<u>EXHIBIT 1</u>

Stipulation

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	Chapter 11
KServicing Wind Down Corp., *et al.*,[1]	Case No. 22-10951 (CTG)
Post-Confirmation Debtors.	(Jointly Administered)

STIPULATION BETWEEN
KSERVICING WIND DOWN CORPORATION
AND FIRST-CITIZENS BANK & TRUST COMPANY

KServicing Wind Down Corp. ("**KS Wind Down**") and First-Citizens Bank & Trust, successor by merger to CIT Bank, N.A. ("**First-Citizens**" and together with KS Wind Down, the "**Parties**"), stipulate and agree as follows:

WHEREAS on October 3, 2022 (the "**Petition Date**"), Kabbage, Inc. d/b/a KServicing ("**Kabbage**") and certain of its affiliates (collectively, the "**Debtors**") filed voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**");

WHEREAS prior to the Petition Date, Kabbage entered into a *Master Lease Agreement* ("**Master Lease**") with CIT Bank, N.A. ("**CIT**"), under which Kabbage leased computer equipment described in subsequently executed schedules (each, a "**Schedule**") from CIT. Kabbage subsequently executed five Schedules leasing the computer equipment (collectively, the

1 The post-confirmation Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable are: KServicing Wind Down Corp. (f/k/a Kabbage, Inc. d/b/a KServicing) (3937); KServicing Wind Down Canada Holdings LLC (f/k/a Kabbage Canada Holdings, LLC) (N/A); KServicing Wind Down Asset Securitization LLC (f/k/a Kabbage Asset Securitization LLC) (N/A); KServicing Wind Down Asset Funding 2017-A LLC (f/k/a Kabbage Asset Funding 2017-A LLC) (4803); KServicing Wind Down Asset Funding 2019-A LLC (f/k/a Kabbage Asset Funding 2019-A LLC) (8973); and KServicing Wind Down Diameter LLC (f/k/a Kabbage Diameter, LLC) (N/A). The Debtors' mailing and service address is KServicing Wind Down Corp. c/o Resolute Commercial Services, 6750 E. Camelback Road, Suite 103, Scottsdale, AZ 85251.

"**Equipment**"). Following entry into each Schedule, CIT filed UCC Financing Statements with Delaware Department of State, asserting a lien over the corresponding Equipment;[2]

WHEREAS on March 15, 2023, the Bankruptcy Court entered the *Order Confirming Amended Joint Chapter 11 Plan of Liquidation of Kabbage, Inc. (d/b/a KServicing)* [Doc 680] confirming the Debtors' chapter 11 plan (the "**Plan**"). Pursuant to Section 8.1 of the Plan, all executory contracts and unexpired leases were rejected as of the Effective Date of the Plan. The Effective Date, as defined in the Plan, occurred on June 20, 2023;

WHEREAS the Master Lease and Schedules were rejected as of the Effective Date;

WHEREAS First-Citizens filed the *Application for Administrative Expense Claim of $44,458.29 Arising Out of Equipment Leases* [Doc 924] (the "**Administrative Claim**" and together with the Proof of Claim, the "**First-Citizens Claim**");

WHEREAS pursuant to the Plan, the Wind Down Officer was appointed to administer the Debtors' estate. Under § 7.2 of the Plan, the Wind Down Officer has authority to compromise and settle disputed claims, subject to certain consent and consultation rights set forth in the Plan;

WHEREAS the Parties desire to consensually resolve all disputes between them, including those arising out of the Master Lease and Administrative Claim.

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED BY THE PARTIES THROUGH THEIR RESPECTIVE COUNSEL THAT:

1. The First-Citizens Claim will be allowed as (i) an administrative expense claim in the amount of $38,000 (the "**Allowed Administrative Claim**") and (ii) a non-priority, Class 4

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[2] Each of the Master Lease, the Schedules, and the UCC Financing statements are attached to the proofs of claim filed by First-Citizens in the bankruptcy case (the "**Proof of Claim**").

general unsecured claim in the amount of $6,458.29 (the "**Allowed General Unsecured Claim**" and together with the Allowed Administrative Claim, the "**Allowed Claims**").

2. First-Citizens waives and releases the right to assert any claim other than the Allowed Claims and waives the right to obtain any distribution against the KS Wind Down or the bankruptcy estate, other than as set forth in this Stipulation.

3. The claims register maintained in these chapter 11 cases will be updated to reflect this Stipulation.

4. First-Citizens releases all liens and interests in the Equipment.

5. KS Wind Down is entitled to possess the Equipment, and First-Citizens acknowledges that KS Wind Down is the owner of the Equipment.

6. KS Wind Down and First-Citizens agree that KS Wind Down takes possession of the Equipment "As is, Where is" and with all faults and First-Citizens makes no representations and hereby disclaims any representation or warranty with respect to the Equipment, including (a) warranty of merchantability; (b) warranty of fitness for a particular purpose; (c) warranty of title; or (d) warranty against infringement of intellectual property rights of a third party, whether arising by law, course of dealing, course of performance, usage of trade, or otherwise. KS Wind Down acknowledges that KS Wind Down has not relied on any representation or warranty made by First-Citizens or any other person on First-Citizens' behalf.

7. Except as specifically set forth in this Stipulation the Parties, on behalf of themselves and their respective affiliates, predecessors, and/or successors in interests, direct and indirect parent companies, direct and indirect subsidiary companies, companies under common control with any of the foregoing, affiliates, and assigns, and its and their past, present, and future officers, directors, trustees, shareholders, interest holders, members, partners, attorneys, agents,

employees, managers, representatives, assigns, and successors in interest, and all persons acting by, through, under, or in concert with them, and each of them, hereby release and discharge the other Party, together with their respective affiliates, predecessors, and/or successors in interests, direct and indirect parent companies, direct and indirect subsidiary companies, companies under common control with any of the foregoing, affiliates, and assigns, and its and their past, present, and future officers, directors, trustees, shareholders, interest holders, members, partners, attorneys, agents, employees, managers, representatives, assigns, and successors in interest, and all persons acting by, through, under, or in concert with them, from any and all claims, interests, obligations, rights, suits, damages, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing as of the date of this Stipulation arising from the Master Lease or the Schedules including but not limited to, claims arising from the negotiation of this Stipulation. This Stipulation resolves any claim for relief that is, or could have been alleged that arise out of the subject matter of the Proofs of Claim filed by First-Citizens, no matter how characterized, including, without limitation, compensatory damages, damages for breach of contract, bad faith damages, reliance damages, liquidated damages, damages for humiliation and embarrassment, punitive damages, costs, and attorneys' fees.

8. Each of the Parties represents and warrants that it has the authority to enter into this Agreement and to undertake the transactions contemplated under this Agreement.

9. This Stipulation may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, and it shall constitute sufficient proof of this Stipulation to present any copy, copies, electronic copies, or facsimiles signed by the Parties.

10. The Bankruptcy Court retains exclusive jurisdiction with respect to any disputes arising from or related to the implementation, interpretation, and enforcement of this Stipulation.

Dated: October 19, 2023

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