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22 UNITED STATES DISTRICT COURT
 23 NORTHERN DISTRICT OF CALIFORNIA
 24 SAN FRANCISCO DIVISION

25 JANE DOE,
 26
 27 Plaintiff,
 28
 29 v.
 30
 31 ROBLOX CORPORATION,
 32
 33 Defendant.

CASE NO.: 3:21-cv-03943-WHO

**PLAINTIFF’S NOTICE OF
 MOTION AND MOTION IN
 SUPPORT OF PRELIMINARY
 APPROVAL OF A CLASS ACTION
 SETTLEMENT**

Date: May 3, 2023
 Time: 2:00 pm
 Judge: William H. Orrick
 Courtroom: 2, 17th Floor

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17 **Rules**

18 Fed. R. Civ. P. 23 *passim*

19 **Miscellaneous Authority**

20 United States District Court for the Northern District of California, *Procedural Guidance for*
 21 *Class Action Settlements* (Aug. 4, 2022) § 1 *passim*

22 Restatement (Second) of Torts
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24 4 Newberg and Rubenstein on Class Actions
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NOTICE OF MOTION

PLEASE TAKE NOTICE that on May 3, 2023, at 2:00 p.m., or at such other time as may be set by the Court, Plaintiff Jane Doe will appear, through counsel, before the Honorable William H. Orrick or any Judge sitting in his stead, in Courtroom 2, 17th Floor, 450 Golden Gate Avenue, San Francisco, CA 94102, and then and there, respectfully move the Court, pursuant to Federal Rule of Civil Procedure 23(e), to grant preliminary approval of a proposed class action settlement reached between Plaintiff and Defendant Roblox Corporation.

Plaintiff’s motion is based upon this Notice, the Memorandum of Points and Authorities filed herewith, the exhibits attached thereto, including the Parties’ proposed class action settlement agreement, the Declaration of Yaman Salahi filed simultaneously herewith, and the record in this matter, along with any oral argument that may be presented to the Court and evidence submitted in connection therewith.

Respectfully Submitted,

JANE DOE,
individually and on behalf of all others similarly situated,

Dated: March 28, 2023

By: /s/ Yaman Salahi
One of Plaintiff’s Attorneys

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Counsel for Plaintiff and the Putative Class

1 Defendant Roblox Inc. hosts a “metaverse” in which users, who are frequently young
2 children, interact using virtual avatars. One feature of this metaverse is that users may outfit and
3 accessorize their avatars using items created by other users. To do so, users must purchase these
4 items using “Robux,” which are the coin of this virtual realm. Robux, in turn, have to be
5 purchased with traditional government-backed currency; here, U.S. dollars. Plaintiff Jane Doe, a
6 young girl, alleged that Roblox had a practice of inducing users to purchase virtual content with
7 Robux, but then deleting their access to that content without offering refunds. This forced Roblox
8 users to spend more U.S. dollars to purchase more Robux in order to replace the deleted virtual
9 items. Plaintiff alleged that Roblox’s deletion practices were arbitrary, deceptive, and fraudulent.
10 She brought this case on behalf of a class of Roblox users in the United States who purchased
11 virtual items in the metaverse that Roblox later deleted without offering them refunds. In her
12 complaint, Plaintiff sought relief under California’s Unfair Competition Law and Consumer Legal
13 Remedies Act, as well as under various common-law claims.

14 After a mediation with Greg Lindstrom of Phillips ADR that went late into the evening, the
15 parties were able to reach agreement on the material terms of the Settlement now before the
16 Court.¹ See Exhibit 1 (“Settlement”) to the Declaration of Yaman Salahi. Under the Settlement,
17 Roblox will create a \$10 million Settlement Fund, which returns nearly half of the alleged losses
18 back to members of the proposed Settlement Class. A near fifty percent return of alleged losses
19 far outpaces the usual recovery. See, e.g., *Harrison v. Bank of Am. Corp.*, No. 19-CV-00316-LB,
20 2021 WL 5507175, at *3 (N.D. Cal. Nov. 24, 2021) (approving settlement that returned
21 approximately 20% of total damages). Relief for class members will be automatic: a pro rata
22 share of their lost Robux at a favorable and specifically-negotiated exchange rate will be returned
23 to their Roblox accounts without the need to take any action. Class members whose pro rata share
24 of the Settlement Fund is more than \$10 will have the option of selecting either a cash refund or
25 Robux relief. The Settlement also guarantees that an automatic refund program instituted by
26 Roblox in response to this litigation will continue for at least four more years for all Roblox users.

27
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¹ Apart from citations to documents filed in this case, capitalized terms in this motion take the same meaning as that ascribed to them in the Settlement, which is attached as Exhibit 1.

1 At bottom, the proposed Settlement is an excellent result in a case presenting challenging
2 circumstances, and easily passes muster even under the heightened standard of scrutiny that
3 applies to pre-certification class settlements.

4 Given the relief afforded by this Settlement, the Court should not hesitate to preliminarily
5 find that it is fair, reasonable, and adequate. Likewise, as explained below, the Court should have
6 no issue certifying the proposed Settlement Class for settlement purposes, and approving both the
7 form and manner of notice proposed by the Settlement. Accordingly, Plaintiff respectfully moves
8 this Court for an order certifying the proposed Settlement Class for settlement purposes,
9 appointing the Plaintiff Jane Doe to represent the Settlement Classes, appointing Jay Edelson,
10 Rafey S. Balabanian, J. Eli Wade-Scott, and Yaman Salahi of Edelson PC as Class Counsel and
11 Mark S. Reich and Courtney E. Maccarone of Levi & Korsinski, LLP as Liaison Counsel,
12 preliminarily approving the Settlement, and ordering that notice be disseminated to class
13 members.

14 **I. Factual and Procedural Background**

15 Plaintiff provides an overview of the facts and history of the case here, to give context to
16 the proposed Settlement.

17 **A. Factual Background**

18 Roblox developed and operates a gaming platform that brings users together in a virtual
19 universe (or “metaverse”). *See* Dkt. 22, First Amended Complaint (“FAC”), ¶ 1. The Roblox
20 metaverse is especially popular among children, its popularity ballooning during the COVID-19
21 pandemic when many children were stuck at home for extended periods of time. *Id.* ¶¶ 2-4.
22 Recent SEC filings confirm that Roblox’s revenues doubled from \$1 billion in 2020 to \$2 billion
23 in 2021. Roblox knows the age of its userbase and is aware of their particular vulnerability as
24 children. *Id.* ¶ 21.

25 Inside the Roblox metaverse, users create avatars which they can personalize with clothing,
26 gear, or animations. FAC ¶ 24. Users buy these items using an in-game currency called “Robux.”
27 *Id.* ¶¶ 25-26. While the currency is virtual, Robux must be purchased using real dollars. *Id.* ¶ 25.
28 Roblox profits by selling Robux, but also by taking a cut of every transaction that occurs on the

1 Roblox platform. Users can purchase items from sellers who create items themselves, or from
2 Roblox directly. *Id.* ¶ 26. And although certain sellers can convert their Robux back into real-
3 world cash, Roblox also charges a commission on user-to-user sales, and a fee for uploading items
4 to the Roblox platform for sale. *Id.* ¶¶ 27-28. The result, and indeed the point, of all of these
5 exactions is to maintain a high demand for Robux, so that Roblox continues to profit. *Id.* ¶ 29.

6 Plaintiff alleges that everything about the Roblox platform is designed to encourage users
7 to purchase items to customize their avatar. FAC ¶ 35. Links to “customize” an avatar and
8 “shop” for new items are prominently featured on the Roblox landing page after sign-in. *Id.*
9 Roblox also recommends that users purchase certain items based on past purchases. *Id.* ¶ 46.
10 While users expect that purchased items will remain available for their use in perpetuity absent
11 misuse, *id.* ¶ 37, Plaintiff alleges that has turned out not to be the case. Instead, Roblox will
12 arbitrarily “moderate” (*i.e.*, delete) items post-purchase, even though the items have presumably
13 been “pre-approved” (Roblox indicates that products can be vetted by Roblox before they are
14 allowed to be uploaded) and do not violate any Roblox policies. *Id.* ¶¶ 37, 38, 40. Roblox
15 understands that when it deletes items, users will respond by buying more Robux to repurchase the
16 deleted item, or a similar one, thus inflating the demand for Robux, and further enriching Roblox.
17 *Id.* ¶ 39. In fact, Plaintiff alleges that Roblox goes out of its way to ensure that this scheme is
18 effective. For instance, Roblox targets for “moderation” many of the most popular items available
19 for purchase on the platform. *Id.* ¶ 44. Roblox also allegedly refuses to take steps to prevent
20 supposed repeat offenders from continuing to offer items that will be deleted, or from preventing
21 items identical to those that were already deleted from reappearing on the platform. *Id.* ¶¶ 41-43.
22 That is because true content moderation is not Roblox’s goal. *Id.* ¶ 47. Instead, Plaintiff alleges
23 that its goal is to exploit its young user base to make more money.

24 Plaintiff is one of Roblox’s many young users. FAC ¶ 50. She created her Roblox account
25 when she was just 10 years old. *Id.* ¶ 51. Although Roblox was aware of her age, it did not seek
26 confirmation that she had parental permission before creating her account. *Id.* Nor did Roblox
27 take any steps to ensure that Plaintiff had read, much less understood, the Roblox Terms of Use.
28 *Id.* ¶ 23. After creating her account, Plaintiff bought hundreds of Robux using her own money.

1 *Id.* ¶ 52. She used those Robux to buy items for her avatar, items she believed would remain
2 available to her in the Roblox metaverse unless she personally misused them. *Id.* ¶¶ 53-54. But
3 Roblox deleted several items that Plaintiff purchased, none of which contained trademarked or
4 offensive content. *Id.* ¶ 55. And just as Roblox allegedly hoped, Plaintiff was forced to purchase
5 additional Robux to replace the items she lost. *Id.* ¶ 56.

6 Plaintiff brought this lawsuit for herself and a proposed class to challenge Roblox’s content
7 “moderation” scheme and to obtain refunds of money spent to purchase virtual items that were
8 later taken from them. She asserted five claims for relief: for violations of California’s Unfair
9 Competition Law and Consumer Legal Remedies Act, and for common law fraud, conversion, and
10 unjust enrichment. All claims were premised on the same challenge to Roblox’s practice of
11 disabling users’ access to virtual items they have purchased without adequately refunding them.
12 Ms. Doe sought restitution and damages equivalent to the money users had spent to purchase
13 Robux for later-deleted virtual items. *See generally* Dkt. 1.

14 **B. Procedural Background and Settlement Negotiations**

15 Roblox moved to dismiss. In that filing, Roblox revealed that in response to this lawsuit it
16 had voluntarily begun to credit back to users (including, they believed, the plaintiff) Robux spent
17 on subsequently moderated items. Among other arguments, Roblox contended that this program
18 mooted Plaintiff’s claims. In response, Plaintiff filed an amended complaint, in which she
19 clarified that she had not received any refund, or even any notice from Roblox that she might be
20 eligible for a refund. FAC ¶ 57.

21 Roblox moved to dismiss the amended complaint, again asserting that the action was moot.
22 Roblox also asserted a series of arguments based upon its Terms of Service: that the action was
23 not ripe for failure to engage in a supposedly mandatory pre-suit alternative dispute resolution
24 process (including arbitration), to strike the class and monetary claims based on a waiver
25 contained in the Terms, and on the basis that the Terms disclosed that Roblox had the authority to
26 delete items within the Roblox universe. Roblox also contended that Plaintiff failed to allege an
27 actionable misrepresentation or omission, and that many of the claims failed on the grounds that
28 only a virtual currency was at stake.

1 This Court denied that motion in almost all respects, adopting Plaintiff’s arguments that
2 the Terms of Service were not presented to the Plaintiff (who was 10 when she made her Roblox
3 account) in a way that would put her on notice that they existed. Because the Terms did not bind
4 her, none of Roblox’s Terms-based arguments for dismissal were meritorious. The Court also
5 agreed with Plaintiff that real money (*i.e.*, the money used to purchase Robux) was at stake, not
6 just virtual currency. The Court granted Roblox’s motion only with respect to any claim that
7 Roblox’s conduct was “unfair” within the meaning of the UCL, and Plaintiff did not take the
8 opportunity to amend the complaint because the “unfair” claim merely provided her and the
9 proposed class with the same relief available to her under other causes of action the Court allowed
10 to proceed.

11 Roblox thereafter answered the Amended Complaint, and the parties began to lay the
12 groundwork for discovery. Salahi Decl. ¶ 4. But in these preliminary discussions the parties
13 recognized that there was a chance for an early resolution of this case. *Id.* The parties’
14 discussions proved fruitful: Over the course of several weeks the parties were able to hammer out
15 many of the principal deal points. *Id.* ¶ 5. For instance, the parties agreed that Roblox users
16 should get refunds where appropriate, that any settlement fund should be non-reversionary, and
17 that any notice program should include in-app notice. *Id.* But several key points were unresolved,
18 including the size of the overall fund. *Id.*

19 To help resolve these lingering differences, the parties retained the services of a third-party
20 neutral: Gregory Lindstrom, of the highly respected Phillips ADR firm. Salahi Decl. ¶ 6; *see also*
21 *In re TikTok, Inc., Consumer Privacy Litig.*, 565 F. Supp. 3d 1076, 1079 (N.D. Ill. 2021)
22 (describing Phillips ADR as “an experienced and well-respected alternative dispute resolution
23 firm”). Mediator Lindstrom was instrumental in helping the parties resolve many of their
24 outstanding differences, but, reflective of the seriousness of these negotiations, the parties’ first
25 day of mediated negotiations was almost unsuccessful. Salahi Decl. ¶ 7. After Mediator
26 Lindstrom successfully urged counsel to return to the negotiations, the parties worked into the
27 night to complete their negotiations. *Id.*

28

1 And even after the agreement was reached, the parties continued to negotiate over the
2 course of the next several months to work out the final details of the Settlement now before the
3 Court, including the details of the Notice Plan to ensure that Settlement Class Members will be
4 fully apprised of their rights. Salahi Decl. ¶ 8.

5 **II. Summary of Settlement Terms**

6 The principal terms of the Settlement before the Court are as follows:

7 **A. Settlement Class**

8 All individuals in the United States having a Roblox account prior to Preliminary Approval
9 of this Settlement from which content on the Roblox platform was moderated and removed by
10 Roblox. Excluded from the Settlement Class are (a) any Judge or Magistrate presiding over this
11 action and members of their families; (b) Defendant, Defendant's subsidiaries, parents, successors,
12 predecessors, and any entity in which Defendant or its parents have a controlling interest and its
13 current or former employees, officers and directors; (c) persons who properly execute and file a
14 timely request for exclusion from the Class; (d) persons whose claims in this matter have been
15 finally adjudicated on the merits or otherwise released; (e) the legal representatives, successors,
16 and assigns of any such excluded persons; and (f) individuals who own one of 311 accounts that
17 Roblox has determined spent over 80,000 Robux (equating to over \$1,000) on any of these three
18 categories of virtual items: (1) the user purchased the same virtual item from the same seller
19 multiple times, (2) the user purchased a virtual item after that item had already been moderated, or
20 (3) the user created a virtual item and purchased it themselves. Settlement ¶ 1.29.

21 Only minor differences exist between the proposed Settlement Class and the class
22 described in the operative complaint. *See* Northern District of California Procedural Guidance for
23 Class Action Settlements ("Procedural Guidance") § 1.a. First, while the language describing the
24 class is slightly changed to be more precise, the class is generally defined to include the same
25 group of individuals. Second, the definition of the proposed Settlement Class contains several
26 standard exclusions for individuals associated with the lawyers, the parties, or the Court.

27 Third, the proposed Settlement Class contains a specific exclusion for a limited number of
28 accounts who lost content for which they spent more than 80,000 Robux, worth over \$1,000 (the

1 “laundering exclusions”). Roblox insisted upon these laundering exclusions because, Plaintiff
2 understands from Roblox, these accounts are engaged in suspicious behavior (articulated in the
3 criteria for exclusion) differentiating them from ordinary consumers. They appear to be using the
4 Roblox platform to send money to one another by purchasing fake virtual items, a highly
5 inefficient and costly means of transferring money which suggests they may be engaged in money
6 laundering or other improper behavior. In any case, proposed Settlement Class Counsel agreed to
7 the laundering exclusions solely because these individuals did not appear to be engaging in bona
8 fide purchases, and so have not been defrauded and may not have a legitimate claim. And because
9 they are not members of the proposed Settlement Class, their claims have not been released and
10 they retain an individual right to pursue separate litigation.

11 Finally, the proposed subclass from the Amended Complaint, limited to class members
12 who were minors, is not part of the proposed Settlement because it is unnecessary.

13 **B. Settlement Fund**

14 The Settlement requires Roblox to establish a \$10 million Settlement Fund, out of which
15 class members will be compensated, and, subject to Court approval, attorneys’ fees and costs,
16 service awards, and administrative costs will be paid. Settlement ¶ 1.31. The funding will occur
17 in two stages: Roblox will make an initial \$3 million deposit once the Settlement earns
18 preliminary approval from the Court, and will fund the balance following final approval. *Id.* ¶ 2.1.

19 **C. Allocation**

20 Class Members’ pro rata share from the fund will be made in proportion to the amount of
21 Robux each class member has spent on “moderated” items—in other words, the amount of Robux
22 each class member lost due to the alleged misconduct. Settlement ¶ 3.1. Relief will be granted
23 either in dollars or Robux. *Id.* ¶ 3.2. Robux Relief will be automatic: Settlement Class Members
24 will receive their share of the Settlement Fund in Robux without having to take any action. *Id.*
25 ¶ 3.4.1. This relief will be calculated at a rate of 1 Robux = \$0.01, a rate that is more favorable
26 than nearly any charged by Roblox on the open market except for users who wish to spend \$100 at
27
28

1 a time.² Anyone whose pro rata share of the Settlement Fund is \$10 or greater and who wishes to
 2 receive their share of the Settlement Fund in cash rather than Robux may elect to do so by
 3 submitting a simple claim form. *Id.* ¶ 3.3.1. A visualization of the online Cash Claim Form
 4 prepared by the proposed settlement administrator is attached as Exhibit A to the Settlement
 5 Agreement.

6 **D. Prospective Relief**

7 As a result of this litigation, Roblox implemented an automatic refund program for users
 8 who had purchased items that were later deleted. Under this program, whenever a Roblox user's
 9 purchased virtual content is moderated/deleted from the platform, the user will automatically
 10 receive a credit of the Robux they spent to obtain that item, unless the user is themselves guilty
 11 of a Terms of Service violation. As part of the Settlement, Roblox agrees to continue operating
 12 this refund program for at least four years. Settlement ¶ 3.5.

13 **E. Payment of Settlement Notice and Administrative Costs**

14 Payment of notice and administrative costs will come from the Settlement Fund.
 15 The proposed Settlement Administrator, Simpluris, Inc., estimates that notice and administrative
 16 costs will be approximately \$350,000. Salahi Decl., Ex. 2.

17 **F. Payment of Attorney's Fees, Costs, and Service Award**

18 Prior to the objection deadline, proposed Settlement Class Counsel will move for an award
 19 of fees and costs. Settlement Class Counsel has agreed to limit their request for fees to 25% of the
 20 Settlement Fund. Settlement ¶ 9.1. Defendant retains the right to challenge any fee request
 21 submitted by Class Counsel. *Id.* Should the Court award less than what Class Counsel request,
 22 the balance will remain in the Settlement Fund for distribution to Class Members. *Id.* Further, in
 23 light of her service to the Settlement Class, the Named Plaintiff will petition the Court for a
 24
 25

26 ² Roblox offers Robux to its users at volume discounts. *See*
 27 <https://www.roblox.com/upgrades/robux>. Users can spend \$4.99 for 400 Robux (1 R =
 28 \$0.012475), \$9.99 for 800 Robux (1 R = \$0.0124875), \$19.99 for 1,700 Robux (1 R =
 \$0.0117588), \$49.99 for 4,500 (1 R = \$0.011108). *Id.* Only users who spend \$99.99 for 10,000
 Robux obtain a slightly more favorable rate (1 R = \$0.009999). *Id.* The vast majority of users
 make purchases in small amounts, however.

1 Service Award in the amount of \$5,000. *Id.* ¶ 9.1. Should the Court approve a lower award, the
2 balance will remain in the Settlement Fund for distribution to Settlement Class Members. *Id.*

3 **G. Release of Liability**

4 In exchange for the relief described above, Roblox will obtain a release of all claims
5 arising from or related to the deletion, removal, or moderation of virtual items purchased on the
6 Roblox platform. Settlement ¶ 1.23. This release is intended to operate no more broadly than the
7 doctrine of claim preclusion would were this an individual suit related to allegedly improper
8 deletion of purchased items in the Roblox metaverse. *See* Procedural Guidance § 1.B.

9 **III. The Court should certify the proposed Settlement Class**

10 Approval of a class action settlement proceeds in three stages. First, the parties present a
11 proposed settlement to the court for preliminary approval. Second, if the court preliminarily
12 approves the settlement, notice of the proposed settlement is sent to the class, and class members
13 are given an opportunity to object or opt out of the settlement. Third, after holding a final fairness
14 hearing, the court decides whether to give final approval to the settlement. *See* Fed. R. Civ. P.
15 23(e); 4 Newberg and Rubenstein on Class Actions § 13:1 (6th ed.).

16 At the first stage, preliminary approval, the parties must show “that the court will likely be
17 able to: (i) approve the proposal under Rule 23(e)(2); and (ii) certify the class for purposes of
18 judgment on the proposal.” Fed. R. Civ. P. 23(e)(1)(B). Taking the second prong first, this Court
19 will be able to certify the Settlement Class for purposes of Settlement and entering the final
20 judgment. Because this settlement secures money damages, the Settlement Class must meet the
21 requirements of Fed. R. Civ. P. 23(a) and the predominance and superiority criteria (minus the
22 requirement of manageability) of Fed. R. Civ. P. 23(b)(3). *See Wal-Mart Stores, Inc. v. Dukes*,
23 564 U.S. 338, 351 (2011). The proposed Settlement Class here consists of every individual in the
24 United States who purchased an item that was subsequently deleted, with certain exceptions
25 described above. Settlement ¶ 1.29. Roblox does not oppose certification of a class for settlement
26 purposes only.

1 **A. The proposed Settlement Class is sufficiently numerous.**

2 The first Rule 23(a) prerequisite is numerosity. This criterion requires that “joinder of all
3 members is impracticable.” Fed. R. Civ. P. 23(a)(1). “The numerosity requirement is not tied to
4 any fixed numerical threshold, but courts generally find the numerosity requirement satisfied when
5 a class includes at least forty members.” *Akaosugi v. Benihana Nat. Corp.*, 282 F.R.D. 241, 253
6 (N.D. Cal. 2012). Here, Roblox has represented, and informal discovery has confirmed, that the
7 Settlement Class includes approximately 8 million members. *Salahi Decl.* ¶ 12. By any measure,
8 there are too many individuals in the proposed Settlement Class to permit individual joinder here.
9 *See Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1019 (9th Cir. 1998) (“nationwide class with
10 millions of class members” met numerosity requirement).

11 **B. Common questions predominate over individual questions within the
12 proposed Settlement Class.**

13 Rule 23(a)(2) requires that there are questions of law or fact common to the proposed
14 Class. This requirement is similar to Rule 23(b)(3)’s requirement that common questions
15 predominate over any individual questions present in the action, and the two are often analyzed
16 together. *See Akaosugi*, 282 F.R.D. at 254-55. Claims based on a common practice or
17 standardized course of conduct are prime candidates for certification, and this case is no different.

18 Examination of commonality and predominance begins with the elements of the
19 underlying cause of action. *See Erica P. John Fund, Inc. v. Halliburton Co.*, 563 U.S. 804, 810
20 (2011). Here, the elements of the various claims all spring from California law. *See In re
21 Hyundai & Kia Fuel Economy Litig.*, 926 F.3d 539, 561 (9th Cir. 2019) (en banc) (“Subject to
22 constitutional limitations and the forum state’s choice-of-law rules, a court adjudicating a
23 multistate class action is free to apply the substantive law of a single state to the entire class.”).
24 Under California’s choice-of-law rules, the law of the forum (i.e., California) applies “unless a
25 party litigant timely invokes the law of a foreign state.” *Id.* Through the Settlement, Roblox
26 agrees that California law applies to the entire Settlement Class, so there is no need to conduct a
27 choice-of-law analysis. But Plaintiff notes that California has a serious interest in application of
28 its law to this dispute: A California company is allegedly engaging in deceptive conduct within
state borders, and this same company purports to require the application of California law to any

1 dispute by its users with it. *See Trump v. Twitter Inc.*, 602 F. Supp. 3d 1213, 1226 (N.D. Cal.
2 2022).

3 Turning to the merits, the principal claims here are fraud-based. A basic fraud claim
4 requires proof of “(1) [a] misrepresentation (false representation, concealment, or nondisclosure);
5 (2) knowledge of falsity (scienter); (3) intent to defraud (i.e., to induce reliance); (4) justifiable
6 reliance; and (5) resulting damage.” *All. Mortg. Co. v. Rothwell*, 10 Cal. 4th 1226, 1239 (1995).
7 The UCL and CLRA—which are indistinguishable for purposes of class certification—“allow[]
8 plaintiffs to establish materiality and reliance (i.e., causation and injury) by showing that a
9 reasonable person would have considered the defendant’s representation material.” *In re ConAgra*
10 *Foods, Inc.*, 90 F. Supp. 3d 919, 983 (C.D. Cal. 2015).

11 **1. UCL and CLRA claims.**

12 As *ConAgra* shows, the key question, at class certification, is whether the threshold
13 question of materiality is common. *See* 90 F. Supp. 3d at 983 n.197. If so, then proof of
14 causation and injury is streamlined by the relevant statutes. Thus, when all members of a class
15 have been exposed to the same alleged misrepresentation or allegedly deceptive course of
16 conduct, a UCL or CLRA claim will present predominating common questions. *See, e.g., Berger*
17 *v. Home Depot USA, Inc.*, 741 F.3d 1061, 1068 (9th Cir. 2014) (“class certification of UCL
18 claims is available only to those class members who were actually exposed to the business
19 practices at issue”); *In re JUUL Labs, Inc., Mktg. Sales Practices & Prods. Liab. Litig.*, 609 F.
20 Supp. 3d 942, 988 (N.D. Cal. 2022) (finding commonality and predominance to be satisfied
21 under UCL and CLRA because “for purposes of class certification plaintiffs have shown how
22 through common, classwide proof they can demonstrate the widespread reach of JLI's very
23 successful [and allegedly deceptive] campaigns”); *Broomfield v. Craft Brew All., Inc.*, No. 17-cv-
24 01027-BLF, 2018 WL 4952519, at *5 (N.D. Cal. Sept. 25, 2018) (“Numerous courts have
25 recognized that a claim concerning alleged misrepresentations on packaging to which all
26 consumers were exposed is sufficient to satisfy the commonality requirement because it raises
27 the common question of whether the packaging would mislead a reasonable consumer.”).
28

1 Here, all members of the proposed Settlement Class were exposed to Roblox’s allegedly
2 deceptive conduct. The proposed Class consists exclusively of individuals whose purchased items
3 were deleted. Settlement ¶ 1.29. Such individuals necessarily have been exposed to Roblox’s
4 practice of failing to vet items before they are made available for sale, and Roblox’s practice of
5 arbitrarily deleting items post-purchase. As this Court observed at the motion to dismiss stage,
6 there is reason to believe such conduct is itself deceptive. *See* Dkt. 48 at 18 (“Roblox’s conduct
7 would plausibly induce reasonable consumers to believe at least that their purchased virtual items
8 would not be deleted for these alleged purposes. A jury could find that a reasonable consumer
9 (especially a minor) would rely on a course of conduct that, from their perspective, would appear
10 to be a straightforward purchase.”). Because all members of the proposed Class have been
11 exposed to this course of conduct, a jury’s resolution of whether this conduct is deceptive,
12 material, and injurious would apply classwide.

13 Roblox’s contention that its conduct adequately was disclosed in its Terms of Use (which
14 are not binding, but could render any conduct nondeceptive) also presents a classwide question
15 because the Terms were identical for all users, and so whether any disclosures were made, and
16 whether they vitiate any showing of deception or reliance, are each questions with a classwide
17 answer. *See Wal-Mart*, 564 U.S. at 350 (observing that “common questions” are those whose
18 resolution “generate[s] common answers”).

19 The complaint also alleges an omission theory: that Roblox acted deceptively by failing to
20 disclose up front the potential that items would be deleted without notice and with no chance at a
21 refund. For similar reasons, this theory also presents a series of common questions. First, was
22 there a nondisclosure? Roblox urges that it disclosed its practice in its Terms of Use, and has
23 never cited any other potential disclosures. Thus, as before, the question of whether an omission
24 occurred is common to the Class. Second, did Roblox have a duty to disclose? An omission is
25 only actionable if there exists a duty to speak. *See Hoffman v. 162 North Wolfe LLC*, 228 Cal.
26 App. 4th 1178, 1186-87 (2014). Such a duty can arise from conduct which actively conceals the
27 full truth, or some sort of transaction between the parties. *See id.*; *LiMandri v. Judkins*, 52 Cal.
28 App. 4th 326, 337 (1997); Restatement (Second) of Torts § 551(2)(e) (“One party to a business

1 transaction is under a duty to exercise reasonable care to disclose to the other before the
2 transaction is consummated, facts basic to the transaction, if he knows that the other is about to
3 enter into it under a mistake as to them, and that the other, because of the relationship between
4 them, the customs of the trade or other objective circumstances, would reasonably expect a
5 disclosure of those facts.”). Because Roblox stood in the same relationship towards every class
6 member (and every class member was exposed to the same relevant conduct), the question of
7 whether Roblox had a duty to speak is a question with a classwide answer. And because the
8 allegedly withheld information is the same for all class members, questions of materiality and
9 reliance under the UCL and CLRA also are identical.

10 **2. Common-law fraud.**

11 Although predominance and commonality are most easily satisfied for Plaintiff’s statutory
12 fraud claims, this case also presents a straightforward case for certification of Plaintiff’s common-
13 law fraud claim. As the Ninth Circuit has recognized, fraud claims involving similar
14 misrepresentations are typically litigable on a classwide basis, and the court “has followed an
15 approach that favors class treatment of fraud claims stemming from a common course of conduct.”
16 *In re First Alliance Mortg. Co.*, 471 F.3d 977, 990 (9th Cir. 2006) (quotations omitted). California
17 law makes this rule especially applicable here: “[A] presumption, or at least an inference, of
18 reliance arises wherever there is a showing that a misrepresentation was material.” *Engalla v.*
19 *Permanente Med. Grp., Inc.*, 15 Cal. 4th 951, 977 (1997). Thus, when the same information is
20 misrepresented to (or withheld from) a class, reliance can be inferred classwide. Class treatment is
21 therefore appropriate where common questions about falsity, materiality, and intent drive the
22 litigation. *See, e.g., Falco v. Nissan N. Am. Inc.*, No. CV 13-00686 DDP, 2016 WL 1327474, at
23 *11 (C.D. Cal. Apr. 5, 2016); *Vaccarino v. Midland Nat’l Life Ins. Co.*, No. CV 11-5858 CAS,
24 2013 WL 3200500, at *12 (C.D. Cal. June 17, 2013).

25 As explained above, common proof will establish whether Roblox acted with the requisite
26 intent and whether the information withheld from class members was material. And answering
27 those two questions will ease resolution of any reliance issues.

28

1 **3. Conversion.**

2 Commonality and predominance are also met for Plaintiff’s conversion claim. *See*
3 *McClure v. State Farm Life Ins. Co.*, 341 F.R.D. 242, 255 (D. Ariz. 2022) (certifying conversion
4 claim for class treatment). Under California law, “the elements of a conversion claim are (1) the
5 plaintiff’s ownership or right to possession of the property at the time of the conversion; (2) the
6 defendant’s conversion by a wrongful act or disposition of property rights; and (3) damages.”
7 *Mindys Cosmetics, Inc. v. Dakar*, 611 F.3d 590, 601 (9th Cir. 2010). This claim presents several
8 common questions. First, is an item within the Roblox metaverse capable of being converted?
9 Case law suggests that California has abandoned essentially all requirements that allegedly
10 converted property be tangible. *See Casillas v. Berkshire Hathaway Homestate Ins. Co.*, 79 Cal.
11 App. 5th 755 (2022). But because all the converted items exist within the Roblox metaverse,
12 determining whether the tort of conversion applies to these items will resolve in one stroke an
13 issue for every member of the proposed Settlement Class. Second, whether the act of purchasing
14 these items with Robux is sufficient to give Settlement Class Members an ownership right is a
15 common question with a common answer. And third, whether Roblox’s act of deleting the items
16 interfered with Class Members’ ownership rights is a common question.

17 **4. Unjust Enrichment.**

18 Finally, commonality and predominance are met for Plaintiff’s unjust enrichment claim.
19 *See Cottle v. Plaid Inc.*, 340 F.R.D. 356, 370-72 (N.D. Cal. 2021) (certifying unjust enrichment
20 claim for settlement purposes). A claim for unjust enrichment is best understood as a claim
21 sounding a quasi-contract seeking the remedy of restitution. *See Astiana v. Hain Celestial Grp.,*
22 *Inc.*, 783 F.3d 753, 762 (9th Cir. 2015). The theory underlying the claim is that the defendant has
23 been unjustly conferred a benefit, such as through fraud, and the appropriate remedy is to return
24 that benefit to the injured party. *See id.*

25 Here, the alleged unjustly conferred benefit is the Robux (and the value of those Robux)
26 that were lost when Roblox deleted purchased content without reason or notice. That alleged
27 benefit has been obtained from every member of the proposed Settlement Class. And the reason it
28 is allegedly unjust for Roblox to keep that benefit is the same for every class member: the Roblox

1 content-deletion scheme described above. The truth or falsity of these issues (did Roblox obtain a
2 benefit from class members, and was it unjust in light of Roblox’s content-deletion scheme) are
3 predominating, common questions that can be resolved in a single proceeding.

4 **C. Plaintiff Doe is typical of the proposed Settlement Class.**

5 The next Rule 23(a) factor is typicality. “The purpose of the typicality requirement is to
6 assure that the interest of the named representative aligns with the interests of the class.” *Hanon v.*
7 *Dataproducts Corp.*, 976 F.2d 497, 508 (9th Cir. 1992). “The test of typicality is whether other
8 members have the same or similar injury, whether the action is based on conduct which is not
9 unique to the named plaintiffs, and whether other class members have been injured by the same
10 course of conduct.” *Id.* (quotations omitted).

11 Typicality is met here. Plaintiff Doe purchased multiple, unobjectionable items using
12 Robux purchased with funds she owned and controlled. She was not aware that these items might
13 later be deleted, and in fact believed that these items would remain available to her in perpetuity.
14 The claims she presses on behalf of the proposed Settlement Class concern precisely this conduct,
15 under legal theories that apply classwide, and she is seeking the same relief as the rest of the class.
16 That satisfies the typicality requirement. *See Juarez v. Social Finance, Inc.*, No. 20-CV-03386-
17 HSG, 2022 WL 17722382, at *4 (N.D. Cal. Dec. 15, 2022) (finding typicality satisfied because
18 “Plaintiffs’ claims are both factually and legally similar to those of the putative class”); *Cottle*,
19 340 F.R.D. at 371 (finding typicality satisfied because “Plaintiffs’ claims stem from the same
20 course of conduct and pattern of alleged wrongdoing as the claims of the Class Members”).

21 **D. Plaintiff Doe and Proposed Class Counsel are adequate to represent the**
22 **proposed Settlement Class.**

23 The final Rule 23(a) factor—adequacy—tests the ability of both the named plaintiff and
24 her lawyers to protect the interests of absent class members. “Courts engage in a dual inquiry to
25 determine adequate representation and ask: (1) do the named plaintiffs and their counsel have any
26 conflicts of interest with other class members and (2) will the named plaintiffs and their counsel
27 prosecute the action vigorously on behalf of the class?” *Cottle*, 340 F.R.D. at 371 (quotations
28 omitted).

1 Here, Plaintiff Doe is plainly adequate. First, she suffers from no conflicts of interest with
2 the absent class. Because Plaintiff allegedly was injured by the same course of conduct as the
3 absent class, her interests are aligned with theirs. *See id.* Moreover, Plaintiff has already
4 demonstrated her willingness to vigorously pursue these representative claims: Although this case
5 settled early in the discovery phase of the case, Plaintiff Doe, through her father as next-of-friend,
6 has nevertheless worked closely with Class Counsel when they investigated Roblox’s argument on
7 the motion to dismiss that the case was moot, responded to discovery requests, and conducted
8 searches of her email for responsive documents. She also was prepared to sit for a deposition.
9 This demonstrates vigorous representation of the interests of the absent class.

10 Plaintiff’s chosen counsel, Edelson PC, is also adequate. Edelson PC has extensive
11 experience in litigating class actions of similar size, scope, and complexity to the instant action.
12 Edelson PC is a national leader in high stakes plaintiffs’ work ranging from class and mass actions
13 to public client investigations and prosecutions. *See Firm Resume of Edelson PC*, attached as
14 Exhibit 3 to Salahi Decl. The firm has been named by Law360 as a Consumer Protection Group
15 of the Year (2016, 2017, 2019, 2020), a Class Action Group of the Year (2019), a Plaintiff’s Class
16 Action Powerhouse (2017, 2018, 2019); similarly, the National Law Journal identified Edelson PC
17 as “Elite Trial Lawyers” in Consumer Protection (2020, 2021) and Class Action (2021) categories.
18 *Id.* at 7. The firm has secured hundreds of millions of dollars of relief in important consumer
19 protection matters. *Id.* at 14-15. Proposed Class Counsel have diligently investigated, prosecuted,
20 and dedicated substantial resources to the claims in this action and will continue to do so
21 throughout its pendency. Salahi Decl. ¶ 15.

22 **E. A class action is the superior means of resolving this case.**

23 Turning to Rule 23(b)(3), the only remaining criterion to consider is whether a class action
24 is a superior way to resolve this controversy. (Of the other Rule 23(b)(3) factors, predominance is
25 discussed above, and manageability is irrelevant in this settlement posture. *See Amchem Prods.,*
26 *Inc. v. Windsor*, 521 U.S. 591, 620 (1997).)

27 A class action is clearly the superior means of resolving this litigation. The proposed
28 Settlement Class consists of millions of individuals, the vast majority of whom lost only a handful

1 of dollars due to Roblox’s content-deletion scheme. Salahi Decl. ¶ 12. The cost and time
2 necessary to litigate these claims therefore dwarfs the potential recovery. “In light of the small
3 size of the putative class members’ potential individual monetary recovery, class certification may
4 be the only feasible means for them to adjudicate their claims.” *Leyva v. Medline Indus. Inc.*, 716
5 F.3d 510, 515 (9th Cir. 2013). That is likely why class members have not demonstrated any
6 interest in individually controlling this litigation, or in seeking relief individually outside of this
7 lawsuit. *See* Fed. R. Civ. P. 23(b)(3)(A)-(B) (outlining these as factors relevant to superiority).
8 And requiring these class members to individually litigate would needlessly clog the courts with a
9 multitude of identical disputes, as opposed to the streamlined efficiency of this single class
10 proceeding. *Cottle*, 340 F.R.D. at 372 (finding superiority established where “the range of issues
11 is limited and individual cases addressing these issues would likely address the same wrongful
12 conduct and use the same supporting evidence.”). Superiority is therefore satisfied.

13 **IV. The proposed Settlement merits preliminary approval.**

14 In addition to showing that the Settlement Class is certifiable, the parties must also show
15 that the Court “will likely be able to ... approve the [settlement] proposal under Rule 23(e)(2).”
16 Fed. R. Civ. P. 23(e)(1)(B)(i). Rule 23(e)(2) requires the Court to find that the settlement is “fair,
17 reasonable, and adequate” after considering whether: (A) the class representative and class counsel
18 have adequately represented the class; (B) the settlement was negotiated at arm’s length; (C) the
19 relief provided for the class is adequate; and (D) the settlement treats class members equitably
20 relative to each other. Fed. R. Civ. P. 23(e)(2). Also, because of the pre-certification posture of
21 this case, the factors identified by the Ninth Circuit in *In re Bluetooth Headset Products Liability*
22 *Litigation*, 654 F.3d 935 (9th Cir. 2011). Because the *Bluetooth* factors are relevant to one of the
23 procedural concerns highlighted by Rule 23(e), the two tests are discussed together. Ultimately,
24 this Settlement easily clears the heightened bar set for pre-certification settlements.

25 **A. Doe and proposed Class Counsel have adequately represented the Class.**

26 The first Rule 23(e) factor concerns adequate representation. The focus of this analysis is
27 “on the actual performance of counsel acting on behalf of the class” throughout the litigation and
28 in settlement negotiations. Fed. R. Civ. P. 23(e) Advisory Committee’s Note to 2018

1 Amendment; *see Gumm v. Ford*, No. 5:15-cv-41-MTT, 2019 WL 479506, at *3 (M.D. Ga. Jan.
2 17, 2019). This factor overlaps significantly with the adequacy requirement of Rule 23(a). *See*
3 *O'Connor v. Uber Techs., Inc.*, No. 13-CV-03826-EMC, 2019 WL 1437101, at *6 (N.D. Cal.
4 Mar. 29, 2019). In considering this factor, courts should further examine whether plaintiff and
5 class counsel had adequate information to negotiate a class-wide settlement. Fed. R. Civ. P. 23(e)
6 Advisory Committee's Note to 2018 Amendment. Ultimately, this factor is generally satisfied
7 where the named plaintiff and class counsel "have prosecuted the case with diligence and
8 success." *In re Snap Inc. Securities Litig.*, No. 2:17-CV-03679-SVW, 2021 WL 667590, at *1
9 (C.D. Cal. Feb. 18, 2021).

10 Here, counsel had the basic information necessary to craft a fair settlement. Settlement
11 Class Counsel's pre-suit investigation revealed the relevant facts: the content of the Roblox Terms
12 of Use agreement is not in dispute; how that agreement may be relevant is not in dispute, as
13 Roblox has made clear its view that the agreement discloses the relevant conduct precluding a
14 claim for fraud or deception, and also that the agreement imposes dispute resolution requirements
15 that preclude class litigation; and the mechanics of Roblox's content-deletion scheme are not in
16 dispute. Proposed Settlement Class Counsel are experienced attorneys with deep familiarity with
17 the claims alleged in this lawsuit, and who are therefore in prime position to evaluate the merits on
18 these claims.

19 Additionally, during settlement negotiations, Roblox provided informal discovery to help
20 proposed Settlement Class Counsel put together the last piece of the puzzle: the total losses for
21 members of the proposed class and their estimated damages. *See Linney v. Cellular Alaska*
22 *P'ship*, 151 F.3d 1234, 1239 (9th Cir. 1998) ("In the context of class action settlements, formal
23 discovery is not a necessary ticket to the bargaining table where the parties have sufficient
24 information to make an informed decision about settlement.") (quotations omitted). Roblox
25 disclosed that members of the proposed Settlement Class, in aggregate, lost 1,719,480,373 Robux
26 in connection with items that were subsequently moderated/deleted by Roblox, and which have
27 not previously been refunded. Salahi Decl. ¶ 13; *see also* Settlement ¶ 7.1. For purposes of
28 negotiation, proposed Settlement Class Counsel valued these losses at an exchange rate of 1

1 Robux = \$0.0125, which is slightly higher than the exchange rate for the vast majority of Roblox
2 users who purchase Robux in the smallest possible quantity (\$4.99 for 400 Robux, *see* note 2,
3 *supra*). Thus, counsel likely *over-estimated* the class’s monetary damages at just under \$21.5
4 million. That means that the Settlement returns approximately 46.5% of the losses suffered by the
5 Settlement Class back to Settlement Class Members. Given the number of outstanding legal and
6 factual issues that would need to be tried, this constitutes an outstanding result, and is powerful
7 evidence that the Settlement Class was adequately represented.

8 **B. The Settlement was negotiated at arm’s length, and lacks any of the**
9 **hallmarks of collusion identified by the Ninth Circuit in *Bluetooth*.**

10 The second Rule 23(e) factor asks whether the proposed settlement was negotiated at arm’s
11 length. “This inquiry aims to root out settlements that may benefit the plaintiffs’ lawyers at the
12 class’s expense[.]” Newberg & Rubenstein on Class Actions § 13:50. The concern, which is also
13 embodied in this Circuit’s *Bluetooth* factors, is that “the defendant will dangle such a healthy fee
14 in front of the plaintiffs’ lawyer that they will settle the class’s claims at a discount.” *See id.*; *see*
15 *also Bluetooth*, 654 F.3d at 946 (“Prior to formal class certification, there is an even greater
16 potential for a breach of fiduciary duty owed the class during settlement. Accordingly, such
17 agreements must withstand an even higher level of scrutiny for evidence of collusion or other
18 conflicts of interest than is ordinarily required under Rule 23(e)”).

19 The greatest evidence of arm’s-length negotiation here is the presence of an experienced
20 mediator, Gregory Lindstrom of Phillips ADR, who helped the parties craft this Settlement.
21 Salahi Decl. ¶ 6. Of course, negotiations did not start on the day of the mediation. Instead, the
22 parties had been discussing potential settlement structures for weeks before working with Mr.
23 Lindstrom to finally reach an agreement on the principal terms of a class-action settlement. *Id.* ¶¶
24 4-5. Proposed Settlement Class Counsel believed that these preliminary discussions were
25 necessary to determine whether mediation was likely to be productive at all before engaging in it.
26 *Id.* ¶ 4. And even after the parties’ all-day mediation, it took several additional months to hammer
27 out the finer points of the Settlement. *Id.* ¶ 8.
28

1 These lengthy negotiations demonstrate that the proposed Settlement is the product of
 2 arm’s-length negotiations. *See Cmty. Resources for Indep. Living v. Mobility Works of Cal., LLC*,
 3 533 F. Supp. 3d 881, 889 (N.D. Cal. 2020) (“serious, informed, non-collusive negotiations” taking
 4 place over an “extended” period weighed in favor of settlement approval); *Vianu v. AT&T*
 5 *Mobility LLC*, No. 19-CV-03602-LB, 2022 WL 16823044, at *7 (N.D. Cal. Nov. 8, 2022) (finding
 6 that negotiations aided by an experienced mediator weighed in favor of settlement approval).

7 Moreover, the Settlement bears none of the “subtle signs of implicit collusion” that the
 8 Ninth Circuit has cautioned district courts to be on alert for. *Roes, I-2 v. SFBSC Mgmt., LLC*, 944
 9 F.3d 1035, 1049-50 (9th Cir. 2019). These factors, commonly called the *Bluetooth* factors, are:
 10 (1) “when counsel receive a disproportionate distribution of the settlement;” (2) “when the parties
 11 negotiate a ‘clear sailing’ arrangement” (i.e., an arrangement where defendant will not object to a
 12 certain fee request by class counsel); and (3) when the parties create a reverter that returns
 13 unclaimed [funds] to the defendant. *Bluetooth*, 654 F.3d at 947.³

14 First, the Settlement contemplates that Class Counsel will limit any request for fees to 25%
 15 of the Settlement Fund, and that Class Counsel’s payment will be subject to approval by the Court.
 16 Settlement ¶ 9.1. This 25% figure is the “benchmark” fee award in this Circuit. *See Vizcaino v.*
 17 *Microsoft Corp.*, 97 F.3d 1187 (9th Cir. 1996). And, of course, this Court will need to determine
 18 what fee is “reasonable” to award under the circumstances. *See Staton v. Boeing Co.*, 327 F.3d
 19 938, 963 (9th Cir. 2003). Similar proposed awards have been found not to be indicative of
 20 collusion. *See, e.g., Luz Bautista-Perez v. Juul Labs, Inc.*, No. 20-CV-01613-HSG, 2022 WL
 21 307942, at *6 (N.D. Cal. Feb. 2, 2022) (“And while the Settlement Agreement authorizes
 22 Plaintiffs’ counsel to request up to \$750,000 in attorneys’ fees, which is about 42% of the gross
 23 settlement fund, it does not necessarily contemplate a disproportionate cash allocation between
 24 counsel and the class”); *Cottle*, 340 F.R.D. at 377-78 (proposed 25% award was “presumptively
 25 reasonable” and not a disproportionate fee award).

26 _____
 27 ³ Later cases have also indicated that “large incentive payments seemingly untethered from
 28 service to the class” also may be evidence of collusion. *Roes, I-2*, 944 F.3d at 1049; *see Luz*
Bautista-Perez, 2022 WL 307942, at *6-*7. The size of the service award contemplated by the
 Settlement is discussed in conjunction with another of the Rule 23(e) factors, concerning the
 equitable distribution of settlement proceeds. *See infra* § IV.E.

1 Second, there is no clear sailing agreement here. Roblox retains the right to object to any
 2 proposed fee award Class Counsel petitions for. *See* Settlement ¶ 9.1 (“Defendant may challenge
 3 the amount requested.”).

4 Third, there is no reverter or kicker clause here. First, Settlement Class Members will
 5 receive a refund of their Robux automatically, without the need to submit a claim form.
 6 Settlement ¶ 3.4.1. And Settlement Class Members whose pro rata share is at least \$10⁴ and who
 7 wish to receive their recovery in cash can easily do so by submitting a Cash Claim Form, and
 8 electing either an electronic distribution of funds or a paper check. *Id.* ¶ 3.3.1. If a check goes
 9 uncashed, the relevant Class Member will still receive Robux Relief. *Id.* ¶ 3.3.9. *A cypres*
 10 recovery will only be available if, for some reason, a class member cannot be issued their Robux
 11 Relief. *Id.* Moreover, should the Court award less in fees, costs, or service awards than what
 12 Plaintiff and proposed Settlement Class Counsel seek, the difference will remain in the Settlement
 13 Fund for distribution to Class Members. Settlement ¶ 9.1. *See also* Procedural Guidance § 1(g)
 14 (directing litigants to discuss at preliminary approval whether the proposed settlement contains
 15 any provision for reversion of funds to the defendant).

16 Thus, the terms of the Settlement contain none of the subtle signs of collusion that the
 17 Ninth Circuit has cautioned against, confirming that the Settlement was negotiated at arm’s length.

18 **C. The Settlement secures outstanding relief for the Class.**

19 The next Rule 23(e) factor directs the Court to consider whether “the relief provided for
 20 the class is adequate, taking into account: (i) the costs, risks, and delay of trial and appeal; (ii) the
 21 effectiveness of any proposed method of distributing relief to the class, including the method of
 22 processing class-member claims; (iii) the terms of any proposed award of attorney's fees,

23
 24 ⁴ Courts commonly approve class action settlement agreements with allocation plans that
 25 impose a minimum recovery requirement on class members, particularly when such a minimum
 26 is necessary to prevent disproportionate administrative expenses. *See, e.g., In re MGM Mirage*
 27 *Sec. Litig.*, 708 Fed. App’x 894, 897 (9th Cir. 2017) (holding district court did not abuse
 28 discretion in approving allocation plan with a minimum \$10 threshold because “issuing very
 small checks to class members would cause a disproportionate administrative expense” and
 because “small checks, such as those under \$10, in many instances are never cashed”); *see also*
Destefano v. Zynga, Inc., No. 12-cv-04007-JSC, 2016 WL 537946, at *4, *15 (N.D. Cal. Feb. 11,
 2016) (approving settlement with \$10 threshold “due to the expenses associated with
 administering the claims”).

1 including timing of payment; and (iv) any agreement required to be identified under Rule
2 23(e)(3).” Similarly, this District’s Procedural Guidance for Class Action Settlements asks
3 litigants at the preliminary approval stage to discuss “the class recovery under the settlement
4 (including details about and the value of injunctive relief), the potential class recovery if plaintiffs
5 had fully prevailed on each of their claims, claim by claim, and a justification of the discount
6 applied to the claims.” Procedural Guidance § 1(c).

7 Here, the relief provided by the Settlement is outstanding. Class Members allegedly were
8 unlawfully deprived of their Robux by Roblox, and the Settlement ensures that Class Members
9 can get Robux back without lifting a finger. The total value of the Settlement is \$10 million, or 1
10 billion Robux at the specially-negotiated exchange rate. Informal discovery has confirmed that the
11 Settlement Class had items worth approximately \$21.5 million (or 1.7 billion Robux at market
12 rates) taken from them without a refund. Salahi Decl. ¶ 13. Thus, the Settlement returns about
13 46.5% of the Class’s total losses to the Class.⁵

14 Moreover, the refund program secured by the Settlement is of immense value to the
15 Settlement Class. The refund program was catalyzed by Plaintiff’s lawsuit, as Roblox sought to
16 moot her claim after it was filed. The Settlement ensures that the program will remain in place for
17 at least four more years. Under the program, moving forward, anytime a Roblox user’s purchased
18 virtual content is deleted or moderated for reasons other than that user’s own terms of service
19 violations, Roblox will automatically credit that user’s account with the Robux spent on the item.
20 If the past four years are any indication, this refund program stands to prevent losses of at least
21 \$25 million: In addition to the lost Robux already at issue, in the short time it has been active, the
22 refund program has prevented the loss of more than half a million Robux. Salahi Decl. ¶ 14.
23 Although Roblox instituted this program voluntarily, Plaintiff and Class Counsel deserve credit for
24 forcing Roblox’s hand, as the program was instituted in response to the lawsuit, and for ensuring
25 that the program remains in place. *See* Dkt. 19-1 ¶ 12 (acknowledging that the program was
26 instituted after the filing of this lawsuit).

27 _____
28 ⁵ Section 1(c) of this District’s Procedural Guidance on Class Action Settlements asks Plaintiff to estimate recovery on a claim-by-claim basis. Each claim at issue here would encompass all of the recoverable damages available to the Class.

1 Although the Settlement does not achieve full relief for past losses, the relief secured by
2 the Settlement is still outstanding in light of the costs and risks of future litigation, and the delay
3 that would be caused by any trial or appeal. *See Harrison*, 2021 WL 5507175, at *3 (approving
4 settlement that returned approximately 20% of total damages); *Knapp v. Art.com, Inc.*, 283 F.
5 Supp. 2d 823, 832-33 (N.D. Cal. 2017) (settlement representing at most 42% of potential recovery
6 was fair and adequate, particularly since the settlement also included conduct relief); *see also*
7 *Officers for Justice v. Civ. Serv. Comm'n of City & Cnty. of S.F.*, 688 F.2d 615, 628 (9th Cir.
8 1982) (“It is well-settled law that a cash settlement amounting to only a fraction of the potential
9 recovery does not per se render the settlement inadequate or unfair.”).

10 Indeed, while Plaintiff remains confident in her ability to prevail, the Settlement Class
11 would face several hurdles to relief on the merits after a trial. First, a jury may not agree with
12 Plaintiff that the Roblox marketplace is itself designed to induce the reasonable belief that
13 purchased items will remain in the control of users. Or a jury might agree with Roblox that users
14 have sufficient warning that items may be deleted such that any reliance on a contrary position is
15 unreasonable. A jury finding in Roblox’s favor would prevent the Class from recovering anything
16 on their fraud-based claims. Moreover, the conversion claim faces a significant legal hurdle in
17 that the allegedly converted goods are intangible, and without any apparent connection to a
18 physical document. There is a serious risk that the Court might conclude that these virtual goods
19 cannot be converted, or that all Class Members own is a revocable license to the virtual good,
20 rather than the virtual good itself. Add to these risks the fact that even if the Class were to prevail,
21 any success would not come for years. Both the class certification and summary judgment stages
22 likely would have required the production of experts, and associated briefing on whether to qualify
23 or exclude them, as well the development of a trial plan, and a trial itself. Either party also would
24 be likely to appeal an adverse judgment, adding additional delay.

25 Balanced against these risks, and the attendant delay associated with litigating a case
26 through trial and appeal, the recovery secured by the Settlement is outstanding. This is all the
27 more so because Class Members will not have to do anything in order to obtain Robux Relief from
28 the Settlement. The Settlement ensures that Robux Relief will be credited automatically to the

1 Roblox accounts of Class Members. And those eligible who wish to receive cash may submit a
2 Cash Claim Form, and elect to receive their share of the Settlement either electronically or in the
3 form of a paper check. This simple, streamlined process further confirms the adequate nature of
4 the relief here. *See Taafua v. Quantum Glob. Techs., LLC*, No. 18-CV-06602-VKD, 2020 WL
5 4732342, at *7 (N.D. Cal. Aug. 14, 2020) (“Considering the potential risks and costs of
6 proceeding to trial, as well as the relative ease with which class members may receive their funds,
7 at this stage the Court is satisfied that the settlement consideration is adequate.”).

8 Finally, the Settlement’s proposed attorney’s fees are reasonable. As discussed above, the
9 Settlement contemplates that Class Counsel will seek a benchmark fee award of 25%, which
10 would not result in a disproportionate distribution to Class Counsel. Moreover, the Court retains
11 the authority to reduce any fee award to ensure that it is reasonable.

12 Thus, the relief secured by the Settlement demonstrates that the Settlement is fair and
13 reasonable.⁶

14 **D. The Settlement is not a coupon settlement.**

15 The District’s Procedural Guidance calls for a preliminary approval brief to address
16 whether a settlement constitutes a “coupon settlement” and if so, how it complies with 28 U.S.C.
17 § 1712, which creates special rules for determining attorney’s fees under coupon settlements. *See*
18 *Procedural Guidance* ¶ 10.

19 Because CAFA does not define “coupon,” courts consider “three factors to determine
20 whether a settlement is a coupon settlement: (i) whether class members have to hand over more of
21 their own money before they can take advantage of a credit; (ii) whether the credit is valid only for
22 select products or services; and (iii) how much flexibility the credit provides, including whether it
23 expires or is freely transferrable.” *Chambers v. Whirlpool Corp.*, 980 F.3d 645, 659 (9th Cir.
24 2020) (quotations omitted).

25 Here, class members receive either Robux Relief or Cash. Robux are not coupons; they
26 are a virtual currency, the same virtual currency that class members purchased with dollars, and
27 which class members lost because of Roblox’s alleged conduct. Further, Robux will be provided
28

⁶ There are no agreements required to be identified under Fed. R. Civ. P. 23(e)(3).

1 to class members at *greater* than cash value in most instances, at an exchange rate more favorable
2 than almost all options available on the open market. To the extent class members who have the
3 choice between cash and Robux nevertheless select Robux, that will also support a finding that
4 class members “are likely to value [Robux] at ‘close to face [cash] value’ because they will have
5 selected the [Robux] credit over the cash options.” *McKnight v. Hinojosa*, 54 F.4th 1069, 1076
6 (9th Cir. 2022).

7 Moreover, class members who receive Robux do not have to give Roblox any money to
8 redeem them. There are thousands of virtual products available in the Roblox Avatar Shop for
9 less than 100 Robux (the average individual net recovery in Robux). *See*
10 <https://www.roblox.com/CATALOG?Category=1&CurrencyType=3&pxMax=100&salesTypeFilter=1>.
11 The Robux to be distributed through the settlement do not come with any special
12 restrictions; they can be used just like Robux purchased on the market and like the Robux that
13 class members originally lost. *See In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 951
14 (9th Cir. 2015) (Walmart gift cards not “coupons” because the settlement “gives class members
15 \$12 to spend on any item carried on the website of a giant, low-cost retailer” and “[t]he class
16 member need not spend any of his or her own money and can choose from a large number of
17 potential items to purchase”). Nor does the fact that Robux must be used on the Roblox platform
18 mean this is a “coupon” settlement. *See McKnight*, 54 F.4th at 1076 (holding settlement was not
19 for “coupons” even though Uber Eats credits could only be used through the Uber app). Finally,
20 the Robux do not expire, giving class members greater flexibility in spending them.

21 In any case, this issue is relevant only to proposed Settlement Class Counsel’s eventual
22 fee request, so need not be resolved at this stage to grant preliminary approval.

23 **E. The Settlement treats Class Members equitably relative to each other.**

24 The final Rule 23(e) factor concerns whether the proposed settlement treats class members
25 equitably relative to each other. The instant Settlement easily passes this test, as Settlement Class
26 Members’ recovery is calibrated to how much they lost when Roblox “moderated” items they had
27 already purchased. *See In re MacBook Keyboard Litig.*, No. 5:18-CV-02813-EJD, 2022 WL
28 17409738, at *5 (N.D. Cal. Dec. 2, 2022) (finding at preliminary approval that settlement which

1 contained tiered allocation plan depending on class member injuries “appears to treat Class
2 members equitably relative to each other”); *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036,
3 1045 (N.D. Cal. 2008) (“It is reasonable to allocate the settlement funds to class members based
4 on the extent of their injuries or the strength of their claims on the merits.”).

5 Finally, while the Settlement proposes to issue a service award to the Named Plaintiff, that
6 does not indicate inequitable treatment. Such awards are commonplace, and serve to recognize the
7 valuable efforts of a class representative, without which this type of representative litigation and
8 class settlement could not even exist. As will be explained more fully in a later motion, the
9 Named Plaintiff here has participated closely with Class Counsel in developing the case,
10 responding to Roblox’s motion to dismiss, and in preliminary discovery. Salahi Decl. ¶ 16.
11 Under the Settlement, these efforts permit Doe to petition the Court for an award of up to \$5,000.
12 This is on the lower end of incentive awards in this District, constitutes only 0.05% of the
13 proposed Settlement Fund, and is presumptively reasonable. *See In re Facebook Biometric Info.*
14 *Privacy Litig.*, No. 21-15553, 2022 WL 822923, at *2 (9th Cir. Mar. 17, 2022) (noting that the
15 Ninth Circuit “regularly uphold[s] incentive awards” of \$5,000); *In re Wells Fargo & Co.*
16 *S’holder Derivative Litig.*, 445 F. Supp. 3d 508, 534 (N.D. Cal. 2020) (noting that a \$5,000 award
17 is “presumptively reasonable”). Moreover, the Court will retain the authority to reduce or even
18 reject the proposed service award. Thus, this additional allocation of funds is equitable. *See*
19 *Evans v. Zions Bancorp., N.A.*, No. 2:17-CV-01123 WBS DB, 2022 WL 16815301, at *5 (E.D.
20 Cal. Nov. 8, 2022) (finding that \$5,000 service awards comported with equitable treatment of
21 class members); *see also Juarez*, 2022 WL 17722382, at *6 (noting that settlement’s provision for
22 an incentive award did not indicate preferential treatment because any such award would need to
23 be supported with evidence).

24 Thus, the instant proposed Settlement warrants preliminary approval.

25 **V. The Court should approve the proposed form and manner of notice.**

26 Finally, once the Court has determined that the Settlement should be preliminarily
27 approved, the Court must order that the parties direct notice of the Settlement to the Settlement
28 Class. *See* Fed. R. Civ. P. 23(e)(1). The parties must provide the absent class with the “best

1 notice practicable” under the circumstances. *See Silber v. Mabon*, 18 F.3d 1449, 1454 (9th Cir.
2 1994). While this standard does not demand individual notice to every class member, it does
3 require “individual notice to all members who can be identified through reasonable effort.” Fed.
4 R. Civ. P. 23(c)(2); *see Schneider v. Chipotle Mexican Grill*, 336 F.R.D. 588, 596 (N.D. Cal.
5 2020). Notice may be provided to the class via “United States mail, electronic means, or other
6 appropriate means.” Fed. R. Civ. P. 23(c)(2)(B).

7 The parties here have agreed to a comprehensive and aggressive Notice Plan designed to
8 ensure individual notice to all, or nearly all, of the Settlement Class. The principal form of direct
9 notice contemplated by the Settlement is email and in-app notice. Settlement ¶ 5.1. The proposed
10 notice is attached as Exhibit B to the Settlement Agreement. Of the approximately 8 million
11 Settlement Class Members, Roblox has email contact information for approximately 7.9 million of
12 them, or about 98.75% of the Settlement Class. Salahi Decl. ¶ 12. Moreover, the Notice Plan will
13 combine this more traditional outreach program with in-app notice, with messages delivered to the
14 “My Inbox” feature on Roblox, reaching both the emailed class members and the 1.25% of class
15 members for whom Roblox does not possess e-mail information. Settlement ¶ 5.5. The
16 Settlement Administrator will send an initial round of e-mail notice to all Class Members and a
17 follow-up, reminder notice about the Cash Claim deadline to all Class Members potentially
18 eligible for a payment. *Id.* ¶ 5.4. In collaboration with the Settlement Administrator, Roblox will
19 send notice to the in-app Roblox inbox of every proposed Class Member. *Id.* ¶ 5.5. These
20 combined methods should deliver notice of this Settlement to around 99% of the Settlement Class,
21 well in excess of what is required by Due Process and Rule 23.

22 Moreover, mindful of both the requirements of Rule 23, *see Online DVD-Rental Antitrust*
23 *Litig.*, 779 F.3d at 945-47, and this District’s Procedural Guidance on Class Action Settlements,
24 the parties drafted the notice to provide—in plain English, as free from legalese as is possible—
25 sufficient information to Settlement Class Members about how to make a Cash Claim, how to
26 object to the Settlement, and how to opt out. The short-form Notice, which is what will be
27 provided via e-mail and in-app inboxes, also includes a line suggesting that any minors who
28 receive the notice consult with their parents about the notice and Settlement. Settlement, Ex. B.

1 The parties also considered including snail mail in the Notice Plan, but determined it was not
2 possible because Roblox does not maintain mailing address information for Class Members, and,
3 even if it did, email and in-app notice should reach nearly all of the Settlement Class, no additional
4 Settlement Class Members would be reached via First Class Mail, and the cost of distributing
5 notice via First Class Mail would be therefore prohibitive in light of any benefit such notice might
6 provide. Salahi Decl. ¶ 9. Long-form notice will be available on the settlement website; it is
7 attached as Exhibit C to the Settlement Agreement.

8 To effectuate this Notice Plan, the parties have selected Simpluris Inc. as Settlement
9 Administrator. The parties solicited and received three bids for the role of settlement
10 administrator. Salahi Decl. ¶ 11. The Simpluris proposal was the most cost-effective—Simpluris
11 estimates that administrative costs for this Settlement will total around \$350,000, which amount is
12 to be paid out of the Settlement Fund. *Id.* In addition, and as explained more fully in the
13 Declaration of Jacob Kamenir, Simpluris is Soc2 compliant, has numerous controls in place to
14 ensure the security of class member personal data, and has the standard suite of relevant insurance.
15 *See* Procedural Guidance § 2(a), (b). Edelson PC has engaged Simpluris in eight other matters
16 within the past two years. Salahi Decl. ¶ 11; *see* Procedural Guidance § 2(a).

17 The Court should therefore approve the proposed form and manner of notice, and order
18 that notice be disseminated to the absent class.

19 **VI. CONCLUSION**

20 Accordingly, this Court should enter an order certifying the proposed Settlement Class for
21 settlement purposes, appointing the Plaintiff Jane Doe to represent the Settlement Classes, appoint
22 Jay Edelson, Rafey S. Balabanian, J. Eli Wade-Scott, and Yaman Salahi, of Edelson PC as Class
23 Counsel and Mark S. Reich and Courtney E. Maccarone of Levi & Korsinski, LLP as Liaison
24 Counsel, preliminarily approving the Settlement, and ordering that notice be disseminated to class
25 members.

26
27 Date: March 28, 2023

By: /s/ Yaman Salahi

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The Honorable William H. Orrick

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JANE DOE,

Plaintiff,

v.

ROBLOX CORPORATION,

Defendant.

CASE NO.: 3:21-cv-03943-WHO

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF A
CLASS ACTION SETTLEMENT**

Hon. William H. Orrick

1 The above-captioned matter came before this Court upon Plaintiff's Motion in Support of
2 Preliminary Approval of Class Action Settlement. Based upon the memoranda, declaration,
3 exhibits submitted, as well as the files and proceedings in this case, the Court finds as follows:

4 1. The terms and phrases in this order shall have the same meaning as ascribed to
5 them in the Settlement Agreement (Dkt. __).

6 2. Plaintiff has moved the Court for an order preliminarily approving the settlement of
7 the Action in accordance with the Settlement Agreement, which, together with its incorporated
8 documents, set forth the terms and conditions for a proposed settlement and dismissal of this case
9 with prejudice. The Court having read and considered the Settlement Agreement and having
10 heard the parties, finds that it appears to be fair, adequate, and reasonable to the Settlement Class.
11 Accordingly, the Court preliminarily approves the terms of the Settlement Agreement subject to
12 the Final Approval Hearing referred to in this order, certifies the Settlement Class defined below
13 for settlement purposes, and finds that the Settlement Class defined below is likely to be certified
14 for purposes of entering the Final Judgment, appoints Class Counsel and the Class Representative,
15 and approves the Notice plan.

16 3. The Court grants preliminary approval of the Settlement based upon the terms set
17 forth in the Settlement Agreement.

18 **Certification of the Settlement Class**

19 4. For purposes of the settlement only, the Court certifies the following Settlement
20 Class pursuant to Rule 23(b)(3) as defined in the Settlement Agreement:

21 All individuals in the United States having a Roblox account prior to Preliminary Approval
22 of this Settlement from which content on the Roblox platform was moderated and removed
23 by Roblox.¹

24 ¹ Excluded from the Settlement Class are (a) any Judge or Magistrate presiding over this
25 action and members of their families; (b) Defendant, Defendant's subsidiaries, parents,
26 successors, predecessors, and any entity in which Defendant or its parents have a controlling
27 interest and its current or former employees, officers and directors; (c) persons who properly
28 execute and file a timely request for exclusion from the Class; (d) persons whose claims in this
matter have been finally adjudicated on the merits or otherwise released; (e) the legal
representatives, successors, and assigns of any such excluded persons; and (f) individuals who
own one of 311 accounts that Roblox has determined spent over 80,000 Robux (equating to over
\$1,000) on moderated items and falls into one or more of these three categories: (1) the account
(continued...)

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5. The Court finds, subject to the Final Approval Hearing referred to below, that the Settlement Agreement is fundamentally fair, adequate, and reasonable, and, for the purposes of settlement only, that the Settlement Classes likely satisfy the requirements of Rule 23 of the Federal Rules of Civil Procedure for purposes of entering the Final Judgment, specifically, that: the Settlement Class is so numerous that joinder of all members is impracticable; there are questions of fact and law common to the Settlement Class (*e.g.*, whether Roblox had a practice of not refunding users for virtual items deleted from their accounts after they had acquired them, whether such conduct violated the California laws alleged in Plaintiff’s Amended Complaint, and whether members of the Settlement Class are entitled to restitution, damages, and/or injunctive relief as a result); Plaintiff Jane Doe’s claims are typical of the claims of the Settlement Class; Plaintiff and Class Counsel will fairly and adequately protect the interests of the members of the Settlement Class; common questions of law or fact predominate over questions affecting individual members; and a class action is a superior method for fairly and efficiently adjudicating the Action.

Preliminary Approval of the Settlement

6. For purposes of settlement only: (1) the Court preliminarily appoints Jay Edelson, Rafey S. Balabanian, J. Eli Wade-Scott, and Yaman Salahi of Edelson PC as Class Counsel, Mark S. Reich and Courtney E. Maccarone of Levi & Korsinsky, LLP as Liaison Counsel, and Plaintiff Jane Doe, through her father and next of friend John Dennis, as Class Representative. The Court finds that these attorneys are competent and capable of exercising the responsibilities of Class Counsel and that Plaintiff will adequately protect the interests of the Settlement Class defined above.

7. The Court finds that, subject to the Final Approval Hearing, the Settlement Agreement is fair, reasonable, and adequate, is likely to be approved under Federal Rule of Civil

used Robux to acquire the same virtual item multiple times, (2) the account used Robux to acquire a virtual item after that item had already been moderated, or (3) the account created a virtual item and then used Robux to acquire it themselves. These excluded accounts are identified in Exhibit D to the Settlement Agreement.

1 Procedure 23(e)(2), and is in the best interests of the Settlement Class set forth above. The Court
2 further finds that the Settlement Agreement substantially fulfills the purposes and objectives of the
3 class action, and provides substantial relief to the Settlement Class without the risks, burdens,
4 costs, or delay associated with continued litigation, trial, and/or appeal. The Court also finds that
5 the Settlement Agreement (a) is the result of arm's-length negotiations between experienced class
6 action attorneys familiar with the legal and factual issues of this case; (b) is sufficient to warrant
7 notice of the Settlement and the Final Approval Hearing to be disseminated to the Settlement
8 Class; and (c) meets all applicable requirements of law, including Federal Rule of Civil Procedure
9 23 and the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1715; and (d) is not a finding or
10 admission of liability by the Defendant or any other parties.

11 **Notice and Administration**

12 8. This Court approves, as to form and content, the notice of proposed class action
13 settlement (the "Notice") in substantially the form attached to the Settlement Agreement as
14 Exhibits B and C. Notice includes direct e-mail to all Class Members for whom such information
15 is available (estimated at over 98%) and in-app notice to all Class Members, as well as reminder e-
16 mail notice to Class Members who may be eligible for a Cash Payment.

17 9. The Court further finds that the Notice is the best notice practicable under the
18 circumstances, and that the Notice complies fully with the requirements of the Federal Rules of
19 Civil Procedure. The Court also finds that the Notice constitutes valid, due and sufficient notice to
20 all persons entitled thereto, and meets the requirements of Due Process. The Court further finds
21 that the Notice is reasonably calculated, under all circumstances, to apprise members of the
22 Settlement Class of the pendency of this case, the terms of the Settlement Agreement, and the
23 right to object to the settlement and to exclude themselves from the Settlement Class. The parties,
24 by agreement, may revise the Notice in ways that are not material, or in ways that are appropriate
25 to update those documents for purposes of accuracy or formatting.

26 10. The Court approves the request for the appointment of Simpluris, Inc. as Settlement
27 Administrator under the Settlement Agreement.

28

1 11. Pursuant to the terms of the Settlement Agreement, Roblox is directed to provide
 2 the Settlement Administrator the data identified in the Settlement Agreement as comprising the
 3 Class List no later than fourteen (14) days after the date of this Order. The Settlement
 4 Administrator shall maintain the confidentiality of the Class List and shall not disclose it to any
 5 other party or persons and shall not use it for any purpose other than performance of its obligations
 6 under the Settlement Agreement and shall purge all data from the Class List as soon as practicable
 7 after its obligations have expired. The Settlement Administrator is directed to (a) publish the
 8 Notice on the Settlement Website, and (b) send direct notice via e-mail, including a reminder
 9 notice to Class Members who may be eligible for a Cash Payment, in accordance with the Notice
 10 plan called for by the Settlement Agreement. Additionally, Roblox is directed to send the in-app
 11 Notice to Class Members in accordance with the Settlement. The Court directs the issuance of the
 12 Notice by email and in-app notice to the Settlement Class in accordance with the schedule set forth
 13 in the Settlement Agreement and below:

Deadline	Event
Not later than ten (10) days after the Agreement is filed with the Court	Deadline for Settlement Administrator to cause to be served upon the Attorneys General of each U.S. State in which Settlement Class members reside, the Attorney General of the United States, and other required government officials, notice of the proposed settlement
No later than fourteen (14) days after entry of Preliminary Approval	Deadline for Roblox to provide Settlement Class Member contact information to the Settlement Administrator
No later than twenty-eight (28) days after entry of Preliminary Approval	Deadline for Settlement Administrator to provide Notice on the Settlement Website
No later than twenty-eight (28) days after entry of Preliminary Approval	Deadline for Settlement Administrator to commence dissemination of Notice via email
No later than twenty-eight (28) days after entry of Preliminary Approval	Deadline for Roblox to commence dissemination of Notice via the Roblox My Inbox platform
No later than thirty-five (35) days after entry of Preliminary Approval	Deadline for dissemination of Notice via email and the Roblox My Inbox platform to be completed (the “Notice Date”)
Thirty (30) days prior to the Cash Claims Deadline	Deadline for the Settlement Administrator to send Reminder Email Notice to Class

	Members who may be eligible for a Cash Payment
No later than fifty-six (56) days following the Notice Date	Deadline to have postmarked and/or filed a written objection to this Settlement Agreement or a request for exclusion
No later than fifty-six (56) days following the Notice Date	Deadline to have submitted a Cash Claim Form on the Settlement Website

Objections

12. Any Settlement Class Member who has not timely filed a request for exclusion may object to the fairness, reasonableness, or adequacy of the Settlement Agreement, or to a Final Judgment being entered dismissing this case with prejudice in accordance with the terms of the Settlement Agreement, or to the Fee Award sought by Class Counsel, or to the requested service award to the Class Representative. To object, Settlement Class Members must personally sign and file with the Court a written objection on or before the Objection/Exclusion Deadline of _____.

13. To be valid, the written objection must comply with the objection procedures set forth in the Settlement Agreement and Notice, must be presented in writing and personally signed by the objector and must include: (a) the Settlement Class Member’s full name and current address; (b) their Roblox account username for the account that experienced removal of moderated items; (c) a statement that they believe themselves to be a member of the Settlement Class; (d) whether the objection applies only to the objector, to a specific subset of the Settlement Class, or to the entire Settlement Class; (e) the specific grounds for the objection; (f) all documents or writings that the Settlement Class Member desires the Court to consider; (g) the name and contact information of any and all attorneys representing, advising, or in any way assisting the objector in connection with the preparation or submission of the objection or who may profit from the pursuit of the objection; and (h) a statement indicating whether the objector intends to appear at the Final Approval Hearing (either personally or through counsel, who must file an appearance or seek pro hac vice admission in accordance with the Local Rules).

14. To be valid, all written objections must be filed with the Court and filed, postmarked, or delivered to the Court no later than the Objection/Exclusion Deadline. Any

1 Settlement Class Member who fails to timely file a written objection with the Court and notice of
2 his or her intent to appear at the Final Approval Hearing in accordance with the terms of this
3 Section and as detailed in the Notice shall not be permitted to object to this Settlement Agreement
4 at the Final Approval Hearing, and shall be foreclosed from seeking any review of this Settlement
5 Agreement or Final Judgment by appeal or other means and shall be deemed to have waived his or
6 her objections and be forever barred from making any such objections in the Action or any other
7 action or proceeding.

8 **Exclusion**

9 15. Any person in the Settlement Class may submit a request for exclusion from the
10 Settlement on or before the Objection/Exclusion deadline of _____.

11 To be valid, any request for exclusion must be submitted using the form attached to the
12 Declaration of Yaman Salahi as Exhibit 4, which shall be available for submission and download
13 on the Settlement Website. Any members of the Settlement Class so excluded shall neither be
14 bound by the terms of the Settlement Agreement nor entitled to any of its benefits.

15 16. To be valid, any request for exclusion shall (a) be in writing; (b) identify the case
16 name *Doe v. Roblox*, No. 3:21-cv-03943-WHO (N.D. Cal.); (c) state the full legal name and
17 current residential address of the person in the Settlement Class seeking exclusion; (d) identify
18 their Roblox account username for the account that experienced removal of moderated items; (e)
19 contain a statement to the effect that “I hereby request to be excluded from the proposed
20 Settlement Class in *Doe v. Roblox*, No. 3:21-cv-03943-WHO (N.D. Cal.)”; (f) contain the hand
21 signature of the person(s) seeking exclusion; and (g) be postmarked or received by the Settlement
22 Administrator on or before the Objection/Exclusion Deadline. A request for exclusion that is not
23 submitted on the approved form, does not include all of the foregoing information, that is sent to
24 an address other than that designated in the Notice, or that is not postmarked or delivered to the
25 Settlement Administrator within the time specified, shall be invalid and the persons serving such a
26 request shall be deemed to remain Settlement Class Members and shall be bound as Settlement
27 Class Members by this Settlement Agreement, if approved. Any person who is excluded from the
28 Settlement Class shall not (a) be bound by any orders or Final Judgment entered in the Action, (b)

1 receive a Settlement Payment under this Settlement Agreement, (c) gain any rights by virtue of
2 this Settlement Agreement, or (d) be entitled to object to any aspect of this Settlement Agreement
3 or Final Judgment. No person may request to be excluded from the Settlement Class through
4 “mass” or “class” opt-outs or bulk mailing of requests, meaning, *inter alia*, that each individual
5 who seeks to opt out must send an individual request to the Settlement Administrator that
6 complies with all requirements of this paragraph separate from any other individual’s request to
7 ensure the request manifests the individual’s considered, personal decision.

8 **Cash Claim Deadline**

9 17. The Court approves the Cash Claim Form attached as Exhibit A to the Settlement
10 Agreement. All Cash Claim Forms must be submitted on the Settlement Website by _____
11 (the “Cash Claims Deadline”) to be considered timely.

12 **Final Approval Hearing**

13 18. The Final Approval Hearing shall be held before this Court on _____,
14 at _____ to determine (a) whether the proposed settlement of the case on the
15 terms and conditions provided for in the Settlement Agreement is fair, reasonable, and adequate
16 and should be given final approval by the Court; (b) whether a Final Judgment should be entered;
17 (c) whether to approve the Fee Award to Class Counsel; and (d) whether to approve the payment
18 of a service award to the Class Representative. The Court may adjourn the Final Approval
19 Hearing without further notice to members of the Settlement Class.

20 19. Class Counsel shall file papers in support of their request for a Fee Award and the
21 Class Representative’s service award (collectively, the “Fee Petition”) with the Court on or before
22 _____ (*i.e.*, 14 days before the Objection/Exclusion Deadline). The Fee Petition
23 shall be filed with the Court and promptly posted to the Settlement Website. Members of the
24 Settlement Class may object on their own or may do so through separate counsel at their own
25 expense by the Objection/Exclusion Deadline. Defendant may, but is not required to, file a
26 response to Class Counsel’s Fee Petition with the Court on or before the Objection/Exclusion
27 Deadline. Class Counsel may file a reply in support of their Fee Petition by _____ (*i.e.*, 21
28 days after the Objection/Exclusion Deadline).

1 20. Plaintiff shall file her papers in support of final approval of the Settlement
2 Agreement, and in response to any objections, with the Court on or before _____ (*i.e.*, 28 days
3 after the Objection Deadline).

4 **Additional Provisions**

5 21. Counsel for the Parties are hereby authorized to utilize all reasonable procedures in
6 connection with the administration of the settlement which are not materially inconsistent with
7 either this Order or the terms of the Settlement Agreement.

8 22. All further proceedings and deadlines in this action are hereby stayed except for
9 those required to effectuate the Settlement Agreement and this Order.

10 **IT IS SO ORDERED**

11
12 Dated this ___ day of _____, 2023

13
14
15

Hon. William H. Orrick
United States District Judge

16
17
18 Presented by:

19 By: /s/ Yaman Salahi

20 Rafey Balabanian (SBN 315962)

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4 *Attorneys for Plaintiff and the Settlement Class*
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