ASSURANCE OF DISCONTINUANCE

In the Matters of:

AVANT OF COLORADO, LLC; and

MARLETTE FUNDING, LLC

Respondents.

This Assurance of Discontinuance ("AOD") dated as of August 7, 2020 is entered into by and among the Colorado Administrator of the Uniform Consumer Credit Code; the Attorney General of Colorado; Avant of Colorado, LLC; Avant, LLC, formerly known as Avant, Inc.; Avant PB SPV, LLC; WebBank; Wilmington Trust, N.A., not in its individual capacity, but solely as trustee for certain trusts; Wilmington Savings Fund Society, FSB, not in its individual capacity, but solely as trustee for certain trusts; Marlette Funding, LLC; and Cross River Bank. The purpose of this agreement is to resolve issues, as more particularly described herein, arising from the Administrator's investigation into Avant's and Marlette's compliance with the UCCC, C.R.S. §§ 5-1-101 to 5-9-103. As noted below, this is a compromise of claims and not an admission of any liability or wrong-doing. Defendants deny any liability.

SECTION I
General Definitions

A. "Administrator" means the Colorado Administrator of the UCCC, C.R.S. § 5-6-103.

B. "Affiliate" means, with respect to any of the Defendants, a person who directly or indirectly controls, is controlled by, or is under common control with such Defendant. As used herein, the term "control" (including its correlative meanings, the terms controlling, controlled by, and under common control with) means the power to direct the management or policies of such person, directly or indirectly, through ownership of fifty percent (50%) or more of a class of voting securities of such person.

C. "Attorney General" means the Attorney General of Colorado, Colo. Const. art. IV, sec. 1.

D. "Avant" means, collectively, Avant of Colorado, LLC; Avant, LLC, formerly known as Avant, Inc.; and Avant PB SPV, LLC.

E. "Avant Litigation" refers to the matter styled *Fulford v. Avant of Colorado, LLC, et al.*, Case No. 17CV30377 (Colo. Dist. Ct. Denver County).

F. "Bank" or "Banks" means WebBank and Cross River Bank.

G. "CRB" means Cross River Bank.

H. "Defendants" means, collectively: Avant; Marlette; the Banks; and the Trustees.

I. "Defendant FinTech" means Avant or Marlette, and "Defendant FinTechs" means Avant and Marlette.

J. "Economic Interests" in a Loan means any or all of the following:

1. Whole loans;

2. Participation interests, receivables in Loans, or any other ownership interest in Loans where the Bank maintains the contractual relationship with borrowers;

3. Any economic risk of loss in the Loan, including when separated from ownership of the Loan, such as by requiring the assignee to hold the assignor harmless for credit losses on a Loan during the life of the Loan;

4. Securities backed by Loans, unless the securities are part of a broadly subscribed securitization made available to non-Affiliate investors; and

5. Any other form of economic interest in a Loan that is the functional equivalent of the interests set forth in Section I(G)(1)-(4) above.

K. "FDIC" means the Federal Deposit Insurance Corporation.

L. "Loan" means any loan that is originated through a Program to an individual for personal, family, or household purposes.

M. "Marlette" means Marlette Funding, LLC d/b/a Best Egg.

N. "Marlette Litigation" refers to the matter styled *Fulford v. Marlette Funding, LLC, et al.*, Case No. 17CV30376 (Colo. Dist. Ct. Denver County).

O. "OCC" means the Office of the Comptroller of the Currency.

P. "Partner Fintech" means a fintech company that enters into an agreement with one of the Banks with respect to an arrangement for offering Loans.

Q. "Program" or "Programs" refers to activities whereby loans are issued to Colorado consumers, which: (1) are offered by either of the Banks, (2) are offered in conjunction with one of the

Defendant FinTechs or any other Partner FinTech, and (3) involve the origination of closed-end consumer loans through an online platform.

R. "Specified Loan" means a Loan that is originated (1) to an individual who is, at the time of origination of the Loan, a Colorado resident, (2) through a Program, and (3) with an APR, as determined under the Truth in Lending Act, 15 U.S.C. §§ 1601-1667f, and its implementing Regulation Z, 12 C.F.R. § 1026.22, at the time of origination that exceeds the maximum finance charge permitted under the UCCC for a supervised loan, C.R.S. § 5-2-201(2).

S. "Trustees" means Wilmington Trust, N.A., not in its individual capacity, but solely as trustee for certain trusts as identified in Exhibit B; and Wilmington Savings Fund Society, FSB, not in its individual capacity, but solely as trustee for certain trusts as identified in Exhibit B.

T. "Trustee Banks" means each of Wilmington Trust, N.A. and Wilmington Savings Fund Society, FSB in their respective individual capacities.

U. "UCCC" means the Colorado Uniform Consumer Credit Code, C.R.S. §§ 5-1-101 to 5-9-103.

SECTION II
Background

A. The Administrator is authorized to enforce compliance with the UCCC, to conduct examinations of licensees, and to investigate possible UCCC violations. *See* UCCC, C.R.S. §§ 5-1-101 to 5-9-103.

B. Avant of Colorado, LLC is licensed by the Administrator as a Colorado supervised lender (license no. 991833) and is a defendant in the Avant Litigation, and Avant, LLC (formerly Avant, Inc.) is a Delaware limited liability company and is a defendant in the Avant Litigation.

C. Marlette is licensed by the Administrator as a Colorado supervised lender (license no. 992119) and is a defendant in the Marlette Litigation.

D. WebBank is a Utah state-chartered bank and an intervenor defendant in the Avant Litigation.

E. CRB is a New Jersey state-chartered bank and an intervenor defendant in the Marlette Litigation.

F. Wilmington Trust, N.A. is a national banking association and, not in its individual capacity, but solely as trustee for certain trusts, is a defendant in the Avant Litigation and the Marlette Litigation.

G. Wilmington Savings Fund Society, FSB is a federal savings association and, not in its individual capacity, but solely as trustee for certain trusts, is a defendant in the Avant Litigation and the Marlette Litigation.

H. Avant PB SPV, LLC is a Delaware limited liability company and a defendant in the Avant Litigation.

I. The Administrator has jurisdiction over Avant and Marlette and the subject matter of the Avant Litigation and the Marlette Litigation pursuant to the UCCC. The Administrator has asserted jurisdiction over the Trustees pursuant to the UCCC, and, for purposes of this AOD, the Defendants do not dispute such jurisdiction.

J. Pursuant to her statutory authority, the Administrator has examined and investigated Avant's and Marlette's practices and has alleged the following in the Avant Litigation and the Marlette Litigation:

1. The Avant and Marlette Programs violate Colorado's: finance charge limitations, C.R.S. § 5-2-201; late charge limitations, C.R.S. § 5-2-203; and prohibition against use of a state's laws other than Colorado as the law governing consumer loan agreements with Colorado consumers, C.R.S. § 5-1-201(8);

2. Avant and Marlette, as non-bank entities, are prohibited from enforcing bank statutory interest rate exportation rights following assignment of bank loans, *see Madden v. Midland Funding, LLC*, 786 F.3d 246 (2d Cir. 2015), *cert. denied*, 136 S. Ct. 2505 (2016); and

3. Avant and Marlette, and not WebBank and CRB, are the true lenders because they have the predominant economic interest in loans under their Programs, *see Fulford v. Marlette Funding, LLC*, No. 17CV30376 *and Fulford v. Avant of Colorado, LLC*, No. 17CV30377 (Colo. Dist. Ct. Denver County Aug. 13, 2018)*; see also, e.g., State Bank v. Strong*, 651 F.3d 1241 (11th Cir. 2011); *Easter v. Am. W. Fin.*, 381 F.3d 948, 957 (9th Cir. 2004); *CFPB v. CashCall, Inc.*, No. CV 15-7522-JFW (RAOx), 2016 WL 4820635 (C.D. Cal. Aug. 31, 2016); *Penn v. Think Fin., Inc.*, No. 14-cv-7139, 2016 WL 183289 (E.D. Pa. Jan. 14, 2016); *Goleta Nat'l Bank v. Lingerfelt*, 211 F. Supp. 2d 711 (E.D. N.C. 2002); *CashCall, Inc. v. Morrisey*, No. 12-1274, 2014 WL 2404300 (W. Va. May 30, 2014) (memorandum decision); *Ubaldi v. SLM Corp.*, 852 F. Supp. 2d 1190 (N.D. Cal. 2012); and *Eul v. Transworld Sys.*, No. 15 C 7755, 2017 WL 1178537 (N.D. Ill. Mar. 30, 2017).

K. The Defendants in the Avant Litigation and Marlette Litigation dispute the Administrator's allegations, and argue that the Programs are proper and do not violate Colorado law because:

1. The Loans are originated by state-chartered, federally insured banks and the Colorado laws on which the Administrator relies are therefore subject to federal preemption;

2. WebBank and CRB are the true lenders of the Loans, and Marlette and Avant are not the true lenders of the Loans;

3. The assignment of the Loans originated by WebBank and CRB to non-bank purchasers does not affect the ability of the assignee to enforce the Loans on their original terms as a matter of Colorado state law. *See, e.g.*, *Tivoli Ventures, Inc. v. Bumann*, 870 P.2d 1244,

1248 (Colo. 1994); *De la Rosa v. Western Funding, Inc.*, 24 P.3d 637 (Colo. App. 2001); *see also, e.g.*, *Concord Realty v. Cont'l Funding*, 776 P.2d 1114, 1120 (Colo. 1989) ("the usurious nature of a transaction must be determined from its inception"); *Tivoli Ventures, Inc. v. Bumann*, 870 P.2d 1244, 1248 (Colo. 1994) ("As a general principle of common law, an assignee stands in the shoes of the assignor."); *Farmers Acceptance Corp. v. Howard K. Delozier Construction Co.*, 496 P.2d 1016, 1018 (Colo. 1972) ("an assignee of contract rights stands in the shoes of the assignor");

4. The assignment of the Loans originated by WebBank and CRB to non-bank purchasers does not affect the ability of the assignee to enforce the Loans on their original terms as a matter of federal law, including under final regulations adopted by the FDIC and OCC during the pendency of this litigation, which were adopted for the express purpose of clarifying existing law. Permissible Interest on Loans That Are Sold, Assigned, or Otherwise Transferred, 85 Fed. Reg. 33530 (June 2, 2020) (OCC final rule); Federal Interest Rate Authority, adopted by FDIC board on June 25, 2020 (Federal Register publication pending); *see also, e.g.*, *Sawyer v. Bill Me Later, Inc.*, 23 F. Supp. 3d 1359, 1367-68 (D. Utah 2014); *Discover Bank v. Vaden*, 489 F.3d 594, 602-3 (4th Cir. 2007), *rev'd on other grounds*, 556 U.S. 49, 53-54, 56 n.4 (2009); *Phipps v. FDIC*, 417 F.3d 1006, 1013 (8th Cir. 2005); *Krispin v. May Dep't Stores Co.*, 218 F.3d 919, 924 (8th Cir. 2000); *Hudson v. Ace Cash Express, Inc.*, No. IP 01-1336, 2002 WL 1205060 (S.D. Ind. May 30, 2002); and

5. The Trustees and Avant PB SPV, LLC dispute that the Court can exercise personal jurisdiction over them.

L. The Defendants deny any fault, wrongdoing, or liability of any kind, including, but not limited to, for the reasons set forth in Section II(K).

M. The Administrator, the Attorney General, and the Defendants desire to enter into this AOD to avoid the expense, inconvenience, and inherent risk of litigation as well as the concomitant disruption of their affairs.

N. The intention of the Administrator, the Attorney General, and the Defendants is to achieve a resolution that requires WebBank and CRB, in addition to having various economic and regulatory risks with respect to Loans under the Avant and Marlette Programs, to also have economic risk in relation to the Specified Loans originated under the Avant and Marlette Programs, as well as other similar Programs operated by the Banks in Colorado.

O. The Administrator and the Defendants enter into this AOD pursuant to the UCCC, C.R.S. § 5-6-110. The Administrator's established practice is to settle litigation through a consent judgment entered with the presiding court. However, in recognition of the involvement of federally regulated banks in this settlement, the Administrator has agreed to resolve the Avant Litigation and the Marlette Litigation with this AOD in lieu of a consent judgment.

SECTION III

Safe Harbor Terms

A. The Administrator, the Attorney General, the Banks, and the Defendant FinTechs agree that a Program will be in compliance with a safe harbor for compliance with the UCCC provisions as described in Section V(A)(1) below (the "Safe Harbor") if it meets the Oversight Criteria, the Disclosure and Funding Criteria, the Licensing Criteria, the Consumer Terms Criteria, and the Structural Criteria, as each term is defined in this Section III.

B. Oversight Criteria. In order to meet the "Oversight Criteria," a Program must comply with each of the following terms:

1. The Loans offered and originated by a Bank under the Program are subject to oversight by the respective Bank's prudential regulators, including the FDIC and the Bank's state banking regulators (the "Applicable Regulators").

2. The Bank (and respective Partner FinTech) provide the Applicable Regulators with access to examine, review, and audit the Partner FinTech.

3. The Bank oversees and retains the ultimate approval authority over all Loan origination services provided to it by the respective Partner FinTech, and the Bank has the right to audit such services pursuant to its agreement with the Partner FinTech.

4. The Bank oversees and retains the ultimate approval authority over all marketing content related to Loans offered and originated by the Bank under the Program, and the Bank has the right to audit such marketing content pursuant to its agreement with the Partner FinTech. The Partner FinTech will retain any approvals for marketing content received from the Bank for a commercially reasonable period thereafter (but at least as long as required by the Bank's Applicable Regulators).

5. The Bank reviews and retains the ultimate approval authority over all content related to the Program on any website hosted by the respective Partner FinTech.

6. The Bank controls all terms of credit related to the Program and/or the Loans, either through the approval of the credit policy under which Loans are originated in the Program or other Loan approval mechanisms. The Bank has the absolute right to approve, deny, or modify the credit policy determining whether credit is extended and under what terms. In connection with the foregoing:

    i. The Bank may consider any credit policy change proposals from the respective Partner FinTech, so long as no change(s) to the credit policy shall take effect unless the changes are either within Bank-approved parameters or are approved by the Bank;

    ii. All credit decisions are made in accordance with the then-controlling credit policy, unless subject to a Bank-communicated exception;

iii. Insofar as the Bank determines to make an exception to its credit policy with respect to any particular transaction, it shall communicate such exception expressly to the respective Partner FinTech. The Partner FinTech will retain any exception approvals received from the Bank for a commercially reasonable period thereafter; and

iv. The Bank exercises oversight over any credit models (other than third-party models such as FICO) used in the Programs, including governance of the credit models under applicable model risk management requirements of its Applicable Regulators.

7. The Bank has authority to retract or modify prior approvals of marketing content and credit policies and practices for any reason, at any time.

8. The Bank has authority to require the respective Partner FinTech to revise existing or implement new policies or procedures related to the Program.

9. The Bank approves the respective Partner FinTech's oversight and/or third-party risk management program pertaining to significant third-party sub-vendors, as defined by the Bank, used under the Program. The respective Partner FinTech must retain such approvals (and applicable analyses) for a commercially reasonable period thereafter.

10. The Bank designs its oversight program to follow the compliance requirements for third-party lending relationships found in FDIC FIL-44-2008 and the proposed FDIC FIL-50-2016, or such successor or replacement guidance as may be in effect from the Bank's Applicable Regulators from time to time.

11. The Partner FinTech is obligated to maintain in place a compliance management system acceptable to the respective Bank.

12. The Bank (or a provider engaged by or agreed by the Bank) performs one or more tests, reviews, or audits of the respective Partner FinTech's compliance with applicable laws and regulations at least annually.

13. The Partner FinTech, in conjunction with the respective Bank, has in place an appropriate complaint management system, including:

    i. A mechanism by which the Partner FinTech reports to the Bank concerning consumer complaints received by the Partner FinTech or its sub-vendors about the Program or its servicing of the Program; and

    ii. A process by which the Partner FinTech works with the Bank to respond to complaints as directed by the Bank.

14. The Partner FinTech discloses to the respective Bank identified compliance gaps as directed by the Bank that require corrective action, and the Bank approves and oversees corrective action as appropriate.

C. Disclosure and Funding Criteria. In order to meet the "Disclosure and Funding Criteria," a Program must comply with each of the following terms:

1. The Loan agreement identifies the Bank as the lender of the Loan.

2. The fact that the Bank is the lender of the Loans through the Program is reflected in website content and pre-origination consumer disclosures. Marketing materials related to the Program shall also identify that the Bank is the lender of Loans unless not practicable (for example, because of space limitations).

3. The Bank funds Loans from its own account using any source allowable by banking regulation, including a combination of its own capital, reserves, retained earnings, deposits, and credit facilities. Funds may not be provided to the Bank from the Partner FinTech for the express purpose of funding the origination of Loans. Notwithstanding the foregoing, the Bank may require that the Partner FinTech maintain a deposit account at the Bank to secure the Partner FinTech's obligations to the Bank (subject to the limitations on such security provided in this AOD).

D. Licensing Criteria. In order to meet the "Licensing Criteria," a Program must comply with each of the following terms:

1. To the extent that a Program offers "supervised loans" in Colorado, as defined in the UCCC, C.R.S. § 5-1-301(47), and if the Partner FinTech takes assignment of and undertakes direct collection of payments from or enforcement of rights against consumers arising from such supervised loans, the Partner FinTech shall obtain a license from the Administrator pursuant to the UCCC, C.R.S. § 5-2-301.

    i. In connection with an initial licensing application, and before participating in any new Program, the Partner FinTech will notify the Administrator of the Program and will include a description of the products planned to be offered, and the manner in which it complies with this AOD.

2. Any Partner FinTech that is licensed pursuant to Section III(D)(1) above must submit to the Administrator an accurate written compliance report ("Compliance Report") each year in connection with its Supervised Lender Annual Report, that contains the following information:

    i. A list of every Specified Loan originated through the Program during the year of such Compliance Report, which includes for each loan: (i) account number, (ii) amount financed, (iii) APR, (iv) funding date, (v) then-current creditor, and (vi) whether or not the Specified Loan was transferred to the Partner FinTech;

ii. An explanation of whether the Program is relying on the Structural Criteria to make Specified Loans in Colorado and, to the extent the Program is relying on the Structural Criteria, a reasonably comprehensive explanation of the manner in which the Partner FinTech has complied with the Structural Criteria.

3. The Bank will cease originating Specified Loans through the Partner FinTech platform if either the Administrator or the Partner FinTech notifies the Bank that the Partner FinTech has not provided the Administrator with a Compliance Report within thirty (30) days of the due date for filing the Supervised Lender Annual Report, except that the Bank will be permitted to fund all Specified Loans previously approved through the Partner FinTech platform, and all such Loans shall be deemed as within an otherwise applicable Safe Harbor.

4. The Administrator shall not refuse to grant or renew a supervised lender license based on participation in a Program within the Safe Harbor.

5. A Defendant Fintech's Compliance Report for 2020 shall relate to the period from 30 days after the date of this AOD through December 31, 2020, and any other Partner FinTech's Compliance Report for 2020 shall relate to the period from 120 days after the date of this AOD through December 31, 2020.

E. Consumer Terms Criteria. In order to meet the "Consumer Terms Criteria," a Program must comply with each of the following terms:

1. Specified Loans have APRs of no higher than 36%, as calculated under the Truth in Lending Act, 15 U.S.C. §§ 1601-1667f, and its implementing regulation, Regulation Z, 12 C.F.R. § 1026.22.

2. All loan agreements for Specified Loans provide that Colorado law applies, except where otherwise preempted or authorized by federal law, including that any "interest" terms as contemplated by 12 U.S.C. § 1831d (including origination fees, periodic interest, late fees, and returned check fees) shall be governed by 12 U.S.C. § 1831d and the laws of the Bank's home state.

F. Structural Criteria. In order to meet the "Structural Criteria," a Program must comply with at least one of the following: the Uncommitted Forward Flow Option, the Maximum Committed Forward Flow Option, the Maximum Overall Transfer Option, or an Alternative Structure Option, as each term is defined in this Section III(F).

1. In order for a Program to comply with the "Uncommitted Forward Flow Option," it must comply with each of the following terms:

i. Purchase Obligations for Specified Loans

1. The Partner Fintech and its Affiliates may not enter into a committed obligation, in advance, to purchase any Specified Loan from a Bank.

2. Notwithstanding the foregoing, the Bank and the Partner FinTech may structure a process for the sale of Specified Loans as follows:

    a. Bank provides notice of the Specified Loans that it wishes to offer to the Partner FinTech for purchase (Partner FinTech may assist Bank in procedural matters, such as implementing a random selection process);

    b. The Partner FinTech provides notice of the offered Specified Loans that it wishes to purchase;

    c. If the Partner FinTech does not purchase the Specified Loans that Bank has offered to sell, Bank has the option to do one or more of the following, among other things, (A) retain those Specified Loans, and could engage a third-party loan servicer including the Partner FinTech as servicer, (B) sell those Specified Loans to a third party other than an Affiliate of the Partner FinTech, (C) contribute those Specified Loans into a securitization sponsored by the Partner Fintech or an Affiliate of the Partner Fintech, provided that the Bank participates on terms similar to other investors contributing Specified Loans into the securitization, or (D) contribute Specified Loans into a securitization sponsored by an unrelated third party; and

    d. The Bank may choose at any time to stop originating new Specified Loans.

ii. The terms and limitations of the Uncommitted Forward Flow Option do not apply with respect to Loans that are not Specified Loans.

iii. Indemnification

1. With respect to Specified Loans, the Partner FinTech (including the Partner FinTech's vendors) may agree to indemnify the Bank only for losses incurred by the Bank that relate to (A) the services that the Partner FinTech agrees to perform (including services performed by the Partner FinTech's vendors), (B) fraud on the part of the Partner FinTech or on the part of Borrowers, and (C) the representations/warranties that the Partner FinTech makes in the parties' agreements. The Partner FinTech's indemnity obligations may not apply to losses that are due to (A) the Partner FinTech's failure to purchase Specified Loans (unless after the Partner FinTech has agreed to purchase specific Specified Loans in a manner that

complies with the Uncommitted Forward Flow Option), (B) the performance of Specified Loans; provided, that the Partner FinTech's indemnity obligations may apply to losses arising from a borrower's non-payment if the losses are due to the Partner FinTech's failure to perform services as agreed.

2. The Partner FinTech may contract for indemnification from its vendors, so long as a vendor does not provide indemnification to the Bank in connection with Specified Loans in contravention of Section III(F)(1)(iii.1).

iv. Collateral

1. The Bank may require the Partner FinTech to maintain cash collateral at the level it believes appropriate to secure obligations of the Partner FinTech relating to the entire program, not just Specified Loans.

2. The Collateral Account may not be used to secure any payment by the Partner FinTech to purchase Specified Loans from the Bank, except as follows:

   a. The purchase of Specified Loans that the Partner FinTech has provided notice that it wishes to purchase, pursuant to Section III(F)(1)(i.2.b) above; or

   b. During (A) the first 2 years of a Bank's participation in a Program or (B) if the monthly origination volume of the Program is less than $10 million per month at the end of the first 2 years, the first 3 years of a Bank's participation in a Program (the "New Program Period"), the Bank may require the Partner FinTech to post collateral for the purchase of Specified Loans originated by Bank in the new program that the Partner FinTech agrees to purchase under an uncommitted forward flow. During the year after the New Program Period, the collateral may only secure the purchase of up to 75% of the Specified Loans, and thereafter the collateral may only secure the purchase of up to 50% of the Specified Loans.

3. Collateral may be required in the form of cash collateral held at Bank, cash collateral held in an account at another bank, a letter of credit or similar mechanism determined by the Bank.

4. Except for Section III(F)(1)(iv.2) above, the collateral may not secure or be reachable for the purchase of Specified Loans that Partner FinTech does not opt to buy, or for credit losses on the Specified Loans held by the Bank.

5. Nothing in this AOD will limit a bank's right to require collateral from any third party that wishes to purchase Loans.

v. There is no requirement that the Bank retain any Specified Loans as a condition of a Program qualifying under the Uncommitted Forward Flow Option.

vi. An Affiliate of a Partner FinTech may provide guaranties for the Partner FinTech's obligations. However, the guaranties cannot expand the scope of the obligations that the Partner FinTech owes to the Bank (*i.e.*, guaranties may back the contractual and indemnification obligations of the Partner FinTech, but not expand coverage for other matters, such as an obligation to purchase Specified Loans).

2. In order for a Program to comply with the "Maximum Committed Forward Flow Option," it must comply with each of the following terms:

i. The Program must comply with one of the following two options:

1. Bank does not transfer to the Partner Fintech or its Affiliates Economic Interests in Specified Loans that exceed forty-nine percent (49%) of the total origination volume of Specified Loans in the Program during any calendar year (or the portion of 2020 following the date by which a Program must comply with the Safe Harbor) pursuant to a committed forward flow agreement. Under this option, Bank may not transfer to Partner FinTech or its Affiliates any additional Economic Interests in Specified Loans on an uncommitted basis.

2. Bank does not transfer to the Partner Fintech or its Affiliates Economic Interests in Specified Loans that exceed twenty-five percent (25%) of the total origination volume of Specified Loans in the Program during any calendar year (or the portion of 2020 following the date by which a Program must comply with the Safe Harbor) pursuant to a committed forward flow agreement. Under this option, Bank may transfer to the Partner FinTech or its Affiliates additional Economic Interest in Specified Loans, but only on an uncommitted basis.

a. For uncommitted purchases pursuant to Section III(F)(2)(i.2) above, the parties may follow the process described in Section III(F)(1)(i.2.a-d) above.

ii. The terms and limitations of the Maximum Committed Forward Flow Option do not apply with respect to Loans that are not Specified Loans.

iii. An Affiliate of a Partner FinTech may provide guaranties for the Partner FinTech's obligations. However, the guaranties cannot expand the scope of the obligations that the Partner FinTech owes to the Bank (*i.e.*, guaranties may back the

contractual and indemnification obligations of the Partner FinTech, but not expand coverage for other matters, such as an obligation to purchase Specified Loans).

iv. There is no limit on indemnification or collateral coverage for the Loans identified and sold to the Partner FinTech pursuant to a committed forward flow agreement, even prior to the sale of such Loans to the Partner FinTech. Loans purchased pursuant to an uncommitted purchase agreement under Section III(F)(2)(i.2) must comply with the restrictions on indemnification and collateral coverage that apply under the Uncommitted Forward Flow Option, Section III(F)(1)(iii) & (iv).

v. Bank may at any time transfer all or a portion of Specified Loans or any Economic Interests in Specified Loans to independent third parties that are not Affiliates of the Partner FinTech; these Specified Loans shall not be considered Loans sold to the Partner FinTech or its Affiliates for any purposes under this AOD, including the maximum volume thresholds set forth in Section III(F)(2)(i.1) & (i.2).

vi. Bank may at any time contribute Specified Loans into a *bona fide* securitization transaction, including a securitization sponsored by the Partner FinTech or its Affiliates, provided that the Bank participates on terms similar to other investors contributing Specified Loans into the securitization; these Specified Loans shall not be considered Loans sold to the Partner FinTech or its Affiliates for any purposes under this AOD, including the maximum volume thresholds set forth in Section III(F)(2)(i.1) & (i.2).

3. In order for a Program to comply with the "Maximum Overall Transfer Option," it must comply with each of the following terms:

i. Bank may transfer to the Partner FinTech or its Affiliates not more than eighty-five percent (85%) of the overall Economic Interest in all the Loans under a Program (rather than just the Specified Loans) on an annual basis (or, with respect to 2020, the portion of 2020 following the date by which a Program must comply with the Safe Harbor).

ii. Not more than thirty-five percent (35%) of the total originated principal amount of all Loans under the Program on an annual basis (or, with respect to 2020, the portion of 2020 following the date by which a Program must comply with the Safe Harbor) shall be Specified Loans.

iii. The selection of Loans for sale to the Partner FinTech or its Affiliates may not result in the Partner FinTech or its Affiliates purchasing a pool that consists of more than thirty-five percent (35%) Specified Loans or thirty-five percent (35%) Economic Interests in Specified Loans on an annual basis (or, with respect to 2020, the portion of 2020 following the date by which a Program must comply with the Safe Harbor);

iv. The terms of Sections III(F)(2)(ii) through (vi) apply to the Maximum Overall Transfer Option.

4. In order for a Program to comply with an "Alternative Structure Option," it must comply with the terms of an additional acceptable alternative that has been approved by the Administrator in writing. On an ongoing basis, the Administrator will consider in good faith alternate structures that would meet the requirements of an Alternative Structure Option. The Administrator will reasonably agree to an Alternative Structure Option if necessary in order to avoid a conflict between this AOD and the legal obligations that apply to a Program under federal law.

SECTION IV
Monetary and Consumer Relief

A. Monetary Relief:

1. Banks and Defendant FinTechs will, collectively, make a total payment to the Office of the Colorado Attorney General of $1,050,000.

   i. One half of the total payment ($525,000) is payable within 90 days of execution of this AOD.

   ii. One half of the total payment ($525,000) is payable within 365 days of execution of this AOD.

   iii. The payment will be credited by the Attorney General towards the Administrator's investigation and litigation expenses.

   iv. The payment amount shall be held, along with any interest thereon, in trust by the Colorado Attorney General to be used in the Attorney General's sole discretion for the reimbursement of attorney fees and costs, for consumer education, for future consumer fraud or antitrust enforcement, or public welfare purposes.

2. In support of K-12 financial literacy education through Colorado's MoneyWi$er program, Banks and Defendant FinTechs will, collectively, make payments to The Colorado Council on Economic Education d/b/a Economic Literacy Colorado ("ELC") as follows:

   i. $250,000 for fiscal year 2020–2021 (July 1, 2020–June 30, 2021), payable on or before August 14, 2020; and

   ii. $250,000 for fiscal year 2021–2022 (July 1, 2021–June 30, 2022), payable on or before July 31, 2021.

   iii. Payments to ELC shall be made via paper check, with the Administrator copied on correspondence to ELC enclosing payment, and sent to the following address:

Economic Literacy Colorado, Debbie Pierce, President and CEO, 1355 S. Colorado Blvd., Ste. 506, Denver, CO 80222.

3. Banks and Defendant FinTechs are jointly and severally liable for the monetary payments identified in Sections IV(A)(1) & (2).

B. COVID-19 Hardship Plan for Colorado Consumers:

1. The Defendant FinTechs agree to make available loan deferral forbearance arrangements and other accommodations to the Colorado borrowers as set forth in Exhibit A.

SECTION V
Implementation of Safe Harbor; Releases

A. Safe Harbor:

1. To the extent that either the WebBank/Avant Program or the CRB/Marlette Program meets the requirements for the Safe Harbor within the period set forth in Section V(E)(1) below, the Administrator and the Attorney General agree that they will not pursue any claim that Loans originated under the respective Program, whether prior to the execution of this AOD or after the execution of this AOD, violate Colorado law on any of the following grounds:

   i. That the Loans are not originated or made by state-chartered, federally insured banks and are therefore not subject to federal preemption applicable to such banks;

   ii. That the Banks are not the true lenders; or

   iii. That the assignment of the Loans from the Bank to a non-bank purchaser, and to any subsequent assignees, affects the ability of the assignee to enforce the Loans on their original terms.[1]

2. The Safe Harbor will also apply to all future loans made through any Programs operated by WebBank or Cross River Bank and available to Colorado borrowers, including existing or new Programs involving Partner FinTechs other than Avant or Marlette, provided such other Partner FinTechs satisfy the Licensing Criteria and other requirements of the Safe Harbor. Provided that such a Program meets the Safe Harbor, the Administrator and the Attorney General agree that they will not pursue any claims that Loans originated under

[1] For the avoidance of doubt, for Loans under Programs that comply with the Safe Harbor, the Loans also would not violate, e.g., C.R.S. § 5-2-203 (late fees) or C.R.S. § 5-1-201(8) (choice of law) because the Banks would be the true lenders and the assignment of the Loans would not affect the ability of the assignee to enforce the Loans on their original terms.

such a Program following compliance with the Safe Harbor violates Colorado law on any of the bases listed in Sections V(A)(1)(i) through (iii).

B. Non-Circumvention: The Banks and Partner FinTechs will enter into no other arrangements or agreements as between each other that are designed to, or with the intention to, specifically avoid the requirements herein as it relates to compliance with the provisions of this AOD.

C. Dismissal: As of the date of this AOD, the Administrator will dismiss the Avant Litigation and Marlette Litigation with respect to all Defendants with prejudice, each side to bear its own costs and fees, except to the extent all or some of the Monetary Relief provided for at Section IV(A) above is used by the Office of the Colorado Attorney General to offset fees and costs incurred. This AOD will be referenced in, and attached to, a stipulated motion to dismiss the pending actions with respect to all Defendants with prejudice. The Court shall retain jurisdiction over the Avant Litigation and Marlette Litigation and the parties thereto for the sole purpose of enforcing this AOD; provided, however, that the Trustees and Avant PB SPV, LLC do not waive their personal jurisdiction defenses previously asserted by way of motions to dismiss except for the limited purpose of this AOD.

D. License Renewal: To the extent one or more license renewals may be pending with respect to a Defendant FinTech or Partner FinTech, including any pending administrative or other actions related to same, and such pendency is based solely on the facts and allegations giving rise to the Avant and/or Marlette Litigation, such licenses will be renewed immediately upon the effective date and any administrative or other actions will be withdrawn or dismissed with prejudice. The Administrator reserves the right to proceed against any such licensee on a separate and independent basis to the extent permitted by law or regulation.

E. Obligation to Comply with the Safe Harbor.

1. WebBank and Avant agree with respect to the WebBank/Avant Program, and CRB and Marlette agree with respect to the CRB/Marlette Program, that they will revise the respective Programs to comply with the Safe Harbor within 30 days after execution of this AOD, and will ensure that all Specified Loans offered through the respective Programs are in compliance with the Safe Harbor for a period of at least five (5) years after execution of this AOD (the "Mandatory Safe Harbor Compliance Period") except as otherwise provided herein.

    i. Upon thirty (30) days' notice to the Administrator, a Bank, Avant, or Marlette may terminate the Mandatory Safe Harbor Compliance Period with respect to a designated Program as of any date that is more than two (2) years from the execution of this AOD if a Change in Law has occurred.

    ii. Any Specified Loans that are offered through the WebBank/Avant Program or the CRB/Marlette Program during the Mandatory Safe Harbor Compliance Period pursuant to a Program that does not at the time of origination of the Specified Loan meet the Disclosure and Funding Criteria, the Consumer Terms Criteria, or the Structural Criteria, as measured in accordance with the timelines set forth above,

are not entitled to the benefit of the Safe Harbor under this AOD and will be deemed to violate the maximum finance charge limitation for a supervised loan under the UCCC, C.R.S. § 5-2-201(2).

2. To the extent a Bank offers other Programs with Partner FinTechs other than Avant or Marlette, such Bank shall comply with the Safe Harbor within 120 days after execution of this AOD, and will ensure that all Specified Loans offered through such Program are in compliance with the Safe Harbor for the period starting on the 120-day deadline through the Mandatory Safe Harbor Compliance Period.

    i. Upon thirty (30) days' notice to the Administrator, a Bank may terminate the Mandatory Safe Harbor Compliance Period with respect to a designated Program as of any date that is more than two (2) years from the execution of this AOD if a Change in Law has occurred.

3. After the expiration of the Mandatory Safe Harbor Compliance Period, each Bank will continue to offer Specified Loans only in compliance with the Safe Harbor unless the Bank or the applicable Partner FinTech first provides thirty (30) days' notice to the Administrator of the decision to offer Specified Loans in a manner that is not in compliance with the Safe Harbor.

4. In this Section V(E), a "Change in Law" means (a) a federal or Colorado statute enacted after execution of this AOD, or (b) a decision of the United States Supreme Court, or (c) a decision of the Colorado Supreme Court, or (d) a decision of a Colorado appellate court with respect to which either the time for seeking review from the Colorado Supreme Court has expired and no request for review has been filed, or the Colorado Supreme Court has denied a writ of certiorari, or (e) a regulation finalized by the FDIC, that, in any case, adopts a test for determining whether the bank in a bank partnership is the lender of the loans for purposes of Section 27 of the Federal Deposit Insurance Act, 15 U.S.C. § 1831d ("Section 27"), that is different from the safe harbor set forth herein ("FDIC True Lender Regulation"). In this Section V(E), a "Change in Law" does not mean (a) a federal or Colorado statute enacted after execution of this AOD, or (b) a decision of the United States Supreme Court, or (c) a decision of the Colorado Supreme Court, or (d) a decision of a Colorado appellate court with respect to which either the time for seeking review from the Colorado Supreme Court has expired and no request for review has been filed, or the Colorado Supreme Court has denied a writ of certiorari, or (e) a regulation finalized by the FDIC, including, but not limited to, the FDIC's final regulation adopted on June 25, 2020 titled "Federal Interest Rate Authority," that, in any case, addresses whether interest on a loan permissible under Section 27 is unaffected by any subsequent events, including the sale, assignment, or transfer of loans from State-chartered banks to non-banks.

5. Subject to the minimum two (2) year safe harbor period contained in Section V(E)(1)(i) and (2)(i) above, an FDIC True Lender Regulation shall not constitute a "Change in Law" in this Section V(E) unless one (1) year has passed since publication of the FDIC True Lender Regulation and none of the following events have occurred:

i. The FDIC True Lender Regulation was rescinded pursuant to a joint resolution of disapproval under the Congressional Review Act, 5 U.S.C. §§ 801–808;

ii. The FDIC True Lender Regulation was rescinded, removed, or otherwise withdrawn by the FDIC;

iii. The FDIC True Lender Regulation was superseded or otherwise invalidated by a federal statute; or

iv. A federal court entered a preliminary or final injunction against the enforcement of the FDIC True Lender Regulation that is still in effect at the end of the one-year period. If a preliminary injunction against the enforcement of the FDIC True Lender Regulation ends more than one (1) year after publication of the FDIC True Lender Regulation and none of the other events set forth in Sections V(E)(5)(i) through (iv) have occurred, the FDIC True Lender Regulation will then constitute a "Change in Law."

F. Release of Past Liability for Other Programs:

1. In this Section V(F), "Other Programs" means those Programs that (a) were identified on the confidential list of Partner FinTechs agreed by the Administrator and the Banks on June 12, 2020, and (b) are brought into compliance with the Safe Harbor within the 120-day period contemplated by Section V(E)(2).

2. The Administrator and the Attorney General agree that they will not pursue any claim that Loans originated under Other Programs, whether prior to the execution of this AOD or after the execution of this AOD, violate Colorado law on any of the bases set forth in Sections V(A)(1)(i) through (iii).

G. Settlements with Other States:

1. For the duration of the Mandatory Safe Harbor Compliance Period, if a Bank or a Defendant FinTech (a "Settling Party") enters into an agreement with the attorney general of another state, or equivalent law enforcement officer ("Alternative Agreement(s)") that resolves true lender-based claims, similar to those at issue in Avant and Marlette Litigation, the Settling Party will provide a copy of the Alternative Agreement(s) to the Administrator for review. If the terms of the Alternative Agreement(s) provide for a lower APR limit with respect to the Settling Party than that contained in Section III(E)(1) of this AOD, then the Settling Party will amend Section III(E)(1) of this AOD to reflect any such Alternative Agreement(s) APR limit. Any reduction in APR limit shall apply only to the Settling Party.

2. To the extent that the Hardship Plan or Helping Hand Plan referenced in Exhibit A is extended to borrowers on a nationwide basis by either Defendant FinTech, such Defendant FinTech shall ensure that the relief afforded to Colorado borrowers under the plans is at least 30 days more favorable to consumers in Colorado than the relief afforded to

borrowers on a nationwide basis. Nothing within this provision shall prohibit the Banks or Defendant FinTechs from offering better terms, on a state-wide basis, to borrowers in a limited number of states, not to exceed five (5) states.

SECTION VI
Miscellaneous Terms

A. In consideration of Defendants' compliance with the terms listed in this AOD, the Administrator and Attorney General will forego additional administrative or injunctive penalties, restitution, and litigation, and will close the investigation of these matters. The Administrator and Attorney General also agree not to pursue any criminal penalties or to refer this matter to a District Attorney for the pursuit of any criminal penalties. It is the intent and purpose of this AOD to resolve fully the issues or allegations raised by the Administrator's investigation of Defendants' activities as set forth above. The protections against further action provided to the Trustees by the dismissal of the action with prejudice and the promises by the Administrator and Attorney General in this Section VI(A) apply equally to the Trusts (including the cancelled Trusts) referenced in Exhibit B, as well as their successors, if any. Any omission from this AOD of other acts, conduct, or practices of which the Administrator was not aware and which might constitute violations of the UCCC are not released and shall not be deemed or construed to be approval by the Administrator of such acts, conduct, or practices.

B. Nothing in this AOD shall in any way limit, constrain, abridge, abrogate, waive, release, affect, impair, or otherwise prejudice the rights of or belonging to any individual consumer of any of the Defendants, except to the extent of any such claims asserted on behalf of such individual consumers by the Administrator or Attorney General.

C. Colorado law governs this AOD. In addition to any other remedy the Administrator may have, in the event of any claims or causes of action alleging or asserting a violation of or failure to comply with this AOD, the Administrator may commence an action in the Denver District Court of the State of Colorado or a proceeding in the Colorado Office of Administrative Courts, as the Administrator deems appropriate. The Banks, Marlette, and Avant hereby consent to the jurisdiction, venue, and process of such tribunals. In the event of any action or proceeding alleging or asserting a violation of or failure to comply with this AOD, then this AOD shall be admissible in full in accordance with C.R.S. § 5-6-110.

D. The parties have had the opportunity to be represented by legal counsel and to consult with counsel for the Administrator to negotiate a resolution of this matter. The parties knowingly and voluntarily enter into this AOD and waive any right to a formal hearing on the matters forming the basis of this AOD and any right to appeal this AOD and/or the dismissal of the Avant Litigation or the Marlette Litigation.

E. This AOD represents the entire agreement between the parties and is binding upon all officers, directors, employees, shareholders, managers, members, principals, affiliates, heirs, agents, and successor of the parties. It shall not be modified except by writing signed by the parties or their authorized representatives.

F. This AOD and the terms herein are a compromise of disputed claims and are not intended as admissions against interest by any party to this AOD. Nothing set forth herein constitutes an admission against interest, whether related to liability or non-liability of any party to the Avant Litigation or the Marlette Litigation, or any other matter in dispute. The parties to this AOD merely intend to limit or avoid litigation risk and expense to the maximum extent possible under the circumstances presently existing. This AOD, and the recitals herein, and the payments and other covenants herein, are not to be construed as an admission of liability by the Defendants who expressly deny any and all liability to the Administrator for any amounts whatsoever. Further, this AOD shall not be offered or received in evidence in any action or proceeding except one brought to enforce this AOD

G. The parties acknowledge that they have made their own investigations of the matters covered by this AOD to the extent they have deemed it necessary to do so. Therefore, the parties agree that they will not seek to set aside any part of the AOD on the grounds of mistake. Moreover, the parties understand, agree, and expressly assume the risk that any fact (whether or not recited, contained, or embodied in the AOD) may turn out hereinafter to be other than, different from, or contrary to the facts now known to them or believed by them to be true, and further agree that the AOD shall be effective in all respects notwithstanding and shall not be subject to termination, modification, or rescission by reason of any such difference in facts.

H. The terms of this AOD constitute the entire agreement of the parties, and no Party is relying on any prior statement, representation, agreement, or understanding of any kind that is not contained in this AOD (including the parties' term sheet executed on June 12, 2020). No prior statement, representation, agreement, or understanding of any kind that is not contained in this AOD (including the parties' term sheet executed on June 12, 2020) shall have any force or effect. Any modification of this AOD must be in writing, signed by each of the parties or by authorized representatives of each of the parties hereto.

I. For the purpose of construing or interpreting this AOD, the parties agree that it is to be deemed to have been drafted equally by all parties hereto and shall not be construed strictly for or against any party.

J. All terms of this AOD are contractual and not mere recitals.

K. This AOD may be executed in counterparts, and may be executed by facsimile or by electronic transmission of signature pages, and as so executed shall constitute one agreement. This AOD shall be effective when signed by all of the signatories below, and shall be effective as of the date first written above.

L. It is expressly understood and agreed by the parties hereto that, (a) this AOD is executed and delivered by the Trustees, in the exercise of the powers and authority conferred and vested in them, (b) each of the representations, undertakings, statements and agreements herein made on the part of such trusts or its applicable trustee is made and intended not as personal representations, undertakings, statements and agreements by the Trustee Banks, but is made and intended for the purpose of binding only such trust or trustee, (c) nothing herein contained shall be construed as

creating any liability on the Trustee Banks, individually or personally, to perform any covenant either expressed or implied contained in this AOD with respect to any such trust or trustee thereof, all such liability, if any, being expressly waived by the parties hereto and by any person claiming by, through or under the parties hereto, (d) the Trustee Banks have made no investigation as to the accuracy or completeness of any representations, warranties or statement made in this Agreement, and (e) under no circumstances shall the Trustee Banks be personally liable for the payment of any indebtedness or expenses contemplated by this AOD, or be liable for the breach or failure of any obligation, representation, warranty, statement, or covenant made or undertaken by any trust or other party to this AOD or any other related documents.

Executed by each of the parties as of the date first written above.

AVANT OF COLORADO, LLC By: DocuSigned by: Roxy Bargoz 8B4DF5946CD1419... Avant, LLC, as sole member Roxy Bargoz General Counsel 222 N. LaSalle St., Ste. 1700 Chicago, IL 60601 Date: _____	COLORADO UNIFORM CONSUMER CREDIT CODE AND ON BEHALF OF THE COLORADO ATTORNEY GENERAL By: _____ MARTHA U. FULFORD Administrator First Assistant Attorney General 1300 Broadway, 6th Floor Denver, CO 80203 Date: _____
AVANT, LLC By: DocuSigned by: Roxy Bargoz 8B4DF5946CD1419... Roxy Bargoz General Counsel 222 N. LaSalle St., Ste. 1700 Chicago, IL 60601 Date: _____	WEBBANK By: _____ Kevin Leitao General Counsel 215 S. State St., 10th Floor Salt Lake City, UT 84111 Date: _____

creating any liability on the Trustee Banks, individually or personally, to perform any covenant either expressed or implied contained in this AOD with respect to any such trust or trustee thereof, all such liability, if any, being expressly waived by the parties hereto and by any person claiming by, through or under the parties hereto, (d) the Trustee Banks have made no investigation as to the accuracy or completeness of any representations, warranties or statement made in this Agreement, and (e) under no circumstances shall the Trustee Banks be personally liable for the payment of any indebtedness or expenses contemplated by this AOD, or be liable for the breach or failure of any obligation, representation, warranty, statement, or covenant made or undertaken by any trust or other party to this AOD or any other related documents.

Executed by each of the parties as of the date first written above.

AVANT OF COLORADO, LLC By: _____ Avant, LLC, as sole member Roxy Bargoz General Counsel 222 N. LaSalle St., Ste. 1700 Chicago, IL 60601 Date: _____	COLORADO UNIFORM CONSUMER CREDIT CODE AND ON BEHALF OF THE COLORADO ATTORNEY GENERAL By: _____ MARTHA U. FULFORD Administrator First Assistant Attorney General 1300 Broadway, 6th Floor Denver, CO 80203 Date: _____
AVANT, LLC By: _____ Roxy Bargoz General Counsel 222 N. LaSalle St., Ste. 1700 Chicago, IL 60601 Date: _____	WEBBANK By: _____ Kevin Leitao General Counsel 215 S. State St., 10th Floor Salt Lake City, UT 84111 Date: August 7, 2020

MARLETTE FUNDING, LLC By: Frank R. Borchert Frank Borchert Chief Legal Officer 1523 Concord Pike, Ste. 201 Wilmington, DE 19803 Date: 08/07/2020	CROSS RIVER BANK By: _____ Arlen Gelbard General Counsel 400 Kelby Street Fort Lee, NJ 07024 Date: _____
WILMINGTON TRUST, N.A., not in its individual capacity, but solely as trustee for certain trusts as identified in Exhibit B (AVANT) By: _____ Jennifer Luce Vice President 1100 North Market St. Wilmington, DE 19890 Date: _____	WILMINGTON SAVINGS FUND SOCIETY, FSB, not in its individual capacity, but solely as trustee for certain trusts as identified in Exhibit B (AVANT) By: _____ Mary Emily Pagano Assistant Vice President 500 Delaware Ave – 11th FL Wilmington, DE 19801 Date: _____

MARLETTE FUNDING, LLC By: _____ Frank Borchert Chief Legal Officer 1523 Concord Pike, Ste. 201 Wilmington, DE 19803 Date: _____	CROSS RIVER BANK By:  Arlen Gelbard General Counsel 400 Kelby Street Fort Lee, NJ 07024 Date: _____
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MARLETTE FUNDING, LLC By: _____ Frank Borchert Chief Legal Officer 1523 Concord Pike, Ste. 201 Wilmington, DE 19803 Date: _____	CROSS RIVER BANK By: _____ Arlen Gelbard General Counsel 400 Kelby Street Fort Lee, NJ 07024 Date: _____
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MARLETTE FUNDING, LLC By: _____ Frank Borchert Chief Legal Officer 1523 Concord Pike, Ste. 201 Wilmington, DE 19803 Date: _____	CROSS RIVER BANK By: _____ Arlen Gelbard General Counsel 400 Kelby Street Fort Lee, NJ 07024 Date: _____
WILMINGTON TRUST, N.A., not in its individual capacity, but solely as trustee for certain trusts as identified in Exhibit B (AVANT) By: _____ Jennifer Luce Vice President 1100 North Market St. Wilmington, DE 19890 Date: _____	WILMINGTON SAVINGS FUND SOCIETY, FSB, not in its individual capacity, but solely as trustee for certain trusts as identified in Exhibit B (AVANT) By: _____ Mary Emily Pagano Assistant Vice President 500 Delaware Ave – 11th FL Wilmington, DE 19801 Date: 08/07/2020

AVANT PB SPV, LLC By: DocuSigned by: Roxy Bargoz 8B4DF5946CD1419... Avant, LLC, as sole member Roxy Bargoz General Counsel 222 N. LaSalle St., Ste. 1700 Chicago, IL 60601 Date: _____	WILMINGTON TRUST, N.A., not in its individual capacity, but solely as trustee for certain trusts as identified in Exhibit B (MARLETTE) By: _____ Jennifer Luce Vice President 1100 North Market St. Wilmington, DE 19890 Date: _____
WILMINGTON SAVINGS FUND SOCIETY, FSB, not in its individual capacity, but solely as trustee for certain trusts as identified in Exhibit B (MARLETTE) By: _____ Mary Emily Pagano Assistant Vice President 500 Delaware Ave – 11th FL Wilmington, DE 19801 Date: _____	

AVANT PB SPV, LLC By: _____ Avant, LLC, as sole member Roxy Bargoz General Counsel 222 N. LaSalle St., Ste. 1700 Chicago, IL 60601 Date: _____	WILMINGTON TRUST, N.A., not in its individual capacity, but solely as trustee for certain trusts as identified in Exhibit B (MARLETTE) By: J. Luce Jennifer Luce Vice President 1100 North Market St. Wilmington, DE 19890 Date: _____
WILMINGTON SAVINGS FUND SOCIETY, FSB, not in its individual capacity, but solely as trustee for certain trusts as identified in Exhibit B (MARLETTE) By: _____ Mary Emily Pagano Assistant Vice President 500 Delaware Ave – 11th FL Wilmington, DE 19801 Date: _____	

AVANT PB SPV, LLC By: _____ Avant, LLC, as sole member Roxy Bargoz General Counsel 222 N. LaSalle St., Ste. 1700 Chicago, IL 60601 Date: _____	WILMINGTON TRUST, N.A., not in its individual capacity, but solely as trustee for certain trusts as identified in Exhibit B (MARLETTE) By: _____ Jennifer Luce Vice President 1100 North Market St. Wilmington, DE 19890 Date: _____
WILMINGTON SAVINGS FUND SOCIETY, FSB, not in its individual capacity, but solely as trustee for certain trusts as identified in Exhibit B (MARLETTE) By: _____ Mary Emily Pagano Assistant Vice President 500 Delaware Ave – 11th FL Wilmington, DE 19801 Date: 08/07/2020	

creating any liability on the Trustee Banks, individually or personally, to perform any covenant either expressed or implied contained in this AOD with respect to any such trust or trustee thereof, all such liability, if any, being expressly waived by the parties hereto and by any person claiming by, through or under the parties hereto, (d) the Trustee Banks have made no investigation as to the accuracy or completeness of any representations, warranties or statement made in this Agreement, and (e) under no circumstances shall the Trustee Banks be personally liable for the payment of any indebtedness or expenses contemplated by this AOD, or be liable for the breach or failure of any obligation, representation, warranty, statement, or covenant made or undertaken by any trust or other party to this AOD or any other related documents.

Executed by each of the parties as of the date first written above.

AVANT OF COLORADO, LLC By:_____ Avant, LLC, as sole member Roxy Bargoz General Counsel 222 N. LaSalle St., Ste. 1700 Chicago, IL 60601 Date: _____	COLORADO UNIFORM CONSUMER CREDIT CODE AND ON BEHALF OF THE COLORADO ATTORNEY GENERAL By: Martha U. Fulford MARTHA U. FULFORD Administrator First Assistant Attorney General 1300 Broadway, 6th Floor Denver, CO 80203 Date: August 7, 2020
AVANT, LLC By:_____ Roxy Bargoz General Counsel 222 N. LaSalle St., Ste. 1700 Chicago, IL 60601 Date: _____	WEBBANK By:_____ Kevin Leitao General Counsel 215 S. State St., 10th Floor Salt Lake City, UT 84111 Date: _____

EXHIBIT A

- Hardship Plan for Colorado Consumers:
    - Starting on August 18, 2020, and continuing for thirty (30) days, the Hardship Plan will be offered to any Colorado Specified Loan costumer who calls in and expresses hardship or an inability to pay their loan due to the coronavirus pandemic;
    - The Hardship Plan will be available to both current and delinquent Specified Loan consumers;
    - Under the Hardship Plan, a consumer may defer all installment payments due within sixty (60) days after enrollment (the "Relief Period") to the end of the loan (although Defendant FinTechs may choose, in their own discretion, to extend the 60-day period based on the status of the pandemic). The loan term will be extended by a corresponding sixty (60) days; and
    - Under the Hardship Plan, Credit Bureau Reporting for delinquent accounts will be suspended during the Relief Period.
- Helping Hand Plan for all Colorado Consumers:
    - Starting on August 18, 2020, and continuing for sixty (60) days (the "Helping Hand Period"), all late fees and nonsufficient funds fees will be waived by the Platform; and
    - No outbound collections activities will occur during the Helping Hand Period. This includes phone calls, emails, and text messages sent to consumers for collection purposes. Communications that offer loan extensions are permissible. Note that outbound contact for regular servicing activities (e.g., payment due date reminders, fraud messaging, statements, etc.) will not be paused.

EXHIBIT B

Wilmington Trust, N.A., enters into this AOD not in its individual capacity, but solely as trustee for the following trusts:

Marlette Litigation

1. Clover Consumer Loan Trust I
2. Clover Consumer Loan Trust II
3. Delaware Loan Purchase Trust-I
4. MF Trust 2015-B

Avant Litigation

5. ACL Consumer Loan Trust V
6. AMPLIT Trust 2015-A
7. Avant Credit III Trust
8. Avant Credit IV Trust
9. Avant Warehouse Trust I
10. Marketplace Loan Trust, Series 2015-AV1
11. Marketplace Loan Trust, Series 2015-AV2
12. JAVT

Wilmington Trust, N.A., previously served as trustee for Citi Held for Asset Issuance 2016-MF1 in the Marlette Litigation and Avant Loans Funding Grantor Trust 2015-A, Avant Capital Partnership I Trust, and Avant Credit V Trust in the Avant Litigation. Each of those trusts has been cancelled, and Wilmington Trust, N.A., does not enter into or execute this as trustee for such trusts.

Wilmington Savings Fund Society, FSB, enters into this AOD not in its individual capacity, but solely as trustee for the following trusts:

Marlette Litigation

1. Marlette Funding Trust 2017-1
2. CRB Acquisition Trust 2015-1
3. CVI MF Grantor Trust I
4. CVI MF Grantor Trust III
5. Hudson River Trust 2017-1
6. Hudson River Trust 2017-2
7. Hudson River Trust 2017-3
8. Hudson River Trust 2017-4
9. Marlette Funding Depositor Trust
10. Marlette Funding Trust
11. Marlette Funding Grantor Trust 2017-1
12. MF Trust 2015-A
13. Pacific Funding Trust 1005
14. QPL-MF Trust

Avant Litigation

15. Avant Loans Funding Grantor Trust 2016-A
16. Avant Loans Funding Grantor Trust 2016-B

Wilmington Savings Fund Society, FSB previously served as trustee for Marlette Funding Trust 2016-1, CVI MF Acquisition Trust, Marlette Funding Trust II, and Marlette Funding Grantor Trust 2016-1. Each of those trusts has been cancelled, and Wilmington Savings Fund Society, FSB does not enter into or execute this as trustee for such trusts.