<u>SETTLEMENT AGREEMENT AND RELEASE</u>

US Realty Group LLC, et al v. New York Community Bank

United States District Court for the Eastern District of New York

Case No. 23-cv-01609-KAM-SIL

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Settlement" or "Agreement")[1] is entered into by Plaintiffs Michelle Sapozhnikov and US Realty Group LLC ("US Realty," and together with Sapozhnikov, "Plaintiffs"), individually and on behalf of the Settlement Classes, on the one hand, and Defendant New York Community Bank ("NYCB" or "Defendant"), on the other hand, as of the last date executed below. The Parties hereby agree to the following terms in full settlement of the action entitled *US Realty Group LLC, et al v. New York Community Bank*, Case No. 23-cv-01609-KAM-SIL, subject to Final Approval, as defined below, by the United States District Court for the Eastern District of New York.

I. Procedural History and Recitals

1. On March 2, 2023, US Realty filed a putative Class Action Complaint in the United States District Court for the Eastern District of New York, entitled *US Realty Group LLC v. New York Community Bank*.

2. On June 9, 2023, Plaintiffs filed an Amended Class Action Complaint , which added Sapozhnikov as a Plaintiff. On August 3, 2023, Plaintiffs filed a Second Amended Class Action Complaint (the "Amended Complaint"), which is the operative complaint in this action. Plaintiffs together asserted claims for relief in the Amended Complaint for breach of contract, including the covenant of good faith and fair dealing on behalf of themselves and the Multiple Fee Class and OON Fees Class and violations of New York General Business Law § 349, *et seq*. The claims on behalf of the Multiple Fees Class are based on the theory that NYCB allegedly and improperly charged multiple non-sufficient funds and/or overdraft fees on a single transaction. The Claims on behalf of the OON Fee Class are based on the theory that NYCB allegedly and

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

improperly charged two out-of-network ATM fees ("OON Fees") on out-of-network ATM withdrawals preceded by a balance inquiry.

3. The Parties have engaged in extensive negotiations in an effort to resolve this Action and have engaged in discovery, including obtaining an analysis of Defendant's potential damages exposure for the alleged fees at issue by outside vendors.

4. The Parties now agree to settle the Action in its entirety.

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

II. Definitions

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

5. "Account" means any checking account maintained by Defendant.

6. "Accountholder" means any person who has or had any interest, whether legal or equitable, in an Account during the Class Periods.

7. "Action" means *US Realty Group LLC, et al v. New York Community Bank*, Case No. 23-cv-01609-KAM-SIL (E.D.N.Y.).

8. "Application for Attorneys' Fees, Costs, and Incentive Award" means the application to be submitted to the Court by Class Counsel, as part of the Motion for Final Approval, requesting an award of attorneys' fees for Class Counsel, reimbursement of litigation costs incurred by Class Counsel, and an Incentive Award for the Class Representatives.

9. "Class Counsel" means:

KALIELGOLD PLLC
Sophia Goren Gold

490 43rd Street, Ste. 122
Oakland, CA 94609

KALIEL GOLD PLLC
Jeffrey D. Kaliel
1100 15th Street NW 4th Floor
Washington, D.C. 20005

WEITZ & LUXENBERG, PC
James J. Bilsborrow
700 Broadway
New York, NY 10003

JENNINGS & EARLEY PLLC
Christopher D. Jennings
Tyler B. Ewigleben
500 President Clinton Ave., Suite 110
Little Rock, AR 72201

10. "Class Periods" means the Multiple Fees Class Period and OON Fee Class Period.

11. "Class Representatives" means Michelle Sapozhnikov and US Realty.

12. "Court" means the United States District Court for the Eastern District of New York.

13. "Current Accountholder" means a Multiple Fees Settlement Class Member or OON Fees Settlement Class Member who is an accountholder of Defendant as of the date that the Net Settlement Fund is distributed to Multiple Fees Settlement Class Members and OON Fee Settlement Class Members pursuant to this Agreement.

14. "Defendant" means New York Community Bank, now known as Flagstar Bank, N.A.

15. "Defendant's Counsel" means Mayer Brown LLP.

16. "Effective Date" means the later of: (1) 10 days after the time period has expired to appeal the judgment entered after the entry of the Final Approval Order without any appeal or

motion to vacate judgment being filed; or (2) if an appeal of the judgment entered after the entry of Final Approval Order is taken, then the earlier of 10 days after the entry of an order dismissing the appeal or 10 days after the appeal has been finally resolved in the appellate court of last resort without any right to appeal or seek further review from another appellate court.

17. “Email Notice” means a short form of notice that shall be sent by email to Settlement Class Members who agreed to receive notices from Defendant by email in the form attached as ***Exhibit 1***.

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

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

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

21. “Incentive Award” means any Court-ordered payment to Plaintiffs for serving as the Class Representatives, which is in addition to any payment due to Plaintiffs as Settlement Class Members.

22. "Long Form Notice" means the form of notice that shall be posted on the Settlement Website created by the Settlement Administrator and shall be available to Settlement Class Members by mail on request made to the Settlement Administrator, in the form attached as ***Exhibit 2***.

23. "Motion for Final Approval" means the motion requesting the Court grant Final Approval to the Settlement pursuant to Federal Rules of Civil Procedure ("FRCP"), rule 23(e).

24. "Multiple Fees Settlement Class" means all NYCB Accountholders who were charged two or more NSF Fees or OD Fees on the same ACH transaction or check during the Multiple Fees Class Period.

25. "Multiple Fees Class Period" means the period from March 2, 2017 through January 1, 2020.

26. "Net Settlement Fund" means the Settlement Fund, minus Court-approved attorneys' fees and costs awarded to Class Counsel, any Settlement Administration Costs, and any Court-approved Incentive Award to the Class Representatives.

27. "Non-Sufficient Funds Fee" or "NSF Fee" means any non-sufficient funds fee or fees assessed to an Accountholder for transactions for check or ACH payment transactions returned when the Account has insufficient funds.

28. "Notice" means the Email Notice, Long Form Notice, and Postcard Notice that the Parties will ask the Court to approve in connection with the motion for Preliminary Approval of the Settlement.

29. "Notice Program" means the methods provided for in this Agreement for giving the Notice and consists of Email Notice, Postcard Notice, and Long Form Notice, which shall be substantially in the forms as the exhibits attached to this Agreement.

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

31. “OON Fee” means a second out-of-network ATM fee (“OON Fees”) assessed on out-of-network ATM withdrawals preceded by a balance inquiry.

32. “OON Fee Settlement Class” means all NYCB Accountholders who were charged more than one out-of-network ATM fee when checking their balance in conjunction with a cash withdrawal at an out-of-network ATM during the OON Fee Class Period.

33. “OON Fee Class Period” means the period from August 20, 2020 through February 20, 2024.

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

35. “Overdraft Fee” or “OD Fee” means any fee or fees assessed to an Accountholder for items paid when the Account had insufficient funds.

36. “Party” means any Plaintiff or Defendant, and “Parties” means Plaintiffs and Defendant together.

37. “Past Accountholder” means a Multiple Fees Settlement Class Member or OON Fee Settlement Class Member who is not an accountholder of Defendant as of the date that the Net Settlement Fund is distributed to Settlement Class Members pursuant to this Agreement.

38. “Plaintiffs” means Michelle Sapozhnikov and US Realty.

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

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

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

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

43. “Released Claims” means any and all liabilities, rights, claims, actions, causes of action, demands, damages, costs, attorneys’ fees, losses and remedies, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, based on contract, tort or any other theory, that arise from or relate to Defendant’s assessment of Relevant Fees, and claims that were asserted or could possibly have been asserted in the Action relating to Defendant’s assessment of Relevant Fees

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

45. “Releasing Parties” means Plaintiff and all Settlement Class Members, and each of their respective executors, representatives, heirs, predecessors, assigns, beneficiaries, successors,

bankruptcy trustees, guardians, joint tenants, tenants in common, tenants by entireties, agents, attorneys, and all those who claim through them or on their behalf.

46. “Relevant Fees” means Retry Fees and OON Fees.

47. “Retry Fees” shall mean NSF Fees and OD Fees that were charged during the Class Period, for Automated Clearing House (ACH) and check transactions that were re-submitted by a merchant after being returned by Defendant for insufficient funds.

48. “Settlement Administrator” means Simpluris.

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

50. “Settlement Classes” means the Multiple Fees Settlement Class and OON Fee Settlement Class. Excluded from the Settlement Class is Defendant, its parents, subsidiaries, affiliates, officers and directors; all Settlement Class Members who make a timely election to be excluded; and all judges assigned to this litigation and their immediate family members.

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

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

53. “Settlement Fund” means the $1,233,500.00 common cash fund Defendant is obligated to pay under the terms of this Settlement. The Settlement Fund shall be paid into an account established by the Settlement Administrator within 10 days after the Effective Date, less the total amount that will be credited to Settlement Class Members by Defendant, as provided in

Paragraph 77.d, below.

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

55. “Value of the Settlement” means the Settlement Fund.

III. Certification of the Settlement Class

56. Plaintiff shall propose and recommend to the Court that the Settlement Classes be certified pursuant to FRCP 23(c). Defendant agrees solely for purposes of the Settlement provided for in this Agreement, and the implementation of such Settlement, that this case shall proceed as a class action; provided, however, that if a Final Approval Order is not issued, then Defendant shall retain all rights to object to maintaining this case as a class action. Plaintiff and Class Counsel shall not reference this Agreement in support of any subsequent motion relating to certification of a liability class.

IV. Settlement Consideration

57. Within 10 days after the Effective Date, Defendant shall transfer to the Settlement Administrator the Settlement Fund, less the total amount that will be credited to Settlement Class Members by Defendant, as provided in Paragraph 77.d, below. The Settlement Fund shall be used to pay Settlement Class Members their respective Settlement Class Member Payments; any and

all attorneys' fees and costs awarded to Class Counsel; any Incentive Award to the Class Representatives; and all Settlement Administration Costs. Defendant shall not be responsible for any other payments under this Agreement.

58. For avoidance of doubt, it is agreed by the Parties that a Settlement Class Member may qualify for a Settlement Class Member Payment by virtue of having paid one or more Relevant Fees.

V. Settlement Approval

59. Upon execution of this Agreement by all Parties, Class Counsel shall promptly move the Court for a Preliminary Approval Order. The proposed Preliminary Approval Order shall be attached to the motion, or otherwise filed with the Court, and shall be in a form agreed to by Class Counsel and Defendant. The motion for Preliminary Approval shall, among other things, request that the Court: (a) preliminarily approve the terms of the Settlement as being within the range of fair, adequate, and reasonable; (b) provisionally certify the Settlement Classes pursuant to FRCP 23(c), for settlement purposes only; (c) approve the Notice Program set forth herein and approve the form and content of the Notices of the Settlement; (d) approve the procedures set forth herein for members of the Settlement Classes to exclude themselves from the Settlement Class or to object to the Settlement; (e) stay the Action pending Final Approval of the Settlement; and (f) schedule a Final Approval Hearing for a time and date mutually convenient for the Court, Class Counsel, and counsel for Defendant, at which the Court will conduct an inquiry into the fairness of the Settlement, determine whether it was made in good faith, and determine whether to approve the Settlement and the Application for Attorneys' Fees, Costs, and Incentive Award to the Class

Representatives.

VI. Discovery and Settlement Data

60. The Parties have engaged in certain discovery related to liability and damages. Additionally, for purposes of effectuating the terms of the Settlement, the Parties engaged in extensive confirmatory discovery regarding analyses of fee data by Defendant's damages consultant. Through the confirmatory discovery process, the Parties adjusted the amount to be paid into the Settlement Fund and now agree that the analyses of fee data done by Defendant's damages consultant represents Relevant Fees for the Class Periods. From its analysis of the fee data, Defendant's damages consultant determined the Accountholders in the Settlement Classes and ultimately the amount of Relevant Fees paid by each member of the Settlement Classes. Defendant's damages consultant has worked with Defendant to create a list of members of the Settlement Classes, which includes, to the extent available, the names of the members of the Settlement Classes, their Account numbers, and their electronic mail and postal addresses. This list will be provided to the Settlement Administrator for the Notice Program and to use in distributing Settlement Class Member Payments.

VII. Settlement Administrator

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

62. The duties of the Settlement Administrator are as follows:

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

b. Establish and maintain a post office address for requests for exclusion from the Settlement Class;

c. Establish and maintain the Settlement Website;

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

e. Respond to any mailed inquiries from members of the Settlement Classes;

f. Process all opt-out requests from members of the Settlement Classes;

g. Provide weekly reports to Class Counsel and Defendant that summarize: (1) the status of the Notice Program; (2) the number of requests for exclusion and objections received; (3) the number and aggregate amount of checks cashed; and (4) any residual funds;

h. In advance of the Final Approval Hearing, prepare a declaration or affidavit to submit to the Court confirming that the Notice Program was completed, describing how the Notice Program was completed, providing the names of each member of the Settlement Classes who timely and properly opted-out from the Settlement Class, the names of Settlement Class Members who timely objected to the Settlement and any materials provided with the objections; and other information as may be necessary to allow the Parties to seek and obtain Final Approval;

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

Settlement Class Members and Current Accountholder Settlement Class Members who are unable to receive credits;

j. Provide to Defendant the amount of the Settlement Class Member Payments to Current Accountholder Settlement Class Members and instruct Defendant to initiate the direct deposit or credit of Settlement Class Member Payments to Current Accountholder Settlement Class Members.

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

l. Any other Settlement Administration function at the instruction of Class Counsel and Defendant, including, but not limited to, verifying that the Settlement Funds have been distributed and distributing the any Residual Funds to the Court-approved *cy pres* recipient.

63. The Settlement Administrator provided a reasonable estimated bid to administer the Notice Program and otherwise perform the duties of Settlement Administrator required by this Agreement. The reasonableness of the bid accounts for the direct costs associated with the Notice Program and the later distribution of Settlement Class Member Payments following entry of the Final Approval Order, and the hourly rates for the work of the Settlement Administrator to perform the tasks required by this Agreement are competitively priced. The Settlement Administrator has procedures in place to protect the security of class data and adequate insurance in the event of a data breach or defalcation of funds.

64. Settlement Class Counsel and Defendant may, by agreement, substitute a different organization as Settlement Administrator, subject to approval by the Court if the Court has previously approved the Settlement preliminarily or finally. In the absence of agreement, either Class Counsel or Defendant may move the Court to substitute a different organization as

Settlement Administrator, upon a showing that the responsibilities of Settlement Administrator have not been adequately executed by the incumbent.

VIII. Notice to Settlement Classes

65. Beginning no later than 60 days following entry of the Preliminary Approval Order or by the date ordered by the Court, the Settlement Administrator shall initiate the Notice Program provided herein, using the forms of Notice approved by the Court. The Notice shall include, among other information: a description of the material terms of the Settlement; a date by which members of the Settlement Classes may exclude themselves from or "opt-out" of the Settlement Class; a date by which Settlement Class Members may object to the Settlement and/or to Class Counsel's application for attorneys' fees and costs and/or the Incentive Award for the Class Representatives; the date upon which the Final Approval Hearing is originally scheduled to occur; and the address of the Settlement Website at which members of the Settlement Classes may access this Agreement and other related documents and information. Class Counsel and Defendant shall insert the correct dates and deadlines in the Notice before the Notice Program commences, based upon those dates and deadlines set by the Court in the Preliminary Approval Order. Notices provided under or as part of the Notice Program shall not bear or include Defendant's logo or trademarks or the return address of Defendant, or otherwise be styled to appear to originate from Defendant. The Long Form Notice will be translated to Spanish language and a Spanish language notation will be made on the Postcard Notice and Email Notice regarding the available translated Long Form Notice. Within a reasonable time before initiating the Email Notice and Postcard Notice, the Settlement Administrator shall establish the Settlement Website.

66. The Long Form Notice also shall include a procedure for members of the Settlement Classes to opt-out of the Settlement Class, and the Email Notice and Postcard Notice shall direct

members of the Settlement Classes to review the Long Form Notice to obtain the instructions. A member of any of the Settlement Classes may opt-out of the Settlement Class at any time during the Opt-Out Period by mailing an opt-out request to the Settlement Administrator postmarked no later than the last day of the Opt-Out Period. The opt-out request must state the Settlement Class Member's name, the last four digits of the member number(s), address, telephone number, and email address (if any), and include a statement indicating a request to be excluded from the Settlement Class. Any member of the Settlement Classes who does not timely and validly request to opt-out shall be bound by the terms of this Agreement. If an Account has more than one Accountholder, and if one Accountholder excludes himself or herself from the Settlement Class, then all Accountholders on that Account shall be deemed to have opted-out of the Settlement with respect to that Account, and no Accountholder shall be entitled to a payment under the Settlement.

67. The Long Form Notice also shall include a procedure for Settlement Class Members to object in writing to the Settlement and/or to Class Counsel's application for attorneys' fees and costs and/or the Incentive Award for the Class Representatives, and the Email Notice and Postcard Notice shall direct Settlement Class Members to review the Long Form Notice to obtain the instructions. Objections to the Settlement, to the application for attorneys' fees and costs, and/or to the Incentive Award must be mailed to the Settlement Administrator and not filed with the Court. For an objection to be considered by the Court, the objection must be submitted no later than the last day of the Objection Period, as specified in the Notice. If submitted by mail, an objection shall be deemed to have been submitted when posted if received with a postmark date indicated on the envelope if mailed first-class postage prepaid and addressed in accordance with the instructions. If submitted by private courier (*e.g.*, Federal Express), an objection shall be deemed to have been submitted on the shipping date reflected on the shipping label.

68. For an objection to be considered by the Court, the objection must also set forth:

a. the name of the Action;

b. the objector's full name, address, telephone number, and email address (if any);

c. all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel;

d. the identity of all counsel who represent the objector and whether they will appear at the Final Approval hearing;

e. a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection; and

f. a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing.

69. Class Counsel and/or Defendant may conduct limited discovery on any objector or objector's counsel consistent with the Federal Rules of Civil Procedure.

70. For those members of the Settlement Classes who have agreed to receive notices from Defendant by email, Defendant shall provide the Settlement Administrator with the most recent email addresses it has for these members. The Settlement Administrator shall send the Email Notice to each such class member's last known email address, in a manner that is calculated to avoid being caught and excluded by spam filters or other devices intended to block mass email. For any emails that are returned undeliverable, the Settlement Administrator shall send a Postcard Notice in the manner described below. The Email Notice shall inform members of the Settlement Classes how they may obtain a copy of the Long Form Notice on the Settlement Website or via mail upon request to the Settlement Administrator.

71. For those members of the Settlement Classes who have not agreed to receive notices

from Defendant by email, the Postcard Notice shall be mailed to these members by first class United States mail to the best available mailing addresses. Defendant shall provide the Settlement Administrator with last known mailing addresses for these members. Prior to mailing the Postcard Notice, the Settlement Administrator shall run the names and addresses through the National Change of Address Registry and update as appropriate. If a mailed Postcard Notice is returned with forwarding address information, the Settlement Administrator shall re-mail the Postcard Notice to the forwarding address. For all mailed Postcard Notices that are returned as undeliverable, the Settlement Administrator shall use standard skip tracing devices to obtain forwarding address information and, if the skip tracing yields a different forwarding address, the Settlement Administrator shall re-mail the Postcard Notice once to the address identified in the skip trace, as soon as reasonably practicable after the receipt of the returned mail. The Postcard Notice shall inform members of the Settlement Classes how they may obtain a copy of the Long Form Notice on the Settlement Website or via mail upon request to the Settlement Administrator.

72. The Notice Program shall be completed no later than 60 days before the date upon which the Final Approval Hearing is originally scheduled to occur.

73. The Settlement Administrator shall maintain a database showing mail and email addresses to which each Notice was sent and any Notices that were not delivered by mail and/or email. In addition to weekly updates to the Parties regarding the progress of the Notice Program and the declaration or affidavit by the Settlement Administrator in advance of the Final Approval Hearing and in support of the Motion for Final Approval, a summary report of the Notice Program shall be provided to the Parties 3 days prior to the Final Approval Hearing. The database maintained by the Settlement Administrator regarding the Notices shall be available to the Parties and the Court upon request. It shall otherwise be confidential and shall not be disclosed to any

third party. To the extent the database is provided to Class Counsel, it shall be kept confidential, not be shared with any third party and used only for purposes of implementing the terms of this Agreement, and shall not be used for any other purposes.

74. The Email Notice, Postcard Notice, and Long Form Notice shall be in forms approved by the Court, and substantially similar to the notice forms attached hereto as ***Exhibits 1 and 2***. Not all members of the Settlement Classes will receive all three forms of Notice, as detailed herein. The Parties may by mutual written consent make non-substantive changes to the Notices without Court approval.

IX. Final Approval Order and Judgment

75. Plaintiff shall file her Motion for Final Approval of the Settlement, inclusive of the Application for Attorneys' Fees, Costs, and Incentive Award for the Class Representatives, no later than 45 days before the original date set for the Final Approval Hearing. At the Final Approval Hearing, the Court will hear argument on Plaintiff's Motion for Final Approval of the Settlement, and on the Application for Attorneys' Fees, Costs, and Incentive Award for the Class Representatives. In the Court's discretion, the Court also will hear argument at the Final Approval Hearing from any Settlement Class Members (or their counsel) who object to the Settlement or to Class Counsel's application for attorneys' fees and costs, or the Incentive Award, provided the objectors submitted timely objections that meet all of the requirements listed in the Agreement. If the date or location of the Final Approval Hearing changes, that information will be included on the Settlement Website for the Settlement Class's benefit. Notice to Settlement Class Members of final judgment will be posted on the Settlement Website.

76. At or following the Final Approval Hearing, the Court will determine whether to enter the Final Approval Order granting Final Approval of the Settlement and final judgment

thereon, and whether to approve Class Counsel's request for attorneys' fees and costs, and any Incentive Award. Such proposed Final Approval Order shall, among other things:

a. Determine that the Settlement is fair, adequate and reasonable;

b. Finally certify the Settlement Class for settlement purposes only;

c. Determine that the Notice provided satisfies Due Process requirements;

d. Bar and enjoin all Releasing Parties from asserting any of the Released Claims; bar and enjoin all Releasing Parties from pursuing any Released Claims against Released Parties at any time, including during any appeal from the Final Approval Order; and retain jurisdiction over the enforcement of the Court's injunctions;

e. Release Defendant and the Released Parties from the Released Claims; and

f. Reserve the Court's continuing and exclusive jurisdiction over the Parties to this Agreement, including Defendant, all Settlement Class Members, and all objectors, to administer, supervise, construe, and enforce this Agreement in accordance with its terms.

X. Calculation and Disbursement of Settlement Class Member Payments.

77. Payments shall be made from the Settlement Fund as follows:

a. Class Counsel's Fees and Costs. Class Counsel's reasonable attorneys' fees and costs, as determined and approved by the Court, shall be paid from the Settlement Fund within 15 days after the Effective Date. Class Counsel shall apply for an award of attorneys' fees of up to one-third (33-1/3%) of the Value of the Settlement, plus reimbursement of reasonable litigation costs, to be approved by the Court. This Settlement is not contingent on approval of a request for attorneys' fees and costs, and if the Court denies the request or grants it in an amount other than what was requested, the remaining provisions of the Settlement Agreement shall remain in force.

b. Incentive Award. The Class Representatives may each apply to the Court for an Incentive Award of up to $15,000.00. Subject to Court approval, the Incentive Award shall be paid no later than 15 days after the Effective Date. This Settlement is not contingent on approval of a request for an Incentive Award, and if the Court denies the request or grants it in an amount other than what was requested, the remaining provisions of the Settlement Agreement shall remain in force.

c. Settlement Administrator's Fees and Costs. Consistent with Section IV above, the Settlement Administrator's fees and costs shall be paid from the Settlement Fund within 10 days after invoicing to and approval by the Parties. The Parties and the Settlement Administrator agree that any fees or costs incurred by the Settlement Administrator prior to funding of the Settlement Fund shall be deferred and not invoiced until at least fifteen 15 days after the Effective Date. In the event the Final Approval Order is not entered or this Agreement is terminated pursuant to Section XIII below, Defendant agrees to cover any costs incurred and fees charged by the Settlement Administrator pursuant to Section VII above prior to the denial of Final Approval or the termination of this Agreement.

d. Settlement Class Member Payments. Of the $1,233,500.00 paid into the Settlement Fund, $907,856 (73.6%) is allocated to the Multiple Fees Settlement Class and $325,644 (26.4%) is allocated to the OON Fee Settlement Class. If applicable, Settlement Class Members may receive payments as members of the Multiple Fees Settlement Class and the OON Fee Settlement Class. Based on this allocation, payments from the Net Settlement Fund to the Settlement Class Members shall be calculated as follows:

i. Multiple Fees Settlement Class Members shall be paid per Retry Fee calculated as follows:

(0.736 of the Net Settlement Fund/Total Retry Fees) x Total number of Retry

Fees charged to and paid by each Multiple Fees Settlement Class Member.

ii. OON Fee Settlement Class Members shall be paid per OON Fee calculated as follows:

(0.264 of the Net Settlement Fund/Total OON Fees) x Total number of OON Fees charged to and paid by each OON Fee Settlement Class Member.

iii. Settlement Class Member Payments shall be made no later than 30 days after the Effective Date, as follows:

(1) For those Settlement Class Members who are Current Accountholders at the time of the distribution of the Net Settlement Fund, a credit in the amount of the Settlement Class Member Payment they are entitled to receive shall be applied by Defendant to the Account that was assessed the Relevant Fee(s). If that account is no longer active, then a credit may be made to any checking or savings account they are then maintaining at Defendant that is held by them individually. If by the deadline for Defendant to apply credits of Settlement Class Member Payments to accounts Defendant is unable to complete certain credit(s), Defendant shall deliver the total amount of such unsuccessful Settlement Class Member Payment credits to the Settlement Administrator to be paid by check in accordance with subsection 2 below. Defendant shall provide a declaration or affidavit confirming its efforts to complete the required Account credits, including both completed and unsuccessful credits, and its delivery of the funds required to attempt payments by check for the unsuccessful credits.

(2) For those Settlement Class Members who are Past Accountholders at the

time of the distribution of the Net Settlement Fund, they shall be sent a check by the Settlement Administrator at the address used to provide the Notice, or at such other address as designated by the Settlement Class Member. For jointly held accounts, checks will be payable to all members, and will be mailed to the first member listed on the account. The Settlement Administrator will make reasonable efforts to locate the proper address for any check returned by the Postal Service as undeliverable and will re-mail it once to the updated address or, in the case of a jointly held account, and in the Settlement Administrator's discretion, to an accountholder other than the one listed first. The Settlement Class Member shall have 180 days to negotiate the check. Any checks uncashed after 180 days shall be distributed pursuant to Section XI.

iv. In no event shall any portion of the Settlement Fund revert to Defendant.

78. All funds held by the Settlement Administrator shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until distributed pursuant to this Agreement.

79. All funds held by the Settlement Administrator at any time shall be deemed to be a Qualified Settlement Fund as described in Treasury Regulation §1.468B-1, 26 C.F.R. §1.468B-1.

XI. Disposition of Residual Funds

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

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

b. Second, in the event the costs of preparing, transmitting and administering such subsequent payments to Settlement Class Members do not make individual distributions economically feasible or practical or other specific reasons exist that would make such further distributions impossible or unfair, or if such a second distribution is made and Residual Funds still remain, the Residual Funds shall be distributed to a *cy pres* recipient. The Parties agree to propose the Community Service of Society of New York's Financial Coaching Corps Program as the *cy pres* recipient.

XII. <u>Releases</u>

81. Except as to the rights and obligations provided for under the terms of this Agreement, as of the Effective Date, Releasing Parties shall automatically be deemed to fully and irrevocably release and forever discharge the Released Parties of and from the Released Claims.

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

83. The Releasing Parties, agree to waive any rights they may have under the law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which provides:

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

Releasing Parties acknowledge that they may later discover facts different from, or in addition to, those which they now know and believe, or should now know and believe, to be true with respect to the releases herein made. Releasing Parties agree that their releases shall, and will remain, effective notwithstanding the existence, and/or subsequent discovery, of such additional facts.

84. Nothing in this Agreement shall operate or be construed to release any claims or rights that Defendant has to recover any past, present, or future amounts that may be owed by any Settlement Class Member on his/her accounts, loans, or any other debts with Defendant, pursuant to the terms and conditions of such accounts, loans, or any other debts, except Defendant confirms that it will not pursue the recovery of any amounts owed by Plaintiffs on their accounts, loans, or any other debts with Defendant (excluding debts related to any credit cards associated with Defendant), and that there are currently not and Defendant will not create any negative marks in ChexSystems relating to the same. Likewise, nothing in this Agreement shall operate or be construed to release any defenses or rights of set-off that any Settlement Class Member has, other than with respect to the claims expressly released by this Agreement, in the event Defendant and/or its assigns seeks to recover any past, present, or future amounts that may be owed by any Settlement Class Member on his/her accounts, loans, or any other debts with Defendant, pursuant to the terms and conditions of such accounts, loans, or any other debts.

XIII. <u>Termination of Settlement</u>

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

a. both Class Counsel and Defendant agree to termination;

b. the Court rejects, materially modifies, materially amends, or changes, or declines to grant Preliminary Approval or Final Approval;

c. an appellate court vacates or reverses the Final Approval Order, and the Settlement is not reinstated and finally approved without material change by the Court on remand within 360 days after such reversal;

d. any court incorporates into, or deletes or strikes from, or modifies, amends, or changes, the Preliminary Approval Order, Final Approval Order, or the Settlement in a way that Class Counsel or Defendant seeking to terminate the Settlement reasonably considers material;

e. the Effective Date does not occur; or

f. any other ground for termination provided for elsewhere in this Agreement.

86. Defendant also shall have the right to terminate the Settlement by serving on Class Counsel and filing with the Court a notice of termination within 10 days after its receipt from the Settlement Administrator of any report indicating that the number of Accountholders in the Settlement Class who timely opt-out from the Settlement Class equals or exceeds 5% of the total Settlement Class Members.

87. In the event of a termination, this Agreement shall be considered null and void; all of Plaintiff's, Class Counsel's, and Defendant's obligations under the Settlement shall cease to be

of any force and effect; and the Parties shall return to the status *quo ante* in the Action as if the Parties had not entered into this Agreement. In addition, in the event of such a termination, all of the Parties' respective pre-Settlement rights, claims and defenses will be retained and preserved.

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

XIV. No Admission of Liability

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

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

Counsel concluded that the proposed Settlement set forth in this Agreement is fair, adequate, reasonable, and in the best interests of the members of the Settlement Classes.

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

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

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

XIX. Confidentiality

94. None of the Parties shall issue any press release or shall otherwise initiate press coverage of the Settlement, nor shall any Party post about the Settlement on social media or any website other than the fact that the Settlement was reached and that it was a fair and reasonable result. If contacted, the Party may respond generally, either online or in person, by stating that they

are happy that the Settlement was reached and that it was a fair and reasonable result.

XX. Miscellaneous Provisions

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

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

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

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

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

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

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

102. Counterparts. This Agreement may be executed in any number of counterparts,

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

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

104. Notices. All notices to Class Counsel provided for herein, shall be sent by email with a hard copy sent by overnight mail to:

KALIEL GOLD PLLC
Sophia Goren Gold
490 43rd Street, Ste 122
Oakland, California 94609
Email: sgold@kalielgold.com
Class Counsel

KALIEL GOLD PLLC
Jeffrey D. Kaliel
1100 15th Street NW 4th Floor
Washington, D.C. 20005
Email: jkaliel@kalielgold.com
Class Counsel

WEITZ & LUXENBERG, PC
James J. Bilsborrow
700 Broadway
New York, NY 10003
Class Counsel

JENNINGS & EARLEY PLLC
Christopher D. Jennings
Tyler B. Ewigleben
500 President Clinton Ave., Suite 110
Little Rock, AR 72201
Class Counsel

MAYER BROWN LLP
Andrew J. Demko, Esq.
333 S. Grand Ave., 47th Floor
Los Angeles, CA 90071
Email: ademko@mayerbrown.com
Counsel for Defendant

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

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

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

107. Authority. Class Counsel (for Plaintiff and the Settlement Class Members), and

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

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

109. Independent Investigation and Decision to Settle. The Parties understand and acknowledge that they: (a) have performed an independent investigation of the allegations of fact and law made in connection with this Action; and (b) that even if they may hereafter discover facts in addition to, or different from, those that they now know or believe to be true with respect to the subject matter of the Action as reflected in this Agreement, that will not affect or in any respect limit the binding nature of this Agreement. Both Parties recognize and acknowledge that they and their experts reviewed and analyzed data for a subset of the time at issue and that they and their experts used extrapolation to make certain determinations, arguments, and settlement positions. The Parties agree that this Settlement is reasonable and will not attempt to renegotiate or otherwise void or invalidate or terminate the Settlement irrespective of what any unexamined data later shows. It is the Parties' intention to resolve their disputes in connection with this Action pursuant to the terms of this Agreement now and thus, in furtherance of their intentions, the Agreement shall remain in full force and effect notwithstanding the discovery of any additional facts or law,

or changes in law, and this Agreement shall not be subject to rescission or modification by reason of any changes or differences in facts or law, subsequently occurring or otherwise.

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

Signature Page Follows

AGREED AND APPROVED as of the dates indicated below.

Dated: 7/12/2025 | 5:30 AM PDT

DocuSigned by:
590120C1308B4C4...

MICHELLE SAPOZHNIKOV
Plaintiff

Dated: 7/12/2025 | 10:42 AM PDT

Thomas Turner-US Realty Group,LLC

US REALTY GROUP, LLC
Plaintiff
By: DocuSigned by: Thomas Turner 5070247446074CA...
Its: Thomas Turner-US Realty Group,LLC

Dated: ____________________

NEW YORK COMMUNITY BANK (now known as Flagstar Bank, N.A.)

By:
Its:

APPROVED AS TO FORM.

Dated: 7/14/2025 | 8:53 AM PDT

DocuSigned by: Sophia Gold
501212B088474A2...

Sophia Goren Gold, Esq.
KALIEL GOLD PLLC
Class Counsel

Dated: 7/15/2025 | 9:14 AM PDT

DocuSigned by: Jeff Kaliel
CDF00BF50DFA489...

Jeffrey D. Kaliel, Esq.
KALIEL GOLD PLLC
Class Counsel

Dated: 7/16/2025 | 8:14 AM PDT

DocuSigned by:
James Bilsborrow
FB9A4FEF8D30414...

James J. Bilsborrow
WEITZ & LUXENBERG, P.C.
Class Counsel

Dated: 7/16/2025 | 8:18 AM PDT

Signed by:
Christopher Jennings
C41D0C6BA04B4F9...

Christopher D. Jennings
JENNINGS & EARLEY PLLC
Class Counsel

Dated: ____________________________

Andrew J. Demko, Esq.
MAYER BROWN LLP
Counsel for New York Community Bank

AGREED AND APPROVED as of the dates indicated below.

Dated: ____________________

____
MICHELLE SAPOZHNIKOV
Plaintiff

Dated: ____________________

____
US REALTY GROUP, LLC
Plaintiff
By: ____________________
Its: ____________________

Dated: 7/22/25

NEW YORK COMMUNITY BANK (now known as Flagstar Bank, N.A.)

____
By: Reginald Davis
Its: President of Consumer Banking

APPROVED AS TO FORM.

Dated: ____________________

____
Sophia Goren Gold, Esq.
KALIEL GOLD PLLC
Class Counsel

Dated: ____________________

____
Jeffrey D. Kaliel, Esq.
KALIEL GOLD PLLC
Class Counsel

Dated: ______________________

____
James J. Bilsborrow
WEITZ & LUXENBERG, P.C.
Class Counsel

Dated: ______________________

____
Christopher D. Jennings
JENNINGS & EARLEY PLLC
Class Counsel

Dated: July 22, 2025

____
Andrew J. Demko, Esq.
MAYER BROWN LLP
Counsel for Defendant

Exhibit 1 – Email and Postcard Notice

US Realty Group, et al v. New York Community Bank
Case No. 23-cv-01609-KAM-SIL

NOTICE OF PENDING CLASS ACTION AND PROPOSED SETTLEMENT
READ THIS NOTICE FULLY AND CAREFULLY; THE PROPOSED SETTLEMENT MAY AFFECT YOUR RIGHTS!

IF YOU HAVE OR HAD A CHECKING ACCOUNT WITH NEW YORK COMMUNITY BANK AND YOU WERE (1) CHARGED CERTAIN NON-SUFFICIENT FUNDS FEES AND/OR OVERDRAFT FEES ON CHECK OR ACH PAYMENTS BETWEEN MARCH 2, 2017 AND JANUARY 1, 2020, OR (2) CHARGED MULTIPLE OUT-OF-NETWORK ATM FEES ON ATM WITHDRAWALS PRECEDED BY A BALANCE INQUIRY BETWEEN AUGUST 20, 2020 AND FEBRUARY 20, 2024, THEN YOU MAY BE ENTITLED TO A PAYMENT FROM A CLASS ACTION SETTLEMENT

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

This is not a solicitation from a lawyer
The United States District Court for the Eastern District of New York has authorized this Notice.

You may be a member of a Settlement Class in *US Realty Group, et al v. New York Community Bank*, in which the plaintiffs allege that defendant New York Community Bank ("Defendant") improperly assessed (1) certain non-sufficient funds fees and/or overdraft fees for check and/or ACH payments between March 2, 2017, and January 1, 2020, and (2) multiple out-of-network ATM fees on ATM withdrawals preceded by a balance inquiry between August 20, 2020, and February 20, 2024. If you are a member of either of the Settlement Classes and the Settlement is approved, you may be entitled to receive a cash payment from the $1,233,500.00 Settlement Fund. Defendant denies all claims in the action and denies it charged any fees that were not authorized and disclosed. Defendant has agreed to settle to avoid the time, expense, and distraction of litigation.

The Court has preliminarily approved this Settlement. It will hold a Final Approval Hearing in this case on [INSERT DATE]. At that hearing, the Court will consider whether to grant Final Approval to the Settlement, and whether to approve payment from the Settlement Fund of up to $30,000.00 for an Incentive Award of $15,000.00 to each of the two class representatives, up to $_____, equal to 1/3 (33-1/3%) of the Value of the Settlement as attorneys' fees, and reimbursement of costs to the attorneys estimated to be $_________ and to the Settlement Administrator estimated to be $_________. If the Court grants Final Approval of the Settlement and you do not request to be excluded from the Settlement, you will release your right to bring any claim covered by the Settlement. In exchange, Defendant has agreed to issue a credit to your Account, or a cash payment to you if you are no longer a member.

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

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

Exhibit 2 – Long Form Notice

US Realty Group, et al v. New York Community Bank
Case No. 23-cv-01609-KAM-SIL

NOTICE OF PENDING CLASS ACTION AND PROPOSED SETTLEMENT

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

IF YOU HAVE OR HAD A CHECKING ACCOUNT WITH NEW YORK COMMUNITY BANK AND YOU WERE (1) CHARGED CERTAIN NON-SUFFICIENT FUNDS FEES AND/OR OVERDRAFT FEES ON CHECK OR ACH PAYMENTS BETWEEN MARCH 2, 2017 AND JANUARY 1, 2020, OR (2) CHARGED MULTIPLE OUT-OF-NETWORK ATM FEES ON ATM WITHDRAWALS PRECEDED BY A BALANCE INQUIRY BETWEEN AUGUST 20, 2020 AND FEBRUARY 20, 2024, THEN YOU MAY BE ENTITLED TO A PAYMENT FROM A CLASS ACTION SETTLEMENT

The United States District Court for the Eastern District of New York has authorized this Notice; it is not a solicitation from a lawyer.

SUMMARY OF YOUR OPTIONS AND THE LEGAL EFFECT OF EACH OPTION	
DO NOTHING	If you don't do anything, you will receive a payment or account credit from the Settlement Fund so long as you do not opt out of or exclude yourself from the Settlement (described in the next box).
EXCLUDE YOURSELF FROM THE SETTLEMENT; RECEIVE NO PAYMENT BUT RELEASE NO CLAIMS	You can choose to exclude yourself from the Settlement or "opt out." This means you choose not to participate in the Settlement. You will keep your individual claims against Defendant, but you will not receive a payment for Relevant Fees. If you exclude yourself from the Settlement but want to recover against Defendant, you will have to file a separate lawsuit or claim.
OBJECT TO THE SETTLEMENT	You can file an objection with the Court explaining why you believe the Court should reject the Settlement. If your objection is overruled by the Court, then you may receive a payment, and you will not be able to sue Defendant for the claims asserted in this litigation. If the Court agrees with your objection, then the Settlement may not be approved.

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

BASIC INFORMATION

1. What is this lawsuit about?

The lawsuit that is being settled is entitled *US Realty Group LLC v. New York Community Bank*. It is pending in the United States District Court for the Eastern District of New York, Case No. 23-cv-01609-KAM-SIL. Eastern District of New York Judge Kiyo A. Matsumoto is overseeing this case.

The case is a "class action." That means that the "Class Representatives," Michelle Sapozhnikov and US Realty Group LLC are acting on behalf of current and former accountholders who were purportedly improperly assessed Retry Fees between March 2, 2017 and January 1, 2020, and OON Fees between August 20, 2020 and February 20, 2024. "Retry Fees" mean Non-Sufficient Funds Fees and Overdraft Fees that were charged during the Class Period, for Automated Clearing House (ACH) and check transactions that were re-submitted by a merchant after being returned by Defendant for insufficient funds. An OON Fee, as referenced in this action, is a second out-of-network ATM fee assessed on out-of-network ATM withdrawals preceded by a balance inquiry. Retry Fees and OON Fees are together referred to as "Relevant Fees" in this Notice. The Class Representatives have asserted claims for relief in the Amended Complaint for breach of contract, including the covenant of good faith and fair dealing on behalf of themselves and the Multiple Fee Class; unjust enrichment; and violations of New York General Business Law § 349, *et seq*. The Amended Complaint in this lawsuit is posted on the Settlement Website.

Defendant does not deny it charged the fees the Class Representatives are complaining about, but Defendant contends it did so properly and in accordance with the terms of its agreements and applicable law. Defendant therefore denies that its practices give rise to claims for damages by the Class Representatives or any Settlement Class Members, but Defendant is settling to avoid expense and distraction resulting from the litigation.

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

You received this Notice because Defendant's records indicate that you were charged one or more Relevant Fees that are the subject of this Action. The Court directed that this Notice be sent to all members of the Settlement Classes because each such member has a right to know about the proposed settlement and the options available to him or her before the Court decides whether to approve the settlement.

3. Why did the parties settle?

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

There is legal uncertainty about whether a judge or a jury will find that Defendant was contractually and otherwise legally obligated not to assess the fees at issue. And even if it was contractually wrong to assess these fees, there is uncertainty about whether the Class Representatives' claims are subject to other defenses that might result in no or less recovery to Settlement Class Members. Even if the Class Representatives were to win at trial, there is no assurance that the Settlement Class Members would be awarded more than the current settlement amount and it may take years of litigation before any payments would be made. By settling, the Settlement Class Members will avoid these and other risks and the delays associated with continued litigation.

While Defendant disputes the allegations in the lawsuit and denies any liability or wrongdoing, it enters into the Settlement solely to avoid the expense, inconvenience, and distraction of further proceedings in the litigation.

WHO IS IN THE SETTLEMENT

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

If you received this notice, then Defendant's records indicate that you are a member of one of the Settlement Classes who is entitled to receive a payment or credit to your account.

YOUR OPTIONS

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

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

6. What are the critical deadlines?

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

The deadline for sending a letter to exclude yourself from or opt out of the Settlement is ________.

The deadline to file an objection with the Court is also ________.

7. How do I decide which option to choose?

If you do not like the Settlement and you believe that you could receive more money by pursuing your claims on your own (with or without an attorney that you could hire) and you are comfortable with the risk that you might lose your case or get less than you would in this Settlement, then you may want to consider opting out.

If you believe the Settlement is unreasonable, unfair, or inadequate and the Court should reject the Settlement, you can object to the Settlement terms. The Court will decide if your objection is valid. If the Court agrees, then the Settlement may not be approved and no payments will be made to you or any other member of the Settlement Class. If your objection (and any other objection) is overruled, and the Settlement is approved, then you may still get a payment and will be bound by the Settlement, including the release of claims.

If you want to participate in the Settlement, then you don't have to do anything; you will receive a payment or account credit if the Settlement is approved by the Court.

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

The Court has to decide that the Settlement is fair, reasonable, and adequate before it will approve it. The Court already has decided to provide Preliminary Approval of the Settlement, which is why you received a Notice. The Court will make a final decision regarding the Settlement at a "Final Approval Hearing," which is currently scheduled for _______.

THE SETTLEMENT PAYMENT

9. How much is the Settlement?

Defendant has agreed to create a Settlement Fund of $1,233,500.00.

As discussed separately below, attorneys' fees, litigation costs, the Incentive Award, and the costs paid to a third-party Settlement Administrator to administer the Settlement (including mailing and emailing Notice) will be paid out of the Settlement Fund. The Net Settlement Fund will be divided among all Settlement Class Members entitled to Settlement Class Member Payments based on formulas described in the Settlement Agreement.

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

Class Counsel will request the Court to approve attorneys' fees of not more than $_______, equal to 1/3 (33-1/3%) of the Value of the Settlement, and will request that it be reimbursed for litigation costs incurred in prosecuting the case estimated to be $________. The Court will decide the amount of the attorneys' fees and costs based on a number of factors, including the risk associated with bringing the case on a contingency basis, the amount of time spent on the case, the amount of costs incurred to prosecute the case, the quality of the work, and the outcome of the case.

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

Class Counsel will request that the Class Representatives each be paid an Incentive Award in the amount of up to $15,000.00 for their work in connection with this case. The Incentive Award must be approved by the Court.

12. How much of the Settlement Fund will be used to pay the Settlement Administrator's expenses?

The Settlement Administrator estimates its expenses at $_______.

13. How much will my payment be?

The balance of the Settlement Fund after attorneys' fees and costs, the Incentive Award, and the Settlement Administrator's fees, also known as the Net Settlement Fund, will be divided among all Settlement Class Members entitled to Settlement Class Member Payments in accordance with the formulas outlined in the Settlement Agreement. Current Accountholders will receive a credit to their accounts for the amount they are entitled to receive. Past Accountholders shall receive a check from the Settlement Administrator.

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

If you stay in the Settlement Class, all of the decisions by the Court will bind you, and you give Defendant a "release." A release means you cannot sue, continue to sue, or be part of any other lawsuit against Defendant about the legal issues in this case. As of the Effective Date, you shall automatically be deemed to have fully and irrevocably released and forever discharged Defendant from any and all liabilities, rights, claims, actions, causes of action, demands, damages, costs, attorneys' fees, losses and remedies, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, based on contract, tort or any other theory, that arise from or relate to Defendant's assessment of Retry Fees or OON Fees, and claims that were asserted or could possibly have been asserted in the Action relating Defendant's assessment of Retry Fees or OON Fees. More information about the release may be found in the Settlement Agreement.

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

No. If you received this Notice, then you may be entitled to receive a check payment or credit for Relevant Fees without having to make a claim, unless you choose to exclude yourself from the Settlement, or "opt out."

16. When will I receive my check payment or account credit?

The Court will hold a Final Approval Hearing on _____, at _____ a.m/p.m. to consider whether the Settlement should be approved. If the Court approves the Settlement, then payments should be made or credits should be issued within 30 days of the Effective Date. However, if someone objects to the Settlement, and the objection is sustained, then there may be no Settlement. Even if all objections are overruled and the Court approves the Settlement, an objector could appeal, and it might take months or even years to have the appeal resolved, which would delay any payment.

Subject to Court approval, any Residual Funds from uncashed checks remaining after the first distribution shall be distributed on a *pro rata* basis to Settlement Class Members who either cashed their checks or received Account credits, to the extent feasible and practical in light of the costs of administering such subsequent payments, unless the amounts involved are too small to make individual distributions economically feasible or other specific reasons exist that would make such further distributions impossible or unfair. Should such a second distribution be made, the participating Settlement Class Members will be sent a check by the Settlement Administrator. Any second distribution checks shall be valid for 90 days.

Also subject to Court approval, in the event the costs of preparing, transmitting, and administering such subsequent payments to Settlement Class Members do not make individual distributions economically feasible or practical, or other specific reasons exist that would make such further distributions impossible or unfair, or if such a second distribution is made and Residual Funds still remain, the Residual Funds shall be distributed to a *cy pres* recipient approved by the Court. The Parties agree to propose the Community Service of Society of New York's Financial Coaching Corps Program as the *cy pres* recipient.

EXCLUDING YOURSELF FROM THE SETTLEMENT

17. How do I exclude myself from the Settlement?

If you do not want to receive a payment or if you want to keep any right you may have to sue Defendant for the claims alleged in this lawsuit, then you must exclude yourself, or "opt out."

To opt out, you **must** send a letter to the Settlement Administrator that you want to be excluded. Your letter can simply say "I hereby elect to be excluded from the settlement in the *US Realty Group LLC, et al v. New York Community Bank* class action." Be sure to include your name, the last four digits of your current or former account number(s), address, telephone number, and email address (if any). Your exclusion or opt out request must be postmarked by _________, and sent to:

US Realty Group LLC, et al v. New York Community Bank
Attn:
[ADDRESS OF THE SETTLEMENT ADMINISTRATOR]

18. What happens if I opt out of the Settlement?

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

OBJECTING TO THE SETTLEMENT

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

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

a. the name of the Action;

b. the objector's full name, address, telephone number, and email address (if any);

c. all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector's counsel;

d. the identity of all counsel who represent the objector and whether they will appear at the Final Approval Hearing;

e. a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection; and

f. a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing.

All objections must be post-marked no later than _______, and must be mailed to the Settlement Administrator as follows:

US Realty Group LLC, et al v. New York Community Bank.
Attn:
[ADDRESS OF THE SETTLEMENT ADMINISTRATOR]

20. What is the difference between objecting and opting-out from the Settlement?

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

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

21.	**What happens if I object to the Settlement?**

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

THE COURT'S FINAL APPROVAL HEARING

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

The Court will hold a Final Approval Hearing at ___ a.m./p.m. on _____, 2025 in Chambers S9095 of the United States District Court for the Eastern District of New York, which is located at the United States Courthouse, 225 Cadman Plaza East, Brooklyn, New York 11201. At this hearing, the Court will consider whether the Settlement is fair, reasonable and adequate. If there are objections, the Court will consider them. The Court may also decide how much to award Class Counsel for attorneys' fees and litigation costs and the amount of the Incentive Award to the Class Representatives. The hearing may be virtual, in which case the instructions to participate shall be posted on the Settlement Website at www.__________. Also, if the date and/or location of the Final Approval Hearing changes, that information will be posted on the same website.

23.	**Do I have to come to the hearing?**

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

24.	**May I speak at the hearing?**

If you have objected, you may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must include with your objection, described in Question 19, above, the statement, "I hereby give notice that I intend to appear at the Final Approval Hearing." The Court will consider your objection even if you do not appear.

THE LAWYERS REPRESENTING YOU

25. Do I have a lawyer in this case?

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

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

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

27. Who determines what the attorneys' fees will be?

The Court will be asked to approve the amount of attorneys' fees at the Final Approval Hearing. Class Counsel will file an application for attorneys' fees and costs and will specify the amount being sought as discussed above. You may review a physical copy of the fee application at the Settlement Website established by the Settlement Administrator.

GETTING MORE INFORMATION

This Notice only summarizes the proposed Settlement. More details are contained in the Settlement Agreement, which can be viewed/obtained online at [WEBSITE] or by contacting the Settlement Administrator (details below) and requesting a copy.

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

US Realty Group LLC, et al v. New York Community Bank
Settlement Administrator
Attn:
[ADDRESS OF THE SETTLEMENT ADMINISTRATOR]

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

KALIEL GOLD PLLC
Sophia Goren Gold
950 Gilman Street, Suite 200
Berkeley, California 94710
Email: sgold@kalielgold.com

KALIEL GOLD PLLC
Jeffrey D. Kaliel
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700 Broadway
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JENNINGS & EARLEY PLLC
Christopher D. Jennings
Tyler B. Ewigleben
500 President Clinton Ave., Suite 110
Little Rock, AK 72201

PLEASE DO NOT CONTACT THE COURT OR ANY REPRESENTATIVE OF DEFENDANT CONCERNING THIS NOTICE OR THE SETTLEMENT.