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6
7 Attorneys for Defendant
ELECTRONIC ARTS INC.

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 OAKLAND DIVISION

11
12 GEOFFREY PECOVER and ANDREW
OWENS, on Behalf of Themselves and A
13 Class of Persons Similarly Situated,

14 Plaintiffs,

15 v.

16
17 ELECTRONIC ARTS INC.,

18 Defendant.
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CASE NO. C 08-02820 CW

STIPULATION AND AGREEMENT OF CLASS
ACTION SETTLEMENT AND RELEASE

Action Filed: June 5, 2008
Judge: The Honorable Claudia Wilken

1 granted the Plaintiffs' motion for certification of a class.¹ The class includes "[a]ll persons in the
2 United States who purchased Electronic Arts' Madden NFL, NCAA or Arena Football League
3 brand interactive football software, excluding software for mobile devices, ('Relevant Software')
4 with a release date of January 1, 2005 to the present."² Excluded from the class are (i) persons
5 purchasing directly from EA; (ii) persons purchasing used copies of the Relevant Software, and
6 (iii) EA's employees, officers, directors, legal representatives, and wholly or partly owned
7 subsidiaries or affiliated companies³;

8 WHEREAS, the Stipulation and Order Approving Class Notice Plan was entered by the
9 Court on February 22, 2011.⁴ The Stipulation and Order Approving Amended Class Notice Plan
10 was entered on July 12, 2011.⁵ Pursuant to the February, 22, 2011 Order Approving Class
11 Notice Plan, ECF No. 210, the deadline for class members to exclude themselves from the class
12 was June 25, 2011. Pursuant to the February 22, 2011 Order Approving Class Notice Plan, ECF
13 No. 210, and the July 12, 2011 Order Approving Amended Class Notice Plan, ECF No. 257, the
14 opt-out list was filed on July 25, 2011;

15 WHEREAS, Class Counsel conducted an extensive investigation relating to the
16 allegations of wrongdoing in the Lawsuit, the alleged damages suffered by the class, and the
17 defenses asserted by EA. In connection therewith, Class Counsel reviewed approximately
18 1,987,345 pages of documents produced by EA and 227,325 pages of documents produced by
19 third parties, and have made additional inquiry as to pertinent facts, including through the taking
20 of depositions and consultation with experts and consultants. As part of this investigation, Class
21 Counsel served interrogatories and document requests upon EA and various third parties,
22 reviewed and analyzed EA's responses to the interrogatories and document requests, reviewed

23
24 ¹ See Order, *Pecover v. Electronic Arts Inc.*, No. 08-02820 (N.D. Cal. Dec. 21, 2010), ECF
No. 198.

25 ² *Id.* at 17.

26 ³ *Id.* at 17-18 n.2

27 ⁴ See Stipulation and Order Approving Class Notice Plan, *Pecover v. Electronic Arts Inc.*, No.
08-02820 (N.D. Cal. Dec. 21, 2010), ECF No. 210.

28 ⁵ See Stipulation and Order Approving Amended Class Notice Plan, *Pecover v. Electronic Arts
Inc.*, No. 08-02820 (N.D. Cal. Dec. 21, 2010), ECF No. 257.

1 and analyzed over two million pages of documents produced in this Lawsuit, and responded to
2 approximately 1,295 requests for admissions. Further, the Parties conducted twenty-five
3 depositions of fact and expert witnesses, and engaged experts who have issued reports
4 concerning the issues pertinent to Plaintiffs' claims in the Lawsuit, including the damages that
5 Plaintiffs would seek to prove at any trial in the Lawsuit;

6 WHEREAS, the Named Plaintiffs and Class Counsel believe that the settlement provides
7 a favorable monetary recovery for the Settlement Class, based on the claims asserted, the
8 evidence developed, and the damages that might be proven against EA in the Lawsuit. The
9 Named Plaintiffs and Class Counsel further recognize and acknowledge the expense and length
10 of continued proceedings necessary to prosecute the Lawsuit against EA through trial and
11 appeals. They have also considered the uncertain outcome and the risk of any litigation,
12 especially in complex litigation such as this Lawsuit, as well as the difficulties and delays
13 inherent in any such litigation. They are also mindful of the inherent problems of proof and the
14 strength of the defenses to the alleged claims, and therefore believe that it is desirable that the
15 Released Claims (defined in paragraph 1(aa) below) be fully and finally compromised, settled,
16 and resolved with prejudice and enjoined as set forth herein;

17 WHEREAS, the Named Plaintiffs and Class Counsel have examined the benefits to be
18 obtained under the terms of this Settlement Agreement, have considered the risks associated with
19 the continued prosecution of the Lawsuit and the likelihood of success on the merits of the
20 Lawsuit, and believe that, after considering all of the circumstances, the proposed settlement set
21 forth in this Settlement Agreement is fair, reasonable, adequate, in the best interests of the
22 Named Plaintiffs and the Settlement Class, and confers substantial benefits upon the Settlement
23 Class;

24 WHEREAS, EA denies that it has committed any act or omission giving rise to any
25 liability and/or violation of law, and states that it is entering into this Settlement Agreement
26 solely to eliminate the uncertainties, burden, and expense of further protracted litigation;

27 WHEREAS, the Parties further agree that the Settlement Agreement, the fact of this
28 Settlement, any of the terms in the Settlement Agreement, and any documents filed in support of

1 the settlement shall not constitute an admission or finding of (i) wrongdoing, (ii) violation of any
2 statute or law, or (iii) liability on the claims or allegations in the Lawsuit on the part of any
3 Releasees (defined in paragraph 1(bb) below), and shall not be used for any purpose in any legal
4 proceeding, including but not limited to arbitrations, other than a proceeding to enforce the terms
5 of the Settlement Agreement, for any purpose whatsoever;

6 WHEREAS, the Parties agree and understand that neither this settlement nor this
7 Settlement Agreement shall be construed as, or be admissible as, an admission by EA that the
8 Plaintiffs' claims or any similar claims are suitable for class treatment; and

9 WHEREAS, the Parties desire to compromise and settle all issues and claims that have
10 been brought or could have been brought against EA in the Lawsuit.

11 **NOW, THEREFORE, IT IS HEREBY STIPULATED, CONSENTED TO AND**
12 **AGREED**, by Named Plaintiffs, for themselves and on behalf of the Settlement Class, and EA
13 that, subject to the approval of the Court, this Lawsuit shall be settled, compromised, and
14 dismissed, on the merits and with prejudice, and the Released Claims shall be finally and fully
15 compromised, settled, and dismissed as to the Released Parties, in the manner and upon the terms
16 and conditions hereafter set forth:

17 **I. Definitions**

18 1. The following terms, used in this Settlement Agreement, shall have the meanings
19 specified below:

20 a. "Authorized Claimant" means any member of the Settlement Class who
21 submits a Claim that is allowed pursuant to the terms of this Settlement Agreement.

22 b. "Bar Date" is the final date by which a Claim Form must be received by
23 the Notice and Claims Administrator in order for a Settlement Class Member to be entitled to
24 any of the settlement consideration set forth in this Settlement Agreement. The Bar Date shall be
25 specifically identified and set forth in the Preliminary Approval Order and the Class Notice.

26 c. "Claim" means the submission to be made by Settlement Class Members,
27 on the Claim Form.

28 d. "Claim Form" means the claim form substantially in the form attached

1 hereto as Exhibit E, which must be submitted to the Notice and Claims Administrator no later
2 than the Bar Date in order for a Settlement Class Members to recover one of the monetary
3 benefits described in paragraph 14 of this Settlement Agreement.

4 e. "Class Counsel" means the law firms of Hagens Berman Sobol Shapiro
5 LLP and The Paynter Law Firm PLLC.

6 f. "Class Notice" means the notice of settlement to be provided to the
7 Settlement Class pursuant to Federal Rule of Civil Procedure 23, the Preliminary Approval
8 Order, and this Settlement Agreement.

9 g. "Class Period" means the period of January 1, 2005 through June 21,
10 2012.

11 h. "Court" means the United States District Court for the Northern District of
12 California.

13 i. "District Court Approval" means the entry of the Judgment approving this
14 Settlement Agreement.

15 j. "EA" means Electronic Arts Inc.

16 k. "Effective Date" means seven (7) business days following the date that the
17 Judgment is Final.

18 l. "Escrow Account" means the bank account maintained by the Escrow
19 Agent into which the Settlement Fund shall be deposited.

20 m. "Escrow Agent" means The Huntington National Bank.

21 n. "Exclusion/Objection Deadline" means the final date by which a
22 Settlement Class Member may either (a) object to any aspect of the Settlement (pursuant to the
23 Preliminary Approval Order and paragraph 26 of this Settlement Agreement), or (b) request to be
24 excluded from the Settlement (pursuant to the Preliminary Approval Order and paragraph 27 of
25 this Settlement Agreement). The Exclusion/Objection Deadline shall be specifically identified
26 and set forth in the Preliminary Approval Order and the Class Notice.

27 o. "Fee and Expense Award" means the attorneys' fees and expenses as
28 awarded by the Court pursuant to paragraph 13 below.

1 p. “Final,” when referring to a judgment or order, means three (3) business
2 days after (a) the judgment is a final, appealable judgment, and (b) either (i) no appeal has been
3 taken from the judgment as of the date on which all times to appeal therefrom have expired, or
4 (ii) an appeal or other review proceeding of the judgment having been commenced, such appeal
5 or other review is finally concluded and no longer is subject to review by any court—whether by
6 appeal, petitions, rehearing or reargument, petitions for rehearing en banc, petitions for writ of
7 certiorari, or otherwise—and that such appeal or other review has been finally resolved in such
8 manner that affirms the judgment in all material respects.

9 q. “Judgment” means the judgment to be entered in the Lawsuit pursuant to
10 paragraph 5 below of this Settlement Agreement.

11 r. “Lawsuit” means the action entitled *Pecover, et al. v. Electronic Arts Inc.*,
12 Case No. C 08-02820 CW (N.D. Cal.).

13 s. “Named Plaintiffs” means Geoffrey Pecover and Andrew Owens.

14 t. “Net Settlement Fund” means the Settlement Fund less any taxes,
15 attorneys’ fees, participation awards, expert fees, costs, and expenses (including, but not limited
16 to, any cost and expenses paid out of the Notice and Administration Fund) approved by the
17 Court.

18 u. “Notice and Administration Fund” means the fund consisting of up to
19 \$500,000 advanced by EA to the Notice and Claims Administrator to be used at the direction of
20 Class Counsel to pay the costs of notifying the Settlement Class, soliciting the filing of claims by
21 Settlement Class Members, assisting Settlement Class Members in making their claims, and
22 otherwise administering, on behalf of the Settlement Class Members, the Settlement embodied in
23 this Settlement Agreement, as defined in paragraph 9(a) below. The monies in the Notice and
24 Administrative Fund are part of the Settlement Amount to be paid by EA.

25 v. “Notice and Claims Administrator” means Gilardi & Co. LLC.;

26 w. “Parties” means: (i) Geoffrey Pecover and Andrew Owens (Named
27 Plaintiffs), on behalf of themselves and the Settlement Class (as defined in paragraph 1(ee)
28 below) (collectively, “Plaintiffs”), and (ii) EA.

1 x. “Person” means any individual, corporation, partnership, association,
2 affiliate, joint stock company, estate, trust, unincorporated association, entity, government and
3 any political subdivision thereof, or any other type of business or legal entity.

4 y. “Plan of Allocation” means the plan for allocating the Net Settlement
5 Fund between and among Settlement Class Members as approved by the Court.

6 z. “Preliminary Approval Order” means the Order that Plaintiffs and EA will
7 seek from the Court, as described in paragraphs 2-4 below. Entry of a “Preliminary Approval
8 Order” shall constitute “Preliminary Approval” of the Settlement Agreement.

9 aa. “Released Claims” means any and all actions, causes of action, claims,
10 demands, liabilities, obligations, damage claims, restitution claims, injunction claims,
11 declaratory relief claims, fees (including attorneys’ fees), costs, sanctions, proceedings and/or
12 rights of any nature and description whatsoever, whether legal or equitable, including, without
13 limitation, violations of any state or federal statutes and laws, rules or regulations, or principles
14 of common law, whether known or unknown, suspected or unsuspected, had, possessed, owned
15 or held, in law, equity, arbitration or otherwise, that were or could have been asserted by the
16 Named Plaintiffs and/or the Settlement Class against Releasees based on, arising out of, or
17 related to the allegations in the Lawsuit, including but not limited to any allegations that
18 customers were overcharged for interactive football video games because of EA’s exclusive
19 agreements with trademark licenses with the National Football League and its Players’
20 Association, the Arena Football League, the Collegiate Licensing Company, the National
21 Collegiate Athletic Association, and/or ESPN.

22 bb. “Released Parties” or “Releasees” means EA and all of its present, former,
23 and future officers, directors, employees, agents, attorneys, insurers, insurance agents and
24 brokers, independent contractors, successors, assigns, parents, subsidiaries, affiliates,
25 shareholders, members, and legal representatives.

26 cc. “Settlement” means the settlement of the Lawsuit between and among the
27 Named Plaintiffs, the Settlement Class, and EA, as set forth in this Settlement Agreement.

28 dd. “Settlement Amount” means Twenty-Seven Million Dollars

1 (\$27,000,000.00).

2 ee. "Settlement Class" means all persons in the United States who purchased
3 EA's *Madden NFL, NCAA Football* or *Arena Football League* brand interactive football
4 software, excluding software for mobile devices, with a release date of January 1, 2005 to June
5 21, 2012. Excluded from the Settlement Class are (i) persons purchasing directly from EA; (ii)
6 persons purchasing used copies of the relevant software, and (iii) EA's employees, officers,
7 directors, legal representatives, and wholly or partly owned subsidiaries or affiliated companies.

8 ff. "Settlement Class Member" means any member of the Settlement Class
9 who (i) does not elect exclusion or opt out from the Settlement Class pursuant to the terms and
10 conditions for exclusion set out in this Settlement Agreement and the Preliminary Approval
11 Order and (ii) who did not file a timely request for exclusion on or prior to June 25, 2011 and
12 was included on the class member exclusion list filed with the Court on July 25, 2011 by Class
13 Counsel.

14 gg. "Settlement Fund" means the Settlement Amount.

15 hh. "Seventh Generation Title" shall mean a unit of the following videogame
16 titles sold new in the United States, for play on the videogame platforms identified, between
17 January 1, 2005 and June 21, 2012: any *Madden NFL, NCAA Football* or *Arena Football* video
18 game released for play on the Xbox 360, PlayStation 3 or Wii platforms.

19 ii. "Sixth Generation Title" shall mean a unit of the following videogame
20 titles sold new in the United States, for play on the videogame platforms identified, between
21 January 1, 2005 and June 21, 2012: any *Madden NFL, NCAA Football* or *Arena Football* video
22 game released for play on the Xbox, PlayStation 2, PC or GameCube platforms.

23 **II. Submission of the Settlement Agreement to the Court for Approval**

24 2. Promptly upon execution of the Settlement Agreement, the Parties shall apply to
25 the Court for preliminary approval of the Settlement. The Parties will subsequently move for the
26 scheduling of a hearing for consideration of final approval of the Settlement, and, in Class
27 Counsel's discretion, the application for an award of attorneys' fees and expenses. The Parties
28 and their counsel shall use their best efforts to obtain final District Court Approval of the

1 Settlement.

2 3. The Parties have agreed upon the following documents to be submitted to the
3 Court for its consideration along with this Settlement Agreement: Preliminary Approval Order
4 (Exhibit A), Notice of Settlement of Class Action (Exhibit B), Post Card Notice of Settlement of
5 Class Action (Exhibit C), Summary Notice of Settlement of Class Action (Exhibit D), and Claim
6 Form (Exhibit E).

7 4. The Parties shall jointly apply to the Court for entry of the Preliminary Approval
8 Order, substantially in the form attached hereto as Exhibit A, preliminarily approving the
9 Settlement, and enjoining prosecution of any action or claims that are subject to the release and
10 dismissal contemplated by this Settlement Agreement by any Settlement Class Member.

11 5. At the hearing set by the Court to consider the adequacy, reasonableness, and
12 fairness of the Settlement Agreement (the "Fairness Hearing"), the Parties shall jointly request
13 entry of a Judgment, the entry of which is a material condition of this Settlement Agreement,
14 barring and enjoining Plaintiffs and all Settlement Class Members from instituting or prosecuting
15 against the Releasees any Released Claims, in this or any other action or proceeding, or from
16 pursuing outside of this Lawsuit any claim against the Releasees that arises from or relates to the
17 facts alleged in the complaint in this Lawsuit, and further:

18 a. approving finally the Settlement as fair, reasonable, and adequate, within
19 the meaning of Rule 23 of the Federal Rules of Civil Procedure, and directing its consummation
20 pursuant to the terms of the Settlement Agreement;

21 b. directing that the claims of the Settlement Class Members be dismissed
22 with prejudice (and without an award of costs to any party other than those provided for in
23 paragraph 13 of this Settlement Agreement), and releasing, as against each of the Released
24 Parties, the Released Claims;

25 c. permanently barring and enjoining the institution and prosecution, by
26 Plaintiffs and Settlement Class Members, of any other action against the Releasees in any court
27 asserting any Released Claims;

28 d. dismissing the Lawsuit on the merits and with prejudice as against EA and

1 barring, as against EA and the other Released Parties, the Released Claims by the Plaintiffs and
2 all Settlement Class Members;

3 e. reserving jurisdiction over this Lawsuit, including all further proceedings
4 concerning the administration, consummation, and enforcement of this Settlement Agreement;

5 f. permanently barring, enjoining, and finally discharging all claims as
6 provided for in paragraphs 20-25 of this Settlement Agreement; and

7 g. containing such other and further provisions consistent with the terms of
8 this Settlement Agreement to which the Parties expressly consent in writing.

9 6. At the Fairness Hearing and as a part of the final approval of this Settlement,
10 Class Counsel will also request approval of the Plan of Allocation set forth in paragraph 14,
11 below, of this Settlement Agreement. Any modification to the Plan of Allocation by the Court
12 shall not (i) affect the enforceability of the Settlement Agreement, (ii) provide any of the Parties
13 with the right to terminate the Settlement Agreement, or (iii) impose any obligation on EA to
14 increase the consideration paid in connection with the Settlement.

15 7. At the Fairness Hearing, Class Counsel may also request entry of an Order
16 approving Class Counsels' application for an award of attorneys' fees and expenses. Any award
17 of attorneys' fees and expenses to Class Counsel shall be paid exclusively from the Settlement
18 Fund, and may be payable thirty days after District Court Approval. In no event shall EA
19 otherwise be obligated to pay for any attorneys' fees and expenses. The disposition of Class
20 Counsels' application for an award of attorneys' fees and reimbursement of expenses is not a
21 material term of this Settlement Agreement, and it is not a condition of this Settlement
22 Agreement that such application be granted. Any disapproval or modification of the application
23 for an award of attorneys' fees and reimbursement of expenses by the Court shall not (i) affect
24 the enforceability of the Settlement Agreement, (ii) provide any of the Parties with the right to
25 terminate the Settlement Agreement, or (iii) impose any obligation on EA to increase the
26 consideration paid in connection with the Settlement.

27 **III. Settlement Consideration**

28 8. The total monetary component of the Settlement is the Settlement Amount

1 (\$27,000,000.00). This is an “all in” number which includes, without limitation, all monetary
2 benefits to the Settlement Class, participation awards for Named Plaintiffs, attorneys’ fees, and
3 all costs and expenses (including, but not limited to, administration costs and expenses, notice
4 costs and expenses, and settlement costs and expenses). Under no circumstances will EA be
5 required to pay anything more than the Settlement Amount. There is no possibility of any
6 refunds or reversions to EA unless the Settlement is not approved by the Court. As of the
7 Effective Date, EA shall not have any right to the return of the Settlement Fund, or any portion
8 thereof, irrespective of the number of Claims filed or the amounts to be paid to Authorized
9 Claimants from the Settlement Fund.

10 9. In full and complete settlement of (i) all claims asserted in the Lawsuit and (ii) all
11 other Released Claims, EA shall pay into the Escrow Account, for the benefit of the Settlement
12 Class, the Settlement Amount as follows:

13 a. within 30 days of entry of the Preliminary Approval Order, EA shall pay
14 into the Escrow Account \$500,000 to be used by the Notice and Claims Administrator at the
15 direction of Class Counsel for reasonable costs in connection with providing notice of the
16 Settlement to the Settlement Class Members and for other administrative expenses (“Notice and
17 Administration Fund”); and

18 b. within 30 days of District Court Approval, EA shall pay into the Escrow
19 Account the remaining amount of the Settlement Amount (\$26,500,000).

20 10. The Settlement Fund shall be deposited into an interest-earning escrow account
21 designated by Class Counsel, and all interest accruing thereon shall be deemed to be in the
22 custody of the Court, and will remain subject to the jurisdiction of the Court, until such time as it
23 is distributed in compliance with the Settlement Agreement and Court order. The Escrow Agent
24 shall invest the Settlement Fund exclusively in instruments backed by the full faith and credit of
25 the United States Government or fully insured by the United States Government or an agency
26 thereof, including a U.S. Treasury Money Market Fund or a bank account insured by the Federal
27 Deposit Insurance Corporation (“FDIC”) up to the guaranteed FDIC limit. The Escrow Agent
28 shall reinvest the proceeds of these instruments as they mature in similar instruments at their

1 then-current market rates. The Parties and the Escrow Agent agree to treat the Settlement Fund
2 as a “qualified settlement fund” within the meaning of Treasury Regulation § 1.468B-1, and the
3 Escrow Agent, as administrator of the Escrow Account within the meaning of Treasury
4 Regulation § 1.468B-2(k)(3), shall be responsible for filing tax returns for the Escrow Account
5 and paying from the Escrow Account any and all taxes, including any interest or penalties
6 thereon (the “Taxes”), owed with respect to the Escrow Account. In addition, the Escrow Agent
7 shall timely make such elections as necessary or advisable to carry out the provisions of this
8 paragraph, including if necessary the “relation-back election” (as defined in Treas. Reg. §
9 1.468B-1) back to the earliest permitted date. Such elections shall be made in compliance with
10 the procedures and requirements contained in such regulations. It shall be the responsibility of
11 the Escrow Agent to timely and properly prepare and deliver the necessary documentation for
12 signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

13 11. All Taxes arising with respect to the income earned by the Settlement Fund,
14 (including any Taxes that may be imposed upon EA with respect to any income earned by the
15 Settlement Fund for any period during which the Settlement Fund does not qualify as a
16 “qualified settlement fund” for Federal or state income tax purposes), and any expenses and costs
17 incurred in connection with the payment of Taxes pursuant to this paragraph (including without
18 limitation, expenses of tax attorneys and/or accountants and mailing, administration, and
19 distribution costs and expenses relating to the filing or the failure to file all necessary or
20 advisable tax returns (the “Tax Expenses”)), shall be paid out of the Settlement Fund. EA shall
21 not have any liability or responsibility for the Taxes or the Tax Expenses. The Escrow Agent
22 shall timely and properly file all informational and other tax returns necessary or advisable with
23 respect to the Settlement Fund and the distributions and payments therefrom, including, without
24 limitation, the tax returns described in Treas. Reg. §1.468B-2(k), and to the extent applicable,
25 Treas. Reg. § 1.468B-2(1). Such tax returns shall be consistent with the terms herein, and in all
26 events shall reflect that all Taxes on the income earned by the Settlement Fund shall be paid out
27 of the Settlement Fund. The Escrow Agent shall also timely pay Taxes and Tax Expenses out of
28 the Settlement Fund, and are authorized to withdraw from the Escrow Account amounts

1 necessary to pay Taxes and Tax Expenses. The Parties hereto agree to cooperate with the
2 Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably
3 necessary to carry out the provisions of this Settlement Agreement. EA shall not have any
4 responsibility or liability for the acts or omissions of the Escrow Agent.

5 12. EA agrees not to oppose a request for a participation award for Named Plaintiffs
6 as awarded by the Court, up to a maximum of \$5,000. Named Plaintiffs and Class Counsel agree
7 not to seek a participation award in excess of the above amounts. The participation awards will
8 be payable from the Settlement Fund contained in the Escrow Account 30 days after the
9 Effective Date.

10 13. Class Counsel agrees not to seek an award of fees from the Court in excess of
11 thirty percent (30%) of the Settlement Fund and a maximum of \$2,000,000 in costs (not
12 including, but in addition to, costs of administration). EA agrees not to oppose a request for
13 attorneys' fees up to 30% of the Settlement Fund and costs not exceeding \$2,000,000. The
14 attorneys' fees and expenses, as awarded by the Court, shall be payable from the Settlement
15 Fund contained in the Escrow Account, as ordered, within 30 days after the Court executes an
16 order awarding such fees and expenses. In the event that the Effective Date does not occur, or
17 the Judgment is reversed or modified, or the order making the Fee and Expense Award is
18 reversed or modified, or the Settlement Agreement is canceled or terminated for any other
19 reason, and in the event that the Fee and Expense Award has been paid to any extent, then Class
20 Counsel shall within ten (10) business days from receiving notice from EA's counsel or from a
21 court of appropriate jurisdiction, refund to EA the Fee and Expense Award or any portion thereof
22 previously paid to them plus interest thereon at the same rate as earned by the account into which
23 the balance of the Settlement Fund is deposited pursuant to paragraphs 10-11 above. Any award
24 of attorneys' fees and costs is within the sound discretion of the Court and even if lesser amounts
25 are awarded cannot serve as the basis for voiding the Settlement.

26 14. The Named Plaintiffs and Class Counsel have determined that the Net Settlement
27 Fund shall be allocated to benefit Settlement Class Members per the following Plan of
28 Allocation:

1 a. Each Settlement Class Member who files a valid Claim Form no later than
2 the Bar Date for the purchase of a Sixth Generation Title shall be entitled to a cash payment of
3 up to \$6.79 for each Sixth Generation Title purchased during the Class Period, up to a maximum
4 of eight units (\$54.32). Each Settlement Class Member who files a valid Claim Form no later
5 than the Bar Date for the purchase of a Seventh Generation Title shall be entitled to a cash
6 settlement payment of up to \$1.95 for each Seventh Generation Title purchased during the Class
7 Period, up to a maximum of eight units (\$15.60). If the timely and valid Claims exceed the Net
8 Settlement Fund, the Claims shall be reduced pro rata so that all Claims may be paid from the
9 Net Settlement Fund.

10 b. If the Net Settlement Fund is not exhausted by timely and valid Claims
11 paid pursuant to paragraph 14(a) above, the Parties will attempt in good faith to identify Sixth
12 Generation purchasers who have provided EA with a physical address, and not submitted a
13 Claim, and send payment to such individuals in an amount that equals the average claim paid to a
14 Sixth Generation purchaser (considering Sixth Generation purchases alone) pursuant to
15 paragraph 14(a) above , without the necessity of a Claim Form.

16 c. If after six months beyond the mailing of checks described in paragraphs
17 14(a) and 14(b) above, the Net Settlement Fund is not exhausted (including any amount
18 remaining as the result of uncashed checks), a *cy pres* payment shall be made to Child's Play, a
19 501(c)(3) entity, in the amount that will exhaust the Net Settlement Fund.

20 15. In addition to payment of the Settlement Amount pursuant to paragraph 14 above,
21 EA agrees to the following equitable relief:

22 a. EA will not enter into an exclusive trademark license with the Arena
23 Football League for a period of five years after the Effective Date.

24 b. EA will not renew its current collegiate football trademark license with the
25 Collegiate Licensing Company on an exclusive basis after that license expires in 2014, or seek
26 any new exclusive trademark license regarding football video games with the National Collegiate
27 Athletic Association, the Collegiate Licensing Company, or any National Collegiate Athletic
28 Association member institution covered by the current exclusive license for a period of five years

1 thereafter. For clarity, EA may renew such license on a non-exclusive basis during that five year
2 period.

3 **IV. Notice and Administration Fund**

4 16. The Notice and Administration Fund shall be used by Class Counsel to pay the
5 costs of notifying the Settlement Class Members, and, as allowed by the Court, soliciting the
6 filing of claims by Settlement Class Members, assisting them in making their claims, and
7 otherwise administering the Settlement on behalf of the Settlement Class Members. Any notice
8 and administration costs, as well as all applicable taxes, shall be paid out of the Notice and
9 Administration Fund and, if the Notice and Administration Fund is exhausted, out of the
10 Settlement Fund. Notice and administration costs shall include, among other things, the cost of
11 publishing notice, printing and mailing notice, as directed by the Court, and the cost of
12 processing Claims and distributing the Net Settlement Fund to Settlement Class Members who
13 timely submit a valid Claim Form.

14 17. Class Counsel will provide Class Notice by (i) e-mail (where available) notice
15 substantially similar to the form attached as Exhibit B; (ii) post card (where available) notice
16 substantially similar to the form attached as Exhibit C; (iii) a content neutral settlement website
17 managed by a third-party administrator that will contain further information about the
18 Settlement, including relevant pleadings (if possible, the parties will utilize the same website,
19 www.easportslitigation.com, used to provide notice at the class certification stage); and (iv)
20 publication to the extent necessary to meet Constitutional or statutory requirements, substantially
21 in the form attached as Exhibit D. EA additionally will provide notice by mail, pursuant to the
22 Class Action Fairness Act, to the state attorneys generals and the U.S. Attorney General.

23 18. As of the Effective Date, any balance, including interest, then remaining in the
24 Notice and Administration Fund, less expenses incurred but not yet paid, shall be deposited into
25 the Settlement Fund.

26 19. If the Settlement is not approved, is overturned, or is materially or adversely
27 modified on appeal or as a result of further proceedings on remand of any appeal with respect to
28 the Settlement, or if the Effective Date otherwise does not occur, the balance of the Notice and

1 Administration Fund which has not been expended pursuant to paragraph 16 above, and the
2 balance of the Settlement Fund, including all earned or accrued interest, shall be returned to EA
3 within five days as set forth in paragraph 40 below.

4 **V. Releases**

5 20. The Released Claims against each and all of the Released Parties shall be released
6 and dismissed with prejudice and on the merits (without an award of costs to any party other than
7 those provided for in paragraph 13 of this Settlement Agreement) upon entry of the Judgment.

8 21. As of the Effective Date, Named Plaintiffs and all Settlement Class Members
9 agree to release and by operation of the Judgment shall have fully and finally released,
10 relinquished, and discharged all Released Claims against each and all of the Released Parties.

11 22. As of the Effective Date, Named Plaintiffs and all Settlement Class Members
12 shall be permanently barred and enjoined from initiating, asserting, or prosecuting against the
13 Released Parties in any federal or state court or tribunal any and all Released Claims.

14 23. Without in any way limiting the scope of the Released Claims, defined in
15 paragraph 1(aa) above, the release covers, without limitation, any and all claims for attorneys'
16 fees, costs, or disbursements incurred by Class Counsel or any other counsel representing the
17 Named Plaintiffs or Settlement Class Members, or any of them, in connection with or related in
18 any manner to the Lawsuit, the settlement of the Lawsuit, the administration of such settlement,
19 and/or the Released Claims.

20 24. The Named Plaintiffs and the Settlement Class expressly acknowledge that they
21 are familiar with principles of law such as Section 1542 of the Civil Code of the State of
22 California, which provides:

23 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
24 WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT
25 TO EXIST IN HIS OR HER FAVOR AT THE TIME OF
26 EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM
OR HER MUST HAVE MATERIALLY AFFECTED HIS OR
HER SETTLEMENT WITH THE DEBTOR.

27 Named Plaintiffs and the Settlement Class hereby expressly agree that the provisions, rights, and
28 benefits of Section 1542 and all similar federal or state laws, rights, rules, or legal principles of

1 any other jurisdiction that may be applicable herein are hereby knowingly and voluntarily
2 waived and relinquished by the Named Plaintiffs and the Settlement Class to the fullest extent
3 permitted by law in connection with all unknown claims constituting Released Claims, and the
4 Named Plaintiffs and the Settlement Class hereby agree and acknowledge that this is an essential
5 term of the Settlement Agreement. In connection with the release, the Named Plaintiffs and the
6 Settlement Class acknowledge that they are aware that they may hereafter discover claims
7 presently unknown and unsuspected or facts in addition to or different from those which they
8 now know or believe to be true with respect to matters released herein. Nevertheless, it is the
9 intention of the Named Plaintiffs and the Settlement Class in executing this release fully, finally,
10 and forever to settle and release all matters and all claims that exist, hereafter may exist, or might
11 have existed (whether or not previously or currently asserted in any action), constituting
12 Released Claims.

13 25. Subject to Court approval, all Settlement Class Members shall be bound by this
14 Settlement Agreement, and all of their claims shall be dismissed with prejudice and released,
15 even if they never received actual notice of the Lawsuit or this Settlement.

16 **VI. Administration and Distribution of the Settlement Fund**

17 26. Settlement Class Members who wish to object to any aspect of the Settlement
18 must file with the Court and serve on Class Counsel a written statement containing their
19 objection by the Exclusion/Objection Deadline, as provided in the Class Notice. Class Counsel
20 shall fax or email each objection as it is received to counsel for EA. Any Class Member who
21 does not make his or her objection in the manner provided shall be deemed to have waived such
22 objection and shall forever be foreclosed from making any objection to the fairness or adequacy
23 of the Settlement as set forth in this Settlement Agreement, to the Plan of Allocation, and/or to
24 the award of attorney's fees and expenses to Class Counsel.

25 27. Settlement Class Members who wish to exclude themselves from the Settlement
26 must serve on Class Counsel a written request for exclusion by the Exclusion/Objection
27 Deadline, as provided in the Class Notice. Class Counsel shall provide a copy of all requests for
28 exclusion submitted by Settlement Class Members to counsel for EA on a biweekly basis. Class

1 Counsel shall submit the name, city, and state of residence of all Settlement Class Members who
2 request exclusion to the Court at the time Class Counsel file their motion for final approval of the
3 Settlement. All Settlement Class Members will be bound by the Judgment dismissing the
4 Lawsuit with prejudice unless such Settlement Class Members timely file valid written request
5 for exclusion or opt out in accordance with this paragraph and the Preliminary Approval Order.

6 28. The rights to object to the Settlement and opt out of the Settlement are mutually
7 exclusive. Any Settlement Class Member who submits a timely request for exclusion or opt out
8 may not file an objection to the Settlement and shall be deemed to have waived any rights or
9 benefits under the Settlement Agreement.

10 29. No later than three business days after the Exclusion/Objection Deadline, the
11 Notice and Claims Administrator shall provide to Class Counsel and counsel for EA a complete
12 opt out list together with copies of the opt out requests. Notwithstanding any other provision of
13 this Settlement Agreement, if more than 8,000 Settlement Class Members opt out of the
14 Settlement, EA, in its sole discretion, may rescind and revoke the entire Settlement Agreement,
15 thereby rendering the Settlement null and void in its entirety, by sending written notice that EA
16 revokes the Settlement pursuant to this paragraph to Class Counsel within ten (10) business days
17 following the date the Notice and Claims Administrator informs EA of the number of Settlement
18 Class Members who have requested to opt out of the Settlement pursuant to the provisions set
19 forth above in paragraph 27 above.

20 30. Class Counsel or their authorized agents, subject to the supervision, direction, and
21 approval of the Court, shall administer and calculate the Claims submitted by Settlement Class
22 Members, and shall oversee distribution of the Settlement Fund.

23 31. The Settlement Fund shall be applied as follows:

24 a. to pay all costs and expenses incurred in connection with providing notice
25 to Settlement Class Members and, as allowed by the Court, locating Settlement Class Members,
26 soliciting claims, assisting with the filing of claims, administering and distributing the Settlement
27 Fund to the Settlement Class, processing proofs of claim, processing requests for exclusion, and
28 escrow fees and costs;

1 b. subject to the approval and further order(s) of the Court, to pay to the
2 Named Plaintiffs a participation award up to a maximum of \$5,000 each;

3 c. subject to the approval and further order(s) of the Court, to pay to Class
4 Counsel the amount awarded by the Court as attorneys' fees, and to pay Class Counsel the
5 amount awarded as costs and expenses, including fees of experts and consultants;

6 d. to pay Taxes and Tax Expenses owed by the Settlement Fund; and

7 e. subject to the approval and further order(s) of the Court, to distribute the
8 balance of Net Settlement Fund for the benefit of the Settlement Class pursuant to paragraph 14
9 above, or as otherwise ordered by the Court. No funds from the Net Settlement Fund shall be
10 disbursed until after the Effective Date.

11 32. In order to participate in distribution of the Net Settlement Fund, each Person
12 claiming to be an Authorized Claimant shall be required to timely submit a signed Claim Form.

13 33. Any Settlement Class Member who fails to submit a Claim Form within such
14 period as may be established by the Court shall be forever barred from any and all right(s) to
15 receive any payments pursuant to this Settlement Agreement, but in all other respects will be
16 subject to and bound by the provisions of this Settlement Agreement and the Judgment.

17 34. Settlement Class Members shall be subject to and bound by the provisions of the
18 Settlement Agreement, the releases contained herein, and the Judgment with respect to all
19 Released Claims, regardless of whether they seek or obtain any distribution from the Settlement
20 Fund.

21 35. EA shall bear no responsibility for the costs, fees, or expenses related to the
22 administration and distribution of the Settlement Fund. Neither EA nor its counsel shall have
23 any responsibility for, interest in, or liability whatsoever with respect to the Settlement Fund, any
24 plan of allocation, the determination, administration, or calculation of claims, the payment or
25 withholding of taxes, the distribution of the Net Settlement Fund, or any losses incurred in
26 connection with any such matters.

27 36. EA shall have no responsibility for, or liability concerning, the appointment of the
28 Notice and Claims Administrator and any actions taken by it.

1 37. Payment from the Settlement Fund made pursuant to and in the manner set forth
2 above shall be deemed conclusive of compliance with this Settlement Agreement as to all
3 Authorized Claimants.

4 38. No Settlement Class Member or Authorized Claimant shall have any claim
5 against the Named Plaintiffs, Class Counsel, the Notice and Claims Administrator, EA, or any of
6 their counsel, based on distributions made substantially in accordance with this Settlement
7 Agreement and/or orders of the Court.

8 **VII. Effect of Disapproval, Cancellation, or Termination of Settlement Agreement**

9 39. If the Court does not approve the Settlement as set forth in this Settlement
10 Agreement, or does not enter the Judgment substantially in the form provided for in paragraph 5,
11 or if the Court enters the Judgment and appellate review is sought, and on such review, the entry
12 of Judgment is vacated, modified in any way, or reversed, then this Settlement Agreement shall
13 be cancelled and terminated, unless all Parties who are adversely affected thereby, in their sole
14 discretion within thirty days from the date of the mailing of such ruling to such Parties, provide
15 written notice to all other Parties hereto of their intent to proceed with the settlement under the
16 terms of the Judgment as it may be modified by the Court or any appellate court. No Party shall
17 have any obligation whatsoever to proceed under any terms other than substantially in the form
18 provided and agreed to herein, except to the extent provided for in paragraphs 6 and 7, relating to
19 the Plan of Allocation and award of attorneys' fees. If any Party hereto engages in a material
20 breach of the terms hereof, any other Party, provided that it is in substantial compliance with the
21 terms of this Settlement Agreement, may terminate this Settlement Agreement on notice to the
22 breaching Party or sue for enforcement.

23 40. In the event that (i) the Settlement is not approved, is overturned, or is materially
24 modified by the Court or on appeal, (ii) the Judgment does not become Final, or (iii) this
25 Settlement Agreement is terminated, cancelled, or fails to become effective for any reason, then
26 within five business days after written notice is sent by Class Counsel or counsel for EA to all
27 Parties hereto, the balance of the Notice and Administration Fund, less any funds paid or
28 expenses incurred but not yet paid, the Settlement Fund, and any other cash deposited by EA into

1 the Escrow Account pursuant to paragraph 9 above of this Settlement Agreement, shall be
2 refunded to EA, including interest earned or accrued. In such event, (a) the Settlement shall be
3 without force and effect upon the rights of the Parties hereto, and none of its terms shall be
4 effective or enforceable, with the exception of this paragraph, which shall remain effective and
5 enforceable; and (b) the Parties shall be deemed to have reverted nunc pro tunc to their
6 respective status as of the date and time immediately before the execution of the Settlement
7 Agreement, and they shall proceed in all respects as if the Settlement Agreement and related
8 documentation and orders had not been executed, and without prejudice in any way from the
9 negotiation or fact of the Settlement or the terms of the Settlement Agreement. The Settlement
10 Agreement, the Settlement, the fact of their existence, any of their terms, any press release or
11 other statement or report by the Parties or by others concerning the Settlement Agreement, the
12 Settlement, their existence, or their terms, any negotiations, proceedings, acts performed, or
13 documents executed pursuant to or in furtherance of the Settlement Agreement or the Settlement
14 shall not be offered or received in evidence, or otherwise used by any party or witness, in any
15 trial of this Lawsuit or any other action or proceedings, nor shall they be deemed to constitute
16 any evidence or admission of liability or wrongdoing on the part of EA or the other Releasees,
17 which is expressly and unequivocally denied by EA.

18 41. EA does not agree or consent to certification of the Settlement Class for any
19 purpose other than to effectuate the Settlement of the Lawsuit. If this Settlement Agreement is
20 terminated pursuant to its terms, or the Effective Date for any reason does not occur, the order
21 certifying the Settlement Class for purposes of effecting this Settlement Agreement, and all
22 preliminary and/or final findings regarding the Settlement Class certification order, shall be
23 automatically vacated upon notice to the Court, the Lawsuit shall proceed as though the
24 Settlement Class had never been certified pursuant to this Settlement Agreement and such
25 findings had never been made, and the Lawsuit shall revert nunc pro tunc to the procedural status
26 quo as of the date and time immediately before the execution of the Settlement Agreement, in
27 accordance with this paragraph and paragraphs 39 and 40 of this Settlement Agreement.

28

1 **VIII. Miscellaneous Provisions**

2 42. All of the Exhibits to be attached hereto shall be incorporated by reference as
3 though fully set forth herein.

4 43. Plaintiffs acknowledge that, given the amount of discovery taken by them of EA
5 and others, including extensive document and other written discovery, as well as numerous
6 depositions, expert discovery, and the records developed through briefing and submissions of
7 motions, Plaintiffs are satisfied that an adequate factual record has been established that supports
8 the Settlement and hereby waive any right to conduct further discovery to assess or confirm the
9 Settlement.

10 44. This Settlement Agreement may be amended or modified only by a written
11 instrument signed by counsel for all Parties or the Parties' successors-in-interest.

12 45. The Settlement Agreement, the Settlement, the fact of the settlement's existence,
13 any of terms of the Settlement Agreement, any press release or other statement or report by the
14 Parties or by others concerning the Settlement Agreement or the Settlement, and/or any
15 negotiations, proceedings, acts performed, or documents executed pursuant to or in furtherance
16 of the Settlement Agreement or the Settlement: (i) may not be deemed to be, may not be used as,
17 and do not constitute an admission or evidence of the validity of any Released Claims or of any
18 wrongdoing or liability of EA; and (ii) may not be deemed to be, may not be used as, and do not
19 constitute an admission or evidence of any fault, wrongdoing, or omission by EA in any trial,
20 civil, criminal, or administrative proceeding of this Lawsuit or any other action or proceedings in
21 any court, administrative agency, or other tribunal.

22 46. EA and the other Releasees shall have the right to file the Settlement Agreement
23 and/or the Judgment in any action that may be brought against them in order to support a defense
24 or counterclaim based on principles of res judicata, collateral estoppel, release, good faith
25 settlement, judgment bar, reduction, or any other theory of claim preclusion or issue preclusion
26 or similar defense or counterclaim.

27 47. The Parties intend the Settlement to be a final and complete resolution of all
28 disputes asserted or which could be asserted by Plaintiffs and the Settlement Class in the Lawsuit

1 against EA.

2 48. The Parties to the Settlement Agreement agree that the Settlement Amount and
3 the other terms of the Settlement were negotiated at arm's length and in good faith by the Parties,
4 resulted from an arm's length mediation before former U.S. District Court Judge Layn R.
5 Phillips, and reflect a settlement that was reached voluntarily based upon adequate information
6 and sufficient discovery and after consultation with experienced legal counsel.

7 49. Plaintiffs and Class Counsel have concluded that the Settlement set forth herein
8 constitutes a fair, reasonable, and adequate resolution of the claims that Plaintiffs asserted
9 against EA, including the claims on behalf of the Settlement Class, and that it promotes the best
10 interests of the Settlement Class.

11 50. To the extent permitted by law, all agreements made and orders entered during the
12 course of the Lawsuit relating to the confidentiality of information shall survive this Settlement
13 Agreement.

14 51. Within sixty (60) days after the Effective Date, counsel for the Parties shall return
15 to the producing Party all documents produced in the Lawsuit (other than that which is contained
16 in attorney notes, pleadings, correspondence, deposition transcripts) or confirm that all such
17 documents have been destroyed.

18 52. The waiver by one Party of any breach of this Settlement Agreement by any other
19 Party shall not be deemed a waiver of any other prior or subsequent breach of this Settlement
20 Agreement.

21 53. This Settlement Agreement and its exhibits constitute the entire agreement among
22 the Parties, and no representations, warranties, or inducements have been made to any Party
23 concerning this Settlement Agreement or its exhibits, other than the representations, warranties
24 and covenants contained and memorialized in this Settlement Agreement and its exhibits. In the
25 event that there exists a conflict or inconsistency between the terms of this Settlement Agreement
26 and the terms of any exhibit to be attached hereto, the terms of this Settlement Agreement shall
27 prevail.

28 54. This Settlement Agreement may be executed in one or more counterparts. All

1 executed counterparts and each of them shall be deemed to be one and the same instrument
2 provided that counsel for the Parties to this Settlement Agreement shall exchange among
3 themselves original signed counterparts.

4 55. The Parties hereto and their respective counsel agree that they will use their best
5 efforts to obtain all necessary approvals of the Court required by this Settlement Agreement.

6 56. Each counsel signing this Settlement Agreement represents that such counsel has
7 authority to sign this Settlement Agreement on behalf of his/her clients.

8 57. This Settlement Agreement shall be binding upon and shall inure to the benefit of
9 the successors and assigns of the Parties hereto, including any and all Released Parties and any
10 corporation, partnership, or other entity into or with which any Party hereto may merge,
11 consolidate, or reorganize.

12 58. This Settlement Agreement shall not be construed more strictly against one Party
13 than another merely because of the fact that it may have been prepared by counsel for one of the
14 Parties, it being recognized that because of the arm's-length negotiations resulting in the
15 Settlement Agreement, all Parties hereto have contributed substantially and materially to the
16 preparation of the Settlement Agreement.

17 59. All terms, conditions, and exhibits are material and necessary to this Settlement
18 Agreement and have been relied upon by the Parties in entering into this Settlement Agreement.

19 60. This Settlement Agreement shall be governed by federal law. To the extent that
20 federal law does not apply, this Settlement Agreement shall be governed by and construed in
21 accordance with the laws of the State of California, without regard to choice of law principles.
22 Any action based on this Settlement Agreement, or to enforce any of its terms, shall be venued in
23 the United States District Court for the Northern District of California, which shall retain
24 jurisdiction over all such disputes. All Parties to this Settlement Agreement shall be subject to
25 the jurisdiction of the United States District Court for the Northern District of California for all
26 purposes related to this Settlement Agreement.

27 61. The Court shall retain continuing and exclusive jurisdiction over the Parties to this
28 Settlement Agreement for the purpose of the administration and enforcement of this Settlement

1 Agreement.

2 62. The headings used in this Settlement Agreement are for the convenience of the
3 reader only, and shall not affect the meaning or interpretation of this Settlement Agreement. In
4 construing this Settlement Agreement, the use of the singular includes the plural (and vice-versa)
5 and the use of the masculine includes the feminine (and vice-versa).

6 63. Each Party to this Settlement Agreement warrants that he, she or it is acting upon
7 his, her or its independent judgment and upon the advice of his, her or its counsel, and not in
8 reliance upon any warranty or representation, express or implied, of any nature of any kind by

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1 any other Party, other than the warranties and representations expressly made in this Settlement
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3 SIGNED AND AGREED:

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Respectfully Submitted,

LATHAM & WATKINS LLP

Daniel M. Wall
Timothy L. O'Mara

Dated: July 17, 2012

By Timothy L. O'Mara
Timothy L. O'Mara
Attorneys for Defendant
ELECTRONIC ARTS INC.

HAGENS BERMAN SOBOL SHAPIRO LLP

Steve W. Berman
Shana E. Scarlett

Dated: July 19, 2012

By Steve W. Berman
Steve W. Berman
CLASS COUNSEL

Dated: _____

By _____
Andrew Owens
PLAINTIFF

Dated: _____

By _____
Geoffrey Pecover
PLAINTIFF

16 Dated: _____

By Steve W. Berman
CLASS COUNSEL

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19 Dated: July 18, 2012

By *Andrew Owens*
Andrew Owens
PLAINTIFF

20

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Dated: _____

By
Geoffrey Pecover
PLAINTIFF

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ATTORNEYS AT LAW
SAN FRANCISCO

1 any other Party, other than the warranties and representations expressly made in this Settlement
2 Agreement.

3 SIGNED AND AGREED:

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Respectfully Submitted,

LATHAM & WATKINS LLP

Daniel M. Wall
Timothy L. O'Mara

Dated: _____

By _____
Timothy L. O'Mara
Attorneys for Defendant
ELECTRONIC ARTS INC.

HAGENS BERMAN SOBOL SHAPIRO LLP

Steve W. Berman
Shana E. Scarlett

Dated: _____

By _____
Steve W. Berman
CLASS COUNSEL

Dated: _____

By _____
Andrew Owens
PLAINTIFF

Dated: 7/19/12

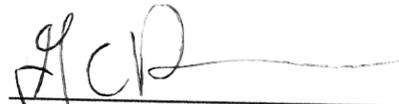
By 
Geoffrey Pecover
PLAINTIFF

EXHIBIT A

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

GEOFFREY PECOVER and ANDREW)
OWENS, on behalf of themselves and a class of)
person similarly situated,)

Plaintiffs,)

v.)

ELECTRONIC ARTS INC., a Delaware)
Corporation,)

Defendant.)

No. 08-cv-02820 CW

[PROPOSED] ORDER GRANTING
CLASS PLAINTIFFS' UNOPPOSED
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT

ACTION FILED: June 5, 2008

1 WHEREAS Plaintiffs Geoffrey Pecover and Andrew Owens (“Named Plaintiffs”), on
2 behalf of themselves and of the proposed stipulated settlement class (“Settlement Class”), and
3 Defendant Electronic Arts Inc. (“EA”) have agreed, subject to Court approval following notice to
4 the Settlement Class and a hearing, to settle the above-captioned matter (“Lawsuit”) upon the terms
5 set forth in the Stipulation and Agreement of Class Action Settlement and Release (“Settlement
6 Agreement”);

7 WHEREAS, this Court has reviewed and considered the Settlement Agreement entered into
8 among the parties, together with all exhibits thereto, the record in this case, and the briefs and
9 arguments of counsel;

10 WHEREAS, Plaintiffs have applied for an order granting preliminary approval of the
11 Settlement Agreement;

12 WHEREAS, this Court preliminarily finds, for purposes of settlement only, that the action
13 meets all the prerequisites of Rule 23 of the Federal Rules of Civil Procedure;

14 WHEREAS, all defined terms contained herein shall have the same meanings as set forth in
15 the Settlement Agreement;

16 NOW, THEREFORE, IT IS HEREBY ORDERED:

17 1. The Court does hereby preliminarily approve the Settlement Agreement and the
18 settlement set forth therein, subject to further consideration at the Fairness Hearing described
19 below.

20 2. A hearing (the “Fairness Hearing”) shall be held before this Court on February 7,
21 2013 at 2:00 p.m., at the United States District Court, located at 1301 Clay Street, Oakland,
22 California, in Courtroom 4, to determine whether to approve certification of the class for settlement
23 purposes; whether the proposed settlement of the Lawsuit on the terms and conditions provided for
24 in the Settlement Agreement is fair, reasonable and adequate to the Settlement Class and should be
25 approved by the Court; whether a final judgment should be entered herein; whether the proposed
26 plan of allocation should be approved; and to determine the amount of fees and expenses that
27

1 should be awarded to Class Counsel. The Court may adjourn the Fairness Hearing without further
2 notice to the members of the Settlement Class.

3 3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court preliminarily
4 certifies, for purposes of effectuating this settlement, a Settlement Class of persons in the United
5 States who purchased EA's *Madden NFL, NCAA Football* or *Arena Football League* brand
6 interactive football software, excluding software for mobile devices, with a release date of January
7 1, 2005 to June 21, 2012. The Class Period is defined to mean January 1, 2005 to June 21, 2012.
8 Excluded from the Settlement Class are (i) persons purchasing directly from EA; (ii) persons
9 purchasing used copies of the relevant software, and (iii) EA's employees, officers, directors, legal
10 representatives, and wholly or partly owned subsidiaries or affiliated companies. Also excluded
11 from the Settlement Class are (i) those persons who timely and validly request exclusion from the
12 Settlement Class pursuant to the Class Notice detailed in paragraphs 7 and 8 of this Order, and (ii)
13 any class members who previously filed a timely request for exclusion on or prior to June 25, 2011,
14 and were included on the class member exclusion list filed with the Court on July 25, 2011.

15 4. The Court designates Geoffrey Pecover and Andrew Owens as the class
16 representatives for the Settlement Class.

17 5. The Court designates the following as Class Counsel for the Settlement Class:
18 Hagens Berman Sobol Shapiro LLP and The Paynter Law Firm PLLC.

19 6. The Court preliminarily finds that, for purposes of effectuating this settlement only,
20 the Settlement Class meets the Rule 23 requirements for a settlement class.

21 7. The Court approves for publication, as to form and content, the notice of the class
22 action, the proposed settlement agreement and final fairness hearing (the "Long-Form Notice"), the
23 Postcard Notice and the proposed summary notice for publication, annexed as Exhibits A, B and C
24 hereto. The Court further finds that the electronic mailing and distribution of the Long-Form
25 Notice, the regular mailing of the Postcard Notice to those individuals with known physical mail
26 addresses for whom a valid email address is not available, the publishing of a content-neutral
27 settlement website, summary publication in the national edition of the *USA Today*, and an online

1 campaign consisting of sponsored links on major search engines, substantially in the manner and
2 form set forth in paragraph 8 of this Order, meet the requirements of Federal Rule of Civil
3 Procedure 23 and due process, and are the best notice practicable under the circumstances, and
4 shall constitute due and sufficient notice to all persons entitled thereto.

5 8. The Court appoints the firm of Gilardi & Co. LLC (“Notice and Claims
6 Administrator”) to supervise and administer the notice procedure as well as the processing of
7 claims as more fully set forth below:

8 a. Not later than October 19, 2012, the Notice and Claims Administrator shall
9 cause a copy of the Long-Form Notice, substantially in the form annexed as Exhibit A, to be
10 electronically mailed to all Settlement Class members who can be identified with reasonable effort;

11 b. Not later than October 19, 2012, the Notice and Claims Administrator shall
12 cause the Long-Form Notice, substantially in the form annexed as Exhibit A, the full text of the
13 Settlement Agreement, the Preliminary Approval Order, and the Claim Form, in both an electronic
14 fillable form and in a format that may be downloaded and/or printed, to be published on a public
15 website, located at www.easportslitigation.com;

16 c. Not later than October 29, 2012, the Notice and Claims Administrator shall
17 cause the Postcard Notice, substantially in the form annexed as Exhibit B, to be delivered by
18 regular U.S. mail to those Settlement Class members with known physical mail addresses for
19 whom a valid email address is not available;

20 d. Not later than November 5, 2012, the Notice and Claims Administrator shall
21 cause summary notice to be published in the designated newspapers, as provided in the Declaration
22 of Daniel Burke re Dissemination of Class Notice, substantially in the form annexed as Exhibit C;

23 9. All members of the Settlement Class shall be bound by all determinations and
24 judgments in the Lawsuit concerning the settlement, whether favorable or unfavorable to the
25 Settlement Class.

1 allocation should or should not be approved; or why attorney’s fees and expenses should or should
2 not be awarded to Class Counsel; provided, however, that no member of the Settlement Class or
3 any other person shall be heard or entitled to contest the approval of the terms and conditions of the
4 proposed settlement, or, if approved, the judgment to be entered thereon providing the same, or the
5 order approving the plan of allocation, or the attorney’s fees and expenses to be awarded to Class
6 Counsel, unless that person has filed with the Court and sent by first class mail to Class Counsel at
7 the addresses below written objections and copies of any papers and briefs such that they are
8 received by December 10, 2012:

Court	Class Counsel
<i>Pecover, et al. v. Electronic Arts Inc.</i> Case No. 08-cv-02820 CW United States District Court, Northern District of California 1301 Clay Street, Oakland, CA 94612	Shana Scarlett Hagens Berman Sobol Shapiro LLP 715 Hearst Ave., Suite 202 Berkeley, CA 94710

13 Any member of the Settlement Class who does not make his or her objection in the manner
14 provided shall be deemed to have waived such objection and shall forever be foreclosed from
15 making any objection to the fairness or adequacy of the proposed settlement as set forth in the
16 Settlement Agreement, to the plan of allocation, or to the award of attorney’s fees and expenses to
17 Class Counsel, unless otherwise ordered by the Court.

18 16. All papers in support of the settlement and responses by Class Counsel regarding
19 objections and exclusions shall be filed and served by January 3, 2013.

20 17. At or after the Fairness Hearing, the Court shall determine whether the settlement
21 and any application for attorney’s fees and expenses shall be approved.

22 18. All reasonable expenses incurred in identifying and notifying members of the
23 Settlement Classes, as well as administering the Settlement Fund, shall be paid for as set forth in
24 the Settlement Agreement.

25 19. Neither the Settlement Agreement, nor any of its terms or provisions, nor any of the
26 negotiations or proceedings connected with it, shall be construed as an admission or concession by
27

1 Plaintiffs or Defendant, respectively, of the truth or falsity of any of the allegations in the Lawsuit,
2 or of any liability, fault or wrongdoing of any kind.

3 20. All members of the Settlement Class are temporarily barred and enjoined from
4 instituting or continuing the prosecution of any action asserting the claims released in the proposed
5 settlement, until the Court enters final judgment with respect to the fairness, reasonableness, and
6 adequacy of the settlement.

7 21. The Court reserves the right to adjourn the date of the Fairness Hearing without
8 further notice to the members of the Settlement Class, and retains jurisdiction to consider all further
9 applications arising out of or connected with the proposed settlement. The Court may approve the
10 settlement, with such modifications as may be agreed to by the settling parties, if appropriate,
11 without further notice to the Settlement Class.

12 IT IS SO ORDERED.

13 DATED: _____
14 THE HONORABLE CLAUDIA WILKEN
15 UNITED STATES DISTRICT COURT JUDGE

16
17 Submitted by:
18 Dated: July 20, 2012
19 HAGENS BERMAN SOBOL SHAPIRO LLP

20
21 By /s/ Steve W. Berman
 STEVE W. BERMAN

22 1918 Eighth Avenue, Suite 3300
23 Seattle, WA 98101
24 Telephone: (206) 623-7292
 Facsimile: (206) 623-0594
 steve@hbsslaw.com

1 Jeff D. Friedman (173886)
2 Shana E. Scarlett (217895)
3 HAGENS BERMAN SOBOL SHAPIRO LLP
4 715 Hearst Avenue, Suite 202
5 Berkeley, California 94710
6 Telephone: (510) 725-3000
7 Facsimile: (510) 725-3001
8 jefff@hbsslaw.com
9 shanas@hbsslaw.com

10 Stuart M. Paynter (226147)
11 THE PAYNTER LAW FIRM PLLC
12 1200 G Street N.W., Suite 800
13 Washington, DC 20005
14 Telephone: (202) 626-4486
15 Facsimile: (866) 734-0622
16 stuart@smplegal.com

17 Class Counsel

EXHIBIT B

Notice of Proposed Settlement of Class Action
United States Federal District Court for the Northern District of California
 1301 Clay Street, Oakland, CA 94612

IF YOU ARE IN THE UNITED STATES AND BOUGHT A NEW COPY OF AN ELECTRONIC ARTS' MADDEN NFL, NCAA FOOTBALL, OR ARENA FOOTBALL VIDEOGAME FOR XBOX, XBOX 360, PLAYSTATION 2, PLAYSTATION 3, GAMECUBE, PC, OR WII, WITH A RELEASE DATE OF JANUARY 1, 2005 TO JUNE 21, 2012, YOUR RIGHTS MAY BE AFFECTED.

Para ver este aviso en español, visita www.easportslitigation.com

- Customers of Electronic Arts Inc. have filed a class action lawsuit alleging that Electronic Arts violated their rights under federal and California law.
- The Court has allowed the lawsuit to be a class action on behalf of all persons in the United States who purchased a new copy of an Electronic Arts' *Madden NFL, NCAA Football, or Arena Football* videogame for Xbox, Xbox 360, PlayStation 2, PlayStation 3, GameCube, PC, or Wii, with a release date of January 1, 2005 to June 21, 2012.
- Electronic Arts has denied any liability and all allegations of misconduct. The Court has not decided whether the Plaintiffs' claims have any merit. However, your legal rights are affected, and you have a choice to make now:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
SUBMIT A CLAIM FORM BY MARCH 5, 2013	<p>Stay in this lawsuit. Submit a Claim Form. Await the outcome. If the Settlement is approved by the Court you may be eligible for a payment of money under the Settlement. Be bound by the result.</p> <p>By submitting a Claim Form you keep the possibility of getting money or benefits that may come from the Settlement. But you give up any rights to sue Electronic Arts separately about the same legal claims in this lawsuit. If you do not file a Claim Form before March 5, 2013, you give up your right to get money from the Settlement if it is approved by the Court. You may file a claim online at www.easportslitigation.com.</p>
SUBMIT AN OBJECTION BY DECEMBER 10, 2012	<p>Object to the Settlement.</p> <p>Stay in the lawsuit, but submit an objection. By objecting to the Settlement you give up your right to be excluded from the Settlement and your right to file your own action. If you object to the Settlement, you may ask a lawyer to represent you at your own cost.</p>
ASK TO BE EXCLUDED BY DECEMBER 10, 2012	<p>Get out of this lawsuit. Get no benefits from it. Keep your rights.</p> <p>If you ask to be excluded and money or benefits are later awarded, you won't share in those. But you keep your right to sue Electronic Arts separately about the same legal claims in this lawsuit.</p>

Basic Information

1. What is this notice about?

This notice explains that the Court has allowed, or “certified,” a class action lawsuit that may affect you and that there is a settlement pending in the case. You have legal rights and options in this action. This class action lawsuit is known as *Pecover v. Electronic Arts*, No. 08-cv-02820 CW. It is pending in the United States Federal District Court for the Northern District of California, located in Oakland, California.

2. What is this lawsuit about?

The lawsuit claims that Electronic Arts violated federal and California antitrust laws, as well as California consumer protection laws, by signing exclusive licensing agreements with the Arena Football League (“AFL”), the Collegiate Licensing Company (“CLC”) (on behalf of the National Collegiate Athletic Association (“NCAA”)), the National Football League (“NFL”), and the National Football League Players Association (“NFLPA”). The lawsuit claims that these agreements gave Electronic Arts a monopoly over an alleged market for league-branded, simulation football videogames, and allowed it to charge higher prices than it would have in a competitive environment. The suit seeks to recover monetary damages and restitution, as well as injunctive relief.

Electronic Arts denies Plaintiffs’ allegations. Electronic Arts asserts that (i) there is no such thing as a discreet “market” for league-branded, simulation football videogames; (ii) the NFL and its Players’ Association, the NCAA, and other licensors asked Electronic Arts and other game publishers to bid for the rights to make videogames using their trademarks and other intellectual property rights; (iii) EA did so and was awarded certain rights to make videogames using these licensors’ trademarks and other intellectual property rights; (iv) it is not illegal to bid on trademark licenses, exclusive or otherwise, that intellectual property owners choose to offer, (v) exclusive trademark licenses are commonplace and widely accepted in commerce and under the law as one legitimate way for an intellectual property rights holder to maximize the value of its property, (vi) the conduct challenged by Plaintiffs has not injured consumers, and (vii) Electronic Arts has never charged supra-competitive prices for its videogames.

The Court has not decided whether Electronic Arts did anything wrong, and this Notice is not an expression of any opinion by the Court about the merits of any of the claims or defenses asserted by any party to this litigation.

3. What is a class action and who is involved?

In a class action lawsuit, one or more people (in this case Geoffrey Pecover and Andrew Owens) have sued on behalf of other people (called “Class Members”) who have similar claims. One court resolves the issues for everyone – except for those people who choose to exclude themselves from the class. The company sued in this case, Electronic Arts, is called the Defendant.

4. Why is this lawsuit a class action?

The Court decided that this lawsuit and the Settlement, if approved, can be a class action because it meets the requirements of Federal Rule of Civil Procedure 23, which governs class actions in federal courts. More information about why the Court is allowing this lawsuit to be a class action is in the Court’s Preliminary Approval Order, available at www.easportslitigation.com.

The Claims in the Lawsuit

5. What are the Plaintiffs’ claims in the lawsuit?

In the lawsuit, the Plaintiffs claim that Electronic Arts’ exclusive licensing agreements violate various federal and California laws. You can read the Plaintiffs’ First Amended Complaint, filed in *Pecover v. Electronic Arts*, No. 08-cv-02820 CW, dated May 9, 2011, at www.easportslitigation.com.

6. How does Electronic Arts answer?

Electronic Arts denies any wrongdoing and denies the Plaintiffs' allegations. Electronic Arts contends that the exclusive licensing agreements are legal and proper, and that it never overcharged consumers for the videogames at issue. Additional information regarding Electronic Arts' position is set out above (see "What is this lawsuit about?").

7. Has the Court decided who is right?

The Court has not decided whether Electronic Arts is correct, or whether Plaintiffs are correct. By issuing this Notice, the Court is not suggesting that the Plaintiffs would have won or lost this case. This Notice is to inform you about the Settlement and that you must make a decision about it.

The Proposed Settlement

8. What are the terms of the Settlement?

The Settlement provides that Electronic Arts will pay \$27 million into a fund that will include money for Settlement Class Members to be provided for timely and valid claims as detailed below in paragraph 9, after deducting payment for the costs of administering the Settlement, including the costs of this notice, attorneys' fees, costs of the litigation and any payments allowed by the Court to the named Plaintiffs, known as the "class representatives." This money is referred to here as the "Common Fund."

Additionally, the Settlement provides that Electronic Arts will not enter into an exclusive trademark license with the AFL for five years from the date of approval of the Settlement; and that Electronic Arts will not renew its current collegiate football trademark license with the Collegiate Licensing Company ("CLC") on an exclusive basis for five years after it expires in 2014; and that Electronic Arts will not seek any new exclusive trademark license for the purpose of making football videogames with the CLC, the NCAA, or any NCAA member institution covered by the current exclusive license for five years after the expiration of the current CLC agreement. You can read more about the Settlement at www.easportslitigation.com.

The Settlement will release claims that consumers may have against Electronic Arts relating to the exclusive agreements, and any resulting overcharge for football videogames, for the period of time from January 1, 2005 to June 21, 2012, unless an individual excludes himself or herself from the Settlement. Specifically, the Settlement will release and forever discharge the claims that were pled or could have been pled in the *Pecover v. Electronic Arts* case. You can read more about the scope of the release and the released claims at www.easportslitigation.com.

9. How much will my payment be?

If approved by the Court, payments will be made to Settlement Class Members who submit timely and valid claims out of the net proceeds of the Settlement (the amount available after deducting payment of the costs of administering the Settlement, including the costs of this notice, attorneys' fees, costs of the litigation, and any payments allowed by the Court to the named Plaintiffs) based on the type and number of videogames purchased by a Settlement Class Member.

If you are an eligible Settlement Class Member, your share of the net proceeds of the Settlement will be based upon the number of videogame titles you purchased new, as well as the number of Settlement Class Members who submit valid claims.

Valid claims for the purchase of *Madden NFL*, *NCAA Football*, or *Arena Football* videogames for the Xbox, PlayStation 2, PC, or GameCube platforms ("Sixth Generation Purchasers") will be valued at \$6.79 per new game purchased, up to a total of eight units (\$54.32). Valid claims for the purchase of *Madden NFL*, *NCAA Football*, or *Arena Football* videogames for the Xbox 360, PlayStation 3, or Wii platforms ("Seventh Generation Purchasers") will be valued at \$1.95 per new game purchased, up to a total of eight units (\$15.60).

The different amounts reflect the differences in Plaintiffs' estimated overcharge for the various platforms, as determined by the economics experts hired by Plaintiffs to evaluate their claims.

If after receiving all valid claims, the claims administrator determines that the net settlement amount is sufficient to pay out all the valid claims submitted, then each valid claim will be paid out at the values listed above. If, however, the claims administrator determines that the net settlement amount is not enough to pay out all the valid claims submitted, then the claim amounts will be reduced on a pro rata basis.

If, after paying out valid claims made by Settlement Class Members, monies remain available, the parties will make their best efforts to identify Settlement Class Members who (i) have purchased sixth generation games, (ii) provided Electronic Arts with a physical mailing address, and (iii) did not submit a Claim, and send payment to such individuals in an amount that equals the average claim paid to a sixth generation purchaser who submitted a claim, without the necessity of a Claims Form.

10. Is there any money available now?

No money or benefits are available now because the Court has not yet decided whether to approve the Settlement. There is no guarantee that money or benefits ever will be obtained; however, if you want to participate in the Settlement you should file a claim online or submit the Claim Form, available at www.easportslitigation.com.

Who Is in the Settlement Class

You need to decide whether you are affected by this lawsuit.

11. Am I part of this Settlement Class?

You are a member of the Settlement Class if:

You are in the United States and bought a new copy of an Electronic Arts' *Madden NFL*, *NCAA Football*, or *Arena Football* videogame for Xbox, Xbox 360, PlayStation 2, PlayStation 3, GameCube, PC, or Wii, with a release date of January 1, 2005 to June 21, 2012.

You are excluded from the Settlement Class if (1) you purchased the game(s) directly from Electronic Arts; (2) you purchased only used copies of the games; or (3) you are an employee, officer, director, or legal representative of Electronic Arts or a wholly or a partly owned subsidiary or affiliated company.

You are also excluded from the Settlement Class if you previously submitted a timely request for exclusion on or prior to June 25, 2011.

Your Rights and Options

You have to decide whether to participate in the Settlement and you have to decide this now.

12. What happens if I do nothing at all?

You must file a claim online or submit a Claim Form, available at www.easportslitigation.com by March 5, 2013 if you want to keep the possibility of getting money from this lawsuit.

Keep in mind that if (a) you do nothing or (b) you submit a Claim Form, you will not be able to sue, or continue to sue, Electronic Arts – as part of any other lawsuit – under state or federal law about any issues relating to the exclusive agreements described above, and any resulting overcharge for football videogames, for the period of time from January 1, 2005 to June 21, 2012.

Claim Forms may be submitted electronically through the website at www.easportslitigation.com or by first class mail to:

Electronic Arts Settlement
c/o Gilardi & Co. LLC
P.O. Box 808054
Petaluma CA 94975-8054

For further information, please call this number, toll-free: 1 (888) 213-8331

13. Why would I ask to be excluded?

If you want to exclude yourself from the Settlement Class and keep your right to sue Electronic Arts on your own for the claims described in paragraph 2 of this notice, you must take further action. (See below “How do I ask the Court to exclude me from the Settlement Class?”).

If you exclude yourself from the Settlement Class – which means to remove yourself from the Settlement Class, and is sometimes called “opting out” of the class – you won’t get any money or benefits from the Settlement. However, if you exclude yourself, this lawsuit will not interfere with any rights you have to sue or continue to sue or arbitrate against Electronic Arts in a separate case. If you elect to exclude yourself because you want to pursue your own claims against Electronic Arts, you should assert such claims promptly to protect against them being lost due to the passage of time. If you exclude yourself, you will not be legally bound by the Court’s judgments in this class action.

14. How do I ask the Court to exclude me from the Settlement Class?

To ask to be excluded, you must send a letter, postmarked by December 10, 2012, to the Class Counsel appointed by the Court:

Shana E. Scarlett
Hagens Berman Sobol Shapiro LLP
715 Hearst Ave., Suite 202
Berkeley, CA 94710.

In your letter, be sure to reference the name of this lawsuit, *Pecover v. Electronic Arts*, and remember to sign the letter.

15. What happens if I do not exclude myself from the Settlement Class?

Any Settlement Class Member who does not properly and timely request exclusion from the Settlement Class shall, upon final approval of the Settlement, be bound by all the terms and provisions of the Settlement, including but not limited to the releases, waivers, and covenants described in the Settlement; their claims against Electronic Arts shall forever be released and dismissed, whether or not such person or entity objected to such Settlement and whether or not such person or entity made a claim upon any fund from such Settlement.

16. How do I object to the Settlement?

If you are a Settlement Class Member, you can tell the Court that you don’t agree with the Settlement or some part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. If you do not file an objection to the Settlement, you waive your right to object to and/or appeal the Settlement.

To object, you must send a letter saying that you object to the Settlement in *Pecover v. Electronic Arts*. Be sure to include your name, address, telephone number, your signature, and the reasons you object to the Settlement. Mail the objection to these two different places postmarked no later than **December 10, 2012**:

Court	Class Counsel
United States District Court, 1301 Clay Street, Oakland, CA 94612	Shana E. Scarlett Hagens Berman Sobol Shapiro LLP 715 Hearst Ave., Suite 202 Berkeley, CA 94710

Objecting is simply telling the Court that you don’t like something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you don’t want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

You have the right to consult and/or retain an attorney of your choice at your own expense to advise you regarding the Settlement and your rights in connection with the Settlement and the Settlement Fairness Hearing as described below. You also have the right, either personally or through an attorney retained and paid by you, to seek to intervene in the case.

17. What Is the Settlement Fairness Hearing and When Is It?

On February 7, 2013 at 2:00 pm, a hearing will be held in Courtroom 2 of the Oakland Courthouse of the United States Federal District Court for the Northern District of California, located at 1301 Clay St., Oakland, CA 94612, to determine whether the Settlement should be approved by the Court as fair, reasonable, and adequate, whether judgment should be entered thereon, and whether this lawsuit should be dismissed with prejudice against Electronic Arts (“Settlement Fairness Hearing”).

The Court will also consider at the Settlement Fairness Hearing the request of Class Counsel for an award of attorneys’ fees, not to exceed 30% of the Common Fund or \$9 million; the request of Class Counsel for reimbursement of expenses incurred in pursuing this lawsuit, not to exceed \$2,000,000; and a request for incentive awards to each class representative not to exceed \$5,000 per individual. These amounts, if awarded, will be deducted from the Common Fund.

Your attendance at the Settlement Fairness Hearing is not required. However, you may be heard orally at the Settlement Hearing in opposition to the proposed Settlement or Class Counsel’s application for attorneys’ fees and expenses, **but only** if you have timely filed written objections in the manner described above, including a statement that you intend to appear and be heard at the Settlement Fairness Hearing. You may also enter an appearance through an attorney, at your own expense. If you do not do so, you will be represented in the case by Class Counsel.

The time and date of the Fairness Hearing may be continued without further notice to the Settlement Class.

Pending final determination of whether the Settlement should be approved, you and your representatives are barred from filing any lawsuit asserting any claims against Electronic Arts that relate to the settled claims as defined above.

Important Dates:

- December 10, 2012: Last day for Settlement Class Members to file notice with District Court Clerk to be heard at Fairness Hearing, including notice of objection to any Settlement.
- December 10, 2012: Last day for Settlement Class Members to serve above-listed Class Counsel with notice to be heard at Fairness Hearing, including notice of objection to any Settlement.
- February 7, 2013: Fairness Hearing, includes hearing to finally approve the Settlement. (Date subject to change per District Court Order.)

The Lawyers Representing You

18. Do the Settlement Class Members have a lawyer in this case?

The Court appointed the law firms of Hagens Berman Sobol Shapiro LLP and The Paynter Law Firm PLLC to represent the Plaintiffs and Settlement Class Members. Together the law firms are called “Class Counsel.” More information about these law firms, their practices, and their lawyers’ experience is available at www.hbsslaw.com and www.smplegal.com.

19. Should I get my own lawyer?

If you choose to remain in the Settlement Class, you do not need to hire your own lawyer because Class Counsel are working on your behalf. But if you want your own lawyer, you will be responsible for paying that lawyer. For example, you can ask him or her to appear in Court for you if you want someone other than Class Counsel to speak for you.

20. How will the lawyers be paid?

If the Settlement is approved, Class Counsel will ask the Court for fees and expenses. You won't have to pay these fees and expenses now. If the Court grants Class Counsel's request, the fees and expenses would be deducted from the \$27 million Common Fund paid by Electronic Arts. Class Counsel have agreed not to seek more than 30% of the Common Fund, or \$9 million, as compensation. Class Counsel have also agreed not to seek more than \$2,000,000 for expenses incurred in pursuing this lawsuit. Class Counsel's motion for fees and costs must be filed by November 26, 2012. You can object to the requests of Class Counsel by following the procedure for objecting to the Settlement described in paragraph 16.

The Parties' Reasons for Settlement

21. What are the parties' reasons for settlement?

As part of this litigation, Class Counsel have conducted extensive formal discovery into the claims of the members of the Settlement Class and the defenses that might be asserted thereto. Based on this discovery and investigation, Class Counsel believes that the Settlement is fair, reasonable and adequate and in the best interest of the Settlement Class. Class Counsel and Plaintiffs also recognize the expense and length of continued proceedings necessary to continue the litigation against Electronic Arts through verdict, judgment, and appeals, and have taken into account the uncertainty and the risk of the outcome of continued litigation, especially in a complex action such as this, and the difficulties and delays inherent in such an action.

Electronic Arts has denied and continues to deny each and all of the claims and contentions alleged by the Plaintiffs. Electronic Arts has repeatedly asserted and continues to assert many defenses thereto, and has expressly denied and continues to deny (i) any wrongdoing or legal liability arising out of any of the conduct alleged in the class action and (ii) that the Settlement Class has suffered any damage by reason of the alleged wrongdoing. Nevertheless, Electronic Arts has concluded that further conduct of this litigation against it would be protracted and expensive and that settlement therefore is desirable. Electronic Arts also has taken into account the uncertainty and the risk of the outcome in any litigation, especially complex cases such as this one. Electronic Arts has, therefore, determined that it is desirable and beneficial to it that the litigation be settled in the manner and upon the terms and conditions set forth in the proposed Settlement.

Getting More Information

22. Are more details available?

THIS NOTICE CONTAINS ONLY A SUMMARY OF THE PROPOSED SETTLEMENT.

Additional information about this lawsuit and the proposed Settlement are on file with the District Court. Additionally, you can also view the First Amended Complaint that the Plaintiffs submitted, the order certifying the class, the Court's Preliminary Approval Order, the Stipulation and Agreement of Class Action Settlement and Release, and other case-related documents at www.easportslitigation.com.

You may also contact the Settlement Administrator by sending an email to info@easportslitigation.com, or by writing to EA Sports Litigation Settlement, c/o Gilardi & Co. LLC, PO Box 808054, Petaluma, CA 94975-8054. Please do not contact the Court. Please also do not contact Electronic Arts or the lawyers for Electronic Arts.

EXHIBIT C

Electronic Arts Litigation Settlement
c/o Gilardi & Co. LLC
P.O. Box 808054
Petaluma, CA 94975-8054

2D

LEGAL NOTICE

GEOFFREY PECOVER

and

ANDREW OWENS

v.

ELECTRONIC ARTS INC.

U.S. District Court
Northern District of California
San Francisco Division
Case No. 08-cv-02820 CW



Postal Service: Please Do Not Mark Barcode
EASPT2-**<<Claim8>>**-**<CkDig>>**

Claim ID Number: <<Claim8>><<ChkDgt>>

<<First Name>> <<Last Name>>
<<Address>> <<Address2>>
<<City>>, <<St>> <<Zip>>
<<Foreign Country>>

EASPT2

Important Notice from the United States District Court for the Northern District of California About a Class Action Settlement
Case 4:08-cv-02820-CW Document 381-1 Filed 09/20/12 Page 49 of 54

Para ver este aviso en español, visita www.easportslitigation.com

If you bought a new copy of an Electronic Arts' Madden NFL, NCAA Football, or Arena Football videogame for Xbox, Xbox 360, PlayStation 2, PlayStation 3, GameCube, PC, or Wii, with a release date of January 1, 2005 to June 21, 2012, you may be a class member and may be entitled to benefits from a proposed settlement.

A proposed settlement has been reached in a class action alleging that Electronic Arts overcharged consumers for certain football videogames. Electronic Arts denies any liability and all allegations of misconduct, including that it overcharged consumers. **The sole purpose of this notice is to inform you of the class and the proposed settlement so that you may decide what to do.**

If the settlement is approved, class members who submit a Claim Form may receive a payment. Class members may also choose to exclude themselves from the settlement or object to the settlement.

For a full description of the settlement, related Court documents, and deadlines and forms, please visit www.easportslitigation.com. Claim Forms are due **March 5, 2013**. Requests to exclude yourself from the settlement are due **December 10, 2012**, and any objections to the settlement are due **December 10, 2012**. You can file a claim online or get a Claim Form at www.easportslitigation.com. Please do not telephone or address inquiries to the Court or Electronic Arts.

EXHIBIT D

If you bought a new copy of an Electronic Arts' Madden NFL, NCAA Football, or Arena Football videogame for Xbox, Xbox 360, PlayStation 2, PlayStation 3, GameCube, PC, or Wii, with a release date of January 1, 2005 to June 21, 2012, you may be a class member and may be entitled to benefits from a proposed settlement.

A proposed settlement has been reached in a class action alleging that Electronic Arts overcharged consumers for certain football videogames. Electronic Arts denies any liability and all allegations of misconduct, including that it overcharged consumers. **The sole purpose of this notice is to inform you of the settlement class and the proposed settlement so that you may decide what to do.**

At this time, the settlement has only been preliminarily approved by the Court, pending the results of the Settlement Fairness Hearing. On February 7, 2013 at 2:00pm, a hearing will be held in Courtroom 2 of the Oakland Courthouse of the United States Federal District Court for the Northern District of California, located at 1301 Clay St., Oakland, CA 94612, to determine whether the Settlement should be approved by the Court as fair, reasonable, and adequate, whether judgment should be entered thereon, and whether this lawsuit should be dismissed with prejudice against Electronic Arts. No money or other benefits will be available until final approval has been granted by the Court.

What is the lawsuit about?

The lawsuit claims that Electronic Arts violated federal and California antitrust laws, as well as California consumer protection laws, by signing exclusive licensing agreements with the Arena Football League ("AFL"), the Collegiate Licensing Company ("CLC") (on behalf of the National Collegiate Athletic Association ("NCAA")), the National Football League ("NFL"), and the National Football League Players Association ("NFLPA"). Electronic Arts denies the allegations in the lawsuit, denies that it has engaged in any wrongdoing, denies that there is a relevant market limited to "interactive football videogames," and denies that it ever charged supra-competitive prices for its videogames.

The Court has not decided whether Electronic Arts did anything wrong, and this Notice is not an expression of any opinion by the Court about the merits of any of the claims or defenses asserted by any party to this litigation.

Who's included as a Settlement Class Member?

You are a member of the Settlement Class if:
You are in the United States and bought a new copy of an Electronic Arts' *Madden NFL, NCAA Football, or Arena Football* videogame for Xbox, Xbox 360, PlayStation 2, PlayStation 3, GameCube, PC, or Wii, with a release date of January 1, 2005 to June 21, 2012.

You are excluded from the Settlement Class if (1) you purchased the game(s) directly from Electronic Arts; (2) you purchased only used copies of the games; or (3) you are an employee, officer, director, or legal representative of Electronic Arts or a wholly or a partly owned subsidiary or affiliated company.

You are also excluded from the Settlement Class if you previously submitted a timely request for exclusion on or prior to June 25, 2011.

What are the terms of the settlement?

The Settlement provides that Electronic Arts will pay \$27 million into a fund that will include money for Settlement Class Members to be provided for timely and valid claims, after deducting

payment of the costs of administering the Settlement, including the costs of this notice, attorneys' fees, costs of the litigation and any payments allowed by the Court to the named plaintiffs, known as the "class representatives."

Additionally, the Settlement provides that Electronic Arts will not enter into an exclusive trademark license with the AFL for five years from the date of approval of the Settlement; and that Electronic Arts will not renew its current collegiate football trademark license with the CLC on an exclusive basis for five years after it expires in 2014; and that Electronic Arts will not seek any new exclusive trademark license for the purpose of making football videogames with the CLC, the NCAA, or any NCAA member institution covered by the current exclusive license for five years after the expiration of the current CLC agreement.

The Settlement will release claims that consumers may have against Electronic Arts relating to the exclusive agreements, and any resulting overcharge for football videogames, for the period of time from January 1, 2005 to June 21, 2012, unless an individual excludes himself or herself from the Settlement. Specifically, the Settlement will release and forever discharge the claims that were pled or could have been pled in the *Pecover v. Electronic Arts* case.

What are my options as a Settlement Class Member?

Settlement Class Members have the following rights and options with respect to this settlement:

- 1) **Do Nothing** - If you do nothing, you will give up your right to sue Electronic Arts over the claims in this matter, and you will give up your right to get money from the Settlement if it is approved by the Court.
- 2) **Submit a Claim Form** - If you are an eligible Settlement Class Member, and you submit a valid claim by **March 5, 2013**, your share of the net proceeds of the settlement will be based upon the number of eligible new videogame titles you purchased during the Class Period, as well as the number of Settlement Class Members who submit valid claims. Claims may be submitted by mail, or online at www.easportslitigation.com.
- 3) **Object to the Settlement** - If you are a Settlement Class Member, you can tell the Court that you don't agree with the Settlement or some part of it. The Court will consider your views. If you do not file an objection to the Settlement, you waive your right to object to and/or appeal the Settlement. Objections must be filed by **December 10, 2012**.
- 4) **Ask to be Excluded from the Settlement** - If you ask to be excluded from the settlement ("opt-out"), you will no longer be considered a Settlement Class Member and will receive no benefit from the settlement. This is the only option that allows you to keep your right to sue Electronic Arts over the claims in this matter. Exclusions must be filed by **December 10, 2012**. Please visit the website for more details regarding your options.

Where can more information be found?

This Notice is only a summary of the lawsuit and the proposed Settlement. For more information, or to file your claim online, please visit the case website, www.easportslitigation.com or call 888-213-8331.

EXHIBIT E

No Later Than
March 5, 2013

EASPT2

The United States District Court
District of Northern California
Pecover v. Electronic Arts Inc.
Civil Action No. 08-cv-02820 CW

Class Action Claim Form

In order for you to qualify to receive payments related to *Pecover v. Electronic Arts Inc.* as described in the Notice of Settlement (the "Class Notice"), you must complete and submit this Claim Form. You may also file your Claim Form electronically by visiting www.easportslitigation.com and clicking on "File a Claim."

Your Claim Form must be submitted online (or postmarked if submitting by mail) by March 5, 2013.

If submitted by mail, please send via first class mail to:

Electronic Arts Settlement
c/o Gilardi & Co. LLC
P.O. Box 808054
Petaluma CA 94975-8054
Telephone: 1 (888) 213-8331

This Claim Form may be submitted only by persons in the United States who purchased a new copy of an Electronic Arts' *Madden NFL*, *NCAA Football*, or *Arena Football* videogame, for Xbox, Xbox 360, PlayStation 2, PlayStation 3, GameCube, PC, or Wii, with a release date of January 1, 2005 to June 21, 2012.

If other individuals in your household separately purchased any of these videogames, each individual purchaser must submit a separate Claim Form. You may, however, submit one Claim Form for multiple purchases that you made yourself.

You must complete all information below and complete an electronic certification (or sign your form if submitting by mail) in order to receive any benefits from this Settlement.

1. Claimant Information

First Name	M.I.	Last Name
<input type="text"/>	<input type="text"/>	<input type="text"/>

Address 1

Address 2

City	State	Zip Code
<input type="text"/>	<input type="text"/>	<input type="text"/>



FOR CLAIMS PROCESSING ONLY	<input type="radio"/> RE	<input type="radio"/> OZ
	<input type="radio"/> LC	<input type="radio"/> DOC

2. Games Purchased

If you received direct notice by email or U.S. mail regarding the Settlement, this is because Electronic Arts' records indicate that you may have purchased at least one of the following new: *Madden NFL*, *NCAA Football*, or *Arena Football*, for Xbox, Xbox 360, PlayStation 2, PlayStation 3, GameCube, PC, or Wii, with a release date of January 1, 2005 to June 21, 2012. In order to claim an award, you must check at least one box. Please check all boxes that apply and insert the number of games purchased new and the version:

Games Purchased for Xbox 360, PlayStation 3, or Wii.

- I purchased new copies of *Madden NFL* for Xbox 360, PlayStation 3, or Wii.
 Release year(s)
- I purchased new copies of *NCAA Football* for Xbox 360, PlayStation 3, or Wii.
 Release year(s)

Games Purchased for Xbox, PlayStation 2, PC, or GameCube.

- I purchased new copies of *Madden NFL* for Xbox, PlayStation 2, PC, or GameCube.
 Release year(s)
- I purchased new copies of *NCAA Football* for Xbox, or PlayStation 2.
 Release year(s)
- I purchased new copies of *Arena Football* for Xbox, or PlayStation 2
 Release year(s)

I certify that I have accurately completed the information in this Claim Form, and that the information set forth is true, correct, and complete to the best of my knowledge.

 Certification/ Signature

 Date

