

AMENDED SETTLEMENT AGREEMENT AND RELEASE

This Amended Settlement Agreement and Release (“Agreement”) is made and entered into as of June 12, 2017, by and between Plaintiffs James Elias (“Elias”) and James Kozik (collectively, the “Class Representatives”), individually and on behalf of Class Members, and defendant Synchrony Bank (“Defendant”). Class Representatives and Defendant will be referred to collectively herein as the “Parties.”

RECITALS

This Agreement is made for the following purpose and with reference to the following facts:

A. On or about August 28, 2014, Elias filed a class action complaint against Synchrony Bank in the Superior Court of the State of California, County of Los Angeles, thereby commencing that civil action entitled *James Elias, v. Synchrony Bank*, Case No. BC555883 (the “Action”). Elias alleged in the complaint, among other things, causes of action for (1) Illegal Recording; (2) Tortious Sale of Debt; (3) Violations of the Unfair Competition Law (Bus & Prof. Code §§ 17200, et seq.). Defendant removed the action to federal court, but it was subsequently remanded.

B. On or about April 17, 2015, Elias filed a First Amended Complaint alleging causes of action for (1) Illegal Recording (Pen. Code § 632.7); (2) Negligence (Civ. Code §§ 1708; 1714); (3) Unfair Competition (Bus & Prof. Code §§ 17200, et seq.). Defendant demurred to the First Amended Complaint. On October 7, 2015, the Court partially sustained and partially overruled the demurrer. Discovery then commenced.

C. On or about February 17, 2016, Elias filed a Second Amended Complaint alleging causes of action for (1) Illegal Recording (Pen. Code § 632.7); and (2) Violation of California’s

Constitutional Right to Privacy (Cal. Const. art. I, § 1). Defendant demurred to the cause of action for Violation of California's Constitutional Right to Privacy contained in the Second Amended Complaint and filed a motion to strike with respect to the Second Amended Complaint. On October 25, 2016, the Court sustained the demurrer without leave to amend and granted the motion to strike. On December 15, 2016, Defendant answered the Second Amended Complaint by denying the allegations made therein and asserting various affirmative defenses.

D. The Parties have engaged in extensive discovery, including depositions, propounding and reviewing responses to interrogatories, requests for production of documents, and requests for admissions.

E. On January 11, 2017, the Parties participated in a private mediation presided over by retired California Supreme Court Justice Edward A. Panelli. Although progress was made, the Action did not settle at that mediation. The parties continued to engage in informal settlement discussions. On February 14, 2017, the Parties participated in a second private mediation session before Justice Panelli. The Action settled at this second mediation session.

F. Defendant disputes the claims and contentions alleged in the Complaint, the First Amended Complaint and the Second Amended Complaint and do not by this Agreement admit any liability or wrongdoing of any kind in the Action. Defendant expressly has denied and continues to deny that it has committed or attempted to commit any violation of law or breached any duties owed to the Elias, the Class Representatives or the Class Members.

G. Class Counsel and the Class Representatives believe that the claims asserted in the Action possess merit and 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 the complex and potentially time-consuming litigation, and the likelihood of

success on the merits of the Action. Class Counsel has fully investigated the facts and law relevant to the merits of the claims, conducted extensive formal and informal discovery, and conducted an independent investigation. Class Counsel and the Class Representatives have concluded that the proposed settlement set forth in this Agreement is fair, adequate, reasonable, and in the best interests of the Class.

H. The Parties have decided to enter into this Agreement to avoid the further expense, inconvenience, and distraction of burdensome and protracted litigation. The Parties desire to settle the Action in its entirety with respect to all claims for recording or monitoring of telephone conversations by Defendant. The Parties intend this Agreement to bind Defendant, on the one hand, and Class Representatives and all Class Members who do not request exclusion from the Class, on the other hand.

TERMS OF STIPULATION AND AGREEMENT OF SETTLEMENT

NOW, THEREFORE, in light of the foregoing, in consideration of the terms and conditions set forth herein, which the Parties acknowledge are good and valuable consideration for this Agreement, the Parties agree and stipulate, subject to approval by the Court, as follows:

1. Definitions.

As used in this Agreement and its incorporated Exhibits, the following terms have the meanings specified herein:

(a) “Action” means the civil action filed in the Superior Court of the State of California, County of Los Angeles, entitled *James Elias, v. Synchrony Bank*, Case No. BC555883.

(b) “Agreement” means this Amended Settlement Agreement and Release entered into between Synchrony, on the one hand, and the Class Representatives, individually and on behalf

of Class Members, on the other hand, in the Action, including all terms and conditions set forth herein.

(c) “Authorized Claimant” means those Class Members who submit a valid and timely Claim Form as more fully set forth herein to register their claim for recovery from the Common Fund under this Agreement.

(d) “Claim Form” is the form that Class Members must complete, preferably electronically, and agree to under penalty of perjury stating entitlement to a claim and submit to the Claims Administrator, substantially in the form of Exhibit A incorporated herein by reference.

(e) “Claims Administrator” refers to the firm of KCC Class Action Services, LLC (“KCC”), which the Parties have agreed will be responsible for the providing of notice to the Class and administration of this class action settlement as more fully described herein. The Claims administrator shall acknowledge its responsibility by accepting its role as the Claims Administrator.

(f) “Class” or “Class Member(s)” means all residents of California who, between March 27, 2012 and the date of preliminary approval of the settlement, (1) received a telephone call regarding the collection of a debt and spoke with an agent of Synchrony Bank (f/k/a GE Capital Retail Bank and GE Money Bank), (2) did not have an account with Synchrony Bank at the time of the call and (3) were not informed at the beginning of the call that the call may be recorded. The Defendant acknowledges that the number of persons who fall within the above definition is in excess of 100 persons.

(g) “Class Counsel” or “Plaintiff’s Counsel” refers to the Law Office of Jonathan Weiss (Jonathan Weiss, Esq.), Legg Law Firm, LLP (Scott C. Borison, Esq.), and The Holland Law Firm, P.C. (Peter Holland, Esq.).

(h) “Class List” is the list to be compiled and supplied by Defendant to the Claims Administrator of each person identified in Defendant’s records as having accounts in their names with California billing addresses that contain a code indicating that there was a claim of new account fraud made regarding the accounts during the time period from approximately March 27, 2012 to May 30, 2013.

(i) “Class Notice” is the Notice of Class Action Settlement, in the form of Exhibit B, incorporated herein by reference.

(j) “Class Period” is the period to which the settlement and this Agreement applies, as specified in the definition of the Class, namely March 27, 2012 through the date of preliminary approval of the settlement, inclusive.

(k) “Class Representatives” refers to Plaintiffs James Elias and James Kozik as representatives of the Class.

(l) “Common Fund” is the Nine Hundred Ninety-Nine Thousand Nine Hundred Ninety-Nine Dollars (\$999,999.00) which shall be used to pay all financial consideration to the Class Members who submit valid and timely Claim Forms as described in Section 7, below, the compensation to the Class Representatives, all attorneys’ fees and costs awarded to Class Counsel, and all costs of class notice and claims administration.

(m) “Complaint” refers to the original Complaint and any amended complaints filed or to be filed by either or both Class Representatives individually and on behalf of all those similarly situated in the Action.

(n) “Court” means the Los Angeles County Superior Court in which this Action is pending, and to which presentation of this Agreement for judicial review and approval will be made.

(o) “Defense Counsel” means DLA Piper LLP (US) (Edward D. Totino, Esq.).

(p) “Effective Date” is the date that Judgment in the Action becomes final such that no appeal or writ can be taken from it.

(q) “Judgment” means the Final Order Approving Class Action Settlement and Judgment to be rendered by the Court, in the form of Exhibit C, incorporated herein by reference.

(r) “Party” refers individually to the Class Representatives, on behalf of themselves and Class Members, and Defendant. Collectively, these are referred to as the “Parties.”

(s) “Postcard Class Notice” is the Postcard version of the Notice of Class Action Settlement, in the form of Exhibit D, incorporated herein by reference.

(t) “Individual Settlement Amount” shall have the meaning set forth in Section 3.3, below.

(u) “Net Settlement Amount” is the Common Fund less all attorneys’ fees and costs as ordered by the Court, less compensation paid to the Class Representatives, and less all costs of class notice and claims administration and other costs specified herein.

(v) “Defendant” or “Synchrony” or “Synchrony Bank” refers to Defendant Synchrony Bank which was formerly known as GE Capital Retail Bank and GE Money Bank.

2. Third Amended Complaint.

2.1 Pursuant to the Court’s Order in connection with the original Settlement Agreement, on April 10, 2017, Class Representatives filed their Third Amended Complaint in

the form attached hereto as Exhibit E. The Parties recognize that Defendant did not consent to the filing of the Third Amended Complaint for any purpose other than to effectuate the settlement of this Action.

2.2 If this Agreement is terminated or for any reason does not occur (in whole or in part), the Order Amending the Complaint and all preliminary and/or final findings regarding the Court's Order shall be automatically vacated upon notice to the Court of the termination of the Agreement, and this Action shall proceed as though the Complaint was not amended, without prejudice to Plaintiff filing a motion to amend the Complaint.

3. Settlement Payments and Procedures

3.1 The Common Fund shall be Nine Hundred Ninety-Nine Thousand Nine Hundred Ninety-Nine Dollars (\$999,999.00). Defendant shall pay Two Hundred Thousand Dollars (\$200,000.00) to the Claims Administrator to place into the account set up to hold the Common Fund within fifteen business (15) days of the Court issuing an order granting preliminary approval of the Settlement. Defendant shall pay the remaining Seven Hundred Ninety-Nine Thousand Nine Hundred Ninety-Nine Dollars (\$799,999.00) of the Common Fund to the Claims Administrator to place into the account set up to hold the Common Fund no later than fifteen business (15) days after the Effective Date. In no event shall Defendant be obligated under this Agreement or otherwise to pay more than Nine Hundred Ninety-Nine Thousand Nine Hundred Ninety-Nine Dollars (\$999,999.00) in the aggregate in connection with this Agreement or the Action. If the Judgment becomes final such that no appeal or writ can be taken from it, Defendant shall have no reversionary interest in any portion of the Common Fund, and any unclaimed or uncashed portion of the Common Fund shall be paid to one or more *cy pres* recipients as described in Section 11 below.

3.2 The Common Fund shall be deposited into a non-interest-bearing trust account to be opened and maintained by the Claims Administrator at a bank that has passed the most recent Dodd-Frank Act Stress Test. The Claims Administrator shall maintain said trust account and only allow withdrawals from said trust account consistent with the terms and provisions of this Agreement and any needed orders of the Court.

3.3 Calculation of Individual Settlement Amount.

The Claims Administrator shall calculate the Individual Settlement Amount by taking the Net Settlement Amount (X) and dividing it by the number of Authorized Claimants (Y) as represented in the following formula: Individual Settlement Amount = X / Y

3.4 Distribution of Individual Settlement Amount to Authorized Claimants.

Each Authorized Claimant shall receive a one-time distribution payment from the Common Fund which is equal to the Individual Settlement Amount, by way of a check issued by the Claims Administrator. The funds represented by the check for the Individual Settlement Amount shall not become the property of any individual Authorized Claimant unless and until the check representing those funds is cashed.

3.5 Compensation for the Class Representatives.

Subject to the approval of the Court, James Elias shall receive a one-time payment of ten thousand dollars (\$10,000.00) and James Kozik shall receive a one-time payment of five thousand dollars (\$5,000.00) from the Common Fund which amount shall include their compensation for the telephone call(s) they claim were recorded without notice or consent as well as their compensation for instituting, prosecuting, contributing to, and/or bearing the laboring oar and risk of this litigation as a Class Representative. If the Court requires that a different amount be paid to any of the Class Representatives, then the Class Representatives shall

receive that amount from the Common Fund. This shall be the only consideration paid to the Class Representatives under this Agreement. The Class Representatives shall receive the consideration called for by this subsection as soon as practicable after the Effective Date but only after the Class Representatives each submit a completed IRS Form W-9 to the Claims Administrator. The Parties represent that their negotiation of and agreement to the compensation paid to the Class Representatives did not occur until after the substantive terms of the Agreement had been negotiated and agreed to in principle.

3.6 Payment of Class Counsel's Fees and Costs.

(a) As part of the settlement, Class Counsel shall apply to the Court for an award of attorneys' fees and costs from the Common Fund. Defendant may oppose the application.

(b) Class Counsel's attorneys' fees and costs as ordered by the Court shall be paid from the Common Fund by the Claims Administrator within fifteen (15) court days after the Claims Administrator receives all payments described in Section 3.1, above.

3.7. Except for the attorneys' fees and costs to be paid to Class Counsel from the Common Fund, Defendant shall not be liable for any attorneys' fees or litigation expenses and costs of Class Counsel, the Class Representative or any other Class Member in connection with the Action or any claim that is related to this Action or that was alleged in the Action, or any class notice or claims administration costs or expenses. Except as otherwise provided above with respect to the Common Fund, Class Counsel shall not seek any fees or expenses from Defendant in connection with the Action and the settlement set forth herein, including, without limitation, any fees or expenses incurred in connection with final approval of the settlement, any objection(s) or appeal(s), expert fees, class notice or claims administration, or other fees or

expenses. Defendant agrees that it will not seek to recover its costs, attorneys' fees, or expenses in connection with the Action, including, without limitation, any fees or expenses incurred in connection with final approval of the settlement, any objection(s) or appeal(s), expert fees, class notice or claims administration, or other fees or expenses, from the Class Representatives, Class Counsel or any Class Member.

4. Claims Administration and Procedure.

4.1 The Claims Administrator shall administer the process of notifying the Class, receiving, handling, processing and paying claims, opening and maintaining a trust account, setting up and maintaining a website for this settlement and any other duties necessary for the proper administration of claims. The website for the settlement shall use the following address: www.EliasClassActionSettlement.com or, if not available, another website address agreed upon by the Parties. The Claims Administrator shall ensure that the information that it receives from Defendant and Class Members is secured and managed in such a way as to protect the security and confidentiality of the information, consistent with the privacy policies of Defendant as well as applicable law. Except as specifically provided in this Agreement, the Claims Administrator shall not disclose or disseminate any information that it receives from Defendant and Class Members without the prior written consent of all Parties. The Claims Administrator shall disseminate the: (1) Postcard Class Notice by regular mail as described in Section 5, below, (2) the Class Notice through an Internet website; and (3) the Internet notice, as described in Section 5, below.

4.2 All fees and costs incurred by the Claims Administrator shall be paid from the Common Fund after they are reviewed and approved by Class Counsel and Defense Counsel.

The Claims Administrator shall submit written status reports jointly to Class Counsel and Defense Counsel on a bi-weekly basis.

5. Class Notice.

5.1 The Parties anticipate that many Class Members will be able to be identified and located from the records of Defendant.

5.2 As for Class Members who are identified in the Class List, notice of the proposed class action settlement shall be provided promptly by regular mail substantially in the form of the Postcard Class Notice containing instructions that the Claim Form can be accessed and filled out on the settlement website of the Claims Administrator, or can be obtained from the Claims Administrator by the website or, upon request to the Claims Administrator, by mail, facsimile, or e-mail for return to the Claims Administrator by mail, facsimile or email.

5.3 As for Class Members who are not identified in the Class List, notice will be provided by approximately 40,370,000 internet impressions to be distributed over the Google Display Network and Facebook, displaying on mobile and desktop devices, and targeted to California adults 18 years or older as well as California adults whose Internet behavior shows an interest in debt consolidation /credit cards and on pages with content related to debt management and debt collection or, at Defendant's option, by a similar notice plan designed by the Claims Administrator. The Claims Administrator shall be responsible for creating and maintaining the settlement website and arranging for the advertising on the Internet. The Internet advertising arranged by the Claims Administrator shall be of a sufficient quantity to allow a qualified representative of the Claims Administrator to provide an expert opinion in connection with the final approval of the settlement that the distribution of the notice was reasonably calculated to apprise the class members of the settlement, met or exceeded the requirements of due process,

was the best practicable method of giving notice to the Class, and provided adequate and reasonable notice to the Class.

5.4 Individuals will be able to view the Class Notice and obtain, fill out, and submit a Claim Form online from the settlement website, which will require, among other items of information, (1) his or her name; (2) current address, (3) the phone number(s) on which the call(s) from Defendant were received, (4) a statement that the individual was a resident of California when the call was received, and (5) a statement the call(s) were received during the Class Period. The Claims Administrator may ask for the Class Members' Social Security Number or taxpayer identification number if needed.

5.5 The Court shall order that no later than thirty (30) days after the Court's Order granting preliminary approval of this settlement and Agreement, Defendant shall compile the Class List and shall provide the Claims Administrator with the following information for all persons in the Class List: (a) name; and (b) last known mailing address (if available).

5.6 No later than sixty (60) days after the Court's Order granting preliminary approval of this settlement and Agreement (the "Notice Date"), the Claims Administrator shall update the addresses by using the United States Postal Service's National Change of Address database and send by regular mail the Post Card Notice to those persons in the Class List at their updated addresses.

5.7 With respect to those persons whose Post Card Notice by regular mail is returned to the Claims Administrator as undeliverable, the Claims Administrator shall promptly attempt to obtain an updated address for each such person from the United States Postal Service, and if such an address is obtained, shall resend the Post Card Notice to that updated address. If the regular mail attempts at notice are unsuccessful, and/or a Class Member otherwise fails to

follow the procedures set forth in this Agreement for submitting a claim or requesting exclusion from the Class, the notice procedures for Class Members not identified in the Class List shall be deemed to apply and the Class Member shall automatically be deemed a member of the Class whose rights and claims with respect to the issues raised in the Complaint are determined by the Court's final Order approving the settlement of this Action, and the Judgment, and by the other rulings in the Action.

5.8 The Parties agree that the Class Notice fairly informs the Class Members of the general nature of the litigation, the financial and other terms of the Agreement particularly significant for the Class Members, the general procedures for and consequences of making a claim, opting-out, and objecting to the settlement Agreement, and the date of the final fairness and approval hearing. If any additional material requirements for giving notice to the class are imposed, Defendant shall have the option to terminate this Agreement, and this Agreement shall be null and void and this settlement of no force and effect. Defendant shall give notice of such termination in writing to Class Counsel no later than fourteen (14) days after the day that such additional notice requirement is imposed.

5.9 Compliance with the procedures described herein shall constitute due and sufficient notice to Class Members of this proposed settlement for the final approval hearing, and shall satisfy the requirements of due process. Nothing else shall be required of, or done by, the Parties, Class Counsel, Defense Counsel, or the Claims Administrator to provide notice of the proposed settlement and the final approval hearing as described herein. Without limiting the foregoing, neither the Parties nor Class Counsel nor Defense Counsel shall post or facilitate the posting of information about the settlement on the Top Class Actions website (www.topclassactions.com).

6. Costs Associated With Providing Notice.

6.1 All costs and expenses associated with the giving of all notices to the Class Members as provided in this Agreement shall be fully and exclusively paid from the Common Fund, and no such costs and expenses shall be borne by Defendants other than their payment of the Common Fund. Defendant shall not be liable to the Claims Administrator for any costs and expenses of Class Notice other than their payment of the Common Fund.

6.2 In the event that the settlement is not granted final approval by the Court for any reason, including but not limited to Defendant exercising a right granted herein to terminate this Agreement, then all costs of settlement administration and Class Notice actually incurred shall be paid from the initial Two Hundred Thousand (\$200,000.00) that will be paid by Defendant to the Claims Administrator pursuant to Section 3.1, above, and any remaining amount shall be returned by the Claims Administrator to Defendant pursuant to Section 18.1, below. In no event shall Defendant be responsible for costs of settlement administration in excess of the initial Two Hundred Thousand (\$200,000.00) that will be paid by Defendant to the Claims Administrator pursuant to Section 3.1, above.

7. Claim Forms and Authorized Claimants.

7.1 For a Class Member to share in the Settlement Amount, his or her Claim Form must be completely filled out and signed or electronically signed by the Class Member or his or her authorized representative, under penalty of perjury, acknowledging entitlement to a claim and the legality of the signature. Although the preferred method of submitting the Claim Form shall be online through the website of the Claims Administrator, upon a request from a Class Member, the Claims Administrator shall send to the Class Member and/or accept from the Class Member a paper claim form by mail, facsimile, or e-mail rather than a Claim Form

submitted online. The Claim Form shall be deemed deficient by the Claims Administrator if it is not fully completed, and, accordingly, if submitted online, will be automatically rejected upon the attempt to submit it online, or rejected after examination by the Claims Administrator if not submitted online, and such rejection will be made known to the claimant as soon as practicable after the attempt to submit the Claim Form.

7.2 The Claim Form must be submitted to the Claims Administrator no later than one hundred thirty (130) days after the date of the Court's Order granting preliminary approval of this settlement and Agreement ("Claim Period"). Any Claim Form that is submitted or returned to the Claims Administrator after the Claim Period will not be accepted and processed.

7.3 Promptly upon expiration of the Claim Period, the Claims Administrator will provide, in readable format such as in a Microsoft Excel spreadsheet, a summary of the submitted Claim Forms to Class Counsel and Defense Counsel containing the total number of claims submitted. The summary of submitted Claim Forms shall not include the names, addresses, Social Security numbers, taxpayer identification numbers or telephone numbers of the persons submitting claims.

7.4 The Claims Administrator shall examine each Claim Form to determine whether the claimant who submitted the form is entitled to receive any portion of the Common Fund under the terms of this Agreement. The Claims administrator shall have the discretion to examine and investigate any or all claims for indications that they have been improperly or fraudulently submitted and to make a determination as to whether any particular claim should be denied because it has been improperly or fraudulently submitted. The Defendant shall also have the option to research the basis of any claimant's claim or all claims, including the accuracy of

the information provided on the Claim Form, to verify the propriety and accuracy of each claim. In connection with this research, upon request, the Claims Administration will provide, in a reasonable format, any or all of the actual Claims Forms to Defense Counsel. The Claim Forms shall be used only for processing of settlement claims and will not be used or released for any other purpose. Defendant shall have thirty (30) days from its receipt of the summary of the Claims Forms to notify Class Counsel and the Claims Administrator it is exercising this option. If Defendant exercises this option, and then determines that the information provided in any individual Claim Form is inaccurate, Defendant shall notify Class Counsel and the Claims Administrator and the Claim Form shall be deemed deficient. If Defendant does not determine that the information is inaccurate, and the Claims Administrator determines that the claimant is entitled to receive a portion of the Common Fund, the Claim Form shall be deemed valid and the Class Member shall become an “Authorized Claimant.”

7.5 Should Defendant or the Claims Administrator deem a Claim Form deficient as described in Section 7.4, above, then the Claims Administrator shall mail a copy of the deficient Claim Form and an explanation of the deficiency to the address of the person submitting the claim and email copies to Class Counsel along with claimant’s contact information. The claimant shall have a thirty (30) day period from the date of mailing to cure the defective or incomplete information on the Claim Form (“Cure Period”).

7.6 Should Defendant or the Claims Administrator deem a Claim Form deficient as described in Section 7.4, above, and the claimant is unable to or does not cure the deficiency during the Cure Period, then said claimant’s rights as a Class Member to pursue any claims covered by the Action will be extinguished and said Class Member will not be permitted to recover from the Common Fund.

7.7 If Defendant exercises the option as provided in Section 7.4, above, then the review process described in Section 7.4, above, shall be completed within ninety (90) days after the conclusion of the Claim Period.

7.8 Any Class Member who fails to submit a timely and valid Claim Form to the Claims Administrator by following the procedure set forth in the Class Notice and/or who fails to file a request for exclusion from the Class shall automatically be deemed a Class Member whose rights and claims with respect to the issues raised in the Complaint and Action are determined by the Court's Final Order approving this settlement, the Judgment, and by the other rulings in the Action. Thus, said Class Member's rights to pursue any claims covered by the Action will be extinguished and said Class Member will not be permitted to recover from the Common Fund.

7.9 If any Class Member submits a deficient Claim Form as described above, and fails to cure the deficiency within the Cure Period, then said Class Member's rights to pursue any claims covered by the Action will be extinguished and said Class Member will not be permitted to recover from the Common Fund. Neither the Claims Administrator nor the Parties shall have any further obligation to notify such Class Member or to send another Claim Form to such Class Member.

7.10 Within forty-five (45) days after the later of (1) Effective Date, (2) the end of the Claim Period, or (3) the resolution of all disputes over individual settlement amounts or Authorized Claimants (including Defendant's option to research the claims as provided in Section 7.4), the Claims Administrator will create a list ("Final List of Authorized Claimants") containing each Authorized Claimant who will receive a portion of the Common Fund.

8. Exclusion From the Class

8.1 Any Class Member may request to be excluded from the Class (i.e., “opt out”) by mailing a letter, by first class United States mail, to the Claims Administrator containing a statement that he or she requests to be excluded from the Class. The class member shall also be requested to but not required to provide a reason for the request. Any such request must be made in accordance with the terms set forth in the Class Notice and will be timely only if postmarked no later than one hundred thirty (130) days after the date of the Court’s Order granting preliminary approval of the this settlement and Agreement (the one hundred thirty (130) day period being the “Exclusion Period”). The timeliness of any request for exclusion shall be conclusively determined by the postmark date. Upon receipt of an exclusion request, the Claims Administrator shall provide a copy of the request to Class Counsel and Defense Counsel. No later than five business (5) days after the Exclusion Period, the Claims Administrator shall provide Class Counsel and Defense Counsel with a list of the Class Members who have requested exclusion from the Class, including their available contact information. A Class Member who requests to be excluded from the settlement is no longer a Class Member and will not be permitted to object to the settlement.

8.2 If more than two hundred (200) Class Members request exclusion from the Class within the permissible time period as described in the preceding section, Defendant shall have the option to terminate this Agreement. If Defendant terminates this Agreement, this Agreement shall be null and void and this settlement of no force and effect. Defendant shall give notice of such termination in writing to Class Counsel and the Claims Administrator no later than ten (10) days after the day it receives the list of Class Members who have requested exclusion from the Class as described in Section 8.1, above.

9. Obtaining Preliminary Court Approval of the Agreement and Certification of Settlement Class.

9.1 Upon full execution of the Agreement, the Parties shall take all necessary steps to obtain an Order from the Court substantially in the form of Exhibit F, granting conditional approval of the settlement and certifying a settlement Class, all as set forth in this Agreement. The Parties agree that the Court may make preliminary findings in connection with the Order subject to final findings and ratification of the Judgment.

9.2 The Proposed Order granting preliminary approval of the settlement shall include the following timeline regarding claims administration:

Last day for Defendant to deposit \$200,000 of the Common Fund with the Claims Administrator for notice expenses	15 court days after preliminary approval
Last day for Defendant to provide the Claims Administrator with Class List	30 days after preliminary approval
Last day for Claims Administrator to mail Post Card Notice to Class Members	60 days after preliminary approval
Last day for Claims Administrator to publish the Settlement Website and begin internet advertising in accordance with Section 5.3 above	60 days after preliminary approval
Last day for Plaintiff to file motion for award of attorneys' fees, litigation costs, Class Representatives' service payment, and claims administration expenses	105 days after preliminary approval
Last day for requests for exclusion from the settlement to be postmarked by Class Members	130 days after preliminary approval
Last day for claims to be submitted by Class Members	130 days after preliminary approval
Last day for Class Members to serve objections to settlement	130 days after preliminary approval
Last day for Plaintiff to file motion for final approval of settlement	140 days after preliminary approval
Last day for the Parties to respond to any objections filed by Class Members	150 days after preliminary approval

Hearing on motion for final approval of settlement and application for attorneys' fees and costs, Class Representatives' service payment, and claims administration expenses	At least 165 days after preliminary approval
Last day for Defendant to deposit remainder of the Common Fund with the Claims Administrator	15 court days after the Effective Date

9.3. If the Court does not approve the settlement contemplated by and embodied in this Agreement, then this Agreement shall terminate and be of no force or effect, unless the Parties voluntarily agree to modify this Agreement in the manner necessary to obtain Court approval. If this Agreement is terminated or for any reason does not occur (in whole or in part), any orders certifying a settlement Class shall be vacated, the Action shall then proceed with no certified class and the Court shall establish a deadline for the Class Representatives to bring a motion for class certification. In such circumstances, Defendant may oppose the motion for class certification and/or file a motion for a determination that no class can be certified.

10. Procedures for Making Objections to the Settlement

10.1 Any Class Member who has not requested exclusion from the Class may object to the terms of the settlement, including but not limited to Class Counsel's application for attorneys' fees and litigation costs, the Class Representative's service payment, and/or the Claims Administrator's fees. Any objection to the settlement must be in writing and be timely delivered to be considered by the Court. Any Class Member who desires to make an objection to the settlement or make an appearance at the hearing on final approval of the settlement must mail the objection, by first class United States mail, to the Claims Administrator. The objection will be timely only if postmarked no later than one hundred thirty (130) days after the date of the Court's Order granting preliminary approval of the settlement. The timeliness of any objection shall be conclusively determined by the postmark date. Upon receipt, the Claims Administrator

will promptly send copies of any objection to Class Counsel and Defense Counsel. Any written objections must state: (a) the name of the Action, “*Elias v. Synchrony Bank*”; (b) the full name, address and telephone number of the objector; (c) proof of the objector’s membership in the Class in the form of a statement made under penalty of perjury; (d) a statement of each objection; and (e) a written brief detailing the specific reasons, if any, for each objection, including any legal and factual support the objector wishes to bring to the Court’s attention and any evidence the objector wishes to introduce in support of the objection(s). The objection should also state whether or not the objector intends to appear at the hearing on final approval of settlement personally or through counsel. Class Counsel shall file with the Court any objections received with the final approval motion papers. If any objection is rejected or overruled, such Class Member will be bound by the final judgment as if he or she had not objected.

10.2 Class Members who do not either serve their objections in the manner set forth herein or who do not appear and make their objections at the settlement approval hearing, will be deemed to have waived all objections, and will be foreclosed from making any objections (whether by a subsequent objection, intervention, appeal, or any other process) to the Agreement. Any objector to the settlement must submit a timely and valid Claim in order to participate in the settlement in the event his or her objection is rejected. Any person who requests exclusion from the Class may not object. If any person submits a request for exclusion and also an objection, the request for exclusion shall take precedence and that person shall not be a member of the Class.

11. Cy Pres Distribution of Settlement Amount Remainder.

The Common Fund shall be distributed to Authorized Claimants by checks issued by the Claims Administrator in the amount of the Individual Settlement Amount. Those checks shall be valid only if cashed within one-hundred eighty (180) days of their issuance and if any

Authorized Claimant fails to cash his, her or its check within that time period, that Authorized Claimant shall have no further right to have the check reissued or receive any portion of the Common Fund. No Individual Settlement Amount shall become the property of any individual Authorized Claimant until the check representing the Individual Settlement Amount is cashed. In the event that any portion of the Settlement Amount remains unclaimed, or any check issued to any Authorized Claimant remains uncashed for more than one-hundred eighty (180) days after issuance, then such unclaimed or uncashed funds will revert to the Class for *cy pres* distribution to Legal Services for Children, subject to the approval of the Court.

12. Final Approval and Judgment.

12.1 After the Court's preliminary approval of the settlement and the provision of notice to the Class as forth above, the Parties shall take all necessary steps to obtain final approval of the settlement from the Court and to thereafter effectuate the settlement, including entry of the Judgment in the Action, addressing any appellate issues, and obtaining any necessary further orders from the Court. The final approval hearing shall take place no less than one hundred sixty-five (165) days after entry of the Court's Order granting preliminary approval of the settlement.

12.2 Class Counsel shall file any papers supporting its request for attorneys' fees and costs, Class Representatives' service payment, and Claims Administrator's expenses, with the Court no later than one hundred five (105) days after the date of the Court's Order granting preliminary approval of the settlement. Moreover, Class Counsel shall file a motion for final approval of the settlement no later than one hundred forty (140) days after the date of the Court's Order granting preliminary approval of the settlement.

12.3 In the event any objections to the settlement are served, including any objections to the requested attorneys' fees and costs, administration expenses, and Class Representatives' service payment, the Parties, either individually or jointly, may file a response to such objections no later than one hundred fifty (150) days after the date of the Court's Order granting preliminary approval of the settlement.

12.4 As part of the process of obtaining final approval of the settlement, the proposed Judgment, Exhibit C, shall be submitted to the Court with the Motion for Preliminary Approval of the settlement. At the time of the final hearing by the Court, and if the Court provides final approval of the settlement, the Parties shall request the Court immediately execute and enter the mutually-agreed upon Judgment.

13. Compensation to Authorized Claimants.

13.1 If Defendant has not exercised the option provided in Section 7.4 of this Agreement to research the basis for the submitted claims, then within sixty (60) days after the Effective Date, the Claims Administrator shall proceed promptly to distribute proceeds from the Common Fund to each Authorized Claimant. If Defendant has exercised the option provided in Section 7.4 of this Agreement to research the basis for the submitted claims, then within the later of thirty (30) days after the date that Defendant has notified the Claims Administrator that they have completed their research or sixty (60) days after the Effective Date, the Claims Administrator shall proceed promptly to distribute proceeds from the Common Fund to each Authorized Claimant.

13.2 The Parties expect that the Claims Administrator shall conduct all administration of disbursements of the Common Fund and otherwise manage the Common Fund. The Claims Administrator shall provide a toll-free phone number for Class Members to call to

answer questions regarding their claims. Additionally, the Claims Administrator will communicate with Class Counsel and Defense Counsel on a regular basis regarding such distributions and any issues arising from such distributions.

14. Release, Waiver, and Covenant Not to Sue.

14.1 Upon entry of the Judgment, Class Representatives, for themselves and on behalf of each member of the Class who has not submitted a valid and timely request for exclusion from the Class, and their respective heirs, assigns, successors, agents, attorneys, executors, and representatives, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, irrevocably, and forever released Synchrony Bank and, whether or not specifically named herein, each of its past or present directors, officers, employees, agents, insurers or reinsurers, shareholders, attorneys, advisors, consultants, representatives, partners, affiliates, related companies, any entity on whose behalf Synchrony Bank or GE Capital Retail Bank may have acted, parents, subsidiaries, joint venturers, independent contractors, service providers, vendors, divisions, predecessors, successors, and assigns, from any and all liabilities, claims, causes of action, damages, costs, attorneys' fees, losses, or demands, whether known or unknown, existing or potential, suspected or unsuspected, (1) asserted in the Third Amended Complaint, (2) relating to the transactions, actions, conduct or events that are the subject of the Third Amended Complaint, (3) relating to the violation of the California Invasion of Privacy Act, Cal. Penal Code §§ 630, *et seq.*, including, without limitation, Cal. Penal Code §§ 631, 632, and/or 632.7, (4) relating to the recording, eavesdropping upon and/or monitoring of telephone calls, and/or (5) arising out of the institution, prosecution, assertion, defense, settlement or resolution of the Action (collectively, the "Released Claims").

14.2 In addition, the Class Representatives, for themselves only and not on behalf of the members of the Class, hereby fully, finally, irrevocably, and forever release Synchrony Bank and, whether or not specifically named herein, each of its past or present directors, officers, employees, agents, insurers or reinsurers, shareholders, attorneys, advisors, consultants, representatives, partners, affiliates, related companies, parents, subsidiaries, joint venturers, independent contractors, service providers, vendors, divisions, predecessors, successors, and assigns, from any and all liabilities, claims, causes of action, damages, costs, attorneys' fees, losses, or demands, whether known or unknown, existing or potential, suspected or unsuspected, of any kind or nature whatsoever.

14.3 The Class Representatives, for themselves only and not on behalf of any other member of the Class, hereby waive any and all provisions, rights and benefits, which they now have or in the future may have conferred to them by section 1542 of the California Civil Code ("Section 1542") or any comparable statutory or common law provision of any other jurisdiction. Section 1542 reads as follows:

Certain Claims Not Affected by General Release: A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his settlement with the debtor.

14.4 Except for proceedings to enforce the terms of this Settlement Agreement, upon entry of Judgment, the Class Representatives, for themselves and on behalf of each member of the Class, shall be deemed to have, and by operation of the Judgment shall have agreed not to file, maintain, cause or knowingly permit the filing or maintenance of any lawsuit, administrative action, or other proceeding, in any state, federal or foreign court, or before any local, state,

federal or foreign administrative agency, or any other tribunal, that arises from or relates to any of the Released Claims or any and all other claims released under this Agreement.

15. No Admission of Liability.

15.1 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.

15.2 Neither the Agreement, nor any act performed or document executed pursuant to or in furtherance of the Agreement or the settlement, 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 Class Members, Class Counsel, or anyone else.

16. Collateral Attack and Res Judicata.

16.1 This Agreement shall not be subject to collateral attack by any Class Member or any recipient of the Class Notice after the Judgment is entered. Such prohibited collateral attacks shall include but are not limited to claims that the procedures for claims administration were incorrect, or that the Class Member failed for any reason to receive timely notice of the procedure for submitting a Claim Form or requesting exclusion from the class.

16.2 To the extent permitted by law, the Agreement and/or Judgment 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 which may be instituted, prosecuted or attempted in breach of this Agreement. Defendant may file this Agreement and/or the Judgment in any action that

may be brought against it in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

17. Non-Evidentiary Use.

Except as provided herein, neither this Agreement nor any of its terms shall be offered or used as evidence by any of the Parties, Class Members, or their respective counsel in the Action or in any other action or proceeding; provided, however, that nothing contained in this section shall prevent this Agreement from being used, offered, or received in evidence in any proceeding to enforce, construe, or finalize the settlement and this Agreement.

18. Nullification.

18.1 If (1) the Court should for any reason fail to enter the Order granting leave to file the Third Amended Complaint; or (2) the Court should for any reason deny with prejudice preliminary approval of the settlement and/or certification of a settlement class; or (3) the Court should for any reason fail to approve this Agreement in the form agreed to by the Parties; or (4) the Court should for any reason fail to enter the Judgment; or (5) the Judgment is reversed, modified, or declared or rendered void; or (6) Defendant terminates this Agreement for reasons permitted herein, then (i) this Agreement shall be considered null and void, notwithstanding the severability clause in this Agreement, (ii) neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect, (iii) all Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had been neither entered into nor filed with the Court, (iv) Class Representatives and Class Counsel shall make repayment to the Claims Administrator of any disbursements they received from the Common Fund, and (v) the Claims Administrator shall return to Defendant any portion of the Common Fund that has

been paid to the Claims Administrator pursuant to the terms of this Agreement other than the funds expended in connection with the costs of providing of notice to the Class and claims administration.

18.2 In the event that for any reason final distribution of the Common Fund does not occur (for example, because this Agreement and/or the Judgment is modified or reversed on appeal, or this Agreement is canceled, rescinded, terminated, voided, or nullified), the entire Common Fund shall remain the sole property of Defendant and any sums previously distributed shall be returned to Defendant except for those sums paid to the Claims Administrator pursuant to the terms of this Agreement in connection with providing of notice to the Class and claims administration.

18.3 In the event of a timely appeal from the Judgment, the Judgment shall be stayed, the fees and reimbursement of expenses to Class Counsel shall not be paid, and the Common Fund shall not be distributed to Authorized Claimants pending the completion of the appeal.

19. Publicity and Non-Disparagement.

19.1 In order to ensure that all information provided to the Class Members regarding the terms and conditions of this Settlement Agreement is content-neutral and has been approved by the Court in substance, the Parties agree that no press release or statements to the press shall be made concerning this Agreement except as required by law or to effectuate the Agreement.

19.2 The Parties shall abstain from making, publishing, posting, aiding, or authorizing the publication of any false or defamatory statements to any other persons about each other.

20. Extensions of Time.

Unless otherwise ordered by the Court, the Parties may jointly agree to reasonable extensions of time to carry out any of the provisions of this Agreement. If the time to do or complete any act in the Agreement falls on a weekend or holiday, then that time shall be extended until the next court day.

21. No Pending Action.

Each of the Parties represents and warrants that she or it is not aware of any other lawsuits or administrative proceedings involving Plaintiffs and/or Defendants regarding the subject matter of the Action.

22. 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 herein.

23. Construction and Intent.

23.1 This Agreement is executed voluntarily by each of the Parties without any duress or undue influence on the part, or on behalf, of any of them. This Agreement has been negotiated at arms-length by parties of equal bargaining power, and drafted jointly by Class Counsel and Defense Counsel. Each of the Parties has had full opportunity to review and consider the contents of this Agreement, has read and fully understands the provisions of this Agreement, and has relied on the advice and representation of legal counsel of her or its own choosing. In the event that a dispute arises with respect to this Agreement, no Party shall assert that any other Party is the drafter of this Agreement, for purposes of resolving ambiguities that

may be contained herein. If any provision of this Agreement shall be deemed ambiguous, such provision shall not be construed against any Party on the basis of the identity of the purported drafter of this Agreement.

23.2 The Parties intend this Agreement to be a final and complete resolution of all disputes between them with respect to the Action.

23.3 The Parties agree that the Agreement was negotiated in good faith by the Parties.

23.4 The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute part of this Agreement.

23.5 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.

24. Governing Law.

The Agreement shall be construed in accordance with, and be governed by, the laws of the State of California, without regard to the principles thereof regarding choice of law. The sole and exclusive forum for resolution of any disputes arising under or related to this agreement shall be the state courts located in the County of Los Angeles, California.

25. Survival of Warranties and Representations.

The warranties and representations of this Agreement are deemed to survive the date of execution hereof.

26. Representative Capacity.

Each person executing this Agreement in a representative capacity represents and warrants that he or she is empowered to do so.

27. 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. The Agreement may be executed by facsimile or scanned signature.

28. Cooperation of the Parties.

28.1 The Parties acknowledge that it is their intent to consummate this Agreement and agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of the Agreement and to exercise their best efforts to accomplish the foregoing terms and conditions of the Agreement. Specifically, the Parties to this Agreement agree to prepare and execute all documents, to seek Court approvals, defend Court approvals, and to do all things reasonably necessary to complete the settlement described in this Agreement. Further, the Parties will comply in good faith with the terms and conditions of the Agreement.

28.2 Should any dispute arise among the Parties or their respective counsel regarding the implementation or interpretation of this Agreement, a representative of Class Counsel and a representative of Defense Counsel shall meet and confer in an attempt to resolve such disputes prior to submitting such disputes to the Court. In addition, any of the Parties may request that any such dispute be mediated by (Ret.) Justice Edward A. Panelli, with the costs of such mediation being paid from the Common Fund.

29. Severability.

If any portion, provision, or part of this Agreement is held, determined or judged to be invalid, unenforceable, or void, for any reason whatsoever, each such portion, provision, or part

shall be severed from the remaining portions, provisions, or parts of this Agreement and shall not affect the validity or enforceability of such remaining portions, provisions, or parts, unless doing so would deprive a Party of a benefit of its bargain.

30. Notices.

30.1 All notices and documents to Class Counsel and Defense Counsel provided for herein shall be sent via email in portable document format (pdf) or, if too large to send in that format, by U.S. Mail. Notice and documents to Class Counsel may be delivered to Jonathan Weiss, Esq., who will distribute such notices or documents to the other Class Counsel as necessary.

30.2 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 notice to the Class.

31. Modification and Amendment.

This Agreement may be amended or modified only by a written instrument signed by the Parties' counsel and approved by the Court.

32. Binding on Successors and Assigns.

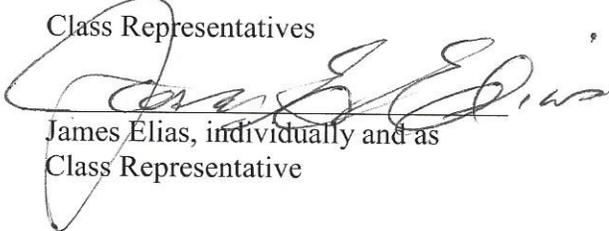
The Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto.

33. Court to Retain Jurisdiction.

Notwithstanding the entry of Judgment, the Court shall retain jurisdiction of the Action until such time as the Court determines that the settlement is fully consummated according to the terms and conditions of this Agreement.

All of the foregoing is agreed to as of the date first written above.

Class Representatives



James Elias, individually and as
Class Representative

James Kozik, individually and as
Class Representative

Synchrony Bank

By: _____

Its: _____

APPROVED AS TO FORM:

LAW OFFICE OF JONATHAN WEISS

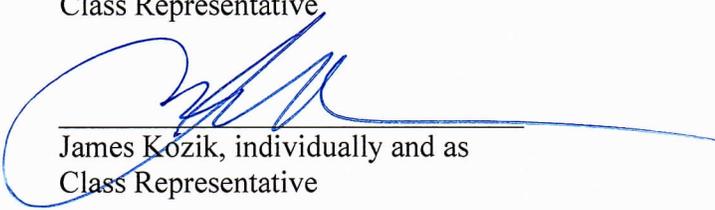
By: _____
Jonathan Weiss
Attorneys for Plaintiff and Class
Representatives

DLA PIPER LLP (US)

By: _____
Edward D. Totino
Attorneys for Synchrony Bank

Class Representatives

James Elias, individually and as
Class Representative



James Kozik, individually and as
Class Representative

Synchrony Bank

By: _____

Its: _____

APPROVED AS TO FORM:

LAW OFFICE OF JONATHAN WEISS

By: _____
Jonathan Weiss
Attorneys for Plaintiff and Class
Representatives

DLA PIPER LLP (US)

By: _____
Edward D. Totino
Attorneys for Synchrony Bank

Class Representatives

James Elias, individually and as
Class Representative

James Kozik, individually and as
Class Representative

Synchrony Bank

By: _____

Its: _____

APPROVED AS TO FORM:

LAW OFFICE OF JONATHAN WEISS

By: _____

Jonathan Weiss
Attorneys for Plaintiff and Class
Representatives

DLA PIPER LLP (US)

By: _____

Edward D. Totino
Attorneys for Synchrony Bank

Class Representatives

James Elias, individually and as
Class Representative

James Kozik, individually and as
Class Representative

Synchrony Bank

By: _____

Its: _____

APPROVED AS TO FORM:

LAW OFFICE OF JONATHAN WEISS

By:  _____
Jonathan Weiss
Attorneys for Plaintiff and Class
Representatives

DLA PIPER LLP (US)

By: _____
Edward D. Totino
Attorneys for Synchrony Bank