

1 **CLASS ACTION SETTLEMENT AGREEMENT**

2 This Class Action Settlement Agreement (the “Agreement,” “Settlement,” or “Settlement
3 Agreement”) is entered into by and among the Class Representatives, including Plaintiff Sean
4 Wilson [“Wilson” or “Plaintiff”]), for themselves individually and on behalf of the Settlement
5 Class, and Defendant Huuuge, Inc. (“Huuuge” or “Defendant”) (altogether the “Parties”). This
6 Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, and settle
7 the Released Claims, upon and subject to the terms and conditions of this Agreement and subject
8 to the final approval of the Court.

9 **RECITALS**

10 A. On April 6, 2018, Wilson filed a putative class action complaint against Huuuge
11 in the United States District Court for the Western District of Washington, Case No. 18-cv-
12 05276 (the “*Huuuge*” litigation).

13 B. Plaintiff alleges that Defendant’s Applications fall within the definition of an
14 illegal gambling game and that players can recover their losses under Washington law, setting
15 forth claims for violations of RCW 4.24.070 (the “Recovery of Money Lost at Gambling Act” or
16 “RMLGA”), violations of RCW 19.86.010 *et seq.* (the “Washington Consumer Protection Act”
17 or “CPA”) and unjust enrichment, based on Plaintiff’s use of and purchases of virtual items in
18 Defendant’s Applications.

19 C. In response to the complaint, Huuuge moved to compel arbitration and stay the
20 Action on July 2, 2018. After full briefing, on November 13, 2018, the district court, with the
21 Honorable Ronald B. Leighton presiding, denied the motion.

22 D. On December 6, 2018, Huuuge filed a notice of appeal of the Court’s order
23 denying the motion to compel arbitration to the United States Court of Appeals for the Ninth
24 Circuit. That same day, Defendant also filed a motion to stay the district court proceedings
25 pending disposition of the appeal.

1 E. By prior stipulation, Plaintiff and Defendant served Initial Disclosures pursuant to
2 Fed. R. Civ. P. 26(a)(1) on December 14, 2018 and Huuuge answered Plaintiff's complaint on
3 January 18, 2019.

4 F. A year later, on December 20, 2019, the Ninth Circuit affirmed the district court's
5 denial of the Defendant's motion to compel arbitration. The Circuit's mandate issued on January
6 13, 2020.

7 G. In March 2020, Huuuge displayed a pop-up window in certain of its Applications.
8 The pop-up window included a button that, if clicked, purported to bind players to terms of use
9 requiring persons to arbitrate any claims against Defendant and to impact potentially relevant
10 statutes of limitations.

11 H. In response to the pop-up window, Plaintiff moved for a temporary restraining
12 order to, *inter alia*, enjoin Huuuge from displaying the pop-up window. After full-briefing and
13 argument, on April 20, 2020, the Court denied Plaintiff's motion, reasoning that Huuuge's new
14 pop-up already conformed with the requirements that the Court articulated in two related cases,
15 *Kater v. Churchill Downs Incorporated, et al.*, No. 15-cv-00612-RBL (W.D. Wash.) and
16 *Thimmegowda v. Big Fish Games, Inc., et al.*, No. 19-cv-00199-RBL (W.D. Wash).

17 I. In May 2020, the Parties agreed to engage the Honorable Layn Phillips (ret.) at
18 Phillips ADR to facilitate a mediation of the Actions.

19 J. In the weeks leading up to the mediation, the Parties were in near-daily
20 communication with the Phillips ADR team and each other, as the Parties sought to crystallize
21 the disputed issues, produce focal information and data, and start narrowing down potential
22 frameworks for resolution.

23 K. During this period, Defendant provided Class Counsel with several sets of
24 detailed transactional data for virtual chip purchases made by the Settlement Class; the Parties
25 exchanged briefing on the core facts, legal issues, litigation risks, and potential settlement
26 structures; and the Parties supplemented that briefing with extensive written and telephonic
27

1 correspondence, mediated and shuttled by the Phillips ADR team, clarifying each other's
2 positions in advance of the mediation.

3 L. After a full-day mediation on June 15, 2020, the Parties had not agreed on
4 settlement terms. However, on June 16, 20220, the Parties agreed to a binding settlement in
5 principle.

6 M. Plaintiff and Class Counsel have conducted a comprehensive examination of the
7 law and facts regarding the claims against Defendant, and the potential defenses available.

8 N. Plaintiff believes that his claims have merit, that he would have ultimately
9 succeeded in obtaining adversarial certification of the proposed Settlement Class and prevailed
10 on the merits at summary judgment or at trial. Nonetheless, Plaintiff and Class Counsel
11 recognize that Defendant has raised factual and legal claims and defenses that present a risk that
12 Plaintiff may not prevail on his claims, that Plaintiff's claims might be compelled to arbitration
13 proceedings, and/or that the putative class might not be certified. Plaintiff and Class Counsel
14 have also taken into account the time, uncertain outcome, and risks of any litigation, especially in
15 complex actions, as well as the difficulty and delay inherent in such litigation. Therefore,
16 Plaintiff believes that it is desirable that the Released Claims be fully and finally compromised,
17 settled, resolved with prejudice, and barred pursuant to the terms and conditions set forth in this
18 Agreement.

19 O. Based on their comprehensive examination and evaluation of the law and facts
20 relating to the matters at issue, Class Counsel have concluded that the terms and conditions of
21 this Agreement are fair, reasonable, and adequate to resolve the alleged claims of the Settlement
22 Class and that it is in the best interests of the Settlement Class Members to settle the Released
23 Claims pursuant to the terms and conditions set forth in this Agreement.

24 P. Defendant has at all times denied—and continues to deny—all allegations of
25 wrongdoing and liability and deny all material allegations in the Action. Specifically, Defendant
26 denies that the Applications constitute or constituted illegal gambling, and that any aspect of the
27 Applications' operation constituted unfair business practices. Defendant is prepared to continue

1 its vigorous defense. Even so, taking into account the uncertainty and risks inherent in the
2 motions to dismiss, class certification, summary judgment, and trial, Defendant has concluded
3 that continuing to defend the Action would be burdensome and expensive. Defendant has further
4 concluded that it is desirable to settle the Released Claims pursuant to the terms and conditions
5 set forth in this Agreement to avoid the time, risk, and expense of defending protracted litigation
6 and to resolve finally and completely the pending and potential claims of Plaintiff and the
7 Settlement Class.

8 NOW, THEREFORE, IT IS HEREBY AGREED by and among the Class
9 Representatives and Defendant that, subject to the Court's final approval after a hearing as
10 provided for in this Agreement, and in consideration of the benefits flowing to the Parties from
11 the Settlement set forth herein, the Released Claims shall be fully and finally compromised,
12 settled, and released, and the Action shall be dismissed with prejudice, upon and subject to the
13 terms and conditions set forth in this Agreement.

14 AGREEMENT

15 **1. DEFINITIONS**

16 As used herein, in addition to any definitions set forth elsewhere in this Agreement, the
17 following terms shall have the meanings set forth below:

18 **1.1. "Action"** means the case captioned *Sean Wilson v. Huuuge, Inc., a Delaware*
19 *corporation*, No. 18-cv-05276-RBL, pending in the United States District Court for the Western
20 District of Washington.

21 **1.2. "Agreement" or "Settlement" or "Settlement Agreement"** means this Class
22 Action Settlement Agreement.

23 **1.3. "Player ID"** means the unique identifier assigned by Defendant that is attached to
24 a device or account that has an Applications account and/or login.

25 **1.4. "Applications"** means Huuuge Casino, Billionaire Casino, Stars Slots, and any
26 other game listed on Exhibit G.

1 **1.5. “Approved Claim”** means a Claim Form submitted by a Settlement Class
2 Member that is timely and submitted in accordance with the directions on the Claim Form and
3 the terms of this Agreement, or is otherwise accepted by the Court or Settlement Administrator
4 and satisfies the conditions of eligibility for a Settlement Payment as set forth in this Agreement.

5 **1.6. “Claim Form”** means the document substantially in the form attached hereto as
6 Exhibit A, as approved by the Court. The Claim Form, to be completed by Settlement Class
7 Members who wish to file a claim for a Settlement Payment, shall be available in electronic and
8 paper format. The Claim Form shall request that the Settlement Class Member provide the
9 following information: (i) full legal name, (ii) List of any and all Application(s) played (iii)
10 Player ID(s) associated with any and all Application(s) account(s), (iv) email address(es)
11 associated with any and all Application(s) account(s); (v) email addresses associated with
12 Amazon, Facebook, Apple, and/or Google accounts from which in-Application purchases were
13 made; and (vi) current telephone number, U.S. Mail address, and email address.

14 **1.7. “Claims Deadline”** means the date by which all Claim Forms must be
15 postmarked or submitted on the Settlement Website to be considered timely and shall be fifty-six
16 (56) days after the Notice Date. The Claims Deadline shall be clearly set forth in the order
17 preliminarily approving the Settlement, as well as in the Notice and the Claim Form.

18 **1.8. “Class Counsel”** means Jay Edelson, Rafey Balabanian, Todd Logan, Alexander
19 G. Tievsky, and Brandt Silver-Korn of Edelson PC.

20 **1.9. “Class Representatives”** means Plaintiff and Heidi Hammer.

21 **1.10. “Court”** means the United States District Court for the Western District of
22 Washington, the Honorable Ronald B. Leighton, presiding, or any Judge who shall succeed him
23 as the Judge assigned to the Action.

24 **1.11. “Defendant”** means Huuuge, Inc., the defendant in the Action.

25 **1.12. “Defendant’s Counsel”** means Davis Wright Tremaine LLP.

26 **1.13. “Effective Date”** means the date upon which the last (in time) of the following
27 events occurs: (i) the date upon which the time expires for filing or noticing any appeal of the

1 Final Judgment, if no appeal is timely filed; (ii) if there is an appeal or appeals, the date of
2 completion, in a manner that finally affirms and leaves in place the Final Judgment without any
3 material modification, of all proceedings arising out of the appeal(s) (including, but not limited
4 to, the expiration of all deadlines for motions for reconsideration or petitions for review and/or
5 certiorari, all proceedings ordered on remand, and all proceedings arising out of any subsequent
6 appeal(s) following decisions on remand); or (iii) the date of final dismissal of any appeal or the
7 final dismissal of any proceeding on certiorari with respect to the Final Judgment. The Effective
8 Date is further subject to the conditions set forth in Section 9.1.

9 **1.14. “Escrow Account”** means the separate, interest-bearing escrow account to be
10 established by the Settlement Administrator under terms acceptable to all Parties. The Escrow
11 Account will be at a depository institution of the Settlement Administrator’s choice (subject to
12 either party’s reasonable veto) that is insured by the Federal Deposit Insurance Corporation. The
13 Settlement Amount shall be deposited by Defendant into the Escrow Account consistent with the
14 provisions in Section 2.1 below, and the money in the Escrow Account shall be invested in the
15 following types of accounts and/or instruments and no other: (i) demand deposit accounts and/or
16 (ii) time deposit accounts and certificates of deposit, in either case with maturities of forty-five
17 (45) days or less. The costs of establishing and maintaining the Escrow Account shall be paid
18 from the Settlement Fund.

19 **1.15. “Fee Award”** means the amount of attorneys’ fees and reimbursement of
20 expenses awarded by the Court to Class Counsel, which will be paid out of the Settlement Fund.

21 **1.16. “Final Approval Hearing”** means the hearing before the Court where the Parties
22 will request that the Final Judgment be entered by the Court finally approving the Settlement as
23 fair, reasonable and adequate, and approving any Fee Award and the incentive awards to the
24 Class Representatives.

25 **1.17. “Final Judgment”** means the final judgment and order to be entered by the Court
26 approving the Agreement after the Final Approval Hearing.

1 **1.18. “Lifetime Spending Amount”** means the total amount of money a Settlement
2 Class Member spent within the Applications from April 6, 2014 through and including August
3 21, 2020 as determined by data provided by Defendant in Section 4.1 for Player ID individual
4 revenue.

5 **1.19. “Notice”** means the notice of this Settlement and Final Approval Hearing, which
6 is to be sent to the Settlement Class substantially in the manner set forth in this Agreement and
7 approved by the Court, consistent with the requirements of Due Process and Rule 23, and
8 substantially in the form of Exhibits B, C, and D attached hereto.

9 **1.20. “Net Settlement Fund”** means the Settlement Fund, plus any interest or
10 investment income earned on the Settlement Fund, less any Fee Award, incentive awards to the
11 Class Representatives, taxes, and Settlement Administration Expenses.

12 **1.21. “Notice Date”** means the date upon which the Notice set forth in Section 4 is
13 complete, which shall be a date no later than thirty-five (35) days after entry of Preliminary
14 Approval.

15 **1.22. “Objection/Exclusion Deadline”** means the date by which a written objection to
16 this Settlement Agreement or a request for exclusion submitted by a member of the Settlement
17 Class must be postmarked and/or filed with the Court, which shall be designated as a date no
18 later than fifty-six (56) days following the Notice Date and no sooner than fourteen (14) days
19 after papers supporting the Fee Award are filed with the Court and posted to the Settlement
20 Website, or such other date as ordered by the Court.

21 **1.23. “Plaintiff”** means Sean Wilson, the plaintiff in the Action.

22 **1.24. “Platform Provider(s)”** means Amazon, Apple, Facebook, and/or Google.

23 **1.25. “Platform Id”** means the unique identifier assigned by a Platform Provider to an
24 account or device that will be provided by Huuuge with its Class List. For avoidance of doubt,
25 Platform IDs are not assigned/generated by Huuuge.

26 **1.26. “Preliminary Approval”** means the order preliminarily approving the
27 Settlement, preliminary certifying the Settlement Class for settlement purposes, preliminary

1 appointing Class Counsel and the Class Representatives, and approving the form and manner of
2 the Notice.

3 **1.27. “Released Claims”** means any and all actual, potential, filed, unfiled, known or
4 unknown, fixed or contingent, claimed or unclaimed, suspected or unsuspected, claims,
5 demands, liabilities, rights, causes of action, contracts or agreements, extra-contractual claims,
6 damages, expenses, costs, attorneys’ fees and/or obligations (including “Unknown Claims” as
7 defined below), whether in law or in equity, accrued or unaccrued, direct, individual, or
8 representative, of every nature and description whatsoever, whether based on violations of
9 Washington or other federal, state, local, statutory, or common law or any other law, including
10 the law of any jurisdiction outside the United States, that are or have been alleged or otherwise
11 raised in the Actions, or that arise out of or relate to facts, transactions, events, matters,
12 occurrences, acts, disclosures, statements, representations, omissions or failures to act relating to
13 the operation of the Applications and/or the sale of virtual chips in the Applications, such as
14 claims that the Applications are illegal gambling, that virtual chips in the Applications are
15 “things of value”, or claims for unjust enrichment that aspects of the Applications are deceptive
16 or unfair, against the Released Parties, or any of them. For the avoidance of doubt, this release
17 includes (1) claims potentially subject to arbitration agreements; and (2) claims for amounts
18 spent on in-Application purchases or for any in-Application revenues that are attributable to
19 Platform Provider fees.

20 **1.28. “Released Parties”** means the Defendant, and its present or former
21 administrators, predecessors, successors, assigns, parents, subsidiaries, corporate affiliates,
22 holding companies, investors, divisions, corporate affiliates, employees, agents, representatives,
23 consultants, independent contractors, service providers, vendors, directors, managing directors,
24 officers, partners, principals, members, attorneys, accountants, fiduciaries, financial and other
25 advisors, investment bankers, insurers, reinsurers, employee benefit plans, underwriters,
26 shareholders, lenders, auditors, and investment advisors, including but not limited to all Platform
27 Providers.

1 **1.29. “Releasing Parties”** means Plaintiff and other Settlement Class Members and
2 their respective past, present and future heirs, children, spouses, beneficiaries, conservators,
3 executors, estates, administrators, assigns, agents, consultants, independent contractors, insurers,
4 attorneys, accountants, financial and other advisors, investment bankers, underwriters, and
5 lenders, and any other representatives of any of these persons and entities.

6 **1.30. “Settlement Administration Expenses”** means (i) the expenses incurred by the
7 Settlement Administrator in providing Notice, processing claims, responding to inquiries from
8 members of the Settlement Class, distributing funds for Approved Claims, and related services,
9 and (ii) the fees and expenses of any Settlement Special Master the Court may appoint, if
10 applicable.

11 **1.31. “Settlement Administrator”** means Angeion Group, subject to approval of the
12 Court, which will administer certain aspects of the Notice and Settlement Website, process
13 Approved Claims, and distribute Settlement Payments to Settlement Class Members as set forth
14 in this Agreement.

15 **1.32. “Settlement Amount”** means the amount of six million five hundred thousand
16 dollars (\$6,500,000.00) to be deposited by Defendant into the Escrow Account consistent with
17 the provisions set forth in Section 2.1 below. The Settlement Amount represents the total extent
18 of Defendant’s monetary obligations under this Agreement. In no event shall Defendant’s total
19 monetary obligation with respect to this Agreement exceed or be less than of six million five
20 hundred thousand dollars (\$6,500,000.00).

21 **1.33. “Settlement Class”** means Washington residents (as reasonably determined by IP
22 address information or other information furnished by Platform Providers) who played the
23 Applications on or before preliminary approval of the settlement. Excluded from the Settlement
24 Class are (1) any Judge or Magistrate presiding over this action and members of their families, (2)
25 Defendant, Defendant’s subsidiaries, parent companies, successors, predecessors, and any entity in
26 which Defendant or its parents have a controlling interest and their current or former officers,
27 directors, and employees, (3) persons who properly execute and file a timely request for exclusion

1 from the settlement class, and (4) the legal representatives, successors or assigns of any such excluded
2 persons.

3 **1.34. “Settlement Class Member”** means any person who falls within the definition of
4 the Settlement Class and who does not submit a valid request for exclusion from the Settlement
5 Class.

6 **1.35. “Settlement Fund”** means the non-reversionary cash fund that shall be
7 established by Defendant in the total amount of the Settlement Amount, plus all interest earned
8 thereon. From the Settlement Fund, the Settlement Administrator shall pay all Approved Claims
9 made by Settlement Class Members, Settlement Administration Expenses, any incentive award
10 to the Class Representatives, taxes, and any Fee Award to Class Counsel. The Settlement Fund
11 shall be kept in the Escrow Account with permissions granted to the Settlement Administrator to
12 access said funds until such time as the above-listed payments are made. The Settlement
13 Administrator shall be responsible for all tax filings with respect to any earnings on the amounts
14 in the Settlement Fund and the payment of all taxes that may be due on such earnings.

15 **1.36. “Settlement Payment(s)”** means the payments from the Net Settlement Fund to
16 be made to Settlement Class Members with Approved Claims according to the plan of allocation
17 attached as Exhibit E (the “Plan of Allocation”).

18 **1.37. “Settlement Website”** means the website to be created, launched, and maintained
19 by the Settlement Administrator which shall allow for the electronic submission of Claim Forms
20 and shall provide access to relevant case documents including the Notice, information about the
21 submission of Claim Forms, and other relevant documents. The Settlement Website shall also
22 advise the Settlement Class of the total value of the Settlement Fund and give Settlement Class
23 Members the ability to estimate their Settlement Payment. The Settlement Website shall remain
24 accessible until at least thirty (30) days after the Effective Date.

25 **2. SETTLEMENT RELIEF**

26 **2.1. Monetary Compensation.**

1 (a) Defendant shall pay or cause to be paid into the Escrow Account the
2 Settlement Amount (\$6,500,000.00) within fourteen (14) calendar days after the entry of Final
3 Approval.

4 (b) Settlement Class Members shall have until the Claims Deadline to submit
5 a Claim Form. Each Settlement Class Member with an Approved Claim shall be entitled to a
6 Settlement Payment from the Net Settlement Fund.

7 (c) The Settlement will be determined according to the Plan of Allocation
8 attached as Exhibit E. The Plan of Allocation is divided into two baseline categories: (i) claims
9 that are not subject to Huuuge’s Governing Law and Binding Arbitration provision (“Non-
10 GLBA Claims”) and (ii) claims that are potentially subject to Huuuge’s Governing Law and
11 Binding Arbitration provision (“GLBA Claims”). Non-GLBA Claims are the claims held by
12 persons in the Settlement Class who did not click “I agree” on Defendant’s March 2020 pop-up
13 window, or who timely opted out of Defendant’s Governing Law and Binding Arbitration
14 provision. GLBA Claims are claims held by persons who did click “I agree” on Defendant’s
15 March 2020 pop-up window and did not timely opt-out of Governing Law and Binding
16 Arbitration provision. The Settlement Payments for Non-GLBA and GLBA Claims are each
17 paid according to escalating marginal recovery percentages.

18 (d) Non-GLBA Claims and GLBA Claims are determined at an identity
19 (person) level rather than at an account level, according to the following rules:

20 (1) If a person **has never** clicked “I agree” on the March 2020 pop-up
21 window (irrespective of Application or account), that person has
22 **all Non-GLBA Claims** (irrespective of Application or account).

23 (2) If a person **has** clicked “I agree” on the March 2020 pop-up
24 window (irrespective of Application or account) and **has not**
25 timely opted-out with respect to **any** of those “clicks,” that person
26 has **all GLBA Claims** (irrespective of Application or account).

- 1 (3) If a person has clicked “I agree” on the March 2020 pop-up
2 window (irrespective of Application or account) and **has** timely
3 opted-out with respect to **any** of those “clicks,” that person has **all**
4 **Non-GLBA Claims** (irrespective of Application or account).
- 5 (4) The primary purpose of these rules is to recognize that (1) **any**
6 click on the March 2020 pop-up window (irrespective of
7 Application or account) by a person renders **all** of his/her claims
8 GLBA for purposes of this Settlement, and that (2) **any** timely opt-
9 out by a person (irrespective of Application or account) renders **all**
10 of his/her claims Non-GLBA Claims for purposes of this
11 Settlement (irrespective of Application or account, and irrespective
12 of whether that person clicked the March 2020 pop-up window).
- 13 (5) No individual holds both GLBA Claims and Non-GLBA Claims.
- 14 (6) An opt-out notice is timely for purposes of this Settlement if it was
15 postmarked within thirty (30) days after when the individual
16 “clicked” the March 2020 pop-up window and received by
17 Defendant before May 17, 2020.
- 18 (7) **Example One:** If Jane Doe holds Account A and Account B on
19 Huuuge Casino, clicked “I agree” on the March 2020 pop-up
20 window on both accounts, and only timely opted out of
21 Defendant’s Governing Law and Binding Arbitration provision as
22 to Account B, Ms. Doe’s claims are Non-GLBA Claims as to the
23 money she spent playing with both Account A and Account B.
- 24 (8) **Example Two:** If John Doe holds Account Y and Account Z on
25 Huuuge Casino, but only clicked “I agree” on the March 2020 pop-
26 up window while playing on Account Z, and did not timely opt-
27

1 out, Mr. Doe’s claims are GLBA Claims as to the money he spent
2 playing with both Account Y and Account Z.

3 (9) **Example Three:** If Richard Roe holds Account L and Account M
4 on Huuuge Casino and Account N on Billionaire Casino Slots,
5 clicked “I agree” on the March 2020 pop-up window while playing
6 on Account N, and timely opted out of Defendant’s Governing
7 Law and Binding Arbitration provision, Mr. Roe’s claims are Non-
8 GLBA Claims as to the money he spent playing with Account L,
9 Account M, and Account N.

10 (e) If the total Approved Claims do not exhaust the Net Settlement Fund
11 under the baseline marginal recovery percentages in the Plan of Allocation, the marginal
12 recovery percentages, for both Non-GLBA and GLBA Claims, will be increased pro rata so that
13 the Settlement Payments will exhaust or leave only *de minimis* funds in the Net Settlement
14 Fund.

15 (f) Within sixty (60) days after the Effective Date, or such other date as the
16 Court may set, the Settlement Administrator shall pay from the Settlement Fund all Approved
17 Claims by check or electronic payment.

18 (g) Each payment issued to a Settlement Class Member via check will state on
19 the face of the check that it will become null and void unless cashed within ninety (90) calendar
20 days after the date of issuance.

21 (h) In the event that an electronic deposit to a Settlement Class Member is
22 unable to be processed, the Settlement Administrator shall attempt to contact the Settlement
23 Class Member within thirty (30) calendar days to correct the problem.

24 (i) To the extent that a check issued to a Settlement Class Member is not
25 cashed within ninety (90) calendar days after the date of issuance, or an electronic deposit is
26 unable to be processed within ninety (90) calendar days after the first attempt, such funds shall
27 remain in the Net Settlement Fund and shall be apportioned pro rata to participating Settlement

1 Class Members in a second distribution, if practicable, subject to the provisions set forth in
2 paragraph (f) above. To the extent that any second distribution is impracticable or would violate
3 the provisions set forth in paragraph (f) above, or that any second-distribution funds remain in
4 the Net Settlement Fund after an additional ninety (90) calendar days, such funds shall revert to
5 the Legal Foundation of Washington, as approved by the Court.

6 (j) No amount paid by Defendant into the Escrow Account shall revert to
7 Defendant unless the Settlement is terminated in accordance with Sections 4.6 or 7.1. In no
8 event shall any such amount be paid to Class Counsel except for the amount of any approved
9 Fee Award.

10 **2.2. Prospective Measures.** Defendant shall take the following steps in connection
11 with this Settlement to Applications it continues to offer to Washington residents (as reasonably
12 determined by IP address or by geolocation), within fifty-six (56) days after an order granting
13 Preliminary Approval:

14 (a) Huuuge will place resources relating to video game behavior disorders
15 within the Applications. Within the self-service resources available to players, Huuuge shall add
16 an additional button or link with labeling referring to video game behavior disorder resources.
17 This link or button shall be similarly prominent to other links or buttons within the self-service
18 resources. When clicked, the link or button will take players to a webpage that (1) encourages
19 responsible gameplay; (2) describes what video game behavior disorders are; (3) provides or
20 links to resources relating to video game behavior disorders; and (4) includes a link to Huuuge's
21 self-exclusion policy. Customer service representatives will provide the same information to any
22 player that contacts them and references or exhibits video game behavior disorders, and will face
23 no adverse employment consequences for providing players with this information.

24 (b) Huuuge shall publish on its website a voluntary self-exclusion policy. That
25 policy shall provide that, when a player self-excludes by specifying the Player ID(s) that the
26 player wishes to ban, Huuuge shall use commercially reasonable efforts to immediately ban the
27 account(s) associated with those Player ID(s). Huuuge shall retain discretion as to the particular

1 method by which players may self-exclude; which may include, for example, HUUUGE may
2 permit players to self-exclude by contacting HUUUGE Customer Support, completing a form on
3 HUUUGE's website, or any other reasonably accessible means. HUUUGE shall use commercially
4 reasonable efforts to prevent any use of the Application specified by the player. After a self-
5 exclusion request is responded to in full by HUUUGE, HUUUGE shall not remove these restrictions
6 for the period identified in the self-exclusion policy at the time the self-exclusion is requested.

7 (c) HUUUGE will change game mechanics for the Applications to ensure that
8 players who run out of sufficient virtual chips to continue to play the game they are playing will
9 be able to continue to play games within the Application they are playing without needing to
10 purchase additional virtual chips or wait until they would have otherwise received free additional
11 virtual chips in the ordinary course. Specifically, players who run out of chips will be able to
12 continue to play at least one game within the Application they are playing.

13 **3. RELEASES**

14 **3.1.** The obligations incurred pursuant to this Settlement Agreement shall be a full and
15 final disposition of the Action and any and all Released Claims, as against all Released Parties.

16 **3.2.** Upon the Effective Date, the Releasing Parties, and each of them, shall be deemed
17 to have, and by operation of the Final Judgment shall have, fully, finally, and forever released,
18 relinquished, and discharged all Released Claims against the Released Parties, and each of them.

19 **3.3.** Upon the Effective Date, the Released Parties, and each of them, shall by
20 operation of the Final Judgment have, fully, finally, and forever released, relinquished, and
21 discharged all claims against Plaintiff, the Settlement Class, and Class Counsel that arise out of
22 or relate in any way to the commencement, prosecution, settlement, or resolution of the Action,
23 except for claims to enforce the terms of the Settlement.

24 **3.4.** The Class Representatives and all other Settlement Class Members further
25 stipulate that, with the changes delineated in Sections 2.2(a)-2.2(c), virtual chips in the
26 Applications are gameplay enhancements, not "things of value" as defined by RCW 9.46.0285.
27 As long as those prospective measures remain implemented in the Applications as described, all

1 Settlement Class Members are estopped from contending that virtual chips in the Applications
2 are “things of value” under current Washington law or that aspects of the Applications at issue in
3 these cases render the Applications deceptive or unfair under Washington law.

4 **4. NOTICE**

5 **4.1. Class List.**

6 (a) To effectuate the Notice Plan, Defendant shall provide Class Counsel and the Settlement
7 Administrator a Class List which will identify Settlement Class Members by Washington IP
8 address that will contain the Player ID, email address, and Lifetime Spending Amount for each
9 Player ID for all Applications. All information for the Class List will be provided by Defendant,
10 except that the following information, and the following information only, shall be obtained by
11 subpoena issued from Plaintiff, with a rider substantially in the form attached hereto as Exhibit
12 H, within seven (7) days of signing of the Settlement Agreement, to each of the Platforms as
13 follows:

- 14
- 15 1) For Player IDs that made a purchase in the Applications with a Washington IP
16 address after June 1, 2017 for whom Defendant does not have a corresponding
17 email address, the Platforms will be asked to identify the email addresses for each
18 Platform ID provided by Defendant. The Platform IDs shall be provided to
19 Plaintiffs by Defendant within two (2) days of signing of the Settlement
20 Agreement; and
 - 21 2) For purchases made prior to June 1, 2017, the Platforms will be asked to identify
22 the Platform IDs and corresponding email addresses for those purchases made in
23 the Applications by players with Washington IP addresses at the time of the
24 purchase.

25 (b) In addition, Defendant shall further provide for each Settlement Class Member
26 information sufficient to determine whether the Player ID clicked to accept the Huuuge Terms of
27 Use pop-up on or after March 1, 2020 but before the date of the execution of this Settlement
Agreement.

(c) Defendant will provide the completed Class List to Class Counsel and the Settlement
Administrator within fourteen (14) days after receiving the last data requested in Section 4.1 (a)

1 from the Platforms. Such information shall be provided pursuant to FRE 408 until Preliminary
2 Approval; and at that time, shall be treated as Confidential and not subject to public filing.

3 (d) Defendant and Class Counsel shall each provide the Settlement Administrator the
4 information reflected in any opt-out letters from the Terms of Use or any part thereof received by
5 Defendant before the date of the execution of this Settlement Agreement. Defendant will fulfill
6 this obligation by providing a spreadsheet listing, to the extent provided in the opt-out letter, the
7 first, middle, and last name; date on the letter; and address.

8 (e) The Settlement Administrator shall keep the Class List and all personal information
9 obtained therefrom, including the identity, and e-mail addresses of all persons, strictly
10 confidential. To prepare the Class List for potential Settlement Payments, the Settlement
11 Administrator shall (1) *first*, categorize each unique and identifiable person as holding either
12 GLBA Claims or Non-GLBA Claims, (2) *second*, attach to each unique and identifiable person
13 all of his/her associated Application accounts (*e.g.*, by Player IDs), (3) *third*, use Claim Forms to
14 supplement, amend, verify, adjust, and audit the foregoing data, as necessary, (4) *fourth*,
15 calculate the total Lifetime Spending Amount for each unique and identifiable person, and (5)
16 *finally*, categorize each unique and identifiable person according to the appropriate Lifetime
17 Spending Amount levels identified in the Plan of Allocation. For example, using Example 1 in
18 Section 2.1(d)(8) as a starting point, if Jane Doe spent \$25,000 through Account A and \$60,000
19 through Account B on Huuuge Casino, clicked “I agree” on the March 2020 pop-up window on
20 both accounts, but only timely opted out of Defendant’s Governing Law and Binding Arbitration
21 provision as to Account B, the settlement administrator will categorize Jane Doe as holding Non-
22 GLBA Claims, calculate her Lifetime Spending Amount as \$85,000.00, and place her claim in
23 the \$10,000-\$100,000 Lifetime Spending Amount level within Non-GLBA Claims in the Plan of
24 Allocation. The Class List may not be used by the Settlement Administrator for any purpose
25 other than advising specific individual Settlement Class Members of their rights, distributing
26 Settlement Payments, and otherwise effectuating the terms of the Settlement Agreement or the
27 duties arising thereunder, including the provision of Notice of the Settlement.

1 **4.2. Notice Plan.** The Notice Plan shall consist of the following:

2 (a) *Direct Notice.* No later than the Notice Date, the Settlement Administrator
3 shall send Notice via email substantially in the form attached as Exhibit B, along with an
4 electronic link to the Claim Form, to all Settlement Class Members for whom a valid email
5 address is available in the Class List. In the event transmission of email notice results in any
6 “bounce-backs,” the Settlement Administrator shall, where reasonable: correct any issues that
7 may have caused the “bounce-back” to occur and make a second attempt to re-send the email
8 notice, and (ii) send Notice substantially in the form attached as Exhibit C via First Class U.S.
9 Mail. The Settlement Administrator shall also, where practicable, send Notice substantially in the
10 form attached as Exhibit C via First Class U.S. Mail to all Settlement Class Members with a
11 Lifetime Spending Amount greater than \$100.00. Any Notice sent via U.S. Mail will be sent to
12 the best address available through public means and/or skip tracing.

13 (b) *Reminder Notice.* Thirty (30) days prior to the Claims Deadline, the
14 Settlement Administrator shall again send Notice via email substantially in the form attached as
15 Exhibit C, along with an electronic link to the Claim Form, to all Settlement Class Members for
16 whom a valid email address is available in the Class List.

17 (c) *Settlement Website.* Within seven (7) days after Preliminary Approval,
18 Notice shall be provided on a website at www.hgsettlement.com which shall be administered and
19 maintained by the Settlement Administrator and shall include the ability to file Claim Forms
20 online. The Notice provided on the Settlement Website shall be substantially in the form of
21 Exhibit D hereto. The Settlement Website shall also advise the Settlement Class of the total value
22 of the Settlement Fund and provide Settlement Class Members the ability to approximate their
23 Settlement Payment.

24 (d) *Digital Publication Notice.* The Settlement Administrator will supplement
25 the direct notice program with a digital publication notice program that will deliver more than
26 five million (5,000,000) impressions to likely Settlement Class Members. The digital publication
27 notice campaign will run for at least one month and will contain active hyperlinks to the

1 Settlement Website. The final digital notice advertisements, and the overall digital publication
2 notice program to be used, shall be subject to the final approval of Defendant, which approval
3 shall not be unreasonably withheld.

4 (e) *CAFA Notice.* Pursuant to 28 U.S.C. § 1715, not later than ten (10) days
5 after the Agreement is filed with the Court, Defendant shall cause to be served upon the
6 Attorneys General of each U.S. State in which Settlement Class Members are believed to reside,
7 the Attorney General of the United States, and other required government officials, notice of the
8 proposed settlement as required by law.

9 (f) *Contact from Class Counsel.* Class Counsel, in their capacity as counsel to
10 Settlement Class Members, may from time to time contact Settlement Class Members to provide
11 information about the Settlement Agreement and to answer any questions Settlement Class
12 members may have about the Settlement Agreement.

13 **4.3.** The Notice shall advise the Settlement Class of their rights under the Settlement,
14 including the right to be excluded from or object to the Settlement or its terms. The Notice shall
15 specify that any objection to the Settlement Agreement, and any papers submitted in support of
16 said objection, shall be considered by the Court at the Final Approval Hearing only if, on or
17 before the Objection/Exclusion Deadline approved by the Court and specified in the Notice, the
18 Class Member making the objection files notice of an intention to do so and at the same time
19 files copies of such papers he or she proposes to be submitted at the Final Approval Hearing. An
20 unrepresented Class Member may submit such papers to the Clerk of the Court, or through the
21 Court's CM/ECF system. A Class Member represented by counsel *must* timely file any objection
22 through the Court's CM/ECF system.

23 **4.4. Right to Object or Comment.** Any Settlement Class Member who intends to
24 object to this Settlement must present the objection in writing, which must be personally signed
25 by the objector and must include: (i) any Player IDs, (ii) any email address(es) associated with
26 the Applications, (iii) current contact telephone number, U.S. Mail address, and email address,
27 (iv) the specific grounds for the objection, (v) all documents or writings that the Settlement Class

1 Member desires the Court to consider, (vi) the name and contact information of any and all
2 attorneys representing, advising, or in any way assisting the objector in connection with the
3 preparation or submission of the objection or who may profit from the pursuit of the objection,
4 and (vii) a statement indicating whether the objector intends to appear at the Final Approval
5 Hearing (either personally or through counsel, who must file an appearance or seek *pro hac vice*
6 admission). All written objections must be filed with, or otherwise received by the Court, and e-
7 mailed or delivered to Class Counsel and Defendant's Counsel, no later than the
8 Objection/Exclusion Deadline. Any Settlement Class Member who fails to timely file or submit a
9 written objection with the Court and notice of his or her intent to appear at the Final Approval
10 Hearing in accordance with the terms of this Section and as detailed in the Notice, and at the
11 same time provide copies to designated counsel for the Parties, shall not be permitted to object to
12 this Settlement Agreement or appear at the Final Approval Hearing, and shall be foreclosed from
13 seeking any review of this Settlement by appeal or other means and shall be deemed to have
14 waived his or her objections and be forever barred from making any such objections in the
15 Action or any other action or proceeding.

16 **4.5. Right to Request Exclusion.** Any Settlement Class Member may request to be
17 excluded from the Settlement Class by sending a written request that is received on or before the
18 Objection/Exclusion Deadline approved by the Court and specified in the Notice. To exercise the
19 right to be excluded, a person in the Settlement Class must timely send a written request for
20 exclusion to the Settlement Administrator that (i) provides his/her name, (ii) identifies the case
21 name, "*Sean Wilson v. Huuuge, Inc., a Delaware corporation*, No. 18-cv-05276-RBL (W.D.
22 Wash.)," (iii) states the individual's Player ID and email addresses associated with use of the
23 Applications, (iv) states the individual's current contact telephone number, U.S. Mail address,
24 and email address, (v) is physically signed by the individual seeking exclusion, and (vi) contains
25 a statement to the effect that "I/We hereby request to be excluded from the proposed Settlement
26 Class." In light of the COVID-19 pandemic, the Settlement Administrator shall create a
27 dedicated e-mail address to receive exclusion requests electronically. A request for exclusion that

1 does not include all of the foregoing information, that is sent to an address other than that
2 designated in the Notice, or that is not received within the time specified, shall be invalid and the
3 individual serving such a request shall be deemed to remain a Settlement Class Member and
4 shall be bound as a Settlement Class Member by this Settlement Agreement, if approved by the
5 Court. Any person who timely and properly elects to request exclusion from the Settlement Class
6 shall not (i) be bound by any orders or Final Judgment entered in the Action, (ii) be entitled to
7 relief under this Agreement, (iii) gain any rights by virtue of this Agreement, or (iv) be entitled
8 to object to any aspect of this Agreement. No person may request to be excluded from the
9 Settlement Class through “mass” or “class” opt-outs.

10 **4.6.** If the amount of the Base Payment Amounts, as defined in the Plan of Allocation,
11 of persons in the Settlement Class who request exclusion exceeds 10% of the Settlement Fund,
12 then any Party to this Settlement Agreement may notify the other parties in writing that they
13 have elected to terminate this Settlement Agreement. Such notification of intent to terminate the
14 Settlement Agreement must be provided a minimum of seven (7) calendar days before the filing
15 deadline for the motion is filed seeking final approval ahead of the Final Approval Hearing. If
16 this Settlement Agreement is terminated, it will be deemed null and void ab initio.

17 **5. CLAIMS PROCESS AND SETTLEMENT ADMINISTRATION**

18 **5.1.** The Settlement Administrator shall, under the supervision of the Court, administer
19 the relief provided by this Settlement Agreement by processing Claim Forms in a rational,
20 responsive, cost effective, and timely manner. The Settlement Administrator shall maintain
21 reasonably detailed records of its activities under this Agreement. The Settlement Administrator
22 shall maintain all such records as are required by applicable law in accordance with its normal
23 business practices and such records will be made available to Class Counsel and Defendant’s
24 Counsel upon request. The Settlement Administrator shall also provide reports and other
25 information to the Court as the Court may require. The Settlement Administrator shall provide
26 Class Counsel and Defendant’s Counsel with information concerning Notice, administration, and
27 implementation of the Settlement Agreement. Should the Court request, the Parties shall submit

1 a timely report to the Court summarizing the work performed by the Settlement Administrator,
2 including a post-distribution accounting of all amounts from the Settlement Fund paid to
3 Settlement Class Members, the number and value of checks not cashed, the number and value of
4 electronic payments unprocessed, and the amount distributed to any *cy pres* recipient. Without
5 limiting the foregoing, the Settlement Administrator shall:

6 (a) Receive requests to be excluded from the Settlement Class and promptly
7 provide Class Counsel and Defendant's Counsel copies thereof. If the Settlement Administrator
8 receives any exclusion forms after the deadline for the submission of such forms, the Settlement
9 Administrator shall promptly provide copies thereof to Class Counsel and Defendant's Counsel;

10 (b) Provide weekly reports to Class Counsel and Defendant's Counsel
11 regarding the number of Claim Forms received, the amount of the Settlement Payments
12 associated with those Claim Forms, and the categorization and description of Claim Forms
13 rejected, in whole or in part, by the Settlement Administrator; and

14 (c) Make available for inspection by Class Counsel and Defendant's Counsel
15 the Claim Forms received by the Settlement Administrator at any time upon reasonable notice.

16 **5.2.** The Settlement Administrator shall distribute Settlement Payments according to
17 the provisions enumerated in Section 2.1. To the extent it is unclear to the Settlement
18 Administrator whether a Settlement Class Member holds a Non-GLBA Claim or GLBA Claim,
19 the Settlement Administrator shall seek guidance from Class Counsel and Defendant's Counsel.

20 **5.3.** The Settlement Administrator shall be obliged to employ reasonable procedures to
21 screen claims for abuse or fraud and deny Claim Forms where there is evidence of abuse or
22 fraud, including by cross-referencing Approved Claims with the Class List. The Settlement
23 Administrator shall determine whether a Claim Form submitted by a Settlement Class Member is
24 an Approved Claim and shall reject Claim Forms that fail to (a) comply with the instructions on
25 the Claim Form or the terms of this Agreement, or (b) provide full and complete information as
26 requested on the Claim Form. In the event a person submits a timely Claim Form by the Claims
27 Deadline but the Claim Form is not otherwise complete, then the Settlement Administrator shall

1 give such person reasonable opportunity to provide any requested missing information, which
2 information must be received by the Settlement Administrator no later than twenty-eight (28)
3 calendar days after the Claims Deadline. In the event the Settlement Administrator receives such
4 information more than twenty-eight (28) calendar days after the Claims Deadline, then any such
5 claim shall be denied. The Settlement Administrator may contact any person who has submitted
6 a Claim Form to obtain additional information necessary to verify the Claim Form.

7 **5.4.** Class Counsel and Defendant's Counsel shall both have the right to challenge the
8 Settlement Administrator's acceptance or rejection of any particular Claim Form *or* the amount
9 proposed to be paid on account of any particular Settlement Class Member's claim. The
10 Settlement Administrator shall follow any joint decisions of Class Counsel and Defendant's
11 Counsel as to the validity or amount of any disputed claim. Where Class Counsel and
12 Defendant's Counsel disagree, the Settlement Administrator will finally resolve the dispute and
13 the claim will be treated in the manner designated by the Settlement Administrator.

14 **6. PRELIMINARY APPROVAL ORDER AND FINAL APPROVAL ORDER**

15 **6.1.** Promptly after execution of this Agreement, Class Counsel shall move the Court
16 to enter an order preliminarily approving the Settlement and attach this Agreement as an exhibit
17 to the motion. The proposed preliminary approval order shall include, among other provisions, a
18 request that the Court:

- 19 (a) preliminary appoint Sean Wilson and Heidi Hammer as Class
20 Representatives of the Settlement Class;
- 21 (b) preliminary appoint Class Counsel to represent the Settlement Class;
- 22 (c) preliminary certify the Settlement Class under Fed. R. Civ. P. 23 for
23 settlement purposes only;
- 24 (d) preliminarily approve this Agreement for purposes of disseminating
25 Notice to the Settlement Class;
- 26 (e) approve the form and contents of the Notice and the method of its
27 dissemination to the Settlement Class; and

1 (f) schedule a Final Approval Hearing to review comments and/or objections
2 regarding the Settlement, to consider its fairness, reasonableness and adequacy, to consider the
3 application for any Fee Award and incentive awards to the Class Representatives, and to
4 consider whether the Court shall issue a Final Judgment approving this Agreement and
5 dismissing the Action with prejudice.

6 **6.2. Final Approval Order.** After Notice is given, and no earlier than 21 days
7 following the Claims Deadline, Class Counsel shall move the Court for final approval and entry
8 of a Final Judgment at the Final Approval Hearing, which shall include, among other a
9 provisions, a request that the Court:

10 (a) find that the Court has personal jurisdiction over all Settlement Class
11 Members and Defendant for settlement purposes only and that the Court has subject matter
12 jurisdiction to approve the Settlement Agreement, including all exhibits thereto;

13 (b) approve the Settlement Agreement and the proposed settlement as fair,
14 reasonable and adequate as to, and in the best interests of, the Settlement Class Members; direct
15 the Parties and their counsel to implement and consummate the Settlement Agreement according
16 to its terms and provisions; and declare the Settlement Agreement to be binding on, and have res
17 judicata and preclusive effect in all pending and future lawsuits or other proceedings maintained
18 by or on behalf of Plaintiff and the Releasing Parties with respect to the Released Claims;

19 (c) find that the Notice implemented pursuant to the Agreement (i) constitutes
20 the best practicable notice under the circumstances; (ii) constitutes notice that is reasonably
21 calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the
22 Action, their right to object to the Settlement or exclude themselves from the Settlement Class,
23 and to appear at the Final Approval Hearing; (iii) is reasonable and constitutes due, adequate,
24 and sufficient notice to all persons entitled to receive notice; and (iv) meets all applicable
25 requirements of the Federal Rules of Civil Procedure, the Due Process Clause of the United
26 States Constitution, and the rules of the Court;

1 (d) find that the Class Representatives and Class Counsel adequately represent
2 the Settlement Class for purposes of entering into and implementing the Settlement Agreement;

3 (e) dismiss the Action (including all individual claims and class claims
4 presented thereby) on the merits and with prejudice, without fees or costs to any party except as
5 provided in the Settlement Agreement;

6 (f) incorporate the Releases set forth above, make the Releases effective as of
7 the Effective Date, and forever discharge the Released Parties from the Released Claims as set
8 forth herein;

9 (g) permanently bar and enjoin all Settlement Class Members who have not
10 properly sought exclusion from the Settlement Class from filing, commencing, prosecuting,
11 intervening in, or participating (as class members or otherwise) in, any lawsuit or other action in
12 any jurisdiction based on the Released Claims; and

13 (h) without affecting the finality of the Final Judgment for purposes of appeal,
14 retain jurisdiction as to all matters relating to administration, consummation, enforcement, and
15 interpretation of the Settlement Agreement and the Final Judgment, and for any other necessary
16 purpose.

17 **6.3.** The Parties shall, in good faith, cooperate, assist and undertake all reasonable
18 actions and steps in order to accomplish these required events on the schedule set by the Court,
19 subject to the terms of this Settlement Agreement.

20 **7. CLICKWRAP AGREEMENT**

21 **7.1** Upon Preliminary Approval, Defendant may remove Plaintiff's counsel's contact
22 information from its click wrap or pop-up. Plaintiff's counsel will not argue that the post-
23 Preliminary Approval removal of its contact information renders the click wrap agreement
24 unenforceable for any player of Defendant's Applications.

25 **7.2** Upon Final Approval, Defendant may remove any reference to the Action from
26 the pop-up and Plaintiff's counsel will not argue in any forum that any putative class member
27 opted out of the class settlement using the clickwrap agreement.

1 **8. TERMINATION**

2 **8.1.** Subject to Sections 9.1-9.3 below, and in addition to the rights described in
3 Section 4.6 above, the Parties to this Settlement Agreement shall have the right to terminate this
4 Agreement by providing written notice of the election to do so (“Termination Notice”) to all
5 other Parties hereto within twenty-one (21) calendar days of any of the following events: (i) the
6 Court’s refusal to grant Preliminary Approval of this Agreement; (ii) the Court’s refusal to grant
7 final approval of this Agreement; (iii) the Court’s refusal to enter the Final Judgment in this
8 Action; (iv) the date upon which the Final Judgment is modified or reversed in any material
9 respect by the Court of Appeals or the Supreme Court; or (v) the date upon which an Alternative
10 Judgment, as defined in Section 9.1(d) of this Agreement, is modified or reversed in any material
11 respect by the Court of Appeals or the Supreme Court.

12 **9. INCENTIVE AWARD AND CLASS COUNSEL’S ATTORNEYS’ FEES AND**
13 **REIMBURSEMENT OF EXPENSES**

14 **9.1. The Fee Award.** Pursuant to Fed. R. Civ. P. 23(f), Defendant agrees that Class
15 Counsel shall be entitled to an award of reasonable attorneys’ fees and costs out of the
16 Settlement Fund in an amount determined by the Court as the Fee Award. Without the Parties
17 having discussed the issue of the amount of attorneys’ fees at any point in their negotiations, and
18 with no consideration given or received, Class Counsel will limit its petition for attorneys’ fees
19 to no more than thirty percent (30%) of the Settlement Fund, plus reimbursement of expenses.
20 Payment of any Fee Award shall be made from the Settlement Fund and should Class Counsel
21 seek or be awarded less than this amount, the difference in the amount sought and/or the amount
22 ultimately awarded pursuant to this paragraph shall remain in the Settlement Fund for
23 distribution to eligible Settlement Class Members.

24 **9.2.** The Fee Award shall be payable from the Settlement Fund within fourteen (14)
25 business days after entry of the Court’s Final Judgment, subject to Class Counsel executing the
26 Undertaking Regarding Attorneys’ Fees and Costs (the “Undertaking”), attached hereto as
27 Exhibit F, and providing all payment routing information and tax I.D. numbers for Class

1 Counsel. Payment of the Fee Award shall be made by wire transfer to Class Counsel in
2 accordance with wire instructions to be provided to the Escrow Account agent, after completion
3 of necessary forms, including but not necessarily limited to W-9 forms. Additionally, should any
4 party to the Undertaking dissolve, merge, declare bankruptcy, become insolvent, or cease to exist
5 prior to the final payment to Settlement Class Members, that party shall execute a new
6 undertaking guaranteeing repayment of funds within fourteen (14) days of such an occurrence.
7 All obligations set forth in this paragraph shall expire upon the Effective Date.

8 **9.3. Incentive Award.** Class Counsel intend to file a motion for Court approval of
9 incentive award to the Class Representatives, to be paid from the Settlement Fund, in addition to
10 any funds the Class Representative stand to otherwise receive from the Settlement. With no
11 consideration having been given or received for these limitations, Sean Wilson will seek no more
12 than \$10,000 as an incentive award, and no other Class Representative will seek more than
13 \$1,000 as an incentive award. Defendant explicitly reserves its right to challenge any incentive
14 award petition.

15 **10. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL,**
16 **CANCELLATION, OR TERMINATION**

17 **10.1.** Consistent with Section 1.11, the Effective Date shall not occur unless and until
18 each of the following events occurs and shall be the date upon which the last (in time) of the
19 following events occurs:

- 20 (a) The Parties have executed this Agreement;
- 21 (b) The Court has granted Preliminary Approval;
- 22 (c) The Court has entered an order finally approving the Agreement,
23 following Notice to the Settlement Class and a Final Approval Hearing, as provided in the
24 Federal Rules of Civil Procedure, and has entered the Final Judgment, or a judgment consistent
25 with this Agreement in all material respects;
- 26 (d) Defendant has funded the Settlement Fund;
- 27

1 (e) In the event that the Court enters an order and final judgment in a form
2 other than that provided above (“Alternative Judgment”) to which the Parties have consented,
3 such Alternative Judgment has become final and non-appealable as if it were a Final Judgment;
4 and

5 (f) In the event that the more than two percent (2%) of the Settlement Class
6 exclude themselves from, or object to, the Settlement, and Plaintiff or Defendant opts to
7 terminate the Settlement Agreement.

8 **10.2.** If some or all of the conditions specified in Section 9.1 are not met, or in the event
9 that this Agreement is not approved by the Court, or the settlement set forth in this Agreement is
10 terminated or fails to become effective in accordance with its terms, then this Settlement
11 Agreement shall be canceled and terminated subject to Section 7.1 unless Class Counsel and
12 Defendant’s Counsel mutually agree in writing to proceed with this Agreement. If any Party is in
13 material breach of the terms hereof, any other Party, provided that it is in substantial compliance
14 with the terms of this Agreement, may terminate this Agreement on notice to all of the Parties.
15 Notwithstanding anything herein, the Parties agree that the Court’s failure to approve, in whole
16 or in part, the attorneys’ fees payment to Class Counsel and/or incentive awards to the Class
17 Representatives set forth in Section 8 above shall not prevent the Agreement from becoming
18 effective, nor shall it be grounds for termination.

19 **10.3.** If this Settlement Agreement is terminated or fails to become effective for the
20 reasons set forth above, the Parties shall be restored to their respective positions as of the date of
21 the signing of this Agreement. In such event, any Final Judgment or other order entered by the
22 Court in accordance with the terms of this Agreement shall be treated as vacated, nunc pro tunc,
23 and the Parties shall be returned to the status quo ante as if this Settlement Agreement had never
24 been entered into.

25 **10.4.** In the event the Settlement is terminated or fails to become effective for any
26 reason, the Settlement Fund, together with any earnings thereon at the same rate as earned by the
27 Settlement Fund, less any taxes paid or due, less Settlement Administrative Expenses actually

1 incurred and paid or payable from the Settlement Fund, shall be returned to Defendant within
2 thirty (30) calendar days after written notification of such event in accordance with instructions
3 provided by Defendant's Counsel to Class Counsel. At the request of Defendant's Counsel, Class
4 Counsel or their designees shall apply for any tax refund owed on the amounts in the Settlement
5 Fund and pay the proceeds, after any deduction of any fees or expenses incurred in connection
6 with such application(s), of such refund to Defendant or as otherwise directed.

7 **11. CONFIDENTIALITY AND PUBLIC STATEMENTS**

8 **11.1.** Except as otherwise agreed by Class Counsel and Defendant's Counsel in writing
9 and/or as required by legal disclosure obligations, all terms of this Agreement will remain
10 confidential and subject to Rule 408 of the Federal Rules of Evidence until presented to the
11 Court along with Plaintiff's motion for preliminary approval.

12 **12. MISCELLANEOUS PROVISIONS.**

13 **12.1.** The Parties (a) acknowledge that it is their intent to consummate this Settlement
14 Agreement; and (b) agree, subject to their fiduciary and other legal obligations, to cooperate to
15 the extent reasonably necessary to effectuate and implement all terms and conditions of this
16 Agreement, to exercise their reasonable best efforts to accomplish the foregoing terms and
17 conditions of this Agreement, to secure final approval, and to defend the Final Judgment through
18 any and all appeals. Class Counsel and Defendant's Counsel agree to cooperate with one another
19 in seeking Preliminary Approval, and entry of the Final Judgment, and promptly to agree upon
20 and execute all such other documentation as may be reasonably required to obtain final approval
21 of the Agreement.

22 **12.2.** The Parties intend this Settlement Agreement to be a final and complete
23 resolution of all disputes between them with respect to the Released Claims by Plaintiff,
24 Settlement Class Members, and each or any of them, on the one hand, against the Released
25 Parties, and each or any of the Released Parties, on the other hand. Accordingly, the Parties agree
26 not to assert in any forum that the Action was brought by Plaintiff or defended by Defendant, or
27 each or any of them, in bad faith or without a reasonable basis.

1 **12.3.** Each signatory to this Agreement warrants (a) that he, she, or it has all requisite
2 power and authority to execute, deliver and perform this Settlement Agreement and to
3 consummate the transactions contemplated herein, (b) that the execution, delivery and
4 performance of this Settlement Agreement and the consummation by it of the actions
5 contemplated herein have been duly authorized by all necessary corporate action on the part of
6 each signatory, and (c) that this Settlement Agreement has been duly and validly executed and
7 delivered by each signatory and constitutes its legal, valid and binding obligation.

8 **12.4.** The Parties have relied upon the advice and representation of counsel, selected by
9 them, concerning the claims hereby released. The Parties have read and understand fully this
10 Settlement Agreement and have been fully advised as to the legal effect hereof by counsel of
11 their own selection and intend to be legally bound by the same.

12 **12.5.** Whether or not the Effective Date occurs or the Settlement Agreement is
13 terminated, neither this Agreement nor the settlement contained herein, nor any act performed or
14 document executed pursuant to or in furtherance of this Agreement or the settlement:

15 (a) is, may be deemed, or shall be used, offered or received against the
16 Released Parties, or each or any of them, as an admission, concession or evidence of, the validity
17 of any Released Claims, the truth of any fact alleged by Plaintiff, the deficiency of any defense
18 that has been or could have been asserted in the Action, the violation of any law or statute, the
19 reasonableness of the settlement amount or the Fee Award, or of any alleged wrongdoing,
20 liability, negligence, or fault of the Released Parties, or any of them;

21 (b) is, may be deemed, or shall be used, offered or received against
22 Defendant, or each or any of them, as an admission, concession or evidence of any fault,
23 misrepresentation or omission with respect to any statement or written document approved or
24 made by the Released Parties, or any of them;

25 (c) is, may be deemed, or shall be used, offered or received against the
26 Released Parties, or each or any of them, as an admission or concession with respect to any
27 liability, negligence, fault or wrongdoing as against any Released Parties, in any civil, criminal

1 or administrative proceeding in any court, administrative agency or other tribunal. However, the
2 settlement, this Agreement, and any acts performed and/or documents executed in furtherance of
3 or pursuant to this Agreement and/or Settlement may be used in any proceedings as may be
4 necessary to effectuate the provisions of this Agreement. Further, if this Settlement Agreement is
5 approved by the Court, any Party or any of the Released Parties may file this Agreement and/or
6 the Final Judgment in any action that may be brought against such Party or Parties in order to
7 support a defense or counterclaim based on principles of res judicata, collateral estoppel, release,
8 good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue
9 preclusion or similar defense or counterclaim;

10 (d) is, may be deemed, or shall be construed against Plaintiff, the Settlement
11 Class, the Releasing Parties, or each or any of them, or against the Released Parties, or each or
12 any of them, as an admission or concession that the consideration to be given hereunder
13 represents an amount equal to, less than or greater than that amount that could have or would
14 have been recovered after trial; and

15 (e) is, may be deemed, or shall be construed as or received in evidence as an
16 admission or concession against Plaintiff, the Settlement Class, the Releasing Parties, or each
17 and any of them, or against the Released Parties, or each or any of them, that any of Plaintiff's
18 claims are with or without merit or that damages recoverable in the Action would have exceeded
19 or would have been less than any particular amount.

20 (f) The Parties acknowledge and agree that any Party may request that the
21 Court appoint a Settlement Special Master. Each Party explicitly reserves the right to oppose any
22 such request. Any fees earned or costs incurred by any such Settlement Special Master shall be
23 paid exclusively from the Settlement Fund.

24 **12.6.** The Parties acknowledge and agree that no opinion concerning the tax
25 consequences of the proposed Settlement to Settlement Class Members is given or will be given
26 by the Parties, nor are any representations or warranties in this regard made by virtue of this
27 Settlement Agreement. Each Settlement Class Member's tax obligations, and the determination

1 thereof, are the sole responsibility of the Settlement Class Member, and it is understood that the
2 tax consequences may vary depending on the particular circumstances of each individual
3 Settlement Class Member.

4 **12.7.** The headings used herein are used for the purpose of convenience only and are
5 not meant to have legal effect.

6 **12.8.** The waiver by one Party of any breach of this Settlement Agreement by any other
7 Party shall not be deemed as a waiver of any other prior or subsequent breaches of this
8 Settlement Agreement.

9 **12.9.** All of the Exhibits to this Settlement Agreement are material and integral parts
10 hereof and are fully incorporated herein by reference.

11 **12.10.** This Settlement Agreement and its Exhibits set forth the entire agreement and
12 understanding of the Parties with respect to the matters set forth herein, and supersede all prior
13 negotiations, agreements, arrangements and undertakings with respect to the matters set forth
14 herein. No representations, warranties or inducements have been made to any party concerning
15 this Settlement Agreement or its Exhibits other than the representations, warranties and
16 covenants contained and memorialized in such documents. This Settlement Agreement may be
17 amended or modified only by a written instrument signed by or on behalf of all Parties or their
18 respective successors-in-interest.

19 **12.11.** Except as otherwise provided herein, each Party shall bear its own attorneys' fees
20 and costs incurred in any way related to the Action.

21 **12.12.** Plaintiff represents and warrants that he has not assigned any claim or right or
22 interest relating to any of the Released Claims against the Released Parties to any other person or
23 party and that they are fully entitled to release the same.

24 **12.13.** Each person executing this Settlement Agreement, any of its Exhibits, or any
25 related settlement documents on behalf of any Party hereto, hereby warrants and represents that
26 such person has the full authority to do so and has the authority to take appropriate action
27 required or permitted to be taken pursuant to the Settlement Agreement to effectuate its terms.

1 **12.14.** This Settlement Agreement may be executed in one or more counterparts. All
2 executed counterparts and each of them shall be deemed to be one and the same instrument.
3 Signature by digital, facsimile, or in PDF format will constitute sufficient execution of this
4 Settlement Agreement. A complete set of original executed counterparts shall be filed with the
5 Court if the Court so requests.

6 **12.15.** The Court shall retain jurisdiction with respect to implementation and
7 enforcement of the terms of this Settlement Agreement, and all Parties hereto submit to the
8 jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in
9 this Settlement Agreement.

10 **12.16.** This Settlement Agreement shall be governed by and construed in accordance
11 with the laws of the State of Washington without reference to the conflicts of laws provisions
12 thereof.

13 **12.17.** This Settlement Agreement is deemed to have been prepared by counsel for all
14 Parties, as a result of arm's-length negotiations among the Parties. Whereas all Parties have
15 contributed substantially and materially to the preparation of this Settlement Agreement, it shall
16 not be construed more strictly against one Party than another.

17 **12.18.** Where this Settlement Agreement requires notice to the Parties, such notice shall
18 be sent to the following counsel. For Plaintiff: Todd Logan, Edelson PC, 123 Townsend Street,
19 Suite 100, San Francisco, California 94107, tlogan@edelson.com. For Jaime Drozd Allen of
20 Davis Wright Tremaine LLP, 920 Fifth Avenue, Suite 3300, Seattle, Washington 98104,
21 jaimeallen@dwt.com. Any such notice will be sent by both U.S. Mail and email.

22 **12.19.** All time periods and dates described in this Agreement are subject to the Court's
23 approval. These time periods and dates may be changed by the Court or by the Parties' written
24 agreement without notice to the Settlement Class. The Parties reserve the right, subject to the
25 Court's approval, to negotiate any reasonable extensions of time that might be necessary to carry
26 out any provision of this Agreement.

[SIGNATURES APPEAR ON FOLLOWING PAGE]


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IN WITNESS WHEREOF, the Parties hereto and their counsel have caused this Settlement Agreement to be executed.

Sean Wilson

Date: 8/20/2020

By: (signature) 

Name: (printed) Sean Wilson

Heidi Hammer

Date: _____

By: (signature) _____

Name: (printed) _____

**EDELSON PC,
Counsel to Class Representatives**

Date: _____

By: (signature) _____

Name: (printed) _____

Its: _____

[DEFENDANT'S SIGNATURES APPEAR ON FOLLOWING PAGE]

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Sean Wilson

Date: _____

By: (signature) _____

Name: (printed) _____

Heidi Hammer

Date: 8/20/2020

By: (signature) 

Name: (printed) Heidi Hammer

**EDELSON PC,
Counsel to Class Representatives**

Date: _____

By: (signature) _____

Name: (printed) _____

Its: _____

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Sean Wilson

Date: _____

By: (signature) _____

Name: (printed) _____

Heidi Hammer

Date: _____

By: (signature) _____

Name: (printed) _____

**EDELSON PC,
Counsel to Class Representatives**

Date: 8/20/2020

By: (signature) Todd Logan

Name: (printed) Todd Logan

Its: Attorney

[DEFENDANT’S SIGNATURES APPEAR ON FOLLOWING PAGE]

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Huuuge, Inc.

Date: _____

By: (signature) Anton Gauffin

Name: (printed) Anton Gauffin

Its: President

