EXHIBIT 2

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

SAMUEL MICHAEL KELLER, et al., on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

ELECTRONIC ARTS, INC.; NATIONAL COLLEGIATE ATHLETICS ASSOCIATION; COLLEGIATE LICENSING COMPANY,

Defendants.

Case No. 4:09-cv-1967 CW

AMENDED CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

Judge: Hon. Claudia Wilken
Courtroom: 2, 4th Floor
Complaint Filed: May 5, 2009

I. PARTIES TO THE SETTLEMENT AGREEMENT

This Amended Class Action Settlement Agreement and Release, including Exhibits A - D hereto ("Settlement Agreement" or "Agreement"), is entered into by, between, and among the *Keller* Right of Publicity Named Plaintiffs, on behalf of themselves and the Settlement Class, and the Settling Defendant (collectively, the "Parties"), as defined below. This Settlement Agreement amends and replaces in its entirety the Parties' earlier settlement agreement filed with the Court on June 30, 2014 (the "June 30, 2014 Agreement"). Upon execution of this Settlement Agreement by all Parties as provided in Paragraph 129, the June 30, 2014 Agreement shall have no further force or effect.

A. *Keller* Right of Publicity Named Plaintiffs

Keller Right of Publicity Named Plaintiffs: Samuel Michael Keller, Bryan Cummings, LaMarr Watkins, and Bryon Bishop (collectively "*Keller* Named Plaintiffs" or "*Keller* Right of Publicity Named Plaintiffs"). The *Keller* Right of Publicity Named Plaintiffs enter into this Agreement on behalf of themselves and the Settlement Class as defined below.

B. Settling Defendant

Defendant National Collegiate Athletic Association ("NCAA") may be referred to as the "NCAA" or "Settling Defendant." Defendants Electronic Arts ("EA") and the Collegiate Licensing Company LLC ("CLC") are not Parties to this Agreement, and nothing in this Agreement shall be construed as waiving any right, cause of action, or claim by the *Keller* Named Plaintiffs, the Settlement Class, or the Released Parties against EA, CLC, or their respective affiliates, agents, representatives, successors, or assigns.

C. Lawsuits

This Agreement is entered into in order to effect a full and final settlement and dismissal with prejudice of all claims that were, could have been, or should have been brought against the NCAA in the following actions: *Keller v. Electronic Arts, Inc. et al.*, Case No. 4:09-cv-01967-CW, and *Bishop v. Electronic Arts, Inc., et al.*, 4:09-cv-04128-CW (collectively, the "Lawsuits").

This Agreement is intended to fully and finally compromise, resolve, discharge, and settle the Released Claims, as defined and on the terms set forth below, and to the full extent reflected herein, subject to the approval of the Court.

II. RECITALS

WHEREAS, on May 5, 2009, Plaintiff Samuel Keller filed a lawsuit in the Northern District of California against EA, CLC, and the NCAA on behalf of himself and a proposed class of all NCAA football and basketball players listed in the opening day roster of a school whose team was included in any interactive software produced by EA, and whose assigned jersey number appears on a virtual player in the software;

WHEREAS, on July 21, 2009, Plaintiff Edward C. O'Bannon Jr. filed *O'Bannon v. National Collegiate Athletic Association, et al.*, No. 4:09-cv-03329-CW (N.D. Cal.), against the NCAA and CLC on behalf of himself and a proposed class of current and former NCAA Division I basketball players and Football Bowl Subdivision football players, and subsequently amended his complaint to add EA as a defendant;

WHEREAS, on September 4, 2009, Plaintiff Bryon Bishop filed *Bishop v. Electronic Arts, Inc., et al.*, 4:09-cv-04128-CW, in the Northern District of California against EA, CLC, and the NCAA on behalf of himself and a proposed class of all NCAA football and basketball players listed in the opening day roster of a school whose team was included in any interactive software produced by EA, and whose assigned jersey number appears on a virtual player in the software;

WHEREAS, the *Keller*, *Bishop*, and *O'Bannon* lawsuits were consolidated under the name *In re NCAA Student-Athlete Name and Likeness Licensing Litigation* ("*NCAA Likeness Litigation*"), Case No. 09-cv-01967-CW (NC) (N.D. Cal.), on January 15, 2010, and all cases subsequent to *Keller* and *O'Bannon* with claims related to *Keller* or *O'Bannon* were also consolidated in *NCAA Likeness Litigation*, including the following:

- *Newsome v. National Collegiate Athletic Association, et al.*, Case No. 4:09-cv-04882-CW (N.D. Cal.);
- *Jacobson v. National Collegiate Athletic Association, et al.*, Case No. 4:09-cv-05372-CW (N.D. Cal.);
- *Rhodes v. National Collegiate Athletic Association, et al*., Case No. 4:09-cv-05378-CW (N.D. Cal.)

- *Anderson v. National Collegiate Athletic Association et al*, Case No. 4:09-cv-05100-CW (N.D. Cal.);
- *Wimprine v. National Collegiate Athletic Association, et al*., Case No. 4:09-cv-05134-CW (N.D. Cal.);
- *Thrower, et al. v. National Collegiate Athletic Association, et al.*, Case No. 4:10-cv-00632-CW (N.D. Cal.);
- *Robertson, et al. v. National Collegiate Athletic Association, et al.*, Case No. 4:11-cv-00388-CW (N.D. Cal.); and
- *Russell v. National Collegiate Athletic Association, et al*., Case No. 4:11-cv-04938-CW (N.D. Cal.);

WHEREAS, some cases with claims similar to those consolidated in *NCAA Likeness Litigation* were dismissed and were not part of the consolidated *NCAA Likeness Litigation*, including

- *Nuckles, et al. v. National Collegiate Athletic Association, et al.*, Case No. 2:09-cv-00235-RLJ (E.D. Tenn.) (removed from Case No. 27864) (dismissed Dkt. 34); and
- *Maze, et al v. National Collegiate Athletic Association, et al*., Case No. 3:10-cv-05569-MEJ (N.D. Cal.) (dismissed Dkt. 4);

WHEREAS, Bryan Kegans and Ian Smetona filed a lawsuit (*Kegans, et al. v. National Collegiate Athletic Association, et al.*, Case No. 1:14-cv-00444 (M.D. Pa.)), with claims similar to the right of publicity and antitrust claims consolidated in *NCAA Likeness Litigation*, but *Kegans* was not consolidated in *NCAA Likeness Litigation*;

WHEREAS, on January 15, 2010, Judge Wilken appointed Hagens Berman Sobol Shapiro LLP and Hausfeld LLP as "Interim Co-Lead Counsel" in the *NCAA Likeness Litigation*, with Hagens Berman having "primary responsibility" for claims related to the allegations made in *Keller*, and Hausfeld LLP having primary responsibility for claims related to the allegations made in *O'Bannon*;

WHEREAS, on March 10, 2010, the *Keller* Named Plaintiffs filed a Consolidated Amended Complaint (Dkt. No. 175), which amended the complaint to include LaMarr Watkins, Bryon Bishop, and Bryan Cummings and, among other things, re-define the proposed class as (1) all NCAA football and basketball players listed in the opening day roster of a school whose team was included in any interactive software produced by EA, and whose assigned jersey number appears on a virtual player in the software, and (2) all persons whose photographed image was included in any NCAA-related interactive software produced by EA;

WHEREAS, on May 16, 2011, Plaintiff O'Bannon filed a Second Consolidated Amended Complaint (Dkt. 327), adding claims against EA and making other modifications to the antitrust claims, but not altering the *Keller* right of publicity claims;

WHEREAS, on July 18, 2013, Plaintiff O'Bannon filed a Third Consolidated Amended Complaint ("TCAC"), adding certain plaintiffs and making other modifications to the antitrust claims, but not altering the *Keller* Right of Publicity Claims;

WHEREAS, the right of publicity and antitrust claims were deconsolidated in *NCAA Likeness Litigation* on May 23, 2014 (Dkt. 1092), and all right of publicity claims consolidated in *NCAA Likeness Litigation* were deconsolidated into *Keller*, leaving *Keller* and *Bishop* consolidated;

WHEREAS, the *Keller* Right of Publicity Named Plaintiffs allege generally that the NCAA, EA, and CLC misappropriated NCAA football and basketball players' rights of publicity by using student-athletes' names, images, and likenesses in EA's NCAA-Branded Videogames; that the NCAA breached alleged contracts with the student-athletes; that the NCAA conspired with EA and CLC; and that the *Keller* Named Plaintiffs and all putative Settlement Class Members were harmed by Defendants' conduct;

WHEREAS, the NCAA denies the allegations in the Lawsuits; denies that it has engaged in any wrongdoing; denies that any name, image, photograph, or likeness of any NCAA student-athlete was used in any EA NCAA-Branded videogame; denies that it breached any alleged contract with any Settlement Class Member; denies that it participated in any conspiracy with EA, CLC, or anyone else; denies that it committed any act or omission giving rise to any liability; denies that it has violated any laws, rules of any regulatory body, or the NCAA's Rules and Bylaws; denies that Settlement Class Members have been harmed in any way; denies that Settlement Class Members are entitled to any relief; denies that any payment pursuant to the Settlement to any Settlement Class Member is a payment for the use or misappropriation of any Settlement Class Member's name, image, photograph, and/or likeness, or a payment for the athletic performance or persona of any Settlement Class Member; denies that Plaintiffs' allegations state valid claims; denies that California or Indiana law applies to Settlement Class Members who reside

outside of those respective states; denies that a litigation class could properly be certified in the Lawsuits; and states that it is entering into this Settlement Agreement solely to eliminate the uncertainties, burden, expense, and delay of further protracted litigation;

WHEREAS, the Parties engaged the services of the Honorable Edward A. Infante (Ret.) to assist in their negotiations, and also attended multiple mediation sessions with Judge Nathanael Cousins before agreeing to the terms of this arm's-length Settlement;

WHEREAS, the *Keller* Named Plaintiffs and Class Counsel believe that the Settlement provides a favorable recovery for the Settlement Class, based on the claims asserted, the evidence developed, and the damages that might be proven against the NCAA in the Lawsuits. The *Keller* Named Plaintiffs and Class Counsel further recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Lawsuits against the NCAA through trial and appeals. They have also considered the uncertain outcome and the risk of any litigation, especially in complex litigation such as these cases, as well as the difficulties and delays inherent in any such litigation. They are also mindful of the inherent challenges of proof and the strength of the defenses to the alleged claims, and therefore believe that it is desirable that the Released Claims be fully and finally compromised, settled, and resolved with prejudice and enjoined as set forth herein;

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

WHEREAS, the Parties further agree that the Agreement, the fact of this Settlement, any of the terms in the Agreement, and any documents filed in support of the Settlement shall not constitute, or be offered, received, or construed as, an admission, finding, or evidence of (i) wrongdoing, (ii) violation of any statute or law, (iii) liability on the claims or allegations in the Lawsuits on the part of any Released Parties, or (iv) the propriety of certifying a litigation class in the Lawsuits or any other proceeding, and shall not be used by any Person for any purpose

whatsoever in any legal proceeding, including but not limited to arbitrations, other than a proceeding to enforce the terms of the Agreement;

WHEREAS, the Parties desire to compromise and settle all issues and claims that have been, could have been, or should have been brought against the NCAA in the Lawsuits, but nothing in this Agreement shall be construed as waiving, compromising, or extinguishing any issues or claims, including those currently pending or previously dismissed, that have been brought or could have been brought by the *Keller* Named Plaintiffs, the Settlement Class, or the Released Parties against EA, CLC, or their respective affiliates, agents, representatives, successors, or assigns in the Lawsuits or any related lawsuits;

WHEREAS, a settlement was reached by the plaintiffs, EA, and CLC in the *NCAA Player Likeness Litigation*, originally filed with the Court on May 30, 2014, with amended papers filed on July 23, 2014, and is currently pending preliminary approval by the Court (the "EA Settlement"); and

WHEREAS, the Parties agree they shall endeavor in good faith to coordinate with the parties to the EA Settlement regarding all aspects of the two settlements that will facilitate fairer and more efficient settlement procedures, to the extent such coordination is consistent with the Parties' rights and obligations under this Agreement;

NOW, THEREFORE, IT IS HEREBY STIPULATED, CONSENTED TO, AND AGREED, by the *Keller* Named Plaintiffs, for themselves and on behalf of the Settlement Class, and by the NCAA that, subject to the approval of the Court, the Lawsuits shall be settled, compromised, and dismissed, on the merits and with prejudice, and the Released Claims shall be finally and fully compromised, settled, and dismissed as to the Released Parties, in the manner and upon the terms and conditions hereafter set forth in this Agreement.

III. ADDITIONAL DEFINITIONS

In addition to the terms defined elsewhere in this Agreement, the following terms, used in this Settlement Agreement, shall have the meanings specified below:

1. "Authorized Claimant" means any Settlement Class Member who submits a valid and timely Claim that qualifies for a payment under the terms of this Settlement Agreement.

2. "Bar Date" is the final date by which a Claim Form must be postmarked or submitted online in order for a Settlement Class Member to be eligible to receive a First Payment or a Second Payment, as set forth in this Settlement Agreement. The Bar Date shall be specifically identified and set forth in the Preliminary Approval Order and the Class Notice.

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

4. "Claim Form" means the claim form without material variation from Exhibit D.

5. "Class Counsel" means Hagens Berman Sobol Shapiro LLP and The Paynter Law Firm.

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

7. "Court" means the United States District Court for the Northern District of California.

8. "District Court Final Approval Order" means the final Judgment and order, which will be agreed to by the Parties, that is entered by the Court finally approving the Settlement and this Settlement Agreement in all respects, as further set forth in Paragraph 50.

9. "Effective Date" means the date after which both of the following events have occurred: (a) the District Court Final Approval Order has been entered and (b) the District Court Final Approval Order and Judgment have become Final.

10. "Escrow Account" means the bank account maintained by the Escrow Agent into which the Settlement Fund shall be deposited, pursuant to the Escrow Agreement, which shall be agreed to by the Parties.

11. "Escrow Agent" means the entity to be mutually agreed upon by the NCAA and Class Counsel to maintain the Escrow Account, into which the Settlement Fund shall be deposited in accordance with the terms of this Agreement.

12. "Exclusion/Objection Deadline" means the final date by which a Settlement Class Member may either (a) object to any aspect of the Settlement (pursuant to the Preliminary Approval Order and Paragraphs 99-105), or (b) request to be excluded from the Settlement (pursuant to the Preliminary Approval Order and Paragraphs 91-98). The Exclusion/Objection Deadline shall be sixty (60) days after the Mailed Notice Date, and shall be specifically identified and set forth in the Preliminary Approval Order and the Class Notice.

13. "Fairness Hearing" means the hearing at or after which the Court will make a final decision pursuant to Fed. R. Civ. P. 23 as to whether the Settlement is fair, reasonable, and adequate and, therefore, finally approved by the Court.

14. "Fee and Expense Award" means the attorneys' fees and expenses as awarded by the Court, as further provided in Paragraph 58.

15. "Final," when referring to a judgment order, means that (a) the judgment is a final, appealable judgment; and (b) either (i) no appeal has been taken from the judgment as of the date on which all times to appeal therefrom have expired, or (ii) an appeal or other review proceeding of the judgment having been commenced, such appeal or other review is finally concluded and no longer is subject to review by any court, whether by appeal, petitions for rehearing or re-argument, petitions for rehearing en banc, petitions

for writ of certiorari, or otherwise, and such appeal or other review has been finally resolved in such manner that affirms the judgment order in its entirety.

16. "Incentive Award" means any participation awards to the *Keller* Right of Publicity Named Plaintiffs, as further described in Paragraph 57.

17. "Judgment" means the judgment to be entered in the Lawsuits on final approval of this Settlement, pursuant to Paragraph 50 and elsewhere in this Agreement.

18. "*Keller* Right of Publicity Claims" means the Right of Publicity Causes of Action First – Seventh of the TCAC, and their associated allegations and prayer for relief, as identified by the Court in its Order deconsolidating the *Keller* and *O'Bannon* actions (Dkt. 1092)—*i.e.,* paragraphs 1-6, 18-21, 25-28, 237-239, 248-336, 558-594, and the sections of the TCAC entitled "Right of Publicity Prayer for Relief" and "Right of Publicity Jury Demand."

19. "*Keller* Right of Publicity Settlement Class" means all Division I NCAA football and men's basketball players (1) listed on a roster published or issued by a school whose team was included in an NCAA-Branded Videogame originally published or distributed during the *Keller* Right of Publicity Settlement Class Period, and (2) whose assigned jersey number appears on a virtual player in the software, or whose photograph was otherwise included in the software. Excluded from the Settlement Class are EA, CLC, the NCAA, and their officers, directors, legal representatives, heirs, successors, and wholly or partly owned subsidiaries or affiliated companies; Class Counsel and their employees and immediate family members; and the judicial officers and associated court staff assigned to the Lawsuits and their immediate family members.

20. "*Keller* Right of Publicity Settlement Class Period" or "Settlement Class Period" means the period from May 4, 2003 through the Preliminary Approval Date.

21. "Legally Authorized Representative" means an administrator/administratrix, personal representative, or executor/executrix of a deceased Settlement Class Member's estate; a guardian, conservator, or next friend of an incapacitated Settlement Class Member; or any other legally appointed Person responsible for handling the business affairs of a Settlement Class Member.

22. "Mailed Notice Date" means the date that the initial mailing of the Notice of Settlement of Class Action to potential Settlement Class Members, as provided in Paragraph 66, is completed.

23. "NCAA-Branded Videogame" means every edition of *NCAA Football*, *NCAA Basketball*, and *NCAA March Madness* (on any videogame platform) originally published or distributed by EA during the *Keller* Right of Publicity Settlement Class Period.

24. "Net Settlement Fund" means the Settlement Fund less any attorneys' fees and costs, Fee and Expense Award, Incentive Awards, expert fees, escrow fees, costs, Taxes, and expenses (including, but not limited to, any cost and expenses paid out of the Notice and Administration Fund, and any estimated future costs and expenses approved by the Court) approved by the Court, as further provided in this Agreement.

25. "Notice and Administration Fund" means the fund consisting of $1,000,000 advanced by the NCAA from the Settlement Amount to the Escrow Account to be used by the Notice and Claims Administrator at the direction of Class Counsel to pay the costs of notifying the Settlement Class Members, soliciting the filing of Claims by Settlement

Class Members, assisting Settlement Class Members in making their Claims, and otherwise administering, on behalf of the Settlement Class Members, the Settlement embodied in this Settlement Agreement, as further described in this Agreement. The monies in the Notice and Administrative Fund are part of the Settlement Amount to be paid by the NCAA. If for any reason the Settlement does not become Final or the Effective Date does not occur, the remaining money deposited into the Notice and Administration Fund shall be returned to the NCAA, in accordance with the terms of the Escrow Agreement, and as further provided in Paragraphs 72 and 88.

26. "Notice and Claims Administrator" means the neutral, third-party settlement administrator appointed by the Court.

27. "Notice of Settlement of Class Action" means the long-form Court-approved notice, without material variation from Exhibit B.

28. "Opt-Out List" means the Court-approved list of all Persons who timely and properly requested exclusion from the Settlement Class, as further provided in Paragraph 50(g).

29. "Person" means any individual, corporation, partnership, association, affiliate, joint stock company, estate, trust, unincorporated association, entity, government and any political subdivision thereof, or any other type of business or legal entity.

30. "Plan of Allocation" means the plan for allocating the Net Settlement Fund between and among Settlement Class Members as approved by the Court, as further set forth in Paragraph 62.

31. "Preliminary Approval Order" means the Order that the *Keller* Named Plaintiffs and the NCAA will seek from the Court, without material variation from Exhibit A. Entry of the Preliminary Approval Order shall constitute preliminary approval of the Settlement Agreement.

32. "Preliminary Approval Date" means the date that the Preliminary Approval Order is entered.

33. "Released Claims" means any and all past, present, and future claims, liabilities, or causes of action, known or unknown, existing or potential, expected or unexpected, pursuant to any theory of recovery (including but not limited to those based in contract or tort, common law or equity, federal, state, or local law, statute, ordinance, or regulation, and for claims for compensatory, consequential, punitive or exemplary damages, statutory damages, penalties, interest, attorneys' fees, costs, or disbursements, including but not limited to those incurred by Class Counsel or any other counsel representing the Keller Named Plaintiffs or any Settlement Class Members, other than those expressly awarded by the Court in the Fee and Expense Award authorized by this Agreement), arising out of, involving, or relating to the alleged use of any name, image, photograph, or likeness in EA's production, manufacture, sale, distribution, or publication of NCAA-Branded Videogames, or the alleged use of or failure to compensate for the alleged use of any NCAA student-athlete's name, image, photograph, or likeness in connection with EA's NCAA-Branded Videogames by the NCAA, EA, CLC, or any Person, that have been, could have been, or should have been asserted in the Lawsuits, including but not limited to any claims based in any way on alleged rights of publicity or name, image, and likeness rights under the law of any state or the United States, whether recognized now or hereafter, including any rights recognized in court decisions or statutes. Notwithstanding the prior sentence, nothing in

this Paragraph or Agreement shall be construed as releasing any action, cause of action, claim, demand, liability, obligation, damage claim, restitution claim, injunction claim, declaratory relief claim, fees (including attorneys' fees), costs, sanctions, proceedings, and/or rights of any nature and description whatsoever, whether legal or equitable, including, without limitation, violations of any state or federal statutes and laws, rules, or regulations or principles of common law, whether known or unknown, suspected or unsuspected, Plaintiffs and/or the Settlement Class have, had, possessed, owned or held, in law, equity, arbitration or otherwise against EA or CLC. The Released Claims described in this Paragraph are released only with respect to Released Parties.

34. "Released Parties" or "Releasees" means (a) the NCAA and its past, present, and future parents, subsidiaries, divisions, affiliates, and member institutions (including its members schools and their athletic conferences), and (b) the past present, and future agents, employees, and independent contractors (in each case to the extent of acts and omissions within the scope and course of their agency, employment, or engagement), officers, directors, members, insurers, attorneys, legal representatives, successors, and assigns of the entities in Part (a) of this Subparagraph. Notwithstanding the prior sentence, EA and CLC, and their present, former, and future officers, directors, employees, agents, attorneys, insurers, insurance agents and brokers, independent contractors, successors, assigns, parents, subsidiaries, and affiliates (other than the NCAA and its member institutions) are not Released Parties or Releasees.

35. "Season Roster Appearance" shall have the meaning in Paragraph 62(b). No Settlement Class Member shall have more than one Season Roster Appearance for any given edition (year) of an NCAA-Branded Videogame.

36. "Season Roster Appearance Point" shall have the meaning in Paragraph 62(c).

37. "Settlement" means the settlement of the Lawsuits between and among the *Keller* Named Plaintiffs, the Settlement Class Members, and Settling Defendant, as set forth in this Settlement Agreement.

38. "Settlement Amount" means Twenty Million Dollars ($20,000,000.00).

39. "Settlement Class" means the *Keller* Right of Publicity Settlement Class.

40. "Settlement Class Member" shall mean any *Keller* Right of Publicity Settlement Class Member.

41. "Settlement Class Period" means the *Keller* Right of Publicity Settlement Class Period.

42. "Settlement Fund" means the Settlement Amount.

43. "Summary Notice of Settlement of Class Action" means the form of summary notice, without material variation from Exhibit C.

IV. SUBMISSION OF THE SETTLEMENT AGREEMENT TO THE COURT FOR PRELIMINARY AND FINAL APPROVAL

44. Promptly upon execution of this Settlement Agreement, the *Keller* Named Plaintiffs shall submit to the Court a motion for preliminary approval of the Settlement. The motion for preliminary approval shall include a proposed plan for the sending of the Notice of Settlement of

Class Action to Settlement Class Members within one hundred twenty (120) days after the Preliminary Approval Date (the "Mailed Notice Date"), and establishing a period of sixty (60) days from the Mailed Notice Date within which any Settlement Class Member may (a) request exclusion from the Settlement Class, (b) object to the proposed Settlement, or (c) object to Class Counsel's request for attorneys' fees and costs and for incentive awards to the *Keller* Named Plaintiffs (the Exclusion/Objection Deadline). The motion for preliminary approval shall also request that any hearing on final approval of the Settlement and any determination on the request for attorneys' fees, costs, and incentive awards (the "Fairness Hearing") be set for no earlier than twenty-one (21) days after the Exclusion/Objection Deadline; that Class Counsel shall file a petition for awards of attorneys' fees and costs and incentive awards at least twenty-one (21) days before the Exclusion/Objection Deadline; and that any reply briefs on such motions and petitions be filed fourteen (14) days before the Fairness Hearing.

45. The Parties hereby stipulate to certification under Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure, for settlement purposes only, of the Settlement Class. Each Party agrees that this stipulation shall not be used by any Person for any purpose whatsoever in any legal proceeding, including but not limited to arbitrations, other than a proceeding to enforce the terms of the Agreement, as further set forth in this Agreement.

46. The Parties and their counsel shall use their best efforts to obtain a District Court Final Approval Order approving the Settlement.

47. The Parties have agreed to submit to the Court for its consideration this Settlement Agreement, including all Exhibits: Preliminary Approval Order (Exhibit A), Notice of Settlement of Class Action (Exhibit B), Summary Notice of Settlement of Class Action (Exhibit C), and Claim Form (Exhibit D).

48. Solely for purposes of implementing this Agreement and effectuating the proposed Settlement, the Parties stipulate that the Court may enter the Preliminary Approval Order, without material variation from Exhibit A, preliminarily approving the Settlement and this Agreement. Among other things, the Preliminary Approval Order shall preliminarily certify the Settlement Class for settlement purposes only; approve the *Keller* Named Plaintiffs as class representatives,

appoint Class Counsel to represent the Settlement Class, and appoint the Notice and Claims Administrator; approve the Notice of Settlement of Class Action, the Summary Notice of Settlement of Class Action, the Claim Form, and the Class Notice plan, and approve them as consistent with Federal Rule of Civil Procedure 23 and due process; set out the requirements for objecting to the Settlement, excluding Settlement Class Members from the Settlement Class, and submitting Claims, all as provided in this Agreement; provide that certification and all actions associated with certification are undertaken on the condition that the certification and other actions shall be automatically vacated if this Agreement is terminated, as provided in this Agreement; preliminarily enjoin all Settlement Class Members and their Legally Authorized Representatives, unless and until they submit a timely request for exclusion pursuant to the Settlement Agreement, from filing or otherwise participating in any other suit based on the Released Claims, or from attempting to effect an opt-out of a group, class, or subclass of individuals; and schedule the Fairness Hearing.

49. The EA Settlement does not purport to resolve any claims against NCAA, and this Settlement Agreement does not purport to resolve any claims against EA or CLC. The NCAA, EA, and CLC have reached an agreement to resolve potential claims between them relating to this Settlement and the EA Settlement. The NCAA shall inform the Court of the existence of that confidential agreement and be prepared to submit *in camera* to the Court, at the Court's request, a copy of the confidential agreement.

50. At the Fairness Hearing, the *Keller* Named Plaintiffs shall request entry of a District Court Final Approval Order and a Judgment, to be agreed upon by the Parties, the entry of which is a material condition of this Settlement Agreement, and that, among other things:

a. finally approves the Settlement as fair, reasonable, and adequate, within the meaning of Rule 23 of the Federal Rules of Civil Procedure and due process, and directs its consummation pursuant to the terms of the Settlement Agreement;

b. finds that Class Counsel and the *Keller* Named Plaintiffs adequately represented the Settlement Class for the purpose of entering into and implementing the Agreement;

c. re-confirms the appointment of the Notice and Claims Administrator and finds that the Notice and Claims Administrator has fulfilled its duties under the Settlement;

d. finds the Settlement is in good faith pursuant to federal law and California Code of Civil Procedure 877.6, including that the amount to be paid in the Settlement is in accord with the *Keller* Named Plaintiffs' and the Settlement Class Members' potential total recovery and the NCAA's potential liability, that the allocation of the Settlement is fair, that the Settlement is not meant to be the equivalent of liability damages, that the Settlement considers the relevant financial circumstances of the NCAA, and that the Settlement is not the product of and does not evince collusion, fraud, or tortious conduct aimed to injure the interests of defendants other than the NCAA;

e. finds that the Class Notice (i) constituted the best practicable notice; (ii) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Lawsuits, and their right to exclude themselves from or object to the proposed settlement and to appear at the Fairness Hearing; (iii) was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv) met all applicable requirements of Federal Rule of Civil Procedure 23, due process, and any other applicable rules or law;

f. finds that the CAFA Notice sent by the NCAA complied with 28 U.S.C. § 1715 and all other provisions of the Class Action Fairness Act of 2005;

g. approves the Opt-Out List and determines that the Opt-Out List is a complete list of all Settlement Class Members who have timely requested exclusion from the Settlement Class and, accordingly, shall neither share in nor be bound by the District Court Final Approval Order and Judgment;

h. approves the striking and dismissal with prejudice of the *Keller* Right of Publicity Claims in the TCAC;

i. dismisses the NCAA from the Lawsuits on the merits and with prejudice, and without fees or costs except as provided in this Agreement;

j. finds under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directs that the District Court Final Approval Order and Judgment of dismissal as to the NCAA shall be final and entered forthwith;

k. without affecting the finality of the District Court Final Approval Order and Judgment, reserves jurisdiction over the *Keller* Named Plaintiffs, the Settlement Class, and the NCAA as to all matters concerning the administration, consummation, and enforcement of this Settlement Agreement;

l. adjudges that, as of the Effective Date, the *Keller* Named Plaintiffs, and all Settlement Class Members who have not been excluded from the Settlement Class as provided in the Opt-Out List approved by the Court, and their heirs, estates, trustees, executors, administrators, principals, beneficiaries, representatives, agents, assigns, and successors, and/or anyone claiming through them or acting or purporting to act for them or on their behalf, regardless of whether they have received actual notice of the proposed Settlement, have conclusively compromised, settled, discharged, and released all Released Claims against the NCAA and the Released Parties, and are bound by the provisions of this Agreement, as further provided in Paragraphs 74-78;

m. declares this Agreement and the District Court Final Order and Judgment to be binding on, and have res judicata and preclusive effect in, all pending and future lawsuits or other proceedings encompassed by the Released Claims maintained by or on behalf of the *Keller* Named Plaintiffs, and all other Settlement Class Members

who have not been excluded from the Settlement Class as provided in the Opt-Out List approved by the Court, and their heirs, estates, trustees, executors, administrators, principals, beneficiaries, representatives, agents, assigns, and successors, and/or anyone claiming through them or acting or purporting to act for them or on their behalf, regardless of whether the Settlement Class Member previously initiated or subsequently initiates individual litigation or other proceedings encompassed by the Released Claims, and even if such Settlement Class Member never received actual notice of the Lawsuits or this proposed Settlement; permanently bars and enjoins the *Keller* Named Plaintiffs, and all other Settlement Class Members who have not been excluded from the Settlement Class as provided in the Opt-Out List approved by the Court, from (i) filing, commencing, prosecuting, intervening in, or participating (as class members or otherwise) in any other lawsuit or administrative, regulatory, arbitration, or other proceeding in any jurisdiction based on the Released Claims and (ii) organizing Settlement Class Members into a separate group, class, or subclass for purposes of pursuing as a purported class action any lawsuit or administrative, regulatory, arbitration, or other proceeding (including by seeking to amend a pending complaint to include class allegations, or seeking class certification in a pending action) based on the Released Claims;

n. orders that EA, CLC, and any other Party or Person who may assert a claim against any Released Party or Releasee based upon, relating to, or arising out of the Released Claims, the Lawsuits, any EA NCAA-Branded Videogame, or the Settlement are barred, enjoined, and permanently restrained from instituting, commencing, pursuing, prosecuting, or asserting any claim against the Released Parties for contribution, indemnity (with the exception of contractual indemnity claims to the extent that any may exist), or otherwise denominated (including but not limited to any other claim that arises out of, involves, or relates to any potential or actual liability owed to the *Keller* Named Plaintiffs and/or the Settlement Class, and/or for related costs or fees in connection with that asserted liability), as claims, cross-claims, counterclaims, or third-party claims in any court, arbitration, administrative agency, or forum, or in any other manner, including but not limited to a request for offset. All such claims are hereby extinguished, discharged, satisfied, and unenforceable, and nothing in this Paragraph shall be deemed to imply that EA, CLC, or any Party or Person has a right to contribution or indemnity against any of the Released Parties;

o. determines that the Agreement and the Settlement provided for herein, and any proceedings taken pursuant thereto, are not, and should not in any event be offered, received, or construed as evidence of, a presumption, concession, or an admission by any Party of liability or non-liability or of the certifiability or non-certifiability of a litigation class, or of any misrepresentation or omission in any statement or written document approved or made by any Party; provided, however, that reference may be made to this Agreement and the Settlement provided for herein in such proceedings as may be necessary to effectuate the provisions of this Agreement, as further set forth in this Agreement;

p. orders that the certification of the Settlement Class and final approval of the proposed Settlement, and all actions associated with them, are undertaken on the condition that they shall be vacated if the Settlement Agreement is terminated or disapproved in whole or in part by the Court, or any appellate court and/or other court of review, or if any of the Parties invokes the right to withdraw from the settlement as provided in Paragraphs 86-87 in which event the Agreement and the fact that it was entered into shall not be offered, received, or construed as an admission or as evidence for any purpose, including but not limited to an admission by any Party of liability or non-liability or of any misrepresentation or omission in

any statement or written document approved or made by any Party, or of the certifiability of a litigation class, as further provided in Paragraphs 89-90;

q. authorizes the Parties, without further approval from the Court, to agree to and adopt such amendments, modifications, and expansions of this Agreement, including all Exhibits hereto, as (i) shall be consistent in all material respects with the District Court Final Approval Order and (ii) do not limit the rights of Settlement Class Members; and

r. contains such other and further provisions consistent with the terms of this Settlement Agreement to which the Parties expressly consent in writing.

51. At the Fairness Hearing and as a part of the final approval of this Settlement, Class Counsel will also request approval of the Plan of Allocation set forth in Paragraph 62. Any modification to the Plan of Allocation by the Court shall not (i) affect the enforceability of the Settlement Agreement, (ii) provide any of the Parties with the right to terminate the Settlement Agreement, or (iii) impose any obligation on the Settling Defendant to increase the consideration paid in connection with the Settlement.

52. At the Fairness Hearing, Class Counsel may also request entry of an Order approving Class Counsel's application for an award of attorneys' fees and expenses and for incentive awards to the *Keller* Named Plaintiffs. Any such Fee and Expense Award or Incentive Award shall be paid exclusively from the Settlement Fund and shall be payable twenty-one (21) days after the Effective Date. In no event shall the NCAA otherwise be obligated to pay for any attorneys' fees and expenses or incentive awards. The disposition of Class Counsel's application for a Fee and Expense Award, and for Incentive Awards, is within the sound discretion of the Court and is not a material term of this Settlement Agreement, and it is not a condition of this Settlement Agreement that such application be granted. Any disapproval or modification of such application by the Court shall not (i) affect the enforceability of the Settlement Agreement, (ii) provide any of the Parties with the right to terminate the Settlement Agreement, or (iii) impose any obligation on the Settling Defendant to increase the consideration paid in connection with the Settlement.

V. SETTLEMENT CONSIDERATION

53. The total monetary component of the Settlement is the Settlement Amount ($20,000,000.00). This is an "all in" number which includes, without limitation, all monetary

benefits and payments to the Settlement Class, Incentive Awards, Fee and Expense Award, escrow fees, Taxes, Tax Expenses, and all other costs and expenses relating to the Settlement (including, but not limited to, administration costs and expenses, notice costs and expenses, and settlement costs and expenses). Under no circumstances will the NCAA be required to pay anything more than the Settlement Amount. In no event shall the NCAA be liable for making any payments under this Settlement, or for providing any relief to Settlement Class Members, before the deadlines set forth in this Agreement. After the Effective Date, the NCAA shall not have any right to the return or reversion of the Settlement Fund, or any portion thereof, irrespective of the number of Claims filed or the amounts to be paid to Authorized Claimants from the Settlement Fund, except as provided in Paragraph 62(i).

54. NCAA shall pay into the Escrow Account, for the benefit of the Settlement Class, as follows: (1) within twenty-one (21) days of entry of the Preliminary Approval Order, the NCAA shall pay into the Escrow Account $1,000,000.00 to be used by the Notice and Claims Administrator at the direction of Class Counsel for reasonable costs in connection with providing notice of the Settlement to Settlement Class Members and for other administrative expenses (the "Notice and Administration Fund"), according to the terms in Paragraphs63-72; and (2) within fourteen (14) days after the Effective Date, the NCAA shall pay into the Escrow Account the remaining amount of the Settlement Amount ($19,000,000.00).

55. The Settlement Fund shall be deposited, at the times specified in Paragraph 54, into an interest-earning Escrow Account agreed to by Class Counsel and the NCAA, and all interest accruing thereon shall be deemed to be in the custody of the Court, and will remain subject to the jurisdiction of the Court, until such time as it is distributed in compliance with the Settlement Agreement, Escrow Agreement, and Court order. The Escrow Agent shall invest the Settlement Fund exclusively in instruments backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof, including a U.S. Treasury Money Market Fund or a bank account insured by the Federal Deposit Insurance Corporation ("FDIC") up to the guaranteed FDIC limit. The Escrow Agent shall reinvest the proceeds of these instruments as they mature in similar instruments at their then-current market

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

56. All Taxes arising with respect to the income earned by the Settlement Fund, (including any Taxes that may be imposed upon the Settling Defendant with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a "qualified settlement fund" for federal or state income tax purposes), and any expenses and costs incurred in connection with the payment of Taxes pursuant to this Paragraph (including, without limitation, expenses of tax attorneys and/or accountants and mailing, administration, and distribution costs and expenses relating to the filing or the failure to file all necessary or advisable tax returns (the "Tax Expenses")), shall be paid out of the Settlement Fund. The NCAA shall not have any liability or responsibility for the Taxes or the Tax Expenses. The Escrow Agent shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Fund and the distributions and payments therefrom, including, without limitation, the tax returns described in Treas. Reg. §1.468B-2(k), and to the extent applicable, Treas. Reg. § 1.468B-2(1). Such tax returns shall be consistent with the terms herein, and in all events shall reflect that all Taxes on the income earned by the Settlement Fund shall be paid out of the Settlement Fund. The Escrow Agent shall also timely pay Taxes and Tax Expenses out of the Settlement Fund, and is authorized to withdraw from the Escrow Account amounts necessary to

pay Taxes and Tax Expenses. The Parties hereto agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this Settlement Agreement. Neither the Parties nor their counsel shall not have any responsibility or liability for the acts or omissions of the Escrow Agent.

57. The terms of this Agreement relating to the Fee and Expense Award and Incentive Awards were not negotiated by the Parties before full agreement was reached as to all other material terms of the proposed Settlement, including, but not limited to, any terms relating to the relief to the Settlement Class. The NCAA agrees not to oppose a request for an Incentive Award for each of the *Keller* Named Plaintiffs as awarded by the Court, up to a maximum of $5,000 per *Keller* Named Plaintiff. The *Keller* Named Plaintiffs and Class Counsel agree not to seek an Incentive Award in excess of the above amount. The Incentive Awards will be payable from the Settlement Fund contained in the Escrow Account twenty-one (21) days after the Effective Date.

58. Class Counsel agrees not to seek an award of fees from the Court in excess of twenty-nine percent (29%) of the Settlement Fund and a maximum of $500,000 in costs (not including, but in addition to, costs of administration). The NCAA agrees not to oppose a request for attorneys' fees up to 29% of the Settlement Fund and such costs not exceeding $500,000. Any Fee and Expense Award, as awarded by the Court, shall be payable from the Settlement Fund contained in the Escrow Account, as ordered, within twenty-one (21) days after the Effective Date.

VI. CALCULATING CLAIMS PAYMENTS; PLAN OF ALLOCATION

59. This Settlement shall be a claims-made settlement.

60. To be considered an Authorized Claimant, a Settlement Class Member or his Legally Authorized Representative must timely submit a Claim Form that satisfies the requirements of Paragraph 61, must not have submitted a request for exclusion, and must be eligible for a payment under the Plan of Allocation in Paragraph 62.

61. A Claim Form is timely if it is postmarked by the Bar Date and mailed to the Notice and Claims Administrator at the address in the Notice of Settlement of Class Action, or if it is submitted online on the settlement website by the Bar Date. The Claim Form must be signed (e-signature, if submitted online) under penalty of perjury.

62. Payments under this Settlement shall be calculated in accordance with the following Plan of Allocation:

a. Class Counsel and the Notice and Claims Administrator shall attempt in good faith to identify the Authorized Claimants and the amounts to which they are eligible under this Settlement as follows, including through the use of databases created by Class Counsel and EA for the EA Settlement.

b. Determining Season Roster Appearances

1. A claimant may be eligible to receive a payment under this Settlement when that claimant's name is listed on a roster published or issued by a school whose team was included in any NCAA-Branded Videogame during the Settlement Class Period, and his assigned jersey number appears on a virtual avatar from that same team. Thus, the claimant and the virtual avatar must match the following criteria:

i. Academic Institution,
ii. Assigned Jersey Number, and
iii. Sport/Division.

To the extent that there is more than one player with the same jersey number on the same roster, the Notice and Claims Administrator shall look to the claimant's

iv. Position

to determine whether there is a match. To the extent that there is more than one claimant who matches criteria i-iv above, the Notice and Claims Administrator shall look to the claimant's

v. Home State

to determine whether there is a match.

To the extent that more than one claimant matches criteria i-v, each such claimant shall be deemed to be a match.

Satisfaction of the above shall constitute one (1) Season Roster Appearance for each edition (year) of an NCAA-Branded Videogame.

2. A claimant may be eligible to receive one (1) Season Roster Appearance when that claimant's name is listed on a roster published or issued by a school whose team was included in any NCAA-Branded Videogame during the Settlement Class Period, and his photograph appears in any NCAA-Branded Videogame. A claimant is eligible for one (1) Season Roster Appearance Point for each edition (year) in which his photograph appears in any NCAA-Branded Videogame.

3. Paragraphs 62(b)(1) & (b)(2) are subject to the proviso that a claimant is entitled to a maximum of one (1) Season Roster Appearance for each edition (year) of an NCAA-Branded Videogame (i.e., one Season Roster Appearance either through Paragraph 62(b)(1), or Paragraph 62(b)(2), but not both for the same edition (year)).

c. Each Season Roster Appearance from May 4, 2005 through the Preliminary Approval Date ("Post-2005 Videogame Appearance") shall be worth 6.6 Season Roster Appearance Points. Each Season Roster Appearance from May 4, 2003 through May 3, 2005 ("Pre-2005 Videogame Appearance") shall be worth 1.8 Season Roster Appearance Points. The dollar value of one (1) Season Roster Appearance Point will therefore be the Net Settlement Fund divided by the total number of Season Roster Appearance Points earned by Authorized Claimants.

d. To the extent a Settlement Class Member who submits a valid and timely Claim Form has no Season Roster Appearance Points as calculated above, that Settlement Class Member shall receive a $100 payment. All other Authorized Claimants shall be entitled to a *pro rata* share of the Net Settlement Fund at the time of distribution of the First Payment (as noted below) based on the number of Season Roster Appearance Points the Authorized Claimant has.

e. The Notice and Claims Administrator shall use reasonable efforts to deliver by First-Class Mail a letter enclosing a check with payment equal to each Settlement Class Member's share of the Net Settlement Fund, as calculated in Paragraphs 62(a)-(d) (the "First Payment"), and also explaining the limited right of objection as set forth in Paragraph 62(g), within sixty (60) days after the Bar Date, but in no event before the Effective Date. At the same time, the Notice and Claims Administrator shall send a letter to all other claimants who are not Authorized Claimants stating that such claimants are not entitled to a payment under this Settlement, and explaining the limited right of objection as set forth in Paragraph 62(g).

f. Authorized Claimants will have ninety (90) days from the date on the Notice and Claims Administrator's letter accompanying the First Payment checks to cash their settlement checks. All outstanding, un-cashed checks will become void after ninety (90) days, and the associated funds will revert to the Net Settlement Fund.

g. Any claimant who wishes to object to the Notice and Claims Administrator's determinations set out in Paragraphs 62(a)-(e) must submit a written objection to the Notice and Claims Administrator that is postmarked within thirty (30) days of the date of the Notice and Claims Administrator's letter. The written objection shall set forth the basis for the objection, including, to the best of the claimant's ability, identifying all Season Roster Appearances claimed by the claimant and the dollar amount of any additional payment the claimant believes he is eligible for under the Settlement. If the Notice and Claims Administrator, Class Counsel, and the claimant cannot agree on the objection within fourteen (14) days of the postmark date of the written objection, the Notice and Claims Administrator shall send the claimant a letter so stating. The claimant may submit a written appeal to the District Court within fourteen (14) days of the date of the letter referred to in the previous sentence. The District Court, in its sole discretion, may refer the objection to a Magistrate Judge, special master, or other Person. The decision on these objections shall be final, binding, and nonappealable. No other objections to Claims decisions and payments shall be allowed in this Settlement, including but not limited to objections to the Notice and Claims Administrator's decisions regarding the timeliness of any Claims, objections, or appeals, which decisions are final, binding, and nonappealable. Any additional amounts payable as a result of these objections or appeals shall be distributed *pro rata* out of any remaining Net Settlement Fund, as part of the Second Payment process described in Paragraph 62(h).

h. If there are any remaining funds in the Net Settlement Fund one hundred (100) days from the latest date on any letter from the Notice and Claims Administrator

accompanying a First Payment check, and there are no pending appeals pursuant to Paragraph 62(g), the Notice and Claims Administrator will deliver by First-Class Mail a second payment equal to a *pro rata* share of the remaining Net Settlement Fund to each Authorized Claimant who cashed his check from the First Payment and who, in the First Payment, received an amount less than the Settlement Cap for at least one Season Roster Appearance (the "Second Payment"). Like the First Payment, the Second Payment will be based on the number of Season Roster Appearance Points the Authorized Claimant has as calculated in Paragraph 62(c). If there are any pending appeals pursuant to Paragraph 62(g), the Notice and Claims Administrator will wait until any such appeals are resolved before distributing any funds under the Second Payment process.

Authorized Claimants will have sixty (60) days from the date on the Notice and Claims Administrator's letter accompanying the Second Payment check to cash their settlement checks. All outstanding, un-cashed checks will become void after sixty (60) days, and the associated funds will revert to the Net Settlement Fund.

i. If there are remaining funds after all distributions described in Subparagraphs 62(a)-(h) above ("Residual Funds"), Class Counsel shall submit a plan for distribution of all such Residual Funds to the Court within 120 days of the date the final Second Payment described in Paragraph 62(h) is mailed. This plan shall describe the development and implementation of a trust fund program (1) focused on working with and/or through those NCAA member institutions willing to promote the program and assist in locating Settlement Class Members, (2) that would compensate any Settlement Class Members located at a basic per-Season-Roster–Appearance rate equal to the lowest amount received by any Authorized Claimant for a Season Roster Appearance under the Second Payment procedures described in Paragraph 62(h), until all Residual Funds are exhausted, and without right to object to or appeal that decision; and (3) that would—in the event all Residual Funds are not exhausted after five (5) years—convert into a hardship-based scholarship fund designed to assist Settlement Class Members who did not graduate with a college degree and who wish to return to college. Under no circumstances shall any funds be returned to the NCAA or its member institutions unless, as part of the trust fund program described above, the funds are held by the NCAA or its member institutions for use by Settlement Class Members exclusively and no administrative fees are deducted from the funds. Class Counsel is under no obligation to include the NCAA or its member institutions in the plan submitted to the court. Class Counsel shall endeavor to distribute funds to Settlement Class Members who were allocated less than the Settlement Cap.

VII. NOTICE AND ADMINISTRATION FUND AND MAILING OF CLASS NOTICE

63. The Notice and Administration Fund shall be used by Class Counsel to pay the costs of identifying and notifying Settlement Class Members, and, as allowed by the Court, soliciting the filing of Claims, facilitating the claims process, and otherwise administering the Settlement on behalf of the Settlement Class Members. Any notice and administration costs, as well as all applicable Taxes and escrow fees, shall be paid out of the Notice and Administration Fund and, if the Notice and Administration Fund is exhausted, out of the Settlement Fund. Notice and administration costs shall include, among other things, identifying the last-known mailing address

Settlement Class Members, the cost of publishing notice, printing and mailing notice, as directed by the Court, and the cost of processing Claims and distributing the Net Settlement Fund to Settlement Class Members.

64. NCAA represents that it is currently unable to identify the names and last-known addresses of Settlement Class Members. Accordingly, the NCAA will cooperate in good faith to assist in identifying the names and last-known addresses of potential Settlement Class Members by requesting that its member institutions and affiliated alumni associations provide to the Notice and Claims Administrator reasonably ascertainable information regarding the names and last-known addresses of NCAA football and basketball players who were listed on a roster published or issued by a school whose team was included in an NCAA-Branded Videogame published or distributed during the *Keller* Right of Publicity Settlement Class Period. To the extent that a member institution or affiliated alumni association declines to provide such information, Class Counsel shall endeavor in good faith to obtain such information, including when necessary by subpoena to such member institution or affiliated alumni association (to the extent Class Counsel have not already done so), and shall forward any information received to the Notice and Claims Administrator.

65. Before mailing the Notice of Settlement of Class Action, the Notice and Claims Administrator shall make a good-faith attempt to obtain the most-current names and addresses for all potential Settlement Class Members, including cross-checking the names and/or addresses it received from the NCAA member institutions and alumni associations, as well as any other sources, with appropriate databases (e.g., the National Change of Address Database) and performing further reasonable searches (e.g., through Lexis/Nexis) for more-current names and/or addresses for potential Settlement Class Members. All Settlement Class Members' names and addresses obtained through these sources shall be protected as confidential and not used for purposes other than the notice and administration of this Settlement.

66. The Notice and Claims Administrator shall send a copy of the Notice of Settlement of Class Action by first-class mail to each potential Settlement Class Member identified as a result of the above search(es), as well as to Hagens Berman Sobol Shapiro LLP and The Paynter Law

Firm PLLC and to counsel for the NCAA. The Parties shall use their best efforts to complete the mailing of the Notice of Settlement of Class Action to potential Settlement Class Members within one hundred twenty (120) days after entry of the Preliminary Approval Order.

67. If any Notice of Settlement of Class Action mailed to any potential Settlement Class Member in accordance with Paragraph 66 is returned to the Notice and Claims Administrator as undeliverable, the Notice and Claims Administrator will promptly log each such Notice of Settlement of Class Action and provide copies of the log to Class Counsel and counsel for the NCAA, as requested. If the mailing is returned with a forwarding address, the Notice and Claims Administrator shall forward the mailing to that address. For the remaining returned mailings, the Notice and Claims Administrator shall made a good-faith search of an appropriate database, and mailings shall be forwarded to any new address obtained through such a search. In the event that any Notice of Settlement of Class Action is returned as undeliverable a second time, no further mailing shall be required.

68. It is agreed by the Parties that the procedures set forth in Paragraphs 63-67 constitute reasonable and the best practicable notice under the circumstances and an appropriate and sufficient effort to locate current addresses for Settlement Class Members such that no additional efforts to do so shall be required.

69. The Notice and Claims Administrator will provide Class Notice by, at a minimum, (i) First-Class Mail (where available) notice without material variation from the form attached as Exhibit B; (ii) a content-neutral settlement website managed by the Notice and Claims Administrator, and approved by counsel for the Parties, which will contain further information about the Settlement and Claims process, including relevant pleadings; and (iii) nationwide publication on the Internet through directed advertising to likely Settlement Class Members containing or linking to the Summary of Class Action Settlement, without material variation from the form attached as Exhibit C. The Class Notice shall comply with Rule 23 and due process.

70. The Parties agree to notify each other and the Notice and Claims Administrator of the receipt of any request for exclusion or objection to this Settlement within one (1) business day of receipt.

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

72. If the Settlement is not approved, is overturned, or is modified on appeal or as a result of further proceedings on remand of any appeal with respect to the Settlement, or if the Effective Date otherwise does not occur, the balance of the Notice and Administration Fund which has not been expended pursuant to this Agreement, and the balance of the Settlement Fund, including all earned or accrued interest, shall be returned to the NCAA within five (5) days, or as soon as practicable, as set forth in this Agreement and in accordance with the Escrow Agreement.

VIII. RELEASES

73. The Released Claims against each and all of the Released Parties shall be released and dismissed with prejudice and on the merits (without an award of costs to any party other than those provided in Paragraph 58) upon entry of District Court Final Approval Order and Judgment.

74. As of the Effective Date, the *Keller* Named Plaintiffs, and all Settlement Class Members who have not been excluded from the Settlement Class as provided in the Opt-Out List, individually and on behalf of their heirs, estates, trustees, executors, administrators, representatives, agents, successors, and assigns, and anyone claiming through them or acting or purporting to act on their behalf, agree to forever release, discharge, hold harmless, and covenant not to sue each and all of the Released Parties from each and all of the Released Claims, and by operation of the Judgment shall have fully and finally released, relinquished, and discharged all Released Claims against each and all of the Released Parties; and they further agree that they shall not now or hereafter initiate, maintain, or assert any Released Claims against the Released Parties in any other court action or before any administrative body, tribunal, arbitration panel, or other adjudicating body. Without in any way limiting the scope of the release described in Paragraphs 33-34 and 73-78, this release covers, without limitation, any and all claims for attorneys' fees, costs, or disbursements incurred by Class Counsel or any other counsel representing the *Keller* Named Plaintiffs or Settlement Class Members, or by the *Keller* Named Plaintiffs or Settlement Class Members, or any of them, in connection with or related in any manner to the Lawsuits, the

Settlement of the Lawsuits, the administration of such Settlement, and/or the Released Claims, except to the extent otherwise specified in the Agreement.

75. As of the Effective Date, the *Keller* Plaintiffs, and all Settlement Class Members who have not been excluded from the Settlement Class as provided in the Opt-Out List, shall be permanently barred and enjoined from initiating, asserting, or prosecuting against the Released Parties in any federal or state court or tribunal any and all Released Claims, as further provided in Paragraph 50(m).

76. The *Keller* Named Plaintiffs and the Settlement Class Members expressly acknowledge that they are familiar with principles of law such as Section 1542 of the Civil Code of the State of California and Section 20-7-11 of the South Dakota Codified Laws, which provide:

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

77. The *Keller* Named Plaintiffs and the Settlement Class Members hereby expressly agree that to the extent the provisions, rights, and benefits of Section 1542 of the Civil Code of the State of California and Section 20-7-11 of the South Dakota Codified Laws and all similar federal or state laws, rights, rules, or legal principles of any other jurisdiction may be applicable herein, they are hereby knowingly and voluntarily waived and relinquished by the *Keller* Named Plaintiffs and the Settlement Class Members to the fullest extent permitted by law in connection with all unknown claims constituting Released Claims, and the *Keller* Named Plaintiffs and the Settlement Class Members hereby agree and acknowledge that this is an essential term of the Settlement Agreement. In connection with the release, the *Keller* Named Plaintiffs and the Settlement Class Members acknowledge that they are aware that they may hereafter discover claims presently unknown and unsuspected or facts in addition to or different from those which they now know or believe to be true with respect to matters released herein. Nevertheless, the *Keller* Named Plaintiffs and the Settlement Class Members acknowledge that a portion of the consideration received herein is for a release with respect to future damages and complaints, whether resulting

from known injuries and consequences or from unknown injuries or unknown consequences of known or unknown injuries, and state that it is the intention of the *Keller* Named Plaintiffs and the Settlement Class Members in agreeing to this release fully, finally, and forever to settle and release all matters and all claims that exist, hereafter may exist, or might have existed (whether or not previously or currently asserted in any action), constituting Released Claims.

78. Subject to Court approval, the *Keller* Named Plaintiffs, and all Settlement Class Members who have not been excluded from the Settlement Class as provided in the Opt-Out List, shall be bound by this Settlement Agreement, and all of their claims shall be dismissed with prejudice and released, even if they never received actual notice of the Lawsuits or this Settlement.

IX. ADMINISTRATION OF THE SETTLEMENT FUND

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

80. The Notice and Administration Fund and the Settlement Fund shall be applied as follows:

a. to pay all costs and expenses incurred in connection with providing Class Notice to Settlement Class Members and, as allowed by the Court, locating Settlement Class Members' last-known addresses, soliciting Claims, assisting with the filing of Claims, administering and distributing the Settlement Fund to the Settlement Class, processing Claim Forms and any objections, processing requests for exclusion, and escrow fees and costs, in accordance with the terms provided for the Notice and Administration Fund in Paragraphs 63-69;

b. subject to the approval and further order(s) of the Court, and according to the terms provided in Paragraph 57, to pay to the *Keller* Named Plaintiffs Incentive Awards based on contributions and time expended assisting in the litigation, up to a maximum of $5,000 for each *Keller* Named Plaintiff;

c. subject to the approval and further order(s) of the Court, and according to the terms of Paragraph 58, to pay the Fee and Expense Award as ordered by the Court;

d. to pay Taxes and Tax Expenses owed by the Settlement Fund, according to the terms in Paragraphs 55-56;

e. to pay any costs and expenses incurred in connection with the services provided by the Escrow Agent; and

f. subject to the approval and further order(s) of the Court, to distribute the balance of Net Settlement Fund for the benefit of the Settlement Class pursuant to Paragraph 62, or as otherwise ordered by the Court. No funds from the Net Settlement Fund shall be disbursed until after the Effective Date.

81. Settlement Class Members who are not on the Opt-Out List approved by the Court shall be subject to and bound by the provisions of the Settlement Agreement, the releases contained herein, and the Judgment with respect to all Released Claims, regardless of whether they seek or obtain any distribution from the Settlement Fund.

82. The NCAA shall bear no responsibility for the costs, fees, or expenses related to the administration and distribution of the Settlement Fund. Neither the NCAA nor its counsel shall have any responsibility for, interest in, or liability whatsoever with respect to the Settlement Fund, any Plan of Allocation, the determination, administration, or calculation of Claims, the payment or withholding of Taxes, the distribution of the Net Settlement Fund, or any losses incurred in connection with any such matters.

83. The NCAA shall have no responsibility for, or liability concerning, the appointment of the Notice and Claims Administrator and any actions taken by it.

84. Payment from the Settlement Fund and Net Settlement Fund made pursuant to and in the manner set forth herein shall be deemed conclusive of compliance with this Settlement Agreement as to all Settlement Class Members.

85. No Settlement Class Member shall have any claim against the *Keller* Named Plaintiffs, Class Counsel, or the Notice and Claims Administrator based on distributions made substantially in accordance with this Settlement Agreement and/or orders of the Court. No Settlement Class Member shall have any claim against the NCAA or its counsel relating to distributions made under this Settlement.

X. EFFECT OF DISAPPROVAL, CANCELLATION, OR TERMINATION OF SETTLEMENT AGREEMENT

86. If the Court does not approve the Settlement as set forth in this Settlement Agreement, or does not enter the District Court Final Approval Order and Judgment that will be agreed upon by the Parties, or if the Court enters the Judgment and appellate review is sought, and

on such review, the entry of Judgment is vacated, modified in any way, or reversed, or if the District Court Final Approval Order does not otherwise become Final, then this Settlement Agreement shall be cancelled and terminated, unless all Parties, in their sole discretion within thirty (30) days from the date of such ruling, provide written notice to all other Parties hereto of their intent to proceed with the Settlement under the terms of the Judgment as it may be modified by the Court or any appellate court.

87. The NCAA shall have the right to withdraw from the Settlement if the number of Settlement Class Members who attempt to exclude themselves from the Settlement Class equals or exceeds 1,000 potential Settlement Class Members. If the NCAA chooses to exercise this right, it must do so within ten (10) days of receipt of the Notice and Claims Administrator's opt-out list as provided in Paragraph 98, by providing written notice to Class Counsel, as set forth in Paragraph 98.

88. In the event that (i) the Settlement is not approved, is overturned, or is materially modified by the Court or on appeal, (ii) the Judgment does not become Final, or (iii) this Settlement Agreement is terminated, cancelled, or fails to become effective for any reason, including as set forth in Paragraphs 86-90, then within five (5) business days after written notice is sent by Class Counsel or counsel for Settling Defendant to all Parties hereto, the Notice and Administration Fund, less any funds paid or expenses incurred but not yet paid, the Settlement Fund, and any other cash deposited by the NCAA into the Escrow Account pursuant to Paragraph 54, shall be refunded to the NCAA, including interest earned or accrued.

89. In the event that (i) the Settlement is not approved, is overturned, or is materially modified by the Court or on appeal, (ii) the Judgment does not become Final, or (iii) this Settlement Agreement is terminated, cancelled, or fails to become effective for any reason, including those set forth in Paragraphs 86-90, then (a) the Settlement shall be without force and effect upon the rights of the Parties hereto, and none of its terms shall be effective or enforceable, with the exception of this Paragraph, which shall remain effective and enforceable; and (b) the Parties shall be deemed to have reverted *nunc pro tunc* to their respective status as of the date and time immediately before the execution of the Settlement Agreement (and the NCAA shall be

refunded the amounts stated in Paragraph 88); (c) all Orders entered in connection with the Settlement, including the certification of the Settlement Class, shall be vacated without prejudice to any Party's position on the issue of class certification or any other issue, in the Lawsuits or any other action, and the Parties shall be restored to their litigation positions existing on the date of execution of this Agreement; (d) the *Keller* Right of Publicity Claims shall be reasserted in the TCAC; and (e) the Parties shall proceed in all respects as if the Settlement Agreement and related documentation and orders had not been executed, and without prejudice in any way from the negotiation or fact of the Settlement or the terms of the Settlement Agreement. The Settlement Agreement, the Settlement, all documents, orders, and other evidence relating to the Settlement, the fact of their existence, any of their terms, any press release or other statement or report by the Parties or by others concerning the Settlement Agreement, the Settlement, their existence, or their terms, any negotiations, proceedings, acts performed, or documents executed pursuant to or in furtherance of the Settlement Agreement or the Settlement shall not be offered, received, or construed as evidence of a presumption, concession, or an admission of liability, of the certifiability of a litigation class, or of any misrepresentation or omission in any statement or written document approved or made, or otherwise used by any Person for any purpose whatsoever, in any trial of these Lawsuits or any other action or proceedings.

90. NCAA does not agree or consent to certification of the Settlement Class for any purpose other than to effectuate the Settlement of the Lawsuits. If this Settlement Agreement is terminated pursuant to its terms, or the Effective Date for any reason does not occur, all Orders certifying the Settlement Class for purposes of effecting this Settlement Agreement, and all preliminary and/or final findings regarding the Settlement Class certification order, shall be automatically vacated upon notice to the Court, the Lawsuits shall proceed as though the Settlement Class had never been certified pursuant to this Settlement Agreement and such findings had never been made, and the Lawsuits shall revert *nunc pro tunc* to the procedural status quo as of the date and time immediately before the execution of the Settlement Agreement, in accordance with this Settlement Agreement.

XI. PROCEDURES FOR REQUESTS FOR EXCLUSION

91. Settlement Class Members who wish to exclude themselves (or "opt out") from the Settlement Class must submit timely, written requests for exclusion. To be effective, such a request must include the Settlement Class Member's name and address, a clear and unequivocal statement that the Settlement Class Member wishes to be excluded from the Settlement Class, and the signature of the Settlement Class Member or the Legally Authorized Representative of the Settlement Class Member. The request must be mailed to the Notice and Claims Administrator at the address provided in the Notice of Settlement of Class Action and must be postmarked no later than sixty (60) days after the Mailed Notice Date (the "Exclusion/Objection Deadline"). Requests for exclusion must be exercised individually by the Settlement Class Member, not as or on behalf of a group, class, or subclass, except that such exclusion requests may be submitted by a Settlement Class Member's Legally Authorized Representative.

92. The Notice and Claims Administrator shall promptly log each request for exclusion that it receives and provide copies of the log and all such requests for exclusion to Class Counsel and counsel for the NCAA, as requested.

93. The Notice and Claims Administrator shall prepare a list of all Persons who timely and properly requested exclusion from the Settlement Class and shall, before the Fairness Hearing, submit an affidavit to the Court attesting to the accuracy of the list.

94. All Settlement Class Members who are not included in the Opt-Out List approved by the Court shall be bound by this Agreement, and all their claims shall be dismissed with prejudice and released as provided for herein, even if they never received actual notice of the Lawsuits or this proposed Settlement.

95. The Notice and Claims Administrator, in its sole discretion, shall determine whether a request for exclusion was timely submitted. The Settlement Administrator's decision shall be final, binding, and nonappealable.

96. The *Keller* Named Plaintiffs agree not to request exclusion from the Settlement Class.

97. Settlement Class Members may object to or opt out of the Settlement, but may not do both. Any Settlement Class Member who submits a timely request for exclusion may not file an objection to the Settlement or submit a Claim, and shall be deemed to have waived any rights or benefits under the Settlement Agreement.

98. No later than ten (10) business days after the Exclusion/Objection Deadline, the Notice and Claims Administrator shall provide to Class Counsel and counsel for the NCAA a complete opt-out list together with copies of the opt-out requests. Notwithstanding any other provision of this Settlement Agreement, if more than 1,000 Settlement Class Members opt out of the Settlement, the NCAA at its sole and exclusive option may elect to rescind and revoke the entire Settlement Agreement, thereby rendering the Settlement null and void in its entirety, by sending written notice that it revokes the Settlement pursuant to this Paragraph to Class Counsel within ten (10) business days following receipt of the Notice and Claims Administrator's opt-out list.

XII. PROCEDURES FOR OBJECTIONS

99. Any Settlement Class Member or governmental entity that wishes to object to the fairness, reasonableness, or adequacy of this Agreement or the proposed Settlement must provide to the Notice and Claims Administrator (who shall forward it to Class Counsel and Counsel for the NCAA), and file with the Court, a timely statement of the objection, as set forth in Paragraphs 100-103.

100. To be timely, the objection must be postmarked and mailed to the Notice and Claims Administrator, and filed with the Court, no later than sixty (60) days after the Mailed Notice Date (the "Exclusion/Objection Deadline").

101. The objection must contain at least the following: (1) the objector's full name, address, telephone, and signature; (2) a heading that refers to the Lawsuits by name and case number; (3) a statement of the specific legal and factual basis for each objection argument; and (4) a statement whether the objecting person or entity intends to appear at the Fairness Hearing, either in person or through counsel and, if through counsel, a statement identifying that counsel by name, bar number, address, and telephone number. All objections shall be signed by the objecting

Settlement Class Member (or his Legally Authorized Representative), even if the Settlement Class Member is represented by counsel.

102. Any Settlement Class Member (and/or his attorney), or any attorney working for a governmental entity, who wishes to appear in the Lawsuits to object to the settlement or who is representing or assisting a Settlement Class Member in connection with any objection to the settlement (including, but not limited to, by drafting or preparing papers for an objection on behalf of a Settlement Class Member) must provide to the Notice and Claims Administrator (who shall forward it to Class Counsel and counsel for the NCAA) and file with the Clerk of the Court a notice of appearance no later than sixty (60) days after the Mailed Notice Date.

103. The right to object to the proposed settlement must be exercised individually by a Settlement Class Member or his attorney, and not as a member of a group, class, or subclass, except that such objections may be submitted by a Settlement Class Member's Legally Authorized Representative.

104. Any Settlement Class Member who does not file a timely notice of intent to object in accordance with Paragraphs 100-103 shall waive the right to object or to be heard at the Fairness Hearing and shall be forever barred from making any objection to the proposed Settlement, the Plan of Allocation, the Fee and Expense Award, and the Incentive Awards. Settlement Class Members who object to the proposed Settlement shall remain Settlement Class Members, and shall be deemed to have voluntarily waived their right to pursue an independent remedy against the NCAA and the Released Parties. To the extent any Settlement Class Member objects to the proposed Settlement, and such objection is overruled in whole or in part, such Settlement Class Member will be forever bound by the District Court Final Approval Order and Judgment.

105. In the event that any Person objects to or opposes this proposed Settlement, or attempts to intervene in or otherwise enter the Lawsuits, the Parties agree to use their best efforts to cooperate in the defense of the Settlement. Notwithstanding the foregoing, it shall be Class Counsel's sole responsibility to respond to any objections made with respect to any application for the Fee and Expense and Incentive Awards.

XIII. ADDITIONAL PROVISIONS

106. All of the Exhibits to this Agreement are an integral part of the Settlement and are incorporated by reference as though fully set forth herein.

107. The *Keller* Named Plaintiffs and Class Counsel acknowledge that an adequate factual record has been established that supports the Settlement and, apart from the limited discovery described in the next sentence, hereby waive any right to conduct further discovery to assess or confirm the Settlement. Notwithstanding the prior sentence, the Parties agree to reasonably cooperate with respect to limited confirmatory discovery to be agreed upon related to the last-known addresses of Settlement Class Members.

108. Unless otherwise noted, all references to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

109. This Agreement supersedes all prior negotiations and agreements and may be amended or modified only by a written instrument signed by counsel for all Parties or the Parties' successors-in-interest.

110. The Parties reserve the right, subject to the Court's approval, to make any reasonable extensions of time that might be necessary to carry out any of the provisions of this Agreement. Such extensions must be in writing to be enforceable.

111. The Settlement Agreement, the Settlement, the fact of the Settlement's existence, any of terms of the Settlement Agreement, any press release or other statement or report by the Parties or by others concerning the Settlement Agreement or the Settlement, and/or any negotiations, proceedings, acts performed, or documents executed pursuant to or in furtherance of the Settlement Agreement or the Settlement: (i) may not be deemed to be, may not be used as, and do not constitute an admission or evidence of the validity of any Released Claims or of any wrongdoing or liability of the NCAA; and (ii) may not be deemed to be, may not be used as, and do not constitute an admission or evidence of any fault, wrongdoing, or omission by the NCAA in any trial, civil, criminal, or administrative proceeding of the Lawsuits or any other action or proceedings in any court, administrative agency, or other tribunal.

112. The Released Parties shall have the right to file the Settlement Agreement, the District Court Final Approval Order and Judgment, and any other documents or evidence relating to the Settlement in any action that may be brought against them in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good-faith settlement, judgment bar, reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

113. The Parties to the Settlement Agreement agree that the Settlement Amount and the other terms of the Settlement were negotiated at arm's length and in good faith by the Parties, resulted from numerous arm's-length mediations, and reflect a settlement that was reached voluntarily based upon adequate information and sufficient discovery and after consultation with experienced legal counsel.

114. The *Keller* Named Plaintiffs and Class Counsel have concluded that the Settlement set forth herein constitutes a fair, reasonable, and adequate resolution of the claims that the *Keller* Named Plaintiffs asserted against the NCAA, including the claims on behalf of the Settlement Class, and that it promotes the best interests of the Settlement Class.

115. To the extent permitted by law, all agreements made and orders entered during the course of the Lawsuits relating to the confidentiality of information shall survive this Settlement Agreement.

116. The Parties agree that the *Keller* Plaintiffs and Class Counsel are not required to return any documents produced by Settling Defendant until the final resolution of the Lawsuits. Within sixty (60) days following the Effective Date, Class Counsel shall return to the NCAA all documents produced in the Lawsuits, or confirm in writing that all such documents have been destroyed, in a manner consistent with the terms of any applicable Protective Order in any of the Lawsuits, and to the extent practicable.

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

118. This Settlement Agreement, including its Exhibits, constitutes the entire agreement among the Parties, and no representations, warranties, or inducements have been made to any Party concerning this Settlement Agreement or its exhibits, other than the representations, warranties, and covenants contained and memorialized in this Settlement Agreement and its exhibits.

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

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

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

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

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

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

purposes related to this Settlement Agreement. This Paragraph relates solely to the law governing this Settlement Agreement and any action based thereon, and nothing in this Paragraph shall be construed as an admission or finding that California, Indiana, or New Jersey law applies to the Released Claims of any Settlement Class Members who reside outside of those respective states.

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

126. The headings used in this Settlement Agreement are for the convenience of the reader only, and shall not affect the meaning or interpretation of this Settlement Agreement.

127. In construing this Settlement Agreement, the use of the singular includes the plural (and vice-versa) and the use of the masculine includes the feminine (and vice-versa).

128. Each Party to this Settlement Agreement warrants that he, she, or it is acting upon his or its independent judgment and upon the advice of his or its counsel, and not in reliance upon any warranty or representation, express or implied, of any nature of any kind by any other Party, other than the warranties and representations expressly made in this Settlement Agreement.

129. Signatory counsel warrant that they are fully authorized to execute this Agreement on behalf of their respective co-counsel listed below. Each counsel signing this Settlement Agreement on behalf of his/her clients who are unable to sign the Agreement on the date that it is executed by other Parties represents that such counsel is fully authorized to sign this Settlement Agreement on behalf of his/her clients; provided, however, that all Parties who have not executed this Agreement on the date that it is executed by the other Parties shall promptly thereafter execute this Agreement, and in any event no later than one (1) week after the Agreement has been executed by counsel.

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SIGNED AND AGREED:

Dated: July ___, 2014

Samuel Michael Keller

Dated: July __, 2014

Bryan Cummings

Dated: July __, 2014

LaMarr Watkins

Dated: July __, 2014

Bryon Bishop

Dated: July 23, 2014

HAGENS BERMAN SOBOL SHAPIRO LLP

By: _____

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Attorneys for *Keller* Named Plaintiffs

Dated: July ___, 2014

National Collegiate Athletic Association

By:_____
Mark Lewis
Title: Executive Vice President

Dated: July 23, 2014

SCHIFF HARDIN LLP

By:_____
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Attorneys for Defendant National Collegiate Athletic Association

Dated: July 23, 2014

National Collegiate Athletic Association

By: _____
Mark Lewis
Title: Executive Vice President

Dated: July ___, 2014

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Counsel for Plaintiffs

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

SAMUEL MICHAEL KELLER, et al., on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

ELECTRONIC ARTS, INC.; NATIONAL COLLEGIATE ATHLETICS ASSOCIATION; COLLEGIATE LICENSING COMPANY,

Defendants.

Case No. 4:09-cv-1967 CW

[PROPOSED]

ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

Judge: Hon. Claudia Wilken
Courtroom: 2, 4th Floor
Complaint Filed: May 5, 2009

Plaintiffs Samuel Michael Keller, Bryan Cummings, LaMarr Watkins, and Bryon Bishop (the "*Keller* Named Plaintiffs"), individually and as representatives of the Settlement Class defined in Paragraph 4 below, and Defendant National Collegiate Athletic Association ("NCAA") have entered into an Amended Class Action Settlement Agreement and Release, including the Exhibits incorporated therein (the "Settlement Agreement"), to settle the above-captioned lawsuit, including *Bishop v. Electronic Arts, Inc., et al.*, No. 4:09-cv-04128-CW (the "Lawsuits"). The Settlement Agreement sets forth the terms and conditions for a proposed Settlement and dismissal with prejudice of the Lawsuits.

On June 30, 2014, the Parties submitted to the Court their original proposed settlement agreement and related papers (Dkt. 1138). On July 3, 2014, the Court conducted a telephone status hearing to provide its comments on those papers. As a result of that status hearing, the Parties submitted their current Settlement Agreement and related preliminary approval papers.

This Court also has before it a motion for preliminary approval of a proposed class action settlement in *In re NCAA Student-Athlete Name and Likeness Licensing Litigation*, No. 4:09-cv-1967-CW (NC), between Electronic Arts Inc. ("EA"), Collegiate Licensing Company LLC ("CLC"), and various named plaintiffs (the "EA Videogame Settlement"). The two proposed class action settlements both concern the alleged use of NCAA men's football and basketball players' names, images, and likenesses in certain NCAA-Branded Videogames manufactured and distributed by EA. Accordingly, the parties in both proposed settlements are attempting, to the extent feasible, to coordinate the notice and claims administration of both settlements. Because the two settlements are separate, however, the Court will issue separate orders in each settlement, and will evaluate each proposed settlement on its own terms.

Regarding the proposed Settlement in the *Keller* and *Bishop* cases (i.e., the Lawsuits), the Court has carefully considered all filings relating to the Settlement Agreement, the arguments of counsel, and the record in this case, and is otherwise advised in the premises. The Court hereby gives its preliminary approval to the Settlement and the Settlement Agreement; finds that the Settlement and Settlement Agreement are sufficiently fair, reasonable, and adequate to allow dissemination of notice of the Settlement to the Settlement Class and to hold a Fairness Hearing;

orders that Class Notice be sent to the Settlement Class in accordance with the Settlement Agreement and this Order; and schedules a Fairness Hearing to determine whether the proposed Settlement is fair, reasonable, and adequate.

IT IS HEREBY ORDERED AND ADJUDGED:

1. The Settlement Agreement is hereby incorporated by reference in this Order, and all terms and phrases used in this Order shall have the same meaning as in the Settlement Agreement.

2. This Court has personal jurisdiction over all Settlement Class Members and subject matter jurisdiction to approve the Settlement Agreement.

3. The Court preliminarily approves the Settlement Agreement and finds that the proposed Settlement is sufficiently fair, reasonable, and adequate to warrant providing notice to the Settlement Class.

4. The Court preliminarily certifies for settlement purposes only the following Settlement Class pursuant to Federal Rule of Civil Procedure 23(b)(3):

> All NCAA Division I football and men's basketball players (1) listed on a roster published or issued by a school whose team was included in an NCAA-Branded Videogame originally published or distributed from May 4, 2003 through [date of preliminary approval], and (2) whose assigned jersey number appears on a virtual player in the software, or whose photograph was otherwise included in the software.
>
> Excluded from the Settlement Class are EA, CLC, the NCAA, and their officers, directors, legal representatives, heirs, successors, and wholly or partly owned subsidiaries or affiliated companies; Class Counsel and their employees and immediate family members; and the judicial officers and associated court staff assigned to the Lawsuits and their immediate family members.

The NCAA and the Released Parties shall retain all rights to assert that the Lawsuits may not be certified as a class action except for settlement purposes.

5. The Court finds, for purposes of preliminary approval and for settlement purposes only, that (a) Members of the Settlement Class are so numerous as to make joinder of all Settlement Class Members impracticable; (b) there are questions of law or fact common to Members of the Settlement Class; (c) the claims of the *Keller* Named Plaintiffs are typical of the claims of the Settlement Cass Members; (d) the *Keller* Named Plaintiffs and Class Counsel will fairly and adequately protect the interests of the Settlement Class Members; (e) questions of law or

fact common to the Settlement Class Members predominate over questions affecting only individual Settlement Class Members; and (f) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

6. The Court appoints the *Keller* Named Plaintiffs as representatives of the Settlement Class.

7. The Court appoints Hagens Berman Sobol Shapiro LLP and The Paynter Law Firm PLLC as Class Counsel.

8. The Court appoints _____ as the Notice and Claims Administrator, which shall administer the Settlement in accordance with the terms and conditions of this Order and the Settlement Agreement.

9. The Court has reviewed and approves the Notice of Settlement of Class Action, the content of which shall be without material alteration from Exhibit B to the Settlement Agreement.

10. The Court also approves the Claim Form, the content of which shall be without material alteration from Exhibit D to the Settlement Agreement. To be considered timely, a Claim Form must be submitted by a Settlement Class Member or that Settlement Class Member's Legally Authorized Representative so that it is postmarked and mailed to the Notice and Claims Administrator, or submitted online via the settlement website, by no later than _____ . Any Claim Form postmarked or submitted after this date shall be untimely and invalid. A Settlement Class Member may choose to file a single Claim Form to be considered for payment in both the EA Videogame Settlement and this Settlement, unless the Settlement Class Member has excluded himself from one of the two settlements (in which case, his Claim Form will be considered for payment only in the settlement from which he did not exclude himself), or unless the Settlement Class Member indicates on the Claim Form that he wishes to submit a claim in only one settlement.

11. The Court approves the Settlement Agreement's Class Notice plan. As part of that Class Notice plan, the NCAA will request that its member institutions and affiliated alumni associations provide to the Notice and Claims Administrator reasonably ascertainable information regarding the names and last-known addresses of NCAA football and basketball players who were

listed on a roster published or issued by a school whose team was included in an NCAA-Branded Videogame originally published or distributed during the *Keller* Right of Publicity Settlement Class Period. To the extent that a member institution or affiliated alumni association declines to provide such information, Class Counsel shall endeavor in good faith to obtain such information, including when necessary by subpoena to such member institution or affiliated alumni association (to the extent Class Counsel have not already done so), and shall forward any information received to the Notice and Claims Administrator. All names and addresses obtained through these sources shall be protected as confidential and not used for purposes other than the notice and administration of this Settlement, unless otherwise required by law or court order. Before mailing the Notice of Settlement of Class Action, the Claims Administrator shall follow the procedures for updating the addresses set out in Paragraph 65 of the Settlement Agreement.

12. The Parties and the Notice and Claims Administrator shall use their best efforts to complete the mailing of the Notice of Settlement of Class Action to potential Settlement Class Members within one hundred twenty (120) days after entry of this Order (_____) (the "Mailed Notice Date"). The Court further directs the Notice and Claims Administrator to re-mail any mailings returned as undeliverable in accordance with the procedures in Paragraph 66 of the Settlement Agreement. The Notice and Claims Administrator shall file proof of mailing of the Notice of Settlement of Class Action at or before the Fairness Hearing.

13. In addition to the Notice of Class Action Settlement described above, the Court directs the Notice and Claims Administrator to establish a content-neutral settlement website as described in Paragraphs 61 and 69 of the Settlement Agreement. The website shall include, at a minimum, copies of the Settlement Agreement, the Notice of Settlement of Class Action, and the Preliminary Approval Order; provide an online means of submitting a Claim Form; identify important deadlines and provide answers to frequently asked questions; and may be amended as appropriate during the course of the Settlement administration.

14. In addition, the Court orders the Parties to implement the plan for publication notice described in Paragraph 69 of the Settlement Agreement. The Court has reviewed and approves the Summary Notice of Settlement of Class Action, the content of which shall be without material

alteration from Exhibit C to the Settlement Agreement.

15. The Court finds that the procedures outlined in the Settlement Agreement for identifying potential Settlement Class Members and providing notice to them are reasonable and the best practicable notice under the circumstances and an appropriate and sufficient effort to locate current addresses for potential Settlement Class Members such that no additional efforts to do so shall be required.

16. The Court directs the Notice and Claims Administrator to maintain a toll-free VRU telephone system containing recorded answers to frequently asked questions, along with an option permitting Settlement Class Members to speak to live operators or leave messages in a voicemail box.

17. The Court finds that the Class Notice plan, including the form, content, and method of dissemination of the Class Notice to Settlement Class Members as described in the Settlement Agreement, (i) is the best practicable notice; (ii) is reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Lawsuits and of their right to object to or exclude themselves from the proposed Settlement; (iii) is reasonable and constitutes due, adequate, and sufficient notice to all Persons entitled to receive notice; and (iv) meets all applicable requirements of Federal Rule of Civil Procedure 23 and due process.

18. The Court approves the procedures set forth in the Settlement Agreement and the Notice of Settlement of Class Action for exclusions from and objections to the Settlement. Unlike Claim Forms, exclusion requests and objections must be submitted separately for this Settlement and for the EA Videogame Settlement.

19. Any Settlement Class Member who wishes to exclude himself from the Settlement Class must comply with the terms set forth in the Settlement Agreement and the Notice of Settlement of Class Action. To be considered timely, a request for exclusion must be mailed to the Notice and Claims Administrator postmarked no later than _____ (60 days after the Mailed Notice Date). Requests for exclusion must be exercised individually by a Settlement Class Member, not as or on behalf of a group, class, or subclass, except that such exclusion requests may be submitted on behalf of an individual Settlement Class Member by that

Settlement Class Member's Legally Authorized Representative.

20. Any Settlement Class Member who does not submit a timely, written request for exclusion from the Settlement Class will be bound by all proceedings, orders, and judgments in the Lawsuits, even if the Settlement Class Member has previously initiated or subsequently initiates individual litigation or other proceedings encompassed by the Released Claims, and even if such Settlement Class Member never received actual notice of the Lawsuits or this proposed Settlement.

21. The Court preliminarily enjoins all Settlement Class Members and their Legally Authorized Representatives, unless and until they submit a timely request for exclusion pursuant to the Settlement Agreement, (i) from filing, commencing, prosecuting, intervening in, or participating as plaintiff, claimant, or class member in any other lawsuit or administrative, regulatory, arbitration, or other proceeding in any jurisdiction based on the Released Claims; (ii) from filing, commencing, or prosecuting a lawsuit or administrative, regulatory, arbitration, or other proceeding as a class action on behalf of any Settlement Class Members (including by seeking to amend a pending complaint to include class allegations or seeking class certification in a pending action), based on the Released Claims; and (iii) from attempting to effect an opt-out of a group, class, or subclass of individuals in any lawsuit or administrative, regulatory, arbitration, or other proceeding based on the Released Claims.

22. Before the Fairness Hearing, the Notice and Claims Administrator shall file with the Court a list of all Settlement Class Members who submitted timely requests for exclusion, and also file an affidavit or declaration attesting to the accuracy of that list.

23. Each Settlement Class Member who has not submitted a timely request for exclusion from the Settlement Class, and any governmental entity, who wishes to object to the fairness, reasonableness, or adequacy of the Settlement Agreement or any term or aspect of the proposed settlement must mail to the Notice and Claims Administrator (who shall forward it to Class Counsel and Counsel for the NCAA) and file with the Court no later than _____ (60 days after the Mailed Notice Date) a statement of the objection, as well as the specific legal and factual reasons for each objection, or be forever barred from objection. The objection must comply with Paragraphs 99-105 of the Settlement Agreement

and the Notice of Settlement of Class Action, and contain at least the following: (1) the objector's full name, address, telephone number, and signature; (2) a heading that refers to the Lawsuits by case name and number; (3) a statement of the specific legal and factual basis for each objection; and (4) a statement whether the objecting Person or entity intends to appear at the Fairness Hearing, either in person or through counsel and, if through counsel, a statement identifying that counsel by name, bar number, address, and telephone number. All objections shall be signed by the objecting Settlement Class Member (or his Legally Authorized Representative), even if the Settlement Class Member is represented by counsel.

24. Any attorney hired by, representing, or assisting (including, but not limited to, by drafting or preparing papers for a Settlement Class Member) a Settlement Class Member or governmental entity for the purpose of objecting to any term or aspect of the Settlement Agreement or to the proposed Settlement shall mail to the Settlement Administrator (who shall forward it to Class Counsel and Counsel for the NCAA) and file with the Clerk of the Court a notice of appearance no later than _____ (60 days after the Mailed Notice Date).

25. The right to object to the proposed Settlement must be exercised individually by a Settlement Class Member or governmental entity or his or its attorney, and not as a member of a group, class, or subclass, except that such objections may be submitted by a Settlement Class Member's Legally Authorized Representative.

26. The Court directs the Notice and Claims Administrator to rent a post office box to be used for receiving objections, notices of intention to appear, and any other settlement-related communications.

27. The Court directs the Notice and Claims Administrator promptly to furnish Class Counsel and Counsel for NCAA copies of any and all objections, motions to intervene, notices of intention to appear, and other communications that come into its possession (except as otherwise expressly provided in the Settlement Agreement).

28. The Court orders that the certification of the Settlement Class and preliminary approval of the proposed Settlement, and all actions associated with them, are undertaken on the condition that they shall be vacated if the Settlement Agreement is terminated or disapproved in

whole or in part by the Court, or any appellate court and/or other court of review, or if any of the Parties invokes the right to withdraw from the Settlement as provided in Paragraphs 86-87 of the Settlement Agreement, in which event the Settlement Agreement and the fact that it was entered into shall not be offered, received, or construed as an admission or as evidence for any purpose, including but not limited to an admission by any Party of liability or non-liability or of any misrepresentation or omission in any statement or written document approved or made by any Party, or of the certifiability of a litigation class, or otherwise be used by any Person for any purpose whatsoever, in any trial of these Lawsuits or any other action or proceedings, as further provided in the Settlement Agreement.

29. By _____ (21 days after entry of this Order), NCAA shall pay into the Escrow Account the sum of $1,000,000, to be used by the Notice and Claims Administrator at the direction of Class Counsel for reasonable costs in connection with providing notice of the Settlement to Settlement Class Members. The Escrow Account shall be governed by the terms of the Settlement Agreement and the Escrow Agreement to be negotiated by the Parties.

30. The Court stays all proceedings in the Lawsuits until further order of the Court, except that the Parties may conduct such limited proceedings as may be necessary to implement the proposed Settlement or to effectuate the terms of the Settlement Agreement.

31. Class Counsel shall file a petition for fees, expenses, and incentive awards by _____ (21 days before the Exclusion/Objection Deadline). Class Counsel shall file reply briefs and any other supplemental final approval papers by _____ (14 days before the Fairness Hearing).

32. The Fairness Hearing shall be held at ____ __.m. on _____, for the purpose of determining (a) whether the Settlement is fair, reasonable, and adequate and should be finally approved by the Court; (b) the merit of any objections to the Settlement; (c) the requested Fee and Expense Award to Class Counsel; (d) the requested Incentive Awards to the *Keller* Named Plaintiffs; and (e) entry of the District Court Final Approval Order and Judgment approving the Settlement.

33. The Court may, for good cause, extend any of the deadlines set forth in this Order

without further notice to the Settlement Class.

Dated:_____ _____

Chief Judge Claudia Wilken

EXHIBIT B

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

If You Were Listed on a Roster of an NCAA Division I Men's Football or Basketball Team, and That Team Was Included in One of EA's Videogames Between May 4, 2003 and [preliminary approval date], You Could Be Affected by Two Proposed Class Action Settlements.

A federal court authorized this Notice. This is not a solicitation from a lawyer.

If you are a Class Member, your legal rights are affected whether you act or don't act.

Please Read This Notice and the Enclosed Claim Form Carefully

This Notice provides information about **two** proposed class action settlements concerning the alleged use of National Collegiate Athletic Association ("NCAA") men's football and basketball players' names, images, and likenesses in certain NCAA-Branded Videogames that were manufactured and distributed by Electronic Arts Inc. ("EA").

The EA Videogame Settlement:

There are class action lawsuits pending against EA and Collegiate Licensing Company LLC ("CLC"). These lawsuits involve, among other things, claims by student-athletes that EA and CLC (representing various NCAA member schools and sometimes the NCAA) violated their legal rights by allegedly licensing, using, and/or selling athletes' names, images, and likenesses in EA's NCAA-Branded Videogames. EA and CLC deny these allegations and deny any other wrongdoing. The Court has not ruled on the merits of these claims. *See Question 2, below, for more information about these lawsuits.*

A proposed settlement of $40 million has been reached between EA and the student-athletes who brought these cases. If the Court approves it, the EA Videogame Settlement will resolve these cases as to both EA and CLC.

Are these settlements related to the trial against the NCAA I've heard about?

You may have heard recently about a trial in a case by student-athletes (led by Edward O'Bannon) against the NCAA. Although the trial involved claims that the NCAA used student-athlete likenesses without permission, those claims were against the NCAA only for violations of antitrust laws. Also unlike the claims being resolved by this settlement, the claims in the trial did not involve claims for cash payments.

[Alt. #1: The trial in that case ended on ___, and as of the date of this Notice, the Court has not yet made a decision about the outcome.] [Alt. #2: The trial in that case ended on ___, and the Court ruled in favor of the student-athletes.] [Alt. #3: The trial in that case ended on ___, and the Court ruled in favor of the NCAA.]

The NCAA Videogame Settlement:

There are class action lawsuits pending against the NCAA. These lawsuits involve, among other things, claims by student-athletes that the NCAA violated their legal rights by allegedly participating in the license, use, and/or sale of athletes' names, images, and likenesses in EA's NCAA-Branded Videogames. The NCAA denies these allegations and denies any other wrongdoing. The Court has not yet ruled in favor of either the NCAA or the student-athletes on these claims. *See Question 2, below, for more information on these lawsuits.*

A proposed settlement of $20 million has been reached between the NCAA and the student-athletes who brought some of these cases. If the Court approves it, the NCAA Videogame Settlement will resolve these cases as to the NCAA.

YOU MAY BE A MEMBER OF ONE OR BOTH CLASS ACTION SETTLEMENTS. Although the two proposed settlements are similar in some respects, they contain different provisions, and it is possible that the Court could rule differently on each settlement. Please read this entire Notice carefully to make sure that you understand both settlements.

The Court in charge of these cases still has to decide whether to approve these settlements, and payments will only be made if the Court approves the settlements, and after any appeals are resolved. Please be patient, as this process can take a long time.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THE TWO SETTLEMENTS	
SUBMIT A CLAIM FORM	• This is the only way to get a payment under the settlements. • You can submit **one** Claim Form for both settlements. • *See the enclosed Claim Form for more details.* • **Requesting or Receiving a Payment Under Either of These Settlements Will NOT Affect Your NCAA Eligibility.**
EXCLUDE YOURSELF FROM ONE OR BOTH SETTLEMENTS	• Excluding yourself means you **get no payment**. • This is the only way you can ever be a part of any other case against EA, CLC, or the NCAA about the claims being resolved by these settlements. • You must submit a **separate** request for exclusion for **each** settlement. • *See Questions 16–18.*
OBJECT TO ONE OR BOTH SETTLEMENTS	• Write to the Court about why you don't like the settlements. • You must submit a **separate** objection for **each** settlement. • You cannot object in order to ask the Court for a higher payment for *yourself personally*, although you can object to the payment terms (or any other terms) that apply generally to the Class. • *See Questions 21–22*.
GO TO A HEARING	• Ask to speak in Court about the fairness of the settlements. • The Court will hold a hearing for both settlements on the same day to decide whether to approve the settlements. • *See Question 23.*
DO NOTHING	• Get no payment. Give up rights.

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BASIC INFORMATION

1. Why did I get this Notice?

You may have been on the roster of an NCAA Division I men's basketball or football team that was included in one of EA's NCAA-Branded Videogames from May 4, 2003 through [preliminary approval date], and you therefore may be a Member of one or both settlements. The fact that you have received this Notice does not necessarily mean that you are a Class Member in either settlement. *See Questions 5–7 for more details on how you can determine if you are a Class Member in the settlements*.

You were sent this Notice because, as a possible Class Member, you have a right to know about the two proposed class action settlements, and about all your options, before the Court decides whether to give "final approval" to the settlements. If the Court approves the settlements, payments will be made to those who qualify, but only after any objections and appeals are resolved.

This Notice explains the various lawsuits, the settlements, your legal rights, what benefits are available under the settlements, who is eligible for them, and how to get them. **You must submit a valid Claim Form to receive a payment under these settlements.** *See Questions 11–15 for more details on Claim Forms and the deadline to submit them.*

2. What are these lawsuits about?

There are class action cases pending against EA, CLC, and the NCAA. These cases deal with the alleged use of NCAA men's football and basketball players' names, images, and likenesses in EA's NCAA-Branded Videogames. These cases involve different claims and time periods. Generally speaking, though, the cases allege, among other things, that the NCAA, CLC, and EA violated the legal rights of student-athletes by using their names, images, and likenesses in EA's Videogames since May 4, 2003, both during and after the student-athletes' involvement in NCAA athletics.

EA, CLC, and the NCAA have denied the claims and have asserted various defenses to the claims.

3. What is a class action and who are the Parties?

In a class action lawsuit, one or more people, called "Class Representatives," sue on behalf of people who have similar claims. All these people together are a "Class" or "Class Members." One court resolves the issues for all Class Members, except for those who choose to exclude themselves from the Class (*see Question 16*).

The **Class Representatives** (or "**Plaintiffs**") in the cases involved in these settlements are or were all NCAA student-athletes:

- The Class Representatives in the **EA Videogame Settlement** are Edward C. O'Bannon Jr., Oscar Robertson, William Russell, Harry Flournoy, Alex Gilbert, Sam Jacobson, Thad Jaracz, David Lattin, Patrick Maynor, Tyrone Prothro, Damien Rhodes, Eric Riley, Bob Tallent, Danny Wimprine, Ray Ellis, Tate George, Jake Fischer, Jake Smith, Darius Robinson, Moses Alipate, Chase Garnham, Samuel Michael Keller, Bryan Cummings, LaMarr Watkins, Bryon Bishop, Ryan Hart, and Shawne Alston.
- The Class Representatives in the **NCAA Videogame Settlement** are Samuel Michael Keller, Bryan Cummings, LaMarr Watkins, and Bryon Bishop.

The **Defendants**, or people being sued, in the cases are EA, CLC, and the NCAA.

Together, the Class Representatives and the Defendants are called the "Parties."

4. Why is there a settlement?

EA, CLC, and NCAA have denied all liability in the lawsuits and have asserted various defenses to Plaintiffs' claims. The Court did not decide in favor of any Plaintiff or any Defendant on the legal claims being resolved here. Instead, all sides agreed to a settlement, which avoids the risk and cost of a trial, but still compensates the people affected. The Class Representatives and their attorneys think that both settlements are in the best interests of Class Members and that both settlements are fair, adequate, and reasonable.

WHO IS IN THE TWO SETTLEMENTS

To see if you are affected by the two proposed settlements, you first have to determine if you are a Class Member in one or both settlements.

5. How do I know if I am part of the settlements? What are the Class definitions?

If you fall under the Class definition below for a settlement, you are a Class Member in that settlement and may be eligible for a cash payment. *See Questions 9–15 for more details about how the amount of your payment will be calculated.* **You may be a Class Member in both settlements.**

> **EA Videogame Settlement:** Any NCAA Division I football and men's basketball player who **(1)** was listed on a roster published or issued by a school whose team was included in an NCAA-Branded Videogame originally published or distributed from July 21, 2005 through [preliminary approval date], **or (2)** was listed on such a roster from May 4, 2003 and whose jersey number or photograph was used in such a videogame.
>
> **NCAA Videogame Settlement:** All NCAA Division I football and men's basketball players who were **(1)** listed on a roster published or issued by a school whose team was included in an NCAA-Branded Videogame originally published or distributed from May 4, 2003 through [preliminary approval date], **and (2)** whose assigned jersey number appears on a virtual player in the software, or whose photograph was otherwise included in the software.

Excluded from the Classes are EA, CLC, the NCAA, and their officers, directors, legal representatives, heirs, successors, and wholly or partly owned subsidiaries or affiliated companies, Class Counsel and their employees, and their immediate family members, and the judicial offers, and associated court staff assigned to the cases involved in these settlements and their immediate family members.

The definitions above are summaries, and are not the exact definitions found in the Settlement Agreements. The specific definitions are set out in more detail in the Settlement Agreements, which are posted on www._____settlement.com. (*See* EA Videogame Settlement Agreement ¶¶ _____ and NCAA Videogame Settlement Agreement ¶¶ _____.)

6. What is an "NCAA-Branded Videogame"?

"NCAA-Branded Videogame" means every edition of *NCAA Football*, *NCAA Basketball*, and *NCAA March Madness* (on any videogame platform) originally published or distributed by EA between May 4, 2003 and [preliminary approval date].

7. I'm still not sure if I am included.

If you are still not sure whether you are included, you can get free help by contacting the Settlement Administrator using any of the methods listed in Question 27.

You are not required to pay anyone to assist you in filing a claim or obtaining information about the settlements.

THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

8. What do the proposed settlements provide?

Both proposed settlements provide for cash payments to eligible Class Members.

The EA Videogame Settlement has a total Settlement Fund of $40 million. The NCAA Videogame Settlement has a total Settlement Fund of $20 million.

Each Settlement has a proposed Distribution Plan. Under both Distribution Plans, each Settlement Fund will first be used to pay for (1) the costs of class notice and administration, and (2) the attorneys' fees, expenses, and incentive awards approved by the Court (*see Question 20 for more details on these awards*).

The remainder of the Settlement Fund for each settlement (called the **"Net Settlement Fund"**) will then be distributed to qualifying Class Members, as described in Question 9.

9. How will claim payments be calculated?

Payments to qualifying Class Members will be made based on each Class Member's share of that settlement's "Net Settlement Fund." A Class Member's share will be determined by the number of "Points" earned by the Class Member, as explained below. *See Question 11 for details on how to get a payment if you are eligible*.

Unless you exclude yourself (*see Questions 16–18*), or decide to only make a claim in one settlement (see the Claim Form), your claim will be evaluated under *each* settlement's Distribution Plan (below). Thus, **you may be eligible to receive a payment from both settlements for the same edition (year) of a Videogame**.

Distribution Plans

The Distribution Plans in both settlements are based on "Points." The value of these Points is not fixed at any particular dollar amount, but will vary depending on how many people submit valid claims in each of the settlements. *See Question 10 for examples of how payments might vary.*

The amount of Points you earn depends on which "Category" you fall into in the Point Tables below, which is in turn based on the years you played, and exactly how your likeness was (or wasn't) used in the Videogames. The Point Tables list how many Points you get under each settlement. To understand the tables, you need to read the definitions below.

Definitions:

- **Roster Appearance:** You have a "Roster Appearance" if your name was listed on the roster of a team that was included in any NCAA-Branded Videogame published or distributed from July 21, 2005 to [preliminary approval date], and you don't have an Avatar Match or Photograph Use as described below. (This applies to the EA Videogame Settlement Only, and not to the NCAA Videogame Settlement.)
- **Avatar Match:** To have an Avatar Match, both of the following must be true:
  a. Your name was listed on the roster of a team that was included in any NCAA-Branded Videogame published or distributed from May 4, 2003 to [preliminary approval date]; and
  b. Your assigned jersey number appears on a virtual avatar from that same team in the Videogame.
- **Photograph Use:** Your photograph was used in an NCAA-Branded Videogame.
- Class Counsel and the Settlement Administrator will use a database they compiled to determine Avatar Matches as well as Photograph Uses in each Videogame. (More detail on the various ways they will determine a "match" can be found at www._____settlement.com.)

Point Table				
Category	Description	Years	Number of Points	
			Under EA Settlement	Under NCAA Settlement
A	Roster Appearance	2005–2014	1 point	0 points
B	Avatar Match or Photograph Use *(if you have both, only one will count for each edition of the Videogame)*	2003–2005	1.8 points	1.8 points
C	Avatar Match or Photograph Use (if you have both, only one will count for each edition of the Videogame)	2005–2014	6.6 points	6.6 points

Remember, you can get Points from both settlements. So, for example, if you have an Avatar Match for the 2006 edition of the Videogame, you would get 6.6 Points from **each** settlement.

Other Potential Payments Under the Settlements

If you are a Class Member and submit a valid Claim Form but do not qualify for any Points under the above system, then you will receive a flat $100 payment from each settlement in which you are a Class Member.

If the Net Settlement Funds are not completely used up after making payments to all Class Members who submit claims, any remaining funds will be used to make additional payments to qualifying Class Members who did not submit claims. More detail on this can be found in the Settlement Agreements at www._____settlement.com.

10. How much will my payment be?

The exact amount each qualifying Class Member in each settlement will receive cannot be calculated until (1) the Court approves the settlements; (2) amounts are deducted from the Settlement Fund for notice and administration costs, attorneys' fees and expenses, and any Class Representative Incentive Awards; and (3) the Settlement Administrator determines the number of Class Members who have submitted valid claims and, after checks are issued, who cashed their checks. *See Question 9 for the general method of calculating claims payments*.

Estimated Payments

Below are charts prepared by Class Counsel with estimated payment amounts for each Category. The charts are broken down by "**Claims Rate**," which means they provide an estimate of how much each Category gets if a certain percentage of Class Members in that category submit valid claims. So a 50% claims rate means that 50% of the possible claims were submitted in that Category. We do not know what the Claims Rate will be for either settlement. The calculations below are examples only.

Keep in mind that these amounts are how much a Category gets *per Videogame Edition (Year)*, so if you played for multiple years, your total payment will be the payment amount below multiplied by the number of years you fall into that Category. *See the "Examples" below to see how this all might affect an individual claim.*

Claims Rate	100%			50%			25%			10%		
Category	A	B	C	A	B	C	A	B	C	A	B	C
Payment per Year	$26	$74	$270	$52	$147	$541	$104	$295	$1,081	$259	$737	$2,703

Examples

To give you a sense of how the Distribution Plans will work for an individual Class Member, below are some examples, developed by Class Counsel, of potential Class Members and their estimated payments.

Player 1

Player 1 was the starting quarterback listed on the roster at the University of California for four seasons from 2007 through 2011. His jersey number appeared on the UC team in the 2007, 2008, 2009, and 2010 editions of EA's *NCAA Football* Videogame, so he has an Avatar Match for each of those years, and his photograph appeared in the 2011 and 2012 editions of the Videogame. Assuming a 25% Claims Rate, Player's 1 Total Estimated Payment would be **$4,324.**

Videogame Edition	Category	Estimated Payment Per Edition	Total Estimated Payment
2007	C	$1,081	**$6,486**
2008	C	$1,081	
2009	C	$1,081	
2010	C	$1,081	
2011	C	$1,081	
2012	C	$1,081	

Player 2

Player 2 was on the roster at the University of California and his jersey number appeared on the UC team in the Videogame for four seasons from 2004 through 2007. Assuming a 25% claims rate, Player 2's estimated recovery would be **$2,752**.

Videogame Edition	Category	Estimated Payment Per Edition	Total Estimated Payment
2004	B	$295	**$2,752**
2005	B	$295	
2006	C	$1,081	
2007	C	$1,081	

Player 3

Player 3 was on the roster at the University of California and his jersey number appeared on the UC team in the Videogame for two seasons from 2003 through 2005. Assuming a 25% claims rate, Player 4's estimated recovery would be **$104**.

Videogame Edition	Category	Estimated Payment Per Edition	Total Estimated Payment
2003	B	$295	**$590**
2004	B	$295	

Player 4			
Player 4 was on the roster at the University of California for four seasons from 2004 through 2008, but neither his jersey number nor his photograph appeared in any EA Videogame.			
Videogame Edition	**Category**	**Estimated Payment Per Edition**	**Total Estimated Payment**
2004	NONE	$0	**$312**
2005	A	$104	
2006	A	$104	
2007	A	$104	

For additional calculation examples, please visit www._____settlement.com.

HOW YOU GET A PAYMENT—SUBMITTING A CLAIM FORM

11. How can I get a payment?

To be eligible to receive a payment under one of the settlements, you must (1) be a Class Member of that settlement; (2) you must not have excluded yourself from that settlement; and (3) you must submit a valid and timely Claim Form, as described below.

You only need to submit one Claim Form; your claim will be automatically be evaluated under both settlements. If you wish to make a claim under only one of the two settlements, you should check the appropriate box on the Claim Form. (See the enclosed Claim Form for more details.)

If you have excluded yourself from both settlements, you are not eligible to make a claim under either settlement. If you have excluded yourself from one settlement, you are not eligible to make a claim under *that* settlement, but you are still eligible to make a claim under the other settlement (the one from which you did not exclude yourself).

You should read the instructions on the Claim Form carefully, fill it out to the best of your ability, and then sign it as indicated on the Claim Form (online claim forms will require your electronic signature). You do not need to have your signature notarized by a Notary Public, but you will be affirming to the best of your knowledge, information, and belief that the information you provided on the Claim Form is true. If you need help filling out the Claim Form, you should call the Settlement Administrator.

Filing a Claim Online

You may fill out a Claim Form online at www._____settlement.com.

Filing a Claim by Mail

You may also submit your Claim Form by mail. A Claim Form is included in this mailing. You may also get a copy of the Claim Form online at www._____settlement.com, or by calling 1-___-___-____, or by sending an e-mail to _____ and asking for one. If you choose to mail your Claim Form, you must mail the Claim Form to the Settlement Administrator at the address indicated on the Claim Form. It must be **postmarked no later than _____.**

Do not send a copy of the Claim Form to the Court, the Judge, or the Defendants.

Please note that, with a few exceptions, only a Class Member can submit a Claim Form. The only exceptions are that Claim Forms may be submitted on behalf of an individual Class Member by his **"Legally Authorized Representative."** A Legally Authorized Representative means an administrator/administratrix, personal

representative, or executor/executrix of a deceased Class Member's estate; a guardian, conservator, or next friend of an incapacitated Class Member; or any other legally appointed person or entity responsible for handling the business affairs of a Class Member. If you have a personal lawyer, your lawyer may assist you with your Claim Form, but you must personally sign the Claim Form, unless the lawyer is your Legally Authorized Representative.

You also cannot submit a Claim Form as part of a group effort, or on behalf of a class of persons.

12. When will I get my payment?

The payments will be mailed to eligible Class Members who send in valid Claim Forms on time, after the Court grants "final approval" of the settlement, after any appeals are resolved, and after the Claim Forms are processed.

The Court will hold a Fairness Hearing on _____, at _____ _.m. (Pacific time) to decide whether to approve the settlements. **If you want to attend the hearing, keep in mind that the date and/or time may be changed after the time of this Notice, so you should check the settlement website (www._____settlement.com) before making travel plans.**

If the Court approves the settlements (*see Questions 23–25*), there may be appeals. It's always uncertain whether these appeals can be resolved, and resolving them can take time. Please be patient. You can check for updates and other important information by using any of the methods listed in Question 27.

13. What if I disagree with the amount of my payment?

There is a process in the settlements for you to object to the determination of the amount of your claim payment, or to object if the Settlement Administrator determines that you don't qualify for a payment at all. You will get further details in the letter you receive about your settlement claim. Essentially, if you, the Settlement Administrator, and Class Counsel cannot agree on how much you should receive under the settlement, you may appeal as described in the Settlement Agreements. (*See* EA Videogame Settlement Agreement ¶ _____ and NCAA Videogame Settlement Agreement ¶ _____.)

14. What am I giving up to get a payment or stay in the settlements?

Remember that the two settlements are separate. Unless you exclude yourself from a particular settlement, you are staying in the Class or Classes described *in that settlement*, and that means that you can't sue or be part of any other lawsuit against the Defendants *in that settlement* about the legal claims being settled *in that settlement*. It also means that all of the Court's orders will apply to you and legally bind you.

Because the two settlements are separate, the "releases of liability" in the two settlements are also separate, and apply to different Defendants and to different claims. So, under the EA Videogame Settlement you will not "release" the NCAA from any liability, and under the NCAA Videogame Settlement you will not "release" EA or CLC from any liability.

The details of the two releases are set out in more detail in the Settlement Agreements, which are posted on www._____settlement.com. *(See* EA Videogame Settlement Agreement ¶¶ _____ and NCAA Videogame Settlement Agreement ¶¶ _____.*)* The Settlement Agreements describe the releases in specific legal terminology. Talk to Class Counsel (see the section on "The Lawyers Representing You," Questions 19– 20 below) or your own lawyer if you have questions about the releases or what they mean.

15. Will getting a payment in either of the settlements affect my NCAA eligibility?

No. Your request for or receipt of any payment under this settlement will NOT affect your eligibility to compete in NCAA athletics.

EXCLUDING YOURSELF ("OPTING OUT") FROM ONE OR BOTH SETTLEMENTS

If you don't want a payment from one or both settlements, and instead you want to keep the right to sue the Defendants in those settlements on your own about the legal issues in those cases, then you must take steps to get out of the settlement. This is called excluding yourself—or "opting out"—of the Class.

16. How do I get out of one or both settlements?

The two settlements are separate, so **you must opt out of each settlement separately**. To exclude yourself from a settlement, you must send a letter to the Settlement Administrator by first-class mail with a clear statement that you want to be excluded, and from which settlement(s) you wish to be excluded:

- If you want to exclude yourself **from the EA Videogame Settlement**, say:
  - "I want to be excluded from the EA Videogame Settlement."
- If you want to exclude yourself **from the NCAA Videogame Settlement**, say:
  - "I want to be excluded from the NCAA Videogame Settlement."
- If you want to exclude yourself **from both settlements**, say:
  - "I want to be excluded from the EA Videogame Settlement and the NCAA Videogame Settlement."

Be sure to include your **name**, **address**, **telephone number**, and your **signature**. If you are sending the request to be excluded as the "Legally Authorized Representative" of a Class Member (*see Question 11 above for the definition of "Legally Authorized Representative"*), you must include any information or documents that confirm your appointment or status as a Legally Authorized Representative. Requests for exclusion must be submitted individually by a Class Member or his Legally Authorized Representative, and not on behalf of a group or class of persons. If you have a personal lawyer, your lawyer may assist you with your exclusion request, but you must personally sign it unless the lawyer is also your Legally Authorized Representative.

You must mail your exclusion request, **postmarked no later than _____,** to the following:

[NAME AND ADDRESS OF SETTLEMENT ADMINISTRATOR]
Exclusion Request
[Address]

You can't exclude yourself by phone, by e-mail, or on the website. If you ask to be excluded from a settlement, you will not get any money from that settlement, and you cannot object to that settlement. You will not be legally bound by anything that happens in that lawsuit. You may be able to sue (or continue to sue) the Defendants in that lawsuit.

If you have a pending lawsuit against EA, CLC, or the NCAA involving the same legal issues in these settlements, speak to your lawyer in that case immediately. If you wish to continue your individual lawsuit(s), you must exclude yourself from the relevant settlement(s).

17. If I don't exclude myself, can I sue the Defendants for the same thing later?

No. Unless you exclude yourself from a settlement, you give up any right to sue the Defendants for the claims that are resolved by that settlement. If you have a pending lawsuit, speak to your lawyer in that lawsuit immediately. **Remember, the exclusion deadline is _____.**

18. If I exclude myself, can I get a payment from the settlements?

No. If you exclude yourself from a settlement, you will not be able to get any money from *that settlement*, and you cannot object to *that settlement.* You will not be legally bound by anything that happens in that settlement.

But remember that if you exclude yourself from only one of the settlements, you are still eligible to get money from, or object to, *the other* settlement, and you will still be legally bound by that other settlement.

THE LAWYERS REPRESENTING YOU

19. Do I have a lawyer in these cases?

Yes. The Court has appointed the law firms listed below to represent you and other Class Members in each of the two settlements. These lawyers are called Class Counsel. **You will not be charged for services performed by Class Counsel.** If you want to be represented by your own lawyer, you may hire one at your own expense.

If you want to contact Class Counsel about these settlements, they can be reached through the Settlement Administrator by calling [_____] or sending an email to [_____].

EA Videogame Settlement

- Class Counsel for the EA Videogame Settlement are:

HAGENS BERMAN SOBOL SHAPIRO LLP Steve W. Berman (Seattle, WA) Rob Carey (Phoenix, AZ) Leonard Aragon (Phoenix, AZ)	**HAUSFELD LLP** Michael D. Hausfeld (Washington, DC) Michael P. Lehmann (San Francisco, CA) Sathya S. Gosselin (Washington, DC)
LUM, DRASCO & POSITAN LLC Dennis J. Drasco (Roseland, NJ)	

NCAA Videogame Settlement

- Class Counsel for the NCAA Videogame Settlement are:

HAGENS BERMAN SOBOL SHAPIRO LLP Steve W. Berman (Seattle, WA) Rob Carey (Phoenix, AZ) Leonard Aragon (Phoenix, AZ)	**THE PAYNTER LAW FIRM PLLC** Stuart Paynter (Washington, DC) Celeste H.G. Boyd (Chapel Hill, NC)

20. How will the lawyers be paid? Are the Class Representatives being paid?

Class Counsel will ask the Court for an award of attorneys' fees and expenses in each settlement (the "Fee and Expense Award"), which will be paid from the Settlement Fund in each settlement:

Attorneys' Fees

EA Videogame Settlement Requested Fee and Expense Award

- Class Counsel will ask the Court to approve payment from the EA Videogame Settlement Fund of attorneys' fees of up to 33% of the $40 million Settlement Fund (*i.e.*, up to $13,200,000), as well as for reimbursement for costs and expenses incurred in the prosecution of the lawsuits not to exceed $2,500,000.

NCAA Videogame Settlement Requested Fee and Expense Award

- Class Counsel will ask the Court to approve payment from NCAA Videogame Settlement Fund of attorneys' fees of up to 29% of the $20 million Settlement Fund (*i.e.*, up to $5,800,000), as well as for

reimbursement for costs and expenses incurred in the prosecution of the lawsuits not to exceed $500,000.

Incentive Awards to Class Representatives

- Class Counsel will ask the Court to approve the following payments (called "Incentive Awards") to the Plaintiffs below for their services as Class Representatives in each of the settlements. Any Incentive Award ordered by the Court will be in addition to what that Class Representative is eligible to receive from his claim.

EA Videogame Settlement

- $15,000 each for Samuel Michael Keller, Edward C. O'Bannon, and Ryan Hart.
- $5,000 each for Oscar Robertson, William Russell, Harry Flournoy, Alex Gilbert, Sam Jacobson, Thad Jaracz, David Lattin, Patrick Maynor, Tyrone Prothro, Damien Rhodes, Eric Riley, Bob Tallent, Danny Wimprine, Ray Ellis, Tate George, Jake Fischer, Jake Smith, Darius Robinson, Moses Alipate, Chase Garnham, and Shawne Alston.
- $2,500 each for Bryan Cummings, LaMarr Watkins, and Bryon Bishop.

NCAA Videogame Settlement

- $5,000 each to Samuel Michael Keller, Bryan Cummings, LaMarr Watkins, and Bryon Bishop.

The Court may award less than the amounts requested for attorneys' fees and Incentive Awards, and has the discretion to determine how much to award. The two settlements do not depend on the amounts awarded for attorneys' fees or Incentive Awards, which means that the settlements can still be approved and result in payments to Class Members even if the petitions for attorneys' fees and Incentive Awards are rejected.

Class Counsel is currently scheduled to file with the Court their request for attorneys' fees and for the Incentive Awards on _____. Settlement deadlines can change, though, so please monitor the settlement website, or call the Settlement Administrator, to see if any deadlines have changed.

OBJECTING TO ONE OR BOTH SETTLEMENTS

21. How do I tell the Court that I don't like the settlement(s)?

The two settlements are separate, so you must submit objections to *each settlement* that you wish to object to.

If you're a Class Member (or a Class Member's Legally Authorized Representative, *see Question 11*), and you **haven't** excluded yourself from a settlement, you can object to *that* proposed settlement if you don't like it. However, **you cannot object if you have excluded yourself from that particular settlement**. In other words, you must stay in the case as a Class Member for that settlement in order to object in that settlement.

You can object if you don't like any part of either proposed settlement, including the settlement's Distribution Plan, or the request for the attorneys' Fee and Expense Award, or the request for Incentive Awards to the Class Representatives. You can give reasons why you think the Court should not approve any or all of these items, and the Court will consider your views.

You cannot object in order to ask the Court for a higher payment for *yourself personally*, although you can object to the payment terms that apply generally to the Class. The Court can only approve or disapprove the settlements, but cannot change how much money you are personally eligible to receive from the settlement. This means that if the Court agrees with your objection, the case won't be settled unless the parties agree to change the terms and the Court approves those changes.

To object, you must (a) **mail** your objection to the Settlement Administrator **and** (b) **file** it with the Court. To be timely, your objection must be mailed to the Settlement Administrator so that it is **postmarked** by

_____, **and** must be **filed** with the Court by no later than _____, at the following addresses:

SETTLEMENT ADMINISTRATOR	• [SETTLEMENT ADMINISTRATOR NAME AND ADDRESS]
THE COURT	• **For objections to the EA Videogame Settlement:** [TBD] • **For objections to the NCAA Videogame Settlement:** [TBD]

Note: You may mail your objection to the Court, but it must be **received** by the Court **and filed** by _____. See www._____settlement.com for more information on how to object to the settlement.

For *each* settlement to which you wish to object, you must include the following information:

- Your full name, address, telephone number, and signature.
- The case name and number of the settlement to which you are objecting:
  - For the EA Videogame Settlement: [_____]
  - For the NCAA Videogame Settlement: [_____]
- The specific reasons why you object to the settlement.
- The name, address, bar number, and telephone number of your counsel, if you're represented by an attorney. If you are represented by an attorney, he/she or it must comply with all applicable laws and rules for filing pleadings and documents in the Northern District of California.
- State whether you intend to appear at the Fairness Hearing, either in person or through counsel.

Unless you submit a proper and timely written objection, according to the above requirements, you will not be allowed to object to or appear at the Fairness Hearing. You or your lawyer **may** appear at the Fairness Hearing if you have filed a written objection as provided above. (*See Questions 23–25*). If you have a lawyer file an objection for you, he or she must follow all Court rules and you must list the attorney's name, address, bar number, and telephone number in the written objection filed with the Court.

Please note that any objections must be submitted by an individual Class Member, his Legally Authorized Representative, or his attorney—not as a member of a group, class, or subclass.

22. What's the difference between objecting and excluding yourself?

Objecting is simply telling the Court that you don't like something about the settlement. You can object to a settlement only if you stay in that settlement. Excluding yourself is telling the Court that you don't want to be part of the settlement. If you exclude yourself, you have no basis to object, because the case no longer affects you. If you object, and the Court approves the settlement anyway, you will still be legally bound by the result.

THE COURT'S FAIRNESS HEARING

23. When and where will the Court decide whether to approve the settlements?

The Court will hold a "Fairness Hearing" (also known as a "Final Approval Hearing") to decide whether to finally approve the proposed settlements. The Fairness Hearing will be on _____, **at** ____ **_.m.** before Judge Claudia Wilken, United States District Court for the Northern District of California, 1301 Clay Street, Oakland, CA 94612. If you want to attend the Fairness Hearing, keep in mind that the date

and/or time may be changed after the time of this Notice, so you should check the settlement website (www._____settlement.com) before making travel plans.

At the Fairness Hearing, the Court will consider whether the proposed settlements and all of their terms are adequate, fair, and reasonable. If there are objections, the Court will consider them. The Court may listen to people who have asked for permission to speak at the Hearing and have complied with the other requirements for objections explained in Question 21. The Court may also decide how much to award Class Counsel for fees and expenses, and whether and how much to award the Class Representatives for representing the Class (the Incentive Awards).

At or after the Fairness Hearing, the Court will decide whether to finally approve the proposed settlements. Because the two settlements are separate, it is possible that the Court will rule differently in each settlement, or rule at different times. There may be appeals after that. **There is no set timeline for either the Court's final approval decision, or for any appeals that may be brought from that decision, so it is impossible to know exactly when the settlement(s) will become final**.

The Court may change deadlines listed in this Notice without further notice to the Class. To keep up on any changes in the deadlines, please contact the Settlement Administrator or review the website.

24. Do I have to come to the Fairness Hearing?

No. Class Counsel will answer any questions asked by the Court.

If you send an objection, you don't have to come to Court to talk about it. So long as you mailed your written objection on time and complied with the other requirements for a proper objection, the Court will consider it. You may also pay another lawyer to attend, but it's not required.

25. May I speak at the Fairness Hearing?

Yes. If you submitted a proper written objection to the settlement, you or your lawyer may, at your own expense, come to the Fairness Hearing and speak. To do so, you must follow the procedures set out in Question 21. You must also file a Notice of Intention to Appear, which must be mailed to the Settlement Administrator so that it is **postmarked no later than _____,** and it must be **filed** with the Clerk of the Court by that same date. If you intend to have a lawyer appear on your behalf, your lawyer must enter a written notice of appearance of counsel with the Clerk of the Court no later than _____. See Question 21 for the addresses of the Settlement Administrator and the Court. You cannot speak at the Fairness Hearing if you excluded yourself.

IF YOU DO NOTHING

26. What happens if I do nothing at all?

If you do nothing, you will get no money from either of the two settlements, but you will never again be able to sue or be part of any other lawsuit against the Defendants about the legal claims involved in the settlements. To submit a Claim Form, follow the instructions described in Question 11.

GETTING MORE INFORMATION

27. How do I get more information about the settlements?

This Notice summarizes the proposed settlements. For the precise terms and conditions of the settlements, please see both Settlement Agreements, available at www._____settlement.com.

YOU MAY OBTAIN ADDITIONAL INFORMATION BY	
CALLING	• Call the Settlement Administrator toll-free at 1-___-___-____ to ask questions and receive copies of documents.
E-MAILING	• Email the Settlement Administrator at _____
WRITING	• Send your questions by mail to [SETTLEMENT ADMINISTRATOR NAME AND ADDRESS]
VISITING THE SETTLEMENT WEBSITE	• www._____settlement.com, where you will find answers to common questions about both settlements, a Claim Form, plus other information to help you.
REVIEWING LEGAL DOCUMENTS	• You can review the legal documents that have been filed with the Clerk of Court in these cases at: [COURT ADDRESS]
ACCESSING PACER	• You can access the Court dockets in these cases through the Court's Public Access to Court Electronic Records (PACER) system at https://ecf.cand.uscourts.gov.

PLEASE DO NOT CALL THE JUDGE OR THE COURT CLERK TO ASK QUESTIONS ABOUT THE LAWSUITS, THE SETTLEMENTS, OR THIS NOTICE.

THE COURT WILL NOT RESPOND TO LETTERS OR TELEPHONE CALLS. IF YOU WISH TO ADDRESS THE COURT, YOU MUST FILE AN APPROPRIATE PLEADING OR MOTION WITH THE CLERK OF THE COURT IN ACCORDANCE WITH THE COURT'S USUAL PROCEDURES.

DATED: _____, 2014 BY ORDER OF THE COURT

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

EXHIBIT C

Legal Notice

If You Were on a Roster of an NCAA Division I Football or Men's Basketball Team, and That Team Was Included in One of EA's Videogames Between May 4, 2003 and [preliminary approval date], You Could Be Entitled to Cash Payments.

This Notice is only a summary of your rights and options.
For more detailed information, visit www._____settlement.com or call 1-___-___-____ toll-free.

What's This About?

A federal court is currently reviewing two proposed class action settlements concerning the alleged use of the names, images, and likenesses of NCAA men's football and basketball players in certain NCAA-Branded Videogames that were manufactured and distributed by Electronic Arts Inc. ("EA"). The two proposed settlements are (1) the "EA Videogame Settlement" and (2) the "NCAA Videogame Settlement."

The EA Videogame Settlement involves claims by student-athletes that EA and the Collegiate Licensing Company ("CLC") violated their legal rights by allegedly licensing, using, and/or selling athletes' names, images, and likenesses in EA's NCAA-Branded Videogames. The NCAA Videogame Settlement involves claims by student-athletes that the NCAA violated their legal rights by allegedly participating in the license, use, and/or sale of athletes' names, images, and likenesses in EA's NCAA-Branded Videogames. All Defendants deny any wrongdoing. The Court has not ruled on the merits of these claims.

The proposed settlements would resolve the claims described above against all Defendants. The EA Videogame Settlement has a $40 million Settlement Fund and would resolve the claims as to EA and CLC. The NCAA Videogame Settlement has a $20 million Settlement Fund and would resolve the claims as to NCAA.

You may be a member of one or both settlements. The two settlements share many terms and involve many of the same Class members, but are separate settlements, so you should make sure that you understand both settlements.

The Court will have a hearing on **_____, at __ _.m.** (Pacific time) to decide whether to approve the settlements. If you want to attend the hearing, keep in mind that the date and/or time may be changed, so you should check the settlement website before making travel plans. *See below for more information*.

Who's Included in the Settlements?

If you were (1) on a roster of an NCAA Division I football or men's basketball team, and that team was included in an NCAA-Branded Videogame originally published from July 21, 2005 through [preliminary approval date], **or** (2) you were on such a roster from May 4, 2003, **and** your jersey number or photograph appeared in such a Videogame, you *may* be a Class Member in one or both of the settlements.

There are different class definitions for each settlement. You should consult the settlement website for more detailed class definitions and more information about whether you are entitled to a payment under either settlement.

Are These Settlements Related to the Trial Against the NCAA I've Heard About?

You may have heard recently about a trial involving student-athletes (led by Ed O'Bannon) against the NCAA. Although the trial involved claims that the NCAA used student-athlete likenesses without permission, those claims were against the NCAA only for violations of antitrust laws. Also unlike the claims being resolved by this settlement, the claims in the trial did not involve claims for cash payments.

[Alt. #1: The trial in that case ended on June 27, 2014, and as of the date of this Notice, the Court has not yet made a decision about the outcome.] [Alt. #2: The trial in that case ended on June 27, 2014, and the Court ruled in favor of the student-athletes.] [Alt. #3: The trial in that case ended on June 27, 2014, and the Court ruled in favor of the NCAA.]

What Do the Settlements Provide?

Both proposed settlements provide for cash payments to eligible Class Members. You can make a claim under *both* settlements. More information about how payments will be calculated (the "Distribution Plan") is available at the settlement website.

In addition, Class Counsel will seek from the Court the following attorneys' fees awards: (1) EA Videogame Settlement: up to $13.2 million in fees, $2.5 million in expenses, and additional incentive awards to the Plaintiffs who brought the suits ranging from $2,500–$15,000 each; (2) NCAA Videogame Settlement: up to $5.8 million in fees, $500,000 in expenses, and additional incentive awards to the Plaintiffs of $5,000 each.

Class Counsel will file petitions for these awards on _____. The Court will decide the amounts (if any) of these awards at the Fairness Hearing (see below).

What Are Your Options?

(1) Get a Payment:

You are eligible for a cash payment if you qualify and submit a Claim Form—either online or by mail—to the Settlement Administrator **by _____.** More information about how to complete and submit the Claim Form is available at the settlement website.

Requesting or receiving a payment under these settlements will NOT affect your eligibility to compete in NCAA athletics.

(2) Exclude Yourself from One or Both Settlements:

You must submit a separate exclusion (or "opt-out") request for *each* settlement from which you wish to exclude yourself. You may exclude yourself from one or both settlements. Your exclusion request must be mailed to the Settlement Administrator's address below so that it is **postmarked by** _____. More information about how to opt out is available at the settlement website.

(3) Object to One or Both Settlements:

You have the right to object to any element of one or both settlements, including the Distribution Plans and Class Counsel's requests for fees, costs, and incentive awards. You cannot object in order to ask the Court for a higher payment for *yourself personally*, although you can object to the payment terms that apply generally to the Class.

More information about how to object to one or both settlements is available at the settlement website.

When/Where Is the Fairness Hearing?

The Court will hold a hearing on **_____ at ____ _.m. (Pacific time)** to consider whether to approve the settlements, including the Distribution Plans and the attorneys' fees and incentive awards. You may ask to appear at the Hearing, but you don't have to. The courthouse address is _____. The date and/or time of the Fairness Hearing may be changed, so you should check the settlement website before making travel plans.

How Do I Get More Information?

The settlement website, www._____settlement.com, contains more detailed information. You also may call the Settlement Administrator toll-free at 1-___-___-____, e-mail at _____, or write to the Settlement Administrator at the address above.

EXHIBIT D

Must Be Submitted By _____	**CLAIM FORM:** **Electronic Arts ("EA") and NCAA Videogame Settlements**

To Be Eligible to Receive Benefits under the Settlements Described in the Enclosed Notice, You Must Complete this Claim Form by _____.

Please read this Claim Form *and* the enclosed Notice carefully.

If you would like to receive a payment under the EA and/or NCAA Videogame Settlements, you must submit this Claim Form according to the instructions.

REQUESTING OR RECEIVING A PAYMENT UNDER THESE SETTLEMENTS WILL NOT AFFECT YOUR NCAA ELIGIBILITY.

You can submit one Claim Form for both settlements. You do not need to submit a separate Claim Form for each settlement in which you wish to make a Claim. *See Question 2 (below) for more details.*

You have two options for submitting a Claim Form—Online **or** By Mail:

Submit a Claim Form Online:	**Submit a Claim Form by Mail:**
You may submit a claim online by visiting www._____settlement.com and filling out this Claim Form by _____.	You may submit a claim by completing this Claim Form, signing it, and mailing it so that it is postmarked by _____ to the following address: [TBD]

If you need any help with this Claim Form, or with any other questions regarding these settlements, please call the Settlement Administrator at 1-___-___-___ toll-free, visit www._____settlement.com, or e-mail _____settlement.com.

After your claim is processed, you will receive a letter telling you whether you are eligible for a payment and, if so, the letter will include a check for the amount of the payment. The letter will also explain the process and deadlines to resolve any disagreement you may have with the decision about your eligibility for a payment. Please be patient, as this process could take some time.

PLEASE DO NOT CALL THE COURT, THE JUDGE, THE CLERK OF COURT, EA, OR THE NCAA REGARDING THIS MATTER.

Must Be Submitted By
_____

CLAIMANT ID BARCODE WILL APPEAR HERE

1: PROVIDE CLASS MEMBER INFORMATION.

Last Name: **First Name:** **Middle Initial:**

Mailing Address:

City: **State:** **Zip Code:**

Daytime Phone: **Evening Phone:**

E-Mail Address:

2. DO YOU WANT TO MAKE A CLAIM IN BOTH SETTLEMENTS?

If you send in a Claim Form, we will assume that you want to make a claim in **BOTH** the EA Settlement and the NCAA Settlement, unless you tell us otherwise by checking one of the boxes below.

Please remember that you may not submit a claim in a settlement in which you have excluded yourself. If you exclude yourself from a settlement, you will not get a payment from that settlement. *See Question __ of the enclosed Notice for more details.*

If you want to make a claim in both Settlements, skip to Question 3, below.

If you want to make a claim in only one of the Settlements, please check below:

☐ I want to make a claim **ONLY** in the **EA** Settlement.

☐ I want to make a claim **ONLY** in the **NCAA** Settlement.

The only way to get a payment under these settlements is to submit a claim. *If you decide NOT to make a claim in either settlement and you do not exclude yourself, you will NOT get any payment from that settlement AND you will be giving up legal rights.*

Must Be Submitted By

_____

CLAIMANT ID BARCODE WILL APPEAR HERE

3. PROVIDE SOME INFORMATION ABOUT YOURSELF

FOR EACH COLLEGE OR UNIVERSITY YOU ATTENDED, PLEASE PROVIDE THE FOLLOWING INFORMATION. If you don't know whether you were on the team roster, include the years that you attended school and played NCAA Division I men's basketball or football.

If you need more space, feel free to include additional pages with your Claim Form.

COLLEGE OR UNIVERSITY	YEAR(S) LISTED ON NCAA D-1 MEN'S BASKETBALL OR FOOTBALL TEAM ROSTER	THE SPORT(S) FOR WHICH YOU WERE LISTED ON A ROSTER	POSITION(S) AND JERSEY NUMBER(S)	YOUR HOME STATE (as listed on school roster—NOT your current home state)

4. PROVIDE ADDITIONAL INFORMATION, IF YOU KNOW

If you know, list all seasons/editions of an NCAA-Branded Videogame published by EA—(1) "NCAA Football," (2) "NCAA Basketball," or (3) "NCAA March Madness" (any videogame platform)—in which you believe that your jersey number and/or photograph appears. This information is not necessary to make a claim, but it may help us in processing your claim.

If you need more space, feel free to include additional pages with your Claim Form.

NAME OF VIDEOGAME	SEASON/EDITION/ YEAR OF VIDEOGAME	DOES YOUR JERSEY NUMBER APPEAR IN THIS VIDEOGAME?	DOES YOUR PHOTOGRAPH APPEAR IN THIS GAME?

If you are the Class Member, DO NOT FILL OUT THE NEXT QUESTION (#5). INSTEAD, GO TO THE LAST PAGE ("CERTIFICATION") AND SIGN YOUR CLAIM FORM.

Must Be Submitted By

_____

CLAIMANT ID BARCODE WILL APPEAR HERE

If you are filling out this Claim Form on behalf of a Class Member (for example, if you have power of attorney over the Class Member's affairs), fill out Step 5.

5. INFORMATION TO BE PROVIDED BY EXECUTORS, ADMINISTRATORS, GUARDIANS, PERSONAL REPRESENTATIVES, OR OTHERS LEGALLY AUTHORIZED TO PROVIDE CLASS MEMBER INFORMATION.

(a) Are you the personal representative of a deceased Class Member? Yes O No O

If so, provide the date of the Class Member's death: ☐☐ / ☐☐ / ☐☐☐☐

(b) Are you a guardian, conservator, or attorney in fact of an incapacitated Class Member? Yes O No O

(c) Are you the legally appointed representative (for example, through a power of attorney) responsible for handling the Class Member's business affairs? Yes O No O

Please provide **YOUR** information:

Last Name ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

First Name ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Mailing Address ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

City ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

State ☐☐

Zip Code ☐☐☐☐☐

Daytime Phone Number: ☐☐☐ – ☐☐☐ – ☐☐☐☐

E-Mail Address: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

IMPORTANT: If you are submitting this claim on behalf of the Class Member, please also submit with this Claim Form documents to prove that you are authorized to submit this Claim Form on behalf of that Class Member (for example, estate documents, powers of attorney, death certificates, etc.).

Must Be Submitted By

_____

CLAIMANT ID BARCODE WILL APPEAR HERE

CERTIFICATION:

I certify under penalty of perjury that I have read this Claim Form; I believe I am a Class Member or the Legally Authorized Representative of a Class Member; and all of the information on this Claim Form is true and correct to the best of my knowledge.

Print Name

Signature

Date (*MM*) (*DD*) (*YY*)