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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

MICHAEL SANDERS, Individually and on behalf of all others similarly situated,

Plaintiff,

v.

THE REALREAL, INC., *et al.*,

Defendants.

Case No: 5:19-cv-07737-EJD

CLASS ACTION

STIPULATION OF SETTLEMENT

This Stipulation of Settlement dated as of November 5, 2021 (together with all Exhibits hereto, “Stipulation”), which is entered into by Lead Plaintiff Michael Sanders and named plaintiffs Nubia Lorelle and Garth Wakeford (“Plaintiffs”), on behalf of themselves and the Settlement Class, and Defendant The RealReal, Inc. (“TRR” or “Company”); Defendants Julie Wainwright, Matt Gustke, Steve Lo, Chip Baird, Maha Ibrahim, Rob Krolik, Michael Kumin, Stefan Larsson, Niki Leondakis, and James Miller (“Individual Defendants”); and Defendants Credit Suisse Securities (USA) LLC, BofA Securities, Inc., UBS Securities LLC, KeyBanc Capital Markets Inc., Stifel, Nicolaus & Company, Cowen and Company, LLC, and Raymond James & Associates, Inc. (“Underwriter Defendants,” and collectively with TRR and the Individual Defendants, “Defendants”), through their undersigned attorneys, states all of the terms of the settlement and resolution of this matter by the Parties, and is intended by the Parties to fully and finally release, resolve, remise, and discharge the Released Claims (as defined herein) against the Released Parties (as defined herein), subject to the approval of the United States District Court for the Northern District of California (“Court”).

Throughout this Stipulation, all terms used with initial capitalization, but not immediately defined, shall have the meanings ascribed to them in Paragraph 1 below.

1 **WHEREAS:**

2 **A. Procedural History of the Action**

3 This Action was commenced on November 25, 2019, alleging violations of §§ 11,
4 12(a)(2), and 15 of the Securities Act of 1933 (“Securities Act”). Dkt. No. 1. On January 24, 2020,
5 Michael Sanders moved for appointment as lead plaintiff and approval of lead counsel. Dkt. No.
6 8. On February 12, 2020, the Court granted the motion and appointed Michael Sanders as Lead
7 Plaintiff and The Rosen Law Firm, P.A. as Lead Counsel. Dkt. No. 27.

8 On March 31, 2020, Plaintiffs filed an amended complaint, alleging two sets of claims:
9 (1) under Section 11 and 15 of the Securities Act (“Securities Act Claims”); and (2) claims under
10 Section 10(b) and 20(a) of the Exchange Act of 1934 (“Exchange Act”) (“Exchange Act Claims”).
11 Dkt. No. 31. TRR and the Individual Defendants filed a motion to dismiss the Amended
12 Complaint on May 15, 2020, which the Underwriter Defendants joined. Dkt. Nos. 32 and 35. The
13 motion to dismiss was fully briefed on July 30, 2020. Dkt. No. 40. On March 31, 2021, the Court
14 granted the motion to dismiss with respect to the Exchange Act Claims and some of the Securities
15 Act Claims, but denied the motion to dismiss with respect to the remaining Securities Act Claims.
16 Dkt. No. 43. The Court also granted Plaintiffs leave to amend. *Id.*

17 Plaintiffs filed the Second Amended Complaint on April 30, 2021, again alleging claims
18 under both the Securities Act and Exchange Act. Dkt. No. 46. On May 25, 2021, the Parties filed
19 a stipulation and proposed order, which the Court entered, staying the Underwriter Defendants’
20 time to answer the Second Amended Complaint until after an order on TRR and the Individual
21 Defendants’ contemplated motion to dismiss the Second Amended Complaint. Dkt. Nos. 47 and
22 48. On June 14, 2021, TRR and the Individual Defendants moved to dismiss the Exchange Act
23 Claims in the Second Amended Complaint. Dkt. No. 52. On July 28, 2021, the Parties filed a
24 stipulation and proposed order, which the Court entered, staying the remaining motion deadlines
25 because the Parties had agreed in principle to a settlement. Dkt. Nos. 55 and 56.

26 **B. The Settlement**

27 The Parties participated in an all-day private mediation before the Honorable Layn R.
28 Phillips (Ret.) on June 28, 2021. In connection with the mediation, the Parties exchanged detailed

1 mediation statements. Although the Parties were unable to resolve the matter at the mediation,
2 they continued settlement discussions under Judge Phillips's guidance over the following weeks.
3 Eventually, Judge Phillips proposed, and the Parties accepted, a mediator's proposal to resolve
4 the Action. The Parties reached an agreement in principle and executed a term sheet on July 26,
5 2021 to resolve the Action. This Stipulation memorializes the agreement between the Parties to
6 fully and finally settle the Action under the terms specified herein.

7 **C. Plaintiffs' Assessment of the Claims and Benefits of Settlement**

8 Plaintiffs believe that the claims asserted in the Action have merit. Plaintiffs recognize,
9 however, the expense and length of continued proceedings necessary to prosecute the Action
10 against Defendants through trial and appeals. Plaintiffs also understand the uncertain outcome
11 and the risk of any litigation. In particular, Plaintiffs have considered the inherent problems of
12 proof and possible defenses to the federal securities law violations asserted in the Action,
13 including the defenses that have been or could be asserted by Defendants during the litigation,
14 including on motions for summary judgment, a motion for class certification, and at trial.
15 Plaintiffs and Lead Counsel have therefore determined that the Settlement set forth in this
16 Stipulation is fair, adequate, reasonable, and in the best interests of the Settlement Class.

17 **D. Defendants' Denials of Wrongdoing and Liability**

18 Defendants have denied and continue to deny each and all of the claims asserted in the
19 Action and expressly deny, *inter alia*, that Defendants have engaged in any wrongdoing,
20 including, without limitation, that their public statements were false or misleading; that they have
21 committed any violations of law or breaches of duty to Plaintiffs, TRR shareholders, or anyone
22 else, or aided and abetted the same; that they failed to disclose any material information to
23 investors; that they acted in any deceitful manner or otherwise with the requisite scienter; and that
24 any investment losses sustained by Plaintiffs and the Settlement Class were caused by
25 Defendants' alleged misconduct. Defendants continue to believe that the claims asserted against
26 them in the Action are without merit, that their public statements during the Settlement Class
27 Period contained no material misstatements or omissions, and that they otherwise complied with
28

1 all applicable rules, regulations, and laws. Defendants continue to deny liability and this
2 Settlement shall not constitute an admission of liability or wrongdoing.

3 Nonetheless, taking into account the uncertainty and risks, expense, length of time, and
4 business distraction, among other things, inherent in any litigation, especially in complex
5 securities cases such as this Action, Defendants have concluded that further litigation of the
6 Action could be protracted, burdensome, and expensive, and that it is desirable and beneficial that
7 the claims asserted in the Action be fully and finally settled and terminated in the manner and
8 upon the terms and conditions set forth in this Stipulation.

9 **NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED** by and among
10 Plaintiffs (individually and on behalf of the Settlement Class), and Defendants, by and through
11 their respective undersigned counsel, subject to approval of the Court pursuant to Rule 23(e) of
12 the Federal Rules of Civil Procedure, that in consideration of the benefits flowing to the Parties
13 from the Settlement set forth herein, the Action and the Released Claims as against the Released
14 Parties shall be finally and fully compromised, settled and released, the Action shall be dismissed
15 with prejudice and the Released Claims shall be finally and fully released as against the Released
16 Parties, upon and subject to the terms and conditions of this Stipulation, as follows

17 **1. Definitions**

18 In addition to the terms defined above, the following capitalized terms, used in this
19 Stipulation, shall have the meanings specified below:

20 1.1 “Action” means the putative class action titled *Sanders v. The RealReal, Inc., et*
21 *al.*, Case No. 5:19-cv-07737-EJD (N.D. Cal.).

22 1.2 “Administrative Costs” means all costs and expenses associated with providing
23 notice of the Settlement to the Settlement Class and otherwise administering or carrying out the
24 terms of the Settlement. Such costs may include, without limitation: escrow agent costs, the costs
25 of publishing the summary notice, the costs of printing and mailing, and/or emailing of the Notice
26 and Proof of Claim, as directed by the Court, and the costs of allocating and distributing the Net
27 Settlement Fund to the Authorized Claimants. Such costs do not include legal fees.

1 1.3 “Authorized Claimant” means any member of the Settlement Class who is a
2 Claimant and whose claim for recovery has been allowed pursuant to the terms of this Stipulation,
3 the exhibits hereto, and any order of the Court.

4 1.4 “Business Day” means any day except a Saturday or Sunday or other day on which
5 national banks are authorized by law or executive order to close in the State of California.

6 1.5 “Claimant” means any Settlement Class Member who files a Proof of Claim in
7 such form and manner, and within such time, as the Court shall prescribe.

8 1.6 “Claims” means any and all manner of claims, debts, demands, controversies,
9 obligations, losses, costs, interest, penalties, fees, expenses, rights, duties, judgments, sums of
10 money, suits, contracts, agreements, promises, damages, actions, causes of action, and liabilities,
11 of every nature and description in law or equity (including, but not limited to, any claims for
12 damages, whether compensatory, special, incidental, consequential, punitive, exemplary or
13 otherwise, injunctive relief, declaratory relief, rescission or rescissionary damages, interest,
14 attorneys’ fees, expert or consulting fees, costs, or expenses), accrued or unaccrued, known or
15 unknown, arising under federal, state, common, administrative, or foreign law, or any other law,
16 rule, or regulation.

17 1.7 “Claims Administrator” means Strategic Claims Services, which shall administer
18 the Settlement.

19 1.8 “Compensatory Award” means the requested reimbursement to Plaintiffs for their
20 reasonable costs and expenses (including lost wages) directly related to Plaintiffs’ representation
21 of the Settlement Class in the Action.

22 1.9 “Court” means the United States District Court for the Northern District of
23 California.

24 1.10 “Defendants” means The RealReal, Inc., Julie Wainwright, Matt Gustke, Steve Lo,
25 Chip Baird, Maha Ibrahim, Rob Krolik, Michael Kumin, Stefan Larsson, Niki Leondakis, and
26 James Miller, Credit Suisse Securities (USA) LLC, BofA Securities, Inc., UBS Securities LLC,
27 KeyBanc Capital Markets Inc., Stifel, Nicolaus & Company, Cowen and Company, LLC, and
28 Raymond James & Associates, Inc.

1 1.11 “Defendants’ Counsel” means King & Spalding LLP and Paul Hastings LLP.

2 1.12 “Effective Date” shall have the meaning set forth in ¶ 11.1 of this Stipulation.

3 1.13 “Escrow Account” means an interest-bearing escrow account established by the
4 Escrow Agent at the Huntington National Bank. The Escrow Account shall be managed by the
5 Escrow Agent, subject to the Court’s supervisory authority, for the benefit of Plaintiffs and the
6 Settlement Class in accordance with the terms of the Stipulation and any order of the Court,
7 provided that, unless this Stipulation otherwise permits, no amount shall be withdrawn from the
8 Escrow Account prior to the Effective Date absent written approval of Defendants or their
9 counsel, or an order of the Court after notice to Defendants.

10 1.14 “Escrow Agent” means the Huntington National Bank. The Escrow Agent shall
11 perform the duties as set forth in this Stipulation and any order of the Court.

12 1.15 “Final,” when referring to the Final Judgment, means exhaustion of all possible
13 appeals, meaning (i) if no appeal or request for review is filed, the day after the date of expiration
14 of any time for appeal or review of the Final Judgment, and (ii) if an appeal or request for review
15 is filed, the day after the date the last-taken appeal or request for review is dismissed, or the Final
16 Judgment is upheld on appeal or review in all material respects and is not subject to further review
17 on appeal or by *certiorari* or otherwise; provided, however, that no order of the Court or
18 modification or reversal on appeal or any other order relating solely to the amount, payment, or
19 allocation of attorneys’ fees and expenses or to the Plan of Allocation shall constitute grounds for
20 cancellation or termination of this Settlement, or affect its terms, or shall affect or delay the date
21 on which the Final Judgment becomes Final.

22 1.16 “Final Judgment” means the order and final judgment to be entered by the Court
23 finally approving the Settlement, materially in the form attached hereto as Exhibit B.

24 1.17 “Lead Counsel” means The Rosen Law Firm, P.A.

25 1.18 “Long Notice” means the Notice of Pendency and Proposed Settlement of Class
26 Action, substantially in the form attached hereto as Exhibit A-1.

1 1.19 “Net Settlement Fund” means the Settlement Fund, less: (i) the Fee and Expense
2 Awards (as defined below); (ii) Administrative Costs; (iii) Taxes and Tax Expenses; (iv) any
3 Compensatory Award; and (v) other fees and expenses authorized by the Court.

4 1.20 “Notice” means collectively the Long Notice and the Summary Notice, which are
5 to be made available to Settlement Class Members substantially in the forms attached hereto as
6 Exhibits A-1 and A-3, respectively, on the Claims Administrator’s website and/or mailed or
7 emailed to Settlement Class Members.

8 1.21 “Opt-Out” means any one of, and “Opt-Outs” means all of, any Persons who
9 otherwise would be Settlement Class Members and have timely and validly requested exclusion
10 from the Settlement Class in accordance with the provisions of the Preliminary Approval Order
11 and the Notice given pursuant thereto.

12 1.22 “Party” means any one of, and “Parties” means all of, Plaintiffs (on behalf of
13 themselves and the Settlement Class) and Defendants.

14 1.23 “Person” means an individual, corporation, partnership, limited partnership,
15 association, joint stock company, estate, legal representative, trust, unincorporated association,
16 government or any political subdivision or agency thereof, and any business or legal entity and
17 their spouses, heirs, predecessors, successors, representatives, or assigns.

18 1.24 “Plaintiffs” means Lead Plaintiff Michael Sanders and named plaintiffs Nubia
19 Lorelle and Garth Wakeford.

20 1.25 “Plan of Allocation” means a plan or formula for allocating the Net Settlement
21 Fund to Authorized Claimants. Any Plan of Allocation is not a condition to the effectiveness of
22 this Stipulation, and the Released Parties shall have no responsibility or liability with respect
23 thereto.

24 1.26 “Preliminary Approval Order” means the order certifying the Settlement Class for
25 settlement purposes only, preliminarily approving the Settlement, and directing notice thereof to
26 the Settlement Class, substantially in the form of the proposed order attached hereto as Exhibit
27 A.

1 1.27 “Proof of Claim” means the Proof of Claim and Release Form to be submitted by
2 Claimants, substantially in the form attached hereto as Exhibit A-2.

3 1.28 “Related Parties” means, with respect to each Released Party, the immediate
4 family members, employees, officers, directors, attorneys, legal representatives, accountants,
5 insurers, reinsurers, and agents of each of them, and any person or entity which is or was related
6 to or affiliated with any Released Party or in which any Released Party has a controlling interest,
7 and their present and former parents, subsidiaries, variable interest entities, divisions, affiliates,
8 employees, officers, directors, attorneys, legal representatives, insurers, reinsurers, and agents,
9 and the predecessors, heirs, administrators, successors and assigns of the foregoing.

10 1.29 “Released Claims” means and includes any and all Claims and Unknown Claims
11 (as defined in ¶1.40) that have been or could have been asserted by or on behalf of any of the
12 Releasing Parties, in any capacity, which arise out of, are based upon, or relate in any way to the
13 purchase, acquisition, holding, sale, or disposition of TRR common stock during the Settlement
14 Class Period, including but not limited to any claims alleged in the Action and any claims related
15 to the allegations, facts, transactions, events, matters, occurrences, acts, disclosures, oral or
16 written statements, representations, omissions, failures to act, filings, publications,
17 disseminations, press releases, or presentations involved, related to, set forth, alleged or referred
18 to in the Action. Notwithstanding the foregoing, “Released Claims” does not include claims to
19 enforce the terms of this Stipulation or orders or judgments issued by the Court in connection
20 with this Settlement.

21 1.30 “Released Parties” means Defendants and each and all of their Related Parties,
22 their respective families, parent entities, associates, affiliates or subsidiaries, and each and all of
23 their respective past, present or future officers, directors, stockholders, agents, representatives,
24 employees, attorneys, financial or investment advisors, advisors, consultants, accountants,
25 investment bankers, commercial bankers, trustees, engineers, agents, insurers, co-insurers and
26 reinsurers, heirs, executors, general or limited partners or partnerships, personal or legal
27 representatives, estates, administrators, predecessors, successors and assigns.

1 1.31 “Releasing Parties” means Plaintiffs, Settlement Class Members, and each of their
2 respective parent entities, associates, affiliates, subsidiaries, predecessors, successors, assigns,
3 attorneys, immediate family members, heirs, representatives, administrators, executors, devisees,
4 legatees, and estates, whether or not they object to the Settlement set forth in this Stipulation, and
5 whether or not they make a claim for payment from the Net Settlement Fund.

6 1.32 “Settlement” means the settlement contemplated by this Stipulation.

7 1.33 “Settlement Amount” means the sum of eleven million U.S. dollars (\$11,000,000).
8 Other than the costs of providing notice pursuant to the Class Action Fairness Act, 28 U.S.C. §
9 1715 (“CAFA”) and costs for providing TRR’s transfer records, no additional payment shall be
10 made by the Defendants in connection with the Settlement, including for Administrative Costs,
11 Lead Counsel’s attorneys’ fees and expenses, Settlement Class Member benefits, or any other
12 costs, expenses, or fees of any kind whatsoever associated with the Settlement.

13 1.34 “Settlement Class” means all persons and entities who purchased TRR common
14 stock from June 27, 2019 through November 20, 2019, both dates inclusive and were damaged
15 thereby. Included in the Settlement Class are all Persons who purchased TRR common stock
16 pursuant to and/or traceable to TRR’s Registration Statement issued in connection with TRR’s
17 June 27, 2019 IPO and all persons and entities who purchased TRR common stock during the
18 Settlement Class Period at artificially inflated prices and were damaged thereby. Excluded from
19 the Settlement Class are: (a) persons who suffered no compensable losses; and (b) Defendants;
20 the present and former officers and directors of the Company at all relevant times; members of
21 their immediate families and their legal representatives, heirs, successors, or assigns, and any
22 entity in which any of the Defendants, or any person excluded under this subsection (b), has or
23 had a majority ownership interest at any time.

24 1.35 “Settlement Class Member” means any one of, and “Settlement Class Members”
25 means all of, the members of the Settlement Class.

26 1.36 “Settlement Class Period” means the period from June 27, 2019 through
27 November 20, 2019, both dates inclusive.

1 1.37 “Settlement Fund” means all funds transferred to the Escrow Account pursuant to
2 this Stipulation and any interest or other income earned thereon.

3 1.38 “Settlement Hearing” means the hearing at or after which the Court will make a
4 final decision pursuant to Rule 23 of the Federal Rules of Civil Procedure as to whether the
5 Settlement set forth in the Stipulation is fair, reasonable, and adequate, and therefore should
6 receive final approval from the Court.

7 1.39 “Summary Notice” means the Summary Notice of Pendency and Proposed
8 Settlement of Class Action that the Claims Administrator will cause to be published, substantially
9 in the form attached hereto as Exhibit A-3.

10 1.40 “Unknown Claims” means all Claims of every nature and description which
11 Plaintiffs or any Settlement Class Member do not know or suspect to exist in their favor at the
12 time of the release of the Released Parties which, if known by them, might have affected their
13 decision with respect to the settlement with and release of the Released Parties, including without
14 limitation any decision not to opt-out or object to this Settlement.

15 **2. Settlement Consideration**

16 **2.1** In consideration of the full and final settlement of all Released Claims against the
17 Released Parties: (i) within five days after the entry of the Preliminary Approval Order, Lead
18 Counsel, or the Escrow Agent, will provide complete wire and transfer information and
19 instructions and a completed Form W-9 for the Settlement Fund to TRR’s Counsel; and (ii) within
20 thirty days of the later of entry of the Preliminary Approval Order or receipt of payment
21 instructions from Lead Counsel or the Escrow Agent, TRR shall fund the Escrow Account, or
22 cause the Escrow Account to be funded, with the full Settlement Amount in cash.

23 **2.2** The obligations incurred pursuant to this Settlement shall be in full and final
24 disposition and settlement of all Released Claims. Plaintiffs and Settlement Class Members shall
25 look solely to the Settlement Fund as full, final, and complete satisfaction of all Released Claims.
26 Under no circumstances will the Released Parties be required to pay, or cause payment of, more
27 than the Settlement Amount pursuant to this Stipulation or the Settlement for any reason
28 whatsoever, including, without limitation, as Administrative Costs, as compensation to any

1 Settlement Class Member, as payment of Plaintiffs' or any Settlement Class Member's attorneys'
2 fees and expenses, or in payment of any fees, expenses, costs, liability, losses, Taxes (as defined
3 below), or damages whatsoever alleged or incurred by Plaintiffs, any Settlement Class Member
4 or Lead Counsel, including but not limited to their attorneys, experts, advisors, agents, or
5 representatives.

6 **3. Handling and Disbursement of Funds by the Escrow Agent**

7 **3.1** No monies will be disbursed from the Settlement Fund until after TRR has
8 completed payments except:

- 9 (a) As provided in ¶ 3.4 below;
10 (b) As provided in ¶ 5.7 below;
11 (c) As provided in ¶ 10.2 below, if applicable; and
12 (d) To pay Taxes and Tax Expenses (as defined in ¶ 4.1 below) on the income
13 earned by the Settlement Fund. Taxes and Tax Expenses shall be paid out of the
14 Settlement Fund and shall be considered to be a cost of administration of the
15 Settlement and shall be timely paid by the Escrow Agent without prior Order of
16 the Court.

17 **3.2** The Escrow Agent shall invest the Settlement Fund in short term instruments
18 backed by the full faith and credit of the United States Government or fully insured by the United
19 States Government or an agency thereof and shall reinvest the proceeds of these instruments as
20 they mature in similar instruments at their then-current market rates. The Escrow Agent shall bear
21 all responsibility and liability for managing the Escrow Account and cannot assign or delegate its
22 responsibilities without approval of the Parties. Defendants, their counsel, their insurers, and the
23 other Released Parties shall have no responsibility for, interest in, or any liability whatsoever with
24 respect to any investment or management decisions executed by the Escrow Agent. The
25 Settlement Fund shall bear all risks related to the investments of the Settlement Amount in
26 accordance with the guidelines set forth in this ¶ 3.2.

27 **3.3** The Escrow Agent shall not disburse the Settlement Fund except as provided in
28 this Stipulation, by an order of the Court, or with the written agreement of Defendants.

1 **3.4** At any time after the Court grants preliminary approval of the Settlement, the
2 Escrow Agent may, without further approval from Defendants or the Court, disburse at the
3 direction of Lead Counsel up to \$250,000 from the Settlement Fund prior to the Effective Date to
4 pay Administrative Costs. After the Effective Date, without further approval from the Court, the
5 Escrow Agent may disburse additional amounts up to a total of \$125,000 from the Settlement
6 Fund to pay for any necessary, additional Administrative Costs. For any additional Administrative
7 Costs above \$125,000, the Escrow Agent shall obtain Court approval. No payment from the
8 Settlement Fund, including, without limitation, any distributions from the Net Settlement Fund
9 or payments of any attorneys’ fees or Compensatory Award, shall in any event be made to any
10 Settlement Class Member (including Plaintiffs) or to Lead Counsel prior to the Effective Date.

11 **3.5** Defendants shall not bear any cost or responsibility for class notice and
12 administration expenses, except that Defendants shall pay the costs of providing TRR’s transfer
13 records and notice pursuant to the Class Action Fairness Act, 28 U.S.C. § 1715 et seq. (“CAFA”),
14 if any. In the event that the Settlement is not consummated, money reasonably paid or incurred
15 for this purpose, including any related fees, shall not be repaid or returned.

16 **4. Taxes**

17 **4.1** The Parties agree to treat the Settlement Fund as being at all times a “qualified
18 settlement fund” within the meaning of Treasury Regulation § 1.468B-1. In addition, Lead
19 Counsel or its designee shall timely make such elections as necessary or advisable to carry out
20 the provisions of this ¶4.1, including the “relation-back election” (as defined in Treasury
21 Regulation § 1.468B-1) back to the earliest permitted date. Such elections shall be made in
22 compliance with the procedures and requirements contained in such regulations. It shall be the
23 responsibility of Lead Counsel or its designee to timely and properly prepare and deliver the
24 necessary documentation for signature by all necessary parties, and thereafter to cause the
25 appropriate filing to occur.

26 **(a)** For purposes of § 1.468B of the Internal Revenue Code of 1986, as
27 amended, and Treasury Regulation § 1.468B-2(k)(3) promulgated thereunder, the
28 “administrator” shall be Lead Counsel or its designee. Lead Counsel or its

1 designee shall timely and properly file all informational and other tax returns
2 necessary or advisable with respect to the Settlement Fund (including without
3 limitation the returns described in Treasury Regulation § 1.468B-2(k)). Such
4 returns (as well as the election described in this ¶ 4.1) shall be consistent with this
5 ¶ 4.1 and in all events shall reflect that all Taxes (including any estimated Taxes,
6 interest or penalties) on the income earned by the Settlement Fund shall be paid
7 out of the Settlement Fund.

8 **(b)** All Taxes (including any estimated Taxes, interest or penalties) arising
9 with respect to the income earned by the Settlement Fund, including any Taxes or
10 tax detriments that may be imposed upon the Released Parties with respect to any
11 income earned by the Settlement Fund for any period during which the Settlement
12 Fund does not qualify as a “qualified settlement fund” for federal or state income
13 tax purposes (“Taxes”), and all expenses and costs incurred in connection with the
14 operation and implementation of this ¶ 4.1 (including, without limitation, expenses
15 of tax attorneys and/or accountants and mailing and distribution costs and
16 expenses or penalties relating to filing (or failing to file) the returns described in
17 this ¶ 4.1) (“Tax Expenses”), shall be paid out of the Settlement Fund, as
18 appropriate.

19 **(c)** The Released Parties shall have no liability or responsibility for the Taxes
20 or the Tax Expenses. Taxes and Tax Expenses shall be treated as, and considered
21 to be, a cost of administration of the Settlement and shall be timely paid out of the
22 Settlement Fund without prior order from the Court.

23 **(d)** The Escrow Agent shall be obligated (notwithstanding anything herein to
24 the contrary) to withhold from distribution to Authorized Claimants any funds
25 necessary to pay such amounts, including the establishment of adequate reserves
26 for any Taxes and Tax Expenses (as well as any amounts that may be withheld
27 under Treasury Regulation § 1.468B-2(1)(2)). The Released Parties shall have no
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1 responsibility for, interest in, or any liability whatsoever with respect to the
2 foregoing provided in this ¶ 4.1.

3 (e) The Parties agree to cooperate with each other, and their tax attorneys and
4 accountants, to the extent reasonably necessary to carry out the provisions of this
5 ¶ 4.1.

6 **5. Termination of Settlement**

7 **5.1** Plaintiffs, on behalf of the Settlement Class, and Defendants shall each have the
8 right to terminate the Settlement and Stipulation by providing written notice of their election to
9 do so (“Termination Notice”) to all other Parties within ten Business Days of:

10 (a) entry of a Court order declining to enter the Preliminary Approval Order
11 in any material respect without reasonable leave to amend;

12 (b) entry of a Court order refusing to approve this Stipulation in any material
13 respect without reasonable leave to amend;

14 (c) entry of a Court order declining to enter the Final Judgment in any material
15 respect, provided, however, that this Settlement is expressly not conditioned on
16 the Court’s approval of the proposed Plan of Allocation, nor on the Court’s
17 approval of Lead Counsel’s application for attorneys’ fees or expenses, nor on the
18 Court’s approval of any award to Plaintiffs for their reasonable costs and expenses,
19 and any change in the Final Judgment relating to these items shall not be
20 considered a material change; or

21 (d) entry of a Court order refusing to dismiss the Action with prejudice;

22 (e) entry of an order by which the Final Judgment is modified or reversed in
23 any material respect by any appeal or review; or

24 (f) failure on the part of any Party to abide, in material respect, with the terms
25 of this Stipulation.

26 **5.2** If the Settlement Amount is not paid into the Escrow Account in accordance with
27 ¶ 2.1 of this Stipulation, then Plaintiffs, on behalf of the Settlement Class, and not Defendants,
28 shall have the right to: (a) provide written notice to Defendants of the alleged non-compliance

1 and, if Defendants do not cure the alleged non-compliance within five Business Days, Plaintiffs
2 may terminate the Settlement and Stipulation by providing written notice to Defendants at any
3 time prior to the Court’s entry of the Final Judgment; or (b) enforce the terms of the Settlement
4 and this Stipulation and seek a judgment effecting the terms herein.

5 **5.3** If any Party engages in a material breach of the terms hereof, any other Party,
6 provided that it is in substantial compliance with the terms of this Stipulation, may terminate this
7 Stipulation on notice to all the Parties.

8 **5.4** If prior to Final Judgment, Persons who otherwise would be Settlement Class
9 Members have filed with the Court valid and timely requests for exclusion from the Settlement
10 Class in accordance with the provisions of the Preliminary Approval Order and the notice given
11 pursuant thereto (“Opt-Outs”), and such Persons in the aggregate purchased shares of TRR
12 common stock during the Settlement Class Period in an amount greater than the amount specified
13 in a separate Confidential Supplemental Agreement between the Parties (“Supplemental
14 Agreement”), then TRR shall have, in its sole and absolute discretion, the option to terminate this
15 Stipulation and Settlement in strict accordance with the requirements and procedures set forth in
16 the Supplemental Agreement. The Supplemental Agreement shall not be filed with the Court and
17 its terms shall not be disclosed in any other manner (other than the statements herein and in the
18 Notice, to the extent necessary, or as otherwise provided in the Supplemental Agreement), and
19 may only be disclosed *in camera* to the Court if (i) a dispute over the terms arises between the
20 Settling Parties and all Settling Parties consent to the disclosure; or (ii) if the Court otherwise
21 orders such disclosure.

22 **5.5** In the event the Stipulation shall be terminated, or be canceled, or shall not become
23 effective for any reason, the Parties and the Released Parties shall be restored to their respective
24 positions in the Action immediately prior to July 26, 2021, and they shall proceed in all respects
25 as if the Stipulation had not been executed and the related orders had not been entered, and, in
26 that event, all of their respective claims and defenses as to any issue in the Action shall be
27 preserved without prejudice.

1 **5.6** In the event that the Stipulation is not approved by the Court or the Settlement set
2 forth in this Stipulation is terminated or fails to become effective in accordance with its terms, the
3 terms and provisions of this Stipulation, except as otherwise provided herein, shall have no further
4 force and effect with respect to the Parties and shall not be used in the Action or in any other
5 proceeding for any purpose, and any judgment or order entered by the Court in accordance with
6 the terms of this Stipulation shall be treated as vacated, *nunc pro tunc*.

7 **5.7** In the event that the Stipulation shall be terminated, or be canceled, or is incapable
8 of becoming effective for any reason, within ten Business Days (except as otherwise provided in
9 the Supplemental Agreement) after the occurrence of such event, the Settlement Fund (less taxes
10 already paid and any Administrative Costs which have either been disbursed or are determined to
11 be chargeable) shall be refunded by the Escrow Agent to TRR, plus accrued interest attributable
12 to that amount by check or wire transfer pursuant to written instructions from TRR. At the request
13 of TRR the Escrow Agent or their designee shall apply for any tax refund owed on the Settlement
14 Fund and pay the proceeds, after deduction of any fees or expenses incurred in connection with
15 such application(s) for refund, to TRR pursuant to written direction received from TRR.

16 **5.8** No order of the Court or modification or reversal on appeal of any order of the
17 Court concerning the Plan of Allocation or the Fee and Expense Application shall constitute
18 grounds for cancellation or termination of the Stipulation.

19 **6. Class Certification**

20 **6.1** Solely for purposes of this Settlement, the Parties hereby stipulate to certification
21 of the Settlement Class, appointment of Plaintiffs as Class Representatives, and appointment of
22 Lead Counsel as Class Counsel, pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil
23 Procedure. The certification of the Settlement Class shall be binding only with respect to the
24 Settlement and only if the Final Judgment becomes Final. If the Court does not approve the
25 Settlement for any reason, Defendants reserve the right to oppose class certification, appointment
26 of any plaintiff as class representative, and/or appointment of class counsel in any future
27 proceedings.

1 **7. Preliminary Approval Order**

2 **7.1** Promptly after execution of this Stipulation, Lead Counsel shall submit this
3 Stipulation together with its exhibits to the Court and shall move for preliminary approval of the
4 Settlement, preliminary certification of the Settlement Class for settlement purposes, entry of a
5 Preliminary Approval Order, and approval for the dissemination of notice, substantially in the
6 form set forth in Exhibits A, A-1, A-2, and A-3.

7 **7.2** The Long Notice (Exhibit A-1) shall describe the Settlement; the proposed Plan of
8 Allocation; the requests for awards of attorneys' fees and expenses and the Compensatory Award;
9 the date of the Settlement Hearing; the procedure by which Settlement Class Members may object
10 to the Settlement or the Plan of Allocation or request to be excluded from the Settlement Class;
11 and Settlement Class Members' opportunity to file claims upon the Settlement Fund. The date
12 and time of the Settlement Hearing shall be added to the Notice before it is mailed or otherwise
13 provided to Settlement Class Members.

14 **7.3** At the time of the submission described in ¶ 7.1 hereof, Plaintiffs, through Lead
15 Counsel, shall request that, after the Notice is disseminated, the Court hold the Settlement Hearing
16 and (i) approve the Settlement as set forth herein and (ii) enter a final order and judgment
17 substantially in the form of Exhibit B hereto, as promptly after the Settlement Hearing as possible.

18 **7.4** No later than five Business Days after entry of the Preliminary Approval Order,
19 TRR shall obtain from its transfer agent, at Defendants' expense, a list of certificate or record
20 holders who may have purchased shares of TRR common stock during the Settlement Class
21 Period. TRR shall provide, or cause its transfer agent to provide, to the Claims Administrator a
22 list of the names, addresses, and email addresses (if email addresses are available) of the record
23 owners of TRR common stock during the Settlement Class Period in a usable electronic format,
24 such as an Excel spreadsheet. Any information provided to Lead Counsel by the Company
25 pursuant to this paragraph shall be treated as confidential and will be used by Lead Counsel and
26 the Claims Administrator solely to disseminate notice, apprise Settlement Class Members of the
27 Settlement, and/or implement the Settlement.

1 **7.5** The Stipulation of Settlement, Notice, Proof of Claim, and all papers submitted in
2 support thereof shall be posted on a website to be maintained by the Claims Administrator.

3 **7.6** No later than ten days following the filing of this Stipulation with the Court, TRR
4 shall serve on behalf of all Defendants the notice required under CAFA. At least seven days before
5 the Settlement Hearing, TRR shall cause to be served on Lead Counsel and filed with the Court
6 an affidavit or declaration regarding compliance with the CAFA notice requirements.

7 **8. Releases and Covenants Not to Sue**

8 **8.1** Upon the Effective Date, the Releasing Parties, regardless of whether any such
9 Releasing Party ever seeks or obtains by any means, including without limitation by submitting a
10 Proof of Claim, any disbursement from the Settlement Fund, shall be deemed to have, and by
11 operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and
12 discharged all Released Claims against the Released Parties and shall have covenanted not to sue
13 the Released Parties with respect to all such Released Claims, and shall be permanently barred
14 and enjoined from asserting, commencing, prosecuting, instituting, assisting, instigating, or in
15 any way participating in the commencement or prosecution of any action or other proceeding, in
16 any forum, asserting any Released Claim, in any capacity, against any of the Released Parties,
17 and agree and covenant not to sue any of the Released Parties on the basis of the Released Claims
18 or to assist any third party in commencing or maintaining any suit against the Released Parties
19 related to any Released Claims. For the avoidance of doubt, Defendants are released from any
20 and all claims for contribution or indemnity, as would otherwise be allowed by Section 21D of
21 the Exchange Act, 15 U.S.C. §78u-4(f)(7). Nothing contained herein shall, however, bar the
22 Releasing Parties from bringing any action or claim to enforce the terms of this Stipulation or the
23 Final Judgment. Nor shall anything contained herein limit or release any claims Defendants may
24 have with regard to insurance coverage that may be available to them under any applicable policy.

25 **8.2** With respect to any and all Released Claims, upon the Effective Date, Plaintiffs
26 and the Released Parties shall expressly waive, and each of the Settlement Class Members shall
27 be deemed to have waived, and by operation of the Final Judgment shall have waived, the
28 provisions, rights, and benefits of California Civil Code § 1542, which provides:

1 A general release does not extend to claims that the creditor or
2 releasing party does not know or suspect to exist in his or her favor
3 at the time of executing the release and that, if known by him or
4 her, would have materially affected his or her settlement with the
5 debtor or released party.

6 **8.3** With respect to any and all Released Claims, Plaintiffs and the Released Parties
7 shall expressly waive and each of the Settlement Class Members shall be deemed to have waived,
8 and by operation of the Final Judgment shall have waived, any and all provisions, rights and
9 benefits conferred by any law of any state, territory, foreign country or principle of common law,
10 which is similar, comparable or equivalent to California Civil Code § 1542. Plaintiffs, the
11 Released Parties and/or one or more Settlement Class Members may hereafter discover facts in
12 addition to or different from those which he, she or it now knows or believes to be true with
13 respect to the Released Claims, but Plaintiffs and the Released Parties shall expressly fully, finally
14 and forever settle and release, and each Settlement Class Member, upon the Effective Date, shall
15 be deemed to have, and by operation of the Final Judgment shall have, fully, finally and forever
16 settled and released, any and all Released Claims, known or unknown, suspected or unsuspected,
17 contingent or noncontingent, whether or not concealed or hidden, which now exist, or heretofore
18 have existed, upon any theory of law or equity now existing or coming into existence in the future,
19 including, but not limited to, conduct which is negligent, intentional, with or without malice, or a
20 breach of fiduciary duty, law or rule, without regard to the subsequent discovery or existence of
21 such different or additional facts. Plaintiffs and the Released Parties acknowledge, and the
22 Settlement Class Members shall be deemed by operation of the Final Judgment to have
23 acknowledged, that the foregoing waiver was separately bargained for and a key element of the
24 Settlement of which this release is a part.

25 **8.4** Upon the Effective Date, the Released Parties shall be deemed to have, and by
26 operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and
27 discharged all claims they may have against the Releasing Parties, including Settlement Class
28 Members and Lead Counsel, related to the prosecution of the Action or any other known or
unknown counter-claim related thereto and shall have covenanted not to sue the Releasing Parties,

1 including Settlement Class Members and Lead Counsel, with respect to any counter claim, claim,
2 or sanction related to the Released Claims, and shall be permanently barred and enjoined from
3 asserting, commencing, prosecuting, instituting, assisting, instigating, or in any way participating
4 in the commencement or prosecution of any action or other proceeding, in any forum, asserting
5 any such claim, in any capacity, against any of the Releasing Parties, including Settlement Class
6 Members and Lead Counsel, and agree and covenant not to sue any of the Releasing Parties,
7 including Settlement Class Members and Lead Counsel, on the basis of any such claim or to assist
8 any third party in commencing or maintaining any suit against the Releasing Parties related to
9 any such claim. Nothing contained herein shall, however, bar the Released Parties from bringing
10 any action or claim to enforce the terms of this Stipulation or the Final Judgment.

11 **8.5** The releases provided in this Stipulation shall become effective immediately upon
12 occurrence of the Effective Date without the need for any further action, notice, condition, or
13 event. Plaintiffs and Settlement Class Members shall be deemed to acknowledge that, as of the
14 Effective Date, the releases given herein shall become effective immediately by operation of the
15 Final Judgment and shall be permanent, absolute, and unconditional.

16 **9. Administration and Calculation of Claims, Final Awards, and Supervision**
17 **and Distribution of the Settlement Fund**

18 **9.1** Under the supervision of Lead Counsel, acting on behalf of the Settlement Class,
19 and subject to such supervision and direction of the Court as may be necessary or as circumstances
20 may require, the Claims Administrator shall administer and calculate the claims submitted by
21 Settlement Class Members and shall oversee distribution of the Net Settlement Fund to
22 Authorized Claimants. After the Effective Date, Lead Counsel shall apply to the Court, on notice
23 to the Parties, for the Settlement Fund Distribution Order.

24 **9.2** The Settlement Fund shall be applied as follows:

- 25 (a) To pay the Taxes and Tax Expenses described in ¶ 4.1 above;
26 (b) To pay Administrative Costs;
27 (c) To pay Lead Counsel's attorneys' fees with interest and expenses and
28 Compensatory Award, to the extent allowed by the Court; and

1 **(d)** Upon court approval, to distribute the balance of the Net Settlement Fund
2 to the Authorized Claimants as allowed by this Stipulation, the Plan of
3 Allocation, or the Court.

4 **9.3** Upon and after the Effective Date, the Net Settlement Fund shall be distributed to
5 Authorized Claimants in accordance with the terms of the Plan of Allocation set forth in the Long
6 Notice and any orders of the Court. No Person shall have any claims against Lead Counsel, the
7 Claims Administrator, or any other agent designated by Lead Counsel based on distribution
8 determinations or claim rejections made substantially in accordance with this Stipulation and the
9 Settlement contained herein, the Plan of Allocation, or orders of the Court. Lead Counsel shall
10 have the right, but not the obligation, to waive what it deems to be formal or technical defects in
11 any Proofs of Claim filed, where doing so is in the interest of achieving substantial justice.

12 **9.4** This is not a claims-made settlement, and if all conditions of the Stipulation are
13 satisfied and the Final Judgment becomes Final, no portion of the Settlement Fund will be
14 returned to TRR. Defendants, their counsel, their Insurers, and the other Released Parties shall
15 have no responsibility for, involvement in, interest in, or liability whatsoever with respect to the
16 investment or distribution of the Net Settlement Fund, the Plan of Allocation, the determination,
17 administration, or calculation of claims, the payment or withholding of Taxes or Tax Expenses,
18 or any losses incurred in connection therewith.

19 **9.5** The Claims Administrator shall administer the Settlement subject to the
20 jurisdiction of the Court and pursuant to this Stipulation and the Plan of Allocation. Plaintiffs and
21 Lead Counsel shall be solely responsible for formulation of the Plan of Allocation. It is understood
22 and agreed by the Parties that any proposed Plan of Allocation of the Net Settlement Fund
23 including, but not limited to, any adjustments to an Authorized Claimant's claim set forth therein,
24 is not a condition of this Stipulation and is to be considered by the Court separately from the
25 Court's consideration of the fairness, reasonableness, and adequacy of the Settlement. Any order
26 or proceedings relating to the Plan of Allocation, or any appeal from any order relating thereto or
27 reversal or modification thereof, shall not operate to modify, terminate or cancel this Stipulation,
28

1 or affect or delay the finality of the Final Judgment and the releases contained therein, or any
2 other orders entered pursuant to this Stipulation.

3 **9.6** Each Claimant shall be deemed to have submitted to the jurisdiction of the Court
4 with respect to the Claimant's claim, and the claim will be subject to investigation and discovery
5 under the Federal Rules of Civil Procedure, provided that such investigation and discovery shall
6 be limited to that Claimant's status as a Settlement Class Member and the validity of the amount
7 of the Claimant's claim. No discovery shall be allowed on the merits of the Action or Settlement
8 in conjunction with the processing of the Proofs of Claim.

9 **9.7** Payment pursuant to this Stipulation shall be deemed final and conclusive against
10 all Claimants. All Claimants whose claims are not approved by the Court shall be barred from
11 participating in the distribution from the Net Settlement Fund, but otherwise shall be bound by
12 all of the terms of this Stipulation and the Settlement, including the terms of the Final Judgment
13 to be entered in this Action and the releases provided for herein, and will be barred from bringing
14 any action against the Released Parties concerning the Released Claims.

15 **9.8** All proceedings with respect to the administration, processing, and determination
16 of claims and all controversies relating thereto, including disputed questions of law and fact with
17 respect to the validity of claims, shall be subject to the jurisdiction of this Court, but shall not
18 delay or affect the finality of the Final Judgment.

19 **9.9** Neither the Parties nor their counsel shall have any responsibility for or liability
20 whatsoever with respect to: (i) any act, omission, or determination of the Escrow Agent or the
21 Claims Administrator, or any of their respective designees or agents, in connection with the
22 administration of the Settlement Fund or otherwise; (ii) the Plan of Allocation; (iii) the
23 determination, administration, calculation, or payment of any claims asserted against the
24 Settlement Fund; (iv) any losses suffered by, or fluctuations in the value of, the Settlement Fund;
25 or (v) the payment or withholding of any Taxes, expenses, and/or costs incurred in connection
26 with the taxation of the Settlement Fund or the filing of any returns.

1 **10. Attorneys' Fees and Expenses**

2 **10.1** Lead Counsel may submit an application or applications (“Fee and Expense
3 Application”) for distributions from the Settlement Fund to Lead Counsel for a Fee and Expense
4 Award consisting of: (i) an award of attorneys’ fees from the Settlement Fund; (ii) reimbursement
5 of actual costs and expenses, including the fees and expenses of any experts or consultants,
6 incurred in connection with prosecuting the Action; and (iii) a Compensatory Award to Plaintiffs.
7 Defendants shall take no position with respect to the Fee and Expense Application(s).

8 **10.2** Any attorneys’ fees and expenses awarded Lead Counsel by the Court shall be
9 paid to Lead Counsel from the Escrow Account within five Business Days of the date the Court
10 enters an order approving the Fee and Expense Award, notwithstanding the existence of any
11 timely filed objections to any Fee and Expense Award, or potential for appeal therefrom, or
12 collateral attack on the Settlement or any part thereof, and subject to Lead Counsel’s obligation
13 to make appropriate refunds or repayments to the Settlement Fund, plus interest earned thereon,
14 within ten Business Days, if and when the Settlement is terminated in accordance with its terms
15 or, as a result of any appeal and/or further proceedings on remand, or successful collateral attack,
16 the Fee and Expense Award is reduced.

17 **10.3** The procedure for, and allowance or disallowance by the Court of, the Fee and
18 Expense Application are not conditions of the Settlement set forth in this Stipulation and are to
19 be considered by the Court separately from the Court’s consideration of the fairness,
20 reasonableness, and adequacy of the Settlement. Any order of or proceeding relating to the Fee
21 and Expense Application, or any objection to, motion regarding, or appeal from any order or
22 proceeding relating thereto or reversal or modification thereof, shall not operate to modify,
23 terminate or cancel this Stipulation, or affect or delay the finality of the Final Judgment or the
24 releases contained therein or any other orders entered pursuant to this Stipulation.

25 **10.4** Any Fee and Expense Award paid to Lead Counsel or Compensatory Award to
26 Plaintiffs shall be paid solely from the Settlement Fund and shall reduce the settlement
27 consideration paid to the Settlement Class accordingly. Defendants shall not have any
28 responsibility for payment of Lead Counsel’s attorneys’ fees and expenses or other award to

1 Plaintiffs beyond the obligation of TRR to fund, or to cause to be funded, the Escrow Account
2 with the Settlement Amount as set forth in ¶2.1 above. The Released Parties shall have no
3 responsibility for, and no liability whatsoever with respect to, any payments to Lead Counsel,
4 Plaintiffs, the Settlement Class and/or any other Person who receives payment from the
5 Settlement Fund.

6 **11. Effective Date**

7 **11.1** The Effective Date of this Stipulation shall not occur unless and until each of the
8 following events occurs, and it shall be the date upon which the last in time of the following
9 events occurs:

- 10 (a) The Court has entered the Preliminary Approval Order attached hereto as
11 Exhibit A or an order containing materially the same terms;
12 (b) The Court has approved the Settlement, following notice to the Settlement
13 Class and the Settlement Hearing, and has entered the Final Judgment;
14 (c) The Action has been dismissed with prejudice; and
15 (d) The Final Judgment has become Final, as defined in ¶ 1.15 hereof.

16 **11.2** In the event that some or all of the conditions specified in ¶ 11.1 above are not
17 met, the Parties may agree in writing nevertheless to proceed with this Stipulation and Settlement

18 **11.3** Upon the occurrence of the Effective Date, any and all interest or right of
19 Defendants in or to the Settlement Fund, if any, shall be absolutely and forever extinguished,
20 except as set forth in this Stipulation.

21 **12. No Admission of Liability or Wrongdoing**

22 **12.1** The Parties covenant and agree that neither this Stipulation, whether or not
23 consummated, (nor the Settlement contained therein), nor any of its terms and provisions, nor any
24 of the negotiations, documents, or proceedings connected with them, is evidence, or an admission
25 or concession by any Party or their counsel, any Settlement Class Member, or any of the Released
26 Parties, of any fault, liability or wrongdoing whatsoever, as to any facts or claims alleged or
27 asserted or could have been alleged or asserted in the Action, or any other actions or proceedings,
28 or as to the validity or merit of any of the claims or defenses alleged or asserted in any such action

1 or proceeding. This Stipulation is not a finding or evidence of the validity or invalidity of any
2 claims or defenses alleged or asserted or could have been alleged or asserted in the Action, any
3 wrongdoing by any Party, Settlement Class Member, or any of the Released Parties, or any
4 damages or injury to any Party, Settlement Class Member, or any Released Parties. Neither this
5 Stipulation, nor any of the terms and provisions of this Stipulation, nor any of the negotiations or
6 proceedings in connection therewith, nor any of the documents or statements referred to herein or
7 therein, nor the Settlement, nor the fact of the Settlement, nor the Settlement proceedings, nor any
8 statement in connection therewith, (a) shall (i) be argued to be, used or construed as, offered or
9 received in evidence as, or otherwise constitute an admission, concession, presumption, proof,
10 evidence, or a finding of any, liability, fault, wrongdoing, injury or damages, or of any wrongful
11 conduct, acts or omissions on the part of any Released Party, or of any infirmity of any defense,
12 or of any damages to Plaintiffs or any other Settlement Class Member, or (ii) otherwise be used
13 to create or give rise to any inference or presumption against any of the Released Parties
14 concerning any fact or any purported liability, fault, or wrongdoing of the Released Parties or any
15 injury or damages to any person or entity, or (b) shall otherwise be admissible, referred to or used
16 in any proceeding of any nature, for any purpose whatsoever, other than such proceedings as may
17 be necessary to effectuate the provisions of this Stipulation; provided, however, that this
18 Stipulation, the documents related hereto, or the Final Judgment may be introduced in any
19 proceeding, whether in the Court or otherwise, as may be necessary to enforce the Settlement or
20 Final Judgment, to effectuate the liability protection granted them hereunder, to support a defense
21 or counterclaim based on principles of res judicata, collateral estoppel, release, good faith
22 settlement, judgment bar or reduction, offset or any other theory of claim preclusion or issue
23 preclusion or similar defense or counterclaim, or as otherwise required by law.

24 **12.2** Nothing in this Stipulation constitutes or reflects a waiver or release of any rights
25 or claims of any Defendant against his, her, or its insurers, or insurers' subsidiaries, predecessors,
26 successors, assigns, affiliates, or representatives. Nothing in this Stipulation constitutes or reflects
27 a waiver or release of any rights or claims relating to indemnification, advancement, or any
28

1 undertakings by an indemnified party to repay amounts advanced or paid by way of
2 indemnification or otherwise.

3 **13. Miscellaneous Provisions**

4 **13.1** Except in the event of the provision of a Termination Notice pursuant to ¶5 of this
5 Stipulation, the Parties shall take all actions necessary to consummate this agreement; and agree
6 to cooperate with each other to the extent reasonably necessary to effectuate and implement all
7 terms and conditions of the Stipulation.

8 **13.2** The Parties and their counsel represent that they will not encourage or otherwise
9 influence (or seek to influence) in any way whatsoever any Settlement Class Members to request
10 exclusion from, or object to, the Settlement.

11 **13.3** Each of the attorneys executing this Stipulation, any of its exhibits, or any related
12 settlement documents on behalf of any Party hereto hereby warrants and represents that he or she
13 has been duly empowered and authorized to do so by the Party he or she represents.

14 **13.4** Plaintiffs and Lead Counsel represent and warrant that Plaintiffs are Settlement
15 Class Members and none of Plaintiffs' claims or causes of action against one or more Defendants
16 in the Action, or referred to in this Stipulation, or that could have been alleged against one or
17 more Defendants in the Action have been assigned, encumbered or in any manner transferred in
18 whole or in part.

19 **13.5** This Stipulation constitutes the entire agreement between the Parties related to the
20 Settlement and supersedes any prior agreements. No representations, warranties, promises,
21 inducements or other statements have been made to or relied upon by any Party concerning this
22 Stipulation, other than the representations, warranties and covenants expressly set forth herein.
23 Plaintiffs, on behalf of themselves and the Settlement Class, acknowledge and agree that any and
24 all other representations and warranties of any kind or nature, express or implied, are specifically
25 disclaimed and were not relied upon in connection with this Stipulation. In entering this
26 Stipulation, the Parties relied solely upon their own knowledge and investigation. Except as
27 otherwise provided herein, each Party shall bear his, her, or its own costs.

1 **13.6** This Stipulation may not be modified or amended, nor may any of its provisions
2 be waived, except by a writing signed by all Parties or their counsel or their respective successors
3 in interest.

4 **13.7** This Stipulation shall be binding upon, and shall inure to the benefit of, the Parties
5 and their respective agents, successors, executors, heirs, and assigns.

6 **13.8** The Released Parties who do not appear on the signature lines below are
7 acknowledged and agreed to be third party beneficiaries of this Stipulation and Settlement.

8 **13.9** The headings herein are used for the purpose of convenience only and are not
9 meant to have legal effect.

10 **13.10** This Stipulation may be executed in any number of counterparts by any of the
11 signatories hereto and the transmission of an original signature page electronically (including by
12 facsimile or portable document format) shall constitute valid execution of the Stipulation as if all
13 signatories hereto had executed the same document. Copies of this Stipulation executed in
14 counterpart shall constitute one agreement.

15 **13.11** This Stipulation, the Settlement, and any all disputes arising out of or relating in
16 any way to this Stipulation, whether in contract, tort or otherwise, shall be governed by and
17 construed in accordance with the laws of the State of California without regard to conflict of laws
18 principles.

19 **13.12** Any claim or dispute among the Parties arising out of, relating to, or in connection
20 with the interpretation or implementation of the terms of the Stipulation prior to submission to
21 the Court shall be fully and finally determined by the Hon. Layn R. Phillips without any right of
22 appeal.

23 **13.13** The Court shall retain jurisdiction with respect to the implementation and
24 enforcement of the terms of this Stipulation, and all Parties hereto submit to the jurisdiction of
25 the Court for purposes of implementing and enforcing the Settlement embodied in this Stipulation.

26 **13.14** The Stipulation shall not be construed more strictly against one Party than another
27 merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one
28 of the Parties, it being recognized that it is the result of arm's-length negotiations between the

1 Parties, and all Parties have contributed substantially and materially to the preparation of this
2 Stipulation.

3 **13.15** All agreements by, between or among the Parties, their counsel and their other
4 advisors as to the confidentiality of information exchanged between or among them shall remain
5 in full force and effect, and shall survive the execution and any termination of this Stipulation and
6 the final consummation of the Settlement, if finally consummated, without regard to any of the
7 conditions of the Settlement.

8 **13.16** The Parties shall not assert or pursue any action, claim or rights that any Party
9 violated any provision of Rule 11 of the Federal Rules of Civil Procedure and/or the Private
10 Securities Litigation Reform Act of 1995 in connection with the Action, the Settlement, or the
11 Stipulation. The Parties agree that the Action was resolved in good faith following arm's-length
12 bargaining, in full compliance with applicable requirements of good faith litigation under the
13 Securities Exchange Act of 1934, Rule 11 of the Federal Rules of Civil Procedure, and/or the
14 Private Securities Litigation Reform Act of 1995.

15 **13.17** Any failure by any of the Parties to insist upon the strict performance by any other
16 Party of any of the provisions of the Stipulation shall not be deemed a waiver of any of the
17 provisions hereof, and such Party, notwithstanding such failure, shall have the right thereafter to
18 insist upon the strict performance of any and all of the provisions of this Stipulation to be
19 performed by the other Parties to this Stipulation.

20 **13.18** The waiver, express or implied, by any Party of any breach or default by any other
21 Party in the performance of such Party of its obligations under the Stipulation shall not be deemed
22 or construed to be a waiver of any other breach, whether prior, subsequent, or contemporaneous,
23 under this Stipulation.

24 **13.19** The Parties reserve the right, subject to the Court's approval, to make any
25 reasonable extensions of time that might be necessary to carry out any of the provisions of this
26 Stipulation.

27 **13.20** Whether or not this Stipulation is approved by the Court and whether or not the
28 settlement embodied in this Stipulation is consummated, the Parties and their counsel shall use

1 their best efforts to keep all negotiations, discussions, acts performed, agreements, drafts,
2 documents signed and proceedings had in connection with this Stipulation confidential.
3 Notwithstanding the foregoing, the Parties agree that this Stipulation may be filed publicly as part
4 of any motion for preliminary or final approval of the settlement.

5 **IN WITNESS WHEREOF**, the Parties have executed this Stipulation by their
6 undersigned counsel effective as of November 5, 2021.

7 **THE ROSEN LAW FIRM, P.A.**

8 

9 _____
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25 

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Attorneys for the Underwriter Defendants

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EXHIBIT A

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

MICHAEL SANDERS, Individually and on
behalf of all others similarly situated,

Plaintiff,

v.

THE REALREAL, INC., *et al.*,

Defendants.

Case No: 5:19-cv-07737-EJD

**[PROPOSED] ORDER PRELIMINARILY
APPROVING SETTLEMENT AND
PROVIDING FOR NOTICE**

CLASS ACTION

Hon. Edward J. Davila

1 WHEREAS, Lead Plaintiff Michael Sanders and named plaintiffs Nubia Lorelle and Garth
2 Wakeford (“Plaintiffs”) and Defendant The RealReal, Inc. (“TRR”); Defendants Julie
3 Wainwright, Matt Gustke, Steve Lo, Chip Baird, Maha Ibrahim, Rob Krolik, Michael Kumin,
4 Stefan Larsson, Niki Leondakis, and James Miller (“Individual Defendants”); and Defendants
5 Credit Suisse Securities (USA) LLC, BofA Securities, Inc., UBS Securities LLC, KeyBanc
6 Capital Markets Inc., Stifel, Nicolaus & Company, Cowen and Company, LLC, and Raymond
7 James & Associates, Inc. (“Underwriter Defendants,” and collectively with TRR and the
8 Individual Defendants, “Defendants”) have entered into the Stipulation of Settlement dated
9 November 5, 2021 (“Stipulation”), which is subject to review under Rule 23 of the Federal Rules
10 of Civil Procedure, and which, together with the exhibits annexed thereto, sets forth the terms and
11 conditions for the proposed settlement and dismissal with prejudice of the securities class action
12 pending before the Court titled, *Sanders v. The RealReal, Inc., et al.*, Case No. 5:19-cv-07737-
13 EJD (N.D. Cal.) (“Action”); and the Court having read and considered the Stipulation and the
14 exhibits thereto and submissions made relating thereto, and finding that substantial and sufficient
15 grounds exist for entering this Order; and the Parties having consented to the entry of this Order;

16 NOW, THEREFORE, IT IS HEREBY ORDERED, this ____ day of _____, 2021,
17 that:

- 18 1. Capitalized terms used herein have the meanings defined in the Stipulation.
- 19 2. Pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure and for
20 the purposes of the Settlement only, the Action is hereby preliminarily certified as a class action
21 on behalf of all persons and entities who purchased TRR common stock from June 27, 2019
22 through November 20, 2019, both dates inclusive, and were damaged thereby. Included in the
23 Settlement Class are all Persons who purchased TRR common stock pursuant to and/or traceable
24 to TRR’s Registration Statement issued in connection with TRR’s June 27, 2019 IPO and all
25 persons and entities who purchased TRR common stock during the Settlement Class Period at
26 artificially inflated prices and were damaged thereby. Excluded from the Class are: (a) persons
27 who suffered no compensable losses; and (b) Defendants; the present and former officers and
28 directors of the Company at all relevant times; members of their immediate families and their

1 legal representatives, heirs, successors, or assigns, and any entity in which any of the Defendants,
2 or any person excluded under this subsection (b), has or had a majority ownership interest at any
3 time.

4 3. This Court finds, preliminarily and for purposes of the Settlement of the Action
5 only, that the prerequisites for a class action under Rules 23(a) and (b)(3) of the Federal Rules of
6 Civil Procedure have been satisfied in that: (a) the number of Settlement Class Members is so
7 numerous that joinder of all members of the Settlement Class is impracticable; (b) there are
8 questions of law and fact common to the Settlement Class; (c) Plaintiffs' claims are typical of the
9 claims of the Settlement Class they seek to represent; (d) Plaintiffs fairly and adequately represent
10 the interests of the Settlement Class; (e) questions of law and fact common to the Settlement Class
11 predominate over any questions affecting only individual members of the Settlement Class; and
12 (f) a class action is superior to other available methods for the fair and efficient adjudication of
13 the Action.

14 4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, preliminarily and for
15 the purposes of the Settlement of the Action only, Plaintiffs are certified as the class
16 representatives on behalf of the Settlement Class ("Class Representatives") and Lead Counsel,
17 selected by Plaintiffs and previously appointed by the Court, is hereby appointed as class counsel
18 for the Settlement Class ("Class Counsel").

19 5. The Court finds that (a) the Settlement memorialized in the Stipulation resulted
20 from good faith, arm's length negotiations, and (b) the Settlement memorialized in the Stipulation
21 is sufficiently fair, reasonable, and adequate to the Settlement Class Members to warrant
22 providing notice of the Settlement to Settlement Class Members and to hold a Settlement Hearing.

23 6. The Court hereby preliminarily approves the Settlement, subject to further
24 consideration at a Settlement Hearing pursuant to Federal Rules of Civil Procedure 23(e), which
25 is hereby scheduled to be held before the Court on _____, 2022 at __:___ .m. for the
26 following purposes:

27 (a) to determine finally whether the applicable prerequisites for class action
28 treatment of the Action under Federal Rules of Civil Procedure 23(a) and (b) are satisfied;

1 (b) to determine finally whether the Settlement is fair, reasonable, and
2 adequate, and should be approved by the Court;

3 (c) to determine finally whether the Final Judgment, substantially in the form
4 of Exhibit B to the Stipulation, should be entered, dismissing the Action on the merits and
5 with prejudice, and to determine whether the release by the Releasing Parties of the
6 Released Claims against the Released Parties, as set forth in the Stipulation, should be
7 ordered, along with a permanent injunction barring efforts to prosecute or attempt to
8 prosecute any Released Claims extinguished by the release against any of the Released
9 Parties, as also set forth in the Stipulation;

10 (d) to determine finally whether the proposed Plan of Allocation for the
11 distribution of the Net Settlement Fund is fair and reasonable and should be approved by
12 the Court;

13 (e) to consider the applications of Class Counsel for awards of attorneys' fees
14 with interest and expenses to Class Counsel and Compensatory Award to Class
15 Representatives;

16 (f) to consider Settlement Class Members' objections to the Settlement, if any,
17 whether submitted previously in writing or presented orally at the Settlement Hearing by
18 Settlement Class Members (or by counsel on their behalf), provided that they give proper
19 notice that they intend to appear at the Settlement Hearing; and

20 (g) to rule upon such other matters as the Court may deem appropriate.

21 7. The Court reserves the right to adjourn the Settlement Hearing to a later date and
22 to approve the Settlement without modification, or with such modifications as may be agreed to
23 by the Parties, with or without further notice of any kind. The Court may decide to hold the
24 Settlement Hearing telephonically or by other virtual means without further notice. The Court
25 further reserves the right to enter its Final Judgment approving the Settlement and dismissing the
26 Action on the merits and with prejudice, regardless of whether it has approved the Plan of
27 Allocation or awarded attorneys' fees and expenses.

1 8. The Court reserves the right to approve the Settlement with such modifications as
2 may be agreed upon or consented to by the Parties and without further notice to the Settlement
3 Class where to do so would not impair Settlement Class Members' rights in a manner inconsistent
4 with Rule 23, other applicable rules or regulations, or due process of law.

5 9. The Court approves the form, substance, and requirements of (a) the Long Notice,
6 (b) the Summary Notice, and (c) the Proof of Claim, all of which are exhibits to the Stipulation.

7 10. Class Counsel has the authority to enter into the Settlement on behalf of Plaintiffs
8 and the Settlement Class and has the authority to act on behalf of the Settlement Class with respect
9 to all acts or consents required by or that may be given pursuant to the Stipulation or such other
10 acts that are reasonably necessary to consummate the Settlement.

11 11. Strategic Claims Services is appointed and approved as the Claims Administrator
12 to supervise and administer the notice procedure as well as the processing of claims.

13 12. The Escrow Agent may, at any time after entry of this Order and without further
14 approval from Defendants or the Court, disburse at the direction of Class Counsel up to \$250,000
15 from the Settlement Fund prior to the Effective Date to pay Administrative Costs. After the
16 Effective Date, additional amounts, up to \$125,000, may be transferred from the Settlement Fund
17 to pay for any necessary additional Administrative Costs without further order of the Court.

18 13. No later than five Business Days after entry of the Preliminary Approval Order,
19 TRR shall obtain from its transfer agent, at Defendants' expense, a list of certificate or record
20 holders who may have purchased shares of TRR common stock during the Settlement Class
21 Period. TRR shall provide, or cause its transfer agent to provide, to the Claims Administrator a
22 list of the names, addresses, and email addresses (if available) of the record owners of TRR
23 common stock during the Settlement Class Period in a usable electronic format, such as an Excel
24 spreadsheet. Any information provided to Lead Counsel by the Company pursuant to this
25 paragraph shall be treated as confidential and will be used by Lead Counsel and the Claims
26 Administrator solely to disseminate notice, apprise Settlement Class Members of the Settlement,
27 and/or implement the Settlement.

28

1 14. Within 30 days of the entry of this Order, Class Counsel, through the Claims
2 Administrator, shall either: (a) email links to the location of the Long Notice and Proof of Claim
3 to Settlement Class Members for whom the Claims Administrator is able to obtain email
4 addresses, substantially in the form annexed to the Stipulation as Exhibit A-1 and Exhibit A-2; or
5 (b) if no electronic mail address can be obtained, cause the Long Notice to be mailed, by first
6 class mail, postage prepaid, to Settlement Class Members who can be identified with reasonable
7 effort by Class Counsel, through the Claims Administrator.

8 15. Class Counsel, through the Claims Administrator, shall make all reasonable efforts
9 to give notice to nominees or custodians who held TRR common stock during the Settlement
10 Class Period as record owners but not as beneficial owners. Such nominees or custodians shall,
11 within 10 days of receipt of the notice, either: (i) request copies of the Long Notice sufficient to
12 send the Long Notice to all beneficial owners for whom they are nominee or custodian, and within
13 10 days after receipt thereof send copies to such beneficial owners; (ii) request links to the location
14 of the Long Notice and Proof of Claim and email the links to each beneficial owner for whom
15 they are nominee or custodian within 10 days after receipt thereof; or (iii) provide the Claims
16 Administrator with lists of the names, last known addresses, and email addresses (to the extent
17 known) of such beneficial owners, in which event the Claims Administrator shall promptly deliver
18 the Long Notice to such beneficial owners. If the Claims Administrator receives an email address,
19 it will send a link to the location of the Long Notice and Proof of Claim electronically. Nominees
20 or custodians who elect to email links to the Long Notice and Proof of Claim or send the Long
21 Notice to their beneficial owners shall send a written certification to the Claims Administrator
22 confirming that the mailing or emailing has been made as directed. Copies of the Long Notice
23 shall be made available to any nominee or custodian requesting same for the purpose of
24 distribution to beneficial owners. The Claims Administrator shall, if requested, reimburse
25 nominees or custodians out of the Settlement Fund solely for their reasonable out-of-pocket
26 expenses incurred in providing notice to beneficial owners, which expenses would not have been
27 incurred except for the providing names and addresses, of up to \$0.05 per name, address, and
28 email address provided to the Claims Administrator; up to \$0.05 per unit for each Long Notice

1 actually mailed, plus postage at the pre-sort rate used by the Claims Administrator; or up to \$0.05
2 per email notice sent, and subject to further order of this Court with respect to any dispute
3 concerning such reimbursement.

4 16. Class Counsel shall, at least seven days before the Settlement Hearing, serve upon
5 counsel for Defendants and file with the Court proof of the mailing of the Long Notice as required
6 by this Order.

7 17. Class Counsel, through the Claims Administrator, shall cause the Stipulation and
8 its exhibits, this Order, and a copy of the Long Notice and Proof of Claim to be posted on the
9 Claims Administrator's website within 16 days of the entry of this Order.

10 18. Class Counsel, through the Claims Administrator, shall cause the Summary Notice
11 to be published electronically once on the *GlobeNewswire* and in print once in the *Investor's*
12 *Business Daily* within 10 days after the Long Notice mailing or emailing links to the location of
13 the Long Notice and Proof of Claim. Class Counsel shall, at least seven days before the Settlement
14 Hearing, serve upon counsel for Defendants and file with the Court proof of publication of the
15 Summary Notice.

16 19. The forms and methods set forth herein of notifying the Settlement Class Members
17 of the Settlement and its terms and conditions meet the requirements of due process, Rule 23 of
18 the Federal Rules of Civil Procedure, and Section 21D(a)(7) of the Securities Exchange Act of
19 1934, 15 U.S.C. 78u-4(a)(7), as amended by the Private Securities Litigation Reform Act of 1995;
20 constitute the best notice practicable under the circumstances; and constitute due and sufficient
21 notice to all persons and entities entitled thereto. No Settlement Class Member will be relieved
22 from the terms and conditions of the Settlement, including the releases provided for therein, based
23 upon the contention or proof that such Settlement Class Member failed to receive actual or
24 adequate notice.

25 20. In order to be entitled to participate in recovery from the Net Settlement Fund after
26 the Effective Date, each Settlement Class Member shall take the following action and be subject
27 to the following conditions:
28

1 (a) A properly completed and executed Proof of Claim must be submitted to
2 the Claims Administrator: (a) electronically through the Claims Administrator's website,
3 www.strategicclaims.net/TRR, by 11:59 p.m. EST on _____, 2022; or (b) at the
4 Post Office Box indicated in the Notice, postmarked no later than _____, 2022
5 (30 days prior to the Settlement Hearing). Such deadline may be further extended by Order
6 of the Court. Each Proof of Claim shall be deemed to have been submitted when: (a) the
7 claim receives a confirmation notice from Strategic Claims Services for electronic
8 submissions; or (b) legibly postmarked (if properly addressed and mailed by first class
9 mail) provided such Proof of Claim is actually received before the filing of a motion for
10 an Order of the Court approving distribution of the Net Settlement Fund. Any Proof of
11 Claim submitted in any other manner shall be deemed to have been submitted when it was
12 actually received by the Claims Administrator at the address designated in the Notice.

13 (b) The Proof of Claim submitted by each Settlement Class Member must
14 satisfy the following conditions: (i) it must be properly completed, signed, and submitted
15 in a timely manner in accordance with the provisions of the preceding subparagraph; (ii)
16 it must be accompanied by adequate supporting documentation for the transactions
17 reported therein, in the form of broker confirmation slips, broker account statements, an
18 authorized statement from the broker containing the transactional information found in a
19 broker confirmation slip, or such other documentation as is deemed adequate by the
20 Claims Administrator or Class Counsel; (iii) if the person executing the Proof of Claim is
21 acting in a representative capacity, a certification of their current authority to act on behalf
22 of the Settlement Class Member must be provided with the Proof of Claim; and (iv) the
23 Proof of Claim must be complete and contain no material deletions or modifications of
24 any of the printed matter contained therein and must be signed under penalty of perjury.

25 (c) Once the Claims Administrator has considered a timely submitted Proof of
26 Claim, it shall determine whether such claim is valid, deficient, or rejected. For each claim
27 determined to be either deficient or rejected, the Claims Administrator shall send a
28 deficiency letter or rejection letter as appropriate, describing the basis on which the claim

1 was so determined. Persons who timely submit a Proof of Claim that is deficient or
2 otherwise rejected shall be afforded a reasonable time (at least 10 days) to cure such
3 deficiency, if it shall appear that such deficiency may be cured. If any Claimant whose
4 claim has been rejected in whole or in part wishes to contest such rejection, the Claimant
5 must, within 10 days after the date of mailing of the notice, serve upon the Claims
6 Administrator a notice and statement of reasons indicating the Claimant's ground for
7 contesting the rejection along with any supporting documentation, and requesting a review
8 thereof by the Court. If an issue concerning a claim cannot be otherwise resolved, Class
9 Counsel shall thereafter present the request for review to the Court.

10 (d) As part of the Proof of Claim, each Settlement Class Member shall submit
11 to the jurisdiction of the Court with respect to the claim submitted, and shall, upon the
12 Effective Date, release all claims as provided in the Stipulation. No discovery shall be
13 allowed on the merits of the Action or the Settlement in connection with processing of the
14 Proof of Claim, nor shall any discovery from or of Defendants be allowed on any topic.

15 21. All Settlement Class Members who do not submit valid and timely Proofs of Claim
16 will be forever barred from receiving any payments from the Net Settlement Fund but will in all
17 other respects be subject to and bound by the provisions of the Stipulation and the Final Judgment,
18 if entered.

19 22. Settlement Class Members shall be bound by all determinations and judgments in
20 the Action whether favorable or unfavorable, unless such Persons request exclusion from the
21 Settlement Class in a timely and proper manner, as hereinafter provided. A Settlement Class
22 Member wishing to make such request for exclusion from the Settlement shall mail it, in written
23 form, by first class mail, postage prepaid, or otherwise deliver it, so that it is received no later
24 than _____, 2022 (21 days prior to the Settlement Hearing) ("Exclusion Deadline"), to
25 the address listed in the Long Notice. In order to be valid, such request for exclusion must: (A)
26 indicate the name, address, phone number, and e-mail contact information (if any) of the Person
27 seeking exclusion, and state that the sender specifically "requests to be excluded from the
28 Settlement of *Sanders v. The RealReal, Inc., et al.*, Case No. 5:19-cv-07737-EJD (N.D. Cal.); and

1 (B) state the date, number of shares, and dollar amount of each TRR common stock purchase or
2 acquisition and, if applicable, each sale during the Settlement Class Period, as well as the number
3 of shares of TRR common stock held by the Person as of the opening and closing of the Settlement
4 Class Period. In order to be valid, such request for exclusion must be submitted with documentary
5 proof: (i) of each purchase or acquisition and, if applicable, sale transaction of TRR common
6 stock during the Settlement Class Period; and (ii) demonstrating the Person's status as a beneficial
7 owner of the TRR common stock. Any such request for exclusion must be signed and submitted
8 by the beneficial owner under penalty of perjury. The request for exclusion shall not be effective
9 unless it provides the required information, is legible, and is made within the time stated above,
10 or the exclusion is otherwise accepted by the Court. Class Counsel may contact any Person filing
11 a request for exclusion, or their attorney if one is designated, to discuss the request for exclusion.

12 23. The Claims Administrator shall provide all requests for exclusion and supporting
13 documentation submitted therewith (including untimely requests and revocations of requests) to
14 counsel for the Parties as soon as possible and no later than the Exclusion Deadline or upon the
15 receipt thereof (if later than the Exclusion Deadline). The Settlement Class will not include any
16 Person who delivers a valid and timely request for exclusion that has not been thereafter revoked.

17 24. Any Person that submits a request for exclusion may thereafter submit to the
18 Claims Administrator a written revocation of that request for exclusion, provided that it is
19 received no later than two Business Days before the Settlement Hearing, in which event that
20 Person will be included in the Settlement Class.

21 25. All Persons who submit a valid, timely, and unrevoked request for exclusion will
22 be forever barred from receiving any payments from the Net Settlement Fund.

23 26. The Court will consider comments and/or objections to the Settlement, the Plan of
24 Allocation, or the Fee and Expense Application, provided, however, that no Settlement Class
25 Member or other Person shall be heard or entitled to contest the approval of the terms and
26 conditions of the proposed Settlement, the Plan of Allocation, or the Fee and Expense
27 Application, or any other order relating thereto, unless, at least 21 days prior to the Settlement
28 Hearing Date, that Person has filed said objections, papers, and briefs with the Clerk of the Court,

1 U.S. District Court, Northern District of California, 280 South 1st Street, Room 2112, San Jose,
2 California 95113.

3 27. To be valid, any such objection must contain the Settlement Class Member's: (1)
4 name, address, and telephone number; (2) a list of all purchases and sales of TRR common stock
5 during the Settlement Class Period in order to show membership in the Settlement Class; (3) all
6 grounds for the objection, including any legal support known to the Settlement Class Member
7 and/or his, her, or its counsel; (4) the name, address and telephone number of all counsel who
8 represent the Settlement Class Member, including former or current counsel who may be entitled
9 to compensation in connection with the objection; and (5) the number of times the Settlement
10 Class Member and/or his, her, or its counsel has filed an objection to a class action settlement in
11 the last five years, the nature of each such objection in each case, the jurisdiction in each case,
12 and the name of the issuer of the security or seller of the product or service at issue in each case.
13 Attendance at the Settlement Hearing is not necessary, but Persons wishing to be heard orally in
14 opposition to the approval of the Stipulation, the Plan of Allocation, and/or the Fee and Expense
15 Application are required to indicate in their written objection (or in a separate writing that is
16 submitted in accordance with the deadline and instructions pertinent to the submission of a written
17 objection) that they intend to appear at the Settlement Hearing and identify any witnesses they
18 may call to testify or exhibits they intend to introduce into evidence at the Settlement Hearing.
19 Settlement Class Members do not need to appear at the Settlement Hearing or take any other
20 action to indicate their approval.

21 28. Any Settlement Class Member who does not object in the manner prescribed above
22 shall be deemed to have waived all such objections and shall forever be foreclosed from making
23 any objection to the fairness, adequacy, or reasonableness of the Settlement, the Judgment to be
24 entered approving the Settlement, the Plan of Allocation, and/or the Fee and Expense Application,
25 unless otherwise ordered by the Court; shall be bound by all the terms and provisions of the
26 Stipulation and by all proceedings, orders and judgments in the Action; and shall also be
27 foreclosed from appealing from any judgment or order entered in this Action.

28

1 29. The Court reserves the right to adjourn the Settlement Hearing without any further
2 notice other than entry of an Order on the Court’s docket and to approve the Settlement without
3 further notice to the Settlement Class Members.

4 30. All papers in support of the Settlement, the Plan of Allocation, and/or the Fee and
5 Expense Application shall be filed and served no later than 35 days before the Settlement Hearing.

6 31. Any submissions filed in response to any objections or in further support of the
7 Settlement, the Plan of Allocation, and/or the Fee and Expense Application shall be filed no later
8 than 14 days prior to the Settlement Hearing.

9 32. Defendants, their counsel, and other Released Parties shall have no responsibility
10 for, or liability with respect to, the Plan of Allocation or any application for attorneys’ fees and
11 interest, or expenses or payments to the Class Representative submitted by Class Counsel, and
12 such matters will be considered separately from the fairness, reasonableness, and adequacy of the
13 Settlement.

14 33. Pending final determination of whether the Settlement should be approved, all
15 Releasing Parties shall be enjoined from commencing, prosecuting, or attempting to prosecute
16 any Released Claims against any Released Party in any court or tribunal or proceeding. Unless
17 and until the Stipulation is cancelled and terminated pursuant to the Stipulation, all proceedings
18 in the Action, other than such proceedings as may be necessary to carry out the terms and
19 conditions of the Stipulation, are hereby stayed and suspended until further order of the Court.

20 34. All funds held by the Escrow Agent shall be deemed and considered to be in the
21 custody of the Court, and shall remain subject to the jurisdiction of the Court, until such time as
22 such funds shall be distributed or returned pursuant to the Stipulation and Plan of Allocation
23 and/or further order(s) of the Court.

24 35. Neither the Stipulation, nor any of its terms or provisions, nor any of the
25 negotiations or proceedings connected with it, shall be construed as an admission or concession
26 by Defendants, their counsel, or any of the other Released Parties of the truth of any of the
27 allegations in the Action, or of any liability, fault, or wrongdoing of any kind and shall not be
28 construed as, or deemed to be evidence of, or an admission or concession that Class

1 Representatives or any Settlement Class Members directly have suffered any damages, harm, or
2 loss. Further, neither the Stipulation, nor any of its terms or provisions, nor any of the negotiations
3 or proceedings connected with it, nor this Order shall be construed as an admission or concession
4 by Class Representatives of the validity of any factual or legal defense or of the infirmity of any
5 of the claims or facts alleged in the Action.

6 36. In the event the Settlement is not consummated in accordance with the terms of
7 the Stipulation, then the Stipulation and this Order (including any amendment(s) thereof, and
8 except as expressly provided in the Stipulation or by order of the Court) shall be null and void, of
9 no further force or effect, and without prejudice to any Party, and may not be introduced as
10 evidence or used in any action or proceeding by any Person against the Parties or the Released
11 Parties, and each Party shall be restored to his, her, or its respective litigation positions as they
12 existed prior to July 26, 2021, pursuant to the terms of the Stipulation.

13 37. The Court reserves the right to alter the time or the date of the Settlement Hearing
14 without further notice to the Settlement Class Members, provided that the time or the date of the
15 Settlement Hearing shall not be set at a time or date earlier than the time and date set forth in ¶ 6
16 above. The Court retains exclusive jurisdiction over the Action to consider all further matters
17 arising out of, or relating to, the Stipulation, including by way of illustration and not limitation,
18 any dispute concerning any Proof of Claim submitted and any future requests by one or more of
19 the Parties that the Judgment, the releases and/or the permanent injunction set forth in the
20 Stipulation be enforced.

21
22 Dated: _____, 2021

23
24 _____
25 HON. EDWARD J. DAVILA
26 UNITED STATES DISTRICT JUDGE
27
28

EXHIBIT A-1

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

MICHAEL SANDERS, Individually and on
behalf of all others similarly situated,

Plaintiff,

v.

THE REALREAL, INC., *et al.*,

Defendants.

Case No: 5:19-cv-07737-EJD

CLASS ACTION

**NOTICE OF PENDENCY AND
PROPOSED SETTLEMENT OF CLASS ACTION**

If you purchased The RealReal, Inc. (“TRR” or “Company”) common stock between June 27, 2019 and November 20, 2019, both dates inclusive (“Settlement Class Period”), you could get a payment from a class action settlement (“Settlement”).

Under law, a federal court has authorized this Notice. This is not attorney advertising.

- If approved by the Court, the Settlement will provide \$11,000,000 (“Settlement Amount”), plus interest as it accrues, minus attorneys’ fees, costs, administrative expenses, and net of any taxes on interest, to pay claims of investors who purchased TRR common stock during the Settlement Class Period.
- The approximate recovery, after deduction of attorneys’ fees and expenses approved by the Court, is an average of \$0.20 per damaged share of TRR common stock. This estimate is based on the assumptions set forth in the following two paragraphs. Your actual recovery, if any, will depend on the aggregate losses of all Settlement Class Members, the date(s) you purchased and sold TRR common stock, the purchase and sale prices, and the total number and amount of claims filed.
- Attorneys for Plaintiffs (“Lead Counsel”) intend to ask the Court to award them fees of up to 25% of the Settlement Amount, or \$2,750,000, reimbursement of litigation expenses of no more than \$75,000, and Compensatory Award to Plaintiffs not to exceed \$9,000 to Lead plaintiff, and \$4,000 each to the other named Plaintiffs, or \$17,000 total. Collectively, the attorneys’ fees and expenses and award to Lead Plaintiff are estimated to average \$0.07 per damaged share of TRR common stock. If approved by the Court, these amounts will be paid from the Settlement Fund.

- The Settlement represents an estimated average recovery of \$0.27 per damaged share of TRR common stock for the approximately 40.85 million damaged shares traded during the Settlement Class Period. Shares may have been traded more than once during the Settlement Class Period. This estimate solely reflects the average recovery per damaged share of TRR common stock. The indicated average recovery per share will be the total average recovery for all purchasers of that share. This is not an estimate of the actual recovery per share you should expect. Your actual recovery will depend on the aggregate losses of all Settlement Class Members, the date(s) you purchased and sold TRR common stock, and the total number of claims filed.
- The Settlement resolves the Action concerning whether TRR, individual defendants Julie Wainwright, Matt Gustke, Steve Lo, Chip Baird, Maha Ibrahim, Rob Krolik, Michael Kumin, Stefan Larsson, Niki Leondakis, and James Miller, and underwriter defendants Credit Suisse Securities (USA) LLC, BofA Securities, Inc., UBS Securities LLC, KeyBanc Capital Markets Inc., Stifel, Nicolaus & Company, Cowen and Company, LLC, and Raymond James & Associates, Inc. (“Defendants”) violated the federal securities laws by making misrepresentations and/or omissions of material fact in various filings with the U.S. Securities and Exchange Commission or in other public statements to the investing public. Defendants deny each and every claim and contention alleged in the Action and deny any misconduct or wrongdoing whatsoever, including by any of TRR’s officers, directors, or employees.
- Your legal rights will be affected whether you act or do not act. If you do not act, you may permanently forfeit your right to recover on this claim. Therefore, you should read this Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

SUBMIT A PROOF OF CLAIM FORM NO LATER THAN _____, 2022	The only way to get a payment.
EXCLUDE YOURSELF NO LATER THAN _____, 2022	Get no payment. This is the only option that allows you to be part of any other lawsuit against the Defendants about the legal claims in this case.
OBJECT NO LATER THAN _____, 2022	Write to the Court about why you do not like the settlement.
GO TO A HEARING ON _____, 2022	You may ask to speak in Court about the fairness of the Settlement.
DO NOTHING	Get no payment. Give up rights.

INQUIRIES

Please do not contact the Court regarding this notice. All inquiries concerning this Notice, the Proof of Claim form, or any other questions by Settlement Class Members should be directed to:

The RealReal, Inc. Securities Litigation
c/o Strategic Claims Services
P.O. Box 230
600 N. Jackson St., Ste. 205
Media, PA 19063
Tel.: 866-274-4004
Fax: 610-565-7985
Email: info@strategicclaims.net

or

Phillip Kim
THE ROSEN LAW FIRM, P.A.
275 Madison Avenue, 40th Floor
New York, NY 10016
Tel.: 212-686-1060
Fax: 212-202-3827
Email: pkim@rosenlegal.com

DEFINITIONS

All capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Stipulation of Settlement, dated November 5, 2021 (“Stipulation”).

COMMON QUESTIONS AND ANSWERS CONCERNING THE SETTLEMENT

1. Why did I get this Notice?

You or someone in your family may have purchased TRR common stock between June 27, 2019 and November 20, 2019, both dates inclusive.

2. What is this lawsuit about?

The case is known as *Sanders v. The RealReal, Inc., et al.*, Case No. 5:19-cv-07737-EJD (N.D. Cal.) (“Action”). The Action is pending in the United States District Court for the Northern District of California.

The Action involves Plaintiffs’ allegations that Defendants violated the federal securities laws by making false or misleading statements in TRR’s filings with the U.S. Securities and Exchange Commission or other public statements to investors. The Complaint asserts that the alleged misstatements or omissions artificially inflated the price of TRR common stock, and that the stock price dropped in response to certain subsequent disclosures. Defendants have denied and continue to deny the allegations in the Complaint and all charges of wrongdoing or liability against TRR or any of its officers, directors, or employees. The Settlement shall in no event be construed as, or deemed to be evidence of, an admission or concession by any of the Defendants with respect to any claim or any fault or wrongdoing or damage to the Settlement Class Members or any other person. The Settlement resolves all of the claims in the Action, as well as certain other claims or potential claims.

3. Why is this a class action?

In a class action, one or more persons and/or entities, called plaintiffs, sue on behalf of all persons and/or entities who have similar claims. All of these persons and/or entities are referred to collectively as a class, and these individual persons and/or entities are known as class members. One court resolves all of the issues for all class members, except for those class members who validly exclude themselves from the class.

4. Why is there a Settlement?

Plaintiffs and Defendants do not agree regarding the merits of Plaintiffs' allegations and Defendants' defenses with respect to liability or the average amount of damages per share, if any, that would be recoverable if Plaintiffs were to prevail at trial on each claim. The issues on which Plaintiffs and Defendants disagree include: (1) whether Defendants made any statements that were materially false or misleading or otherwise actionable under federal securities law; (2) whether Defendants acted with scienter; (3) to the extent any statements were materially false or misleading, whether any subsequent disclosures corrected any prior statements by Defendants; (4) the causes of the loss in the value of the stock; and (5) the amount of alleged damages, if any, that could be recovered at trial.

This matter has not gone to trial. Instead, Plaintiffs and Defendants have agreed to settle the case. Plaintiffs and Lead Counsel believe the Settlement is best for all Settlement Class Members because of the risks associated with continued litigation and the nature of the defenses Defendants would raise. Among the reasons that Plaintiffs and Lead Counsel believe the Settlement is fair is the fact that there is uncertainty about whether they would prevail on Defendants' motion to dismiss (or in any further stages of the case, including trial), whether they would be able to prevail on a motion for class certification, and whether they would be able to prove that the alleged misstatements and omissions actually caused the Settlement Class any damages, and the amount of damages, if any.

Even if Plaintiffs were to win at trial, and also prevail on any on appeal brought by Defendants, Plaintiffs might not be able to collect some, or all, of any judgment the class may be awarded. Moreover, litigation of this type is usually expensive, and it appears that, even if Plaintiffs' allegations were eventually found to be true, the total amount of damages to which Settlement Class Members would be entitled could be substantially reduced.

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

To be a Settlement Class Member, you must have purchased TRR common stock during the period between June 27, 2019 and November 20, 2019, both dates inclusive.

6. Are there exceptions to being included?

Yes. Excluded from the Settlement Class are (i) persons who suffered no compensable losses; (ii) persons who validly exclude themselves from the Settlement Class, as described below; (iii) Defendants; the present and former officers and directors of the Company at all relevant times; members of their immediate families and their legal representatives, heirs, successors, or assigns, and any entity in which any of the Defendants, or any person excluded under this subsection (iii), has or had a majority ownership interest at any time.

7. I am still not sure whether I am included.

If you are still not sure whether you are included, you can ask for free help. For more information, you can contact the Claims Administrator, Strategic Claims Services, by phone at (866) 274-4004 or by facsimile at (610) 565-7985, visit the website www.strategicclaims.net/TRR, or fill out and return the Proof of Claim described in Question 9, to see if you qualify.

8. What does the Settlement provide?

(a) What is the Settlement Fund?

The proposed Settlement provides that TRR pay \$11,000,000 into a Settlement Fund. The Settlement is subject to Court approval. Also, subject to the Court's approval, a portion of the Settlement Fund will be used to pay attorneys' fees and reasonable litigation expenses to Lead Counsel and any Compensatory Award to Plaintiffs for reimbursement of reasonable costs and expenses (including lost wages) directly relating to their representation of the Settlement Class. A portion of the Settlement Fund also will be used to pay taxes due on interest earned by the Settlement Fund, if necessary, and the notice and claims administration expenses permitted by the Court, including the costs of printing and mailing this Notice and the costs of publishing notice. After the foregoing deductions from the Settlement Fund have been made, the amount remaining (the "Net Settlement Fund") will be distributed according to the Plan of Allocation to Settlement Class Members who submit timely, valid Proof of Claim forms.

(b) What can I expect to receive under the proposed Settlement?

Your share of the Net Settlement Fund will or may depend on: (i) the number of claims filed; (ii) the dates you purchased and sold TRR common stock; (iii) the prices of your purchases and sales; (iv) the amount of administrative costs, including the costs of notice; and (v) the amount awarded by the Court to Plaintiffs and to Lead Counsel for attorneys' fees, costs, and expenses.

The Claims Administrator will determine each Settlement Class Member's *pro rata* share of the Net Settlement Fund based upon each Settlement Class Member's "Recognized Loss." The Recognized Loss formula is not intended to be an estimate of the amount that a Settlement Class Member might have been able to recover after a trial; it also is not an estimate of the amount that will be paid to Authorized Claimants pursuant to the Settlement. The Recognized Loss formula is the basis upon which the Net Settlement Fund will be proportionately allocated to the Settlement Class Members with valid claims.

The Net Settlement Fund will be distributed to Settlement Class Members who submit a Proof of Claim and whose claims for recovery are allowed by the Claims Administrator pursuant to the terms of the Stipulation or by order of the Court under the below Plan of Allocation ("Authorized Claimants"), which reflects Plaintiffs' contention that because of the alleged misrepresentations made by Defendants, the price of TRR common stock was artificially inflated during the relevant period and that certain subsequent disclosures

caused changes in the inflated price of TRR common stock. Defendants have denied these allegations.

PROPOSED PLAN OF ALLOCATION
OF THE NET SETTLEMENT FUND

The Plan of Allocation is a matter separate and apart from the proposed Settlement, and any decision by the Court concerning the Plan of Allocation shall not affect the validity or finality of the proposed Settlement. The Court may approve the Plan of Allocation with or without modifications agreed to among the parties, or another plan of allocation, without further notice to Settlement Class Members. Any orders regarding a modification of the Plan of Allocation will be posted to the Settlement Administrator's website, www.strategicclaims.net/TRR.

To the extent there are sufficient funds remaining in the Net Cash Settlement Amount, each Authorized Claimant will receive an amount equal to the Authorized Claimant's Recognized Loss. If, however, Net Cash Settlement Amount is not sufficient to permit payment of the total Recognized Loss of each Authorized Claimant, then each Authorized Claimant shall be paid the percentage of the Net Cash Settlement Amount that each Authorized Claimant's Recognized Loss bears to the total Recognized Losses of all Authorized Claimants (*i.e.*, "*pro rata* share"). Payment in this manner shall be deemed conclusive against all Authorized Claimants. No distribution will be made on a claim where the potential distribution amount is less than ten dollars (\$10.00) in cash.

If any of the Net Cash Settlement Amount remains by reason of uncashed checks, or otherwise, after the Settlement Administrator has made reasonable and diligent efforts to have Authorized Claimants who are entitled to participate in the distribution of the Net Cash Settlement Amount cash their distribution checks, then any balance remaining in the Net Settlement Fund six months after the initial distribution of such funds shall be used: (i) first, to pay any amounts mistakenly omitted from the initial distribution to Authorized Claimants or to pay any late, but otherwise valid and fully documented claims received after the cut-off date used to make the initial distribution, provided that such distributions to any late post-distribution claimants meet all of the other criteria for inclusion in the initial distribution, including the \$10.00 minimum check amount set forth in the Notice; (ii) second, to pay any additional Notice and Administrative Expenses incurred in administering the Settlement; and (iii) finally, to make a second distribution to Authorized Claimants who cashed their checks from the initial distribution and who would receive at least \$10.00 from such second distribution, after payment of the estimated costs or fees to be incurred in administering the Net Cash Settlement Amount and in making this second distribution, if such second distribution is economically feasible. If six months after such second distribution, if undertaken, or if such second distribution is not undertaken, any funds shall remain in the Net Cash Settlement Amount after the Settlement Administrator has made reasonable and diligent efforts to have Authorized Claimants who are entitled to participate in this Settlement cash their checks, any funds remaining in the Net Cash Settlement Amount shall be donated to the Investor Justice and Education Clinic at Howard University School of Law.

THE BASIS FOR CALCULATING YOUR RECOGNIZED LOSS:

Each Authorized Claimant shall be allocated a *pro rata* share of the Net Settlement Fund based on their Recognized Loss as compared to the total Recognized Losses of all Authorized Claimants.

- I) Recognized Loss for TRR common stock purchased in and/or traceable¹ to the June 27, 2019 Initial Public Offering (IPO)² during the traceable period from June 27, 2019 through September 24, 2019, both dates inclusive, shall be calculated as follows:
- A. For each share of common stock sold on or before October 22, 2019, the Recognized Loss per share shall be \$0.
 - B. For each share of share of common stock sold between October 23, 2019 to November 20, 2019, inclusive, the Recognized Loss shall be the *lesser* of: (1) the difference between the purchase price per share (not to exceed the \$20 IPO price per share) and the selling price per share; or (2) the inflation per share upon purchase (as set forth in Inflation Table A below) less the inflation per share upon sale (as set forth in Inflation Table A below); or (3) \$3.16³ per share.
 - C. For each share of common stock retained as of November 20, 2019⁴, the Recognized Loss shall be the *lesser* of (1) the difference between the purchase price per share (not to exceed the \$20 IPO price per share) and \$16.15⁵ per share; or (2) \$3.16 per share.
- II) Recognized Loss for TRR common stock purchased during the Settlement Class Period shall be calculated as follows, *in addition to* the Recognized Loss as calculated under section (I) above, if applicable (*i.e.*, for purchases made during the traceable period):
- A. For shares purchased during the Settlement Class Period and sold during the Settlement Class Period, the Recognized Loss per share shall be 20% of the *lesser* of: (1) the inflation per share upon purchase (as set forth in Inflation Table A below) less the inflation per share upon sale (as set forth in Inflation

¹ Only shares purchased from June 27, 2019 through September 24, 2019, both dates inclusive, are eligible shares purchased and traceable to the IPO. Shares purchased after September 24, 2019 (90 days after the IPO) are no longer traceable to the IPO.

² The filing date of TRR's IPO prospectus.

³ This represents the difference in TRR's IPO offering price of \$20 per share and the value of TRR's stock price on date of suit on November 25, 2019 of \$16.84 per share.

⁴ The last day of the Settlement Class Period.

⁵ This was the closing price per share on November 21, 2019, one day after the Settlement Class Period.

Table A below); or (2) the purchase price per share minus the sales price per share.

- B. For shares purchased or otherwise acquired during the Settlement Class Period and sold during the period November 21, 2019 through February 18, 2020, inclusive, the Recognized Loss shall be 20% of the *lesser* of: (1) the inflation per share upon purchase (as set forth in Inflation Table A below); or (2) the difference between the purchase price per share and the average closing stock price as of date of sale provided in Table B below.
- C. For shares purchased during the Settlement Class Period and retained as of the close of trading on February 18, 2020, the Recognized Loss shall be 20% of the *lesser* of: (1) the inflation per share upon purchase (as set forth in Inflation Table A below); or (2) the purchase price per share minus \$16.81⁶ per share.

INFLATION TABLE A	
Common Stock Purchased or Otherwise Acquired During the Settlement Class Period	
<u>Period</u>	<u>Inflation</u>
June 27, 2019 to October 22, 2019, inclusive	\$6.21 per share
October 23, 2019 to November 4, 2019, inclusive	\$4.27 per share
November 5, 2019	\$1.28 per share
November 6, 2019 to November 20, 2019, inclusive	\$0.64 per share
After November 20, 2019	\$0.00 per share

Table B

<u>Date</u>	<u>Closing Price</u>	<u>Average Closing Price</u>	<u>Date</u>	<u>Closing Price</u>	<u>Average Closing Price</u>
11/21/2019	\$16.15	\$16.15	1/7/2020	\$17.36	\$17.59
11/22/2019	\$16.36	\$16.26	1/8/2020	\$18.17	\$17.58
11/25/2019	\$16.84	\$16.45	1/9/2020	\$17.79	\$17.60
11/26/2019	\$16.64	\$16.50	1/10/2020	\$18.16	\$17.60
11/27/2019	\$17.47	\$16.69	1/13/2020	\$18.11	\$17.62
11/29/2019	\$17.20	\$16.78	1/14/2020	\$17.74	\$17.63
12/2/2019	\$16.00	\$16.67	1/15/2020	\$18.14	\$17.64

⁶ Pursuant to Section 21(D)(e)(1) of the Private Securities Litigation Reform Act of 1995, “in any private action arising under this title in which the plaintiff seeks to establish damages by reference to the market price of a security, the award of damages to the plaintiff shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the subject security and mean trading price of that security during the 90-day period beginning on the date on which the information correcting the misstatement or omission that is the basis for the action is disseminated.” \$16.81 per share was the mean (average) daily closing trading price of the Company’s common stock during the 90-day period beginning on November 21, 2019 through and including on February 18, 2020.

12/3/2019	\$16.30	\$16.62	1/16/2020	\$17.44	\$17.65
12/4/2019	\$17.34	\$16.70	1/17/2020	\$17.80	\$17.64
12/5/2019	\$16.82	\$16.71	1/21/2020	\$16.58	\$17.65
12/6/2019	\$17.65	\$16.80	1/22/2020	\$16.00	\$17.62
12/9/2019	\$17.47	\$16.85	1/23/2020	\$15.50	\$17.58
12/10/2019	\$16.97	\$16.86	1/24/2020	\$15.26	\$17.54
12/11/2019	\$17.08	\$16.88	1/27/2020	\$15.40	\$17.48
12/12/2019	\$18.57	\$16.99	1/28/2020	\$15.09	\$17.44
12/13/2019	\$18.60	\$17.09	1/29/2020	\$14.79	\$17.39
12/16/2019	\$18.30	\$17.16	1/30/2020	\$14.47	\$17.33
12/17/2019	\$17.43	\$17.18	1/31/2020	\$14.03	\$17.27
12/18/2019	\$17.70	\$17.20	2/3/2020	\$14.51	\$17.21
12/19/2019	\$18.22	\$17.26	2/4/2020	\$14.42	\$17.15
12/20/2019	\$18.58	\$17.32	2/5/2020	\$14.50	\$17.10
12/23/2019	\$18.15	\$17.36	2/6/2020	\$14.30	\$17.05
12/24/2019	\$17.81	\$17.38	2/7/2020	\$14.50	\$17.00
12/26/2019	\$18.08	\$17.41	2/10/2020	\$14.96	\$16.95
12/27/2019	\$18.32	\$17.44	2/11/2020	\$15.66	\$16.91
12/30/2019	\$18.05	\$17.47	2/12/2020	\$15.43	\$16.89
12/31/2019	\$18.85	\$17.52	2/13/2020	\$15.18	\$16.87
1/2/2020	\$17.87	\$17.53	2/14/2020	\$15.24	\$16.84
1/3/2020	\$18.44	\$17.56	2/18/2020	\$15.53	\$16.81
1/6/2020	\$17.86	\$17.57			

For purposes of calculating your Recognized Loss, the date of purchase or sale is the “contract” or “trade” date and not the “settlement” or “payment” date. The receipt or grant by gift, inheritance or operation of law of the Company’s company stock shall not be deemed a purchase or sale of the Company’s company stock for the calculation of an Authorized Claimant’s Recognized Loss.

For purposes of calculating your Recognized Loss, all purchases and sales shall be matched on a First In First Out (“FIFO”) basis in chronological order. Therefore, on the Proof of Claim enclosed with this Notice, you must provide all your purchases and sales of Company stock shares during the period from June 27, 2019 through and including February 18, 2020.

Payment pursuant to the Plan of Allocation approved by the Court shall be conclusive against all Authorized Claimants. No person shall have any claim against Defendants, Defendants’ Counsel, Lead Plaintiffs, Lead Counsel or the Settlement Administrator or other agent designated by Lead Counsel based on the distributions made substantially in accordance with the Stipulation and the Settlement contained therein, the Plan of Allocation, or further orders of the Court. Each claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to the claimant’s Proof of Claim. All persons

involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the claims submitted in connection with the Settlement, or otherwise involved in the administration or taxation of the Settlement Fund shall be released and discharged from any and all claims arising out of such involvement, and all Settlement Class Members, whether or not they are to receive payment from the Net Settlement Fund, will be barred from making any further claim against the Net Settlement Fund beyond the amount allocated to them as provided in any distribution orders entered by the Court.

9. How can I get a payment?

To qualify for a payment, you must send in a form entitled “Proof of Claim and Release Form.” This form is attached to this Notice. You may also obtain this form on the Internet at www.strategicclaims.net/TRR. Read the instructions carefully, fill out the form, sign it in the location indicated. The Proof of Claim and Release Form may be completed in two ways: (1) by completing and submitting it electronically at www.strategicclaims.net/TRR by 11:59 p.m. EST on _____, 2022; or (2) by mailing the Proof of Claim form together with all documentation requested in the form, postmarked no later than _____, 2022, to the Claims Administrator at:

The RealReal, Inc. Securities Litigation
c/o Strategic Claims Services
P.O. Box 230
600 N. Jackson St., Ste. 205
Media, PA 19063
Fax: 610-565-7985
info@strategicclaims.net

The Claims Administrator will process your claim and determine whether you are an Authorized Claimant.

10. What am I giving up to get a payment or stay in the Class?

Unless you exclude yourself from the Settlement Class by the _____, 2022 deadline, you will remain a member of the Settlement Class and will be bound by the release of claims against the Defendants and other Released Parties if the Settlement is approved. That means you and all other Settlement Class Members and each of their respective parent entities, associates, affiliates, subsidiaries, predecessors, successors, assigns, attorneys, immediate family members, heirs, representatives, administrators, executors, devisees, legatees, and estates will release (agreeing never to sue, continue to sue, or be part of any other lawsuit) as against the Defendants and other Released Parties any and all claims which arise out of, are based upon or relate in any way to the purchase of TRR common stock during the Settlement Class Period. It means that all of the Court’s orders will apply to you and legally bind you. That means you will accept a share of the Net Settlement Fund as the sole compensation for any losses you suffered in the purchase of TRR common stock during the Settlement Class Period. The specific terms of the release are included in the Stipulation.

11. How do I exclude myself from the Settlement?

If you do not want to receive a payment from this Settlement, and you want to keep any right you may have to sue or continue to sue Defendants on your own based on the legal claims raised in the Action, then you must take steps to get out of the Settlement. To exclude yourself from the Settlement, you must mail a letter that (A) clearly indicates your name, address, phone number and e-mail contact information (if any) and states that you “request to be excluded from the Settlement Class in *Sanders v. The RealReal, Inc., et al.*, Case No. 5:19-cv-07737 (N.D. Cal.),” and (B) states the date, number of shares and dollar amount of each TRR common stock purchase during the Settlement Class Period, and any sale transactions, and (C) the number of shares of TRR common stock held by you as of the opening and closing of the Settlement Class Period. To be valid, such request for exclusion must be submitted with documentary proof (i) of each purchase and, if applicable, sale transaction of TRR common stock during the Settlement Class Period, and (ii) demonstrating your status as a beneficial owner of the TRR common stock. Any such request for exclusion must be signed and submitted by you, as the beneficial owner, under penalty of perjury. You must mail your exclusion request, to be received no later than _____, 2022, to the Claims Administrator at the following address:

The RealReal, Inc. Securities Litigation
c/o Strategic Claims Services
P.O. Box 230
600 N. Jackson St., Ste. 205
Media, PA 19063

You cannot exclude yourself by telephone or by e-mail. If you properly exclude yourself, you will not receive a payment from the Net Settlement Fund, you cannot object to the Settlement, and you will not be legally bound by the Final Judgment in this case.

12. If I do not exclude myself, can I sue Defendants for the same thing later?

No. Unless you followed the procedure outlined in this Notice and the Court’s Preliminary Approval Order to exclude yourself, you give up any right to sue the Defendants or other Released Parties for the claims being released in this Settlement. If you have a pending lawsuit related to any Released Claims, speak to your lawyer in that case immediately, since you must exclude yourself from this Settlement Class to continue your own lawsuit.

13. Do I have a lawyer in this case?

The Court has appointed The Rosen Law Firm, P.A. as Lead Counsel to represent the Settlement Class Members. If you want to be represented by your own lawyer, you may hire one at your own expense. Contact information for The Rosen Law Firm, P.A. is provided above.

14. How will the lawyers be paid?

Lead Counsel have expended considerable time litigating this action on a contingent fee basis and have paid for the expenses of the case themselves. They have not been paid attorneys' fees or reimbursed for their expenses in advance of this Settlement. Lead Counsel have done so with the expectation that, if they are successful in recovering money for the Settlement Class, they will receive attorneys' fees and be reimbursed for their litigation expenses from the Settlement Fund, as is customary in this type of litigation. Lead Counsel will not receive attorneys' fees or be reimbursed for their litigation expenses except from the Settlement Fund. Therefore, Lead Counsel will file a motion asking the Court at the Settlement Hearing to make an award of attorneys' fees in an amount not to exceed 25% of the Settlement Fund, or \$2,750,000; for reimbursement of reasonable litigation expenses not to exceed \$75,000; and Compensatory Award to Plaintiffs in an amount not to exceed \$17,000 total (up to \$9,000 for Lead Plaintiff and up to \$4,000 each for the other named Plaintiffs). The Court may award less than these amounts. Any amounts awarded by the Court will come out of the Settlement Fund.

15. How do I tell the Court that I object to the Settlement?

You can ask the Court to deny approval by filing an objection to any part of the Settlement, or Lead Counsel's motion for attorneys' fees and expenses and application for a Compensatory Award to Plaintiffs and explaining that you think the Court should not approve the Settlement. You cannot ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object. To file an objection, you must mail a letter stating that you object to the Settlement in the matter of *Sanders v. The RealReal, Inc., et al.*, Case No. 5:19-cv-07737-EJD. Be sure to include: (1) your name, address, and telephone number; (2) a list of all purchases and sales of TRR Stock during the Settlement Class Period in order to show membership in the Settlement Class; (3) all grounds for the objection, including any legal support known to you or your counsel; (4) the name, address, and telephone number of all counsel, if any, who represent you, including your former or current counsel who may be entitled to compensation in connection with the objection; and (5) the number of times you and/or your counsel has filed an objection to a class action settlement in the last five years, the nature of each such objection in each case, the jurisdiction in each case, and the name of the issuer of the security or seller of the product or service at issue in each case.

Attendance at the Final Approval Hearing is not necessary. Objectors wishing to be heard orally at the Final Approval Hearing are required to indicate in their written objection (or in a separate writing that is submitted in accordance with the deadline and after instruction pertinent to the submission of a written objection) that they intend to appear at the Final Approval Hearing and identify any witnesses they may call to testify or exhibits they intend to introduce into evidence at the Final Approval Hearing. Objections must be in writing. If you appear through your own attorney, you are responsible for hiring and paying that attorney. Objections can be submitted to the Court either by mailing them to the Class Action Clerk, United States District Court for the Northern District of California, 280 South 1st Street, San Jose, California 95113, or by filing them in person at any location of the

United States District Court for the Northern District of California, and (c) be filed or postmarked on or before _____, 2022.

16. What is the difference between objecting and requesting exclusion?

Objecting is simply telling the Court you do not like something about the Settlement or some portion thereof. You can object only if you stay in the Settlement Class. Requesting exclusion is telling the Court you do not want to be part of the Settlement Class and Settlement. If you exclude yourself, you cannot object to the Settlement because it no longer concerns you. If you stay in the Settlement Class and object, but your objection is overruled, you will not be allowed a second opportunity to exclude yourself.

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

The Court will hold a Settlement Hearing on _____, 2022 at __: __, __m., at the United States District Court, Northern District of California, Robert F. Peckham Federal Building & United States Courthouse, 280 South 1st Street, Courtroom 4, San Jose, California 95113, or by telephonic or videoconference means as directed by the Court. The Court may change the date of the Settlement Hearing without further notice to the Settlement Class. Settlement Class Members should check the settlement website, or the Court's PACER system at <https://ecf.cand.uscourts.gov>, to confirm that the date has not been changed.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate and whether to approve the Settlement. If there are objections, the Court will consider them, and the Court will listen to people who have asked to speak at the hearing. The Court may also decide how much to award Lead Counsel for attorneys' fees and expenses and how much to award Plaintiffs as a Compensatory Award.

18. Do I have to come to the hearing?

No. Lead Counsel will answer any questions the Court may have. However, you are welcome to attend at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mail your written objection on time, the Court will consider it.

19. What happens if I do nothing at all?

If you do nothing, you will not receive a payment from the Settlement. However, unless you exclude yourself, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendants or the Released Parties about the Released Claims (as defined in the Stipulation) ever again.

20. Can I see the Court file? Whom should I contact if I have questions?

This Notice contains only a summary of the terms of the proposed Settlement. For the precise terms and conditions of the settlement, please see the Stipulation available at www.strategicclaims.net/TRR, by contacting Lead Counsel at (212) 686-1060, by

accessing the Court docket in this case, for a fee, through the Court's PACER system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 280 South 1st Street, San Jose, California 95113, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

All inquiries concerning this Notice and the Proof of Claim form should be directed to the Claims Administrator or Lead Counsel at:

The RealReal, Inc. Securities Litigation
c/o Strategic Claims Services
P.O. Box 230
600 N. Jackson St., Ste. 205
Media, PA 19063
Tel.: 866-274-4004
Fax: 610-565-7985
info@strategicclaims.net

or

Phillip Kim
THE ROSEN LAW FIRM, P.A.
275 Madison Avenue, 40th Floor
New York, NY 10016
Tel.: 212-686-1060
Fax: 212-202-3827
pkim@rosenlegal.com

**DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S
OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE
CLAIMS PROCESS.**

SPECIAL NOTICE TO SECURITIES BROKERS AND OTHER NOMINEES

If, between June 27, 2019 through November 20, 2019, both dates inclusive, you purchased TRR common stock for the beneficial interest of a person or organization other than yourself, the Court has directed that, **WITHIN TEN DAYS OF YOUR RECEIPT OF THIS NOTICE**, you either (a) provide to the Claims Administrator the name, last known address, and email address of each person or organization for whom or which you purchased such TRR common stock during the Settlement Class Period; (b) request a link to the location where the Long Notice and Proof of Claim are hosted and, within ten days of receipt, email the link to all such beneficial owners of the TRR common stock for whom valid email addresses are available; or (c) request additional copies of this Long Notice, which will be provided to you free of charge, and within ten days mail the Long Notice directly to the beneficial owners of the TRR common stock. If you choose to follow either alternative procedure (b) or (c), the Court has directed that, upon such mailing or emailing, you send a statement to the Claims Administrator confirming that the mailing or emailing was made as directed. You are entitled to reimbursement from the Settlement Fund of your reasonable out-of-pocket expenses actually incurred in connection with the foregoing, up to a maximum of \$0.05 plus postage at the pre-sort rate unit by the Claims Administrator per Long Notice mailed, \$0.05 per link to the electronic Long Notice and Proof of Claim emailed; or \$0.05 per name, address and email address provided to the Claims Administrator. Those expenses will be paid upon request and submission of appropriate supporting documentation. All communications regarding the foregoing should be addressed to the Claims Administrator at the address listed on page 3 above.

DATED: _____, 2021

BY ORDER OF THE UNITED STATES
DISTRICT COURT FOR THE NORTHERN
DISTRICT OF CALIFORNIA

EXHIBIT A-2

PROOF OF CLAIM AND RELEASE FORM

Deadline for Submission: _____

If you purchased The RealReal, Inc. (“TRR”) common stock during the period from June 27, 2019 through November 20, 2019, both dates inclusive (“Settlement Class Period”), you are a “Settlement Class Member” and you may be entitled to share in the settlement proceeds. (Excluded from the Settlement Class are Defendants; the present and former officers and directors of the Company at all relevant times; members of their immediate families and their legal representatives, heirs, successors, or assigns, and any entity in which any of the Defendants, or any other excluded person listed herein, has or had a majority ownership interest at any time. Also excluded are those who validly opt-out).

If you are a Settlement Class Member, you must complete and submit this Proof of Claim and Release Form (“Proof of Claim”) in order to be eligible for any Settlement benefits. You can complete and submit the electronic version of this Proof of Claim by 11:59 p.m. EST on _____, 2022 at www.strategicclaims.net/TRR.

If you do not complete and submit an electronic version of this Proof of Claim, you must complete and sign this Proof of Claim and mail it by first class mail, postmarked no later than _____, 2022, to Strategic Claims Services, the Claims Administrator, at the following address:

The RealReal, Inc. Securities Litigation
c/o Strategic Claims Services
600 N. Jackson St., Ste. 205
P.O. Box 230
Media, PA 19063
Tel.: 866-274-4004
Fax: 610-565-7985
info@strategicclaims.net

Your failure to submit your claim by _____, 2022 will subject your claim to rejection and preclude you from receiving any money in connection with the Settlement of this Action. Do not mail or deliver your claim to the Court or to any of the Parties or their counsel, as any such claim will be deemed not to have been submitted. Submit your claim only to the Claims Administrator. If you are a Settlement Class Member and do not submit a proper Proof of Claim, you will not share in the Settlement, but you nevertheless will be bound by the Order and Final Judgment of the Court unless you exclude yourself.

Submission of a proof of claim does not assure that you will share in the proceeds of the Settlement.

CLAIMANT'S STATEMENT

1. I (we) purchased The RealReal, Inc. ("TRR") common stock during the Settlement Class Period. (Do not submit this Proof of Claim if you did not purchase TRR common stock during the Settlement Class Period).
2. By submitting this Proof of Claim, I (we) state that I (we) believe in good faith that I am (we are) a Settlement Class Member(s) as defined above or am (are) acting for such person(s); that I am (we are) not a Defendant(s) in the Action or anyone excluded from the Settlement Class; that I (we) have read and understand the Notice of Pendency and Proposed Settlement of Class Action ("Notice"); that I (we) believe that I am (we are) entitled to receive a share of the Net Settlement Fund; that I (we) elect to participate in the proposed Settlement; and that I (we) have not filed a request for exclusion. (If you are acting in a representative capacity on behalf of a Settlement Class Member [e.g., as an executor, administrator, trustee, or other representative], you must submit evidence of your current authority to act on behalf of that Settlement Class Member. Such evidence would include, for example, letters testamentary, letters of administration, or a copy of the trust documents.)
3. I (we) consent to the jurisdiction of the Court with respect to all questions concerning the validity of this Proof of Claim. I (we) understand and agree that my (our) claim may be subject to investigation and discovery under the Federal Rules of Civil Procedure, provided that such investigation and discovery shall be limited to my (our) status as a Settlement Class Member(s) and the validity and amount of my (our) claim. No discovery shall be allowed on the merits of the Action or Settlement in connection with processing of the Proof of Claim.
4. I (we) have set forth, where requested below, all relevant information with respect to each purchase or acquisition of TRR common stock during the Settlement Class Period, and each sale, if any, of the same. I (we) agree to furnish additional information to the Claims Administrator to support this claim if requested to do so.
5. I (we) have enclosed photocopies of the stockbroker's confirmation slips, stockbroker's statements, or other documents evidencing each purchase, acquisition, and sale of TRR common stock listed below in support of my (our) claim. (IF ANY SUCH DOCUMENTS ARE NOT IN YOUR POSSESSION, PLEASE OBTAIN A COPY OR EQUIVALENT DOCUMENTS FROM YOUR BROKER OR TAX ADVISOR BECAUSE THESE DOCUMENTS ARE NECESSARY TO PROVE AND PROCESS YOUR CLAIM.)
6. I (we) understand that the information contained in this Proof of Claim is subject to such verification as the Claims Administrator may request or as the Court may direct, and I (we) agree to cooperate in any such verification. (The information requested herein is designed to provide the minimum amount of information necessary to process most simple claims. The Claims Administrator may request additional information as required to efficiently and reliably calculate your Recognized Loss. In some cases, the Claims Administrator may condition acceptance of the claim based upon the production of additional information, including, where applicable, information concerning transactions in any derivatives securities such as options.)

7. Upon the occurrence of the Court's approval of the Settlement, I (we) agree and acknowledge that my (our) signature(s) hereto shall effect and constitute a full and complete release, remise and discharge by me (us) and my (our) parent entities, associates, affiliates, subsidiaries, predecessors, successors, assigns, attorneys, immediate family members, heirs, representatives, administrators, executors, devisees, legatees, and estates (or, if I am (we are) submitting this Proof of Claim on behalf of a corporation, a partnership, estate or one or more other persons, by it, him, her or them, and by its, his, her or their parent entities, associates, affiliates, subsidiaries, predecessors, successors, assigns, attorneys, immediate family members, heirs, representatives, administrators, executors, devisees, legatees, and estates) of each of the "Released Parties" of all "Released Claims" as those terms are defined in the Stipulation of Settlement, dated November 5, 2021 ("Stipulation").
8. Upon the occurrence of the Court's approval of the Settlement, I (we) agree and acknowledge that my (our) signature(s) hereto shall effect and constitute a covenant by me (us) and my (our) parent entities, associates, affiliates, subsidiaries, predecessors, successors, assigns, attorneys, immediate family members, heirs, representatives, administrators, executors, devisees, legatees, and estates (or, if I am (we are) submitting this Proof of Claim on behalf of a corporation, a partnership, estate or one or more other persons, by it, him, her or them, and by its, his, her or their parent entities, associates, affiliates, subsidiaries, predecessors, successors, assigns, attorneys, immediate family members, heirs, representatives, administrators, executors, devisees, legatees, and estates) to permanently refrain from prosecuting or attempting to prosecute any Released Claims against any of the Released Parties.
9. "Released Parties" has the meaning provided in the Stipulation.
10. "Released Claims" has the meaning provided in the Stipulation.
11. "Unknown Claims" has the meaning provided in the Stipulation.
12. I (we) agree and acknowledge that I (we) may hereafter discover facts in addition to or different from those which I (we) now know or believe to be true with respect to the Released Claims, but I (we) agree and acknowledge that, upon the Effective Date as defined in the Stipulation, I (we) shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally and forever settled and released, any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of fiduciary duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. I (we) agree and acknowledge that the foregoing waiver was separately bargained for and a key element of the Settlement of which this release is a part.
13. **NOTICE REGARDING INSTITUTIONAL FILERS:** Representatives with the authority to file on behalf of (a) accounts of multiple Persons and/or (b) institutional accounts with large numbers of transactions ("Representative Filers") must submit information regarding their clients' transactions in the approved electronic spreadsheet format, which is available by

request to the Claims Administrator at efile@strategicclaims.net or by visiting the website www.strategicclaims.net/institutional-filers/. One spreadsheet may contain the information for multiple Persons and institutional accounts who constitute distinct legal entities (“Legal Entities”), but all Representative Filers MUST also submit a manually signed Proof of Claim and Release Form, as well as proof of authority to file (see Item 2 of the Claimant’s Statement) along with the electronic spreadsheet. The transactions and holdings in TRR common stock should be reported in the electronic file so that each resulting Claim corresponds to a single Legal Entity, regardless of the number of individually managed accounts the Legal Entity has, as only one Claim will be processed per Legal Entity (e.g. a Representative Filer reporting the transactions for a fund with multiple sub-accounts should report one total holding at the start of the Settlement Class Period, one total holding at the end of the Settlement Class Period, and a single set of transactions that includes all transactions made by the Legal Entity across their sub-accounts; this would constitute and be processed a single Claim). The Claims Administrator reserves the right to combine a Legal Entity’s accounts into a single Claim prior to processing in the event that a Legal Entity’s accounts are divided across multiple Claims when submitted by a Representative Filer. The Claims Administrator also reserves the right to request additional documentary proof regarding a Legal Entity’s transactions and holdings in TRR common stock to prove and accurately process the Claim.

14. **NOTICE REGARDING ONLINE FILING:** Claimants who are not Representative Filers may submit their claims online using the electronic version of the Proof of Claim and Release Form hosted at www.strategicclaims.net. If you are not acting as a Representative Filer, you do not need to contact the Claims Administrator prior to filing; you will receive an automated e-mail confirming receipt once your Proof of Claim and Release Form has been submitted. If you are unsure if you should submit your claim as a Representative Filer, please contact the Claims Administrator at info@strategicclaims.net or (866) 274-4004. If you are not a Representative Filer, but your claim contains a large number of transactions, the Claims Administrator may request that you also submit an electronic spreadsheet showing your transactions to accompany your Proof of Claim and Release Form.

I. CLAIMANT INFORMATION

Beneficial Owner Name:		
Address:		
City:	State:	ZIP:
Foreign Province:	Foreign Country:	
Day Phone:	Evening Phone:	
Email:		
Social Security Number (for individuals):	OR	Taxpayer Identification Number (for estates, trusts, corporations, etc.):

II. SCHEDULE OF TRANSACTIONS IN THE REALREAL, INC. COMMON STOCK**Purchases/Acquisitions:**

A. Separately list each and every purchase or acquisition of The RealReal, Inc. (“TRR”) common stock between June 27, 2019 and February 18, 2020, both dates inclusive, and provide the following information (*must be documented*):¹

Trade Date (List Chronologically) (Month/Day/Year)	Number of Shares Purchased/Acquired	Price per Share	Total Cost (Excluding Commissions, Taxes, and Fees)

¹ Please note: Information requested with respect to your purchases of TRR common stock after November 20, 2019, will be used to balance your claim only. Purchases during this period are not eligible for any settlement benefits.

Sales:

B. Separately list each and every sale of TRR common stock between June 27, 2019 through February 18, 2020, both dates inclusive, and provide the following information (*must be documented*):

Trade Date (List Chronologically) (Month/Day/Year)	Number of Shares Sold	Price per Share	Amount Received (Excluding Commissions, Taxes, and Fees)

Ending Holdings:

C. State the total number of shares of TRR common stock held at the close of trading on February 18, 2020 (*must be documented*).

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If additional space is needed, attach separate, numbered sheets, giving all required information, substantially in the same format, and print your name and Social Security or Taxpayer Identification number at the top of each sheet.

III. SUBSTITUTE FORM W-9

Request for Taxpayer Identification Number:

Enter taxpayer identification number below for the Beneficial Owner(s). For most individuals, this is your Social Security Number. The Internal Revenue Service (“I.R.S.”) requires such taxpayer identification number. If you fail to provide this information, your claim may be rejected.

Social Security Number (for individuals)	or	Taxpayer Identification Number (for estates, trusts, corporations, etc.)
_____		_____

IV. CERTIFICATION

I (We) submit this Proof of Claim under the terms of the Stipulation of Settlement described in the Notice. I (We) also submit to the jurisdiction of the United States District Court for the Northern District of California with respect to my (our) claim as a Settlement Class Member and for purposes of enforcing the release and covenant not to sue set forth herein. I (We) further acknowledge that I am (we are) bound by and subject to the terms of any judgment that may be entered in this Action. I (We) have not submitted any other claim covering the same purchases or

sales of TRR common stock during the Settlement Class Period and know of no other Person having done so on my (our) behalf.

I (We) certify that I am (we are) NOT subject to backup withholding under the provisions of Section 3406 (a)(1)(c) of the Internal Revenue Code because: (a) I am (We are) exempt from backup withholding; or (b) I (We) have not been notified by the I.R.S. that I am (we are) subject to backup withholding as a result of a failure to report all interest or dividends; or (c) the I.R.S. has notified me (us) that I am (we are) no longer subject to backup withholding.

NOTE: If you have been notified by the I.R.S. that you are subject to backup withholding, please strike out the language that you are not subject to backup withholding in the certification above.

UNDER THE PENALTIES OF PERJURY UNDER THE LAWS OF THE UNITED STATES, I (WE) CERTIFY THAT ALL OF THE INFORMATION I (WE) PROVIDED ON THIS PROOF OF CLAIM IS TRUE, CORRECT AND COMPLETE.

Signature of Claimant (If this claim is being made on behalf of Joint Claimants, then each must sign):

(Signature)

(Signature)

(Capacity of person(s) signing, e.g. beneficial purchaser(s), executor, administrator, trustee, etc.)
 Check here if proof of authority to file is enclosed.
(See Item 2 under Claimant's Statement)

Date: _____

THIS PROOF OF CLAIM AND RELEASE FORM MUST BE SUBMITTED ELECTRONICALLY AT WWW.STRATEGICCLAIMS.NET/TRR BY 11:59 P.M. EST ON _____, 2022, OR MAILED TO THE CLAIMS ADMINISTRATOR AT THE BELOW ADDRESS, POSTMARKED NO LATER THAN _____, 2022:

The RealReal, Inc. Securities Litigation
c/o Strategic Claims Services
600 N. Jackson St., Ste. 205
P.O. Box 230
Media, PA 19063
Tel.: 866-274-4004
Fax: 610-565-7985
info@strategicclaims.net

A Proof of Claim received by the Claims Administrator shall be deemed to have been submitted when posted, if mailed by _____, 2022, and if a postmark is indicated on the envelope and it is mailed first class and addressed in accordance with the above instructions. In all other cases, a Proof of Claim shall be deemed to have been submitted when actually received by the Claims Administrator.

You should be aware that it will take a significant amount of time to process fully all of the Proof of Claim and Release Forms and to administer the Settlement. This work will be completed as promptly as time permits, given the need to investigate and tabulate each Proof of Claim. Please notify the Claims Administrator of any change of address.

REMINDER CHECKLIST

- Please be sure to sign this Proof of Claim on page 7. If this Proof of Claim is submitted on behalf of joint claimants, then both claimants must sign.
- Please remember to attach supporting documents. Do NOT send any stock certificates. Keep copies of everything you submit.
- Do NOT use highlighter on the Proof of Claim or any supporting documents.
- If you move or change your address, telephone number, or email address, please submit the new information to the Claims Administrator, as well as any other information that will assist us in contacting you. NOTE: Failure to submit updated information to the Claims Administrator may result in the Claims Administrator's inability to contact you regarding issues with your claim or to deliver payment to you.

EXHIBIT A-3

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

MICHAEL SANDERS, Individually and on
behalf of all others similarly situated,

Plaintiff,

v.

THE REALREAL, INC., *et al.*,

Defendants.

Case No: 5:19-cv-07737-EJD

**SUMMARY NOTICE OF PENDENCY
AND PROPOSED SETTLEMENT OF CLASS ACTION**

TO: ALL PERSONS WHO PURCHASED THE REALREAL, INC. (“TRR”) COMMON STOCK BETWEEN JUNE 27, 2019 AND NOVEMBER 20, 2019, BOTH DATES INCLUSIVE

YOU ARE HEREBY NOTIFIED, pursuant to an Order of the United States District Court for the Northern District of California, that a hearing will be held on _____, 2022 at ___:___ .m. before the Honorable Edward J. Davila, United States District Judge for the Northern District of California, San Jose Courthouse, 280 South 1st Street, Courtroom 4, San Jose, CA 95113, or by telephonic or videoconference means as directed by the Court, for the purpose of determining:

- (1) whether the proposed Settlement of the claims in the above-captioned Action for consideration including the sum of \$11,000,000 should be approved by the Court as fair, reasonable, and adequate;
- (2) whether the proposed plan to distribute the Settlement proceeds is fair, reasonable, and adequate;

- (3) whether the application by Lead Counsel for an award of attorneys' fees of up to 25% of the Settlement Amount (or \$2,750,000), reimbursement of expenses of no more than \$75,000, and a Compensatory Award of reasonable costs and expenses (including lost wages) directly relating to their representation of the Settlement Class of no more than \$17,000 total for Plaintiffs should be approved; and
- (4) whether the Action should be dismissed with prejudice as set forth in the Stipulation of Settlement, dated November 5, 2021 ("Stipulation").

If you purchased TRR common stock between June 27, 2019 and November 20, 2019, both dates inclusive ("Settlement Class Period"), your rights may be affected by this Settlement, including the release and extinguishment of claims you may possess relating to your ownership interest in TRR common stock. If you have not received a detailed Notice of Pendency and Proposed Settlement of Class Action ("Long Notice") and a copy of the Proof of Claim and Release Form ("Proof of Claim"), you may obtain copies by contacting the Claims Administrator at: The RealReal, Inc. Securities Litigation, c/o Strategic Claims Services, P.O. Box 230, 600 N. Jackson St., Ste. 205, Media, PA 19063, Telephone: (866) 274-4004, Facsimile: (610) 565-7985, info@strategicclaims.net. You can also download copies of the Long Notice and submit your Proof of Claim online at www.strategicclaims.net/TRR. If you are a member of the Settlement Class, in order to share in the distribution of the Net Settlement Fund, you must submit a properly completed Proof of Claim electronically or postmarked no later than _____, 2022 to the Claims Administrator, establishing that you are entitled to recovery.

If you are a Settlement Class Member and desire to be excluded from the Settlement Class, you must submit a request for exclusion, in the manner and form explained in the Long Notice, to the Claims Administrator so that it is received no later than _____, 2022. Unless you

submit a written exclusion request, you will be bound by any judgment rendered in the Action whether or not you make a claim.

Any objection to the Settlement, Plan of Allocation, Lead Counsel's request for an award of attorneys' fees and reimbursement of expenses, or the Compensatory Award to Plaintiffs must be in the manner and form explained in the Long Notice and received no later than _____, 2022, by the Clerk of the Court, U.S. District Court, Northern District of California, 280 South 1st Street, Room 2112, San Jose, California 95113.

If you have any questions about the Settlement, you may call or write to Lead Counsel:

THE ROSEN LAW FIRM, P.A.
Phillip Kim
275 Madison Avenue, 40th Floor
New York, NY 10016
215-600-2817

PLEASE DO NOT CONTACT THE COURT OR THE CLERK'S OFFICE REGARDING THIS NOTICE.

DATED: _____, 2021

BY ORDER OF THE UNITED STATES
DISTRICT COURT FOR THE NORTHERN
DISTRICT OF CALIFORNIA

EXHIBIT B

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL SANDERS, Individually and on
behalf of all others similarly situated,

Plaintiff,

v.

THE REALREAL, INC., *et al.*,

Defendants.

Case No: 5:19-cv-07737-EJD

**[PROPOSED] ORDER AND FINAL
JUDGMENT**

CLASS ACTION

Hon. Edward J. Davila

EXHIBIT B

1 On the ____ day of _____, 2022 a hearing having been held before this Court to
2 determine: (1) whether the terms and conditions of the Stipulation of Settlement, dated November
3 5, 2021 (“Stipulation”) are fair, reasonable, and adequate for the settlement of all claims asserted
4 by the Settlement Class against Defendants (as defined in the Stipulation), including the release
5 of the Released Claims against the Released Parties, and should be approved; (2) whether
6 judgment should be entered dismissing the Action with prejudice; (3) whether to approve the
7 proposed Plan of Allocation as a fair and reasonable method to allocate the Net Settlement Fund
8 among Settlement Class Members; (4) whether and in what amount to award Lead Counsel fees
9 and reimbursement of expenses; and (5) whether and in what amount to award the Compensatory
10 Award to Plaintiff; and

11 The Court having considered all matters submitted to it at the hearing and otherwise; and

12 It appearing in the record that the Long Notice substantially in the form approved by the
13 Court in the Court’s Order Preliminarily Approving Settlement and Providing for Notice, dated
14 _____, 2021 (“Preliminary Approval Order”) was mailed to all reasonably identifiable
15 Settlement Class Members and posted to the website of the Claims Administrator, both in
16 accordance with the Preliminary Approval Order and the specifications of the Court; and

17 It appearing in the record that the link to the location of the electronic Long Notice and
18 Proof of Claim substantially in the form approved by the Court in the Preliminary Approval Order
19 was emailed to identifiable Settlement Class Members when an email address was provided to
20 the Claims Administrator in accordance with the Preliminary Approval Order and the
21 specifications of the Court; and

22 It appearing in the record that the Summary Notice substantially in the form approved by
23 the Court in the Preliminary Approval Order was published electronically once on the
24 *GlobeNewswire* and in print once in the *Investor’s Business Daily*.

25 NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED
26 THAT:

27 1. This Order and Judgment incorporates by reference the definitions in the
28 Stipulation, and all capitalized terms used herein shall have the same meanings as set forth therein.

1 2. The Court has jurisdiction over the subject matter of the Action, Plaintiffs, all
2 Settlement Class Members, and Defendants.

3 3. The Court finds that, for settlement purposes only, the prerequisites for a class
4 action under Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in
5 that:

- 6 a. the number of Settlement Class Members is so numerous that joinder of all
7 members thereof is impracticable;
- 8 b. there are questions of law and fact common to the Settlement Class;
- 9 c. Plaintiffs' claims are typical of the claims of the Settlement Class they seek
10 to represent;
- 11 d. Plaintiffs and Lead Counsel fairly and adequately represent the interests of
12 the Settlement Class;
- 13 e. questions of law and fact common to the members of the Settlement Class
14 predominate over any questions affecting only individual members of the
15 Settlement Class; and
- 16 f. a class action is superior to other available methods for the fair and efficient
17 adjudication of this Action, considering:
 - 18 i. the interests of the Settlement Class Members in individually
19 controlling the prosecution of the separate actions;
 - 20 ii. the extent and nature of any litigation concerning the controversy
21 already commenced by Settlement Class Members;
 - 22 iii. the desirability or undesirability of concentrating the litigation of
23 these claims in this particular forum; and
 - 24 iv. the difficulties likely to be encountered in the management of the
25 class action.

26 4. The Court hereby finally certifies this action as a class action for purposes of the
27 Settlement, pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure, on behalf
28 of all persons and entities who purchased TRR common stock between June 27, 2019 and

1 November 20, 2019, both dates inclusive, and were damaged thereby. Included in the Settlement
2 Class are all Persons who purchased TRR common stock pursuant to and/or traceable to TRR's
3 Registration Statement issued in connection with TRR's June 27, 2019 IPO and all persons and
4 entities who purchased TRR common stock during the Settlement Class Period at artificially
5 inflated prices and were damaged thereby. Excluded from the Class are: (a) persons who suffered
6 no compensable losses; and (b) Defendants; the present and former officers and directors of the
7 Company at all relevant times; members of their immediate families and their legal
8 representatives, heirs, successors, or assigns, and any entity in which any of the Defendants, or
9 any person excluded under this subsection (b), has or had a majority ownership interest at any
10 time. Also excluded from the Settlement Class are all putative members of the Settlement Class
11 who have excluded themselves by filing a valid and timely request for exclusion, as listed on
12 Exhibit A hereto.

13 5. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, for the purposes of
14 this Settlement, Plaintiffs are certified as the class representatives on behalf of the Settlement
15 Class ("Class Representatives") and Lead Counsel previously selected by Plaintiffs and appointed
16 by the Court is hereby appointed as Class Counsel for the Settlement Class ("Class Counsel").

17 6. In accordance with the Court's Preliminary Approval Order, the Court hereby
18 finds that the forms and methods of notifying the Settlement Class of the Settlement and its terms
19 and conditions met the requirements of due process, Rule 23 of the Federal Rules of Civil
20 Procedure, and Section 21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-
21 4(a)(7), as amended by the Private Securities Litigation Reform Act of 1995; constituted the best
22 notice practicable under the circumstances; and constituted due and sufficient notice of these
23 proceedings and the matters set forth herein, including the Settlement and Plan of Allocation, to
24 all persons and entities entitled to such notice. No Settlement Class Member is relieved from the
25 terms and conditions of the Settlement, including the releases provided for in the Stipulation,
26 based upon the contention or proof that such Settlement Class Member failed to receive actual or
27 adequate notice. A full opportunity has been offered to the Settlement Class Members to object
28 to the proposed Settlement and to participate in the hearing thereon. The Court further finds that

1 the notice provisions of the Class Action Fairness Act, 28 U.S.C. § 1715, were fully discharged.
2 Thus, it is hereby determined that all Settlement Class Members are bound by this Order and
3 Judgment except those persons listed on Exhibit A to this Order and Judgment.

4 7. The Settlement is approved as fair, reasonable, and adequate under Rule 23 of the
5 Federal Rules of Civil Procedure. This Court further finds that the Settlement set forth in the
6 Stipulation is the result of good faith, arm's-length negotiations between experienced counsel
7 representing the interests of Class Representatives, Settlement Class Members, and Defendants.
8 The Parties are directed to consummate the Settlement in accordance with the terms and
9 provisions of the Stipulation.

10 8. The Action and all claims contained therein, as well as the Released Claims, are
11 dismissed with prejudice as against Defendants and the Released Parties. The Parties are to bear
12 their own costs, except as otherwise provided in the Stipulation.

13 9. The Releasing Parties, on behalf of themselves, their successors and assigns, and
14 any other Person claiming (now or in the future) through or on behalf of them, regardless of
15 whether any such Releasing Party ever seeks or obtains by any means, including without
16 limitation by submitting a Proof of Claim and Release Form, any disbursement from the
17 Settlement Fund, shall be deemed to have, and by operation of this Order and Judgment shall
18 have, fully, finally, and forever released, relinquished, and discharged all Released Claims against
19 the Released Parties. The Releasing Parties shall be deemed to have, and by operation of this
20 Order and Judgment shall have, covenanted not to sue the Released Parties with respect to any
21 and all Released Claims in any forum and in any capacity. The Releasing Parties shall be and
22 hereby are permanently barred and enjoined from asserting, commencing, prosecuting, instituting,
23 assisting, instigating, or in any way participating in the commencement or prosecution of any
24 action or other proceeding, in any forum, asserting any Released Claim, in any capacity, against
25 any of the Released Parties. Nothing contained herein shall, however, bar the Releasing Parties
26 from bringing any action or claim to enforce the terms of the Stipulation or this Order and
27 Judgment.

1 10. With respect to any and all Released Claims, Class Representatives and the
2 Released Parties shall waive and each of the Settlement Class Members shall be deemed to have
3 waived, and by operation of this Final Judgment shall have waived, the provisions, rights, and
4 benefits of California Civil Code § 1542, which provides:

5 A general release does not extend to claims that the creditor or
6 releasing party does not know or suspect to exist in his or her favor
7 at the time of executing the release and that, if known by him or
8 her, would have materially affected his or her settlement with the
debtor or released party.

9 11. With respect to any and all Released Claims, Class Representatives and the
10 Released Parties shall waive and each of the Settlement Class Members shall be deemed to have
11 waived, and by operation of this Final Judgment shall have waived, any and all provisions, rights
12 and benefits conferred by any law of any state, territory, foreign country or principle of common
13 law, which is similar, comparable or equivalent to California Civil Code § 1542. Class
14 Representatives, the Released Parties and/or one or more Settlement Class Members may
15 hereafter discover facts in addition to or different from those which he, she or it now knows or
16 believes to be true with respect to the Released Claims, but Class Representatives, the Released
17 Parties and each Settlement Class Member, upon the Effective Date, shall be deemed to have, and
18 by operation of this Final Judgment shall have, fully, finally and forever settled and released, any
19 and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-
20 contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon
21 any theory of law or equity now existing or coming into existence in the future, including, but not
22 limited to, conduct which is negligent, intentional, with or without malice, or a breach of fiduciary
23 duty, law or rule, without regard to the subsequent discovery or existence of such different or
24 additional facts. Class Representatives and the Released Parties acknowledge, and the Settlement
25 Class Members shall be deemed by operation of this Final Judgment to have acknowledged, that
26 the foregoing waiver was separately bargained for and a key element of the Settlement.

27 12. Upon the Effective Date, the Released Parties shall be deemed to have, and by
28 operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and

1 discharged all claims they may have against the Releasing Parties related to the Releasing Parties'
2 prosecution of the Action or any other known or unknown counter-claim related thereto and shall
3 have covenanted not to sue the Releasing Parties with respect to any counter claim, claim, or
4 sanction related to the Released Claims, and shall be permanently barred and enjoined from
5 asserting, commencing, prosecuting, instituting, assisting, instigating, or in any way participating
6 in the commencement or prosecution of any action or other proceeding, in any forum, asserting
7 any such claim, in any capacity, against any of the Releasing Parties. Nothing contained herein
8 shall, however, bar the Released Parties from bringing any action or claim to enforce the terms of
9 this Stipulation or the Final Judgment.

10 13. The Court hereby finds that the proposed Plan of Allocation is a fair and reasonable
11 method to allocate the Net Settlement Fund among Settlement Class Members, and Class Counsel
12 and the Claims Administrator are directed to administer the Plan of Allocation in accordance with
13 its terms and the terms of the Stipulation.

14 14. The Court finds that the Parties and their counsel have complied with all
15 requirements of Rule 11 of the Federal Rules of Civil Procedure and the Private Securities
16 Litigation Reform Act of 1995 as to all proceedings herein.

17 15. Neither this Order and Final Judgment, the Stipulation (nor the Settlement
18 contained therein), nor any of its terms and provisions, nor any of the negotiations, documents, or
19 proceedings connected with them is evidence, or an admission or concession by any Party or their
20 counsel, any Settlement Class Member, or any of the Released Parties, of any fault, liability or
21 wrongdoing whatsoever, as to any facts or claims alleged or asserted in the Action or could have
22 been alleged or asserted, or any other actions or proceedings, or as to the validity or merit of any
23 of the claims or defenses alleged or asserted or could have been alleged or asserted in any such
24 action or proceeding. This Final Judgment is not a finding or evidence of the validity or invalidity
25 of any claims or defenses in the Action, any wrongdoing by any Party, Settlement Class Member,
26 or any of the Released Parties, or any damages or injury to any Party, Settlement Class Member,
27 or any Released Parties. Neither this Final Judgment, the Stipulation (nor the Settlement contained
28 therein), nor any of its terms and provisions, nor any of the negotiations, documents or

1 proceedings connected with therewith (a) shall (i) be argued to be, used or construed as, offered
2 or received in evidence as, or otherwise constitute an admission, concession, presumption, proof,
3 evidence, or a finding of any, liability, fault, wrongdoing, injury or damages, or of any wrongful
4 conduct, acts or omissions on the part of any Released Party, or of any infirmity of any defense,
5 or of any damages to Class Representatives or any other Settlement Class Member, or (ii)
6 otherwise be used to create or give rise to any inference or presumption against any of the
7 Released Parties concerning any fact or any purported liability, fault, or wrongdoing of the
8 Released Parties or any injury or damages to any person or entity, or (b) shall otherwise be
9 admissible, referred to or used in any proceeding of any nature, for any purpose whatsoever;
10 provided, however, that this Final Judgment, the Stipulation, or the documents related thereto
11 may be introduced in any proceeding, whether in the Court or otherwise, as may be necessary to
12 enforce the Settlement or Final Judgment, or as otherwise required by law:

13 16. Except as otherwise provided herein or in the Stipulation, all funds held by the
14 Escrow Agent shall be deemed to be in *custodia legis* and shall remain subject to the jurisdiction
15 of the Court until such time as the funds are distributed or returned pursuant to the Stipulation
16 and/or further order of the Court.

17 17. This Court hereby retains exclusive jurisdiction over the Parties and the Settlement
18 Class Members for all matters relating to the Action, including the administration, interpretation,
19 effectuation, or enforcement of the Stipulation and this Order and Final Judgment, and including
20 any application for fees and expenses incurred in connection with administering and distributing
21 the Settlement proceeds to the Settlement Class Members.

22 18. Without further order of the Court, Defendants and Class Representatives may
23 agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

24 19. There is no just reason for delay in the entry of this Order and Judgment and
25 immediate entry by the Clerk of the Court is expressly directed pursuant to Rule 54(b) of the
26 Federal Rules of Civil Procedure.

27 20. The finality of this Order and Final Judgment shall not be affected, in any manner,
28 by rulings that the Court may make on the proposed Plan of Allocation or Class Counsel's

1 application for an award of attorneys' fees and expenses or Compensatory Award to Class
2 Representatives.

3 21. Class Counsel are hereby awarded _____% of the Settlement Amount in fees,
4 which the Court finds to be fair and reasonable, and \$_____ in reimbursement of out-of-
5 pocket expenses. Class Representatives are hereby awarded \$_____, which the Court
6 finds to be fair and reasonable. Defendants and the Released Parties shall have no responsibility
7 for, and no liability whatsoever with respect to, any payments to Class Counsel, Class
8 Representatives, the Settlement Class and/or any other Person who receives payment from the
9 Settlement Fund.

10 22. In the event the Settlement is not consummated in accordance with the terms of
11 the Stipulation, then the Stipulation and this Order and Final Judgment (including any
12 amendment(s) thereof, and except as expressly provided in the Stipulation or by order of the
13 Court) shall be null and void, of no further force or effect, and without prejudice to any Party, and
14 may not be introduced as evidence or used in any action or proceeding by any Person against the
15 Parties or the Released Parties, and each Party shall be restored to his, her, or its respective
16 litigation positions as they existed prior to July 26, 2021, pursuant to the terms of the Stipulation.

17
18
19 Dated: _____, 2022

20 _____
21 HON. EDWARD J. DAVILA
22 UNITED STATES DISTRICT JUDGE
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