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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES—CENTRAL DISTRICT

MELANIE MCCRACKEN, an individual,
and JESSICA NEGRON, an individual,

Plaintiffs,

v.

RIOT GAMES, INC., a Delaware
corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: 18STCV03957

Hon. Elihu M. Berle

Dept. SS-6

CLASS ACTION

**PLAINTIFFS' NOTICE OF MOTION
AND MOTION FOR PRELIMINARY
APPROVAL OF SETTLEMENT;
DECLARATION OF RYAN D. SABA**

Date: December 4, 2019

Time: 11:00 a.m.

Dept.: SS-6

Date Filed: November 6, 2018

Trial Date: None Set

TO THIS HONORABLE COURT AND ALL PARTIES AND THEIR
ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on December 4, 2019, at 11:00 a.m. in Department SS-6 of the above-named Court, located at 312 N. Spring St., Los Angeles, CA 90012, the Honorable Elihu M. Berle presiding, Plaintiffs Jessica Negron and Gabriela Downie¹ on behalf of themselves and all other similarly-situated putative class members will and hereby do move for an Order preliminarily approving the Settlement Agreement entered into with Defendant Riot Games, Inc. [Declaration of Ryan D. Saba (“Saba Decl.”), ¶2, Ex. A.]

The Settlement Agreement requires Defendant to pay the total sum of \$10,000,000.00² to be allocated as follows:

▪ **Reasonable Incentive Payments to Plaintiffs and Class Representatives:** Class Counsel requests, and Defendant does not oppose, a reasonable class representative enhancement to Plaintiff Negron and Plaintiff Downie in the amount of \$10,000 each. These payments total \$20,000 and will be paid in addition to any payment they may otherwise receive as members of the proposed class. [Saba Decl., ¶2, Ex. A, at ¶48(B).]

▪ **Reasonable Attorneys’ Fees and Litigation Expenses:** Class Counsel intends to request, and Defendant does not oppose, an award of attorneys’ fees not to exceed one-third (33.33%) of the settlement proceeds (\$3,333,333.33), for all work performed with regards to the present case. This figure represents 33.33% of the settlement figure and will be paid from the settlement proceeds. [Saba Decl., ¶2, Ex. A, at ¶48(C).] Class Counsel also requests, and Defendant does not oppose, an award of reasonable litigation costs incurred in prosecuting this action, not to exceed \$40,000. [*Ibid.*]

▪ **Reasonable Expenses of the Claims Administrator:** The parties have agreed that all costs of administering the settlement shall be paid to the claims administrator out of the

¹/ Plaintiff Melanie McCracken is no longer a class representative and has resolved her individual claims against Defendant. As set forth herein, Gabriela Downie shall serve as a class representative instead.

²/ This settlement figure was reached based on an aggregate number of compensable work weeks totaling 71,512 for specific period of time. In the event, the number compensable work weeks increases by more than 6%, the settlement figure shall be increased by 1% for every 1% increase in compensable work weeks over the 6% threshold. The class administrator shall perform this calculation.



1 settlement proceeds. [Saba Decl., ¶2, Ex. A, at ¶48(D).] The parties have agreed to have KCC as
2 the claims administrator. [*Id.* at ¶48(D)] KCC has estimated that the costs to administer the
3 Settlement will total approximately \$30,000. [Saba Decl., ¶4.]

4 ▪ **Private Attorneys General Act (“PAGA”) Allocation:** The parties have agreed
5 that \$500,000 shall be allocated to the PAGA claims asserted in Plaintiffs’ Second Amended
6 Complaint. Of this amount, \$375,000 (75%) will be paid to the Labor Workforce Development
7 Agency (LWDA), and \$125,000 (25%) will be distributed amongst the class members. [Saba
8 Decl., ¶2, Ex. A, at ¶48(E).]

9 ▪ **Payments to the Class Members:** The amount remaining from the settlement
10 proceeds, after deducting reasonable incentive payments to the class representatives, reasonable
11 attorneys’ fees and litigation costs, reasonable claims administration expenses, and PAGA
12 allocation, (“Net Settlement Proceeds”) will be available for distribution to members of the
13 proposed class who do not opt out of the settlement. Using the figures anticipated above, the Net
14 Settlement Proceeds are estimated to be at least \$6,201,666.67.

15 ▪ Each class member will receive a minimum amount determined by their tenure
16 length and status as either an employee (\$2,500 or \$5,000) or temporary agency contractor (\$500
17 or \$1,000). [Saba Decl., ¶2, Ex. A, at ¶48(A).] Thereafter, additional distributions shall be made
18 on a pro-rata basis by the number of weeks worked during the class period. [*Ibid.*] Specifically,
19 the total of the number of weeks worked for all proposed class member during the class period
20 will be calculated. The total number of weeks worked will be divided by the number of proposed
21 class members. The Net Settlement Proceeds will be divided by the total number of weeks which
22 will produce an amount owed to each proposed class member for each week worked during the
23 class period. The per-week figure will be multiplied by the total number of weeks worked by
24 each proposed class member during the class period. This amount will be the settlement share for
25 each proposed class member. [*Ibid.*]

26 If a settlement check is issued, but not cashed within 180 days, it will be deemed void and
27 treated as unclaimed funds. [*Ibid.*] Any unclaimed funds in the claims administrator’s account
28 shall be distributed in accordance with *Code of Civil Procedure* §384. [*Ibid.*]



Pursuant to the terms of the Settlement Agreement, Plaintiffs move the Court for an Order for the following:

1. Preliminary and conditional certification of the proposed subclasses as described in the proposed Settlement Agreement and Release of Claims. [Saba Decl., ¶2, Ex. A, at ¶30.]
2. Preliminary approval of Jessica Negron and Gabriela Downie as Class Representatives. [Saba Decl., ¶2, Ex. A, at ¶35.]
3. Preliminary approval of Ryan D. Saba and Tyler C. Vanderpool of Rosen Saba, LLP as Class Counsel. [Saba Decl., ¶2, Ex. A, at ¶3.]
4. Preliminary approval of settlement of claims as set forth in the Settlement Agreement. [Saba Decl., ¶2, Ex. A, at ¶45.]
5. Approval as to the form, content, and method of the proposed Class Notice and Claim Form. [Saba Decl., ¶2, Ex. A, at Ex. 1.]
6. Approval of the appointment of KCC as Claims Administrator and preliminary approval of the expenses for administration of the settlement to be paid from the settlement proceeds, currently estimated to be \$30,000. [Saba Decl., ¶2, Ex. A, at ¶48(D).]
7. Preliminary approval of reasonable incentive payments to the Class Representatives in the amount of \$10,000.00 each to be paid from the settlement proceeds. [Saba Decl., ¶2, Ex. A, at ¶48(B).]
8. Preliminary approval of the application for payment to Class Counsel of reasonable attorneys' fees of one-third (33.33%) of the settlement proceeds (\$3,333,333.33) to be paid from the settlement proceeds. [Saba Decl., ¶2, Ex. A, at ¶48(C).]
9. Preliminary approval of the application for payment to Class Counsel of costs incurred in this action to be paid from the settlement proceeds not to exceed \$40,000. [*Ibid.*]

10. Preliminary approval of the allocation of \$500,000 to Plaintiffs' PAGA claims to be paid from the settlement proceeds. [Saba Decl., ¶2, Ex. A, at ¶48(E).]
11. Issuance of a schedule for implementation of the terms of the Settlement Agreement, including a date for a hearing for Plaintiffs' Motion for Final Approval of the Settlement.

This Motion is based upon this Notice, the accompanying Memorandum of Points and Authorities, the Declaration of Ryan D. Saba, the Court's records and files, and such additional argument as may be presented at the hearing on this Motion.

DATED: November 27, 2019

ROSEN ♦ SABA, LLP

By: _____

Ryan Saba

RYAN D. SABA, ESQ.
TYLER C. VANDERPOOL, ESQ.
Attorneys for Plaintiffs
MELANIE MCCRACKEN and
JESSICA NEGRON

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION.

Plaintiffs Gabriella Downie and Jessica Negron³ request preliminary approval of a \$10 million settlement of their gender discrimination and equal pay class action lawsuit against Defendant Riot Games, Inc. (“Defendant” or “Riot”). The settlement is fair and reasonable and provides a substantial recovery to the class.

Plaintiffs filed this lawsuit because they believe that Defendant has or had a custom and practice of (a) paying women less than similarly-situated men; (b) assigning women to jobs that Riot Games does not compensate as highly as those jobs populated by men, even when women are equally qualified for the more highly compensated jobs; (c) promoting similarly-situated and qualified men more frequently than women who are equally or more qualified for promotion; (d) assigning or demoting women to lower paid positions than similarly-situated men, even when these women’s qualifications were equal to or greater than the men’s qualifications; and (e) creating, encouraging, and maintaining a work environment that exposes its female employees to discrimination, harassment, and retaliation on the basis of their gender or sex. Plaintiffs brought causes of action for violations of the Equal Pay Act and the Fair Employment and Housing Act, for, among other things, unequal pay, discrimination, retaliation, and harassment.

After hard-fought negotiations, including multiple days of mediation presided over by the Honorable Gail Andler (Ret.), and with Judge Andler’s assistance, Plaintiffs and Riot reached a settlement agreement (resolving the claims on November 14, 2019, (the “Settlement Agreement”)). The Settlement Agreement strikes a balance between the risks of continued litigation and fair compensation to all class members. The Settlement Agreement also provides substantial monetary compensation to the Class, such that no Class Member will receive less than \$500 and most Class Members will receive at least \$5,000. As set forth herein, the terms of the

³/ Plaintiff Melanie McCracken had been a named Plaintiff in this action but is no longer a Class Representative. [Saba Decl. ¶3.] She has agreed to the filing of an amended complaint withdrawing her claims and adding Plaintiff Gabriella Downie who has had a separate action pending alleging similar claims in this case. [*Ibid.*] An amended complaint has been concurrently filed. [*Ibid.*]



1 settlement are fair and reasonable and meet the requirements for preliminary approval under
2 *California Rules of Court*, Rule 3.769.

3 Accordingly, Plaintiffs request that the Court: (1) grant preliminary and conditional
4 approval of the proposed Settlement; (2) provisionally and conditionally certify the proposed
5 Class; (3) direct distribution of the Notice (attached as Exhibit 1 to the Settlement Agreement) to
6 the Class according to the agreed-upon notice plan; and (4) schedule a final approval hearing.

7
8 **II. BACKGROUND.**

9 This litigation arises from Riot’s alleged “bro culture” which disproportionately and
10 negatively affected women in hiring, promotion, and compensation, and is a conduit to forcing
11 females to endure sexual harassment and misconduct that has plagued “gaming culture.”
12 Plaintiffs allege that Riot’s emphasis on being a “core gamer” has resulted in women being
13 disparately treated at the Company and fostered a culture of sexism that stifles women’s careers.

14 Plaintiffs filed this lawsuit on November 6, 2018. Thereafter, the parties engaged in an
15 informal exchange of discovery, including the production by Riot of extensive data regarding its
16 male and female employees and contractors. This data included historical salary and bonus
17 compensation information for all employees during the applicable class period, personnel files,
18 and time-card information. Class Counsel conducted interviews with dozens of current and
19 former female Riot employees and contractors. Plaintiffs’ Counsel also reviewed all of Riot’s
20 disclosures to its employees related to investigations, diversity, inclusion and culture, and
21 arbitration.

22 Plaintiffs’ Counsel also studied Riot’s remediation efforts with regard to employees who
23 were substantially affected by any harassment, discrimination or unequal pay prior to the filing of
24 this Action, which included efforts to make adjustments to pay where appropriate, revising its
25 interview and recruiting process to ensure fairness, improving job descriptions and titles to
26 increase transparency, creating an anonymous intake hotline for employees to report
27 discrimination issues, and rolling out mandatory anti-bias training, among other things.



1 Plaintiffs' Counsel also actively litigated the enforceability of Riot's arbitration agreements
2 (signed by most Riot employees) in two individual actions.

3 Plaintiffs' Counsel also engaged experts to evaluate Riot's pay data to study the existence
4 of disparity between pay for male workers and female workers, and quantify potential damages to
5 the class stemming from wage discrimination.

6 The Parties participated in mediations on July 16, 2019; August 2, 2019; and August 28,
7 2019, before Retired Judge Gail Andler, who spent more than 21 years on bench in Orange
8 County Superior Court and served on the Complex Civil Litigation Panel from 2007-2017. Judge
9 Andler is well regarded for helping parties resolve complex business disputes. The parties
10 reached a tentative deal in principle at the initial mediation with Judge Andler; however the
11 specific terms of the final settlement agreement were negotiated, with Judge Andler's assistance,
12 through July, August, and September.

13 14 **III. SUMMARY OF PROPOSED SETTLEMENT.**

15 With the assistance of Judge Andler to negotiate the settlement, the parties executed a
16 comprehensive written settlement agreement (the "Settlement Agreement") on November 20,
17 2019. [Saba Decl. ¶5.] At all times, the parties' settlement discussions, mediation, and
18 negotiation of the Settlement Agreement were at arm's length. [*Ibid.*]

19 **A. *Proposed Settlement Class***

20 The proposed Settlement Class consists of all current and former female Riot employees
21 and temporary agency contractors who have not signed general releases and who worked at Riot
22 in California from November 6, 2014 through the date of Preliminary Approval.⁴ [*Id.* at ¶29.]

23 The Settlement Class includes two subclasses: (1) a Settlement Employee Subclass
24 consisting of class members who were employees, and (2) a Settlement Temporary Agency
25 Contractor Subclass, consisting of class members who were temporary agency contractors. [*Id.* at
26 ¶¶30-31.] The parties believe the Settlement Class consists of approximately 1,000 members.

27 ^{4/} The Settlement Agreement provides a definition of "female," including persons who self-
28 identify as female, and allows persons who have not previously self-identified as female to do so to the
Settlement Administrator.



B. Benefits to Class Members

The proposed Settlement provides a substantial monetary payment to all Class Members. Under the settlement, Riot shall fund the Maximum Settlement Fund of \$10 million.⁵ The settlement fund is used to pay individual settlement payments to class members (including applicable payroll taxes), the class representative incentive fees, Plaintiffs' Counsel's fees, settlement administration costs, the Labor and Workforce Development Agency ("LWDA") payment required by the class's Private Attorney General Act ("PAGA") claims.⁶ The parties estimate the net settlement amount that will be paid to class members (inclusive of payroll taxes) is approximately \$6.24 million, as set forth below:

Maximum Settlement Fund:	\$	10,000,000.00
Class Representative Enhancements:	\$	20,000.00
Class Counsel's Fees: ⁷	\$	3,333,333.33
Class Counsel's Costs:	\$	40,000.00
PAGA LWDA Payment	\$	375,000.00
Settlement Administration Costs:	\$	30,000.00
Net Settlement Amount	\$	6,201,666.67

Pursuant to the Settlement Agreement, each Settlement Employee Subclass member shall receive a *minimum* payment of at least \$5,000 for employees hired prior to September 1, 2018, and \$2,500 for employees hired after September 1, 2018. Each Settlement Temporary Agency Contractor Subclass will receive a *minimum* payment of \$1,000 for contractors performing work prior to September 1, 2018, and \$500 if engaged after September 1, 2018. In addition to the minimum payments, the remaining amount from the Net Settlement Amount will be distributed to

⁵/ In the event that the number of compensable workweeks (the aggregate of all weeks worked by class members in the applicable period) exceeds the parties' estimate by more than 6%, the settlement fund is increased pursuant to an agreed-upon formula. [*Id.* at ¶40.]

⁶/ Pursuant to Labor Code Section 2699(i), 75% of civil penalties recovered by aggrieved employees in a PAGA claim shall be distributed to the LWDA. The parties have agreed that \$500,000 of the \$10 million settlement is allocated to settling Plaintiffs' PAGA claims [*Id.* at ¶48(E).] Thus, \$375,000 (75% of \$500,000) must be distributed to the LWDA. The remainder shall revert to Net Settlement Amount.

⁷/ As explained herein, Class Counsel seeks Court approval for a fee award of one third of the maximum settlement amount.



1 the Class proportionally based on the number of weeks each Class Member worked in the
2 applicable period. Thus, longer-tenured employees and contractors will receive a greater
3 recovery pursuant to the settlement, but all Class Members will receive a substantial minimum
4 payment.

5 **C. Release of Claims.**

6 In exchange for these payments, Class Members will provide a release tailored to the
7 specific alleged practices and facts at issue in this case. Specifically, the release includes “all
8 claims ... related to or that reasonably could have arisen out of the same facts alleged in the
9 Action, including but not limited to, all claims related to the California Equal Pay Act,
10 Sex/Gender Discrimination, Harassment, Retaliation or a Failure to Prevent Discrimination and
11 Harassment in Violation of California *Government Code* §12940, Ralph Civil Rights Act,
12 California Unfair Competition Law and the California Private Attorney General Act of 2004.”
13 [*Id.* at ¶24.] The Named Plaintiffs will provide a general release of all claims.

14 **D. Administration of Claims.**

15 The parties have agreed that KCC, a well-known and reputable claims administration
16 provider, will manage administration of claims and payment, including the preparation and
17 dissemination of the Class Notice to members of the Settlement Class, the management of
18 requests for exclusion, and the determination and distribution of each individual Class Member’s
19 settlement payment. [*Id.* at ¶¶28, 48(D).] KCC has estimated that it will cost approximately
20 \$30,000.00 for the administration of the Settlement. [Saba Decl. ¶4.]

21 **E. Notice to the Settlement Class.**

22 Riot maintains Class Data regarding each Settlement Employee Subclass, including
23 names, last-known mailing addresses, dates of birth, Social Security numbers, and email
24 addresses. Riot will obtain names, last-known mailing addresses, dates of birth, Social Security
25 numbers, and email addresses (if available) from the temporary agency contractors for the
26 Settlement Temporary Agency Contractor Subclass. The Settlement Administrator will update
27 this Class Data based on the National Change of Address Database or a similar database. [*Id.* at
28 ¶47(B).] Notice of the settlement will be sent in a Notice Packet to each Class Member by the



Settlement Administrator First Class mail, and also by email where an email address is available. The Notice Packet will include the material terms of the settlement, including the release, and will also provide the number of compensable work weeks and an estimate of the settlement payment to that Class Member. If Notices are undeliverable, the Settlement Administrator will re-mail Notice to an applicable forwarding address, or if none exists, will perform a lawful skip-tracing or other search to attempt to obtain valid contact information and provide Notice.

If a Class Member disagrees with Riot's records regarding the number of compensable work weeks as stated on the Notice, the Class Member may provide documentation or an explanation to dispute the data. The Settlement Administrator will consult with the parties to determine whether an adjustment is warranted. Absent agreement, the Settlement Administrator will make a determination as to the proper settlement amount. [An exemplar Class Notice is attached to the Declaration of Ryan D. Saba, ¶2, Ex. A, at Exhibit 1.]

F. Class Representative Incentive Awards.

Plaintiffs intend to seek up to \$10,000 to each of the Plaintiffs as class representatives. The class representative award is to compensate for the Released Claims, the General Release, and for Plaintiffs' time, effort and risk in bringing and prosecuting the Action.

G. Attorneys' Fees and Costs.

The settlement further provides that Riot will not oppose Plaintiffs' counsel's application to the Court for an award of attorneys' fees and costs in an amount not to exceed \$3,333,333.33 (33.33%) in fees and \$40,000 in costs.

IV. THE PROPOSED SETTLEMENT SATISFIES THE CRITERIA FOR PRELIMINARY APPROVAL.

A settlement of class action litigation must be reviewed and approved by the Court. (*Cal. Rules of Court*, Rule 3.766 (a).) Court approval of a class action settlement involves a two-step process: (1) preliminary approval; and (2) final approval of the settlement after notice to the class. *See, Cal. Rules of Court*, Rule 3.766. After a preliminary fairness evaluation, class members must receive notice and have an opportunity to be heard as to the terms of the proposed



1 settlement. Therefore, the Court need not evaluate the settlement in detail at this time; instead
2 preliminary approval is appropriate so long as the proposed settlement falls “within the range of
3 possible judicial approval.” Newberg on Class Actions, § 13.13 (5th ed. 2019) (Newberg); *Sav-*
4 *On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326 (“The certification question is
5 ‘essentially a procedural one that does not ask whether an action is legally or factually
6 meritorious.’”), quoting *Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 439–40.

7 To determine whether the settlement is fair, courts consider several relevant factors,
8 including “the strength of plaintiffs’ case, the risk, expense, complexity and likely duration of
9 further litigation, the risk of maintaining class action status through trial, the amount offered in
10 settlement, the extent of discovery completed and the stage of the proceedings, the experience and
11 views of counsel, the presence of a governmental participant, and the reaction of the class
12 members to the proposed settlement.” *Clark v. Am. Residential Servs. LLC* (2009) 175
13 Cal.App.4th 785, 799; *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801. At the
14 preliminary approval stage, “[i]f the preliminary evaluation of the proposed settlement does not
15 disclose grounds to doubt its fairness or other obvious deficiencies, such as unduly preferential
16 treatment of class representatives or segments of the class, or excessive compensation of
17 attorneys, and appears to fall within a range of possible approval, the court should direct that
18 notice . . . be given to the class members of a formal fairness hearing, at which arguments and
19 evidence may be presented in support of and in opposition to the settlement.” Newberg, § 11:25.

20 **A. A Presumption of Fairness Applies Because the Settlement Was Reached**
21 **Through Arms-Length Negotiations by Well-Informed Counsel Presided Over**
22 **by a Neutral Mediator.**

23 “A presumption of fairness exists when: (1) the parties reached a settlement through
24 arm’s-length bargaining; (2) the parties conducted sufficient investigation and discovery to allow
25 counsel and the Court to act intelligently; (3) counsel are experienced in similar litigation; and,
26 [as to final approval only] (4) the percentage of objectors is small.” *Dunk, supra*, 48 Cal.App.4th
27 at p. 1802; *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128. The class
28 members’ reaction to the settlement cannot be assessed until the second stage—once they have



1 been given notice and an opportunity to object to the settlement terms. The factors establishing a
2 presumption of fairness apply here.

3 First, the Settlement was reached following arm's-length negotiations presided over by a
4 well-respected mediator, the Hon. Gail Andler (Ret.). [Saba Decl., ¶5.]

5 Second, Plaintiffs' counsel are well-informed. They interviewed Plaintiffs and dozens of
6 third-party witnesses, sought discovery, reviewed almost 2,500 pages of documents produced by
7 Riot, evaluated pay data with the assistance of experts, and engaged in substantial settlement
8 negotiations with defense counsel. [Saba Decl., ¶6.]

9 Third, Plaintiffs' counsel Ryan Saba and Tyler Vanderpool are experienced with class
10 actions and other complex litigation. [Saba Decl., ¶7.] Indeed, Plaintiffs' counsel and
11 Defendants' counsel are experienced in handling class action litigation and have represented
12 many clients in similar class actions. [*Ibid.*] In reaching this settlement, counsel on both sides
13 relied on their substantial litigation experience in similar actions, and conducted analyses of the
14 legal and factual issues arising in this case. [*Ibid.*] See *Rodriguez v. West Publ. Corp.* (C.D. Cal.
15 2007) 2007 WL 2827379, at *9 "the trial court is entitled to, and should, rely upon the judgment
16 of experienced counsel for the parties").

17 ***B. The Relief Provided for the Class Is Substantial, Particularly in Light of the***
18 ***Costs, Risks and Delay of Trial or Arbitration.***

19 The Settlement achieves the goals of the litigation—ensuring Riot makes lasting changes
20 toward diversity, parity, and inclusion, and compensating affected individuals for discrimination
21 and other harm they allegedly experienced. It does so by providing substantial monetary
22 compensation to all Class Members, in addition to the diversity initiatives and process changes
23 Riot has already implemented in response to the allegations raised in the Complaint. [Saba Decl.,
24 ¶2, Ex. A, at ¶38 (reciting initiatives undertaken by Riot.)] The Settlement reflects the strength of
25 Plaintiffs' case on the merits and the likelihood that Plaintiffs would have been able to certify a
26 litigation class, maintain certification through trial, and prevail on their claims. While Plaintiffs
27 believe in the strength of their case, they also recognize that litigation is uncertain, making
28 compromise of claims in exchange for the Settlement's certain, immediate, and substantial



1 benefits a reasonable outcome. If Plaintiffs' Counsel were to continue to litigate these claims
2 through trial and appeal, recovery would come, if at all, years in the future and at far greater risk
3 and expense to the Class.

4 The recovery in this Settlement is substantial. With respect to Plaintiffs' Equal Pay Act
5 claim, Plaintiffs' Counsel has estimated that total wage differential between male and female
6 employees in the class period could be up to \$38.8 million without controlling for job families,
7 job titles, departments or time in a particular job title. However, once various factors are
8 controlled for, the total wage differential across the class is estimated to be \$780,000. Riot
9 contends that when controlling for job families, job titles, departments, time in a particular job
10 title, and running unique regressions for each job family, there is no evidence of a statistically
11 significant pay disparity. There is substantial risk that Plaintiffs would not succeed in arguing
12 that female salaries should be compared to male salaries without consideration for any other
13 controlling factors. In addition, it would take significant resources and delay in litigating over
14 which controlling factors should be applied to determine whether women are performing
15 "substantially similar jobs" with "mostly similar in skill, effort, responsibility, and performed
16 under similar working conditions" as men. *Cal. Lab. Code* § 1197.5. Riot has asserted that any
17 wage differential between men and women is a result of a variety of factors including (a) a
18 seniority system; (b) a merit system; and (c) other bona fide factors such as education, training or
19 experience. *Ibid.* If Riot succeeded in advancing any of these arguments, Plaintiffs' may lose the
20 case entirely, or if they were to win, recovery may be significantly limited. In addition, Riot has
21 asserted a number of defenses that may make class certification or success on the merits
22 uncertain.

23 Under this settlement, employees will recover nearly one-third of the possible maximum
24 exposure and more than twelve times the minimum exposure. Courts regularly approve
25 settlements where the recovery is a fraction of the potential realistic recovery. *See, e.g., Officers*
26 *for Justice v. Civil Serv. Comm'n of City & Cty. of San Francisco* (9th Cir. 1982) 688 F.2d 615,
27 628 ("It is well-settled law that a cash settlement amounting to only a fraction of the potential
28 recovery will not per se render the settlement inadequate or unfair."); *In re Mego Fin. Corp. Sec.*



1 *Litig.* (9th Cir. 2000) 213 F.3d 454, 459 as amended (June 19, 2000) (approving a settlement
2 roughly one-sixth of the potential recovery). The Settlement is a good outcome for the class
3 because it provides substantial recovery in comparison to the maximum potential exposure, while
4 avoiding any of the risks and delays of further litigation.

5 With respect to Plaintiffs' discrimination, harassment and retaliation claims, Plaintiffs'
6 Counsel has done significant investigation into these claims through talking to various Riot
7 employees and contractors. Through this investigation, Plaintiffs' Counsel has determined that
8 many of the most egregious allegations occurred outside of the two year statute of limitations.
9 While Plaintiffs contend that Riot's prior culture resulted in creating, encouraging, and
10 maintaining a work environment that exposes its female employees to discrimination, harassment,
11 and retaliation on the basis of their gender or sex, Plaintiffs acknowledge that Riot attempted to
12 remediate issues after the issues raised in the Complaint were brought forward—prior to the filing
13 of Plaintiffs' complaint. These changes are likely to limit any future recovery. In response to the
14 public discussions, the lawsuits brought by Plaintiffs' Counsel, and the concerns raised by Riot
15 employees, Riot undertook a number of initiatives (or accelerated existing initiatives) to improve
16 Riot's diversity and inclusion, including the following:

- 17 1. Reviewing and analyzing compensation data and making adjustments to pay where
18 appropriate;
- 19 2. Accelerating work on job architecture to provide logic and consistency in job titles
20 and expectations by role;
- 21 3. Revising the interview and recruiting process and guidelines to ensure fairness,
22 including by revisiting Riot's gaming experience requirements;
- 23 4. Revisiting and improving job descriptions to ensure better transparency.
- 24 5. Agreeing to revisit potential opt-out for arbitration for certain types of claims with
25 new employees post-resolution of outstanding litigation;
- 26 6. Undertaking an expansive and improved investigation process featuring third party
27 law firm investigators, an expansive investigatory scope, and an enhanced review
28 process;



7. Creating an anonymous intake hotline for employees to submit complaints, in addition to the multiple avenues already available;
8. Building a dedicated team to lead the charge on diversification and cultural change;
9. Partnering with renowned leadership and strategy expert Frances Frei, who is widely known as an expert in using diversity and inclusion as a tool for improving performance;
10. Engaging two leading consultants on culture change and company systems to conduct self-critical analyses of Riot's corporate culture and talent systems;
11. Reviewing Riot's policies, taking into account employee feedback, in order to create a revised and improved Code of Conduct;
12. Rolling out mandatory anti-harassment training programs for all employees rather than just supervisors;
13. Implementing mandatory anti-bias training in the Fall of 2018 to ensure that all employees understand the importance of inclusivity and sensitivity in the workplace;
14. Hosting its first ever Global Managers Summit in January 2019, where more than 600 managers from all over the world came together to learn about coaching, trust, goal setting, and delivering feedback;
15. Appointing Youngme Moon, a Professor of Business at Harvard Business School, as the first independent female member of Riot's Board of Directors in September 2018;
16. Creating a Chief People Officer position and hiring Emily Winkle to oversee all aspects of Riot's people management, including recruiting, hiring, perks and benefits, onboarding, compensation, internal events, performance management, learning and development, cultural programs, and employee relations;



17. Creating a Chief Diversity Officer position and hiring Angela Roseboro to oversee all activity, including hiring and talent sourcing, relating to diversity and inclusion, and to lead the creation of new programs to foster a more inclusive culture at Riot;
18. Launching an internal jobs board to allow Rioters to more efficiently explore new roles and have career advancement;
19. Elevating Employee Resource Groups (“Rioter Identity Groups” or “RIGs”) for underrepresented genders and other minority groups;
20. Creating the Diversity & Inclusion Rioters Council, a committee of 17 employees of various levels from across the organization to help with ideas and input on diversity initiatives;
21. Developing and piloting Feedback training to further educate people on the power of feedback and how to do it in a constructive and positive way;
22. Developing and piloting an Allies Workshop with input of many employees to assist all employees in being allies to underrepresented minorities;
23. Instituting a Slate Diversity program for certain senior level positions;
24. Inviting employees to help determine Riot’s values, and produced a new list of company values based on input of over 1,700 employees; and
25. Developing a Diversity and Inclusion “scorecard” to track leaders’ progress in incorporating diversity and inclusion in all aspects of Riot business.

[Saba Decl., ¶2, Ex. A., at ¶38.]

Plaintiffs’ Counsel also is aware that through the regular course of business during the class period, Riot provided severance agreements including general releases to individual Class Members which reduces potential damages to the Class, even if Plaintiffs were ultimately able to prevail. Further, Plaintiffs’ Counsel understands that in certain instances Riot has separately settled with certain individuals who Riot determined through an independent investigation may have been subject to violations of Riot’s anti-harassment and discrimination policies. Thus, while Plaintiffs contend that Riot has not yet taken sufficient steps to remediate its prior history, Plaintiffs acknowledge that the actions already taken by Riot may reduce any potential recovery.



1 A number of Class Members are bound by arbitration agreements which could create risk
2 as to whether this action could proceed on a class wide basis. Riot contends in this case that its
3 arbitration agreements are enforceable, cover the claims at issue, and require individualized
4 arbitration of individual claims. Plaintiffs contend that any arbitration agreements are
5 unconscionable and cannot be enforced. One court has enforced Riot's arbitration agreement.
6 (*Dawnee v. Riot Games, Inc.*, Case No. 19STCV02829 (L.A. Super. Ct.), Order dated June 5,
7 2019). A different court is considering the issue, after supplemental briefing. (*Kent v. Riot*
8 *Games, Inc.*, Case No. 19STCV00522 (L.A. Super. Ct.)) Thus, there is substantial risk and
9 uncertainty that the Plaintiffs may not obtain class wide relief if the Court were to enforce
10 arbitration agreements containing class action waivers.

11 Even if the class action waivers were not enforced, Riot has contended that class
12 certification is not appropriate. Riot has asserted that compensation and promotion decisions
13 were not made by a limited number of decision-makers during the relevant time period. Riot
14 contends its growth has rapidly expanded and hiring and promotion were inconsistently managed
15 and done in a decentralized manner. Further, Riot has contended that it had a compliant non-
16 harassment and discrimination policy and that it appropriately responded to concerns about
17 retaliation, harassment or discrimination. To the extent any individual experienced retaliation,
18 harassment or discrimination, Riot contends this was not experienced on a class-wide basis.
19 Moreover, courts rarely certify classes in hostile work environment cases. Thus, there is
20 substantial risk that a Court may not certify a class in this matter.

21 In light of the risks associated with continuing to litigate this action and based on
22 Plaintiffs' Counsel's expertise in assessing these claims, Plaintiffs' Counsel believes that this
23 Settlement is a highly successful recovery on behalf of the class. Plaintiffs' recovery exceeds the
24 \$1.875 settlement obtained in *Elizabeth Rose vs. Vice Media, Inc., et al.* which was recently
25 granted preliminary approval by Judge Kenneth Freeman. (Case No. BC693688 (L.A. Super.
26 Ct.)) Just as with Riot, Vice Media was the subject of a 2017 New York Times exposé which
27 alleged that Vice had "fostered" a "boys club culture" and detailed multiple instances of sexual
28 harassment and the plaintiffs in that action were also bound by arbitration agreements. Vice



Media committed to a number of cultural changes and, like Riot, terminated a number of employees. [Saba Decl., ¶8, Ex. B.] Plaintiffs' Counsel in *Rose* determined that women were underpaid by \$7 million to \$9.7 million *after* taking into account for job family, job level, tenure, and work location and below \$1 million once age was taken into account. [*Ibid.*] The settlement in *Rose* resulted in an average of \$1,720 for each class member. [*Ibid.*] By contrast, many of the Class Members in Riot will recover more than \$5,000. Thus, the Class recovery is outstanding in light of the risks, exposure, and delay of trial or arbitration.

C. The Proposed Settlement Allocation Is Fair and Reasonable.

Under the Settlement Agreement, all Class Members receive a substantial minimum payment based on their status as an employee or contractor and based on whether they are a recent hire after September 1, 2018. A reduced settlement allocation is warranted for those hired after August 2018 since those individuals were less likely to be exposed to any pay inequities, harassment, discrimination or retaliation, because of the number of changes enacted by Riot at or around that time in response to media coverage and employee discourse of the issues which ultimately led to this lawsuit. Each Settlement Employee Subclass member will receive a payment of no less than \$5,000 if the Settlement Employee Subclass member was hired on or before September 1, 2018. [Saba Decl., ¶2, Ex. A., at ¶48.] If the Settlement Employee Subclass member was hired after September 1, 2018, the Settlement Employee Subclass member will receive a payment of no less than \$2,500. [*Ibid.*] Each Settlement Temporary Agency Contractor Subclass member will receive a payment of no less than \$1,000 if the Settlement Temporary Agency Contractor Subclass member started performing work for Riot on or before September 1, 2018. [*Ibid.*] If the Settlement Temporary Agency Contractor Subclass member started performing work after September 1, 2018, the Settlement Temporary Agency Contractor Subclass member will receive a payment of no less than \$500 from the Net Settlement Amount. [*Ibid.*] If a Settlement Class Member is a member of both subclasses, they are compensated according to the Settlement Employee Subclass. [*Ibid.*]

Class Members then receive additional funds in proportion to their employment status and their length of time at Riot. Specifically, the remaining amount from the Net Settlement Amount



1 will be distributed to the Class proportionally based on the number of weeks each Class Member
2 worked in the applicable period.

3 This allocation is fair and reasonable because it strikes a balance between (1) ensuring that
4 each Class Member receives a minimum, substantial recovery to compensate for Riot's
5 wrongdoing, and (2) providing additional compensation to Class Members who endured Riot's
6 discrimination for a longer period. The higher minimum allocations to the Settlement Employee
7 Subclass as compared to the Settlement Temporary Agency Contractor Subclass is justified for
8 four reasons. First, Riot has asserted that it did not control or solely control pay or all conditions
9 of employment for all temporary agency contractors which could result in weaker Equal Pay Act
10 Claims. Second, the Settlement Temporary Agency Contractor Subclass faces increased litigation
11 risks as compared to the Settlement Employee Subclass because Riot has argued that many of
12 Plaintiffs' claims, including Equal Pay Act Claims, may only properly be brought by employees.
13 Third, based on Plaintiffs' Counsel's investigation of the facts, Plaintiffs' Counsel believes that
14 the Settlement Temporary Agency Contractor Subclass faces greater risk of recovery since Riot's
15 greatest exposure results from its pay and promotion practices. Finally, many Settlement
16 Temporary Agency Contractor Subclass members were not present on Riot's campus for
17 substantial amounts of time and were thus less likely to subject to harassing or discriminatory
18 conduct related to the physical work environment.

19 ***D. The Proposed Award of Attorneys' Fees and Costs Is Fair and Reasonable.***

20 Plaintiffs' Counsel will request an award of attorneys' fees in the amount not to exceed
21 one-third (33%) of the Maximum Settlement Fund (\$3,333,333.33), and costs not to exceed
22 \$40,000. [Saba Decl., ¶2, Ex. A., at ¶48(C).] Courts routinely approve this amount of fees in class
23 settlements of the complexity at issue here. See, e.g., *Vandervort v. Balboa Capital Corp.* (C.D.
24 Cal. 2014) 8 F.Supp.3d 1200, 1210 ("the Court finds that a 33% award of fees and costs is
25 warranted"); *Castillo v. ADT, LLC* (E.D. Cal. Jan. 25, 2017) 2017 WL 363108, at *7 [finding
26 attorneys' fees amounting to 33% reasonable]; *Raffin v. Medcredit, Inc.* (C.D. Cal. Nov. 30,
27 2018) 2018 WL 8621204, at *6 ("the Court concludes that Plaintiffs' Counsel's request for
28 attorneys' fees" of 33% of the settlement amount "is reasonable").



1 Furthermore, this award is justified because Plaintiffs' Counsel achieved a just settlement
2 for the class that will result in monetary payment to Settlement Class Members and that likely
3 would not have been possible without the filings and negotiations conducted by Plaintiffs'
4 Counsel. [Saba Decl., ¶6.] Specifically, after filing this lawsuit on November 6, 2018, Plaintiffs'
5 Counsel demanded an informal exchange of discovery, including the production by Riot of
6 extensive data, including salary and bonus compensation information for all employees during the
7 applicable class period, personnel files, and time card information, which Plaintiffs' Counsel
8 carefully reviewed. [*Ibid.*] Plaintiffs' Counsel conducted interviews with dozens of current and
9 former female Riot employees and contractors. [*Ibid.*] Plaintiffs' Counsel also reviewed all of
10 Riot's disclosures to its employees related to investigations, diversity, inclusion and culture, and
11 arbitration. [*Ibid.*]

12 Plaintiffs' Counsel also studied Riot's remediation efforts with regard to employees who
13 were substantially affected by any harassment, discrimination or unequal pay prior to the filing of
14 this Action, which included efforts to make adjustments to pay where appropriate, revising its
15 interview and recruiting process to ensure fairness, improving job descriptions and titles to
16 increase transparency, creating an anonymous intake hotline for employees to report
17 discrimination issues, and rolling out mandatory anti-bias training, among other things. [*Ibid.*]
18 Plaintiffs' Counsel also actively litigated the enforceability of Riot's arbitration agreements
19 (signed by all Riot employees) in two individual actions. [*Ibid.*] Plaintiffs' Counsel also engaged
20 experts to evaluate Riot's pay data to study the existence of disparity between pay for male
21 workers and female workers, and quantify potential damages to the class stemming from wage
22 discrimination. [*Ibid.*] Plaintiffs' Counsel then participated in mediation that reached a
23 settlement in principle, and engaged in extensive follow-up negotiations to finalize the settlement
24 terms, resulting in the Settlement Agreement. [*Ibid.*]

25 Moreover, Plaintiffs' Counsel's work is not yet complete, as they will spend a significant
26 amount of time overseeing and participating in the claims administration process and final
27 approval proceedings. [*Ibid.*] For these reasons, Plaintiffs submit that the requested attorneys'
28 fees and costs awards are reasonable and should be preliminarily approved in connection with the



1 settlement at this stage, thus allowing Plaintiffs' Counsel to make a formal application for fees
2 during the final approval stage.

3 ***E. The Proposed Class Representative Incentive Awards Are Fair and Reasonable.***

4 The \$10,000 incentive awards Plaintiffs will request are low, and arguably represent less
5 than the minimum appropriate to compensate them for the time, effort, and risk they undertook in
6 prosecuting this case. Courts routinely approve awards to compensate named plaintiffs and active
7 class members for the services they provide and the risks they incur during class litigation. (See
8 *In re Cellphone Fee Termination Cases* (2010) 186 Cal.App.4th 1380, 1393; *Bell v. Farmers Ins.*
9 *Exch.* (2004) 115 Cal.App.4th 715, 725–26 (upholding service payments to class representatives);
10 *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 412
11 (upholding awards to plaintiffs that, when added to their individual recoveries, amounted to more
12 than twice as much as the average payment to class members). Ms. Negron has diligently
13 represented the interests of the Employee Subclass since the beginning of the case, and Ms.
14 Downie has diligently represented the interests of the Temporary Agency Contractor Subclass
15 since joining the action. [Saba Decl. ¶9.] Both have kept abreast of the litigation, have regularly
16 communicated with counsel, and attended the mediation sessions. [*Ibid.*] Plaintiffs devoted
17 substantial time and effort in soliciting their colleagues to contact Plaintiffs' Counsel and share
18 pertinent information. [*Ibid.*] Finally, Plaintiffs also face significant risk that future employers
19 will not want to employ them.

20
21 **V. THE PROPOSED CLASS SHOULD BE PROVISIONALLY CERTIFIED FOR**
22 **SETTLEMENT PURPOSES.**

23 Plaintiffs seek provisional certification of the Class (and Subclasses) solely for settlement
24 purposes under *California Code of Civil Procedure* §382 and *California Rules of Court*, Rule
25 3.769(d). California courts apply a “lesser standard of scrutiny” to certification of settlement
26 classes. (*Dunk, supra*, 48 Cal.App.4th at p. 1807, n.19; see also *Global Minerals & Metals Corp.*
27 *v. Superior Court* (2003) 113 Cal.App.4th 836, 859 (noting the lesser standard of scrutiny for
28



1 settlement classes). Outside the settlement context, the California Supreme Court has
2 summarized the standard for determining whether class certification is appropriate as follows:

3 Code of Civil Procedure Section 382 authorizes class actions “when the question is
4 one of a common or general interest, of many persons, or when the parties are
5 numerous, and it is impracticable to bring them all before the court....” The party
6 seeking certification has the burden to establish the existence of both an
7 ascertainable class and a well-defined community of interest among class
members. The “community of interest” requirement embodies three factors: (1)
predominant common questions of law or fact; (2) class representatives with
claims or defenses typical of the class; and (3) class representatives who can
adequately represent the class.

8 *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326, citations omitted.
9 Certification of a settlement class is a regular feature of class action litigation and an approved
10 procedure. See Newberg § 11.27 at 11-40 to 11-56; see, e.g., *Alaniz v. California Processors,*
11 *Inc.* (N.D. Cal. 1976) 73 F.R.D. 269, 278 (“the use of the tentative settlement class procedure was
12 appropriate in this case”), *aff’d*, (9th Cir.) 572 F.2d 657.

13 In the settlement context, the trial court need not inquire whether the case, if tried, would
14 present intractable management problems because the proposal is that there be no trial. See
15 *Amchem Prods., Inc. v. Windsor* (1997) 521 U.S. 591, 620. As stated above, Riot stipulates to the
16 provisional certification of a Class (and its Subclasses) solely for purposes of settlement. (See
17 Weil & Brown, Cal. Prac. Guide Civ. Proc. Before Trial (The Rutter Group 2007), 14:139.1
18 (noting that parties may stipulate to a settlement class, provisionally certified for settlement
19 purposes only). As set forth below, the elements for provisional certification are met.

20 **A. Numerosity and Ascertainability.**

21 The Class (including its Subclasses) meets the numerosity requirement. The members of
22 the putative class must be sufficiently numerous to make joinder impracticable. Code Civ. Proc.
23 § 382; *Rose v. City of Hayward* (1981) 126 Cal.App.3d 926, 932. “As a general matter, courts
24 have found that numerosity is satisfied when class size exceeds 40 members, but not satisfied
25 when membership dips below 21.” *Slaven v. BP Am., Inc.* (C.D. Cal. 2000) 190 F.R.D. 649, 654;
26 Newberg on Class Actions § 3:12 (5th ed. 2013). There are approximately 1,000 Class Members
27 here. [Saba Decl., ¶10.]
28



1 The Class is also ascertainable. “Class members are ‘ascertainable’ where they may be
2 readily identified without unreasonable expense or time by reference to official records.” *Lee v.*
3 *Dynamex, Inc.* (2008) 166 Cal.App.4th 1325, 1334 (2008) (quoting *Aguiar v. Cintas Corp. No. 2*
4 (2006) 144 Cal.App.4th 121, 135). Riot can ascertain the Class Members for both Subclasses
5 based on its business records. [Saba Decl., ¶10.]

6 ***B. Predominance of Common Questions.***

7 Class certification is appropriate where common questions of law or fact predominate
8 over individual questions. *See, e.g., Sav-On, supra*, 34 Cal.4th at p. 327. In this case, all Class
9 Members are former or current female Riot employees or temporary agency contractors who
10 worked in California from November 6, 2014 through the date of Preliminary Approval.

11 As alleged in Plaintiffs’ Second Amended Complaint, Plaintiffs contend that Riot has
12 uniform policies and practices of (a) paying women less than similarly situated men; (b) assigning
13 women to jobs that Riot does not compensate as highly as those jobs populated by men, even
14 when men are equally qualified for the more highly compensated jobs; (c) promoting similarly
15 situated and qualified men more frequently than women who are equally or more qualified for
16 promotion; (d) assigning or demoting women to lower paid positions than similarly situated men,
17 even when these women’s qualifications were equal to or greater than the men’s qualifications;
18 and (e) creating, encouraging, and maintaining a work environment that exposes its female
19 employees and contractors to discrimination, harassment, and retaliation on the basis of their
20 gender or sex. [See, SAC ¶¶ 1-4.] These facts give rise to common claims and common
21 questions of law and fact.

22 ***C. Typicality of Plaintiffs’ Claims.***

23 “The test of typicality ‘is whether other members have the same or similar injury, whether
24 the action is based on conduct which is not unique to the named plaintiffs, and whether other
25 class members have been injured by the same course of conduct.’” *Johnson v. GlaxoSmithKline,*
26 *Inc.* (2008) 166 Cal.App.4th 1497, 1509, quoting *Seastrom v. Neways, Inc.* (2007) 149
27 Cal.App.4th 1496, 1502. Typicality is satisfied here as all Class Members were subjected to the
28 same conduct by Riot and suffered the same or similar injuries, namely, being subjected to



1 harassing and discriminating work environments, and being underpaid compared to male
2 counterparts.

3 ***D. Adequacy of Plaintiffs and Plaintiffs' Counsel to Represent the Class.***

4 To satisfy the adequacy requirement, class representatives must establish that: (1) the
5 representative plaintiffs and their counsel do not have any conflicts of interest with other class
6 members, and (2) the representative plaintiffs and their counsel will prosecute the action
7 vigorously on behalf of the class. *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1020;
8 *Janik v. Rudy, Exelrod & Zieff* (2004) 119 Cal.App.4th 930, 944. Here, Plaintiffs have no
9 conflicts with the Class, they are motivated and qualified Class representatives, and they have
10 engaged qualified and experienced counsel. [Saba Decl. ¶7.] Accordingly, adequacy is satisfied.

11 ***E. Superiority.***

12 Superiority is satisfied if “the class action proceeding is superior to alternate means for a
13 fair and efficient adjudication of the litigation.” *Sav-On, supra*, 34 Cal.4th at p. 332. A class
14 action is superior here because the Class Members’ claims have significantly overlapping factual
15 issues. If Class Members did bring individual claims, it would increase the delay and expense to
16 all parties and multiply the burden on the judicial system.

17
18 **VI. THE PROPOSED CLASS NOTICE IS APPROPRIATE.**

19 “The purpose of a class notice in the context of a settlement is to give class members
20 sufficient information to decide whether they should accept the benefits offered, opt out and
21 pursue their own remedies, or object to the settlement.” *Wershba v. Apple Computer, Inc.* (2001)
22 91 Cal.App.4th 224, 252, citing *Trotsky v. Los Angeles Fed. Sav. & Loan Assn.* (1975) 48
23 Cal.App.3d 134, 151–52. “If class members are to be given the right to request exclusion from
24 the class, the notice must include the following: (1) [a] brief explanation of the case, including the
25 basic contentions or denials of the parties; (2) [a] statement that the court will exclude the
26 member from the class if the member so requests by a specified date; (3) [a] procedure for the
27 member to follow in requesting exclusion from the class; (4) [a] statement that the judgment,
28 whether favorable or not, will bind all members who do not request exclusion; and (5) [a]



1 statement that any member who does not request exclusion may, if the member so desires, enter
2 an appearance through counsel.” *Cal. Rules of Court*, Rule 3.766(d). In addition, the notice must
3 inform class members of the final approval hearing and “contain an explanation of the proposed
4 settlement and procedures for class members to follow in filing written objections to it and in
5 arranging to appear at the settlement hearing and state any objections to the proposed settlement.”
6 *Cal. Rules of Court*, Rule 3.769(f). The proposed Class Notice satisfies these requirements.
7 [Saba Decl. ¶2, Ex. A, at Ex. 1.]

8 Due process requires that the notice be “the best practicable,” “reasonably calculated,
9 under all circumstances, to apprise interested parties of the pendency of the action and afford
10 them an opportunity to present their objections.” See *Philips Petroleum Co. v. Shutts* (1985) 472
11 U.S. 797, 812; *Consumer Cause, Inc. v. Mrs. Gooch’s Natural Food Markets, Inc.* (2005) 127
12 Cal.App.4th 387, 399 n.9. The Settlement provides for the Settlement Administrator to send the
13 Notice to Class Members by mail (after updating Class Members’ mailing addresses) and e-mail
14 if an address is available. If notice by mail and email fails, the Settlement Administrator must
15 attempt to obtain alternative mail and email addresses to which Notice may be sent, using skip-
16 trace methods and other searches. [Saba Decl. ¶2, Ex. A, at ¶47(C).] This comprehensive notice
17 process is “the best practicable” and satisfies due process. Further to the extent an individual
18 does not receive a class notice, they will be provided with the option of requesting to be added to
19 the Settlement Class. [Saba Decl. ¶2, Ex. A, at ¶46.]

20 The proposed payment process ensures Class Members receive the maximum possible
21 amount of settlement funds. A Class Member need not take any further action to receive a
22 settlement payment. [Saba Decl. ¶2, Ex. A, at Ex. 1.] After opt-outs and data challenges are
23 processed, the total payment will automatically be distributed among all Class Members by mail
24 within thirty (30) calendar days of Final Approval without Class Members even making a claim.
25 [Saba Decl. ¶2, Ex. A, at ¶48(A)(iv).] No settlement funds will revert to Riot. [Saba Decl. ¶2,
26 Ex. A, at ¶39.] At the end, if there are any unclaimed settlement funds due to uncashed checks,
27 those funds will be distributed as a *cy pres* payment to GIRLS WHO CODE, or any other entities
28



1 acceptable to the Court in compliance with *California Code of Civil Procedure* §384. [Saba Decl.
2 ¶2, Ex. A, at ¶48(A)(v).]

3
4 **VII. CONCLUSION.**

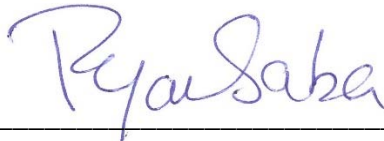
5 The Settlement is fair to the Class, provides a substantial monetary payment to Class
6 Members, and was negotiated through arms-length negotiations assisted by a neutral mediator. It
7 meets the statutory requirements for preliminary approval. Thus, Plaintiffs request that the Court:
8 (1) grant preliminary and conditional approval of the proposed Settlement; (2) provisionally and
9 conditionally certify the proposed Class; (3) direct distribution the Notice (attached as Exhibit 1
10 to the Settlement) to the Class according to the agreed-upon notice plan, and (4) schedule a final
11 approval hearing.

12
13 DATED: November 27, 2019

ROSEN ♦ SABA, LLP

14
15 Pl

16 By:



17 RYAN D. SABA, ESQ.
18 TYLER C. VANDERPOOL, ESQ.
19 Attorneys for Plaintiffs
20 MELANIE MCCRACKEN and
21 JESSICA NEGRON
22
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DECLARATION OF RYAN D. SABA

I, Ryan D. Saba, declare:

1. I am an attorney at law, licensed to practice in the State of California. I am a partner of Rosen Saba, LLP, counsel of record for Plaintiffs Gabriela Downie, Melanie McCracken, and Jessica Negron in this action. I have personal knowledge of the following facts and would competently testify thereto if called upon to do so.

2. Attached hereto as **Exhibit "A"** is a true and correct copy of the class action settlement agreement executed between Plaintiffs and Defendant.

3. Plaintiff Melanie McCracken had been a named Plaintiff in this action but is no longer a Class Representative. She has agreed to the filing of an amended complaint withdrawing her claims and adding Plaintiff Gabriella Downie who has had a separate action pending alleging similar claims in this case. An amended complaint has been concurrently filed.

4. The parties have agreed to use KCC as the claims administrator. KCC has estimated that the costs to administer the Settlement will total approximately \$30,000.

5. With the assistance of Judge Andler to negotiate the settlement, the parties executed a comprehensive written settlement agreement on November 20, 2019. At all times, the parties' settlement discussions, mediation, and negotiation of the Settlement Agreement were at arm's length.

6. This award is justified because Plaintiffs' Counsel achieved a just settlement for the class that will result in monetary payment to Settlement Class Members and that likely would not have been possible without the filings and negotiations conducted by Plaintiffs' Counsel. After filing this lawsuit on November 6, 2018, Plaintiffs' Counsel demanded an informal exchange of discovery, including the production by Riot of extensive data, including salary and bonus compensation information for all employees during the applicable class period, personnel files, and time card information, which Plaintiffs' Counsel carefully reviewed. Plaintiffs' Counsel conducted interviews with dozens of current and former female Riot employees and contractors. Plaintiffs' Counsel also reviewed all of Riot's disclosures to its employees related to investigations, diversity, inclusion and culture, and arbitration. Plaintiffs' counsel were well-



1 informed. They interviewed Plaintiffs and dozens of third-party witnesses, sought discovery,
2 reviewed almost 2,500 pages of documents produced by Riot, evaluated pay data with the
3 assistance of experts, and engaged in substantial settlement negotiations with defense counsel.
4 The Parties participated in mediations on July 16, 2019; August 2, 2019; and August 28, 2019,
5 before Retired Judge Gail Andler,

6 7. Plaintiffs' counsel Ryan Saba and Tyler Vanderpool are experienced with class
7 actions and other complex litigation. Indeed, Plaintiffs' counsel and Defendants' counsel are
8 experienced in handling class action litigation and have represented many clients in similar class
9 actions. In reaching this settlement, counsel on both sides relied on their substantial litigation
10 experience in similar actions, and conducted analyses of the legal and factual issues arising in this
11 case.

12 8. I graduated from the University of San Diego, School of Law in 1997, and have
13 been practicing law as a civil litigator for 20 years. I am a partner at a litigation firm in Beverly
14 Hills called Rosen Saba LLP. In 2016, the Daily Journal named our law firm as one of the top 20
15 Boutique Law Firms in California (there were only 8 litigation firms in this list).

16 9. Every year since 2002, I have been rated as "AV" by Martindale-Hubbell and
17 recognized in the publication of Preeminent Lawyers in America. From 2004-2012, I was named
18 as a "Southern California Rising Star" by Super Lawyers Magazine. From 2014-2017, I was
19 named as a "Super Lawyer" by Super Lawyers Magazine. I have an AVVO rating of 10 out of 10
20 "Superb" and I am listed in the top 1% of all attorneys rated by AVVO. From 2012-2019,
21 American Lawyer Magazine named me as one of the "Best Labor and Employment Attorneys" in
22 the nation.

23 10. I have been the author of approximately 24 chapters regarding employment and
24 business litigation for Practitioner Insights which is a Thomason Reuters publication on
25 WestlawNext and Practical Law Insights legal resource series published by Practical Law.
26 Additionally, I have authored numerous articles and taught many classes on ethics.



1 11. I regularly teach MCLE employment law classes, including multiple classes in
2 2016 and 2015 for the Orange County Bar Association on independent contract misclassification
3 issues.

4 12. Throughout my career, I have handled complex matters and many class action
5 matters as both a plaintiffs' counsel and a defense counsel. One is example is from 2010, I was
6 the lead defense counsel in the trial court and Court of Appeals in a case entitled *Futrell v.*
7 *Payday California* (2010) 190 Cal.App.4th 1419, which is a seminal case defining who is liable as
8 the "employer" in wage/hour cases. I have been the successful lead defense trial attorney in at
9 least 10 wage/hour class actions that also resulted in Court of Appeal affirmations.

10 13. Just as with Riot, Vice Media was the subject of a 2017 New York Times exposé
11 which alleged that Vice had "fostered" a "boys club culture" and detailed multiple instances of
12 sexual harassment and the plaintiffs in that action were also bound by arbitration agreements.
13 Vice Media committed to a number of cultural changes and, like Riot, terminated a number of
14 employees. Attached hereto as **Exhibit "B"** is an article from The Hollywood Reporter
15 documenting the settlement and cultural changes at Vice Media. Available at::
16 [https://www.hollywoodreporter.com/thr-esq/vice-media-agrees-187-million-settlement-paying-](https://www.hollywoodreporter.com/thr-esq/vice-media-agrees-187-million-settlement-paying-female-staffers-men-1197427)
17 [female-staffers-men-1197427](https://www.hollywoodreporter.com/thr-esq/vice-media-agrees-187-million-settlement-paying-female-staffers-men-1197427)

18 14. Plaintiff Negron has diligently represented the interests of the Employee Subclass
19 since the beginning of the case, and Plaintiff Downie has diligently represented the interests of
20 the Temporary Agency Contractor Subclass since joining the action. Both have kept abreast of
21 the litigation, have regularly communicated with counsel, and attended the mediation sessions.
22 Plaintiffs devoted substantial time and effort in soliciting their colleagues to contact Plaintiffs'
23 Counsel and share pertinent information.

24 ///

25 ///

26 ///

27 ///



I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 27th day of November 2019, at Beverly Hills, California.

Ryan D. Saba

EXHIBIT A

CLASS ACTION SETTLEMENT AGREEMENT

This Stipulation of Class Action Settlement and Release of Claims is entered into by and between Plaintiffs Jessica Negron and Gabriela Downie¹ (“Plaintiffs”) individually and on behalf of the Settlement Class, and Defendant Riot Games, Inc. (“Defendant” or “Riot”). This settlement resolves the class claims alleged in *McCracken, et al. vs. Riot Games, Inc.* (Case No. 18STCV03957) currently pending in Los Angeles County Superior Court.

I. DEFINITIONS

1. “Agreement” or “Settlement” means this Stipulation of Class Action Settlement and Release of Claims.

2. “Action” means the lawsuit, entitled *McCracken, et al. vs. Riot Games, Inc.*, Case No. 18STCV03957, filed on November 6, 2018 in Los Angeles County Superior Court. The case also will be known as *Negron, et al. vs. Riot Games, Inc.*

3. “Class Counsel” means and refers to Ryan Saba and Tyler Vanderpool of Rosen Saba LLP.

4. “Class Counsel Award” means the attorneys’ fees, expenses, and costs awarded to Class Counsel by the Court to resolve all past and future litigation fees, costs and expenses necessary to prosecute, settle, and administer the Action, to be paid from the Maximum Settlement Fund.

5. “Class Data” means, for each individual Settlement Class Member, the Settlement Class Member’s name; date of birth, last-known mailing address and telephone number; Social Security number; email address (if known); and the number of Compensable Work Weeks (as determined by records reasonably available to Defendant) worked by the Settlement Class Member

¹ Plaintiff Melanie McCracken has decided to withdraw as class representative and has agreed to the filing of an amended complaint to add Plaintiff Downie.

during the Class Period. The Class Data shall be provided to the Settlement Administrator in an Excel spreadsheet format forty-five (45) calendar days after the Preliminary Approval Date.

6. “Class Period” means the period from November 6, 2014 up to the Preliminary Approval Date.

7. “Class Representative Enhancement” means the amount that the Court authorizes to be paid to Plaintiffs, in addition to Individual Settlement Payment, in recognition of efforts and risks in assisting with the prosecution of the Action and in exchange for executing the General Release provided herein.

8. “Class Representatives” means Plaintiffs in their capacity as the representative of the Settlement Class Members.

9. “Compensable Work Week” means any week during the Class Period in which a Class Member was employed by or contracted to perform work for Defendant, or, in the case of Settlement Temporary Agency Contractor Subclass Members who were contracted over a period of time but only performed sporadic work, weeks in which they actually performed work for Riot.

10. “Court” means the judge of the Los Angeles County Superior Court presiding over the Action.

11. “Defendant” means Riot Games, Inc.

12. “Effective Date” means the date of final approval if no objections are filed to the Settlement. If objections are filed and overruled, and no appeal is taken of the final approval order, then the effective date of final approval shall be sixty-five (65) days after the Court enters final approval and judgment. If an appeal is taken from the Court’s overruling of objections to the Settlement, then the effective date of final approval shall be twenty (20) days after the appeal is withdrawn or after an appellate decision affirming the final approval decision becomes final. No money will be distributed unless and until the Effective Date occurs and appeals, if any, are exhausted. If an appeal is filed, Defendant shall deposit the Maximum Settlement Fund with the Settlement Administrator in an interest-bearing, escrow account. The money shall not be distributed by the Settlement Administrator until order of the Court or stipulation of the parties.

Defendant will receive any interest earned from the escrow account.

13. “Final Approval Date” means the date on which the Court enters an order granting final approval of the Settlement.

14. “Individual Settlement Payment” means the amount payable from the Net Settlement Amount to each Settlement Class Member.

15. “Maximum Settlement Fund” means the sum of the Individual Settlement Payments, the Class Representative Enhancement, the Class Counsel Award, the PAGA LWDA Payment, any payroll taxes (including both the employer’s and the employees’ share), and the Settlement Administration Costs up to a maximum of Ten Million Dollars (\$10,000,000.00). The Maximum Settlement Fund may be increased only to the extent that, as described in Section 40 below, the Compensable Work Weeks exceed more than 71,512 Compensable Work Weeks for the period of November 6, 2014 through May 15, 2019 or if the Court rejects the allowance of the employer’s share of taxes to be paid from the Maximum Settlement Fund.

16. “Net Settlement Amount” or “NSA” means the Maximum Settlement Fund, less Class Counsel Award, Class Representative Enhancement, PAGA LWDA Payment, any payroll taxes (including the employers’ and employees’ share) and Settlement Administration Costs.

17. “Notice Packet” means the Notice of Proposed Class Action Settlement And Class Action Settlement Hearing in a form substantially similar to the form attached hereto as Exhibit 1.

18. “Opt Out Period” means the 45-day period after the Settlement Administrator mails the Notice Packet to Settlement Class Members.

19. “PAGA LWDA Payment” shall be the total portion of Private Attorney General Act of 2004 (“PAGA”) payment to be paid to the Labor and Workforce Development Agency (“LWDA”).

20. “Parties” means Plaintiffs and Defendant, collectively, and “Party” shall mean either Plaintiffs or Defendant, individually.

21. “Per Work Week Distribution” means the result from dividing the Compensable Work Weeks Fund by the total Compensable Work Weeks for all Settlement Class Members.

22. “Plaintiffs” means Jessica Negron and Gabriela Downie.

23. “Preliminary Approval Date” means the date on which the Court enters an order granting preliminary approval of the Settlement.

24. “Released Claims” means any and all claims, debts, liabilities, demands, obligations, penalties, guarantees, costs, expenses, damages, attorney’s fees, action or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, that are alleged, related to or that reasonably could have arisen out of the same facts alleged in the Action, including, but not limited to, all claims related to the California Equal Pay Act; and Sex/Gender Discrimination, Sex/Gender Harassment, Retaliation, or a Failure to Prevent Sex/Gender Discrimination and Sex/Gender Harassment in Violation of California Government Code §12940; and the California Private Attorney General Act of 2004. The period of the Released Claims shall extend through the Effective Date. The Parties agree that the judgment, and release of claims provided herein, shall have *res judicata* effect. The definition of Released Claims shall not be limited in any way by the possibility that Plaintiffs or Class Members may discover new facts or legal theories or legal arguments not alleged in the operative pleadings in the Action but which might serve as an alternative basis for pursuing the same claims, causes of action, or legal theories of relief falling within the definition of Released Claims.

25. “Released Parties” means Defendant and all of its present, future, and former parent companies, subsidiaries, related or affiliated companies, shareholders, owners, employees, officers, directors, attorneys, agents, insurers, re-insurers, fiduciaries, predecessors, successors, and assigns, and any individual or entity which could be jointly liable.

26. “Response Deadline” means the date forty-five (45) calendar days after the Settlement Administrator mails Notice Packets to Settlement Class Members and the last date on which Settlement Class Members may submit Objections to the Settlement.

27. “Settlement” means the disposition of the Action pursuant to this Agreement.

28. “Settlement Administrator” means KCC, or any other claims administrator approved by the Court.

29. “Settlement Class Members” or “Settlement Class” means all current and former female Riot employees and female individuals hired by a Temporary Agency Contractor to work at Riot, who have not signed general releases, who worked in California from November 6, 2014 through the date of Preliminary Approval, where female is defined as:

A. Any person who has self-identified as female according to available records;

B. Any person who has not self-identified as female according to available records, but who has a “female-identifying name” as independently determined by the Settlement Administrator, and who does not contact the Settlement Administrator to indicate that they have been misidentified.

C. Any person who has not self-identified as female according to available records, but who contacts the Settlement Administrator to state that they self-identify as female no later than 45 days after Preliminary Approval. The Settlement Administrator shall not be obligated to send a Notice Packet to such an individual unless and until such individual notifies the Settlement Administrator pursuant to this paragraph.

30. “Settlement Employee Subclass” means all Settlement Class Members who are or were female Riot employees, who have not signed general releases, who worked in California from November 6, 2014 through the date of Preliminary Approval, where female is defined as set forth in Section 29.

31. “Settlement Temporary Agency Contractor Subclass” means all Settlement Class Members who are female individuals who were hired by a Temporary Agency Contractor to work at Riot to perform administrative, technology, artistic, or production related tasks typically performed within the premises of Riot, who have not signed general releases, who worked in California from November 6, 2014 through the date of Preliminary Approval, where female is defined as set forth in Section 29 and Temporary Agency Contractor is defined as: A third-party entity that supplies Riot with workers, where such third-party entity is regularly engaged in the business of providing staff augmentation services; for clarity, this does not include third-party

entities who are independently engaged in the business of providing specialized service offerings.

II. RECITALS

32. On November 6, 2018 Plaintiff Melanie McCracken and Jessica Negron filed the Action. A First Amended Complaint was filed on January 16, 2019.

33. The Parties agreed to attend mediation with the Honorable Gail Andler (Ret.). In order for the Parties to be prepared for mediation, Defendant produced data, subject to the mediation and settlement privilege, to Plaintiffs.

34. The Parties attended mediation on July 16, 2019 and continued to have further settlement discussions with the assistance of Judge Andler.

35. Plaintiff McCracken has decided that she no longer wishes to be a class representative and has agreed to withdraw as a class representative. Plaintiff Gabriela Downie has agreed to be added as a Named Plaintiff. Plaintiffs will file an amended complaint to add Plaintiff Downie and remove Plaintiff McCracken as discussed in Section 45.

36. This Agreement shall not constitute an admission of liability by Defendant. Defendant denies any liability or wrongdoing of any kind associated with the claims alleged in the Action, disputes the damages and penalties claimed by Plaintiffs, and further contends that, for any purpose other than settlement, Plaintiffs' claims are not appropriate for class or representative action treatment and are subject to arbitration. Defendant contends, among other things, that, at all times, it has not discriminated, harassed, retaliated, or failed to prevent harassment, discrimination or retaliation. Defendant further contends that it is not, and has never been, the employer of the Settlement Temporary Agency Contractor Subclass, and nothing herein shall constitute an admission of an employment relationship between Defendant and such individuals.

37. The Plaintiffs and Class Representatives are represented by Class Counsel. Class Counsel conducted an investigation into the facts relevant to the Action, including interviewing Settlement Class Members and reviewing extensive documents and information provided by Defendant. Based on their own independent investigation and evaluation, Class Counsel is of the opinion that the Settlement with Defendant is fair, reasonable and adequate, and in the best interest

of the Settlement Class in light of all known facts and circumstances, including the risks of significant delay, defenses asserted by Defendant, uncertainties regarding a class action trial on the merits, and numerous potential appellate issues. Although Defendant denies any liability, Defendant is agreeing to this Settlement to avoid the cost of further litigation and to demonstrate its commitment to its employees. Accordingly, the Parties and their counsel desire to fully, finally, and forever settle, compromise and discharge all disputes and claims arising from or relating to the Action on the terms set forth herein.

38. The Parties acknowledge that in response to the *Kotaku* articles (see First Amended Complaint ¶¶ 3, 10, 16, 17, 20), the lawsuits brought by Class Counsel, and the concerns raised by Riot employees, Defendant undertook a number of initiatives (or accelerated existing initiatives) to improve Defendant's diversity and inclusion, including the following:

- A. Reviewing and analyzing compensation data and making adjustments to pay where appropriate;
- B. Accelerating work on job architecture to provide logic and consistency in job titles and expectations by role;
- C. Revising the interview and recruiting process and guidelines to ensure fairness, including by revisiting Riot's gaming experience requirements;
- D. Revising and improving job descriptions to ensure better transparency;
- E. Agreeing to revisit potential opt-out for arbitration for certain types of claims with new employees post-resolution of outstanding litigation;
- F. Undertaking an expansive and improved investigation process featuring third party law firm investigators, an expansive investigatory scope, and an enhanced review process;
- G. Creating an anonymous intake hotline for employees to submit complaints, in addition to the multiple avenues already available;
- H. Building a dedicated team to lead the charge on diversification and cultural change;

- I. Partnering with renowned leadership and strategy expert Frances Frei, who is widely known as an expert in using diversity and inclusion as a tool for improving performance;
- J. Engaging two leading consultants on culture change and company systems to conduct self-critical analyses of Riot's corporate culture and talent systems;
- K. Reviewing Riot's policies, taking into account employee feedback, in order to create a revised and improved Code of Conduct;
- L. Rolling out mandatory anti-harassment training programs for all employees rather than just supervisors;
- M. Implementing mandatory anti-bias training in the Fall of 2018 to ensure that all employees understand the importance of inclusivity and sensitivity in the workplace;
- N. Hosting its first ever Global Managers Summit in January 2019, where more than 600 managers from all over the world came together to learn about coaching, trust, goal setting, and delivering feedback;
- O. Appointing Youngme Moon, a Professor of Business at Harvard Business School, as the first independent female member of Riot's Board of Directors in September 2018;
- P. Creating a Chief People Officer position and hiring Emily Winkle to oversee all aspects of Riot's people management, including recruiting, hiring, perks and benefits, onboarding, compensation, internal events, performance management, learning and development, cultural programs, and employee relations;
- Q. Creating a Chief Diversity Officer position and hiring Angela Roseboro to oversee all activity, including hiring and talent sourcing, relating to diversity and inclusion, and to lead the creation of new programs to foster a more inclusive culture at Riot;
- R. Launching an internal jobs board to allow Rioters to more efficiently explore new roles and have career advancement.
- S. Elevating Employee Resource Groups ("Rioter Identity Groups" or "RIGs") for underrepresented genders and other minority groups;
- T. Creating the Diversity & Inclusion Rioters Council, a committee of 17

employees of various levels from across the organization to help with ideas and input on diversity initiatives;

U. Developing and piloting Feedback training to further educate people on the power of feedback and how to deliver feedback in a constructive and positive way;

V. Developing and piloting an Allies Workshop with input of many employees to assist all employees in being allies to underrepresented minorities;

W. Instituting a Slate Diversity program for certain senior level positions;

X. Inviting employees to help determine Riot's values, and producing a new list of company values based on input of over 1,700 employees; and

Y. Developing a Diversity and Inclusion "scorecard" to track leaders' progress in incorporating diversity and inclusion in all aspects of Riot business.

III. TERMS OF AGREEMENT

39. Settlement Consideration. Defendant shall provide the funding for the Maximum Settlement Fund in an interest-bearing account to be opened and maintained by the Settlement Administrator. The following will be paid out of the Maximum Settlement Fund: the sum of the Individual Settlement Payments, the Class Representative Enhancement, the Class Counsel Award, the Settlement Administration Costs, and any payroll taxes (including both the employer's and the employees' share), as specified in this Agreement. None of the Maximum Settlement Fund shall revert back to Defendant.

40. Impact of Additional Compensable Work Weeks. In no event shall Defendant be required to pay more than Ten Million Dollars (\$10,000,000) as part of this Settlement, unless the Settlement Administrator determines that the number of Compensable Work Weeks between November 6, 2014 through May 15, 2019 exceeds 71,512 by more than 6% (i.e., the class has 75,803 or more) Compensable Work Weeks. If the Settlement Administrator determines that the number of Compensable Work Weeks between November 6, 2014 through May 15, 2019 exceeds 71,512 or more Compensable Work Weeks by 6% or more, then the Maximum Settlement Fund will increase by 1% for each 1% in excess of 75,803 Compensable Work Weeks. For the

avoidance of any doubt, as an example, if the total Compensable Work Weeks from November 6, 2014 through May 15, 2019 exceeds 71,512 by 9% (77,948), then the Settlement Fund will increase by 3% ($9\% - 6\% = 3\%$) and the Maximum Settlement Fund will increase from \$10,000,000 to \$10,300,000.

41. Release By All Settlement Class Members. As of the Effective Date, in exchange for the consideration set forth in this Agreement, Plaintiffs and the Settlement Class Members release the Released Parties from the Released Claims. Plaintiffs and the Settlement Class Members may hereafter discover facts or legal arguments in addition to or different from those they now know or currently believe to be true with respect to the claims, causes of action and legal theories of recovery in this case which are the subject matter of the Released Claims. Regardless, the discovery of new facts or legal arguments shall in no way limit the scope or definition of the Released Claims, and by virtue of this Agreement, Plaintiffs and the Settlement Class Members shall be deemed to have, and by operation of the Final Judgment approved by the Court, shall have, fully, finally, and forever settled and released all of the Released Claims as defined in this Agreement. Plaintiffs hereby agree that, notwithstanding section 1542 of the California Civil Code, all Released Claims that Plaintiffs may have, known or unknown, suspected or unsuspected are hereby released. Section 1542 provides:

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

A. Plaintiffs and the Settlement Class Members expressly waive the provisions of section 1542 of the California Civil Code with full knowledge and with the specific intent to release all Released Claims and therefore specifically waive the provisions of any statute, rule, decision or other source of law of the United States or of any state of the United States or any subdivision of a state which prevents release of unknown claims.

B. Upon distribution of the Settlement Fund, Plaintiffs represent and warrant

that no Medicare or Medicaid payments have been made to or on behalf of Plaintiffs and that no liens, claims, demands, subrogated interests, or causes of action of any nature or character exist or have been asserted arising from or related to any Released Claims. Plaintiffs further agree that they, and not Released Parties, shall be responsible for satisfying all such liens, claims, demands, subrogated interests, or causes of action that may exist or have been asserted or that may in the future exist or be asserted. To the extent that Plaintiffs' representations and warranties related to Plaintiffs' Medicare status and receipt of medical services and items related to the Released Claims are inaccurate, not current, or misleading, Plaintiffs agree to indemnify and hold harmless Released Parties from any and all claims, demands, liens, subrogated interests, and causes of action of any nature or character that have been or may in the future be asserted by Medicare and/or persons or entities acting on behalf of Medicare, or any other person or entity, arising from or related to this Agreement, the payment of the Settlement Amount, any Conditional Payments made by Medicare, or any medical expenses or payments arising from or related to any Released Claims that is subject to this Agreement or the release set forth herein, including but not limited to: (a) all claims and demands for reimbursement of Conditional Payments or for damages or double damages based upon any failure to reimburse Medicare for Conditional Payments; (b) all claims and demands for penalties based upon any failure to report, late reporting, or other noncompliance with or violation of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (P.L. 110-173), which, in part, amended the Medicare Secondary Payer statute at 42 U.S.C. § 1395y(b)(7) and (8), that is based in whole or in part upon late, inaccurate, or inadequate information provided to Released Parties by Plaintiffs' or Class Counsel or upon any failure of Plaintiffs or Class Counsel to provide information; and (c) all Medicaid liens. This indemnification obligation includes all damages, double damages, fines, penalties, attorneys' fees, costs, interest, expenses, and judgments incurred by or on behalf of Released Parties in connection with such claims, demands, subrogated interests, or causes of action. Regardless of the accuracy of the representations and warranties made above, Plaintiffs agree to indemnify and hold Released Parties harmless for taxes on the payments made to Plaintiffs and any tax consequences related thereto, except those prohibited by law.

42. Confidentiality. Plaintiffs and Class Counsel will maintain the terms of this Agreement as confidential until the filing of the Motion for Order Granting Preliminary Approval of the Settlement.

43. Withdrawal Option. Defendant retains the option to withdraw from the Settlement within seven (7) days of the end of the Opt Out Period if more than 4% of the Settlement Class Members opt out of the Settlement. Any individual who has signed a general release will be excluded from the 4% calculation. If Defendant withdraws from the settlement, the Parties will revert to their positions prior to Settlement.

44. Tax Liability. The Parties represent that all taxes, including but not limited to employer and employee payroll taxes, to be paid under the Settlement shall be paid from the Maximum Settlement Fund. The Settlement Administrator will issue the Individual Settlement Payments as 30% wages and interest on wages and 70% as penalties and other non-wage damages. The Settlement Administrator will report the penalties on IRS Form 1099 — MISC and will not make any tax withholdings on those amounts. The Settlement Administrator will report wages and interest on wages IRS Form W-2 and will make any applicable tax withholdings. The Settlement Administrator shall calculate the employer and employee share of payroll taxes for the wages and interest on wages and withhold the appropriate amounts and, if requested by Defendant, assist Defendant with submission of the appropriate tax filings associated with the Individual Settlement Payments. Each Settlement Class Member will be responsible for correctly characterizing the Individual Settlement Payments for tax purposes and for payment of any taxes owing on said amount.

45. Preliminary Approval Motion. Plaintiffs shall file with the Court a Motion for Order Granting Preliminary Approval of the Settlement and supporting papers, which shall include this Settlement Agreement. The Motion for Order Granting Preliminary Approval of Settlement shall seek certification of the Class and Subclasses for settlement purposes only. To the extent a Second Amended Complaint has not yet be filed in this Action, Plaintiffs shall file a Second Amended Complaint, which adds Plaintiff Downie and withdraws Plaintiff McCracken,

concurrently with the Motion for Order Granting Preliminary Approval of the Settlement. Plaintiffs shall also provide notice of the Settlement to the LWDA as required by Labor Code Section 2699(1)(2). Any dispute regarding forms of notices and other documents necessary to implement the Settlement contained in the Stipulation, if not timely resolved among the Parties, shall be referred to the Court. The Parties shall seek a prompt hearing date to obtain preliminary approval of the Settlement.

46. Settlement Administrator. The Settlement Administrator shall be responsible for: (a) calculating Individual Settlement Payments along with the appropriate tax withholdings; (b) processing and mailing payments to the Class Representatives, Class Counsel, the LWDA, and Settlement Class Members; (c) printing and mailing the Notice Packets to the Settlement Class Members as directed by the Court; (d) receiving and reporting the objections; (e) informing the Parties of any requests to be added to the Settlement Class; (f) distributing tax forms to the Settlement Class Members; (g) if requested by Defendant, assisting Defendant with submission of the appropriate tax filings associated with the Individual Settlement Payments; (h) providing declaration(s), as necessary, in support of preliminary and/or final approval of this Settlement; (i) calculating the number of Compensable Work Weeks from November 6, 2014 through May 15, 2019; (j) calculating the number of Compensable Work Weeks in the Class Period; (k) verifying Settlement Agreements as defined in Section 47H; (l) advising Defense Counsel and Class Counsel of all progress of items identified in Section 47 below on a weekly basis; (m) contacting Settlement Class Members to obtain any necessary Medicare/Medicaid compliance information; and (n) other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to perform. The Settlement Administrator shall keep the Parties timely apprised of the performance of all Settlement Administrator responsibilities. The Settlement Administrator shall keep the Class Data confidential and shall not provide the Class Data to Class Counsel. The Settlement Administrator may provide Class Counsel with a list of Settlement Class Members who do not opt out but shall not provide any contact information or demographic information for Settlement Class Members.

47. Settlement Administration.

A. Notice Packets. The Notice Packet shall contain the Notice of Proposed Class Action Settlement And Class Action Settlement Hearing in a form substantially similar to the form attached hereto as Exhibit 1. The Notice of Proposed Class Action Settlement And Class Action Settlement Hearing shall set forth the material terms of the Settlement, including the release to be given by all members of the Settlement Class who do not request to be excluded from the Settlement Class. The Notice Packet also shall be individualized to include the number of Compensable Work Weeks, a unique Claimant ID, and the estimated amount of their Individual Settlement Payment.

B. Notice By First Class U.S. Mail and Email. Upon receipt of the Class Data, the Settlement Administrator will perform a search based on the National Change of Address Database and/or similar database(s) to update and correct any known or identifiable address changes. No later than twenty-one (21) calendar days after receiving the Class Data from Defendant as provided herein, the Settlement Administrator shall mail copies of the Notice Packet to all Settlement Class Members via regular First Class U.S. Mail. The Settlement Administrator shall also email copies of the Notice Packet to Settlement Class Members to those who have an email address available. The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Settlement Class Member. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class Member. In the event more than one address is identified, then the Settlement Administrator shall mail to each potentially valid address.

C. Undeliverable Notices. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall promptly attempt to determine a correct address by lawful use of skip-tracing, or other search using the name, address and/or Social Security number of the Settlement Class Member involved, and shall then perform a re-mailing, if another mailing address is identified by

the Settlement Administrator. Settlement Class Members who received a re-mailed Notice Packet shall have their Response Deadline extended fifteen (15) calendar days from the original Response Deadline.

D. Disputes Regarding Individual Settlement Payments. Settlement Class Members will have the opportunity, should they disagree with Defendant's records regarding the number of Compensable Work Weeks worked by Settlement Class Members stated on the Notice of Proposed Class Action Settlement And Class Action Settlement Hearing, to provide documentation and/or an explanation to show contrary Compensable Work Weeks. To the extent any individual alleges that he or she should be a part of the Settlement, then he or she will have the opportunity to provide supporting documentation to show Compensable Work Weeks. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payments under the terms of this Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Individual Settlement Payment shall be binding upon the Settlement Class Member and the Parties.

E. Disputes Regarding Administration of Settlement. Any disputes not resolved by the Settlement Administrator concerning the administration of the Settlement will be resolved by the Court under the laws of the State of California. Prior to any such involvement of the Court, counsel for the Parties will confer in good faith to resolve the disputes without the necessity of involving the Court.

F. Opt Outs. The Notice of Proposed Class Action Settlement And Class Action Settlement Hearing shall state that Settlement Class Members who do not wish to participate in the Settlement must mail the Settlement Administrator a written statement of opting out ("Notice of Opt Out") by the Response Deadline. The Notice of Opt Out must be signed by the Settlement Class Member and state: (1) the full name of the Settlement Class Member; (2) the Settlement Class Member's Claimant ID number; and (3) that the Settlement Class Member wishes to opt out. Settlement Class Members who fail to opt out in the manner specified above shall be

deemed to be participants in the Settlement and will be bound by the terms of the Settlement. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Settlement Class Members to opt out from the Settlement.

G. Objections. The Notice of Proposed Class Action Settlement And Class Action Settlement Hearing shall state that Settlement Class Members who wish to object to the Settlement must mail the Settlement Administrator a written statement of objection (“Notice of Objection”) by the Response Deadline. The Notice of Objection must be signed by the Settlement Class Member and state: (1) the full name of the Settlement Class Member; (2) the dates of employment of the Settlement Class Member; (3) the Settlement Class Member’s Claimant ID number; (4) the basis for the objection; and (5) whether the Settlement Class Member intends to appear at the Final Approval/Settlement Fairness Hearing. Settlement Class Members who fail to make objections in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement. Settlement Class Members who submit a timely Notice of Objection will have a right to appear at the Final Approval/Settlement Fairness Hearing in order to have their objections heard by the Court. No Settlement Class Member may appear at the Final Approval/Settlement Fairness Hearing unless he or she has timely mailed an objection that complies with the procedures provided in this paragraph. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Settlement Class Members to file or serve written objections to the Settlement or appeal from the Final Judgment.

H. Verify Settlement Agreements. Defendant has executed approximately 100 general releases with individuals, who but for the general releases, could have been eligible for the Settlement Class. At the same time that Defendant provides Class Data to the Settlement Administrator, Defendant shall also provide to the Settlement Administrator the names of the individuals who have signed a general release and a copy of the general release. The Settlement Administrator shall review the list individuals and verify that an executed general release has been provided to the Settlement Administrator. For any person that did not sign a general release, that

person shall become a Class Member and not be excluded from the Settlement. The Settlement Administrator shall not provide the names or copies of the general releases of any individual who is not a part of the Class to Class Counsel.

I. Medicare Secondary-Payer Reporting. By the date of the Final Approval/Settlement Fairness Hearing, a Medicare/Medicaid query will be run on each Class Members' Social Security Number, Date of Birth, Gender and Full Name. To the extent the Settlement Administrator is not provided Social Security Number, Date of Birth, Gender or Full Name by Defendant, the Settlement Administrator will contact the Class Member to obtain this information. If any Class Member is a Medicare or Medicaid beneficiary, the Class Member must provide satisfaction of any and all Medicare or Medicaid liens arising out of the Released Claims prior to distribution of that Class Member's Individual Settlement Payment.

48. Funding and Allocation of the Maximum Settlement Fund. No later than thirty (30) calendar days after the Effective Date, Defendant shall provide the Maximum Settlement Fund to the Settlement Administrator to fund the Settlement, as set forth in this Agreement. The Maximum Settlement Fund shall not be distributed until all appeals, if any, have been finally resolved.

A. Individual Settlement Payments. Individual Settlement Payments shall be paid from the Net Settlement Amount and shall be paid pursuant to the formula set forth herein.

i. *Minimum Distribution for Settlement Employee Subclass.* Each Settlement Employee Subclass member will receive a payment of no less than \$5,000 from the Net Settlement Amount if the Settlement Employee Subclass member was hired on or before September 1, 2018. If the Settlement Employee Subclass member was hired after September 1, 2018, the Settlement Employee Subclass member will receive a payment of no less than \$2,500 from the Net Settlement Amount.

ii. *Minimum Distribution for Settlement Temporary Agency Contractor Subclass.* Each Settlement Temporary Agency Contractor Subclass member will receive a payment of no less than \$1,000 from the Net Settlement Amount if the Settlement Temporary Agency Contractor Subclass member started performing work for Defendant on or

before September 1, 2018. If the Settlement Temporary Agency Contractor Subclass member started performing work for Defendant after September 1, 2018, the Settlement Temporary Agency Contractor Subclass member will receive a payment of no less than \$500 from the Net Settlement Amount. If a Settlement Class Member is a member of both the Settlement Employee Subclass and the Settlement Temporary Agency Contractor Subclass, the Settlement Class Member will be provided only the Minimum Distribution for the Settlement Employee Subclass as discussed in Section 47(A)(i).

iii. *Additional Distributions Based on Tenure.* The amount remaining from the Net Settlement Amount after subtracting all the Minimum Distributions allocated to Settlement Class Members will result in the “Compensable Work Weeks Fund.” Using the Class Data, the Settlement Administrator will calculate the total Compensable Work Weeks for all Settlement Class Members by adding the number of Compensable Work Weeks worked by each Settlement Class Member during the Class Period. The Compensable Work Weeks Fund will be divided by the total Compensable Work Weeks for all Settlement Class Members, which will result in the Per Work Week Distribution for the Settlement Class Members. The Per Work Week Distribution will then be multiplied by each Settlement Class Member’s Compensable Work Weeks, and then added to each Settlement Class Member’s Minimum Distribution to calculate each Settlement Class Member’s estimated individual allocation. The Settlement Administrator then shall subtract the applicable employer and employee share of taxes from the estimated individual allocation to arrive at each Individual Settlement Payment.

iv. *Mailing.* Individual Settlement Payments shall be mailed by regular First Class U.S. Mail to Settlement Class Members’ last known mailing address no later than thirty (30) calendar days after the Effective Date.

v. *Expiration.* Any checks issued to Settlement Class Members shall remain valid and negotiable for one hundred and eighty (180) calendar days from the date of their issuance. The Parties shall report to the Court, at a date no less than 300 days after Final Judgment, the total amount actually paid to class members pursuant to California Civil Procedure Code

Section 384(b). After the report is received, the Court shall amend the judgment to direct Defendant to pay the sum of the unpaid residue or unclaimed or abandoned class member funds, plus any interest that has accrued thereon, to GIRLS WHO CODE, or any other cy pres organization as agreed upon by the Parties and in compliance with California Civil Procedure Code Section 384(b). The Parties agree to coordinate their efforts to seek Court approval for such an escheatment process of uncashed funds.

B. Class Representative Enhancements. As a Class Representative Enhancement, Plaintiffs intend to seek up to \$10,000 to each of the Plaintiffs. The Class Representative Enhancement is in exchange for the Released Claims and for Plaintiffs' time, effort and risk in bringing and prosecuting the Action. Defendant will not oppose a reasonable request by Plaintiffs for Class Representative Enhancements. The Settlement Administrator shall pay the Class Representative Enhancement to Plaintiffs from the Maximum Settlement Fund no later than thirty (30) calendar days after the Effective Date. Any portion of the requested Class Representative Enhancement that is not awarded to the Class Representatives shall be part of the Net Settlement Amount and shall be distributed to Settlement Class Members as provided in this Agreement. The Settlement Administrator shall issue an IRS Form 1099 — MISC to Plaintiffs for Class Representative Enhancement. Plaintiffs shall be solely and legally responsible to pay any and all applicable taxes on respective Class Representative Enhancement and shall hold harmless Defendant from any claim or liability for taxes, penalties, or interest arising as a result of the Class Representative Enhancement. The Class Representative Enhancements shall be in addition to the Plaintiffs' Individual Settlement Payment as a Settlement Class Member. In the event that the Court reduces or does not approve the requested Class Representative Enhancement, Plaintiffs shall not have the right to revoke the Settlement, and it will remain binding.

C. Class Counsel Award. Plaintiffs intend to apply for an award of attorneys' fees for Class Counsel not to exceed one-third (33.33%) of the Maximum Settlement Fund (\$3,333,333.33). Additionally, Defendant shall not oppose an application by Class Counsel for expenses and costs not to exceed Forty Thousand Dollars \$40,000 from the Maximum Settlement

Fund for all past and future litigation fees, costs and expenses necessary to prosecute, settle and administer the Action as supported by a declaration from Class Counsel. Defendant agrees not to oppose a reasonable request for attorneys' fees or costs. The Parties agree that any and all claims for reasonable attorneys' fees and costs have been settled by this Agreement and that neither Plaintiffs, Settlement Class Members, nor Class Counsel shall seek payment of attorneys' fees or reimbursement of costs/expenses from Defendant except as set forth in this Agreement. Any portion of the requested Class Counsel Award that is not awarded to Class Counsel shall be part of the Net Settlement Amount and shall be distributed to Settlement Class Members as provided in this Agreement. The Settlement Administrator shall pay the Class Counsel Award to Class Counsel from the Maximum Settlement Fund no later than thirty (30) calendar days after the Effective Date. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the payment made pursuant to this paragraph. The Settlement Administrator shall issue an IRS Form 1099 — MISC to Class Counsel for the payments made pursuant to this paragraph. In the event that the Court reduces or does not approve the requested Class Counsel Award, Plaintiffs, and Class Counsel shall not have the right to revoke the Settlement, and it will remain binding.

D. Settlement Administration Costs. The Settlement Administrator shall be paid for the costs of administration of the Settlement from the Maximum Settlement Fund. The estimate of the Settlement Administration Costs is not to exceed Thirty Thousand Dollars (\$30,000). The Settlement Administrator shall be paid the Settlement Administration Costs no later than thirty (30) calendar days after Defendant funds the Maximum Settlement Fund, provided that no appeals have been taken from the Final Judgment.

E. PAGA Allocation. The Parties agree that Five Hundred Thousand (\$500,000) shall be allocated to settling Plaintiffs' PAGA claims. 75% of the Five Hundred Thousand (\$375,000) shall be provided to the Labor and Workforce Development Agency as the PAGA LWDA Payment. The remaining One Hundred and Twenty-Five Thousand (\$125,000) shall be allocated to the Net Settlement Fund.

F. Net Settlement Amount. The Parties estimate the amount of the Net

Settlement Amount as follows:

Maximum Settlement Fund:	\$	10,000,000.00
Class Representative Enhancements:	\$	20,000.00
Class Counsel's Fees:	\$	3,333,333.33
Class Counsel's Costs:	\$	40,000.00
PAGA LWDA Payment	\$	375,000.00
Settlement Administration Costs:	\$	30,000.00
Net Settlement Amount	\$	6,201,666.67

49. Final Approval Motion. At the earliest practicable time following the expiration of the Response Deadline, Plaintiffs shall file with the Court a Motion for Order Granting Final Approval and Entering Judgment, requesting final approval of the Settlement and the amounts payable for the Class Representative Enhancement, the Class Counsel Award, and the Settlement Administration Costs.

A. Final Approval Order and Judgment. The Parties shall present a Final Judgment and Order Granting Final Approval of Class Action Settlement ("Final Judgment") to the Court for its approval. The Final Judgment shall, among other things:

- i. Find that the Court has personal jurisdiction over all Settlement Class Members and that the Court has subject matter jurisdiction to approve this Settlement Agreement and all exhibits thereto;
- ii. Approve this Settlement Agreement and the proposed Settlement as fair, reasonable and adequate, consistent and in compliance with all applicable requirements of the California Code of Civil Procedure, California Rules of Court, the United States Constitution (including the Due Process Clause), and any other applicable law, and in the best interests of each of the Parties and the Class Members; direct the Parties and their counsel to implement this Settlement according to its terms and provisions; and declare this Settlement to be binding on Plaintiffs and all other Settlement Class Members, as well as their heirs, executors

and administrators, successors and assigns;

- iii. Find that the Notice of Proposed Class Action Settlement And Class Action Settlement Hearing and notice methodology implemented pursuant to this Stipulation (i) constituted the best practicable notice; (ii) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action, their right to object to or exclude themselves from the proposed Settlement and their right to appear at the Final Settlement Hearing; (iii) were reasonable and constituted due, adequate and sufficient notice to all persons entitled to receive notice; and (iv) met all applicable requirements of the California Code of Civil Procedure, California Rules of Court, the United States Constitution (including the Due Process Clause), and any other applicable law;
- iv. Find that Plaintiffs and Class Counsel adequately represented the Settlement Class for purposes of entering into and implementing the settlement;
- v. Incorporate the Released Claims set forth in this Agreement, make the Released Claims effective as of the date of the Preliminary Approval Date, and forever discharge the Released Parties from any claims or liabilities arising from or related to the Action;
- vi. Authorize the Parties, without further approval from the Court, to agree to and to adopt such amendments, modifications and expansions of this Stipulation and all exhibits attached hereto as (i) are consistent with the Final Judgment; and (ii) do not limit the rights of Settlement Class Members under the Stipulation;
- vii. Without affecting the finality of the Final Judgment, the Court shall retain continuing jurisdiction over the Action, the Parties, and the

Settlement Class, as well as the administration and enforcement of the Settlement. Any disputes or controversies arising with respect to the interpretation, consummation, enforcement, or implementation of the Settlement shall be presented by motion to the Court.

50. Final Judgment Notice to LWDA. After Final Judgment, Plaintiffs will provide the LWDA with a copy of the Final Judgment as required by Labor Code Section 2699(1)(2).

51. Publicity. The Parties and their counsel will not make any public statement that disparages the Settlement, Defendant, or Class Counsel. Defendant will be allowed to publicize the Settlement.

52. Defendant Representations. Defendant represents that it has not executed any “Pick-Up-Stix” settlement agreements with Settlement Class Members. Defendant further represents that there are no more than 100 female individuals who have signed general releases that are excluded from the Class. Defendant will provide names of the female individuals who have signed a general release and proof of the general release to the Settlement Administrator, which shall not be provided to Class Counsel (except as an aggregate total number of individuals who have signed general releases).

53. Commitment to Change. Defendant commits to ongoing improvements and initiatives to continue facilitating diversity and inclusion in the workplace.

54. No Impact on Benefit Plans. Neither this Settlement nor any amounts paid under the Settlement will modify any previously credited hours or service under any employee benefit plan, policy, or bonus program sponsored by Defendant. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under Defendant-sponsored benefit plans, policies, or bonus programs. The payments made under the terms of this Settlement shall not be applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of Defendant’s benefit plan, policy, or bonus program. Defendant retains the right to modify the language of its benefit plans, policies and bonus programs to effect this intent, and to make clear that any amounts paid pursuant

to this Settlement are not for “hours worked,” “hours paid,” “hours of service,” or any similar measuring term as defined by applicable plans, policies and bonus programs for purposes of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not required by this Settlement.

55. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement.

56. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Action, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval/Settlement Fairness Hearing to be conducted by the Court.

57. Admissibility of Agreement. This Agreement shall not be admissible in any proceeding for any purpose, except to enforce it according to its terms.

58. Amendment or Modification. This Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest.

59. Entire Agreement. This Agreement and any attached Exhibits, constitute the entire Agreement among these Parties, and no oral or written representations, warranties or inducements have been made to any Party concerning the Settlement other than the representations, warranties and covenants contained and memorialized in the Agreement and its Exhibits.

60. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement and to take all appropriate actions required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The person signing this Agreement on behalf of Defendant represents and warrants that he is authorized to sign this Agreement on behalf of Defendant. Plaintiffs represent and warrant that they are authorized to sign this Agreement and that they have not assigned any claim, or part of a claim, covered by this Settlement to a third-party.

61. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

62. California Law Governs. All terms of this Agreement and the Exhibits hereto and any disputes arising hereunder shall be governed by and interpreted according to the laws of the State of California.

63. Counterparts. This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument provided that counsel for the Parties to this Agreement shall exchange among themselves copies or originals of the signed counterparts.

64. Signatures. Electronic signatures on this Agreement are considered valid and binding under Federal and California law.

65. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement is a fair, adequate and reasonable settlement of this Action and have arrived at this Settlement after extensive arm's-length negotiations, taking into account all relevant factors, present and potential.

66. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction with respect to the interpretation, implementation and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing and enforcing the settlement embodied in this Agreement and all orders and judgments entered in connection therewith.

67. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

68. Waiver of Certain Appeals. The Parties and Class Counsel agree to waive any and all rights to appeal, this waiver being contingent upon the Court entering the Final Judgment. This waiver includes waiver of all rights to any post-judgment proceeding and appellate proceeding, including, but not limited to, motions for relief from judgment and motions to amend or alter the

judgment.

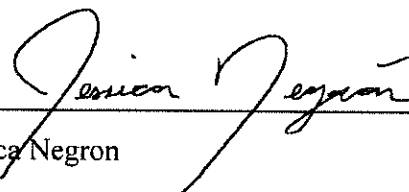
69. No Admissions. Plaintiffs have claimed and continue to claim that the Released Claims have merit and give rise to liability on the part of Defendant. Defendant has claimed and continues to claim that the Released Claims have no merit and do not give rise to liability. This Agreement is a compromise of disputed claims. Nothing contained in this Agreement and no documents referred to herein and no action taken to carry out this Agreement may be construed or used as an admission by or against Defendant or Plaintiffs or Class Counsel as to the merits or lack thereof of the claims asserted. To the extent that this Settlement is not approved, the Parties shall revert to their original positions. Defendant denies that this Action is appropriate for class treatment except for settlement purposes and denies that it is an employer of the temporary agency contractors.

70. Confidential Documents. Plaintiffs and Class Counsel agree that none of the documents and information provided to them in formal or informal discovery or at any other time in this Action shall be used for any purposes other than prosecution of this Action. Class Counsel shall not refer to, rely upon, or otherwise utilize any documents or information obtained in this Action to prosecute a separate action against Defendant and/or any Released Parties; however, nothing in this Section will be construed as a restraint on the right of any counsel to practice or a limitation on the rights that any Settlement Class Member or Class Counsel may have under any applicable federal, state, or local law to separately obtain documents or information from Defendant.

I HAVE READ THE FOREGOING STIPULATION OF CLASS ACTION SETTLEMENT AND RELEASE OF CLAIMS. I ACCEPT AND AGREE TO THE PROVISIONS IT CONTAINS, AND HEREBY EXECUTE IT VOLUNTARILY WITH FULL UNDERSTANDING OF ITS CONSEQUENCES.

DATED: November 26, 2019

By: _____


Jessica Negron

DATED: _____

By: _____

Gabriela Downie

DATED: _____

By: _____

Melanie McCracken

DATED: _____

By: _____

Dan Chang, General Counsel, Riot Games, Inc.

APPROVED AS TO FORM AND CONTENT:

DATED: _____

ROSEN SABA LLP

By: _____

Ryan Saba
For Plaintiffs and the Class Members

DATED: _____

GIBSON, DUNN & CRUTCHER LLP

By: _____

Catherine A. Conway
For Defendant Riot Games, Inc.

DATED: _____ By: _____
Jessica Negron

DATED: 11/21/2019 By: Gabriela Downie
Gabriela Downie

DATED: _____ By: _____
Melanie McCracken

DATED: _____ By: _____
Dan Chang, General Counsel, Riot Games, Inc.

APPROVED AS TO FORM AND CONTENT:

DATED: _____ **ROSEN SABA LLP**

By: _____
Ryan Saba
For Plaintiffs and the Class Members

DATED: _____ **GIBSON, DUNN & CRUTCHER LLP**

By: _____
Catherine A. Conway
For Defendant Riot Games, Inc.

DATED: _____

By: _____

Jessica Negron

DATED: _____

By: _____

Gabriela Downie

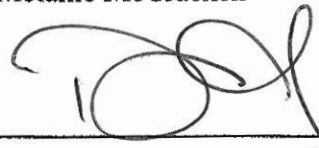
DATED: 11/25/2019

By: DocuSigned by:

1CBEEE04A63D411...

Melanie McCracken

DATED: 11/26/2019

By: 

Dan Chang, General Counsel, Riot Games, Inc.

APPROVED AS TO FORM AND CONTENT:

DATED: 11/26/19

ROSEN SABA LLP

By: 

Ryan Saba

For Plaintiffs and the Class Members

DATED: 11/26/2019

GIBSON, DUNN & CRUTCHER LLP

By: 

Catherine A. Conway

For Defendant Riot Games, Inc.

EXHIBIT 1

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

Negron et al. v. Riot Games, Inc.

Superior Court of the State of California for the County of Los Angeles, Case No. 18STCV03957

**THIS NOTICE CONTAINS IMPORTANT LEGAL INFORMATION
YOU ARE NOT BEING SUED**

THIS NOTICE IS BEING SENT TO CURRENT AND FORMER FEMALE RIOT GAMES, INC. EMPLOYEES AND TEMPORARY AGENCY CONTRACTORS WHO WORKED IN CALIFORNIA BETWEEN NOVEMBER 6, 2014 AND [PRELIMINARY APPROVAL DATE].

A proposed Ten Million U.S. Dollar (\$10,000,000) settlement (the “**Settlement**”) has been reached in the employment class action lawsuit against Riot Games, Inc. (“**Riot**,” and such lawsuit, the “**Lawsuit**,” with case name and number above). The “**Class Representatives**” in this Lawsuit are Jessica Negron and Gabriela Downie. Please read this Notice carefully. It may affect your legal rights and rights to money that you may be owed in connection with your current or former employment or temporary agency contract work with Riot in California.

This Settlement is subject to the final approval of the Honorable Elihu M. Berle of the Los Angeles Superior Court (the “**Court**”).

More information can be found at the settlement website at: [INSERT LINK TO WEBSITE PROVIDED BY ADMINISTRATOR].

In the Lawsuit, Ms. Negron and Ms. Downie maintain that the Settlement Class Members (as defined below in Section 1) have experienced gender/sex harassment, gender/sex discrimination, retaliation and/or a disparity in pay based on gender/sex while working at Riot. If you are receiving this notice, you have been identified as someone who is likely a Settlement Class Member, based on your identified or presumed gender and your dates of employment or contract relationship. You are not required to have made any complaint of gender/sex harassment, gender/sex discrimination, retaliation, and/or a disparity in pay based on gender/sex against Riot to be a Settlement Class Member. As an identified member of the Settlement Class, you have three options available to you under this Settlement, each of which is discussed below.

I. SUMMARY OF YOUR OPTIONS AND LEGAL RIGHTS IN THIS SETTLEMENT

Option 1: Do Nothing and Receive a Settlement Payment	<p>If you do nothing, you will receive a payment under this Settlement if the Court finally approves this Settlement. You will be noted as releasing all claims covered by this Settlement. To be clear, <u><i>you do not have to do anything to receive a payment.</i></u></p> <p>If you wish to receive a Settlement payment, but you disagree with the information used to calculate your Settlement award, you may challenge that information, as described below in Section 6.</p>
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Option 2: Exclude Yourself ("Opt Out") from the Settlement	<p>If you "opt out," you will NOT receive any money and you will not release your claims against Riot. <u>To opt out from the Settlement, you must mail a written, signed opt-out request</u> (an "Notice of Opt Out") to the Settlement Administrator, as described below in Section 8, at the address below, on or before [opt-out date]. Any Notice of Opt Out not postmarked on or before [opt-out date] will be invalid, and you will receive a Settlement payment as if you had chosen Option 1 above.</p>
Option 3: Object to the Settlement	<p>Objecting means you believe that this Settlement should not proceed at all. <u>If you wish to object to the Settlement, you must do so in writing</u> and must send a letter with (i) your full name, (ii) your claimed dates of employment or temporary contract work at Riot, (iii) your "Claimant ID Number" (as provided on page X of this Notice, (iv) the basis or rationale for your objection(s), and (v) whether you intend to appear at the Final Fairness Hearing (as described in Section 9 below). You must sign such objection letter and mail it to the Settlement Administrator (as described in Section 9 below). Any objection not filed and postmarked on or before [objection date] will be invalid, and you will receive a Settlement payment as if you had chosen Option 1 above.</p>

II. KEY DETAILS AND LOGISTICS REGARDING SETTLEMENT

1. Why did I receive this Notice?

This Settlement affects certain employees and temporary agency contractors who worked for Riot in California from November 6, 2014 through **[PRELIMINARY APPROVAL DATE]** (the "**Settlement Class**," and, the individual members thereof, the "**Settlement Class Members**").

Within the Settlement Class, there are two categories, each called "**Subclasses**":

- (1) Subclass 1 of 2: "**Settlement Employee Subclass**": All Settlement Class Members who are or were female Riot employees, who worked in California from November 6, 2014 through **[PRELIMINARY APPROVAL DATE]**, and who have not signed general releases (e.g. separation agreements). "**Female**" for this purpose is defined as:
 - a. Any person who has self-identified as female according to Riot's available records;
 - b. Any person who has not self-identified as female according to Riot's available records, but who has a "female-identifying name" as independently determined by the Settlement Administrator, unless such person contacts the Settlement Administrator to indicate that such person was not self-identifying as female; or
 - c. Any person who has not self-identified as female according to Riot's available records, but who contacts the Settlement Administrator to state that such person self-identifies as female no later than 45 days after **[PRELIMINARY APPROVAL DATE]**. For clarity, unless such person notifies the Settlement Administrator as instructed in this paragraph, such person will not receive this Notice.
- (2) Subclass 2 of 2: "**Settlement Temporary Agency Contractor Subclass**": All Settlement Class Members who were female individuals hired by a Temporary Agency Contractor to work at Riot

to perform administrative, technology, artistic, or production related tasks typically performed within the premises of Riot, who have not signed general releases, who worked in California from November 6, 2014 through [PRELIMINARY APPROVAL DATE], where female is defined as set forth in the foregoing paragraph and “**Temporary Agency Contractor**” is defined as: “A third-party entity that supplies Riot with workers, where such third-party entity is regularly engaged in the business of providing staff augmentation services; for clarity, this does not include third-party entities who are independently engaged in the business of providing specialized service offerings.”

According to Riot’s records, you are a member of the Settlement Class and of the [SETTLEMENT EMPLOYEE SUBCLASS AND/OR THE SETTLEMENT TEMPORARY AGENCY CONTRACTOR SUBCLASS].

2. What are the Settlement terms?

In this Settlement, Riot has agreed to pay a total of Ten Million U.S. Dollars (\$10,000,000) to settle the Lawsuit. This money will be divided among all Settlement Class Members. It will also be used to make payments to (i) Class Counsel (as defined in Section 13) for attorney’s fees and costs of litigation; (ii) the California Labor Workforce Development Agency (“**LWDA**”) for its share of penalties under the Private Attorneys’ General Act; (iii) the Class Representatives for their service in representing the Class; and (iv) the Settlement Administrator for calculating and administering these Notices and payments to Class Members.

This Settlement is the result of good faith, arm’s-length negotiations, facilitated by a neutral independent mediator, between the Class Representatives (represented by Class Counsel) and Riot.

Both sides agree that, in light of the risks and expenses associated with continued litigation, this Settlement is fair and appropriate under the circumstances, and in the best interests of all the Settlement Class Members.

The Court has not ruled on the facts of the Lawsuit. The Settlement is a compromise and is not an admission of guilt on the part of Riot. Riot denies the allegations made in the Lawsuit and continues to believe that it has complied with California law with respect to the allegations made in the Lawsuit.

3. How much will I be paid? How will my share of the Settlement be calculated?

Of the \$10,000,000 total Settlement amount, the net amount that will be payable to the Settlement Class Members (the “**Net Settlement Fund**”) is calculated by subtracting the following costs from \$10,000,000:

- (i) fees to the Settlement Administrator, estimated at \$30,000;
- (ii) Class Counsel’s legal costs, as approved by the Court, in an amount not to exceed \$40,000;
- (iii) a payment to the LWDA of \$375,000;
- (iv) service awards to each of the two Class Representatives, not to exceed \$10,000 each; and
- (v) Class Counsel’s legal fees, as approved by the Court, not to exceed 33.33% (\$3,333,333) of the total settlement amount.

Each Settlement Class Member who does not opt out will then split the Net Settlement Pool among themselves, with individual allocations calculated as follows:

- (A) Minimum Payment (as described below)
PLUS
(B) Additional Amount for Each Eligible Workweek (as described below)
LESS
(C) Tax Withholding

(1) Minimum Payment:

- a. Each member of the Settlement Employee Subclass who does not opt out will receive a payment of at least
 - i. **\$5,000** if hired on or before September 1, 2018; or
 - ii. **\$2,500** if hired after September 1, 2018.
- b. Each member of the Settlement Temporary Agency Subclass who does not opt out will receive a payment of at least
 - i. **\$1,000** if services were engaged on or before September 1, 2018; or
 - ii. **\$500** if services were engaged after September 1, 2018.

(2) Additional Amount for Each Eligible Workweek:

- a. Each Settlement Class Member that does not opt out will receive additional amounts for each eligible week that she worked or provided services at Riot (for the workweeks between November 6, 2014 and [PRELIMINARY APPROVAL DATE]).
- b. The additional amount to be paid for **each** eligible workweek will be calculated as follows:
 - i. The Net Settlement Fund, less the aggregate amount of Minimum Payments made to Settlement Class Members, shall comprise the “**Compensable Workweeks**” fund.
 - ii. The Compensable Workweeks fund will then be divided by the total number of all eligible workweeks from all Settlement Class members.

(3) Tax Withholding:

- a. All Settlement payments will be subject to, and paid net of, employer and employee tax withholding.

4. How much is my individual Settlement payment?

Based on the information from Riot’s records, and under the formula described in Section 3 of this Notice, you qualify for a minimum payment of [\$insert]. Additionally, your number of Compensable Work Weeks is [insert]. Your share of the settlement is thus estimated to be [\$insert].

As such, your individual Settlement payment is estimated to be [\$ insert] (subject to tax withholding).

This amount is only an estimate and is subject to final calculations by the Settlement Administrator.

If you participate in this Settlement, you will be provided a statement that shows what tax amount was withheld, and you are solely responsible for determining the tax consequences of payments made pursuant to this Settlement (as you would be with any payment from an employer or client).

5. What do I do if I want to participate in the Settlement (as described as Option 1 above) and AGREE with the number of Compensable Workweeks listed above in Section 4?

You do **not** need to take any further action. If the Settlement receives the Court's final approval, a check will be sent to you at the address to which this notice was sent, unless you provide a different address to the Settlement Administrator (see contact information in Section 16 below).

6. What do I do if I want to participate in the Settlement (as described as Option 1 above) but DISAGREE with the number of Compensable Workweeks listed above in Section 4?

If you wish to participate in the Settlement, but believe that the number of work weeks listed in Section 4 of this Notice is incorrect, please do one of the following:

- (1) **Letter.** Send a letter to the Settlement Administrator (see contact information in Section 16 below) explaining that you dispute the number of your eligible Compensable Workweeks, together with any supporting documents you may have. To be considered, the letter and supporting written documents must be received by the Settlement Administrator no later than forty-five (45) days after the postmark date of this Notice.
- (2) **Online Form.** Instead of sending a letter, you may fill out a form online at this link [ADMINISTRATOR TO INSERT]. You must submit this form no later than forty-five (45) days after the postmark date of this Notice.

The Settlement Administrator will make a final and binding determination regarding any disputes. The Settlement Administrator will inform each Settlement Class Member of its final determination by a telephone call, followed by an e-mail, or regular U.S. Mail if no e-mail for that Settlement Class Member is available.

If the Settlement receives the Court's final approval, a check will be sent to you at the address to which this notice was sent, unless you provide a different address to the Settlement Administrator. **Please be sure to contact the Settlement the Administrator if you update your address to ensure you can receive your check.**

7. What happens if I receive a check, but do not cash it?

Settlement Class Members who do not opt out will receive payment within approximately [X] weeks of the Court's final approval of the Settlement (if approved by the Court). Checks would be mailed by the Settlement Administrator to the last known address for each Settlement Class Member. Checks must be cashed within [X] days of mailing. After that date, the checks will no longer be able to be cashed. If an inexplicably large proportion of checks were to be left uncashed, the Court could order the Settlement Administrator to make additional attempts to contact Settlement Class Members before releasing the aggregate dollar amount of all uncashed checks to [Girls Who Code].

8. What do I do if I do NOT want to participate in this Settlement (as described as Option 2 above)?

If you do not want to participate in this Settlement, you must submit a signed written request to be excluded from the Settlement (“**Notice of Opt Out**”) to the Settlement Administrator, at the address listed below in Section 16. Your Notice of Opt Out must be postmarked on or before no later than forty-five (45) days after the postmark date of this Notice. If you do not timely submit a signed Notice of Opt Out (based on the postmark date), then (i) your Notice of Opt Out will be rejected; (ii) you will be deemed a member of the Settlement Class; and (iii) you will be bound by all the terms of this Settlement, including the release of Released Claims described in Section 10 below. If the Notice of Opt Out is sent from within the United States, it must be sent via the U.S. Postal Service by First-Class Mail.

If you timely submit a signed Notice of Opt Out, you will have no further role in the Lawsuit, and for all purposes, you will be regarded as if you never were a party to this Lawsuit nor a Settlement Class Member. Thus, you will not be entitled to any benefit as a result of this Lawsuit and will not be entitled or permitted to assert an objection to the Settlement.

9. Can I object to the Settlement (as described as Option 3 above)?

Yes. If you believe that this proposed Settlement is unfair or inadequate in any respect, you can ask the Court to deny approval by filing an objection. For clarity, you cannot ask the Court to order a larger settlement; the Court can only approve or deny the settlement which is currently being proposed. If the Court denies final approval, no Settlement payments will be sent out to anyone and the Lawsuit will continue.

Note that you cannot object to the Settlement if you request exclusion from the Settlement (that is, if you submit an Notice of Opt Out as described as Option 2 above) pursuant to the procedures outlined in Section 8 above.

You may object to the proposed settlement in writing, and can also appear at the Court’s Final Fairness Hearing as described in Section 11 below. However, you may not appear at the Final Fairness Hearing to object, either in person or through your own attorney, unless you first object to the proposed settlement in writing. If you appear represented by your own attorney, you are responsible for paying such attorney. All written objections and supporting papers should (i) clearly identify the case name and number (*Negron et al. v. Riot Games, Inc.*, Case No. 18STCV03957); (ii) be mailed to the Settlement Administrator; and (iii) be postmarked no later than forty five (45) days after the postmark date of this Notice.

Your objection should clearly state: (i) the reasons why you believe that the Court should find that this proposed Settlement is not in the best interest of the Settlement Class; and (ii) the reasons why you believe that the Settlement should not be approved.

Any Settlement Class Member who does not object in the manner described above will be deemed to have waived any objections, and later cannot object to the fairness or adequacy of this proposed Settlement, as well as the payment of Class Counsel’s attorneys’ fees and costs, the service payments to the Class Representatives, the claims process, or any and all other aspects of this Settlement. Likewise,

even if you file an objection, you will be bound by the terms of this Settlement, including applicable releases as set forth above, unless this Settlement is not finally approved by the Court.

III. SCOPE OF RELEASED CLAIMS

10. What claims are being released by the Proposed Settlement?

The Settlement Agreement underlying this Settlement contains the following releases of claims (capitalized terms as defined in the Settlement Agreement):

“As of the Effective Date, in exchange for the consideration set forth in this Agreement, Plaintiffs and the Settlement Class Members release the Released Parties from the Released Claims. Plaintiffs and the Settlement Class Members may hereafter discover facts or legal arguments in addition to or different from those they now know or currently believe to be true with respect to the claims, causes of action and legal theories of recovery in this case which are the subject matter of the Released Claims. Regardless, the discovery of new facts or legal arguments shall in no way limit the scope or definition of the Released Claims, and by virtue of this Agreement, Plaintiffs and the Settlement Class Members shall be deemed to have, and by operation of the Final Judgment approved by the Court, shall have, fully, finally, and forever settled and released all of the Released Claims as defined in this Agreement.

Plaintiffs hereby agree that, notwithstanding section 1542 of the California Civil Code, all Released Claims that Plaintiffs may have, known or unknown, suspected or unsuspected are hereby released. Section 1542 provides:

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

Plaintiffs and the Settlement Class Members expressly waive the provisions of section 1542 of the California Civil Code with full knowledge and with the specific intent to release all Released Claims and therefore specifically waive the provisions of any statute, rule, decision or other source of law of the United States or of any state of the United States or any subdivision of a state which prevents release of unknown claims.”

“Upon distribution of the Settlement Fund, Plaintiffs represent and warrant that no Medicare or Medicaid payments have been made to or on behalf of Plaintiffs and that no liens, claims, demands, subrogated interests, or causes of action of any nature or character exist or have been asserted arising from or related to any Released Claims. Plaintiffs further agree that they, and not Released Parties, shall be responsible for satisfying all such liens, claims, demands, subrogated interests, or causes of action that may exist or have been asserted or that may in the future exist or be asserted. To the extent that Plaintiffs’ representations and warranties related to Plaintiffs’ Medicare status and receipt of medical services and items related to the Released Claims are inaccurate, not current, or misleading, Plaintiffs agree to indemnify and hold harmless Released Parties from any and all claims, demands, liens, subrogated interests, and causes of action of any nature or character that have been or may in the future be asserted by Medicare and/or persons or entities acting on behalf of Medicare, or any

other person or entity, arising from or related to this Agreement, the payment of the Settlement Amount, any Conditional Payments made by Medicare, or any medical expenses or payments arising from or related to any Released Claims that is subject to this Agreement or the release set forth herein, including but not limited to: (a) all claims and demands for reimbursement of Conditional Payments or for damages or double damages based upon any failure to reimburse Medicare for Conditional Payments; (b) all claims and demands for penalties based upon any failure to report, late reporting, or other noncompliance with or violation of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (P.L. 110-173), which, in part, amended the Medicare Secondary Payer statute at 42 U.S.C. § 1395y(b)(7) and (8), that is based in whole or in part upon late, inaccurate, or inadequate information provided to Released Parties by Plaintiffs' or Class Counsel or upon any failure of Plaintiffs or Class Counsel to provide information; and (c) all Medicaid liens. This indemnification obligation includes all damages, double damages, fines, penalties, attorneys' fees, costs, interest, expenses, and judgments incurred by or on behalf of Released Parties in connection with such claims, demands, subrogated interests, or causes of action. Regardless of the accuracy of the representations and warranties made above, Plaintiffs agree to indemnify and hold Released Parties harmless for taxes on the payments made to Plaintiffs and any tax consequences related thereto, except those prohibited by law."

"Released Parties" means Riot Games, Inc. "and all of its present, future, and former parent companies, subsidiaries, related or affiliated companies, shareholders, owners, employees, officers, directors, attorneys, agents, insurers, re-insurers, fiduciaries, predecessors, successors, and assigns, and any individual or entity which could be jointly liable."

"Released Claims" means "means any and all claims, debts, liabilities, demands, obligations, penalties, guarantees, costs, expenses, damages, attorney's fees, action or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, that are alleged, related to or that reasonably could have arisen out of the same facts alleged in the Action, including, but not limited to, all claims related to the California Equal Pay Act; and Sex/Gender Discrimination, Sex/Gender Harassment, Retaliation, or a Failure to Prevent Sex/Gender Discrimination and Sex/Gender Harassment in Violation of California Government Code §12940; and the California Private Attorney General Act of 2004. The period of the Released Claims shall extend through the Effective Date. The Parties agree that the judgment, and release of claims provided herein, shall have *res judicata* effect. The definition of Released Claims shall not be limited in any way by the possibility that Plaintiffs or Class Members may discover new facts or legal theories or legal arguments not alleged in the operative pleadings in the Action but which might serve as an alternative basis for pursuing the same claims, causes of action, or legal theories of relief falling within the definition of Released Claims."

IV. NEXT STEPS

11. What is the next step in the approval of this proposed Settlement?

The Court will hold a Final Fairness Hearing on the fairness and adequacy of the proposed Settlement, the plan of distribution, Class Counsel's request for attorneys' fees and costs, the settlement administration costs, and the service payment to the Class Representatives on, December 4, 2019 at 11:00 a.m. in Department 6 of the Spring Street Courthouse, located at 312 North Spring Street, Los Angeles, CA 90012.

The Final Fairness Hearing may be continued without further notice to Class Members. You are advised to check the settlement website at [INSERT LINK TO WEBSITE PROVIDED BY ADMINISTRATOR] or the Court's Case Access website at <http://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil> to confirm that the date has not been changed.

You are not required to attend the Final Fairness Hearing to receive a share of the Settlement. You do not need to appear at this hearing unless you wish to object to the Settlement. If you have sent a written objection, you may appear at the hearing if you choose to do so.

12. Do you receive Medicare or Medicaid?

If so, please be sure to contact the Settlement Administrator (see contact information in Section 16 below) for further details on how this may impact your settlement and for an additional questionnaire required for compliance reporting. If you receive Medicare or Medicaid, a failure to contact the Settlement Administrator could impact your Settlement payment. If you do not contact the Settlement Administrator and the Medicare/Medicaid query (described below) does not return any results, Riot will assume that you are not receiving any Medicare or Medicaid benefits.

Prior to the Final Fairness Hearing (as described above in Section 11), a Medicare/Medicaid query will be run on each Class Member's Social Security Number, Date of Birth, Gender and Full Name. To the extent that the Settlement Administrator is not provided a Social Security Number, Date of Birth, Gender or Full Name for a Settlement Class Member by Riot, the Settlement Administrator will contact the relevant Settlement Class Member to obtain this information. If any Settlement Class Member is a Medicare or Medicaid beneficiary, the Class Member must provide evidence of satisfaction of any and all Medicare or Medicaid liens arising out of the Released Claims prior to distribution of that Class Member's individual Settlement payment.

**V. CONTACTING THE ATTORNEYS REPRESENTING THE PARTIES
AND THE SETTLEMENT ADMINISTRATOR**

13. Do I have an attorney in this case?

As a member of the Settlement Class, you are represented by the law firm Rosen Saba, LLP ("Class Counsel").

Ryan D. Saba
Tyler C. Vanderpool
ROSEN SABA, LLP
9350 Wilshire Boulevard, Suite 250
Beverly Hills, California 90212
Telephone: (310) 285-1727

14. If I am a Settlement Class Member, can I get my own attorney?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. However, you have the right to retain your own personal lawyer at your own expense. If you hire your own lawyer, your lawyer must enter an appearance on your behalf by filing a Notice of Appearance with the Court and mailing it to Class Counsel at the addresses above.

15. Who are the attorneys representing Riot?

Riot is represented by Gibson, Dunn & Crutcher LLP. Contact details are as follows:

Catherine A. Conway
Katherine V.A. Smith
Tiffany Phan
GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
Los Angeles, California 90071-3197
Telephone: (213) 229-7000

16. What is the contact information for the Settlement Administrator?

The Settlement Administrator is KCC LLC. Contact details are as follows:

KCC LLC
222 N. Pacific Coast Highway
Suite 300
El Segundo, CA 90245
Telephone: (310) 823-9000

VI. GETTING MORE INFORMATION

17. Where can I get more information?

This Notice summarizes the Action, the basic terms of the Settlement, and other related matters. For the precise terms and conditions of the Settlement, please see the Settlement Agreement available at [INSERT LINK TO WEBSITE PROVIDED BY ADMINISTRATOR]. You may also obtain more information by contacting Class Counsel, at either address or telephone number listed above; by accessing the Court docket in this case through the Court's Case Access website at <http://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>; or by visiting the Los Angeles Superior Court's Spring Street Courthouse, located at 312 North Spring Street, Los Angeles, CA 90012, between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding Court holidays.

Any questions regarding this Notice should be directed to the Settlement Administrator or to Class Counsel at the above addresses and telephone numbers.

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

18. What if my address has changed?

Your payment will be sent to the address to which this notice was sent unless you provide a different address to the Settlement Administrator. If your address changes or is different from the one this Notice was sent to, you must correct it as soon as possible by notifying the Settlement Administrator at the above address or phone number.

PLEASE DO NOT CALL OR WRITE THE COURT ABOUT THIS NOTICE.

Dated: _____

BY ORDER OF THE COURT
The Honorable Elihu M. Berle
Los Angeles Superior Court

EXHIBIT B

MARCH 27, 2019

9:41am PT by Eriq Gardner

Vice Media Agrees to \$1.87 Million Settlement for Paying Female Staffers Less Than Men



Courtesy of Taji Ameen/VICE



The deal comes after Vice tapped new leadership, denied there was any centralized pay practice and turned over salary data to a statistician to determine if there was a gender gap.

Vice has agreed to a \$1.875 million deal to resolve a class action lawsuit brought by some of the media company's female workforce. The proposed settlement was quietly submitted for approval to a Los Angeles Superior Court judge on Monday. By the looks of the court papers, Vice was likely saved from paying millions more because the company tends to employ younger women.

Elizabeth Rose was one of the named plaintiffs leading the charge that Vice violated New York and California equal pay laws. According to the complaint, she was employed as a channel and project manager between April 2014 and February 2016. After the filing, other women came forward and joined

the suit, including former managing editor Alyson Comingore, former assistant editor Zoe Miller and former copywriter Averie Timm.

The suit alleges that Vice failed to pay men and women equally for similar work because Vice relied on prior salaries. The pay gap is said to be perpetuated as female employees moved within the organization. For instance, the complaint details how Rose hired a male project manager in 2015 for a joint project and despite the fact that the two were the same age and had similar work experience, Rose earned less than that man, who subsequently rose through the ranks of the company.

Vice denies there was ever a centralized practice of using prior salary history to determine pay rate, but after mediation in the case, the company has decided to settle claims with a class of female employees estimated to be about 675 individuals. Subtracting the \$650,000 earmarked for lawyers as well as the \$15,000 service fees for each of the named plaintiffs in the case, that leaves \$1.075 million to Vice's female employees in New York and California during the relevant time period. The average payout will be about \$1,600 (minus taxes), though payouts will depend on factors including service time and job classifications.

The court papers say that more than 60 witnesses were interviewed for this litigation, and Vice agreed to provide anonymized data about salaries of employees dating back to 2012. The plaintiffs then hired a statistician to determine if there were any statistically significant pay disparities between men and women.

"According to Plaintiff's expert, when controlling for job family/level, tenure, and work location, the amount of underpaid wages to female employees appeared to range between \$7,000,000 and \$9,740,000," states the motion to approve the settlement.

And but...

"When the age of the employee is factored in to account for differences in years of experience in the labor market, however, the potential disparities plummeted to well-below one-million dollars."

As such, the plaintiffs put aside any issue over how Vice apparently loves younger female staffers, to frame the settlement as being between 19 percent to over 200 percent of the total wages believed to be owed.

"This is a fair and reasonable result given the legal and factual hurdles," writes attorney Michael Morrison at Alexander Krakow, who in his brief nodded to Vice's contention that compensation decisions were made not by a centralized group of decision-makers but rather managers within departments exercising independent discretion during a time of rapid expansion.

After the lawsuit came amid news reports about Vice's culture favoring men, Nancy Dubuc took the reins of the company from Shane Smith [with a plan to fix the media pioneer](#). Don't expect her to publicly comment about the settlement, however. The agreement includes the stipulation that neither side is to contact the press about the resolution or post any information about it online, and if contacted to say only that the matter has been settled.

Nevertheless, a Vice spokesperson provided the following comment: "Vice's new management team is committed to maintaining a workplace where all employees are compensated equitably. This is why we provided our employees with the results of the company's pay equity analysis, and have also settled the *Rose* case whereby we resolve any claimed historical disparities. We are dedicated to the equitable treatment of all people and we look forward to the Court's approval of the settlement so that we can continue to fulfill this mission."

PROOF OF SERVICE

STATE OF CALIFORNIA)
) **ss**
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 9350 Wilshire Boulevard, Suite 250, Beverly Hills, California 90212.

On **November 27, 2019**, I served the foregoing document described as: **PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT; DECLARATION OF RYAN D. SABA**, on the interested parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

GIBSON, DUNN & CRUTCHER LLP Catherine A. Conway, Esq. Katherine V.A. Smith, Esq. 333 S. Grand Ave. Los Angeles, CA 90071-3197	Attorneys for Defendant RIOT GAMES, INC. Tel: (213) 229-7000 Fax: (213) 229-6822 cconway@gibsondunn.com ksmith@gibsondunn.com
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BY OVERNIGHT DELIVERY VIA FEDERAL EXPRESS

BY E-MAIL OR ELECTRONIC TRANSMISSION

I declare under penalty of perjury under the laws of the State of California that the above is true and correct

Executed on **November 27, 2019**, at Beverly Hills, California.

/s/ Danielle Sanchez