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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ARMANDO HERRERA, *et al.*

Plaintiffs,

v.

WELLS FARGO BANK, N.A., *et al.*

Defendants.

CASE NO. 8:18-cv-00332-JVS-MRW

SETTLEMENT AGREEMENT

Honorable James V. Selna

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DEFINITIONS

As used in the Agreement, the following terms have the meanings specified below:

1. “Action” means *Herrera v. Wells Fargo*, Case No. 8:18-cv-003320-AG-MRW filed in the United States District Court for the Central District of California.

2. “Additional Compensation” means the payment that the Statutory Subclass Members will receive from the Settlement Fund in addition to an Early Payoff GAP Refund as set forth in Paragraph III.D. of the Agreement.

3. “Administrator” or “Settlement Administrator” means JND Legal Administration.

4. “Agreement” means this settlement agreement entered into by the Parties.

5. “Approved Claims” means an Eligible Class Member submitted a completed Claim Form for an Early Payoff GAP Refund.

6. “Claim Form” means the form that Non-Statutory Subclass Members will need to complete to submit a claim for an Early Payoff GAP Refund which will be provided to the Non-Statutory Subclass Members in substantially the same form and with substantially the same content as **Exhibit A**.

7. “Claim Form Deadline” means the date when the Non-Statutory Subclass Members must submit a completed Claim Form to the Settlement Administrator in accordance with the requirements set forth in Paragraph III.C.1.e. of the Agreement and which shall be sixty (60) days from the mailing of the Notice of Settlement.

8. “Class” or “Class Member(s)” means all persons in the United States (a) who entered into Finance Agreements with GAP Agreements that were assigned to Wells Fargo, (b) whose Finance Agreements terminated as the result of an Early Payoff that occurred during the Class Period, and (c) who did not receive a GAP Refund. The Class also includes the Statutory Subclass Members defined below.

1 9. “Class Counsel” shall refer to Andrew Stolper, Jason Frank and Scott
2 Sims of Frank Sims & Stolper LLP, Franklin D. Azar of Franklin D. Azar &
3 Associates P.C., and Charles E. Shaffer of Levin Sedran & Berman.

4 10. “Class Notice” has the meaning set forth in Paragraph I.D. of the
5 Agreement.

6 11. “Class Period” means the beginning date specified in **Exhibit B** to this
7 Agreement through the date of the Preliminary Approval of the Settlement. The
8 beginning date of the Class Period is based on the State of Origination of the Class
9 Member’s Finance Agreement.

10 12. “Class Released Claims” has the meaning set forth in Paragraph II.A. of
11 the Agreement.

12 13. “Class Releasers” has the meaning set forth in Paragraph II.A. of the
13 Agreement.

14 14. “Class Releasees” has the meaning set forth in Paragraph II.A. of the
15 Agreement.

16 15. “Class Representatives” means Plaintiffs Armando Herrera, Dena
17 Lucero, Frederick Brown, Vanity Arrington, Kashif Z. Awan, Gretta Carter, James
18 Atkins, Ilka Robinson-Eaton, Janet Corpes, Terri Jones, Heidi Humphreys, Ria
19 Marteins, Brian T. Sweeney, Nakecia M. Dean and Von Griffin.

20 16. “Counsel for Wells Fargo” shall refer to William C. Mayberry and
21 Joshua D. Davey of Troutman Pepper Hamilton Sanders LLP and David C. Powell
22 and Alicia A. Baiardo of McGuireWoods LLP.

23 17. “Court” shall refer to the United States District Court for the Central
24 District of California.

25 18. “Day” or “Days” has the meaning ascribed to it in Federal Rule of Civil
26 Procedure 6, and all time periods specified in this Agreement shall be computed in a
27 manner consistent with that rule. All references to days shall be interpreted to mean
28 calendar days, unless otherwise noted.

1 19. “Dealer” means an automobile dealership that assigned a Finance
2 Agreement to Wells Fargo.

3 20. “Defendants” means Wells Fargo Bank, N.A. and Wells Fargo & Co.

4 21. “Early Payoff” means the payment in full of the Finance Agreement prior
5 to its original scheduled maturity date.

6 22. “Early Payoff GAP Refund” means a GAP Refund which may be owed
7 following cancellation or termination of a GAP Agreement due to an Early Payoff.

8 23. “Effective Date” means the first date by which all of the events and
9 conditions specified in Section VII.A. of the Agreement have occurred and have been
10 met.

11 24. “Eligible Class Member” means a Non-Statutory Subclass Member who
12 returned a completed Claim Form.

13 25. “Exclusion/Objection Deadline” means the deadline for requesting
14 exclusion from the Class or objecting to the Settlement, which shall be sixty (60) days
15 from the date of the mailing of the Notice of Settlement.

16 26. “Execution Date” means the latest date associated with a signature on
17 the fully executed Agreement as set forth on the Agreement’s signature pages.

18 27. “Fee and Expense Application” means the application Class Counsel
19 submits to the Court for an award of attorneys’ fees and reimbursement of reasonable
20 expenses incurred in connection with prosecuting the Action not to exceed the amount
21 set forth in Paragraph VI.A. of the Agreement.

22 28. “Fee and Expense Award” means any amounts that are awarded by the
23 Court in response to Class Counsel’s Fee and Expense Application.

24 29. “Final” means, with respect to any order of the Court, including, without
25 limitation, the Judgment, that such order represents a final and binding determination
26 of all issues within its scope and is not subject to further review on appeal or
27 otherwise. Without limitation, an order becomes “Final” when: (a) no appeal has been
28 filed and the prescribed time for commencing any appeal has expired; or (b) an appeal

1 has been filed and either (i) the appeal has been dismissed and the prescribed time, if
2 any, for commencing any further appeal has expired, or (ii) the order has been
3 affirmed in its entirety and the prescribed time, if any, for commencing any further
4 appeal has expired. For purposes of this Agreement, an “appeal” includes appeals as
5 of right, discretionary appeals, interlocutory appeals, proceedings involving writs of
6 certiorari or mandamus, and any other proceedings of like kind. Any appeal or other
7 proceeding pertaining solely to any order issued with respect to an application for
8 attorneys’ fees and expenses consistent with this Agreement shall not in any way
9 delay or preclude the Judgment from becoming Final.

10 30. “Final Approval” has the meaning set forth in Paragraph I.E. of the
11 Agreement.

12 31. “Final Approval Order” has the meaning set forth in Paragraph I.E. of
13 the Agreement.

14 32. “Finance Agreement” means the retail installment sales contract or
15 similar agreement entered into between a Class Member and Dealer for the purchase
16 of a vehicle.

17 33. “GAP” means Guaranteed Asset Protection and/or Guaranteed Auto
18 Protection.

19 34. “GAP Administrator” means the administrator identified in a GAP
20 Agreement.

21 35. “GAP Agreement” means the contractual agreement by which a Class
22 Member purchased GAP from a Dealer.

23 36. “GAP Refund” means the refund of all or part of the amount paid for
24 GAP.

25 37. “Judgment” means the order of judgment and dismissal of the Action
26 with prejudice.

1 38. “Net Settlement Fund” means the amount that would remain in the
2 Settlement Fund after deducting any Fee and Expense Award and Service Awards
3 approved by the Court.

4 39. “Non-Statutory Subclass” means all Class Members who are not
5 members of the Statutory Subclass.

6 40. “Notice of Settlement” means the written notice of the Settlement that
7 will be provided to the Class in substantially the same form and with substantially the
8 same content as **Exhibit C** and the similar written notice that will be provided to the
9 Statutory Subclass in substantially the same form and with substantially the same
10 content as **Exhibit D**.

11 41. “Notice Plan” has the meaning set forth in Paragraph I.D. of the
12 Agreement concerning the proposed form of notice to the Class.

13 42. “Opt-Out” means a person who falls within the definition of the Class
14 who has timely and validly elected to be excluded from the Class pursuant to the
15 procedures set forth in Paragraph VII.D. of the Agreement. It does not include any
16 person whose request for exclusion is challenged by Defendants and the challenge is
17 not overruled by the Court or withdrawn by Defendants, any person whose
18 communication is not treated as a request for exclusion, and/or any person whose
19 request for exclusion is not valid or is otherwise void.

20 43. “Opt-Out List” is the list of Class Members who submit valid and timely
21 Requests for Exclusion from the Class as set forth in Paragraph VII.D. of the
22 Agreement.

23 44. “Plaintiffs” means the following named Plaintiffs in the operative First
24 Amended Complaint in this Action: Armando Herrera, Dena Lucero, Frederick
25 Brown, Vanity Arrington, Kashif Z. Awan, Gretta Carter, James Atkins, Ilka
26 Robinson-Eaton, Janet Corpes, Terri Jones, Heidi Humphreys, Ria Marteins, Brian T.
27 Sweeney, Nakecia M. Dean and Von Griffin.

1 45. “Preliminary Approval” has the meaning set forth in Paragraph I.C. of
2 the Agreement.

3 46. “Preliminary Approval Order” has the meaning set forth in Paragraph
4 I.C. of the Agreement.

5 47. “Pro Rata Method.” The Settlement Administrator will determine the
6 “used” percentage of GAP, and calculate the Early Payoff GAP Refund utilizing the
7 “Pro Rata Method” which means the following: (a) dividing the number of days that
8 the GAP product was in use (payoff date minus contract start date) by the total number
9 of days in the original term of the Finance Agreement (scheduled expiration date
10 minus contract start date); (b) subtracting that figure from 1 to yield the “unused”
11 percentage, and (c) multiplying unused percentage of GAP by the amount the
12 customer paid for GAP. No cancellation fee shall be applied and/or included in the
13 calculation.

14 48. “Remaining Amounts” means any monies that remain in the Settlement
15 Fund after the Settlement Administrator pays (a) Approved Claims for Refunds to
16 Non-Statutory Subclass Members; (b) Additional Compensation to Statutory Subclass
17 Members; (c) the Fee and Expense Awards approved by the Court and (d) the Service
18 Awards approved by the Court.

19 49. “Service Awards” means the amount awarded by the Court to Plaintiffs
20 for their service as Class Representatives as described in Paragraph VI.E. of the
21 Agreement.

22 50. “Service Award Applications” has the meaning set forth in Paragraph
23 VI.E. of the Agreement.

24 51. “Settlement” means the settlement of the claims released by the
25 Agreement.

26 52. “Settlement Fund” means the \$45 million that will be deposited by Well
27 Fargo into an account administered by the Settlement Administrator to cover the
28 amounts to be paid for (a) Approved Claims for Refunds to Non-Statutory Subclass

1 Members; (b) Additional Compensation to Statutory Subclass Members; (c) the Fee
2 and Expense Awards approved by the Court and (d) the Service Awards approved by
3 the Court.

4 53. “State of Origination” shall mean the State whose law governs the
5 Finance Agreement, as determined by the data maintained by Wells Fargo.

6 54. “State Refund Laws” means those State laws that require indirect auto
7 lenders to take certain actions to ensure that a customer receives a GAP Refund after
8 an Early Payoff. For purposes of this Settlement only, the Parties agree that **Exhibit**
9 **E** sets forth a list of the States with State Refund Laws that apply to the Class and the
10 time periods those laws were in effect during the Class Period. This list will be used
11 solely for the purpose of defining the members in the Statutory Subclass as part of
12 this Settlement.

13 55. “Statutory Subclass” means those persons (a) who entered into Finance
14 Agreements with GAP Agreements that were assigned to Wells Fargo, (b) whose
15 Finance Agreements were subject to State Refund Laws, (c) whose Finance
16 Agreements terminated as the result of an Early Payoff that occurred during the
17 Statutory Subclass Period, and (d) who did not receive a GAP Refund from Wells
18 Fargo, or for whom Wells Fargo did not receive written confirmation from a Dealer
19 or GAP Administrator that the GAP Refund was paid.

20 56. “Statutory Subclass Compensation” has the meaning set forth in
21 Paragraph III.C.2. of the Agreement.

22 57. “Statutory Subclass Period” means the State-specific beginning date
23 specified in **Exhibit E** to this Agreement through the date of the Preliminary Approval
24 of the Settlement.

25 58. “Term Sheet” means the Term Sheet agreed to by the Parties on or about
26 December 11, 2020.

27 59. “TILA” shall mean the Truth in Lending Act.
28

1 60. “Wells Fargo” means Wells Fargo Bank, N.A. and Wells Fargo & Co.,
2 including without limitation its operating divisions Wells Fargo Dealer Services and
3 Wells Fargo Auto.

4 61. As used in the Agreement, the plural of any defined terms includes the
5 singular thereof and vice versa, except where the context requires otherwise.

SETTLEMENT AGREEMENT

This Settlement Agreement (the “Agreement”) is made and entered as of the Effective Date between Plaintiffs, both individually and on behalf of the Class, and Wells Fargo (each as defined below). This Agreement is intended by the Settling Parties to fully, finally, and forever resolve, discharge, and settle the claims described herein, upon the following terms and conditions.

WHEREAS, Plaintiffs are prosecuting the above captioned Action on their own behalf and on behalf of the proposed Class against Wells Fargo;

WHEREAS, Plaintiffs' First Amended Complaint alleged, among other things, that Wells Fargo failed to make Early Payoff GAP Refunds to Plaintiffs and the Class as required by their GAP Agreements;

WHEREAS, the First Amended Complaint asserted claims for breach of contract, violation of TILA, money had and received, violations of California's Consumer Legal Remedies Act and Unfair Competition Law, and declaratory relief (ECF No. 102);

WHEREAS, Wells Fargo moved to dismiss the First Amended Complaint (ECF No. 125), and the Court granted Wells Fargo's motion in part and denied it in part, with leave to amend (ECF No. 179);

WHEREAS, the Court determined that Plaintiff Eduardo Salcedo's claims were barred by the statute of limitations (ECF No. 179);

WHEREAS, Wells Fargo moved to strike the nationwide class allegations (ECF No. 126), which the Court denied (ECF No. 179);

WHEREAS, Wells Fargo also moved to compel arbitration as to the claims of certain named plaintiffs, which the Court granted (ECF No. 180);

WHEREAS, Wells Fargo denies each and all of the claims and allegations of wrongdoing made by Plaintiffs; denies that Defendants have violated any law or other duty; denies that Defendants have engaged in any wrongdoing or any other act or

1 omission that would give rise to liability or cause Plaintiffs' injuries, damages, or
2 entitlement to any relief; denies that Defendants collected amounts paid for GAP;
3 denies that Defendants breached the terms of any GAP Agreements or otherwise
4 failed to provide Early Payoff GAP Refunds which were owed; would have asserted
5 affirmative defenses to Plaintiffs' claims; and would contest certification of a non-
6 settlement Rule 23(b)(3) damages class and/or a Rule 23(b)(1) or Rule 23(b)(2)
7 declaratory and injunctive relief class if Plaintiffs sought to certify such classes; and
8 state that Defendants are entering into this Agreement to avoid the further
9 uncertainties, expense, inconvenience, delay, and distraction of burdensome and
10 protracted litigation, and thereby to put to rest this controversy with respect to
11 Plaintiffs and the Class and avoid the risks inherent in complex litigation;

12 WHEREAS, the Parties have engaged in substantial discovery concerning
13 Plaintiffs' claims;

14 WHEREAS, Plaintiffs and Wells Fargo stipulate that the fact of this
15 Agreement, any of the terms in this Agreement, any documents filed in support of this
16 Agreement, or any statement made in the negotiation thereof shall not be deemed or
17 construed to be an admission or evidence of (i) any violation of any statute or law,
18 (ii) any liability or wrongdoing by Wells Fargo, (iii) liability on any claims or
19 allegations, or (iv) the propriety of certifying a litigation class in any proceeding, and
20 shall not be used by any Person for any purpose whatsoever in the Action (defined
21 below) or any other legal proceeding, including but not limited to arbitrations,
22 mediations, or subsequent litigations other than a proceeding to enforce the terms of
23 this Agreement;

24 WHEREAS, Plaintiffs and Wells Fargo participated in three mediations in this
25 case; the first on January 23, 2019 with the Hon. Louis Meisinger (Ret.), the second
26 on June 17, 2020 with the Hon. Andrew Guilford (Ret.), and the third on December
27 11, 2020, also with Judge Guildford;

1 WHEREAS, Plaintiffs and Wells Fargo have agreed to the terms of this arm's-
2 length Agreement, which embodies all of the terms and conditions of the Settlement
3 between the Settling Parties, subject to the approval of the Court as provided below,
4 and which is intended to supersede any and all prior agreements between the Settling
5 Parties, including but not limited to the Term Sheet entered into by the Parties on
6 December 11, 2020; and

7 WHEREAS, Plaintiffs and Class Counsel have concluded, after due
8 investigation and after carefully considering the relevant circumstances, including,
9 without limitation, the claims asserted in Plaintiffs' First Amended Complaint, the
10 legal and factual defenses thereto and the applicable law, that it is in the best interests
11 of Plaintiffs and the Class to enter into this Agreement to avoid the uncertainties of
12 litigation and to assure that the benefits set forth below are obtained for Plaintiffs and
13 the Class, and, further, that Class Counsel consider the Settlement set forth in this
14 Agreement to be fair, reasonable, and adequate and in the best interests of Plaintiffs
15 and the Class.

16 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and
17 among the Settling Parties, by and through their attorneys of record, that, subject to
18 the approval of the Court, the Action and the Class Released Claims shall be finally
19 and fully settled, compromised, and dismissed on the merits and with prejudice upon
20 and subject to the terms and conditions of this Agreement, as follows:

21 **I. PRELIMINARY APPROVAL ORDER, NOTICE**
22 **ORDER AND SETTLEMENT HEARING**

23 **A. Reasonable Best Efforts to Effectuate This Settlement.** The Settling
24 Parties: (a) acknowledge that it is their intent to consummate this Agreement; and
25 (b) agree to cooperate to the extent reasonably necessary to effectuate and implement
26 the terms and conditions of this Agreement and to exercise their best efforts to
27 accomplish the terms and conditions of this Agreement.
28

1 **B. Certification of Class and Appointment of Class Counsel.** For
2 settlement purposes only, the Settling Parties agree to certification of the Class and
3 Statutory Subclass pursuant to Fed. R. Civ. P. Rules 23(a) and 23(b)(3) and to the
4 appointment of Andrew Stolper, Jason Frank and Scott Sims of Frank Sims & Stolper
5 LLP, Franklin D. Azar of Franklin D. Azar & Associates P.C., and Charles E. Shaffer
6 of Levin Sedran & Berman as Class Counsel for the Class and Statutory Subclass
7 under Fed. R. Civ. P. 23(g). The Parties do not agree to, and Plaintiffs do not pursue,
8 class certification pursuant to Fed. R. Civ. P. 23(b)(2). The Settling Parties’
9 stipulation to the certification of the Class and Statutory Subclass is for purposes of
10 the Settlement set forth in this Agreement only. Wells Fargo’s agreement to
11 certification of the Rule 23(b)(3) Class and Statutory Subclass is solely for the purpose
12 of this Agreement and does not, and shall not, constitute, in this or any other
13 proceeding, an admission by Wells Fargo of any kind or any determination that
14 certification of a class for trial or other litigation purposes in the Action or any other
15 separate action is, or would be, appropriate. If the Settlement is not granted Final
16 Approval or this Agreement is otherwise terminated or rendered null and void, the
17 certification of the Class and Statutory Subclass shall be automatically vacated and
18 shall not constitute evidence of or any determination that the requirements for
19 certification of a class for trial or other litigation purposes in this Action or any other
20 action are satisfied; in such circumstances, Wells Fargo reserves all rights to challenge
21 certification of any class or subclass for trial or other litigation purposes in the Action
22 or in any other action on all available grounds as if no class had been certified in this
23 Action for purposes of the Settlement.

24 **C. Motion for Preliminary Approval.** As soon as practicable following
25 the Execution Date, Class Counsel shall file a Motion for Preliminary Approval of
26 this Agreement (including all Exhibits) to the Court and shall apply for entry of an
27 order (“Preliminary Approval Order”) that would, for settlement purposes only:

- 28 1. Preliminarily approve this Settlement (“Preliminary Approval”);

2. Certify a conditional settlement class pursuant to Fed. R. Civ. P. 23(a) and 23(b)(3); and
3. Appoint Class Counsel.

D. Proposed Form of Notice. As part of the Motion for Preliminary Approval, Class Counsel shall submit to the Court for approval a proposed form of, method for, and schedule for dissemination of notice to the Class to be approved by Wells Fargo (the “Notice Plan”). The Notice Plan shall, at a minimum, include direct notice by mail and email (to the extent email addresses are available), and by publication notice. In addition, a settlement website will be established by the Settlement Administrator, with a URL acceptable to the Parties subject to Wells Fargo’s final right of approval. The Notice Plan shall ask the Court to find that the proposed form of and method for dissemination of notice to the Class constitutes valid, due, and sufficient notice to the Class; constitutes the best notice practicable under the circumstances; and complies fully with the requirements of Fed. R. Civ. P. 23 and constitutional due process. The proposed form of notice to the class pursuant to the Notice Plan (“Class Notice”) is attached hereto as **Exhibits C & D**. The Preliminary Approval Order, Class Notice, and Notice Plan must be agreed to by Wells Fargo before submission to the Court. Wells Fargo, through the Administrator, shall be responsible for providing all notices required by the Class Action Fairness Act of 2005, 28 U.S.C. § 1715.

E. Motion for Final Approval and Entry of Final Judgment. Not less than fourteen (14) Days prior to the date set by the Court to consider whether this Settlement should be finally approved, Class Counsel shall submit a motion for final approval (“Final Approval”) of the Settlement by the Court. Class Counsel shall seek entry of the final approval order (“Final Approval Order”) and Judgment, which shall be approved as to form and content by Wells Fargo prior to submission by Class Counsel, containing at least the following:

1. Finding that the Court has personal jurisdiction over Plaintiffs and

- all Class Members and that the Court has subject matter jurisdiction to approve this Settlement and Agreement;
2. Certifying the Class and Statutory Subclass, pursuant to Fed. R. Civ. P. 23(a) and (b)(3), solely for purposes of this Settlement;
3. Fully and finally approving this Agreement and its terms as being fair, reasonable, and adequate within the meaning of Fed. R. Civ. P. 23, and directing its consummation pursuant to its terms and conditions;
4. Declaring this Agreement and the Final Approval Order and Judgment to be binding on and to have res judicata and preclusive effect in all pending and future lawsuits or other proceedings encompassed by the Class Released Claims maintained by or on behalf of the Class Releasers.
5. Finding that the notice given to the Class Members pursuant to the Notice Plan and Class Notice (i) constituted the best notice practicable under the circumstances; (ii) constituted notice that was reasonably calculated under the circumstances to apprise Class Members of the pendency of the Action, of their right to object to or exclude themselves from the proposed Settlement as applicable, of their right to appear at the final approval hearing, and of their right to seek relief; (iii) constituted reasonable, due, adequate, and sufficient notice to all Persons entitled to receive notice; and (iv) complies in all respects with the requirements of Fed. R. Civ. P. 23, due process, and any other applicable law;
6. Finding that Class Counsel and Plaintiffs adequately represented the Class Members for purposes of entering into and implementing this Agreement and Settlement;
7. Ruling on the separate Fee and Expense Application and Service

Award Application;

8. Directing that the Action and claims for damages be dismissed with prejudice and, except as otherwise explicitly provided for in the Agreement, without costs;
9. Discharging and releasing the Class Releasees from all Class Released Claims;
10. Permanently barring and enjoining the institution and prosecution, by Class Releasers and/or any other Person, of any and all of the Class Released Claims;
11. Approving the Opt-Out List and determining that the Opt-Out List is a complete list of all Persons who have timely and validly requested exclusion from the Class, and accordingly, who shall neither share in nor be bound by the Final Approval Order and Judgment;
12. Determining that the Agreement and the Settlement provided for therein and any proceedings taken pursuant to it are not and should not in any event be offered or received as evidence of a presumption, concession, acknowledgment, or an admission of liability or of any wrongdoing by Wells Fargo or the Class Releasees or of the suitability of these or similar claims to class treatment for litigation, trial, or any other purpose except settlement; provided, however, that reference may be made to this Agreement and the Settlement provided for herein in such proceedings as may be necessary to effectuate the Agreement;
13. Reserving continuing and exclusive jurisdiction over the Settlement, including all future proceedings concerning the administration, consummation, and enforcement of this Agreement;

14. Authorizing the Settling Parties, without further approval from the Court, to agree to and adopt such amendments, modifications, and expansions of this Agreement as shall be consistent in all material respects with the Final Approval Order and Judgment and not limit the rights of the Settling Parties or Class Members; and

15. Containing such other and further provisions consistent with the terms of this Agreement to which the Settling Parties expressly consent in writing.

Class Counsel, by separate motions(s), also will request that the Court approve the Fee and Expense Application and Service Application.

F. Stay Order. Upon the date that the Court enters the Preliminary Approval Order, Plaintiffs and all Class Members shall be barred and enjoined from commencing, instituting, or continuing to prosecute any action or any proceeding of any kind (including, but not limited, to an action for actual damages, statutory damages, and/or exemplary or punitive damages) in any court of law, arbitration tribunal, administrative forum, or other forum of any kind worldwide, based on the Class Released Claims.

II. RELEASES

Upon the Effective Date, and pursuant to the Court's entry of the Final Approval Order and Judgment, the Settling Parties provide the following releases:

A. Plaintiffs and Class Release of Wells Fargo. Plaintiffs and each and every Class Member, individually or together, and each and every one of their former, present, or future agents, predecessors, successors, heirs, legatees, executors, administrators, insurers, assigns, trustees, spouses, and domestic partners (“Class Releasers”) releases and fully discharges Wells Fargo Bank, N.A. and Wells Fargo & Co., and each of their former, present, or future agents, insurers, predecessors, successors, subsidiaries, parent company(ies), Affiliates, officers, directors, and employees and attorneys (“Class Releasees”) from any and all past and/or present

1 claims, counterclaims, lawsuits, set-offs, costs, losses, rights, demands, charges,
2 complaints, actions, causes of action, obligations, or liabilities of any and every kind,
3 whether class, individual, or otherwise in nature, including, without limitation, those
4 known or unknown or capable of being known; those which are unknown but might
5 be discovered or discoverable based upon facts other than or different from those facts
6 known or believed at this time; those which are foreseen or unforeseen, suspected or
7 unsuspected, asserted or unasserted, and/or contingent or non-contingent; and those
8 which are accrued, unaccrued, matured or not matured, under the laws of any
9 jurisdiction, which they, whether directly, representatively, derivatively, or in any
10 other capacity, ever had, now have, or hereafter can, shall, or may have, arising from
11 or relating in any way to the Class Member's entitlement to an Early Payoff GAP
12 Refund for an Early Payoff that occurred during the Class Period (the "Class Released
13 Claims"). Notwithstanding the foregoing, the Class Releasees do not include any
14 Dealers or GAP Administrators, including without limitation, those identified in the
15 Class Members' GAP Waiver Agreements or the Finance Agreements.

16 1. **No Future Actions Following Release.** The Class Releasors shall
17 not after the Effective Date seek (directly or indirectly) to commence, institute,
18 maintain, or prosecute any suit, action, or complaint of any kind (including, but not
19 limited to, claims for actual damages, statutory damages, restitution, and exemplary
20 or punitive damages) against Class Releasees (including pursuant to the Action),
21 based on the Class Released Claims, in any forum worldwide, whether on his or her
22 own behalf or as part of any putative, purported, or certified class or as part of an
23 action by any other plaintiff on his or her behalf.

24 2. **Covenant Not to Sue.** Class Releasors hereby covenant not to sue
25 the Class Releasees with respect to any Class Released Claims, including any claims
26 that Class Releasors, or any of them, does not know or suspect to exist in his or her
27 favor at the time of the release that if known by him or her, might have affected his
28 or her settlement with and release of the Class Releasees, or might have affected his

1 or her decision not to object to or opt out of this Settlement. Class Releasors shall be
2 permanently barred and enjoined from instituting, commencing, or prosecuting any
3 claims against the Class Releasees of any kind (including, but not limited to, for actual
4 damages, statutory damages, restitution, and exemplary or punitive damages) based
5 on the Class Released Claims. The Class Releasors contemplate and agree that this
6 Agreement may be pleaded as a bar to a lawsuit, and an injunction may be obtained
7 preventing any action from being initiated or maintained, in any case sought to be
8 prosecuted on behalf of any Class Releasors (including, but not limited to, for actual
9 damages, statutory damages, and exemplary or punitive damages) based on the Class
10 Released Claims.

11 **3. Waiver of California Civil Code § 1542 and Similar Laws.** In
12 addition, the Class Releasors expressly acknowledge that they are familiar with and,
13 upon Final Approval of this Settlement, waive and release with respect to the Class
14 Released Claims any and all provisions, rights, and benefits conferred (a) by Section
15 1542 of the Civil Code of the State of California, which reads:

16 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH
17 THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN
18 HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
19 RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE
20 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH
21 THE DEBTOR.

22 (b) by any law of any and all equivalent, similar, or comparable federal or state rules,
23 regulations, laws, or principles of law of any other jurisdiction that may be applicable
24 herein; and/or (c) any law or principle of law of any jurisdiction that would limit or
25 restrict the effect or scope of the provisions of the release set forth in the Agreement.
26 The Class Releasors expressly agree that by executing this Agreement, and for the
27 consideration received hereunder, it is their intention to release, and they are releasing,
28 all Class Released Claims, including any claims that Class Releasors, or any of them,

1 does not know or suspect to exist in his or her favor at the time of the release that if
2 known by him or her, might have affected his or her settlement with and release of
3 the Class Releasees, or might have affected his or her decision not to object to or opt
4 out of this Settlement. The Class Releasors acknowledge that they may hereafter
5 discover claims or facts other than or different from those which they know, believe,
6 or suspect to be true with respect to the subject matter of the Class Released Claims,
7 but the Class Releasors expressly waive and fully, finally, and forever settle and
8 release any and all past, present, and future claims, counterclaims, lawsuits, set-offs,
9 costs, losses, rights, demands, charges, complaints, actions, causes of action,
10 obligations, or liabilities of any and every kind, whether class, individual, or otherwise
11 in nature, including, without limitation, those known or unknown or capable of being
12 known; those which are unknown but might be discovered or discoverable based upon
13 facts other than or different from those facts known or believed at this time; those
14 which are foreseen or unforeseen, suspected or unsuspected, asserted or unasserted,
15 and/or contingent or non-contingent; and those which are accrued, unaccrued,
16 matured or not matured, all from the beginning of the world until the Effective Date,
17 under the laws of any jurisdiction, which Class Releasors or any of them, whether
18 directly, representatively, derivatively, or in any other capacity, ever had, now have,
19 or hereafter can, shall, or may have, arising out of the Class Released Claims. The
20 release of unknown, unanticipated, unsuspected, unforeseen, and unaccrued losses or
21 claims in this paragraph is contractual and not a mere recital.

22 4. **Dismissal.** Subject to Court approval, all Class Releasors shall be
23 bound by this Agreement, and all of their claims shall be dismissed with prejudice
24 and released, even if they never received actual notice of the Action or this Settlement.

25 **III. SETTLEMENT CONSIDERATION**

26 In full, complete, and final settlement of any and all claims in the Action, and
27 as consideration for the Releases provided by this Agreement, Wells Fargo agrees as
28

1 follows:

2 **A. Business Practice Change.** No later than **January 1, 2022**, Wells Fargo
3 will implement processes to directly provide, on a go-forward basis, Early Payoff
4 GAP Refunds within a reasonable time after receipt of an Early Payoff to customers
5 (1) who purchased GAP from a Dealer at the time they entered into their Finance
6 Agreements; (2) the customer chooses to finance the cost and such cost is included in
7 a Finance Agreement assigned to Wells Fargo; (3) where Wells Fargo received an
8 Early Payoff of the Finance Agreements; (4) whose GAP Agreements provide for an
9 Early Payoff GAP Refund in the event of an Early Payoff; and (5) who have not
10 previously received a GAP Refund. Customers who meet these criteria will not be
11 required to take any action other than completing an Early Payoff to receive an Early
12 Payoff GAP Refund. This obligation will continue until **January 1, 2026**. Wells
13 Fargo may calculate the amount of Early Payoff GAP Refunds using the method set
14 forth in the customer's GAP Agreement or using another method more favorable to
15 the customer. Nothing in this Agreement precludes Wells Fargo from recouping the
16 amount of an Early Payoff GAP Refund from the customer's Dealer or GAP
17 Administrator. The parties agree that Wells Fargo is not agreeing to, nor will there
18 be any, injunctive relief pursuant to this Settlement and the Settlement will not be
19 approved under Federal Rule of Civil Procedure 23(b)(2). This business practice
20 change is a material term of Settlement to be enforced pursuant to this Agreement.
21 Wells Fargo is not agreeing to and will not be subject to any monitoring.

22 **B. Settlement Fund.** Wells Fargo agrees to deposit \$45 million into a non-
23 reversionary Settlement Fund to be used to pay for the following obligations under
24 this Agreement: (1) Approved Claims for GAP Refunds to Non-Statutory Subclass
25 Members; (2) Additional Compensation to Statutory Subclass Members; (3) the Fee
26 and Expense Awards approved by the Court; and (4) the Service Awards approved by
27 the Court.

28 **C. Distribution of Settlement Fund.** The amounts in the Settlement Fund

1 shall be distributed in the manner set forth below.

2 1. **Approved Claims for GAP Refunds to Non-Statutory Subclass**
3 **Members.** Early Payoff GAP Refunds shall be paid to Non-Statutory Subclass
4 Members in accordance with the claims process described below.

5 a. Wells Fargo shall identify the Non-Statutory Subclass
6 Members by relying on data and information reasonably
7 available to Wells Fargo.

8 b. Wells Fargo shall provide contact information for the Non-
9 Statutory Subclass Members as soon as practicable after the
10 Execution Date but no later than forty-five (45) days after
11 Preliminary Approval.

12 c. The Settlement Administrator will use reasonable efforts to
13 update and confirm the accuracy of the Non-Statutory
14 Subclass Members' contact information through the USPS
15 change of address system.

16 d. Following Preliminary Approval, the Settlement
17 Administrator shall send the Notice of Settlement and
18 Claim Forms to the Non-Statutory Subclass Members in
19 accordance with the Notice Plan.

20 e. The Non-Statutory Subclass Members shall have until sixty
21 (60) days from the mailing of the Notice of Settlement to
22 complete and submit the Claim Form to the Settlement
23 Administrator (the "Claim Form Deadline").

24 f. Non-Statutory Subclass Members who return a completed
25 Claim Form and who have not previously received a GAP
26 Refund ("Eligible Class Members") will receive an Early
27 Payoff GAP Refund to be paid from the Settlement Fund.

28 Where a Class Member has a co-borrower, the Settlement

1 Administrator shall issue the check in the names of both co-
2 borrowers and shall mail the check to the primary
3 borrower's address.

- 4 g. The amount of the Early Payoff GAP Refunds will be
5 calculated using the Pro Rata Method, regardless of the
6 method specified by the customer's GAP Agreement. The
7 Settlement Administrator shall be responsible for
8 calculating the Early Payoff GAP Refunds based on the data
9 provided by Wells Fargo. The amount of the Early Payoff
10 GAP Refund may be reduced on a pro rata basis pursuant to
11 Paragraph III.C.5. below.

12 **2. Additional Compensation to the Statutory Subclass.** In
13 addition to the Early Payoff GAP Refunds provided in Paragraph III.C below, each
14 Statutory Subclass Member will receive up to \$5.00 to be paid from the Settlement
15 Fund (the "Additional Compensation") in accordance with the process set forth
16 below.

- 17 a. Wells Fargo shall identify the Statutory Subclass Members
18 by relying on data and information reasonably available to
19 Wells Fargo.
- 20 b. Wells Fargo shall provide contact information for the
21 Statutory Subclass to the Settlement Administrator as soon
22 as practicable after the Execution Date but no later than
23 forty-five (45) days after Preliminary Approval.
- 24 c. The Settlement Administrator will use reasonable efforts to
25 update and confirm the accuracy of the Statutory Subclass
26 Members' contact information through the USPS change of
27 address system
- 28 d. Following Preliminary Approval, the Settlement

1 Administrator shall send the Notice of Settlement to the
2 Statutory Subclass Members.

3 e. Because Wells Fargo has already identified the Statutory
4 Subclass Members who did not previously receive a GAP
5 Refund, the Statutory Subclass Members will not be
6 required to submit a Claim Form for the Additional
7 Compensation.

8 f. The Additional Compensation payments shall be made
9 from the Settlement Fund. The amount of the Additional
10 Compensation payments may be reduced on a pro rata basis
11 pursuant to Paragraph III.C.6. below.

12 3. **Fee and Expense Awards.** The Fee and Expense awards
13 approved by the Court shall be paid from the Settlement Fund.

14 4. **Service Awards.** The Service Awards approved by the Court
15 shall be paid from the Settlement Fund.

16 5. **Operation of Net Settlement Fund.** The Net Settlement Fund is
17 the amount of money that remains in the Settlement Fund after the deduction of any
18 Fee and Expense Awards and Service Awards approved by the Court. If the amount
19 of the Net Settlement Fund is not sufficient to fully cover the cost of (i) the Approved
20 Claims for GAP Refunds to Non-Statutory Subclass Members; and (ii) the Additional
21 Compensation to Statutory Subclass Members, then the individual amounts of (i) the
22 Approved Claims for GAP Refunds to Non-Statutory Subclass Members, and (ii) the
23 Additional Compensation to Statutory Subclass Members will be reduced on a
24 prorated basis. Each Class Member's individual payment from the Settlement Fund
25 will be reduced by the same percentage.

26 **D. Refunds to the Statutory Subclass.** Wells Fargo has paid or will pay
27 each Statutory Subclass Member the amount of their Early Payoff GAP Refunds plus
28 compensation for the loss of use of funds on their GAP Refund amount based on the

1 one-year constant U.S. maturity treasury rate from the date of the Early Payoff,
2 compounded annually. Wells Fargo represents and warrants that it has paid
3 \$33,357,919.81 collectively to the members of the Statutory Subclass between
4 February 22, 2019 and March 31, 2021. In the event Wells Fargo identifies any
5 members of the Statutory Subclass who have not yet received their Early Payoff GAP
6 Refund, then Wells Fargo represents and warrants that it will pay that member the
7 Early Payoff GAP Refund plus compensation for the loss of use of funds on their
8 GAP Refund amount based on the one-year constant U.S. maturity treasury rate from
9 the date of the Early Payoff, compounded annually. These Payments were and/or will
10 be made by Wells Fargo in addition to, and separate and apart from, the \$45 million
11 deposited in the Settlement Fund and will not reduce the Settlement Fund.

12 **E. Administrative Costs.** Wells Fargo will separately pay for all necessary
13 costs to administer the terms of this Settlement, including but not limited to the costs
14 of the Notice Plan and the Settlement Administrator. The Administrative Costs will
15 be paid by Wells Fargo in addition to, and separate and apart from, the Settlement
16 Fund and will not reduce the Settlement Fund.

17 **F. Bankruptcy.** In the event a member of the Class is in a bankruptcy
18 proceeding, then Wells Fargo may pay any compensation under this Settlement
19 Agreement to the bankruptcy trustee or otherwise as required under any applicable
20 bankruptcy law, rules, and/or court orders.

21 **G. Agreement To Be Bound.** All members of the Class shall be subject to
22 and bound by the provisions of this Settlement Agreement, the Class Released Claims,
23 and the Judgment with respect to all Class Released Claims regardless of whether
24 such Class Members obtain payment pursuant to the Settlement.

25 **H. Disbursement of Unused Portions of the Settlement Fund.** The
26 Settlement Fund is non-reversionary. In the event there are any amounts remaining
27 in the Settlement Fund after the disbursement of all Settlement Checks to the Class
28 and any Fee and Expense and Service Awards approved by the Court, then the Parties

1 will meet and confer on a proposal for how the remaining amounts shall be distributed
2 subject to the approval of the Court. If the Parties are unable to agree on a proposal,
3 then both sides will submit their proposals to the Court and the Court will determine
4 the appropriate proposal.

5 **I. Uncashed Settlement Checks.** If a Settlement Check is not cashed
6 within 180 days after it is mailed by the Settlement Administrator, then the Settlement
7 Administrator will place a stop-order on the check. The Settlement Administrator
8 will then take reasonable efforts to contact the Class Member and issue a new
9 Settlement Check. If the Settlement Administrator is unable to reach the Class
10 Member within thirty (30) days, then the Settlement Administrator will remit the
11 unclaimed Settlement Check amount to the appropriate State agency based on the
12 escheat laws and regulations applicable for the State of the Class Member's last
13 known address.

14 **IV. NOTICE AND ADMINISTRATION OF SETTLEMENT**

15 **A. Administration Costs.** Wells Fargo will pay the costs of notice and
16 administration which shall be in addition to, and separate and apart from, the amount
17 deposited in the Settlement Fund.

18 **B. Claim Form.** The Claim Form shall be substantially in conformance
19 with the format and content set forth in **Exhibit A** to this Agreement, subject to
20 reasonable modifications required by the Court. The Claim Form will allow Non-
21 Statutory Subclass Members to submit and complete the Claim Form online and by
22 electronic signature and will include a link to the Settlement Website and/or a QR
23 Code or any other appropriate available technology to allow Non-Statutory Subclass
24 Members to submit claims electronically. The Non-Statutory Subclass Members will
25 also be able to complete, sign and mail a copy of the completed Claim Form to the
26 Settlement Administrator, or upload it at the Settlement Website.

27 **C. Notice.** The Notice shall be substantially in conformance with the
28 format and content set forth in **Exhibits C & D** to this Agreement, subject to

1 reasonable modifications required by the Court.

2 **D. Time to Appeal.** The time to appeal from an approval of the Settlement
3 shall commence upon the Court's entry of the Judgment regardless of whether or not
4 the Fee and Expense Application has been submitted to the Court or resolved.

5 **E. No Liability for Distribution of the Settlement Fund.** The Settling
6 Parties shall not have any liability with respect to the distribution of payments; the
7 determination, administration, or calculation of claims; or any losses incurred in
8 connection with any such matters. In addition to the Releases set forth herein, the
9 Class Releasers hereby fully, finally, and forever release, relinquish, and discharge
10 the Class Releasees, and their counsel from any and all such liability. No Person shall
11 have any claim against the Settlement Administrator based on the distributions made
12 substantially in accordance with this Agreement.

13 **V. DUTIES OF THE SETTLEMENT ADMINISTRATOR**

14 The Settlement Administrator will administrate the Parties' Settlement.

15 **A.** The Settlement Administrator shall be responsible for the following
16 tasks:

17 1. Conducting a National Change of Address ("NCOA") search to
18 obtain up-to-date address information on Class Members prior to disseminating the
19 Notice of Settlement;

20 2. Printing and disseminating the Notice of Settlement by first-class
21 mail and email (where available) to each and every Class Member;

22 3. Printing and disseminating the applicable Claim Form by first-
23 class mail and email (where available) to each and every Non-Statutory Subclass
24 Member;

25 4. Furnishing promptly to Counsel for the Parties copies of any
26 Requests for Exclusion, Opt-Out Forms, objections, or other written or electronic
27 communications from each Class Member that the Settlement Administrator receives;

28 5. Determining the amount of the Approved Claims for GAP

1 Refunds and the Additional Compensation payments owed to the Class in accordance
2 with this Settlement Agreement;

3 6. Keeping track of each Request for Exclusion and Opt-Out Form,
4 including maintaining the original mailing envelope in which the Request for
5 Exclusion or Opt-Out Form was mailed and reporting to Counsel for both sides the
6 total numbers and identities of those who have requested exclusion or returned
7 completed Opt-Out Forms;

8 7. Providing to Counsel for the Parties copies of the completed Opt-
9 Out Forms;

10 8. Issuing and mailing each Approved Claim for GAP Refunds and
11 the Additional Compensation payments in a Settlement check;

12 9. Skip-tracing or otherwise attempting to ascertain current address
13 information for each Settlement check as returned as undeliverable;

14 10. Placing a stop-pay order on all Settlement checks not cashed
15 within 180 days of issue;

16 11. Performing all tax reporting duties required by federal, state,
17 and/or local law related to any Approved Claims for GAP Refunds, Additional
18 Compensation, Fee and Expense Awards, and Service Awards pursuant to this
19 Settlement Agreement;

20 12. Responding to inquires of Class Members regarding the terms of
21 Settlement and procedures for filing objections and Requests for Exclusion;

22 13. Referring to Class Counsel all inquiries by Class Members
23 regarding matters not within the Settlement Administrator's duties specified herein
24 and contemporaneously giving Counsel for Wells Fargo notice of all such inquiries;

25 14. Responding to inquiries of Class Counsel regarding Class
26 Members who have contacted Class Counsel regarding the terms of the Settlement
27 and contemporaneously giving Counsel for Wells Fargo notice of all such inquiries;

28 15. Apprising Class Counsel and Counsel for Wells Fargo of the

1 activities of the Settlement Administrator via a weekly report, including status reports
2 regarding the Class Notice, Requests for Exclusion, and completed Opt-Out Forms
3 received, and promptly providing copies to Class Counsel and Counsel for Wells
4 Fargo of all electronic or written communications between the Settlement
5 Administrator and any Class Member;

6 16. Responding to requests for further information from Class
7 Members via a toll-free number, including providing a copy of this Settlement
8 Agreement, the First Amended Complaint, or any other materials available on the
9 Website, to any Class Member who requests such documents;

10 17. Creating and maintaining the Settlement Website, and removing
11 the Settlement Website from the Internet promptly if the Settlement is terminated or
12 if the Court denies final approval of the Settlement, and, in any event, within 90 days
13 after the Effective Date;

14 18. Obtaining approval from the Parties for the name of the Settlement
15 Website before publishing

16 19. Maintaining adequate records of its activities, including the dates
17 of the mailing of Class Notice(s), Second Mailing, Requests for Exclusion, and Opt-
18 Out Forms, returned mail and other communications, and attempted written or
19 electronic communications with Class Members;

20 20. Confirming in writing the substance of its activities and its
21 completion of the administration of the Settlement;

22 21. Responding timely to communications from Class Counsel or
23 Counsel for Wells Fargo;

24 22. Reporting timely each Approved Claim for a GAP Refund, and
25 Additional Compensation payment on an IRS Form W-2 and IRS form 1099 to each
26 applicable Class Member;

27 23. Reporting timely on an IRS Form 1099 the Fee and Expense
28 Awards and Service Awards to the Class Counsel and Class Representatives,

1 respectively;

2 24. Providing assistance with the CAFA notices required by the
3 Settlement Agreement which shall be provided to the appropriate Federal and State
4 Officials within ten (10) days after the filing of the Preliminary Approval Motion
5 pursuant to 28 U.S.C. § 1715;

6 25. Emailing Class Members who did not cash their Settlement
7 Checks after 180 days and whose Settlement Checks equal or exceed \$5.00, so that a
8 new Settlement Check can be issued; and

9 26. Performing such other tasks as the Parties mutually agree or that
10 are specified in this Agreement.

11 B. The Settlement Administrator shall keep all information it obtains
12 relating to the identification and contact information of Class Members strictly
13 confidential pursuant to the Protective Order previously entered in this case and use
14 it only for the sole purposes described herein and shall return all such information to
15 Counsel for Wells Fargo upon completion of the Settlement administration tasks.
16 Furthermore, upon completion of its duties, the Settlement Administrator shall return
17 to Class Counsel and Counsel for Wells Fargo all documents related to the Action,
18 including all documents it received in connection with this case from the Parties, Class
19 Members, Class Representatives, or any other individuals (including, but not limited
20 to, objections, Requests for Exclusion, and Opt-Out Forms).

21 C. Class Counsel and Counsel for Wells Fargo will provide the Settlement
22 Administrator with a copy of this Settlement Agreement which identifies and lists
23 duties to be performed by the Settlement Administrator, as described above.

24 D. The Settlement Administrator shall provide Class Counsel a copy of its
25 engagement agreement with Wells Fargo as well as invoices relating to the
26 administration of the Parties' Settlement.

27 E. All disputes relating to the Settlement Administrator's ability and need
28 to perform its duties shall be resolved jointly by Class Counsel and Counsel for Wells

1 Fargo consulting in good faith. If the Parties are unable to reach agreement, either
2 may raise the disagreement with the Court.

3 **VI. SERVICE AWARDS, ATTORNEYS' FEES, AND REIMBURSEMENT**
4 **OF EXPENSES**

5 A. **Fee and Expense Application.** Class Counsel may submit an
6 application or applications (the "Fee and Expense Application") to the Court for
7 payment of: (a) an award of attorneys' fees; plus (b) reimbursement of reasonable
8 expenses incurred in connection with prosecuting this Action. Class Counsel agree
9 that the Fee and Expense Application will not seek an amount in excess of
10 \$23,100,000.00 for attorneys' fees and will not seek an amount in excess of \$500,000
11 for expenses. Wells Fargo agrees not to object to Class Counsel's Fee and Expense
12 Application if submitted in compliance this Agreement.

13 B. **Payment of Fee and Expense Award.** Any amounts that are awarded
14 by the Court pursuant to the paragraph above (the "Fee and Expense Award") shall
15 be paid by the Settlement Administrator from the Settlement Fund within thirty (30)
16 days of the Effective Date. The Fee and Expense Award shall be paid to Frank Sims
17 & Stolper LLP, which may further pay such funds to Class Counsel, subject to the
18 terms herein.

19 C. **Award of Attorneys' Fees and Expenses Shall Not Impact the**
20 **Effectiveness of this Agreement.** The procedure for and the allowance or
21 disallowance by the Court of the Fee and Expense Application are not part of the
22 Settlement set forth in this Agreement and are to be considered by the Court separately
23 from the Court's consideration of the fairness, reasonableness, and adequacy of the
24 Settlement set forth in this Agreement. Any order or proceeding relating to the Fee
25 and Expense Application, or any appeal from any Fee and Expense Award or any
26 other order relating thereto or reversal or modification thereof, shall not operate to
27 terminate or cancel this Agreement. No order of the Court or modification or reversal
28 on appeal of any order of the Court concerning any Fee and Expense Award shall

1 constitute grounds for cancellation or termination of this Agreement.

2 **D. No Liability for Attorneys' Fees and Expenses of Class Counsel.**

3 Neither the Class Releasees nor their counsel shall have any responsibility for, interest
4 in, or liability whatsoever with respect to any payment(s) to Class Counsel pursuant
5 to this Agreement and/or to any other Person who may assert some claim thereto or
6 any Fee and Expense Award that the Court may make in the Action, other than as set
7 forth in this Agreement. Similarly, neither the Class Releasees nor their counsel shall
8 have any responsibility for, interest in, or liability whatsoever with respect to
9 allocation among Class Counsel, and/or any other person who may assert some claim
10 thereto, of any Fee and Expense Award that the Court may make in the Action.

11 **E. Plaintiffs' Service Award Application.** Class Counsel and Plaintiffs

12 may submit application(s) to the Court for a Service Award ("Service Award
13 Applications"). Class Counsel and Plaintiffs agree that the Service Award
14 Applications shall not exceed \$7,500 for each Class Representative. Wells Fargo
15 agrees to not to oppose Service Award Applications of up to \$7,500 to each of the
16 Class Representatives for their time, effort, and expense in prosecuting this litigation
17 and achieving this Settlement. Any Service Awards which are awarded by the Court
18 shall be paid from the Settlement Fund. Any Service Awards shall be paid by the
19 Settlement Administrator from the Settlement Fund within thirty (30) Days of the
20 Effective Date.

21 **VII. CONDITIONS OF SETTLEMENT AND EFFECT OF DISAPPROVAL,**
22 **CANCELLATION, OR TERMINATION**

23 **A. Effective Date.** The Effective Date of this Agreement shall be
24 conditioned on the occurrence of all of the following events:

25 1. Wells Fargo no longer has any right to terminate this Agreement,
26 nor is there a possibility of termination of this Agreement as set forth herein or, if
27 Wells Fargo does not have such right, Wells Fargo has given written notice to
28 Plaintiffs' Counsel that it will not exercise such right;

1 2. The Court has finally approved the Settlement as described herein,
2 following notice to the Class and a hearing, as prescribed by Fed. R. Civ. P. 23, and
3 has entered the Final Approval Order and Judgment;

4 3. The Class Released Claims and the Action are dismissed with
5 prejudice pursuant to the Final Approval Order and Judgment; and

6 4. The expiration of appeal periods and/or resolution of all appeals:

7 a. If no appeal is taken from the Final Approval Order or
8 Judgment, the date after the time to appeal therefrom has
9 expired; or

10 b. If any appeal is taken from the Final Approval Order or
11 Judgment, the date after all appeals therefrom, including
12 petitions for rehearing or re-argument, petitions for
13 rehearing en banc, and petitions for certiorari or any other
14 form of review, have been finally disposed of, such that the
15 time to appeal therefrom has expired, in a manner resulting
16 in an affirmance without material modification of the
17 relevant order or judgment.

18 **B. Depositing Money into the Settlement Fund and Occurrence of**
19 **Effective Date.** Within thirty (30) days after Final Approval of the Settlement, Wells
20 Fargo will transfer the sum of \$45 million to the Settlement Administrator to be held
21 in an account maintained by the Settlement Administrator as the Settlement Fund.
22 Upon the occurrence of Effective Date, and all of the events referenced in Paragraph
23 VII.A. above, the Settlement Administrator shall issue the appropriate Settlement
24 Checks to the Class and pay the Fee and Expense and Service Awards approved by
25 the Court from the Settlement Fund. The Fee and Expense and Service Awards
26 payments shall be issued within thirty (30) days after the Effective Date. The
27 payments to the Class shall be issued within thirty (30) days after the Effective Date,
28 or as soon thereafter as reasonably practicable.

1 **C. Failure of Effective Date to Occur.** If all of the conditions specified in
2 this Section are not met, then this Settlement Agreement shall be cancelled and
3 terminated and any funds deposited with the Settlement Administrator shall be
4 returned to Wells Fargo, subject to and in accordance with the provisions set forth
5 herein unless the Settling Parties mutually agree in writing to proceed with this
6 Settlement Agreement. The effectiveness of the Settlement is expressly conditioned
7 on the Settlement Agreement being approved by the Court and any appellate court
8 reviewing the Settlement without it being rejected or required to be materially
9 modified by any Court ruling or any order resulting from an appeal or other review.
10 If the Settlement is not finally approved by the Court and any appellate court
11 reviewing it without material modification, the Agreement shall terminate and cease
12 to have any effect.

13 **D. Requests for Exclusion/Opt-Outs.** Any Class Member who wishes to
14 opt out of the Class must do so on or before the Exclusion/Objection Deadline
15 specified in the Class Notice in the manner laid out in the Class Notice.

16 1. In order to become an Opt-Out, a Class Member must mail a
17 request for exclusion with the Settlement Administrator with a post-mark date no later
18 than the Exclusion/Objection Deadline. The request for exclusion must include all
19 information specified in the Class Notice. Opt-Outs may opt out of the Class only on
20 an individual basis; so-called “mass” or “class” opt-outs shall not be allowed and shall
21 be of no force or effect.

22 2. No later than five (5) Days after the Exclusion/Objection
23 Deadline, the Settlement Administrator shall provide Class Counsel and Counsel for
24 Wells Fargo a complete and final list of Opt-Outs. With the Motion for Final Approval
25 of the Settlement, Class Counsel will file with the Court a complete list of Opt-Outs,
26 including the name, city, and state of the person requesting exclusion (the “Opt-Out
27 List”).

28 a. With respect to any Opt-Outs, Wells Fargo reserves all legal

1 rights and defenses, including, but not limited to, any
2 defenses relating to whether the person qualifies as a Class
3 Member and/or has standing to bring any claim.

4 b. Wells Fargo may challenge the validity of any Opt-Out by
5 filing a motion with the Court within five (5) Days after the
6 Settlement Administrator provides Counsel for Wells Fargo
7 a complete and final list of Opt-Outs. The Court shall have
8 jurisdiction to resolve any disputes regarding the validity of
9 Opt-Outs. Any decision by Wells Fargo not to dispute an
10 Opt-Out shall not be a waiver, determination, or preclusive
11 finding against the Class Releasees in any proceeding.

12 E. **Objections.** Class Members who wish to object to any aspect of the
13 Settlement including any Fee and Expense Application must file with the Court a
14 written statement containing their objections prior to the Exclusion/Objection
15 Deadline and abide by the requirements laid out in the Class Notice. The written
16 objections must also be mailed to the Settlement Administrator with a post-mark date
17 no later than the Exclusion/Objection Deadline. The written statement must include
18 all information specified in the notices including but not limited to a description of all
19 objections to the Settlement, the reasons for said objections, and any legal authority
20 supporting the objections. Class Members who “Opt Out” of the Settlement shall not
21 have the right to object to the Settlement and shall not have standing to do so. Because
22 any appeal by an objecting Class Member to the Settlement, Fee and Expense Award
23 or Plaintiffs’ Service Awards may delay the payment under the Settlement, each
24 objecting Class Member must elect within thirty (30) days of the Final Approval
25 Order to (a) not appeal; (b) appeal only the objecting Class Member’s portion of the
26 Fee and Expense Award or Representative Plaintiffs’ Service Awards which would
27 be severed from the rest of the case and would not delay the final judgment for all
28 other Class Members; or, (c) if the objecting Class Member purports to appeal on

1 behalf of the entire Class (for which he or she has not been appointed to represent and
2 would likely be in conflict with), or does not definitively or timely choose option (a)
3 or (b) above, each such objecting Class Member that appeals agrees to put up a cash
4 bond to be set by the this Court sufficient to reimburse Wells Fargo and Class
5 Counsel's appellate fees, Wells Fargo and Class Counsel's expenses, and the lost
6 interest for one year to the Class caused by the likely delay. Any award or payment
7 of attorneys' fees made to the counsel of an objector to the Settlement shall be made
8 only by Court order and upon a showing of a substantial benefit conferred to the Class.
9 Any award of attorneys' fees by the Court will be conditioned on the objector and his
10 or her attorney stating under penalty of perjury that no payments shall be made to the
11 objector based on the objector's participation in the matter other than as ordered by
12 the Court.

13 F. **Termination.** Plaintiffs, through Class Counsel, and Wells Fargo shall
14 have the right, but not the obligation, to terminate this Agreement if: (1) the Court
15 rejects, modifies, or denies approval of any portion of this Agreement or the proposed
16 Settlement that results in a substantial modification to a material term of the proposed
17 Settlement; or (2) the Court, or any appellate court(s), does not enter or completely
18 affirm, or alters, narrows or expands, any portion of the Final Approval Order, that
19 results in a substantial modification to a material term of the proposed Settlement.
20 However, the Settling Parties agree to act in good faith to secure Final Approval of
21 this Settlement and to attempt to address in good faith concerns regarding the
22 Settlement identified by the Court and any appellate court. The terminating party must
23 exercise the option to withdraw from and terminate this Agreement, as provided in
24 this Section, by a signed writing served on the other Parties no later than 10 days after
25 receiving notice of the event prompting the termination. If, but only if, this
26 Agreement is terminated pursuant to this Section then:

27 1. The Parties will be returned to their positions *status quo ante* and
28 this Agreement shall be null and void and shall have no force or effect and all of its

1 provisions, and all negotiations, statements, and proceedings relating to it shall be
2 without prejudice to the rights of Plaintiffs, Wells Fargo or any Class Member, all of
3 whom shall be restored to their respective positions existing immediately before the
4 execution of this Agreement, except that the Parties shall cooperate in requesting that
5 the Court set a new scheduling order such that no Party's substantive or procedural
6 rights are prejudiced by the settlement negotiations and proceedings;

7 2. Neither this Agreement, the fact of its having been made, nor the
8 negotiations leading to it, shall be admissible or entered into evidence for any purpose
9 whatsoever; and

10 **G. Other Orders.** No Settling Party shall have any obligation whatsoever
11 to proceed under any terms other than those substantially in the form provided and
12 agreed to herein; provided, however, that no order of the Court concerning any Fee
13 and Expense Application, or any modification or reversal on appeal of such order,
14 shall constitute grounds for cancellation or termination of this Agreement by any
15 Settling Party. Without limiting the foregoing, Wells Fargo shall have, in its sole and
16 absolute discretion, the option to terminate the Settlement in its entirety in the event
17 that the Judgment, upon becoming Final, does not provide for the dismissal with
18 prejudice of the Action and the Class Released Claims.

19 **VIII. NO ADMISSION OF LIABILITY**

20 **A. Final and Complete Resolution.** The Settling Parties intend the
21 Settlement as described herein to be a final and complete resolution of all disputes
22 between them with respect to the Action, and to compromise claims that are contested,
23 and it shall not be deemed an admission by any Settling Party as to the merits of any
24 claim or defense or any allegation made in the Action.

25 **B. Federal Rule of Evidence 408.** The Settling Parties agree that this
26 Settlement Agreement, its terms, and the negotiations surrounding this Settlement
27 Agreement shall be governed by Federal Rule of Evidence 408 and any state-law
28 equivalents and shall not be admissible or offered or received into evidence in any

1 suit, action, or other proceeding, except upon the written agreement of the Settling
2 Parties hereto, pursuant to an order of a court of competent jurisdiction, or as shall be
3 necessary to give effect to, declare, or enforce the rights of the Settling Parties with
4 respect to any provision of this Agreement.

5 **C. Use of Agreement as Evidence.** Whether or not this Agreement
6 becomes final or is terminated pursuant to its terms, the Settling Parties expressly
7 agree that neither this Agreement nor the Settlement, any act performed or document
8 executed pursuant to or in furtherance of this Agreement or the Settlement: (a) is or
9 may be deemed to be or may be used as an admission of, or evidence of, the validity
10 of any claims released by the Agreement, any allegation made in the Action, or any
11 violation of any statute or law or of any wrongdoing or liability of Wells Fargo, and
12 evidence thereof shall not be discoverable or used, directly or indirectly, in any way,
13 whether in the Action or in any other proceeding; or (b) is or may be deemed to be or
14 may be used as an admission of, or evidence of, any liability, fault, or omission of the
15 Class Releasees in any civil, criminal, or administrative proceeding in any court,
16 administrative agency, or other tribunal. Neither this Agreement nor the Settlement,
17 nor any act performed or document executed pursuant to or in furtherance of this
18 Agreement or the Settlement, shall be admissible in any proceeding for any purpose,
19 except to enforce the terms of the Settlement; provided, however, that the Class
20 Releasees may file this Agreement (including the Exhibits), the Final Approval Order,
21 and/or the Judgment in any action for any purpose, including, but not limited to, in
22 order to support a defense or counterclaim based on principles of res judicata,
23 collateral estoppel, release, good-faith settlement, judgment bar or reduction, or any
24 other theory of claim preclusion or issue preclusion or similar defense or
25 counterclaim.

26 **IX. REPRESENTATIONS AND WARRANTIES**

27 **A.** This Agreement and the Settlement shall be subject to the ordinary and
28 customary judicial approval procedures under Fed. R. Civ. P. 23. Until and unless

1 this Agreement is dissolved or becomes null and void by its own terms, or unless
2 otherwise ordered by the Court, or if Final Approval is not achieved, Plaintiffs and
3 Wells Fargo represent and warrant that they shall take all appropriate steps in the
4 Action necessary to preserve the jurisdiction of the Court, use their best efforts to
5 cause the Court to grant Preliminary and Final Approval of this Agreement as
6 promptly as possible, and take or join in such other steps as may be necessary to
7 implement this Agreement and to effectuate the Settlement. This includes the
8 obligation to (a) oppose non-meritorious objections and to defend the Agreement and
9 the Settlement before the Court and on appeal, if any; (b) seek approval of this
10 Agreement and of the Settlement by the Court; (c) move for the entry of the orders
11 required to effectuate Preliminary and Final Approval; and (d) join in the entry of
12 such other orders as are necessary to effectuate this Agreement.

13 B. Any Fee and Expense Award that Plaintiffs and Class Counsel may seek
14 upon application to the Court pursuant to this Agreement shall include all attorneys'
15 fees and litigation costs that Plaintiffs, Class Counsel, and any of the current and
16 former owners, predecessors, successors, partners, shareholders, agents (alleged or
17 actual), representatives, employees, and Affiliates of Class Counsel, seek or may have
18 any right or claim to in connection with the Action and the Class Released Claims.

19 C. Plaintiffs represent and warrant that other than Class Counsel, as that
20 term is defined herein, there is no other Person having any interest in any award of
21 attorneys' fees, expenses, or litigation costs in connection with the Action,
22 Agreement, or Settlement.

23 D. Plaintiffs and Wells Fargo represent and warrant that he, she, it, or they
24 have full authorization and capacity to enter into this Agreement and to carry out the
25 obligations provided for herein. Each Person executing this Agreement on behalf of a
26 Settling Party, entity, or other Person(s) covenants, warrants, and represents that he,
27 she, or it has been fully authorized to do so by that Settling Party, entity, or other
28 Person(s). Plaintiffs and Wells Fargo represent and warrant that he, she, it, or they

1 intend to be bound fully by the terms of this Agreement.

2 E. Plaintiffs and Wells Fargo represent and warrant that they have not, nor
3 will they, unless expressly authorized to do so by the terms of this Agreement, (a)
4 attempt to void this Agreement in any way; (b) Opt-Out of the Settlement under this
5 Agreement; (c) solicit or encourage in any fashion a member of the Class to Opt-Out;
6 or (d) solicit or encourage in any fashion any effort by any Person to object to the
7 Settlement under this Agreement.

8 F. If any Person breaches the terms of any of the representations and
9 warranties in this section, the Court shall retain jurisdiction over this matter to
10 entertain actions by a Settling Party against such Person for breach and/or any Settling
11 Party's request for a remedy for such breach.

12 G. Class Counsel represent and warrant that they (1) will not seek out or
13 solicit, and (2) have no present intention to pursue individual or class claims against
14 Wells Fargo or any of the Class Releasees with respect to matters within the scope of
15 the Class Released Claims unless this Settlement is not granted Preliminary or Final
16 Approval by the Court. The Settling Parties understand and agree that nothing in this
17 paragraph imposes or shall be construed to prohibit or restrict Class Counsel from
18 representing persons who seek representation for such claims subsequent to the date
19 of this Agreement.

20 H. Plaintiffs and Class Counsel represent and warrant that they will comply
21 with the Protective Order that applies to this Action and will not use or seek to use
22 the fact or content of the Settlement in this Action in connection with any other claim,
23 action, or litigation against any Class Releasee (excepting only actions to enforce or
24 construe this Agreement).

25 I. Class Counsel represent and warrant to Wells Fargo that they have the
26 authority to execute this Agreement on behalf of Plaintiffs, and themselves, and
27 thereby to bind Plaintiffs, to all terms and conditions of this Agreement, and, subject
28 to Court approval, to bind all Class Members to the terms and conditions of this

1 Agreement.

2 **X. MISCELLANEOUS PROVISIONS**

3 A. **Voluntary Settlement.** The Settling Parties agree that the terms of the
4 Settlement as described herein were negotiated in good faith by the Settling Parties
5 with the assistance of an independent mediator, and reflect a settlement that was
6 reached voluntarily after consultation with competent legal counsel.

7 B. **Subsequent Events Impacting Administration.** In the event that there
8 are any developments in the effectuation and administration of this Agreement that
9 are not dealt with by the terms of this Agreement, then such matters shall be dealt
10 with as agreed upon by the Settling Parties, and failing agreement, as shall be ordered
11 by the Court.

12 C. **Claims in Connection with Administration.** No Person shall have any
13 claim against the Plaintiffs, Wells Fargo, Counsel for Wells Fargo, Class Counsel, the
14 Settlement Administrator, or the Class Releasees or their agents based on
15 administration of the Settlement substantially in accordance with the terms of the
16 Agreement or any order of the Court or any appellate court.

17 D. **Binding Effect.** This Agreement shall be binding upon, and inure to the
18 benefit of, the successors and assigns of the Settling Parties hereto. Without limiting
19 the generality of the foregoing, each and every covenant and agreement herein by
20 Plaintiffs shall be binding upon all Class Members.

21 E. **Authorization to Enter Settlement Agreement.** The undersigned
22 representatives of Wells Fargo represent that they are fully authorized to enter into
23 and to execute this Agreement and any modifications or amendments to the
24 Agreement on behalf of Wells Fargo. Class Counsel, on behalf of Plaintiffs and the
25 Class, represent that they are, subject to Court approval, expressly authorized to take
26 all action required or permitted to be taken by or on behalf of the Class pursuant to
27 this Agreement to effectuate its terms and to enter into and execute this Agreement
28 and any modifications or amendments to the Agreement on behalf of the Class that

1 they deem appropriate.

2 F. **Notices.** All notices and responses to notices under this Agreement shall
3 be in writing. Each such notice or response shall be given either by email unless
4 otherwise specified herein or in the notice to the Class; and, if directed to any Class
5 Member, shall be addressed to Plaintiffs' Counsel at their email addresses set forth
6 below, and if directed to Wells Fargo, shall be addressed to Counsel for Wells Fargo
7 at the email addresses set forth below or such other email addresses as Class Counsel
8 or Wells Fargo may designate, from time to time, by giving notice to all Settling
9 Parties hereto in the manner described in this paragraph.

10 If directed to Plaintiffs or any Class Member, email address notice to:

11 Jason Frank, jfrank@lawfss.com
12 Andrew Stolper, astolper@lawfss.com
13 Scott Sims, ssims@lawfss.com
14 Maritza Nowowiejski, mnowowiejski@lawfss.com
15 Franklin Azar, azarf@fdazar.com
16 Charlie Schaffer, cschaffer@lfsblaw.com

17 If directed to Wells Fargo, email address notice to:

18 William C. Mayberry, bill.mayberry@troutmansanders.com
19 Joshua D. Davey, joshua.davey@troutmansanders.com
20 David C. Powell, dpowell@mcguirewoods.com
21 Alicia A. Baiardo, abaiardo@mcguirewoods.com

22 G. **Confidentiality of Settlement Negotiations.** The Settling Parties and
23 their counsel shall keep strictly confidential and not disclose to any third party any
24 non-public information regarding the Settling Parties' negotiation of this Settlement
25 and/or Agreement, unless ordered by the Court to do so. For the sake of clarity,
26 information contained within this Agreement shall be considered public, as well as
27 any information requested by the Court in the approval process and other such
28 information necessary to implement this Settlement, provided such information is

1 filed (and is not under seal) and/or is not considered to be confidential materials under
2 the Settling Parties' Protective Order in this case.

3 H. **No Party Deemed to Be the Drafter.** None of the Settling Parties hereto
4 shall be deemed to be the drafter of this Agreement or any provision hereof for the
5 purpose of any statute, case law, rule of interpretation, or construction that would or
6 might cause any provision to be construed against the drafter hereof.

7 I. **Choice of Law.** This Agreement shall be considered to have been
8 negotiated, executed and delivered, and to be wholly performed, in the State of
9 California, and the rights and obligations of the Settling Parties to this Agreement
10 shall be construed and enforced in accordance with, and governed by, the internal,
11 substantive laws of the State of California without giving effect to that State's choice
12 of law principles.

13 J. **Amendment; Waiver.** This Agreement shall not be modified in any
14 respect except by a writing executed by Wells Fargo and Plaintiffs or Class Counsel,
15 and the waiver of any rights conferred hereunder shall be effective only if made by
16 written instrument of the waiving party. The waiver by any party of any breach of this
17 Agreement shall not be deemed or construed as a waiver of any other breach, whether
18 prior, subsequent, or contemporaneous, of this Agreement. Nothing in the Settlement
19 Agreement (including the fact of Settlement) constitutes or shall be construed as a
20 waiver by Wells Fargo of whatever rights they may have under any arbitration
21 agreement, including with respect to any claim, lawsuit, or judicial proceeding
22 initiated by a member of the Class who has opted-out of the Settlement.

23 K. **Execution in Counterparts.** This Agreement may be executed in one or
24 more counterparts. All executed counterparts and each of them shall be deemed to be
25 one and the same instrument. Counsel for the Settling Parties to this Agreement shall
26 exchange among themselves original signed counterparts and a complete set of
27 executed counterparts shall be filed with the Court.

28 L. **Integrated Agreement.** This Agreement constitutes the entire

1 agreement between the Settling Parties with respect to the Settlement. This
2 Agreement supersedes all prior negotiations and agreements, including but not limited
3 to the Memorandum of Understanding/Term Sheet, and may not be modified or
4 amended except by a writing signed by the Settling Parties and their respective
5 counsel. The Settling Parties acknowledge, stipulate, and agree that no covenant,
6 obligation, condition, representation, warranty, inducement, negotiation, or
7 understanding concerning any part of the subject matter of this Agreement has been
8 made or relied on except as expressly set forth in this Agreement. It is understood by
9 the Settling Parties that, except for the matters expressly represented herein, the facts
10 or law with respect to which this Agreement is entered into may turn out to be other
11 than or different from the facts now known to each Settling Party or believed by such
12 party to be true. Each Settling Party therefore expressly assumes the risk of the facts
13 or law turning out to be different and agrees that this Agreement shall be in all respects
14 effective and not subject to termination by reason of any such different facts or law.

15 **M. Attorneys' Fees and Costs.** Except as otherwise expressly provided in
16 this Agreement, each party shall bear its own costs and attorneys' fees.

17 **N. Return or Destruction of Confidential Materials.** The Settling Parties
18 agree to continue to comply with the Protective Order entered in this Action at the
19 conclusion of the case. All agreements made and orders entered during the course of
20 the Action relating to the confidentiality of information shall survive this Agreement.

21 **O. Intended Beneficiaries.** No provision of this Agreement shall provide
22 any rights to, or be enforceable by, any Person that is not one of the Plaintiffs, a Class
23 Member, Wells Fargo, one of the Class Releasees, Class Counsel, or Counsel for
24 Wells Fargo, except that this Agreement will be binding upon and inure to the benefit
25 of the successors and assigns of the Settling Parties. No Plaintiff, Class Member, or
26 Class Counsel may assign or otherwise convey any right to enforce any provision of
27 this Agreement.

28 **P. Regular Course of Business.** The Settling Parties agree that nothing in

1 this Agreement shall be construed to prohibit communications between Class
2 Releasees, on the one hand, and Class Members, on the other hand, in the regular
3 course of business.

4 **Q. Tax Consequences.** No representations or advice regarding the tax
5 consequences of this Agreement have been made by any Settling Party. The Settling
6 Parties further understand and agree that each Settling Party, each Class Member,
7 each of Class Counsel, and Plaintiffs shall be responsible for his, her, its, or their own
8 taxes, if any, resulting from this Agreement and any payments made pursuant to this
9 Agreement.

10 **R. Bankruptcy Proceedings.**

11 1. The Settling Parties agree that any Class Member who is in active
12 bankruptcy proceedings or previously was a party to bankruptcy proceedings during
13 the period of time covered in the definition of the Class may only participate in the
14 Settlement subject to applicable bankruptcy law and procedures. Wells Fargo is under
15 no obligation to notify any bankruptcy court that has, had, or may have jurisdiction
16 over such Class Member's bankruptcy proceedings or any trustee or examiner
17 appointed in such Class Member's bankruptcy proceedings of this Agreement or the
18 benefits conferred by the Agreement and the Settlement.

19 2. The Settling Parties agree that any disputes concerning the rights
20 of the bankruptcy estate to the proceeds of any payment under the Settlement or
21 Service Award shall be adjudicated by the applicable Bankruptcy Court. The
22 Settlement Administrator shall follow any direction of the Bankruptcy Court with
23 respect to the proceeds of any payment or Service Award.

24 **S. No Conflict Intended; Headings.** Any inconsistency between this
25 Agreement and the exhibits attached hereto shall be resolved in favor of this
26 Agreement. The headings used in this Agreement are intended for the convenience
27 of the reader only and shall not affect the meaning or interpretation of this Agreement.

28 **T. Class Member Obligations.** Under no circumstances shall the

1 Settlement or Agreement or any release herein be deemed to alter, amend, or change
2 the terms and conditions of any account or loan to which any Class Member is or was
3 a party, or to provide a defense to any such loan, nor shall the Agreement or any
4 release herein be deemed to have any effect in any bankruptcy case, in any foreclosure
5 proceeding, or in any other action involving a Class Member hereto, nor shall the
6 Settlement or the Agreement create or be construed as evidence of any violation of
7 law or contract. In the event this Agreement is so construed as to a particular Class
8 Member, it can be declared by Wells Fargo to be null and void as to that Class Member
9 only (and in such latter event, the Class Released Claims as to that Class Member
10 shall also be void).

11 U. **Press Release.** Plaintiffs and Class Counsel shall not issue, or otherwise
12 cause to be issued, any press release or advertisement, concerning the Action and/or
13 the facts and circumstances that were the subject of, or disclosed in discovery in, the
14 Action, excepting only such documents created and disbursed as part of the Class
15 Notice. Plaintiffs and Class Counsel shall not seek media interviews concerning:
16 (i) the Action; (ii) the facts and circumstances that were the subject of, or disclosed in
17 discovery in the Action; and/or (iii) the Settlement of the Action, excepting only that
18 such statements may be made to individual Class Members in one-on-one
19 communications or as part of the Class Notice. Under no circumstance shall Plaintiffs
20 or Class Counsel disclose to any third party (1) any confidentially designated
21 discovery obtained from Wells Fargo in the Action and/or (2) any non-public
22 information regarding the Settling Parties' negotiation of this Settlement and/or this
23 Agreement, except as may be otherwise permitted in this Agreement. Specifically,
24 this paragraph does not alter the scope of any confidentiality provisions or provisions
25 regarding the use of non-public information set forth in this Agreement.

26 V. **Mediator's Declaration.** The Settling Parties agree that the Mediator
27 may file a declaration in support of any approval motions.

28 W. **Further disputes:** If any disputes arise out of the finalization of the

1 settlement documentation, said disputes are to be resolved by the Honorable Andrew
2 Guilford (Ret.) first by way of expedited telephonic mediation and, if mediation is
3 unsuccessful, then by way of final, binding, non-appealable determination.

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1 IN WITNESS WHEREOF, the Settling Parties hereto, through their fully
2 authorized representatives, have entered into this Agreement as of the date first below
3 written, and have executed this Settlement Agreement on the date indicated below
4 each respective signature.

5 PLAINTIFF ARMANDO HERRERA

6 By:

7 

8 Armando Herrera

9 Date: 5/16/, 2021

11 PLAINTIFF DENA LUCERO

12 By:

14 Dena Lucero

16 Date: _____, 2021

18 PLAINTIFF FEDERICK BROWN

19 By:

21 Frederick Brown

22 Date: _____, 2021

24 PLAINTIFF VANITY ARRINGTON

25 By:

27 Vanity Arrington

28 Date: _____, 2021

1 IN WITNESS WHEREOF, the Settling Parties hereto, through their fully
2 authorized representatives, have entered into this Agreement as of the date first below
3 written, and have executed this Settlement Agreement on the date indicated below
4 each respective signature.

5
6 PLAINTIFF ARMANDO HERRERA

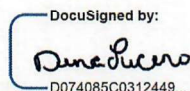
7 By:

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Armando Herrera

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10 Date: _____, 2021

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12 PLAINTIFF DENA LUCERO

13 By:

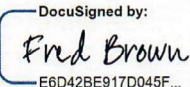
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15 Dena Lucero

16 Date: May 14th _____, 2021

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18 PLAINTIFF FEDERICK BROWN

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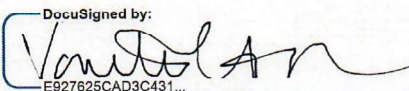
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21 Frederick Brown

22 Date: May 14th _____, 2021

23
24 PLAINTIFF VANITY ARRINGTON

25 By:

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27 Vanity Arrington

28 Date: May 14th _____, 2021

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1 PLAINTIFF KASHIF AWAN

2 By:

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4 Kashif Awan

5 Date: _____, 2021

6

7 PLAINTIFF GRETA CARTER

8 By:

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9 Greta Carter

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11 Date: May 14th _____, 2021

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13 PLAINTIFF JAMES ATKINS

14 By:

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15 James Atkins

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17 Date: May 14th _____, 2021

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19 PLAINTIFF ILKA ROBINSON-EATON

20 By:

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21 Ilka Robinson-Eaton

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23 Date: May 14th _____, 2021

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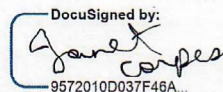
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1 PLAINTIFF JANET CORPES

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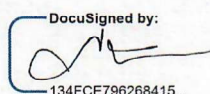
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4 Janet Corpes

5 Date: May 14th, 2021

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7 PLAINTIFF TERRI JONES

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10 Terri Jones

11 Date: May 14th, 2021

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13 PLAINTIFF HEIDE HUMPHREYS

14 By:

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16 Heidi Humphreys

17 Date: , 2021

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19 PLAINTIFF RIA MARTIENS

20 By:

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23 Date: May 14th, 2021

1 PLAINTIFF BRIAN SWEENEY

2 By:

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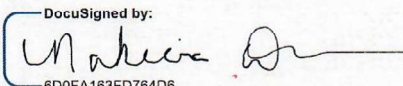
4 Brian Sweeney

5 Date: _____, 2021

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7 PLAINTIFF NAKECIA DEAN

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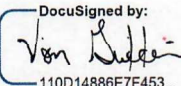
10 Nakecia Dean

11 Date: May 14th _____, 2021

12

13 PLAINTIFF VON GRIFFIN

14 By:

15 
DocuSigned by:
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16 Von Griffin

17 Date: May 14th _____, 2021

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19

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21 **DEFENDANTS WELLS FARGO BANK, NATIONAL ASSOCIATION AND**
22 **WELLS FARGO & CO.**

23 By:

24

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26 Title: _____

27 Date: _____, 2021

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3 Kashif Awan

4 Kashif Awan (May 14, 2021 17:58 CDT)

5 Kashif Awan

6 Date: May 14, 2021

7 PLAINTIFF GRETA CARTER

8 By:

9
10 Greta Carter

11 Date: _____, 2021

12
13 PLAINTIFF JAMES ATKINS

14 By:

15
16 James Atkins

17 Date: _____, 2021

18
19 PLAINTIFF ILKA ROBINSON-EATON

20 By:

21
22 Ilka Robinson-Eaton

23 Date: _____, 2021

1 PLAINTIFF JANET CORPES

2 By:

3 _____
4 Janet Corpes

5 Date: _____, 2021

7 PLAINTIFF TERRI JONES

8 By:

9 _____
10 Terri Jones

11 Date: _____, 2021

13 PLAINTIFF HEIDI HUMPHREYS

14 By:

15 Heidi Humphreys
Heidi Humphreys (May 14, 2021 18:27 EDT)
16 Heidi Humphreys

17 Date: May 14, 2021

19 PLAINTIFF RIA MARTIENS

20 By:

21 _____
22 Ria Martiens

23 Date: _____, 2021

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1 PLAINTIFF BRIAN SWEENEY

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Tim Sweeney (May 14, 2021 19:16 CDT)

4 Brian Sweeney

5 Date: May 14, 2021

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7 PLAINTIFF NAKECIA DEAN

8 By:

9
10 Nakecia Dean

11 Date: _____, 2021

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13 PLAINTIFF VON GRIFFIN

14 By:

15
16 Von Griffin

17 Date: _____, 2021

18
19
20 **DEFENDANTS WELLS FARGO BANK, NATIONAL ASSOCIATION AND**
21 **WELLS FARGO & CO.**

22 By:

23
24
25 Title: _____

26 Date: _____, 2021

1 PLAINTIFF BRIAN SWEENEY

2 By:

3 _____
4 Brian Sweeney

5 Date: _____, 2021

7 PLAINTIFF NAKECIA DEAN

8 By:

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10 Nakecia Dean

11 Date: _____, 2021

13 PLAINTIFF VON GRIFFIN

14 By:

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16 Von Griffin

17 Date: _____, 2021

20 **DEFENDANTS WELLS FARGO BANK, NATIONAL ASSOCIATION AND**
21 **WELLS FARGO & CO.**

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Mike Weinbach

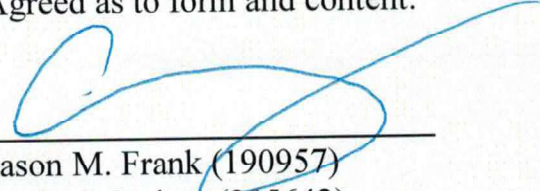
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23 _____
24
25 Title: CEO, Consumer Lending

26 Date: 6/3/2021 1:57:54 PM PDT
27 _____, 2021

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