under this Section 5, if a Class Notice is returned by the Postal Service as undeliverable, the Settlement Administrator shall re-mail the Class Notice immediately to the forwarding address, if any, provided by the Postal Service on the face of the returned mail. For any Class Notice that is returned as undeliverable without a forwarding address, the Settlement Administrator will use commercially reasonable efforts to obtain updated addresses during the forth-five (45) calendar days following the date the last Class Notice was mailed. Other than as set forth above, BANA and the Settlement Administrator shall have no other obligation to re-mail Class Notices.

5.2.6. No later than twenty (20) calendar days before the Final Fairness Hearing, the Settlement Administrator shall cause proof of the Class Notice mailing as set forth herein to be provided to Class Counsel.

5.2.7. Neither the Parties nor the Settlement Administrator shall have any further obligation to send notice of the Settlement to proposed Settlement Class Members once these Class Notice provisions have been complied with.

5.2.8. Settlement Website.

5.2.8.1. The Settlement Administrator shall establish a website to assist in facilitating notice to the Settlement Class Members. This Settlement Website, www.NSFODFeeSettlement.com, shall be accessible no later than seven (7) calendar days prior to the Class Notice mailing described above. The Settlement Website shall set forth the following information: (i) the full text of this Settlement Agreement; (ii) the Long Form Notice (Exhibit C); (iii) the Preliminary Approval Order; (iv) the method for opting-out of the Settlement; (v) contact information for the Settlement Administrator and Class Counsel, and (vi) if the Settlement is terminated, a notice of such termination, which language shall be approved by the Parties.

5.2.8.2. Not later than twenty (20) calendar days before the Final Fairness Hearing, the Settlement Administrator shall cause proof of the establishment and maintenance of the Settlement Website to be provided to Class Counsel. The Settlement Website shall be dismantled 180 days after the mailing of the last Payment Notice or, if the Settlement is terminated, sixty (60) calendar days after such termination.

5.2.8.3. CAFA Notice. BANA shall send CAFA Notice to the United States Attorney General and appropriate state Attorneys General in accordance with 28 U.S.C. § 1715(a) no later than ten (10) business days after this Settlement Agreement is filed with the Court. BANA shall file with the Court certification of the date on which the CAFA Notice was served.

6. PAYMENT OF THE SETTLEMENT AMOUNT

6.1. Within ten (10) calendar days following the entry of the Preliminary Approval Order, BANA shall cause to be delivered to the Settlement Administrator the Parties' estimate of the Settlement Administration Expenses that will be necessary prior to the Effective Date and from which the Settlement Administrator will pay such costs of Class Notice and the cost of other settlement administration tasks incurred prior to the Effective Date. BANA shall pay no portion

of the Settlement Amount until it has received a properly completed W-9 Form from the Settlement Administrator. The Settlement Amount represents the total extent of BANA's monetary obligations under this Settlement Agreement and includes all sums to be paid under this Settlement Agreement as the consideration to eligible Settlement Class Members who are not Successful Opt-Outs, including Service Award(s), if any, the Attorney Fee and Expense Award, if any, and any Settlement Administration Expenses.

6.2. Within twenty (20) business days after the date of entry of the Final Approval Order, the Settlement Administrator shall establish and BANA shall fund an escrow account with funds sufficient for the payment of the remainder of with the \$75,000,000 Settlement Amount payment, less any funds previously provided to the Settlement Administrator for the Settlement Administration Expenses, as set forth in Paragraph 6.1. BANA (a) shall have the right to impose any reasonable terms and conditions on the operation and maintenance of the fund, and of any funds it pays in connection with the Settlement, that it deems appropriate to take advantage of the Qualified Settlement Fund provisions of the tax code or to protect the moneys from intentional or unintentional diversion, expenditure, forfeiture, escheat, or other dispersion that is inconsistent with the express terms of the Settlement, and (b) shall inform Class Counsel of any such terms and conditions. In the event BANA desires to have the Settlement Administrator enter into an agreement or undertaking to take advantage of the Qualified Settlement Fund provisions of the tax code or to protect the moneys in accordance with this paragraph, or to obtain any order from the Court in connection with this paragraph, Class Representatives agree not to object to such requested agreement or order other than on the grounds that the terms or relief sought, in whole or in part, is inconsistent with the express terms of the Settlement. BANA shall pay no portion of the Settlement Amount until it has received a properly completed W-9 Form from the Settlement

Administrator.

6.3. The Settlement Amount shall be applied as follows:

to pay all Settlement Administration Expenses; to pay any other Court-approved fees and expenses; to distribute the balance of the Settlement Amount to Settlement Class Members for each Settlement Class as allowed by the Court pursuant to the Preliminary Approval Order; and to pay the Attorney Fee and Expense Award, as well as the Service Award(s), if any, and to the extent allowed by the Court.

6.4. As set forth above, BANA shall be responsible for paying the total Settlement Amount of \$75,000,000.00. BANA shall have no responsibility for any other costs, including, as further detailed in this Settlement Agreement, any Attorneys' Fees, expenses, and costs, including any taxes or tax-related costs relating to the Settlement Amount but all such fees, expenses, and costs shall be paid out of the Settlement Amount as approved by the Court.

6.5. Any interest earned on the Settlement Amount shall be for the benefit of the Settlement Class.

6.6. Use and Disbursal of Settlement Amount

6.6.1. Purpose and Use. The Settlement Amount shall be used only in the manner and for the purposes set forth in this Settlement Agreement. No portion of the Settlement Amount shall be disbursed except as expressly set forth herein. The Settlement Amount shall be used only for payments to Settlement Class Members, Settlement Administration Expenses, Attorneys' Fees and Expenses (described in Section 10), and the Service Award(s) (described in Section 11).

6.6.2. Settlement Class Member Payments.

6.6.2.1. Within seven (7) calendar days after the Effective Date, BANA shall determine whether the Class List needs to be updated with respect to which Settlement Class Members are current accountholders with BANA and if necessary, will provide an updated Class

List to the Settlement Administrator.

6.6.2.2. Within fifteen (15) days of the Effective Date, the Settlement Administrator shall deduct the total amount of Settlement Payments to be deposited into Settlement Class Members' BANA accounts from the Qualified Settlement Fund and remit to that amount to BANA.

6.6.2.3. Within thirty (30) calendar days after the Effective Date, BANA shall directly deposit the Settlement Payments to those Settlement Class Members who are current accountholders with BANA as of the Effective Date into the Settlement Class Member's primary consumer deposit account.

6.6.2.4. Within thirty (30) calendar days after the Effective Date, the Settlement Administrator shall mail Payment Notices and Settlement Payments, in the form of checks, as determined in the payment allocation for Settlement Class Members described herein who are not, as of the date of Final Approval, current accountholders with BANA. The Settlement Checks and Payment Notices shall include the appropriate release text.

6.6.3. The Payment Notices accompanying the Settlement checks shall notify the recipients that the checks must be cashed within 180 calendar days from the date on the Payment Notice and that the enclosed check shall not be valid after that date.

6.7. Remaining Funds. After 210 calendar days from the Effective Date, any excess funds remaining in the Settlement Fund that have not been distributed in accordance with other provisions of this Settlement Agreement shall, if economically feasible, be distributed to the Settlement Class Members who successfully cashed checks or were granted automatic disbursements. If the distribution of remaining funds costs more than the amount to be distributed or is otherwise economically unfeasible, or if additional funds remain after a second distribution,

Class Counsel shall petition the Court to distribute any remaining funds to a consumer protection or financial services charity.

7. SETTLEMENT BENEFITS

7.1. Amounts of Payments.

7.1.1. Amounts of Payment. Settlement Class Members are entitled to payment by distributing the proceeds from the Settlement Amount to the Settlement Class Members depending upon what Settlement Class the Settlement Class Members belong to and depending on the total number of Class Fees the Settlement Class Member was assessed in connection with the transactions at issue in each Settlement Class during the Class Period. Payments from the Settlement Amount to each Settlement Class Member shall be distributed on a *pro rata* basis and calculated as follows:

(Net Settlement Amount divided by the total number of Class Fees the Settlement Class Members collectively were assessed in connection with the transactions at issue);

Multiplied by;

Total number of Class Fees the Settlement Class Member was charged and paid in connection with the transactions at issue.

7.1.2. All Payments Come From The Settlement Amount. All payments to Settlement Class Members shall be funded by the Settlement Amount.

7.2. Settlement Check Language. Each Settlement check and Payment E-Mail Notice shall state: “This payment is tendered to you as a class member in *Morris, et al. v. Bank of America, N.A.*, 3:18-cv-157-RJC-DSC (W.D.N.C.) in consideration for your release from liability of Defendant and other Released Parties as set forth in the Settlement Agreement and Release.” Each Settlement Check will disclose that it is invalid if it is not cashed within 180 calendar days. Payment pursuant to this Settlement Agreement shall be deemed final and conclusive as against

all Settlement Class Members. If any Settlement Check is returned as undeliverable, the Settlement Administrator will attempt to notify the Settlement Class Member, including by attempting to obtain a new mailing address as practical in the same manner as set forth in Paragraph 5.2.3 (with any costs incurred treated as Settlement Administration Expenses). If, after a second attempt, such Settlement Check is again returned as undeliverable, no further efforts need to be taken by the Settlement Administrator. All Settlement Class Members who do not cash their checks within 180 calendar days otherwise shall be bound by all of the terms of this Settlement Agreement and the Settlement, including the terms of the Final Judgment and Order of Dismissal to be entered in the Action and the releases provided for herein, and will be barred from bringing any action or proceeding against the Released Parties concerning the Released Claims.

7.3. All proceedings with respect to the notice, administration and processing of payments and the determination of all controversies relating thereto shall be subject to the jurisdiction of the Court.

7.4. The Settlement Amount shall be distributed by the Settlement Administrator to Settlement Class Members only after the Effective Date and after: (i) all timely objections have been resolved by the Court, and all appeals therefrom have been resolved or the time therefor has expired; (ii) all matters with respect to Class Counsel's Attorneys' Fee and Expense Application discussed at Section 10 herein, have been resolved by the Court, and all appeals therefrom have been resolved or the time therefor has expired; and (iii) all Settlement Administration Expenses incurred as of that date have been paid.

7.5. Class Representatives and Settlement Class Members shall look solely to the Settlement Amount as full, final, and complete satisfaction of all Released Claims. Except as set forth herein, BANA shall have no obligation under this Settlement Agreement or the Settlement

to pay or cause to be paid any amount of money, and BANA shall have no obligation to pay or reimburse any fees, expenses, costs, liability, losses, taxes, or damages whatsoever alleged or incurred by Class Representatives, by any Settlement Class Member, or by any Releasing Parties, including but not limited to their attorneys, experts, advisors, agents, or representatives, with respect to the Action and Released Claims. Class Representatives and Settlement Class Members acknowledge that as of the Effective Date, the releases given herein shall become effective immediately by operation of the Final Judgment and Order of Dismissal and shall be permanent, absolute, and unconditional.

7.6. BANA shall not have a reversionary interest in the Settlement Amount. If there is a balance remaining of the Settlement Amount after eight (8) months from the date of distribution of the Settlement Amount (whether by reason of tax refunds, uncashed checks or otherwise), or reasonably soon thereafter, the Settlement Administrator shall distribute the remaining balance as ordered by the Court and as further set forth in Paragraph 6.7.

8. TERMINATION OF THE SETTLEMENT

8.1. This Settlement is contingent upon Court approval. If the Court fails to grant final approval the Settlement in any material respect, the Settlement will be subject to termination by the Party adversely affected by such failure. Notwithstanding this paragraph, the Court's determination as to the Attorney Fee and Expense Application and/or any plan of distribution, or any determination on appeal from any such order, shall not provide grounds for termination of this Settlement Agreement or Settlement.

8.2. The Settlement Administrator shall provide Class Counsel and BANA's Counsel a list of Successful Opt-Outs within five (5) business days of the Opt-Out Deadline.

8.3. If this Settlement Agreement is terminated, then the Settlement and the relevant

portions of this Stipulation shall be canceled and terminated without prejudice, and this Settlement Agreement shall be null and void and shall have no further force or effect.

8.4. Except as otherwise provided herein, in the event the Settlement Agreement is terminated in accordance herewith, is vacated, is not approved, or the Effective Date fails to occur for any reason, then the Parties to this Settlement Agreement shall be deemed to have reverted to their respective status in the Action as of December 20, 2020. BANA retains all rights regarding any defenses on the statute of limitations that it had as of December 20, 2020. Indeed, the Parties agree that, if this Settlement Agreement is terminated, then Class Representatives will be able to refile their complaint on behalf of their respective classes as previously filed as of December 20, 2020. In such circumstances, the Parties shall thereafter work together to arrive at a mutually agreeable schedule for resuming the Action.

8.5. Except as otherwise expressly provided herein, in the event the Settlement Agreement is terminated in accordance herewith, is vacated, nor approved, or the Effective Date fails to occur for any reason, the Parties shall proceed in all respects as if this Settlement Agreement and any related orders had not been entered, and any portion of the Settlement Amount previously paid by or on behalf of BANA, together with any interest earned thereon (and, if applicable, repayment of any Attorney Fee and Expense Award, if any, with respect to such income) shall be returned to BANA within ten (10) business days from the date of the event causing such termination.

8.6. No Party hereto or its counsel shall directly, or indirectly, solicit or encourage any Person to request exclusion from the Settlement Class.

9. PROCEDURES FOR OPT-OUTS AND OBJECTIONS

9.1. Out-Out Procedures.

9.1.1. The Class Notice shall inform proposed Settlement Class Members how they may opt out of the Settlement and shall explain the potential implications of doing so, including the possibility that opting out may preclude later participation in any later class action against the Released Parties.

9.1.2. A proposed Settlement Class Member may request to be excluded from the Settlement Class by sending a written, printed request for exclusion, addressed to “Exclusion Requests: Bank of America Account Fee Class Action” at the Settlement Administrator’s address as shown in the Class Notice. The proposed Settlement Class Member’s opt-out request must contain his or her original signature, current postal address, and a specific affirmative statement that the proposed Settlement Class Member wishes to be excluded from the Settlement Class. Opt-Out requests must be postmarked no later than forty-five (45) calendar days after the completion of the Notice Plan (the Opt-Out Deadline).

9.1.3. Persons who purport to opt-out of the Settlement Class as a group, aggregate, or class involving more than one purported class member shall **not** be considered to have validly opted out.

9.2. List of Successful Opt-Outs. Not later than seven (7) calendar days after the Opt-Out Deadline, the Settlement Administrator shall provide Class Counsel and BANA’s Counsel a complete list of the Successful Opt-Outs, together with all opt-out requests.

9.3. Representation of Opt-Outs. Class Counsel agree that this Settlement Agreement is fair, reasonable, and in the Settlement Class Members’ best interests. Class Counsel furthermore agree that potential Settlement Class Members who seek to opt out should be represented by counsel who believe the Settlement Agreement is not fair, reasonable, and not in the Settlement Class Members’ best interests. Accordingly, Class Counsel shall not solicit Settlement Class

Members who opt out for purposes of legal representation and, if contacted, shall refer any such persons to the applicable referral service maintained by the bar association in those persons' respective jurisdictions for any subsequent representation.

9.4. Objections from Settlement Class Members.

9.4.1. Any Settlement Class Member who does not opt-out but instead wishes to object to the Settlement or any matters described in the Class Notice may do so by filing with the Court a notice of his or her intention to object.

9.4.2. Each Settlement Class Member desiring to object to the Settlement Agreement or to the attorneys' fees, costs and expenses, shall submit a timely written notice of his or her objection. Such notice shall state: (i) the objector's full name, address, telephone number, and e-mail address (if any); (ii) information identifying the objector as a Settlement Class Member, including evidence that the objector is a member of the Settlement Class; (iii) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable; (iv) the identity of all counsel representing or assisting the objector, if any; (v) the identity of all counsel representing the objector who will appear at the Final Fairness Hearing, if any; (vi) a list of all persons who will be called to testify at the Final Fairness Hearing in support of the objection, if any; (vii) a statement confirming whether the objector intends to personally appear and/or testify at the Final Fairness Hearing; (viii) the objector's signature and the signature of the objector's duly authorized attorney or other duly authorized representative (along with documentation setting forth such representation), if any; (ix) a list, by case name, court, and docket number, of all other cases in which the objector (directly or through counsel) has filed an objection to any proposed class action settlement within the last three (3) years; (x) a list, by case name, court, and docket number, of all other cases in which the objector's counsel (on behalf of any

person or entity) has filed an objection to any proposed class action settlement within the last 3 years; and (xi) a list, by case name, court, and docket number, of all other cases in which the objector has been a named plaintiff in any class action or served as a lead plaintiff or class representative. To be timely, written notice of an objection in the appropriate form must be filed with the Settlement Administrator by the date certain as ordered by the Court in the Preliminary Approval Order, and served concurrently therewith upon Class Counsel and BANA's Counsel.

9.4.3. If the objection is made by or through an attorney, the written objection must also include: (1) the identity and number of the Settlement Class Members represented by objector's counsel; (2) the number of such represented Settlement Class Members who have opted out of the Settlement Class; and (3) the number of such represented Settlement Class Members who have remained in the Settlement Class and have not objected. If the attorney intends to seek fees and expenses from anyone other than the objectors he or she represents, the attorney shall also file with the Court and serve upon Class Counsel and BANA's Counsel, not later than fifteen (15) calendar days before the Final Fairness Hearing or as the Court may otherwise direct, a document containing the following: (i) the amount of fees sought by the attorney for representing the objector and the factual and legal justification for the fees being sought; (ii) a statement regarding whether the fees being sought were calculated on the basis of a lodestar, contingency, or other method; (iii) the number of hours already spent by the attorney and an estimate of the hours to be spent in the future; and (iv) the attorney's hourly rate.

9.4.4. Any Settlement Class Member who fails to comply with the requirements for objecting set forth herein shall waive and forfeit any and all rights he or she may have to appear separately and/or to object to the Settlement Agreement and shall be bound by all the terms of the Settlement Agreement and by all proceedings, orders and judgments in the Action. The exclusive means for any challenge to the Settlement Agreement shall be through the provisions set forth herein. Without limiting the foregoing, any challenge to the Settlement Agreement, the Final Approval Order and Judgment to be entered upon final approval shall be pursuant to appeal under the Federal Rules of Appellate Procedure and not through a collateral attack.

9.4.5. The Settling Parties shall file their responses to Objections, if any, to the settlement no later than ten (10) days prior to the Final Fairness Hearing.

9.4.6. By filing an objection, objectors and their counsel submit to the jurisdiction of the Court for all purposes, including but not limited to subpoenas and discovery.

9.4.7. Objectors must also make themselves available for deposition by counsel for the Parties between the time the objection is filed and a date no later than five (5) calendar days before the Final Fairness Hearing, and the objection must include the dates when the objector is available for deposition.

9.4.8. Any Settlement Class Member who, within forty-five (45) days after the completion of the Notice Plan (the Objection Deadline), files and serves a written objection satisfying the requirements of this section may appear at the Fairness Hearing, either in person or through personal counsel hired at the Settlement Class Member's expense, to object to any aspect of the fairness, reasonableness, or adequacy of the Settlement. Settlement Class members, or their attorneys, intending to make an appearance at the Final Fairness Hearing must deliver to Class Counsel and BANA's Counsel and have file-marked by the Court, no later than thirty (30) calendar

days before the Final Fairness Hearing or as the Court otherwise may direct, a Notice of Intent to Appear. The Notice of Intent to Appear must: (i) state how much time the Settlement Class Member anticipates needing to present the objection; (ii) identify, by name, address, and telephone number all witnesses the Settlement Class Member proposes to have testify; (iii) summarize in detail the anticipated testimony of all such witnesses; (iv) identify all exhibits the Settlement Class Member intends to offer in support of the objection; and (v) attach complete copies of all such exhibits.

9.4.9. Any Settlement Class Member who fails to timely file such a written statement of his or her intention to object shall be foreclosed from making any objection to the Settlement and shall waive and forfeit any and all rights he or she may have to appear separately and/or object, and shall be bound by all the terms of this Settlement Agreement and by all proceedings, orders and judgments, including but not limited to, the Release contained in this Settlement Agreement.

10. ATTORNEYS' FEES AND COSTS

10.1. Class Counsel will move for approval of an award of Attorneys' Fees and reimbursement of the expenses of this Action at least thirty (30) calendar days prior to the Opt-Out and Objection Deadline, which motion shall be separate and apart from the Motion for Preliminary Approval and the Motion for Final Approval. The Motion for Attorneys' Fees and Costs shall include a proposed order on said Motion.

10.2. BANA agrees that Class Counsel shall be entitled to an award of reasonable Attorneys' Fees, to be determined by the Court.

10.3. BANA agrees not to object to Class Counsel's request for attorneys' fees not to exceed one-third (1/3) of the Settlement Amount. Based upon the total Settlement Amount of \$75,000,000, BANA will not object to a request for Attorneys' Fees of up to \$25,000,000.

However, BANA reserves its rights to object or oppose any request for Attorneys' Fees by Class Counsel over and above that amount.

10.4. In addition, BANA will not object to Class Counsel's additional request for reimbursement of expenses and costs in prosecuting this matter. These amounts shall be subtracted from the Settlement Amount.

10.5. The Attorney Fee and Expense Award shall be paid from the Settlement Amount, with no further obligation by BANA.

10.6. Any Attorneys' Fees and Expense Award shall be available to be distributed from the Qualified Settlement Fund for distribution to Class Counsel in accordance with this Agreement within three (3) business days after any entry of the Final Approval Order subject to the conditions below. Any Attorneys' Fees and Expense Award shall be paid from the Qualified Settlement Fund to Class Counsel immediately after the three (3) day period, notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral attack on the Settlement or any part thereof, subject to each Class Counsel's obligation to repay its share of those amounts to the Qualified Settlement Fund, plus accrued interest at the same net rate as is earned by the Qualified Settlement Fund, if and when, as a result of any appeal and/or further proceedings on remand, or successful collateral attack, the Attorneys' Fees and Expense Award is reduced or reversed, or return of the Qualified Settlement Fund is required consistent with the provisions of this Agreement. In order for a particular Class Counsel firm to receive any Attorneys' Fees and Expense Award after the Final Approval Order and prior to the Effective Date, such Class Counsel must provide to BANA either (1) an irrevocable letter of credit from a bank securing the amount of its share of the award or (2) in the absence of a letter of credit, such other information or repayment agreement acceptable to BANA in its sole and absolute discretion. If any Attorneys'

Fees and Expense Award is reduced or reversed, each Class Counsel firm receiving Attorneys' Fees and Expenses pursuant to this Paragraph shall, within ten (10) business days from the event which requires repayment of the Attorneys' Fees and Expense Award, refund to the Qualified Settlement Fund the reduced or reversed amount of the Attorneys' Fees and Expense Award paid to such firm plus any interest at the same rate as was earned by the Qualified Settlement Fund. To the extent that any Class Counsel firm receives such Attorneys' Fees and Expenses that are not secured by an irrevocable letter of credit as set forth at (1) above, all Class Counsel firms agree that they are jointly, severally and unconditionally liable to BANA for any and all such Attorneys' Fees and Expenses and will pay to BANA when and if due, the amount of such Attorneys' Fees and Expense as may be required to be refunded hereunder, including, without limitation, all interest.

10.7. If Class Counsel seek attorneys' fees over and above one-third (1/3) of the Settlement Amount, and such request is not granted by the Court, Class Counsel, Plaintiffs and/or Class Representatives shall be allowed to appeal that order on the Motion for Attorneys' Fees only if such appeal has no effect on the Final Approval of the Settlement.

10.8. If the award of Attorneys' Fees is reduced or reversed on appeal, Class Counsel shall make all necessary refunds and repayments into the Settlement Amount no later than thirty (30) calendar days after the Court notifies Class Counsel. Such refunds shall be distributed by the Settlement Administrator to the Settlement Class in the manner provided by the Final Approval Order.

11. SERVICE AWARD TO CLASS REPRESENTATIVES

11.1. Application for Service Award. Class Counsel shall apply to the Court for a service award to be paid from the Settlement Amount to the Class Representatives for serving as

class representative in support of the Settlement at least thirty (30) calendar days prior to the Opt-Out Deadline, which motion shall be separate and apart from the Motion for Preliminary Approval and the Motion for Final Approval. BANA will not oppose such a request of \$10,000 total for each set of Class Representatives who provided discovery and were deposed and a request of \$5,000 total for each set of Class Representatives who provided discovery but were not deposed, and \$1,000 for each Class Representative who did not provide discovery. In total, this amounts to total “Service Award” for all Class Representatives of \$31,000.

11.2. No Additional Obligation by BANA. BANA shall have no other responsibility for or liability with respect to the payment of a service award to the Class Representatives beyond the amount stated above for resolution of the Released Claims herein. Specifically excluded from this section are any individual claims that have been separately settled and are not part of this Settlement.

11.3. Source of Payment. A Service Award in the amount approved by the Court shall be paid through distribution from the Settlement Amount as set forth above.

11.4. If Class Representatives seek service awards above the amounts listed in Section 11.1, and such request is not granted by the Court, Class Representatives shall be allowed to appeal that order on the Motion for Service Awards only if such appeal has no effect on the Final Approval of the Settlement.

11.5. If a Service Award is reduced or reversed on appeal, Class Representatives shall make all necessary refunds and repayments into the Settlement Amount no later than thirty (30) calendar days after the Court notifies Class Counsel. Such refunds shall be distributed by the Settlement Administrator to the Settlement Class in the manner provided by the Final Approval Order.

12. FINAL FAIRNESS HEARING AND FINAL APPROVAL

12.1. **Final Fairness Hearing.** The Parties will jointly request that the Court hold the Final Fairness Hearing to consider approval of the settlement of the Action as provided for herein approximately one hundred and twenty (120) calendar days after Preliminary Approval but in no event fewer than ninety (90) calendar days after the CAFA Notice is served. At least ten (10) calendar days before the Final Fairness Hearing, Class Counsel shall file a motion for entry of the Final Approval Order. The Parties agree that the Final Approval Order constitutes a final judgment dismissing the Action with prejudice.

12.2. **Final Approval.** All relief contemplated by this Settlement Agreement is expressly contingent upon the Court's Final Approval.

13. RELEASE OF CLAIMS

13.1. **Release of BANA and Released Parties.** Upon the Effective Date, in exchange for the relief described herein, Class Representatives and each Settlement Class Member who does not validly opt out of the Settlement, and each of their respective heirs, executors, administrators, trustees, guardians, agents, successors, and assigns, and all those acting or purporting to act on their behalf, fully and finally release and discharge the Released Parties of and from the Released Claims. This Release shall be included as part of any judgment, so that all released claims and rights shall be barred by principles of *res judicata*, collateral estoppel, and claim and issue preclusion. Subject to the Court's approval, this Settlement Agreement shall bind all Settlement Class Members, and all Released Claims shall be dismissed with prejudice and released as against the Released Parties. The Released Claims are released regardless of whether these claims are known or Unknown Claims, actual or contingent, liquidated or unliquidated.

13.2. **Covenant Not To Sue.** The Class Representatives, on behalf of themselves and

the Settlement Class Members, covenant and agree: (i) not to file, commence, prosecute, intervene in, or participate in (as class members or otherwise) any action in any jurisdiction based on or relating to any of the Released Claims, or the facts and circumstances relating thereto, against any of the Released Parties; (ii) not to organize or solicit the participation of Settlement Class Members, or persons who would otherwise fall within the definition of the Settlement Class but who requested to be excluded from the Settlement Class, in a separate class for purposes of pursuing any action (including by seeking to amend a pending complaint to include class allegations, or seeking class certification in a pending action in any jurisdiction) based on or relating to any of the Released Claims or the facts and circumstances relating thereto, against any of the Released Parties; and (iii) that the foregoing covenants and this Settlement Agreement shall be a complete defense to any of the Released Claims against any of the Released Parties.

14. DISPUTES RELATING TO THE SETTLEMENT

14.1. The Parties shall work in good faith to resolve any disputes that may arise in connection with the Settlement.

14.2. Until and unless this Agreement is dissolved or becomes null and void by its own terms, or unless otherwise ordered by the Court, or if Final Approval is not achieved, Class Representatives, BANA, Class Counsel and BANA's Counsel represent and warrant that they shall take all appropriate steps in the Action necessary to preserve the jurisdiction of the Court, use their best efforts to cause the Court to grant Preliminary and Final Approval of this Settlement Agreement as promptly as possible, and take or join in such other steps as may be necessary to implement this Settlement Agreement and to effectuate the Settlement.

15. MISCELLANEOUS PROVISIONS

15.1. **Non-Disparagement:** Class Representatives, Class Counsel, BANA, and BANA's

Counsel shall not issue, or otherwise cause to be issued, any press release, advertisement, or Internet posting which (a) disparages any of the Class Representatives, Class Counsel, BANA, or BANA's Counsel with respect to any matters or issues alleged or asserted in the Action or relating to this Settlement; or (b) includes evidence or information protected from disclosure by the Protective Order in the Action.

15.2. No Admission. Nothing herein shall constitute any admission as to any assertion, claim, or allegation made by any party, or as to the scope of liability. BANA specifically denies any wrongdoing or liability and specifically denies that a class could or should be certified in the Action for litigation purposes. This Settlement Agreement is entered into to resolve all claims amicably, and to avoid the risk and expense of additional litigation, and does not imply or suggest in any way fault or wrongdoing. The Parties hereto agree that this Settlement Agreement and its Exhibits, and any and all associated negotiations, documents, discussions, shall not be deemed or construed by anyone to be an admission or evidence of any violation of any statute or law, or of any liability or wrongdoing by BANA.

15.3. Fourth Amended Complaint: Prior to, or concurrent with the filing of the Motion for Preliminary Approval, Plaintiffs shall file a Fourth Amended Complaint, substantially in the form of Exhibit E attached hereto, which shall become the operative complaint in the Action, adding Class Representative, Kristen Valperga, as plaintiff and as a proposed Class Representative for the Retry Transaction Class, and removing the MMF Claims, and which shall not substantively change the complaint in any way except as set forth herein.

15.4. Admissibility of Settlement Agreement. This Settlement Agreement shall not be offered nor shall be admissible as evidence in any action or proceeding except (i) the hearings necessary to obtain and implement Court approval of this Settlement; and (ii) any hearing to

enforce the terms of this Settlement Agreement or related order by the Court. This Settlement Agreement, whether or not consummated, any proceedings relating to the Settlement, and any of the terms of the Settlement, whether or not consummated, shall in no event be construed as, or deemed to be evidence of, an admission or concession on the part of BANA with respect to any fact or matter alleged in the Action, or any fault or liability or wrongdoing or damage whatsoever, or any infirmity in any defense that has been or could have been asserted.

15.5. Successors and Assigns. This Settlement Agreement's terms shall apply to and bind the Parties and their heirs, successors, and assigns.

15.6. No Assignments. Class Representatives and Class Counsel represent, covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber any portion of any Released Claim except as set forth herein, and that there are no Persons having any interest in any award of attorneys' fees, expenses, or litigation costs in connection with the Action. Class Counsel agrees to indemnify and hold BANA and its counsel harmless as to (a) any breach of the representation and warranty contained in the prior sentence; and (b) any claim by any other Person against BANA or its counsel for such an award of attorneys' fees, expenses or litigation costs.

15.7. No Tax Advice. BANA may be required to file certain 1099 or other information reports with the United States Internal Revenue Service or other government agencies as required indicating its payments to the Settlement Class Members. No representations or advice regarding the tax consequences of this Settlement Agreement have been made by anyone. The Parties further understand and agree that each Party, each Settlement Class Member and each of Class Counsel shall be responsible for his, her, its, or their own taxes, if any, resulting from this Settlement Agreement and any payments made pursuant to this Settlement Agreement.

15.8. Communications with Parties Relating to Settlement Agreement. All notices, requests for consent, and other formal communications under this Settlement Agreement shall be in writing and sent by mail and e-mail to counsel for the Party to whom notice is directed at all of the addresses below. Any Party may change its designated recipient(s) or notice address(es) by written notice to all other Parties

If to Class Representatives:

Larry McDevitt (NC Bar No. 5032)
David M. Wilkerson (NC Bar No. 35742)
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lmcdevitt@vwlawfirm.com

Jeffrey D. Kaliel (*pro hac vice*)
Sophia Gold (*pro hac vice*)
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James J. Pizzirusso (*pro hac vice*)
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If to Defendants:

Brian A. Kahn (NC Bar No. 29291)
Jasmine K. Gardner (NC Bar No. 47853)
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2 Embarcadero Center, Suite 1300
San Francisco, CA 94111-3821
(415)844-1791
choover@mcguirewoods.com

15.9. Entire and Voluntary Agreement.

15.9.1. Knowing and Voluntary Assent. The Parties agree that the Settlement Agreement is voluntary and that its terms were negotiated at arm's length. The Parties agree that they were represented by competent and experienced counsel.

15.9.2. Entire Agreement. The Parties intend the Settlement Agreement to be a complete and final resolution to the Action. This Settlement Agreement contains the Parties' entire agreement on and understanding of the subject-matter at issue in the Action. This Settlement Agreement merges with and supersedes all prior negotiations and proposals, whether written or oral.

15.10. Headings and Titles. The headings and titles in this Settlement Agreement are for the reader's convenience only and shall not affect or alter the meaning of the Settlement Agreement's terms.

15.11. Settlement Agreement Controls Over Exhibits. All exhibits attached to this Settlement Agreement are hereby incorporated into this Settlement Agreement as though fully set forth herein. If there is any conflict between the terms of the Settlement Agreement and the attached exhibits, the Settlement Agreement shall control.

15.12. Amendments and Modifications. This Settlement Agreement may be amended or modified only by a written instrument signed by the Parties or by the respective attorneys, or their respective successors-in-interest.

15.13. Authorization of Counsel. Class Representatives and Settlement Class Members expressly authorize Class Counsel to take all appropriate action required or permitted to be taken by the Settlement Class pursuant to the Settlement Agreement to effectuate its terms. Class Counsel are furthermore expressly authorized to enter into any modifications or amendments to the Settlement Agreement on behalf of the Settlement Class Members that they deem necessary or appropriate. Each attorney or other person executing the Settlement Agreement on behalf of a Party hereto warrants that such attorney or other person has full authority to do so. The undersigned representatives of BANA represent that they are fully authorized to enter into and execute this

Settlement Agreement on behalf of BANA. Class Counsel represent that they are fully authorized to conduct settlement negotiations with BANA's Counsel on behalf of Class Representatives and to enter into and execute this Settlement Agreement on behalf of Class Representatives and the putative Settlement Classes, subject to approval by the Court.

15.14. Computation of Time. Except as expressly set forth herein, in computing any period of time prescribed or allowed by this Settlement Agreement, the provisions of Federal Rule of Civil Procedure 6 shall govern.

15.15. Continuing Jurisdiction and Exclusive Venue. Each of the Parties, each Settlement Class Member, and each of the Releasing Parties that are otherwise subject to the jurisdiction of a United States court hereby irrevocably submits to the exclusive jurisdiction and venue of the United States District Court for the Western District of North Carolina for any suit, action, proceeding, case, controversy, or dispute arising from or related to this Agreement and/or Exhibits hereto and the negotiation, performance, or breach of same.

15.16. Construction and Interpretation of Terms. The Parties have cooperated in drafting and preparing this Settlement Agreement. There shall therefore be no presumption for or against any Party because that Party initially drafted a particular section or subsection. Before declaring any provision invalid, a court should first attempt to construe the provision as valid, consistent with the Settlement Agreement's purposes, and consistent with applicable precedent.

15.17. No Claims Arising from this Settlement Agreement. No person shall have any claim against any of the Released Parties, against Class Representative, against counsel for any Party, based on distribution of benefits made substantially in accordance with this Settlement Agreement or related order(s) of the Court.

15.18. Standing of Released Parties. The Released Parties who are not signatories hereto

shall be third-party beneficiaries under this Settlement Agreement and shall be entitled to enforce this Settlement Agreement in accordance with its terms. Aside from the Released Parties, it is not the intention of the Parties to confer third-party beneficiary rights or remedies upon any other person or entity.

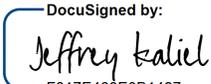
15.19. Applicable Law. This Settlement Agreement shall be interpreted under and governed by federal law. To the extent state law applies, the laws of the State of North Carolina shall apply, without regard to choice of law principals. All judicial proceedings regarding this Settlement Agreement shall be brought only in this Court. Any time period set forth in this Settlement Agreement shall be calculated pursuant to the Federal Rules of Civil Procedure and the Civil Rules of Practice and Procedure for the Western District of North Carolina.

15.20. Counterparts. This Settlement Agreement may be executed in one or more counterparts and by facsimile. All executed counterparts shall be deemed to be one and the same instrument. Counsel for the Parties shall exchange among themselves signed counterparts. A complete set of executed Counterparts shall be filed with the Court.

15.21. Efforts to Support Settlement. The Parties and their counsel agree to cooperate fully in seeking timely Court approval for this Settlement Agreement and to use reasonable efforts to effect consummation of the Settlement and effectuate its terms.

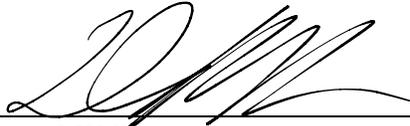
IN WITNESS THEREOF, the Parties have caused this Settlement -- and Release to be executed by their duly authorized representatives.

APPROVED BY SETTLEMENT CLASS COUNSEL

DocuSigned by:

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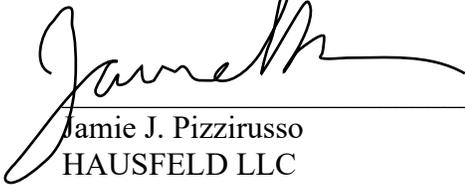
Jeffrey D. Kaliel
Sophia Gold
KALIEL GOLD PLLC

Date: 5/11/2021



David Wilkerson
Larry McDevitt
The Van Winkle Law Firm

Date: 5/12/2021



Jamie J. Pizzirusso
HAUSFELD LLC

Date: 5.11.21

APPROVED BY DEFENDANT AND COUNSEL FOR DEFENDANT

On behalf of Bank of America, N.A.

Date: _____

Brian A. Kahn
Jasmine K. Gardner
McGuireWoods LLP

Date: _____

David Wilkerson
Larry McDevitt
The Van Winkle Law Firm

Date: _____

Jamie J. Pizzirusso
HAUSFELD LLC

Date: _____

APPROVED BY DEFENDANT AND COUNSEL FOR DEFENDANT

John T. Livaditis

John Livaditis
Senior Vice President
On behalf of Bank of America, N.A.

Date: 5/11/2021

Brian A. Kahn

Brian A. Kahn
Jasmine K. Gardner
McGuireWoods LLP

Date: 5/12/21