

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

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ANDREW TRAMPE, Individually and  
on behalf of all others similarly situated,  
  
Plaintiff,  
  
v.  
  
CD PROJEKT S.A., ADAM MICHAL  
KICIŃSKI, MARCIN IWIŃSKI,  
PIOTR MARCIN NIELUBOWICZ, and  
MICHAŁ NOWAKOWSKI,  
  
Defendants.

Case No. CV 20-11627 FMO (RAOx)  
  
STIPULATION OF SETTLEMENT  
  
JURY TRIAL DEMANDED

This Stipulation and Agreement of Settlement dated as of April 28, 2022 (together with all Exhibits hereto, “Stipulation”), which is entered into, by and through their undersigned attorneys, between (i) Lead Plaintiff James W. Gordley, and additional plaintiffs Steven Shaginyan and Phillip Trefethen (“Plaintiffs”), on behalf of itself and the Settlement Class (as defined herein) and (ii) Defendants CD Projekt, S.A. (“CD Projekt” or the “Company”), Adam Michal Kiciński, Marcin Iwiński, Piotr Marcin Nielubowicz, and Michał Nowakowski (“Defendants” and with Plaintiffs, “Parties”) in the above-captioned action (“Action”), 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 compromise, settle, release, resolve, remise, discharge, and dismiss with prejudice the Released Claims (as defined herein) against the Released Parties (as defined herein), as set forth below.

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. The Action**

3 The first action was commenced on December 24, 2020, styled as *Trampe v.*  
4 *CD Projekt S.A., et al.*, Case No. 2:20-CV-11627-FMO-RAO (C.D. Cal.), alleging  
5 violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934  
6 (“Exchange Act”). Dkt. No. 1. The related action *Hain v. CD. Projekt SA, et al.*,  
7 Case No. 2:21-CV-00354-FMO-RAO (C.D. Cal.) was filed on January 14, 2021.

8 On February 22, 2021, James W. Gordley filed a motion seeking to be  
9 appointed Lead Plaintiff and for its counsel, The Rosen Law Firm, P.A., to be  
10 appointed Lead Counsel. Dkt. No. 9. On May 14, 2021, the Court consolidated the  
11 actions. Dkt. No. 38.

12 Pursuant to the Court’s order granting a scheduling stipulation regarding the  
13 filing of an amended complaint and response thereto, Plaintiffs filed an amended  
14 complaint June 28, 2021. Dkt. No. 43. On July 30, 2021, Plaintiffs filed a Notice of  
15 Errata, attaching a corrected Amended Complaint. On August 12, 2021, Defendants  
16 filed a motion to dismiss the Amended Complaint. Dkt. No. 47. On October 4,  
17 Plaintiffs filed an opposition on October 4, 2021. Dkt. No. 51. On November 17,  
18 2021, Defendants filed a reply to the Motion to Dismiss. Dkt. No. 55. Subsequent  
19 to the filing of the reply, the Parties entered into settlement negotiations, reaching  
20 a settlement in principle. On November 29, 2021, the Parties filed a stipulation with  
21 the Court seeking to hold in abeyance Defendants’ pending motion to dismiss, Dkt.  
22 No. 57, which the Court granted on December 7, 2021. Dkt. No. 58.

23 **B. The Settlement**

24 In the fall of 2021, the Parties began to discuss settlement via phone and  
25 email. The Parties reached a settlement in principle and executed a binding  
26 Settlement Term Sheet that set forth the material terms and obligations with respect  
27 to the Settlement on December 15, 2021.

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1 This Stipulation memorializes the agreement between the Parties to fully and  
2 finally settle the Action and to fully release all Released Claims against Defendants  
3 and the Released Parties with prejudice in return for the consideration specified  
4 herein.

5 **C. Defendants’ Denial of Wrongdoing and Liability**

6 Throughout this Action, Defendants have denied, and continue to deny, any  
7 and all allegations of fault, liability, wrongdoing, or damages whatsoever arising  
8 out of any of the conduct, statements, acts, or omissions alleged, or that could have  
9 been alleged, in the Action. Defendants have denied, and continue to deny, the  
10 allegations that Plaintiffs or any Settlement Class Member have suffered damages  
11 or were harmed by any of the conduct alleged in the Action or that could have been  
12 alleged as part of the Action. In addition, Defendants maintain that they have  
13 meritorious defenses to all claims in the Action. Defendants continue to believe the  
14 claims asserted against them in the Action are without merit. Nevertheless,  
15 Defendants have concluded that it is desirable that the Action be fully and finally  
16 settled in the manner and upon the terms and conditions set forth in this Stipulation  
17 for business reasons and to avoid the expense, distraction, time, and uncertainty  
18 associated with the Action.

19 **D. Claims of Plaintiffs and Benefits of Settlement**

20 Plaintiffs believe that the claims they asserted in the Action on their own  
21 behalf and on behalf of the Settlement Class have merit. Plaintiffs, however,  
22 recognize and acknowledge the expense and length of continued proceedings  
23 necessary to prosecute the Action against Defendants through trial and appeals.  
24 Plaintiffs have also taken into account the uncertain outcome and the risk of any  
25 litigation. In particular, Plaintiffs have considered the early procedural posture in  
26 this Action, and that even if they were successful in defeating Defendants’  
27 anticipated motion to dismiss the Amended Complaint, inherent problems of proof  
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1 and possible defenses to the federal securities law violations asserted in the Action  
2 pose formidable hurdles to a more successful resolution. Plaintiffs have determined,  
3 therefore, that the Settlement set forth in this Stipulation is fair, adequate,  
4 reasonable, and in the best interests of the Settlement Class.

5 **NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED**  
6 by and among Plaintiffs (on behalf of themselves and each of the Settlement Class  
7 Members) and Defendants, by and through their respective undersigned counsel,  
8 that, subject to the approval of the Court, in consideration of the benefits flowing to  
9 the Parties from the Settlement set forth herein, the Action and the Released Claims  
10 as against the Released Parties shall be finally and fully compromised, settled and  
11 released, the Action shall be dismissed with prejudice and the Released Claims shall  
12 be finally and fully released as against the Released Parties, upon and subject to the  
13 terms and conditions of this Stipulation, as follows:

14 **1. Definitions**

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

17 **1.1.** “Action” means the putative class action captioned *Trampe v.*  
18 *CD Projekt S.A., et al.*, Case No. 2:20-CV-11627-FMO-RAO (C.D. Cal.), including  
19 all actions consolidated into *Trampe v. CD Projekt S.A., et al.*, Case No. 2:20-CV-  
20 11627-FMO-RAO (C.D. Cal.).

21 **1.2.** “Administrative Costs” means all costs and expenses associated  
22 with providing notice of the Settlement to the Settlement Class and otherwise  
23 administering or carrying out the terms of the Settlement. Such costs may include,  
24 without limitation: escrow agent costs, the costs of publishing and disseminating  
25 the Notice, the costs of printing and mailing the Notice and Proof of Claim, as  
26 directed by the Court, and the costs of allocating and distributing the Net Settlement  
27 Fund to the Authorized Claimants. Such costs do not include legal fees.

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

4           **1.4.** “Award to Plaintiffs” means the requested reimbursement to  
5 Plaintiffs for its reasonable costs and expenses directly related to Plaintiffs’  
6 representation of the Settlement Class in the Action

7           **1.5.** “Business Day” means any day except Saturday, Sunday, or any  
8 legal holiday as defined by Federal Rule of Civil Procedure 6(a)(6).

9           **1.6.** “Claimant” means any Settlement Class Member who files a  
10 Proof of Claim in such form and manner, and within such time, as the Court shall  
11 permit.

12           **1.7.** “Claims” means any and all manner of claims, debts, demands,  
13 controversies, obligations, losses, costs, interest, penalties, fees, expenses, rights,  
14 duties, judgments, sums of money, suits, contracts, agreements, promises, damages,  
15 causes of action and liabilities, of every nature and description in law or equity  
16 (including, but not limited to, any claims for damages, whether compensatory,  
17 special, incidental, consequential, punitive, exemplary or otherwise, injunctive  
18 relief, declaratory relief, recession or recessionary damages, interest, attorneys’  
19 fees, expert or consulting fees, costs, or expenses), accrued or unaccrued, known or  
20 unknown, arising under federal, state, common, administrative, or foreign law, or  
21 any other law, rule, or regulation.

22           **1.8.** “Claims Administrator” means Strategic Claims Services,  
23 which shall administer the Settlement.

24           **1.9.** “Court” means the United States District Court for the Central  
25 District of California, or if this Action is transferred to another court, the transferee  
26 court.

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1           **1.10.** “Defendants” means CD Projekt, S.A., Adam Michal Kiciński,  
2 Marcin Iwiński, Piotr Marcin Nielubowicz, and Michał Nowakowski.

3           **1.11.** “Defense Counsel” means Cooley LLP.

4           **1.12.** “Escrow Account” means an interest-bearing escrow account  
5 established by the Escrow Agent at the Huntington National Bank. The Escrow  
6 Account shall be managed by the Escrow Agent, subject to the Court’s supervisory  
7 authority, for the benefit of Plaintiffs and the Settlement Class in accordance with  
8 the terms of the Stipulation and any order of the Court, provided that, unless this  
9 Stipulation otherwise permits, no amount shall be withdrawn from the Escrow  
10 Account prior to the Effective Date absent written approval of Defendants or their  
11 counsel, or an order of the Court after notice to Defendants.

12           **1.13.** “Escrow Agent” means Huntington Bank. The Escrow Agent  
13 shall perform the duties as set forth in this Stipulation and any order of the Court.

14           **1.14.** “Effective Date” shall have the meaning set forth in ¶10.5 of this  
15 Stipulation.

16           **1.15.** “Final” when referring to the Final Judgment means exhaustion  
17 of all possible appeals, meaning (i) if no appeal or request for review is filed, the  
18 day after the date of expiration of any time for appeal or review of the Final  
19 Judgment, and (ii) if an appeal or request for review is filed, the day after the date  
20 the appeal or request for review is dismissed, or the Final Judgment is upheld on  
21 appeal or review in all material respects, and is not subject to further review on  
22 appeal or by *certiorari* or otherwise; provided, however, that any dispute or appeals  
23 relating solely to the amount, payment, or allocation of attorneys’ fees and expenses  
24 or the Plan of Allocation shall have no effect on finality for purposes of determining  
25 the date on which the Final Judgment becomes Final.

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1           **1.16.** “Final Judgment” means the order and judgment to be entered  
2 by the Court finally approving the Settlement, materially in the form attached hereto  
3 as Exhibit B.

4           **1.17.** “Lead Counsel” means The Rosen Law Firm, P.A.

5           **1.18.** “Long Notice” means the Notice of Pendency and Proposed  
6 Settlement of Class Action, substantially in the form attached hereto as Exhibit A-  
7 1.

8           **1.19.** “Net Settlement Fund” means the Settlement Fund, less: (i) the  
9 Fee and Expense Awards (as defined below); (ii) Administrative Costs; (iii) Taxes  
10 and Tax Expenses; (iv) any Award to Plaintiffs; and (v) other fees and expenses  
11 authorized by the Court.

12           **1.20.** “Notice” means collectively, the Long Notice, the Summary  
13 Notice, and the Postcard Notice, which are to be made available to Settlement Class  
14 Members substantially in the forms attached hereto as Exhibits A-1, A-3, and A-4  
15 on the Claims Administrator’s website and/or mailed to Settlement Class Members.

16           **1.21.** “Party” means any one of, and “Parties” means all of  
17 Defendants and Plaintiffs (on behalf of itself and the Settlement Class).

18           **1.22.** “Person” means an individual, corporation, fund, limited  
19 liability corporation, professional corporation, limited liability partnership,  
20 partnership, limited partnership, association, joint stock company, estate, legal  
21 representative, trust, unincorporated association, government or any political  
22 subdivision or agency thereof, and any business or legal entity and their spouses,  
23 heirs, predecessors, successors, representatives, or assigns.

24           **1.23.** “Plaintiffs” means Lead Plaintiff James W. Gordley and  
25 additional Plaintiffs Steven Shaginyan and Phillip Trefethen.

26           **1.24.** “Plan of Allocation” means a plan or formula for allocating the  
27 Settlement Fund to Authorized Claimants after payment of Administrative Costs,  
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1 Taxes and Tax Expenses, and such attorneys' fees, costs, and expenses as may be  
2 awarded by the Court. The Plan of Allocation is not a condition to the effectiveness  
3 of this Stipulation, and the Released Parties shall have no responsibility or liability,  
4 with respect thereto.

5 **1.25.** "Postcard Notice" means the Postcard Notice, alerting potential  
6 Class Members to the availability of the Notice and containing instructions on how  
7 Class Members can obtain copies of the Notice and Proof of Claim either by  
8 electronic means or by mail, substantially in the form attached hereto as Exhibit A-  
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10 **1.26.** "Preliminary Approval Order" means an order preliminarily  
11 approving the Settlement and directing notice thereof to the Settlement Class,  
12 substantially in the form of the proposed order attached hereto as Exhibit A.

13 **1.27.** "Proof of Claim" means the Proof of Claim and Release Form  
14 to be submitted by Claimants, substantially in the form attached hereto as Exhibit  
15 A-2.

16 **1.28.** "Related Parties" means, with respect to each Released Party,  
17 the immediate family members, employees, officers, directors, attorneys, legal  
18 representatives, accountants, insurers, reinsurers, and agents of each of them, and  
19 any person or entity which is or was related to or affiliated with any Released Party  
20 or in which any Released Party has a controlling interest, and their present and  
21 former parents, subsidiaries, variable interest entities, divisions, affiliates,  
22 employees, officers, directors, attorneys, legal representatives, insurers, reinsurers,  
23 and agents, and the predecessors, heirs, administrators, successors and assigns of  
24 the foregoing.

25 **1.29.** "Released Claims" means and includes any and all Claims that  
26 have been or could have been asserted in the Action by or on behalf of any of the  
27 Releasing Parties, in any capacity, arising out of or relating to the allegations, facts,  
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1 transactions, events, matters, occurrences, acts, disclosures, oral or written  
2 statements, representations, omissions, failures to act, filings, publications,  
3 disseminations, press releases, or presentations involved, related to, set forth,  
4 alleged or referred to in the Action. Notwithstanding the foregoing, “Released  
5 Claims” does not include claims to enforce the terms of this Stipulation or orders  
6 or judgments issued by the Court in connection with this Settlement.

7 **1.30.** “Released Parties” means Defendants and each and all of their  
8 Related Parties, their respective families, parent entities, associates, affiliates or  
9 subsidiaries, and each and all of their respective past, present or future officers,  
10 directors, stockholders, agents, representatives, employees, attorneys, financial or  
11 investment advisors, advisors, consultants, accountants, investment bankers,  
12 commercial bankers, trustees, engineers, agents, insurers, co-insurers and  
13 reinsurers, heirs, executors, general or limited partners or partnerships, personal or  
14 legal representatives, estates, administrators, predecessors, successors and assigns.

15 **1.31.** “Releasing Parties” means Plaintiffs, each and every Settlement  
16 Class Member and each of their respective parent entities, associates, affiliates,  
17 subsidiaries, predecessors, successors, assigns, attorneys, immediate family  
18 members, heirs, representatives, administrators, executors, devisees, legatees, and  
19 estates, whether or not they object to the Settlement set forth in this Stipulation, and  
20 whether or not they make a claim for payment from the Net Settlement Fund.

21 **1.32.** “Settlement” means the settlement contemplated by this  
22 Stipulation.

23 **1.33.** “Settlement Amount” means one million, eight hundred and  
24 fifty thousand dollars. (\$1,850,000).

25 **1.34.** “Settlement Class” means all Persons (other than those Persons  
26 identified below in this paragraph) who acquired CD Projekt-related equity  
27 securities publicly traded in domestic transactions from January 16, 2020, through  
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1 December 17, 2020, both dates inclusive, and who were damaged thereby. Excluded  
2 from the Settlement Class are: (a) persons who suffered no compensable losses; and  
3 (b) Defendants; the present and former officers and directors of the Company at all  
4 relevant times; members of their immediate families and their legal representatives,  
5 heirs, successors, or assigns, and any entity in which any of the Defendants, or any  
6 person excluded under this subsection (b), has or had a majority ownership interest  
7 at any time.

8 **1.35.** “Settlement Class Member” means any one of, and “Settlement  
9 Class Members” means all of, the members of the Settlement Class.

10 **1.36.** “Settlement Class Period” means the period from January 16,  
11 2020, through December 17, 2020, both dates inclusive.

12 **1.37.** “Settlement Fund” means all funds transferred to the Escrow  
13 Account pursuant to this Stipulation and any interest or other income earned  
14 thereon.

15 **1.38.** “Settlement Hearing” means the hearing at or after which the  
16 Court will make a final decision pursuant to Rule 23 of the Federal Rules of Civil  
17 Procedure as to whether the Settlement contained in the Stipulation is fair,  
18 reasonable and adequate, and therefore, should receive final approval from the  
19 Court.

20 **1.39.** “Summary Notice” means the Summary Notice of Pendency  
21 and Proposed Class Action Settlement that the Claims Administrator will cause to  
22 be published, substantially in the form attached hereto as Exhibit A-3.

23 **2. The Settlement Consideration**

24 **2.1.** In consideration of the full and final release, settlement, and  
25 discharge of all Released Claims against the Released Parties, within twenty (20)  
26 calendar days after entry of the Preliminary Approval Order, Defendants shall pay,  
27 or cause their insurers to pay, for the benefit of the Settlement Class, the Settlement  
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1 Amount of \$1,850,000 cash into the Escrow Account, provided that Lead Counsel  
2 shall have provided Defendants with complete and accurate payment instructions  
3 and a W-9 for the Settlement Fund at least five (5) Business Days before the day of  
4 such payment.

5           **2.2.** The obligations incurred pursuant to this Agreement shall be in  
6 full and final disposition and settlement of all Released Claims. Plaintiffs and  
7 Settlement Class Members shall look solely to the Settlement Fund as full, final,  
8 and complete satisfaction of all Released Claims. Under no circumstances will  
9 Defendants be required to pay, or cause payment of, more than the Settlement  
10 Amount pursuant to this Stipulation or the Settlement for any reason whatsoever,  
11 including, without limitation, as Administrative Costs, as compensation to any  
12 Settlement Class Member, as payment of Plaintiffs' or any Settlement Class  
13 Member's attorneys' fees and expenses, or in payment of any fees, expenses, costs,  
14 liability, losses, Taxes, or damages whatsoever alleged or incurred by Plaintiffs, any  
15 Settlement Class Member or Lead Counsel, including but not limited to their  
16 attorneys, experts, advisors, agents, or representatives.

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

18           **3.1.** No monies will be disbursed from the Settlement Fund prior to  
19 the Effective Date except:

- 20                   (a) As provided in ¶3.3 below;  
21                   (b) As provided in ¶8.2 below;  
22                   (c) As provided in ¶10.10 below, if applicable; and  
23                   (d) To pay Taxes and Tax Expenses (as defined in ¶4.1  
24 below). Taxes and Tax Expenses shall be paid out of the Settlement Fund and shall  
25 be considered to be a cost of administration of the Settlement and shall be timely  
26 paid by the Escrow Agent without prior Order of the Court.

1           **3.2.** The Escrow Agent shall invest the Settlement Fund in short term  
2 instruments backed by the full faith and credit of the United States Government or  
3 fully insured by the United States Government or an agency thereof and shall  
4 reinvest the proceeds of these instruments as they mature in similar instruments at  
5 their then-current market rates. The Escrow Agent shall bear all responsibility and  
6 liability for managing the Escrow Account and cannot assign or delegate its  
7 responsibilities without approval of the Parties. Defendants, their counsel, their  
8 insurers, and the other Released Parties shall have no responsibility for, interest in,  
9 or any liability whatsoever with respect to any investment or management decisions  
10 executed by the Escrow Agent. The Settlement Fund shall bear all risks related to  
11 the investments of the Settlement Amount in accordance with the guidelines set  
12 forth in this ¶3.2.

13           **3.3.** The Escrow Agent shall not disburse the Settlement Fund except  
14 as provided in this Stipulation, by an order of the Court, or with the written  
15 agreement of Defendants. At any time after the Court grants preliminary approval  
16 of the Settlement, the Escrow Agent may, without further approval from Defendants  
17 or the Court, disburse at the direction of Lead Counsel up to \$100,000 from the  
18 Settlement Fund prior to the Effective Date to pay Administrative Costs. After the  
19 Effective Date, an additional \$50,000 may be transferred from the Settlement Fund  
20 to pay for any reasonable and necessary Administrative Costs without further order  
21 of the Court. No payment from the Settlement Fund, including, without limitation,  
22 any distributions from the Net Settlement Fund or payments of any attorneys' fees  
23 or compensatory awards to Plaintiffs, shall in any event be made to any Settlement  
24 Class Member (including Plaintiffs) or to Lead Counsel prior to the Effective Date.

25           **4. Taxes**

26           **4.1.** The Parties agree to treat the Settlement Fund as being at all  
27 times a “qualified settlement fund” within the meaning of Treasury Regulation  
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1 § 1.468B-1. In addition, Lead Counsel shall timely make, or cause to be made via  
2 the Escrow Agent, such elections as necessary or advisable to carry out the  
3 provisions of this ¶4.1, including the “relation-back election” (as defined in  
4 Treasury Regulation § 1.468B-1) back to the earliest permitted date. Such elections  
5 shall be made in compliance with the procedures and requirements contained in  
6 such regulations. It shall be the responsibility of Lead Counsel to timely and  
7 properly prepare and deliver the necessary documentation for signature by all  
8 necessary parties, and thereafter to cause the appropriate filing to occur. Upon  
9 written request, the Released Parties will timely provide to Lead Counsel the  
10 statement described in Treasury Regulation § 1.468B-3(e).

11 (a) For purposes of § 1.468B of the Internal Revenue Code of 1986,  
12 as amended, and Treasury Regulation § 1.468B-2(k)(3) promulgated thereunder,  
13 the “administrator” shall be Lead Counsel. Lead Counsel shall timely and properly  
14 file, or cause to be filed via the Escrow Agent, all informational and other tax returns  
15 necessary or advisable with respect to the Settlement Fund (including without  
16 limitation the returns described in Treasury Regulation § 1.468B-2(k)). Such returns  
17 (as well as the election described in this ¶4.1) shall be consistent with this ¶4.1 and  
18 in all events shall reflect that all Taxes (including any estimated Taxes, interest or  
19 penalties) on the income earned by the Settlement Fund shall be paid out of the  
20 Settlement Fund.

21 (b) All taxes (including any estimated taxes, interest or penalties)  
22 arising with respect to the income earned by the Settlement Fund, including any  
23 taxes or tax detriments that may be imposed upon the Released Parties with respect  
24 to (i) any income earned by the Settlement Fund for any period during which the  
25 Settlement Fund does not qualify as a “qualified settlement fund” for federal or state  
26 income tax purposes, and (ii) the payment or reimbursement by the Settlement Fund  
27 of any taxes or tax detriments described in clause (i) (“Taxes”), and all expenses  
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1 and costs incurred in connection with the operation and implementation of this ¶4.1  
2 (including, without limitation, expenses of tax attorneys and/or accountants and  
3 mailing and distribution costs and expenses or penalties relating to filing (or failing  
4 to file) the returns described in this ¶4.1) (“Tax Expenses”), shall be paid out of the  
5 Settlement Fund, as appropriate. The Released Parties shall have no liability or  
6 responsibility for the Taxes or the Tax Expenses. Taxes and Tax Expenses shall be  
7 treated as, and considered to be, a cost of administration of the Settlement and shall  
8 be timely paid out of the Settlement Fund without prior order from the Court. The  
9 Escrow Agent shall be obligated (notwithstanding anything herein to the contrary)  
10 to withhold from distribution to Authorized Claimants any funds necessary to pay  
11 such amounts, including the establishment of adequate reserves for any Taxes and  
12 Tax Expenses (as well as any amounts that may be withheld under Treasury  
13 Regulation § 1.468B-2(1)(2)). The Released Parties shall have no responsibility  
14 for, interest in, or any liability whatsoever with respect to the acts or omissions of  
15 Lead Counsel or the Escrow Agent with respect to the foregoing provided in this  
16 ¶4.1. The Parties agree to cooperate with each other, and their tax attorneys and  
17 accountants, to the extent reasonably necessary to carry out the provisions of this  
18 ¶4.1.

19 **5. Preliminary Approval Order, Notice Order, and Settlement**  
20 **Hearing**

21 **5.1.** As soon as practicable after execution of this Stipulation, Lead  
22 Counsel shall submit this Stipulation and its exhibits to the Court and shall move  
23 for preliminary approval of the Settlement set forth in this Stipulation, entry of a  
24 preliminary approval order, and approval for the mailing and dissemination of  
25 Notice, substantially in the form of Exhibits A, A-1, A-2, A-3, and A-4. The  
26 Postcard Notice (Exhibit A-4) shall inform potential Class Members of the  
27 availability of the Notice either by first class mail, postage pre-paid, or by electronic  
28 delivery. The Long Notice (Exhibit A-1) shall include the general terms of the

1 Settlement and the provisions of the Plan of Allocation, and shall set forth the  
2 procedure by which recipients of the Notice may object to the Settlement or the  
3 Plan of Allocation or request to be excluded from the Settlement Class. The date  
4 and time of the Settlement Hearing shall be added to the Notice before it is mailed  
5 or otherwise provided to Settlement Class Members. The Summary Notice (Exhibit  
6 A-3) shall inform potential class members of the availability of the Notice via  
7 publication.

8 **5.2.** At the time of the submission described in ¶5.1 hereof,  
9 Plaintiffs, through Lead Counsel, shall request that, after the Notice is provided, the  
10 Court hold the Settlement Hearing and (i) approve the Settlement as set forth herein,  
11 and (ii) enter a final order and judgment substantially in the form of Exhibit B  
12 hereto, as promptly after the Settlement Hearing as possible.

13 **5.3.** It shall be Lead Counsel's sole responsibility to disseminate the  
14 Notice to the Class in accordance with this Stipulation and as ordered by the Court.  
15 Defendants shall not bear any cost or responsibility for class Notice, administration,  
16 or the allocation of the settlement amount among Settlement Class Members.  
17 Settlement Class Members shall have no recourse as to the Released Parties with  
18 respect to any claims they may have that arise from any failure of the notice process.

19 **5.4.** No later than ten (10) calendar days following the filing of this  
20 Stipulation with the Court, Defendants shall serve, or cause to be served, the notice  
21 required under the Class Action Fairness Act of 2005 ("CAFA"). At least seven  
22 days before the Settlement Hearing, Defendants shall file with the Court an affidavit  
23 or declaration regarding their compliance with the CAFA notice requirements.

24 **6. Releases and Covenants Not to Sue**

25 **6.1.** Upon the Effective Date, the Releasing Parties, regardless of  
26 whether any such Releasing Party ever seeks or obtains by any means, including  
27 without limitation by submitting a Proof of Claim, any disbursement from the  
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1 Settlement Fund, shall be deemed to have, and by operation of the Final Judgment  
2 shall have, fully, finally, and forever compromised, settled, resolved, released,  
3 relinquished, waived, dismissed, and discharged all Released Claims against the  
4 Released Parties and shall have covenanted not to sue the Released Parties with  
5 respect to all such Released Claims, and shall be permanently barred and enjoined  
6 from asserting, commencing, prosecuting, instituting, assisting, instigating, or in  
7 any way participating in the commencement or prosecution of any action or other  
8 proceeding, in any forum, asserting any Released Claim, in any capacity, against  
9 any of the Released Parties, and agree and covenant not to sue any of the Released  
10 Parties on the basis of the Released Claims or to assist any third party in  
11 commencing or maintaining any suit against the Released Parties related to any  
12 Released Claims, whether or not such Settlement Class Member executes and  
13 delivers a Proof of Claim Form, seeks or obtains a distribution from the Settlement  
14 Fund, is entitled to receive a distribution under the Plan of Allocation approved by  
15 the Court, or has objected to any aspect of the Stipulation or the Settlement, the Plan  
16 of Allocation, or Lead Counsel's application for an award of attorneys' fees or  
17 expenses For the avoidance of doubt, Defendants are released from any and all  
18 claims for contribution or indemnity, as would otherwise be allowed by Section  
19 21D of the Exchange Act, 15 U.S.C. §78u-4(f)(7). Nothing contained herein shall,  
20 however, bar the Releasing Parties from bringing any action or claim to enforce the  
21 terms of this Stipulation or the Final Judgment. Nor shall anything contained herein  
22 limit or release any claims Defendants may have with regard to insurance coverage  
23 that may be available to them under any applicable policy. This release shall not  
24 apply to any Settlement Class Members who timely and properly excludes  
25 themselves from the Settlement Class.

26           **6.2.** With respect to any and all Released Claims, the Parties  
27 stipulate and agree that, upon the Effective Date, Plaintiffs and the Released Parties  
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1 shall expressly waive, and each of the Settlement Class Members and Releasing  
2 Parties shall be deemed to have waived, and by operation of the Final Judgment  
3 shall have waived, the provisions, rights, and benefits of California Civil Code §  
4 1542, which provides:

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

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

5           **6.3.** Upon the Effective Date, the Released Parties shall be deemed  
6 to have, and by operation of the Final Judgment shall have, fully, finally, and  
7 forever released, relinquished, and discharged all claims they may have against the  
8 Releasing Parties, including Settlement Class Members and Lead Counsel, related  
9 to the prosecution of the Action or any other known or unknown counter-claim  
10 related thereto and shall have covenanted not to sue the Releasing Parties, including  
11 Settlement Class Members and Lead Counsel, with respect to any counter claim,  
12 claim, or sanction related to the Released Claims, and shall be permanently barred  
13 and enjoined from asserting, commencing, prosecuting, instituting, assisting,  
14 instigating, or in any way participating in the commencement or prosecution of any  
15 action or other proceeding, in any forum, asserting any such claim, in any capacity,  
16 against any of the Releasing Parties, including Settlement Class Members and Lead  
17 Counsel, and agree and covenant not to sue any of the Releasing Parties, including  
18 Settlement Class Members and Lead Counsel, on the basis of any such claim or to  
19 assist any third party in commencing or maintaining any suit against the Releasing  
20 Parties related to any such claim. Nothing contained herein shall, however, bar the  
21 Released Parties from bringing any action or claim to enforce the terms of this  
22 Stipulation or the Final Judgment.

23           **6.4.** The releases provided in this Stipulation shall become effective  
24 immediately upon occurrence of the Effective Date without the need for any further  
25 action, notice, condition, or event. Plaintiffs, Releasing Parties, and Settlement  
26 Class Members shall be deemed to acknowledge that, as of the Effective Date, the  
27 releases given herein shall become effective immediately by operation of the Final  
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1 Judgment and shall be permanent, absolute, and unconditional. Upon the Effective  
2 Date to the extent allowed by law, this Stipulation shall operate conclusively as an  
3 estoppel and full defense in the event, and to the extent, or any claim, demand,  
4 action, or proceeding brought by a Settlement Class Member against any of the  
5 Defendant Releasees with respect to any Released Plaintiffs' Claims, or brought by  
6 a Defendant against any of the Plaintiffs' Releasees with respect to any Released  
7 Defendants' Claim.

8 **7. Administration and Calculation Of Claims, Final Awards And**  
9 **Supervision And Distribution Of The Settlement Fund**

10 **7.1.** Under the supervision of Lead Counsel, acting on behalf of the  
11 Settlement Class, and subject to such supervision and direction of the Court as may  
12 be necessary or as circumstances may require, the Claims Administrator shall  
13 administer and calculate the claims submitted by Settlement Class Members and  
14 shall oversee distribution of the Net Settlement Fund (as defined below) to  
15 Authorized Claimants. After the Effective Date, Lead Counsel shall apply to the  
16 Court, on notice to the Parties, for the Settlement Fund Distribution Order.

17 **7.2.** The Settlement Fund shall be applied as follows:

18 (a) To pay the Taxes and Tax Expenses described in ¶4.1  
19 above;

20 (b) To pay Administrative Costs;

21 (c) To pay Lead Counsel's attorneys' fees and expenses and  
22 payments to Plaintiffs for reimbursement of its time and expenses ("Fee and  
23 Expense Award"), to the extent allowed by the Court; and

24 (d) To distribute the balance of the Settlement Fund, that is,  
25 the Settlement Fund less the items set forth in ¶¶7.2(a), (b), and (c) hereof ("Net  
26 Settlement Fund"), plus all accrued interest, to the Authorized Claimants as allowed  
27 by this Stipulation, the Plan of Allocation, or the Court.

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1           **7.3.** Upon and after the Effective Date, the Net Settlement Fund shall  
2 be distributed to Authorized Claimants in accordance with the terms of the Plan of  
3 Allocation set forth in the Notice and any orders of the Court. No Person shall have  
4 any claims against Lead Counsel, the Claims Administrator, or any other agent  
5 designated by Lead Counsel based on distribution determinations or claim  
6 rejections made substantially in accordance with this Stipulation and the Settlement  
7 contained herein, the Plan of Allocation, or orders of the Court. Lead Counsel shall  
8 have the right, but not the obligation, to waive what it deems to be formal or  
9 technical defects in any Proofs of Claim filed, where doing so is in the interest of  
10 achieving substantial justice.

11           **7.4.** This is a common fund settlement, and if all conditions of the  
12 Stipulation are satisfied and the Final Judgment becomes Final, no portion of the  
13 Settlement Fund will be returned to Defendants. Defendants, their counsel, their  
14 insurers, and the other Released Parties shall have no responsibility for,  
15 involvement in, interest in, or liability whatsoever with respect to the investment or  
16 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  
18 Tax Expenses, or any losses incurred in connection therewith. In no instance shall  
19 any Defendant Releasee be required to pay any amount other than as specified in  
20 Paragraph 2.1.

21           **7.5.** The Claims Administrator shall administer the Settlement  
22 subject to the jurisdiction of the Court and pursuant to this Stipulation and the Plan  
23 of Allocation. Plaintiffs and Lead Counsel shall be solely responsible for  
24 formulation of the Plan of Allocation. It is understood and agreed by the Parties that  
25 any proposed Plan of Allocation of the Net Settlement Fund including, but not  
26 limited to, any adjustments to an Authorized Claimant's claim set forth therein, is  
27 not a condition of this Stipulation and is to be considered by the Court separately  
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1 from the Court's consideration of the fairness, reasonableness, and adequacy of the  
2 Settlement. Any order or proceedings relating to the Plan of Allocation, or any  
3 appeal from any order relating thereto or reversal or modification thereof, shall not  
4 operate to modify, terminate or cancel this Stipulation, or affect or delay the finality  
5 of the Final Judgment and the releases contained therein, or any other orders entered  
6 pursuant to this Stipulation.

7 **7.6.** Each Claimant shall be deemed to have submitted to the  
8 jurisdiction of the Court with respect to the Claimant's claim, and the claim will be  
9 subject to investigation and discovery under the Federal Rules of Civil Procedure,  
10 provided that such investigation and discovery shall be limited to that Claimant's  
11 status as a Settlement Class Member and the validity of the amount of the  
12 Claimant's claim. No discovery shall be allowed on the merits of the Action or  
13 Settlement in conjunction with the processing of the Proofs of Claim.

14 **7.7.** Payment pursuant to this Stipulation shall be deemed final and  
15 conclusive against all Claimants. All Claimants whose claims are not approved by  
16 the Court shall be barred from participating in the distribution from the Net  
17 Settlement Fund, but otherwise shall be bound by all of the terms of this Stipulation  
18 and the Settlement, including the terms of the Final Judgment to be entered in this  
19 Action and the releases provided for herein, and will be barred from bringing any  
20 action against the Released Parties concerning the Released Claims.

21 **7.8.** All proceedings with respect to the administration, processing,  
22 and determination of claims and all controversies relating thereto, including  
23 disputed questions of law and fact with respect to the validity of claims, shall be  
24 subject to the jurisdiction of this Court, but shall not delay or affect the finality of  
25 the Final Judgment.

26 **7.9.** Neither the Parties nor their counsel shall have any  
27 responsibility for or liability whatsoever with respect to: (i) any act, omission, or  
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1 determination of the Escrow Agent or the Claims Administrator, or any of their  
2 respective designees or agents, in connection with the administration of the  
3 Settlement Fund or otherwise; (ii) the Plan of Allocation; (iii) the determination,  
4 administration, calculation, or payment of any claims asserted against the  
5 Settlement Fund; (iv) any losses suffered by, or fluctuations in the value of, the  
6 Settlement Fund; or (v) the payment or withholding of any Taxes, expenses, and/or  
7 costs incurred in connection with the taxation of the Settlement Fund or the filing  
8 of any returns.

9 **7.10.** If there is any balance remaining in the Net Settlement Fund  
10 (whether by reason of tax refunds, uncashed checks, or otherwise) after at least six  
11 (6) months from the date of initial distribution of the Net Settlement Fund, Lead  
12 Counsel shall, if feasible and economical, redistribute such balance among  
13 Authorized Claimants who have cashed their checks and who would receive at least  
14 \$10.00 from such redistribution. Any balance that remains in the Net Settlement  
15 Fund after re-distribution(s) that is not feasible or economical to reallocate, after  
16 payment of Notice and Administration Expenses, Taxes, and attorneys' fees and  
17 expenses, shall be contributed to the Howard University School of Law Investor  
18 Justice and Education Clinic or other non-profit that the Court, in its discretion,  
19 approves under the *cy pres* doctrine.

## 20 **8. Lead Counsel's Attorneys' Fees and Reimbursement of Expenses**

21 **8.1.** Lead Counsel may, if applicable, submit an application or  
22 applications ("Fee and Expense Application") for distributions from the Settlement  
23 Fund to Lead Counsel for a Fee and Expense Award consisting of: (i) an award of  
24 attorneys' fees from the Settlement Fund; (ii) reimbursement of actual costs and  
25 expenses, including the fees and expenses of any experts or consultants, incurred in  
26 connection with prosecuting the Action; and (iii) an Award to Plaintiffs as payment  
27 to Plaintiffs for reimbursement of their time and expenses in connection with the  
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1 Action. Defendants shall take no position with respect to the Fee and Expense  
2 Application(s). Lead Counsel's application for an award of attorneys' fees or  
3 Litigation Expenses is not the subject of any agreement between Defendants and  
4 Plaintiffs other than what is set forth in this Stipulation.

5 **8.2.** Any attorneys' fees and expenses awarded to Lead Counsel by  
6 the Court shall be paid to Lead Counsel from the Escrow Account immediately after  
7 the Court enters an order approving the Fee and Expense Award notwithstanding  
8 the existence of any timely filed objections to any Fee and Expense Award, or  
9 potential for appeal therefrom, or collateral attack on the Settlement or any part  
10 thereof, and subject to Lead Counsel's obligation to make appropriate refunds or  
11 repayments to the Settlement Fund, plus interest earned thereon, within ten  
12 Business Days, if and when the Settlement is terminated in accordance with its  
13 terms or, as a result of any appeal and/or further proceedings on remand, or  
14 successful collateral attack, the Fee and Expense Award is reduced.

15 **8.3.** The procedure for, and allowance or disallowance by the Court  
16 of, the Fee and Expense Application are not a condition of the Settlement set forth  
17 in this Stipulation and are to be considered by the Court separately from the Court's  
18 consideration of the fairness, reasonableness, and adequacy of the Settlement. Any  
19 order of or proceeding relating to the Fee and Expense Application, or any objection  
20 to, motion regarding, or appeal from any order or proceeding relating thereto or  
21 reversal or modification thereof, shall not operate to modify, terminate or cancel  
22 this Stipulation, or affect or delay the finality of the Final Judgment or the releases  
23 contained therein or any other orders entered pursuant to this Stipulation.

24 **8.4.** Any Fee and Expense Award paid to Lead Counsel or Award to  
25 Plaintiffs shall be paid solely from the Settlement Fund and shall reduce the  
26 settlement consideration paid to the Settlement Class accordingly. Defendants shall  
27 not have any responsibility for payment of Lead Counsel's attorneys' fees and  
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1 expenses or other award to Plaintiffs beyond the obligation of Defendants to fund,  
2 or to cause their insurers to fund, the Settlement Amount as set forth in ¶2.1 above.  
3 The Released Parties shall have no responsibility for, and no liability whatsoever  
4 with respect to, any payments to Lead Counsel, Plaintiffs, the Settlement Class  
5 and/or any other Person who receives payment from the Settlement Fund.

6 **9. Class Certification**

7 **9.1.** In the Final Judgment, the Parties agree that the Court should, if  
8 applicable, certify the Settlement Class for purposes of this Settlement only. For  
9 purposes of this settlement only, in connection with the Final Judgment, Defendants  
10 shall consent to (i) the appointment of Plaintiffs as class representatives, (ii) the  
11 appointment of Lead Counsel as class counsel, and (iii) the certification of the  
12 Settlement Class pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil  
13 Procedure. In the event that the Final Judgment does not become Final or the  
14 Settlement fails to become effective for any reason, the Settlement Class shall be  
15 decertified without prejudice, and the Parties shall revert to their pre-settlement  
16 positions.

17 **10. Conditions of Settlement, Effect of Disapproval, Cancellation or**  
18 **Termination**

19 **10.1.** Plaintiffs, on behalf of the Settlement Class, and Defendants  
20 shall each have the right to terminate the Settlement and Stipulation by providing  
21 written notice of their election to do so (“Termination Notice”) to all other Parties  
22 within ten (10) Business Days of:

23 (a) entry of a Court order declining to enter the Preliminary  
24 Approval Order in all material respects;

25 (b) entry of a Court order refusing to approve this Stipulation  
26 in all material respects;

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1 (c) entry of a Court order declining to enter the Final  
2 Judgment in all material respects, provided, however, that this Settlement is  
3 expressly not conditioned on the Court's approval of the proposed Plan of  
4 Allocation, nor on the Court's approval of Lead Counsel's application for attorneys'  
5 fees or expenses, nor on the Court's approval of any award to Plaintiffs for its  
6 reasonable costs and expenses, and any change in the Judgment relating to these  
7 items shall not be considered a material change;

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

10 (e) entry of an order by which the Final Judgment is modified  
11 or reversed in any material respect by any appeal or review.

12 **10.2.** If the Settlement Amount is not paid into the Escrow Account  
13 in accordance with ¶2.1 of this Stipulation, then Plaintiffs, on behalf of the  
14 Settlement Class, shall have the right to: (a) terminate the Settlement and Stipulation  
15 by providing written notice to Defendants at any time prior to the Court's entry of  
16 the Final Judgment; or (b) enforce the terms of the Settlement and this Stipulation  
17 and seek a judgment effecting the terms herein.

18 **10.3.** If, prior to the Settlement Hearing, persons who otherwise  
19 would be Settlement Class Members have filed with the Court valid and timely  
20 request for exclusion from the Settlement Class in accordance with the provision of  
21 the Preliminary Approval Order and the Notice, and such persons in the aggregate  
22 have purchased or otherwise acquired CD Projekt-related equity securities in  
23 domestic transactions in an amount that equals or exceeds the sum specified in a  
24 separate supplemental agreement between the Parties ("Supplemental Agreement"),  
25 CD Projekt shall have the option, but not the obligation, to terminate this Stipulation  
26 in accordance with the procedures set forth in the Supplemental Agreement. The  
27 Supplemental Agreement is confidential and will not be filed with the Court unless  
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1 requested by the Court or a dispute among the Parties concerning its interpretation  
2 or application arises, in which case the Parties will take reasonable steps to assure  
3 the Supplemental Agreement is filed under seal or submitted for *in camera* review,  
4 subject to the Court's approval and direction. The Parties will file a statement  
5 identifying the existence of the Supplemental Agreement pursuant to Federal Rule  
6 of Civil Procedure 23(e)(3). Copies of all requests for exclusion received, together  
7 with copies of all revocations of request for exclusion (if any), shall be delivered to  
8 Defendants' counsel within five (5) calendar days of receipt thereof.

9 **10.4.** If any Party engages in a material breach of the terms hereof,  
10 any other Party, provided that it is in substantial compliance with the terms of this  
11 Stipulation, may terminate this Stipulation on notice to all the Parties.

12 **10.5.** The Effective Date of this Stipulation shall not occur unless and  
13 until each of the following events occurs, and it shall be the date upon which the  
14 last in time of the following events occurs:

15 (a) The Court has entered the Preliminary Approval Order  
16 attached hereto as Exhibit A or an order containing materially the same terms;

17 (b) The Court has approved the Settlement, following notice  
18 to the Settlement Class and the Settlement Hearing, and has entered the Final  
19 Judgment;

20 (c) The Action has been dismissed with prejudice; and

21 (d) The Final Judgment has become Final as defined in ¶1.15.

22 **10.6.** Upon the occurrence of the Effective Date, any and all interest  
23 or right of Defendants in or to the Settlement Fund, shall be absolutely and forever  
24 extinguished, except as set forth in this Stipulation.

25 **10.7.** In the event that some or all of the conditions specified in ¶10.5  
26 above are not met, the Parties may agree in writing nevertheless to proceed with  
27 this Stipulation and Settlement. However, none of the Parties, or any of them, shall  
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1 have any obligation whatsoever to proceed under any terms other than those  
2 provided for and agreed herein.

3 **10.8.** In the event the Stipulation shall terminate, or be canceled, or  
4 shall not become effective for any reason, the Parties and the Released Parties shall  
5 be restored to their respective positions in the Action immediately prior to the  
6 execution of this Stipulation, and they shall proceed in all respects as if the  
7 Stipulation had not been executed and the related orders had not been entered, and  
8 in that event all of their respective claims and defenses as to any issue in the Action  
9 shall be preserved without prejudice.

10 **10.9.** In the event that the Stipulation is not approved by the Court or  
11 the Settlement set forth in this Stipulation is terminated or fails to become effective  
12 in accordance with its terms, the terms and provisions of this Stipulation, except as  
13 otherwise provided herein, shall have no further force and effect with respect to the  
14 Parties or the Released Parties and shall not be used in the Action or in any other  
15 proceeding for any purpose, and any judgment or order entered by the Court in  
16 accordance with the terms of this Stipulation shall be treated as vacated, *nunc pro*  
17 *tunc*.

18 **10.10.** In the event the Stipulation shall be terminated, or be canceled,  
19 or is incapable of becoming effective for any reason, within ten (10) Business Days  
20 after the occurrence of such event, the Settlement Fund (less taxes already paid and  
21 any Administrative Costs which have either been disbursed or are determined to be  
22 chargeable, not to exceed \$100,000 without the prior approval of the Court) shall  
23 be refunded by the Escrow Agent to Defendants or their insurers, as applicable, plus  
24 accrued interest attributable to that amount, by check or wire transfer pursuant to  
25 written instructions from Defendants' counsel. At the request of Defendants, the  
26 Escrow Agent or its designee shall apply for any tax refund owed on the Settlement  
27 Fund and pay the proceeds, after deduction of any fees or expenses incurred in  
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1 connection with such application(s) for refund, to Defendants or their insurers, as  
2 applicable, pursuant to written direction from Defendants.

3 **10.11.** No order of the Court or modification or reversal on appeal of  
4 any order of the Court or motion for reconsideration, appeal, petition for a writ of  
5 *certiorari* or its equivalent concerning the Plan of Allocation or the Fee and Expense  
6 Application shall in any way delay or preclude the Effective Date or constitute  
7 grounds for cancellation or termination of the Stipulation.

8 **11. No Admission of Liability or Wrongdoing**

9 **11.1.** The Parties covenant and agree that neither this Stipulation (nor  
10 the Settlement contained therein), whether or not consummated, nor any of its terms  
11 and provisions, nor any of the negotiations, documents, or proceedings connected  
12 with them, is evidence, or an admission or concession by any Party or their counsel,  
13 any Settlement Class Member, or any of the Released Parties, of any fault, liability  
14 or wrongdoing whatsoever, as to any facts or claims alleged or asserted or could  
15 have been alleged or asserted in the Action, or any other actions or proceedings, or  
16 as to the validity or merit of any of the claims or defenses alleged or asserted in any  
17 such action or proceeding. This Stipulation is not a finding or evidence of the  
18 validity or invalidity of any claims or defenses alleged or asserted or could have  
19 been alleged or asserted in the Action, any wrongdoing by any Party, Settlement  
20 Class Member, or any of the Released Parties, or any damages or injury to any  
21 Party, Settlement Class Member, or any Released Parties. Neither this Stipulation,  
22 nor any of the terms and provisions of this Stipulation, nor any of the negotiations  
23 or proceedings in connection therewith, nor any of the documents or statements  
24 referred to herein or therein, nor the Settlement, nor the fact of the Settlement, nor  
25 the Settlement proceedings, nor any statement in connection therewith, (a) shall (i)  
26 be argued to be, used or construed as, offered or received in evidence as, or  
27 otherwise constitute an admission, concession, presumption, proof, evidence, or a  
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1 finding of any, liability, fault, wrongdoing, injury or damages, or of any wrongful  
2 conduct, acts or omissions on the part of any Released Party, or of any infirmity of  
3 any defense, or of any damages to Plaintiffs or any other Settlement Class Member,  
4 or (ii) otherwise be used to create or give rise to any inference or presumption  
5 against any of the Released Parties concerning any fact or any purported liability,  
6 fault, or wrongdoing of the Released Parties or any injury or damages to any person  
7 or entity, or (b) shall otherwise be admissible, referred to or used in any proceeding  
8 of any nature, for any purpose whatsoever, other than such proceedings as may be  
9 necessary to effectuate the provisions of this Stipulation; provided, however, that  
10 this Stipulation, the documents related hereto, or the Final Judgment may be  
11 introduced in any proceeding, whether in the Court or otherwise, as may be  
12 necessary to enforce the Settlement or Final Judgment, to effectuate the liability  
13 protection granted them hereunder, to support a defense or counterclaim based on  
14 principles of *res judicata*, collateral estoppel, release, good faith settlement,  
15 judgment bar or reduction, offset or any other theory of claim preclusion or issue  
16 preclusion or similar defense or counterclaim, or as otherwise required by law.

17 **11.2.** Nothing in this Stipulation constitutes or reflects a waiver or  
18 release of any rights or claims of any Defendant against his, her, or its insurers, or  
19 insurers' subsidiaries, predecessors, successors, assigns, affiliates, or  
20 representatives. Nothing in this Stipulation constitutes or reflects a waiver or release  
21 of any rights or claims relating to indemnification, advancement, or any  
22 undertakings by an indemnified party to repay amounts advanced or paid by way of  
23 indemnification or otherwise.

## 24 **12. Miscellaneous Provisions**

25 **12.1.** Except in the event of the provision of a Termination Notice  
26 pursuant to ¶10 of this Stipulation, the Parties shall take all actions necessary to  
27 consummate this agreement; and agree to cooperate with each other to the extent  
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1 reasonably necessary to effectuate and implement all terms and conditions of the  
2 Stipulation.

3 **12.2.** The Parties and their counsel represent that they will not  
4 encourage or otherwise influence (or seek to influence) in any way whatsoever any  
5 Settlement Class Members to request exclusion from, or object to, the Settlement.

6 **12.3.** Each of the attorneys executing this Stipulation, any of its  
7 exhibits, or any related settlement documents on behalf of any Party hereto hereby  
8 warrants and represents that he or she has been duly empowered and authorized to  
9 do so by the Party he or she represents.

10 **12.4.** Plaintiffs and Lead Counsel represent and warrant that Plaintiffs  
11 are Settlement Class Members and none of Plaintiffs' claims or causes of action  
12 against one or more Defendants in the Action, or referred to in this Stipulation, or  
13 that could have been alleged against one or more Defendants in the Action have  
14 been assigned, encumbered or in any manner transferred in whole or in part.

15 **12.5.** This Stipulation constitutes the entire agreement between the  
16 Parties related to the Settlement and supersedes any prior agreements. No  
17 representations, warranties, promises, inducements or other statements have been  
18 made to or relied upon by any Party concerning this Stipulation, other than the  
19 representations, warranties and covenants expressly set forth herein. Plaintiffs, on  
20 behalf of itself and the Settlement Class, acknowledge and agree that any and all  
21 other representations and warranties of any kind or nature, express or implied, are  
22 specifically disclaimed and were not relied upon in connection with this Stipulation.  
23 In entering this Stipulation, the Parties relied solely upon their own knowledge and  
24 investigation. Except as otherwise provided herein, each Party shall bear his, her,  
25 or its own costs.

1           **12.6.** This Stipulation may not be modified or amended, nor may any  
2 of its provisions be waived, except by a writing signed by all Parties or their counsel  
3 or their respective successors in interest.

4           **12.7.** This Stipulation shall be binding upon, and shall inure to the  
5 benefit of, the Parties and their respective agents, successors, executors, heirs, and  
6 assigns.

7           **12.8.** The Released Parties who do not appear on the signature lines  
8 below are acknowledged and agreed to be third party beneficiaries of this  
9 Stipulation and Settlement.

10           **12.9.** The headings herein are used for the purpose of convenience  
11 only and are not meant to have legal effect.

12           **12.10.** This Stipulation may be executed in any number of counterparts  
13 by any of the signatories hereto and the transmission of an original signature page  
14 electronically (including by facsimile or portable document format) shall constitute  
15 valid execution of the Stipulation as if all signatories hereto had executed the same  
16 document. Copies of this Stipulation executed in counterpart shall constitute one  
17 agreement.

18           **12.11.** This Stipulation, the Settlement, and any all disputes arising out  
19 of or relating in any way to this Stipulation, whether in contract, tort or otherwise,  
20 shall be governed by and construed in accordance with the laws of the State of  
21 California without regard to conflict of laws principles.

22           **12.12.** Any claim or dispute among the Parties arising out of, relating  
23 to, or in connection with the interpretation or implementation of the terms of the  
24 Stipulation prior to submission to the Court shall be resolved by the Magistrate  
25 Judge assigned to this Action, the Honorable Rozella A. Oliver, whose  
26 determinations shall be binding and non-appealable.

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1           **12.13.** The Court shall retain jurisdiction with respect to the  
2 implementation and enforcement of the terms of this Stipulation, and all Parties  
3 hereto submit to the jurisdiction of the Court for purposes of implementing and  
4 enforcing the Settlement embodied in this Stipulation.

5           **12.14.** The Stipulation shall not be construed more strictly against one  
6 Party than another merely by virtue of the fact that it, or any part of it, may have  
7 been prepared by counsel for one of the Parties, it being recognized that it is the  
8 result of arm's-length negotiations between the Parties, and all Parties have  
9 contributed substantially and materially to the preparation of this Stipulation.

10           **12.15.** Plaintiffs, Lead Counsel, and the attorneys, staff, experts, and  
11 consultants assisting them in this Action agree that (a) they will not intentionally  
12 assist or cooperate with any person or entity in the pursuit of legal action related to  
13 the Released Claims against the Released Parties, (b) they will not intentionally  
14 assist or cooperate with any person or entity seeking to publicly disparage or  
15 economically harm the Released Parties with respect to any matter relating to the  
16 subject matter this Action, and (c) they will not discuss any confidential matters  
17 related to this Action or the Settlement with anyone, and (d) they will not make any  
18 accusations of wrongful or actionable conduct by any party concerning the  
19 prosecution, defense, and resolution of the Action, and shall not otherwise suggest  
20 that the settlement embodied in this Stipulation constitutes an admission of any  
21 claim or defense alleged. The Parties reserve their right to rebut, in a manner that  
22 such party determines to be appropriate, any contention made in any public forum  
23 regarding the Action, including that the Action was brought or defended in bad faith  
24 or without a reasonable basis.

25           **12.16.** All agreements by, between or among the Parties, their counsel  
26 and their other advisors as to the confidentiality of information exchanged between  
27 or among them shall remain in full force and effect, and shall survive the execution  
28



1 and any termination of this Stipulation and the final consummation of the  
2 Settlement, if finally consummated, without regard to any of the conditions of the  
3 Settlement.

4 **12.17.** The Parties shall not assert or pursue any action, claim or rights  
5 that any Party violated any provision of Rule 11 of the Federal Rules of Civil  
6 Procedure and/or the Private Securities Litigation Reform Act of 1995 in  
7 connection with the Action, the Settlement, or the Stipulation. The Parties agree  
8 that the Action was resolved in good faith following arm's-length bargaining, in  
9 full compliance with applicable requirements of good faith litigation under the  
10 Securities Exchange Act of 1934, Rule 11 of the Federal Rules of Civil Procedure,  
11 and/or the Private Securities Litigation Reform Act of 1995.

12 **12.18.** Any failure by any of the Parties to insist upon the strict  
13 performance by any other Party of any of the provisions of the Stipulation shall not  
14 be deemed a waiver of any of the provisions hereof, and such Party, notwithstanding  
15 such failure, shall have the right thereafter to insist upon the strict performance of  
16 any and all of the provisions of this Stipulation to be performed by the other Parties  
17 to this Stipulation.

18 **12.19.** The waiver, express or implied, by any Party of any breach or  
19 default by any other Party in the performance of such Party of its obligations under  
20 the Stipulation shall not be deemed or construed to be a waiver of any other breach,  
21 whether prior, subsequent, or contemporaneous, under this Stipulation.

22 **12.20.** The Parties reserve the right, subject to the Court's approval, to  
23 make any reasonable extensions of time that might be necessary to carry out any of  
24 the provisions of this Stipulation.

25 **12.21.** Whether or not this Stipulation is approved by the Court and  
26 whether or not the settlement embodied in this Stipulation is consummated, the  
27 Parties and their counsel shall use their best efforts to keep all negotiations,  
28

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

5 **IN WITNESS WHEREOF**, the Parties have executed this Stipulation by  
6 their undersigned counsel effective as of the date set forth below.

7  
8 Dated: April 28, 2022

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

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*Lead Counsel for Lead Plaintiff and the Class*

23  
24 Dated: April 28, 2022

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