

SETTLEMENT AGREEMENT

Made as of July 4, 2022

CHRISTOPHER ALBELUHN and BRIAN BOOG

and

CAPCOM CO. LTD. and CAPCOM (U.S.A) INC.

(Supreme Court of British Columbia, File No. S-216405, Vancouver Registry)

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PREAMBLE

Christopher Albeluhn and Brian Boog as proposed representative Plaintiffs in the Action, and the Defendants, Capcom Co. Ltd., Capcom (U.S.A.) Inc., and Capcom Game Studio Vancouver Inc., hereby enter into this Settlement Agreement and Schedules providing for the settlement of claims arising in the Action, pursuant to the terms and conditions set forth herein, and subject to approval of the Court;

RECITALS

A. WHEREAS, the Plaintiffs commenced the Action against the Defendants on July 13, 2021 as a proposed class proceeding pursuant to a Notice of Civil Claim advancing claims on behalf of a proposed class of all Canadian residents whose Personal Information was accessed as a result of the Data Breach or who received notification that their Personal Information may have been accessed as a result of the Data Breach;

B. WHEREAS, Capcom Game Studio Vancouver, Inc. was dissolved and no longer exists and Capcom (U.S.A.) Inc. has assumed the responsibilities of Capcom Game Studio Vancouver, Inc. in relation to the subjectmatter of the Action;

C. WHEREAS, the Action has not yet been certified;

D. WHEREAS, despite their belief that the allegations advanced in the Action are unfounded and that they have good and reasonable defences both to certification and on the merits, the Defendants have agreed to enter into this Settlement Agreement in order to achieve final resolution of all claims asserted or which could have been asserted against them, individually or collectively, by the Plaintiffs in the Action, and to avoid further expense, inconvenience and the distraction of burdensome and protracted litigation;

E. WHEREAS, the Defendants do not admit, through the execution of this Settlement Agreement or otherwise, any unlawful conduct, wrongdoing or blame of any kind, on their behalf or on behalf of their corporate successors or predecessors, either as alleged or at all;

F. WHEREAS, the Parties intend by this Settlement Agreement to resolve all past, present, and future claims of Class Members in any way arising out of or relating to the Action;

G. WHEREAS, Class Counsel and the Defendants, through counsel, have engaged in extensive, arm's-length negotiations that have resulted in this Settlement Agreement;

H. WHEREAS, the Plaintiffs and Class Counsel have reviewed and fully understand the terms of this Settlement Agreement and, based on their analyses of the facts and law applicable to the Plaintiffs' claims, and having regard to the burden and expense in prosecuting the Action, including the risks and uncertainties associated with trials and appeals, the Plaintiffs and Class Counsel have concluded that this Settlement Agreement is fair, reasonable, and in the best interests of the Plaintiffs and the Class Members;

I. WHEREAS, the Parties therefore wish to, and hereby do, fully and finally resolve the Action against the Defendants without admission of liability;

J. WHEREAS, the Defendants expressly reserve their rights to contest certification of any other related or unrelated proceedings and their rights to defend on the merits any other related or unrelated proceedings.

NOW, THEREFORE, in consideration of the covenants, agreements, and releases set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the undersigned on behalf of the Plaintiffs, Class Members and the Defendants that all claims of Class Members shall be settled and that, on the Effective Date, Class Counsel shall enter and obtain a filed Consent Dismissal Order without costs in the Action dismissing all claims against the Defendants with like effect as if after a trial upon the merits subject to the Court retaining jurisdiction to supervise and address matters related to the implementation and administration of the Settlement Agreement and the Parties shall consent to the Court Orders finally approving the settlement:

SECTION 1:
DEFINITIONS

For the purposes of this Settlement Agreement only, including the Recitals and Schedules hereto:

- (1) **Action** means *Christopher Albeluhn and Brian Boog v. Capcom Co. Ltd., Capcom (U.S.A.) Inc., and Capcom Game Studio Vancouver, Inc.* (Supreme Court of British Columbia, Action No. S-216405, Vancouver Registry).
- (2) **Administration Expenses** means all fees (excluding Class Counsel Fees), disbursements, expenses, costs, taxes, and any other amounts incurred or payable in relation to the implementation and operation of this Settlement Agreement, including claims administration costs, but exclusive of notice costs incurred by the Defendants.
- (3) **Class Counsel** means Mathew P Good Law Corporation and Slater Vecchio LLP.
- (4) **Class Counsel Fees** include the fees of Class Counsel for the prosecution of the Action, as well as taxes and disbursements, as outlined in Section 7. Class Counsel Fees are subject to approval of the Court on application by Class Counsel.
- (5) **Class Members** means all Canadian residents whose Personal Information was accessed in or as a result of the Data Breach or who received a notification that their Personal Information may have been accessed as a result of the Data Breach during the Class Period and who do not opt-out.
- (6) **Class Period** means November 1, 2020 to the Effective Date.
- (7) **Court** means the Supreme Court of British Columbia.
- (8) **Data Breach** means a security incident discovered by the Defendants on November 1, 2020 where a third party obtained access to the Defendants' computer network and exfiltrated certain data.
- (9) **Defence Counsel** means Fasken Martineau DuMoulin LLP.
- (10) **Defendants** means Capcom Co. Ltd. and Capcom (U.S.A.) Inc.
- (11) **Distribution Amount** means the amounts remaining from the Settlement Amount after deducting Class Counsel Fees, any honoraria for the Plaintiffs and Administration Expenses for distribution to the Class Members pursuant to the Distribution Protocol and the administration and claims process developed to do so.

- (12) ***Distribution Protocol*** means the protocol that governs the distribution from the Settlement Amount and the administration and claims process developed to do so.
- (13) ***Effective Date*** means the date when the Second Order becomes a Final Order.
- (14) ***Final Order*** means the Second Order once the time to appeal such order has expired without any appeal being taken, if an appeal lies, or once there has been affirmation of the Second Order upon a final disposition of all appeals.
- (15) ***First Order*** means the order issued by the Court to: (1) approve amendments to the Notice of Civil Claim to remove Capcom Game Studio Vancouver, Inc. as a defendant; (2) approve certification for settlement purposes on consent of the Parties; and (3) approve Notice of Certification and Settlement Approval Hearing.
- (16) ***Notice of Certification and Settlement Approval Hearing*** means the form of notice as approved by the Court to inform Class Members of: (1) certification of the Action in accordance with section 19 of the *Class Proceedings Act*, RSBC 1996, c 50; and (2) the date and location of the hearing to approve this Settlement Agreement and the principle elements of this Settlement Agreement.
- (17) ***Notice of Settlement Approval and Claims Procedures*** means the form of notice as approved by the Court to inform the Class Members of: (1) the approval of this Settlement Agreement; and (2) the process by which the Class Members may submit a claim for compensation.
- (18) ***Objection Date*** means the date by which Class Members must deliver to Class Counsel any written objections to the approved Settlement, along with any supporting documentation. Class Counsel shall ensure any written objections received by the Objection Date are served on counsel for the Defendants and filed with the Court.
- (19) ***Opt-Out*** means a prospective Class Member who has submitted a valid written election to opt-out of the Action by the Opt-Out Date.
- (20) ***Opt-Out Date*** means thirty (30) days from the dissemination of Notice of Certification.

- (21) **Parties** means the Plaintiff, Class Members, and the Defendants.
- (22) **Personal Information** means information about an identifiable individual. Examples include name, home address and phone number, social insurance number, and medical information. Personal information does not include business contact information. Examples that are not considered personal information include information to enable an individual at a place of business to be contacted, such as name, position/title, business telephone number, business address, business email or business fax number.
- (23) **Plaintiffs** means Christopher Albeluhn and Brian Boog.
- (24) **Released Claims** means the Claims as released in accordance with Section 6 of this Settlement Agreement.
- (25) **Released Parties** means the Defendants and each of their past, present and future parents, predecessors, successors, spin-offs, assigns, holding companies, joint-ventures and joint-venturers, partnerships and partners, members, divisions, shareholders, stockholders, bondholders, subsidiaries, related companies, affiliates, officers, directors, employees, associates, dealers, and representatives. The Parties expressly acknowledge that each of the foregoing is included as a Released Party even though not identified by name herein. Released Parties includes all persons/entities/organizations described above, even if not referenced by name in this Settlement Agreement.
- (26) **Releasors** means, jointly and severally, individually and collectively, the Plaintiffs, Class Members, and their respective successors, heirs, executors, administrators, trustees, and assigns, and their affiliated, predecessor, successor, and related companies.
- (27) **Second Order** means the order issued by the Court to: (1) approve the Settlement Agreement; and (2) approve the Distribution Protocol.
- (28) **Settlement Amount** is CAD \$125,000, which is the maximum amount of money the Defendants will pay to effectuate the Settlement, inclusive of Class Counsel Fees, taxes and disbursements, any honoraria for the Plaintiffs, any distributed amounts to Class Members, any Cy Près Donation, and Administration Expenses.

(29) *Settlement Agreement* or *Settlement* means this agreement, including the Recitals and Schedules.

SECTION 2:
CONDITION PRECEDENT

2.1 Court Approval

Subject to Section 5, this Settlement Agreement shall be null and void and of no force or effect unless the Court approves this Settlement Agreement, the orders contemplated herein have become final and the Effective Date has occurred.

SECTION 3:
SETTLEMENT APPROVAL

3.1 Best Efforts

The Parties will use their best efforts to: (1) recommend approval of this Settlement Agreement to the Court; (2) obtain approval of this Settlement Agreement and to carry out its terms; (3) support the Settlement contemplated by this Settlement Agreement in all public statements; and (4) effectuate the final dismissal with prejudice of the Action as against the Defendants, subject to the Court retaining jurisdiction to supervise and address matters related to the implementation and administration of the Settlement Agreement.

3.2 Notice Required

The Plaintiff and the Class Members in the Action shall be given the following notices: (1) Notice of Certification and Settlement Approval Hearing; (2) Notice of Settlement Approval and Claims Procedures; and (3) termination of this Settlement Agreement if it is properly terminated pursuant to Section 5 or as otherwise ordered by the Court.

3.3 Forms of Notices

- (a) The notices required shall be substantially in the forms attached hereto as **Schedule “A”** (Notice of Certification and Settlement Approval Hearing) and **Schedule “B”** (Notice of Settlement Approval and Claims Procedures).

- (b) The Notice of Settlement Approval shall include the procedure for opting-out of the Action.

3.4 Method of Disseminating Notices

- (a) The notices required shall be disseminated by the Defendants directly to Class Members to the same addresses and emails on file to which the original notification letter about the Data Breach was delivered.
- (b) The Defendants shall pay all reasonable direct notice costs, and those costs shall be separate and not form part of the Administration Expenses.
- (c) There will be no indirect notice.
- (d) The Parties will cooperate in the preparation of any written or verbal communications in relation to the Settlement Agreement or the Action.

3.5 Motions Approving Notice and Amendment

- (a) As soon as practicable after the Settlement Agreement is executed, the Plaintiff shall bring a motion for the First Order.
- (b) The First Order shall, among other things
 - (i) approve an amendment to the Notice of Civil Claim to remove Capcom Game Studio Vancouver, Inc. as a defendant;
 - (ii) certify the Action for settlement purposes on consent of the Parties, subject to the terms and conditions of this Settlement Agreement, including the Defendants' express reservation of rights to contest certification of any other related or unrelated proceedings and their rights to defend on the merits any other related or unrelated proceedings; and
 - (iii) approve the Notice of Certification and Settlement Approval Hearing.
- (c) The form of the First Order shall be substantially in the form attached hereto as **Schedule "C"**.

3.6 Motions for Settlement Approval

- (a) As soon as practicable after the First Order is granted, the Plaintiff shall bring a motion before the Court to obtain the Second Order.
- (b) The Defendants, through their counsel, will provide a letter to Class Counsel setting out information about the class size, steps taken by the Defendants since the Data Breach to communicate with Class Members about the Data Breach, the Defendants' direct notice efforts about the Data Breach, credit monitoring offered to Class Members by the Defendants, the Defendants' awareness of any claims and the Defendants' cooperation with the enforcement agencies.
- (c) Class Counsel will provide the necessary affidavit evidence to support the Court's approval of the Settlement Agreement.
- (d) The Second Order shall, among other things:
 - (i) approve the Settlement in respect of Class Members (other than those who opt-out of the Settlement) on the terms and conditions of this Settlement Agreement;
 - (ii) declare that the Settlement Agreement is fair, reasonable and in the best interests of the Class Members;
 - (iii) order and declare that the Releasers have fully and finally released the Released Parties from the Released Claims;
 - (iv) approve the Notice of Settlement Approval and Claims Procedures;
 - (v) approve the Distribution Protocol;
 - (vi) reserve the Court's continuing exclusive jurisdiction over the Parties to administer, supervise, construe and enforce this Settlement Agreement; and
 - (vii) authorize the Parties to bring such motions to the Court for directions as may be required.

- (e) The form of the Second Order shall be substantially in the form attached hereto as **Schedule “D”**.
- (f) This Settlement Agreement shall only become final on the Effective Date.

SECTION 4:

DISTRIBUTION OF SETTLEMENT AMOUNT

4.1 Distribution Protocol

The Distribution Amount will be distributed pursuant to the Claims Process and Distribution Protocol attached hereto as **Schedule “E”**.

4.2 Payment of Settlement Amount

- (a) Within thirty (30) days after the Second Order becomes a Final Order, the Defendants shall transfer the Settlement Amount as directed by Class Counsel so long as the direction is consistent with the Court’s approval of Class Counsel Fees.
- (b) In no event shall the total value of any payments by the Defendants exceed CAD \$125,000.

SECTION 5:

TERMINATION OF SETTLEMENT AGREEMENT

5.1 Right of Termination

- (a) The Plaintiffs and/or the Defendants have the right to terminate this Settlement Agreement in the event that:
 - (i) the Court declines to approve this Settlement Agreement or any material part hereof;
 - (ii) the Court approves this Settlement Agreement in a materially modified form other than as amended by the Parties; or
 - (iii) the Second Order does not become a Final Order.

- (b) If the Plaintiffs or the Defendants elect to terminate the Settlement Agreement, a written notice of termination shall be provided. Upon delivery of such written notice, this Settlement Agreement shall be terminated and shall be null and void and have no further force or effect, shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation.
- (c) Any order, ruling or determination made by the Court with respect to Class Counsel's fees and disbursements shall not be deemed to be a material modification of all, or a part, of this Settlement Agreement and shall not constitute any basis for the termination of this Settlement Agreement.

5.2 Effect of Termination

- (a) In the event of termination of this Settlement Agreement, all Parties shall be restored to their respective positions in and with respect to the Action immediately prior to the date on which this Settlement Agreement is signed by all Parties.
- (b) All negotiations, statements, and proceedings relating to the Settlement and the Settlement Agreement shall be deemed to be without prejudice to the rights of the Parties, and the Parties shall be deemed to be restored to their respective positions existing immediately before it was executed.
- (c) The Plaintiffs, Class Counsel, the Defendants, and Defence Counsel expressly acknowledge that they will not, in any way whatsoever, use the fact or existence of this Settlement Agreement as any form of admission, whether of liability, wrongdoing, or otherwise, of the Defendants or the Plaintiff.

5.3 Survival of Provisions After Any Termination

If this Settlement Agreement is terminated, the provisions of this Settlement Agreement will have no force or effect and all obligations related thereto shall cease immediately.

SECTION 6:
RELEASES AND DISMISSALS

6.1 Release of Released Parties

The Parties agree to the following release which shall be included in the Second Order and which shall take effect upon the date the Court's approval of the Settlement Agreement becomes a Final Order.

- (a) In exchange for the settlement benefits hereunder and for other valuable consideration set forth in the Settlement Agreement, the Plaintiffs and each Class Member, including their heirs, successors and assigns, on behalf of themselves and any other legal or natural persons who may claim by, through or under them, expressly and irrevocably waives and fully, finally and forever settles, releases and discharges all claims, demands, actions, suits and causes of action against the Defendants and/or their directors, officers, employees, lawyers, insurers or agents, whether known or unknown, asserted or unasserted, that any Class Member ever had, could have had, now has or hereafter can, shall or may have, relating in any way to any conduct, act or omission which was or could have been alleged in the Action which arise from, in connection with, or relate to the Data Breach.
- (b) The Plaintiffs and Class Members expressly agree that this Release and the Second Order is, will be, and may be raised as a complete defence to, and will preclude any action or proceeding encompassed by this Release.
- (c) The Plaintiffs and Class Members shall not now or hereafter institute, maintain, prosecute, assert and/or cooperate in the institution, commencement, filing, or prosecution of any suit, action and/or proceeding, against the Released Parties, either directly or indirectly, on their own behalf, on behalf of a class or on behalf of any other person or entity with respect to the claims, cause of action and/or any other matters released through this Settlement.
- (d) In connection with the Settlement Agreement, the Plaintiffs and Class Members acknowledge that they may hereafter discover claims presently unknown or

unsuspected, or facts in addition to or different from those that they now know or believe to be true concerning the subject matter of the Action and/or the Release herein. Nevertheless, it is the intention of the Plaintiffs and Class Members in executing this Settlement Agreement fully, finally and forever to settle, release, discharge, and hold harmless all such matters, and all claims relating thereto which exist, hereafter may exist, or may have existed (whether or not previously or currently asserted in any action or proceeding) with respect to the subject matter of the Action, even if such matters and claims if known would have materially affected the Settlement, except as otherwise stated in this Settlement Agreement.

- (e) Releasors represent and warrant that they are the sole and exclusive owners of all claims that they personally are releasing under this Settlement Agreement. Releasors further acknowledge that they have not assigned, pledged, or in any manner whatsoever, sold, transferred, assigned or encumbered any right, title, interest or claim arising out of or in any way whatsoever pertaining to the Action, including without limitation, any claim for benefits, proceeds or value under the Action, and that Releasors are not aware of anyone other than themselves claiming any interest, in whole or in part, in the Action or in any benefits, proceeds or values under the Action.
- (f) Without in any way limiting its scope, and except to the extent otherwise specified in this Settlement Agreement, this release under this Section 6 covers without limitation, any and all claims for legal fees, taxes, costs, expert fees or consultant fees, interest, or litigation fees, costs or any other fees, costs and/or disbursements incurred by Class Counsel, any other legal counsel, the Plaintiffs, Class Members or any other person who claim to have assisted in conferring the benefits under this Settlement upon the Class.
- (g) The Plaintiffs, Class Counsel and/or any other legal counsel who receives legal fees and disbursements from this Settlement acknowledge that they have conducted sufficient independent investigation to enter into this Settlement Agreement and, by executing this Settlement Agreement, state that they have not relied upon any statements or representations made by the Released Parties or any

person or entity representing the Released Parties, other than as set forth in this Settlement Agreement.

- (h) Nothing in this Release shall preclude any action to enforce the terms of the Settlement Agreement, including participation in any of the processes detailed herein.
- (i) Releasors hereby agree and acknowledge that the provisions of this Release together constitute an essential and material term of the Settlement Agreement and shall be included in the Second Order.
- (j) The Parties agree that each Class Member who does not opt-out will be forever barred and enjoined from continuing, commencing, instituting, or prosecuting any action, litigation, investigation or other proceeding in any court of law or equity, arbitration, tribunal, proceeding, governmental forum, administrative forum, or any other forum, directly, representatively, or derivatively, asserting against any of the Defendants, the Released Parties, and/or third-party any claims that relate to or constitute any Released Claims covered by the Settlement Agreement.

6.2 Dismissal of Proceedings

Upon the Effective Date, the Action shall be dismissed with prejudice and without costs as against the Defendants. Class Members shall be deemed to consent to the dismissal of the Action, with prejudice and without costs as against the Defendants.

SECTION 7:

CLASS COUNSEL FEES, DISBURSEMENTS, APPLICABLE TAXES AND PLAINTIFFS' HONORARIA

7.1 Motion for Approval

- (a) Class Counsel will bring applications to the Court for approval of Class Counsel Fees and any honoraria for the Plaintiffs. Class Counsel Fees will be awarded at the discretion of the Court after hearing from Class Counsel. The Defendants will take no position on Class Counsel Fees or any honoraria for the Plaintiffs.

- (b) The approval of this Settlement shall not be contingent upon the approval of Class Counsel Fees.

7.2 Payment of Class Counsel Fees

- (a) Approved Class Counsel Fees and any honoraria for the Plaintiffs will be deducted from the Settlement Amount.
- (b) Class Counsel may pay itself the Class Counsel Fees from the Settlement Amount as approved by the Court.
- (c) Class Counsel shall be responsible for directing the payment of Class Counsel Fees among Class Counsel, consultants and experts at their discretion. The Defendants shall have no liability in connection with the direction, transfer, and distribution of the Class Counsel Fees among Class Counsel, or otherwise.
- (d) Class Members who have retained, or in the process of making a claim do retain, lawyers to assist them in making their individual claims to this Settlement shall be solely responsible for the legal fees and expenses of such lawyers.

SECTION 8:

NO ADMISSION OF LIABILITY

8.1 No Admission of Liability

The Parties agree that, whether or not this Settlement Agreement is finally approved or is terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions, and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed, or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by the Released Parties or any of them, or of the truth of any of the claims or allegations made in the Action, or in any other pleading filed by the Plaintiff or the Defendants.

8.2 No Evidence

The Parties further agree that, whether or not this Settlement Agreement is finally approved or is terminated, neither this Settlement Agreement nor any document relating to it shall be offered in evidence in any action or proceeding in any court, agency or tribunal, except to seek court approval of this Settlement Agreement or to give effect to and enforce the provisions of this Settlement Agreement.

SECTION 9: MISCELLANEOUS

9.1 Motions for Directions

- (a) Class Counsel or Defence Counsel may apply to the Court for directions in respect of the implementation and administration of this Settlement Agreement.
- (b) All motions contemplated by this Settlement Agreement, including applications to the Court for directions, shall be on notice to the Parties.

9.2 Released Parties Have No Liability for Administration

The Released Parties, the Plaintiff and Class Counsel have no liability whatsoever with respect to the administration of the Settlement Agreement.

9.3 Headings, etc.

In this Settlement Agreement:

- (a) the division of the Settlement Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Settlement Agreement; and
- (b) the terms “this Settlement Agreement”, “the Settlement Agreement”, “hereof”, “hereunder”, “herein”, “hereto”, and similar expressions refer to this Settlement Agreement and not to any particular section or portion of this Settlement Agreement.

9.4 Computation of Time

- (a) Where there is a reference to a number of days between two events, the number of days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days.
- (b) Only in the case where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

9.5 Ongoing Jurisdiction

The Court shall retain exclusive jurisdiction over the Action, the Parties thereto and the Class Counsel Fees in the Action.

9.6 Governing Law

Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of British Columbia.

9.7 Entire Agreement

This Settlement Agreement constitutes the entire agreement among the Parties, and supersedes any and all prior and contemporaneous understandings, undertakings, negotiations, representations, communications, promises, agreements, agreements in principle, and memoranda of understanding in connection herewith. None of the Parties shall be bound by any prior obligations, conditions, or representations with respect to the subject matter of this Settlement Agreement, unless expressly incorporated herein.

9.8 Amendments

This Settlement Agreement may not be modified or amended except in writing and on consent of all Parties hereto, and any such modification or amendment must be approved by the Court.

9.9 Binding Effect

Once the Settlement attains the Effective Date, this Settlement Agreement shall be binding upon, and inure to the benefit of the Plaintiff, the Class Members, the Defendants, the Releasers, the Released Parties, Class Counsel and Defence Counsel.

9.10 Counterparts

This Settlement Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and an electronic signature shall be deemed an original signature for purposes of executing this Settlement Agreement. This Settlement Agreement may be delivered and is fully enforceable in either original, emailed, or other electronic form provided that it is duly executed.

9.11 Negotiated Agreement

This Settlement Agreement has been the subject of negotiations and discussions among the Parties, each of which has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement shall have no force and effect. The Parties further agree that the language contained or not contained in previous drafts of this Settlement Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Settlement Agreement.

9.12 Dates

Dates referred to in this Settlement Agreement may be altered with the written consent of the Parties and with the approval of the Court.

9.13 Language

The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais.

9.14 Recitals

The recitals to this Settlement Agreement are true and form part of the Settlement Agreement.

9.15 Schedules

The Schedules annexed hereto form part of this Settlement Agreement.

9.16 Acknowledgments

Each of the Parties hereby affirms and acknowledges that:

- (a) he, she, or a representative of the Party with the authority to bind the Party with respect to the matters set forth herein has read and understood the Settlement Agreement;
- (b) the terms of this Settlement Agreement and the effects thereof have been fully explained to him, her, or the Party's representative by his, her, or its counsel;
- (c) he, she, or the Party's representative fully understands each term of the Settlement Agreement and its effect; and
- (d) no Party has relied upon any statement, representation, or inducement (whether material, false, negligently made, or otherwise) of any other Party with respect to the first Party's decision to execute this Settlement Agreement.

9.17 Authorized Signatories

Each of the undersigned represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement.

9.18 Notice

Where this Settlement Agreement requires a Party to provide notice or any other communication or document to another, such notice, communication, or document shall be provided by email, or letter to the representatives for the Party to whom notice is being provided, as identified below:

FOR PLAINTIFF AND FOR CLASS COUNSEL:

Slater Vecchio LLP

PO Box 10445 Pacific Center North
18th Floor, Dunsmuir Street
Vancouver, BC V7Y 1K4

Ryan Matheuszik

Phone: (604) 682 5111

Email: rtm@slatervecchio.com

With a copy by email to mat@godbarrister.com

FOR THE DEFENDANT AND DEFENCE COUNSEL:

Fasken Martineau DuMoulin LLP

2900 - 550 Burrard Street
Vancouver, BC V6C 0A3

Andrew Borrell

Alexandra Mitretodis

Telephone: (604) 631 3131

Email: aborrell@fasken.com

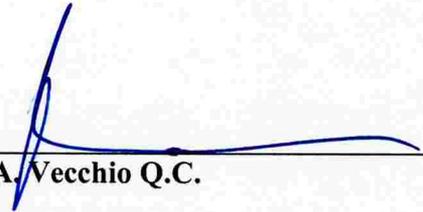
Email: amitretodis@fasken.com

9.19 Date of Execution

The Parties have executed this Agreement as of the date on the cover page.

**CHRISTOPHER ALBELUHN AND
BRIAN BOOG**

Signature of Authorized Signatory:
Name of Authorized Signatory:

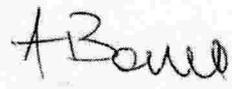


Anthony A. Vecchio Q.C.

**Slater Vecchio LLP
Class Counsel**

**CAPCOM CO. LTD. AND CAPCOM
(U.S.A.) INC.**

Signature of Authorized Signatory:
Name of Authorized Signatory:



Andrew Borrell

**Fasken Martineau DuMoulin LLP
Defence Counsel**

SCHEDULE “A”

COVER EMAIL TO CLASS MEMBERS

Dear Class Member

Re: *Capcom Class Action*

You are receiving this email because you are a former Canadian employee of Capcom whose personal information was accessed in or as a result of a security incident discovered by Capcom on November 1, 2020 where a third party obtained access to the Capcom’s computer network and exfiltrated certain data. A settlement has been reached that may affect your legal rights. The settlement is still subject to approval by the Supreme Court of British Columbia. Please see the Court-approved Notice of Certification and Settlement Approval Hearing by clicking [here](#) [*hyperlink to Notice on page 2 of Schedule A*], also attached for more information.

More Information

The notice contains only a summary of the Settlement and Class Members are encouraged to review the complete Settlement Agreement [here](#) [*hyperlink to Settlement Agreement*].

If you have questions that are not answered online, please contact the appropriate Class Counsel identified below. The law firms Good Barrister and Slater Vecchio represent Class Members in the Action. They can be reached at:

Slater Vecchio

PO Box 10445 Pacific Center North
18th Floor, Dunsmuir Street
Vancouver, BC V7Y 1K4

Steven Nguyen

Phone: 604-648-3571

Email: snguyen@slatervecchio.com

**CAPCOM CLASS ACTION
NOTICE OF CERTIFICATION AND SETTLEMENT APPROVAL HEARING**

Read this notice carefully as it may affect your rights.

THIS NOTICE IS DIRECTED TO:

All Canadian residents whose Personal Information was accessed in or as a result of a security incident discovered by Capcom on November 1, 2020 where a third party obtained access to the Capcom’s computer network and exfiltrated certain data (“Data Breach”), or who received a notification that their Personal Information may have been accessed as a result of the Data Breach (“Class Members”).

I. Nature of the Class Action

On July 13, 2021, a proposed class action was commenced against Capcom Co. Ltd., Capcom (U.S.A.) Inc., and Capcom Game Studio Vancouver Inc. (collectively referred to as “**Capcom**”) in the Supreme Court of British Columbia, *Christopher Albeluhn and Brian Boog v. Capcom Co. Ltd., Capcom (U.S.A.) Inc., and Capcom Game Studio Vancouver, Inc.* (Action No. S-216405, Vancouver Registry) (the “**Action**”) on behalf of Class Members whose Personal Information was accessed as a result of the Data Breach or who received notification that their Personal Information may have been accessed as a result of the Data Breach.

“**Personal Information**” means information about an identifiable individual. Examples include name, home address and phone number, social insurance number, and medical information. Personal information does not include business contact information. Examples that are not considered personal information include information to enable an individual at a place of business to be contacted, such as name, position/title, business telephone number, business address, business email or business fax number.

Capcom denies these allegations. Despite Capcom’s belief that the allegations advanced in the Action are unfounded and that they have good and reasonable defences, Capcom has agreed to settle the Action in order to achieve final resolution of all claims.

II. Settlement

The parties have reached a settlement of the Action, without an admission of liability on the part of Capcom, subject to approval by the Supreme Court of British Columbia (the “**Settlement**” or “**Settlement Agreement**”).

A. Overview

Pursuant to the Settlement, Capcom will pay CAD \$125,000 to effectuate the Settlement, inclusive of any distributed amounts to Class Members, class counsel fees, taxes and disbursements, any honouraria for the representative plaintiffs, any charitable donations paid for the benefit of Class Members to the Law Foundation, and administration expenses (the “**Settlement Amount**”). The balance of the Settlement Amount after the payment of class counsel fees, taxes and disbursements,

administration expenses and any honouraria for the representative plaintiffs is available for distribution to Class Members (the “**Distribution Amount**”).

If the Settlement is approved, the Distribution Amount will be distributed to Class Members in two stages.

Stage 1: Class Members can submit claims with supporting evidence for direct losses caused by the Data Breach and will be eligible for reimbursement of such losses. The evidence of loss must be objective, reliable and credible, such as credit card statements, invoices, fraud reports, and receipts of out-of-pocket expenses incurred. Class Members are entitled to submit a claim for the following loss types:

- unauthorised charges on a class members’ bank account or credit card;
- unauthorised lending;
- credit monitoring, credit insurance, identity theft protection;
- credit reports; and
- other costs, losses and/or reimbursed expenses.

Class Members who submit an approved substantiated claim will also be entitled to receive reimbursement for two hours of lost time, calculated at a rate of CAD \$20.00 per hour, for each category of approved substantiated loss.

If the available Distribution Amount is insufficient to pay all approved substantiated claims, each claim will be proportionally reduced. No additional contributions will be made by Capcom.

Stage 2: Following the stage 1 distribution, if there is any Distribution Amount remaining, class counsel will disburse such amounts on a pro rata basis to all Class Members.

Class counsel is requesting \$◆ in legal fees, taxes and disbursements. Class counsel is also requesting an honourarium for the representative plaintiffs of \$◆. The application for court approval of class counsel’s fee request and the honoraria will be heard at the same time as the applications for court approval of the Settlement.

This Settlement resolves the Action for all Class Members as against Capcom. If the Settlement is approved, a full release of all claims in the Action will be granted to Capcom. This Settlement represents a resolution of disputed claims and Capcom does not admit any wrongdoing or liability.

B. Consent Certification and Upcoming Approval Hearing

The Action has been certified by the Supreme Court of British Columbia by consent order of the Honourable Justice Stephens on ◆, 2022. The certification is conditional on final settlement approval being granted by the Court. Christopher Albeluhn and Brian Boog have been appointed the representative plaintiffs on behalf of the Class Members. Slater Vecchio LLP and Mathew P Good Law Corporation have been appointed class counsel.

The Settlement remains subject to approval by the Court. An application for approval of the Settlement will be heard by the Court in the City of Vancouver, at 800 Smithe Street, on ♦ at ♦. At this hearing, the Court will determine whether the Settlement is fair, reasonable and in the best interests of the Class Members.

Class Members who do not oppose the settlement are not required to appear at the approval hearings or take any other action at this time. Class Members who consider it desirable or necessary to seek the advice and guidance of their own lawyers may do so at their own expense.

At the approval hearings, the Court will consider objections to the Settlement by the Class Members if the objections are submitted in writing, by prepaid mail or email to either of the Class Counsel's addresses below postmarked **no later than 10 days before the first approval hearing**.

A written objection should include the following information:

- the objector's name, current mailing address, telephone number, and email address;
- proof of class membership in the form of a receipt or similar;
- the reason why the objector believes that they are a Class Member;
- a brief statement of the nature of and reasons for the objection; and
- whether the objector intends to appear at the hearing in person or by counsel, and, if by counsel, the name, address, telephone number, and email address of counsel.

C. Questions about the Settlement

This notice contains only a summary of the Settlement and Class Members are encouraged to review the complete Settlement Agreement. If you have questions that are not answered online, please contact the appropriate Class Counsel identified below.

The law firms Good Barrister and Slater Vecchio represent Class Members in the Action. They can be reached at:

Slater Vecchio

PO Box 10445 Pacific Center North
18th Floor, Dunsmuir Street
Vancouver, BC V7Y 1K4

Steven Nguyen
Phone: 604-648-3571
Email: snguyen@slatervecchio.com

D. Interpretation

This notice contains a summary of some of the terms of the Settlement Agreement. If there is a conflict between the provisions of this notice and the Settlement Agreement including the

Schedules to the Settlement Agreement, the terms of the Settlement Agreement and/or the Court orders shall prevail.

III. Opt-Out Procedure

If you do not want to participate in the Action, you must complete and send an Opt-Out Form by ♦ (the “**Opt-Out Deadline**”) to class counsel at the addresses above.

If you opt-out by the Opt-Out Deadline, you may be able to bring your own lawsuit against Capcom, but you will not be entitled to participate in the Settlement.

All Class Members will be bound by the terms of the Settlement, unless they opt-out of this Action.

IV. Additional Information

This notice is given to you on the basis that you may be a Class Member whose rights could be affected by the Action. This notice should not be understood as an expression of any opinion of the Courts as to the merits of any claim or defences asserted in the Action. Its sole purpose is to inform you of the Action so that you may decide what steps to take in relation to it.

INQUIRIES SHOULD NOT BE DIRECTED TO THE COURTS.

**THIS NOTICE HAS BEEN APPROVED BY THE SUPREME COURT OF
BRITISH COLUMBIA**

SCHEDULE “B”

COVER EMAIL TO CLASS MEMBERS

Dear Class Member

Re: *Capcom Class Action*

You are receiving this email because you are a former Canadian employee of Capcom whose personal information was accessed in or as a result of a security incident discovered by Capcom on November 1, 2020 where a third party obtained access to the Capcom’s computer network and exfiltrated certain data. A settlement has been reached that may affect your legal rights. The settlement has been approved by the Supreme Court of British Columbia. Please see the Court-approved Notice of Settlement Approval and Claims Procedures by clicking [here](#) [*hyperlink to Notice on page 7 of Schedule B*], also attached for more information.

More Information

The notice contains only a summary of the Settlement and Class Members are encouraged to review the complete Settlement Agreement [here](#) [*hyperlink to Settlement Agreement*]. If you have questions that are not answered online, please contact the appropriate Class Counsel identified below. The law firms Good Barrister and Slater Vecchio represent Class Members in the Action. They can be reached at:

Slater Vecchio

PO Box 10445 Pacific Center North
18th Floor, Dunsmuir Street
Vancouver, BC V7Y 1K4

Steven Nguyen

Phone: 604-648-3571

Email: snguyen@slatervecchio.com

**CAPCOM CLASS ACTION
NOTICE OF SETTLEMENT APPROVAL AND CLAIMS PROCEDURES**

Read this notice carefully as it may affect your rights.

THIS NOTICE IS DIRECTED TO:

All Canadian residents whose Personal Information was accessed in or as a result of a security incident discovered by Capcom on November 1, 2020 where a third party obtained access to the Capcom’s computer network and exfiltrated certain data (“Data Breach”), or who received a notification that their Personal Information may have been accessed as a result of the Data Breach who have not previously opted-out of this proceeding (“Class Members”).

I. Nature of the Class Action

On July 13, 2021, a proposed class action was commenced against Capcom Co. Ltd., Capcom (U.S.A.) Inc., and Capcom Game Studio Vancouver Inc. (collectively referred to as “Capcom”) in the Supreme Court of British Columbia, *Christopher Albeluhn and Brian Boog v. Capcom Co. Ltd., Capcom (U.S.A.) Inc., and Capcom Game Studio Vancouver, Inc.* (Action No. S-216405, Vancouver Registry) (the “Action”) on behalf of Class Members whose Personal Information was accessed as a result of the Data Breach or who received notification that their Personal Information may have been accessed as a result of the Data Breach.

“Personal Information” means information about an identifiable individual. Examples include name, home address and phone number, social insurance number, and medical information. Personal information does not include business contact information. Examples that are not considered personal information include information to enable an individual at a place of business to be contacted, such as name, position/title, business telephone number, business address, business email or business fax number.

Capcom denies these allegations. Despite Capcom’s belief that the allegations advanced in the Action are unfounded and that they have good and reasonable defences, Capcom has agreed to settle the Action in order to achieve final resolution of all claims.

II. Settlement

The parties have reached a settlement of the Action, without an admission of liability on the part of Capcom which has been approved by the Supreme Court of British Columbia (“Settlement” or “Settlement Agreement”).

Pursuant to the Settlement, Capcom will pay CAD \$125,000 to effectuate the Settlement, inclusive of any distributed amounts to Class Members, class counsel fees, taxes and disbursements, any honouraria for the representative plaintiffs, any charitable donations paid for the benefit of Class Members to the Law Foundation, and administration expenses (the “Settlement Amount”). The balance of the Settlement Amount after the payment of class counsel fees, taxes and disbursements,

administration expenses and any honoraria for the representative plaintiffs is available for distribution to Class Members (the “Distribution Amount”).

This Settlement resolves the Action for all Class Members as against Capcom. A full release of all claims in the Action has been granted to Capcom. This Settlement represents a resolution of disputed claims and Capcom does not admit any wrongdoing or liability.

On ♦, 2021, the Honourable Justice Stephens of the Supreme Court of British Columbia approved the Settlement as being fair, reasonable and in the best interests of class members. He also approved Class Counsel fees of ♦, disbursements of ♦, and honoraria to the representative plaintiffs of ♦.

III. Claims Process

A. Submitting a Claim

The Settlement Funds will be distributed to Class Members in two stages.

Stage 1: Class Members can submit claims with supporting evidence for direct losses caused by the Data Breach and will be eligible for reimbursement of such losses. The evidence of loss must be objective, reliable and credible, such as credit card statements, invoices, fraud reports, and receipts of out-of-pocket expenses incurred. Class Members are entitled to submit a claim for the following loss types:

- unauthorised charges on a class members’ bank account or credit card;
- unauthorised lending;
- credit monitoring, credit insurance, identity theft protection;
- credit reports; and
- other costs, losses and/or reimbursed expenses.

Class Members who submit an approved substantiated claim will also be entitled to receive reimbursement for two hours of lost time, calculated at a rate of CAD \$20.00 per hour, for each category of approved substantiated loss.

If the available Distribution Amount is insufficient to pay all approved substantiated claims, each claim will be proportionally reduced. No additional contributions will be made by the Capcom.

Stage 2: Following the distribution, if there is any Distribution Amount remaining, class counsel will disburse such amount on a pro rata basis to all Class Members.

You can submit a claim form to class counsel online at: ♦

The right to make a is not assignable or transferable and cannot be claimed by anyone other than the claimant.

Your online claim's form must be submitted by ♦.

Class counsel shall review the claims forms by ♦ to either approve or reject claims.

Class counsel's decision concerning the validity of any particular claim shall be final and binding. There shall be no right of appeal.

B. Issuing Cash Payments

Class Counsel will send an email with an Interact e-transfer for the amount of any cash payments to each claimant whose claim is approved to the email address provided by each claimant within thirty (30) days following the claims deadline.

C. Questions about the Settlement

This notice contains only a summary of the Settlement and Class Members are encouraged to review the complete Settlement Agreement. If you have questions that are not answered online, please contact the appropriate Class Counsel identified below. The law firms Good Barrister and Slater Vecchio represent Class Members in the Action. They can be reached at:

Slater Vecchio

PO Box 10445 Pacific Center North
18th Floor, Dunsmuir Street
Vancouver, BC V7Y 1K4

Steven Nguyen
Phone: 604-648-3571
Email: snguyen@slatervecchio.com

D. Interpretation

This notice contains a summary of some of the terms of the Settlement Agreement. If there is a conflict between the provisions of this notice and the Settlement Agreement including the Schedules to the Settlement Agreement, the terms of the Settlement Agreement and/or the Court orders shall prevail.

IV. Additional Information

This notice is given to you on the basis that you may be a Class Member whose rights could be affected by the Action. This notice should not be understood as an expression of any opinion of the Courts as to the merits of any claim or defences asserted in the Action. Its sole purpose is to inform you of the Action so that you may decide what steps to take in relation to it.

INQUIRIES SHOULD NOT BE DIRECTED TO THE COURTS.

**THIS NOTICE HAS BEEN APPROVED BY THE SUPREME COURT OF
BRITISH COLUMBIA**

SCHEDULE “C”

No. S-216405
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

CHRISTOPHER ALBELUHN AND BRIAN BOOG

Plaintiff

AND:

CAPCOM CO LTD. AND CAPCOM (U.S.A.) INC.

Defendants

BROUGHT UNDER THE *CLASS PROCEEDINGS ACT*, R.S.B.C. 1996, c. 50

ORDER MADE AFTER APPLICATION

))	
))	
BEFORE)	THE HONOURABLE JUSTICE)	◆
)	STEPHENS)	
))	
))	

ON THE APPLICATION OF the Plaintiffs coming on for hearing at ◆ on ◆ and on hearing ◆ and ◆;

BY CONSENT THIS COURT ORDERS that:

1. All capitalized terms in this Order have the same meaning as defined in such Settlement Agreement attached as **Schedule “A”** to this Order.
2. The Plaintiff’s application to amend the Notice of Civil Claim to remove Capcom Game Studio Vancouver, Inc. as a defendant is granted;
3. The Plaintiff’s application to certify this action as a class proceeding pursuant to section 4 of the *Class Proceedings Act*, RSBC 1996, c 50 is hereby granted for settlement purposes.
4. The members of the class shall consist of:

All Canadian residents whose Personal Information was accessed in or as a result of a security incident discovered by the Defendants on November 1, 2020 where a third party

obtained access to the Defendants' computer network and exfiltrated certain data (the "**Data Breach**"), or who received a notification that their Personal Information may have been accessed as a result of the Data Breach who do not-opt-out.

"Personal Information" means information about an identifiable individual. Examples include name, home address and phone number, social insurance number, and medical information. Personal information does not include business contact information. Examples that are not considered personal information include information to enable an individual at a place of business to be contacted, such as name, position/title, business telephone number, business address, business email or business fax number.

(the "**Class**" or "**Class Members**")

5. Christopher Albeluhn and Brian Boog are appointed as the representative plaintiffs for the Class (the "**Plaintiffs**").
6. The Class seeks to hold the Defendants accountable for the Data Breach and alleges that the Plaintiffs and Class Members have suffered loss and damages because of the Data Breach including, but not limited to violation of privacy, psychological distress, costs incurred in preventing identity theft, costs incurred in paying for credit monitoring services, out-of-pocket expenses, wasted time, inconvenience, frustration and anxiety associated with taking precautionary steps to reduce the likelihood of identity theft or improper use of credit information, a likelihood of fraud, and a possibility of exposure of future false marketing by cybercriminals.
7. The relief sought by the Class includes general damages for the tort of negligence, statutory damages for breach of the *Privacy Acts* of British Columbia, Saskatchewan, Manitoba and Newfoundland, general damages for the tort of intrusion upon seclusion, damages for breach of contract, and order that the Defendants shall offer credit protective services to Class Members for a period of five years, punitive damages, and interest.
8. The following common issue is certified:

Did the Defendants breach Class Members' privacy as a result of the Data Breach?
9. Any Class Member resident in Canada who wishes to opt-out of the action must do so by sending a written completed opt-out form to Class Counsel on or before the date that is thirty (30) days from the date of first publication of notice.
10. The Defendants expressly reserve their rights to contest certification of any other related or unrelated proceedings and their rights to defend on the merits any other related or unrelated proceedings.
11. The method of disseminating notice as provided for in the Settlement Agreement is approved.
12. The form of the notice as attached at Schedule "A" to the Settlement Agreement is approved.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Signature of
 Party Lawyers for Plaintiffs

Ryan Matheuszik

Signature of
 Party Lawyer for the Defendants

Andrew Borrell

BY THE COURT

REGISTRAR

SCHEDULE “D”

No. S-216405
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

CHRISTOPHER ALBELUHN AND BRIAN BOOG

Plaintiff

AND:

CAPCOM CO LTD. AND CAPCOM (U.S.A.) INC.

Defendants

BROUGHT UNDER THE *CLASS PROCEEDINGS ACT*, R.S.B.C. 1996, c. 50

ORDER MADE AFTER APPLICATION

))	
BEFORE)	THE HONOURABLE JUSTICE)	◆
)	STEPHENS)	
))	
))	

ON THE APPLICATION OF the Plaintiff coming on for hearing at ◆ on ◆ and on hearing ◆ and ◆;

BY CONSENT THIS COURT ORDERS that:

1. The terms of the settlement reached between the parties as set out in the Settlement Agreement attached as Schedule “A” to this Order are hereby approved and that all capitalized terms in this Order have the same meaning as defined in such Settlement Agreement.
2. The Settlement Agreement is fair, reasonable and in the best interests of the Class Members.
3. The Settlement Agreement is approved pursuant to section 35 of the *Class Proceedings Act*, R.S.B.C. 1996, c. 50 and shall be implemented in accordance with its term.

4. The Releasors, other than those who opt-out of the Settlement, have fully and finally released the Released Parties from the Released Claims pursuant to the following terms:
- a) In exchange for the settlement benefits hereunder and for other valuable consideration set forth in the Settlement Agreement, the Plaintiffs and each Class Member, including their heirs, successors and assigns, on behalf of themselves and any other legal or natural persons who may claim by, through or under them, expressly and irrevocably waives and fully, finally and forever settles, releases and discharges all claims, demands, actions, suits and causes of action against the Defendants and/or their directors, officers, employees, lawyers, insurers or agents, whether known or unknown, asserted or unasserted, that any Class Member ever had, could have had, now has or hereafter can, shall or may have, relating in any way to any conduct, act or omission which was or could have been alleged in the Action which arise from, in connection with, or relate to the Data Breach.
 - b) The Plaintiffs and Class Members expressly agree that this Release and the Second Order is, will be, and may be raised as a complete defence to, and will preclude any action or proceeding encompassed by this Release.
 - c) The Plaintiffs and Class Members shall not now or hereafter institute, maintain, prosecute, assert and/or cooperate in the institution, commencement, filing, or prosecution of any suit, action and/or proceeding, against the Released Parties, either directly or indirectly, on their own behalf, on behalf of a class or on behalf of any other person or entity with respect to the claims, cause of action and/or any other matters released through this Settlement.
 - d) In connection with the Settlement Agreement, the Plaintiffs and Class Members acknowledge that they may hereafter discover claims presently unknown or unsuspected, or facts in addition to or different from those that they now know or believe to be true concerning the subject matter of the Action and/or the Release herein. Nevertheless, it is the intention of the Plaintiffs and Class Members in executing this Settlement Agreement fully, finally and forever to settle, release, discharge, and hold harmless all such matters, and all claims relating thereto which exist, hereafter may exist, or may have existed (whether or not previously or currently asserted in any action or proceeding) with respect to the subject matter of the Action, even if such matters and claims if known would have materially affected the Settlement, except as otherwise stated in this Settlement Agreement.
 - e) Releasors represent and warrant that they are the sole and exclusive owners of all claims that they personally are releasing under this Settlement Agreement. Releasors further acknowledge that they have not assigned, pledged, or in any manner whatsoever, sold, transferred, assigned or encumbered any right, title, interest or claim arising out of or in any way whatsoever pertaining to the Action, including without limitation, any claim for benefits, proceeds or value under the Action, and that Releasors are not aware of anyone other than

themselves claiming any interest, in whole or in part, in the Action or in any benefits, proceeds or values under the Action.

- f) Without in any way limiting its scope, and except to the extent otherwise specified in this Settlement Agreement, this release under this Section 4 covers without limitation, any and all claims for legal fees, taxes, costs, expert fees or consultant fees, interest, or litigation fees, costs or any other fees, costs and/or disbursements incurred by Class Counsel, any other legal counsel, the Plaintiffs, Class Members or any other person who claim to have assisted in conferring the benefits under this Settlement upon the Class.
 - g) The Plaintiffs, Class Counsel and/or any other legal counsel who receives legal fees and disbursements from this Settlement acknowledge that they have conducted sufficient independent investigation to enter into this Settlement Agreement and, by executing this Settlement Agreement, state that they have not relied upon any statements or representations made by the Released Parties or any person or entity representing the Released Parties, other than as set forth in this Settlement Agreement.
 - h) Nothing in this Release shall preclude any action to enforce the terms of the Settlement Agreement, including participation in any of the processes detailed herein.
 - i) Releasors hereby agree and acknowledge that the provisions of this Release together constitute an essential and material term of the Settlement Agreement and shall be included in the Second Order.
 - j) The Parties agree that each Class Member who does not opt-out will be forever barred and enjoined from continuing, commencing, instituting, or prosecuting any action, litigation, investigation or other proceeding in any court of law or equity, arbitration, tribunal, proceeding, governmental forum, administrative forum, or any other forum, directly, representatively, or derivatively, asserting against any of the Defendants, the Released Parties, and/or third-party any claims that relate to or constitute any Released Claims covered by the Settlement Agreement.
5. The form of the notice as attached at Schedule “B” to the Settlement Agreement is approved.
 6. The Distribution Protocol attached at Schedule “E” to the Settlement Agreement is approved.
 7. Class Counsel shall administer the Settlement.
 8. This Court retains continuing exclusive jurisdiction over the parties to administer, supervise, construe and enforce this Settlement Agreement.
 9. The Parties may bring motions to the Court for directions as may be required.

10. The Action will be dismissed without costs on the Effective Date.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Signature of
 Party Lawyer for the Plaintiff

Ryan Matheuszik

Signature of
 Party Lawyer for the Defendants

Andrew Borrell

BY THE COURT

REGISTRAR

SCHEDULE “E” DISTRIBUTION PROTOCOL

Part 1: General Principles

1. The definitions in the Settlement Agreement apply to and are incorporated into this Distribution Protocol.
2. This Distribution Protocol is prepared in accordance with Section 4 of the Settlement Agreement.
3. The Distribution Amount will be held in a trust account by Class Counsel.
4. The Distribution Amount will be available to pay approved claims, in accordance with Part 2 of this Distribution Protocol.
5. No additional contributions will be made to the Distribution Amount from any source.
6. Compensation will be paid to Class Members who file a valid claim approved in accordance with the claims process established in Part 2 of this Distribution Protocol.
7. This Distribution Protocol will be administered by Class Counsel in accordance with its terms, prioritising the goals of efficiency and compensation for eligible claims.
8. Class Counsel and Defence Counsel shall oversee the claims process. Class Counsel and Defence Counsel, may, upon agreement modify provisions of this Distribution Protocol, including any time limits or deadlines, during the claims process to enhance the efficacy of the claims process if they consider it necessary and reasonable for the fair administration of the Settlement Agreement.

Part 2: Claims Process

1. Notice of Settlement Approval and Claims Procedures will be disseminated by the Defendants within a reasonable time after the Second Order in accordance with Section 3 of the Settlement Agreement.
2. The distribution of the Distribution Amount to Class Members will be in two stages:
 - a. Class Members can submit claims for direct loss evidencing a substantiated loss actually and directly caused by the Data Breach and will be eligible for a reimbursement of such loss. The evidence of substantiated loss must be objective, reliable and credible, such as credit card statements, invoices, fraud reports, and receipts of out-of-pocket expenses incurred. Class Members are entitled to submit a claim for the following loss types:
 - i. unauthorised charges on a Class Members’ bank account or credit card;
 - ii. unauthorised lending;

- iii. credit monitoring, credit insurance, identity theft protection;
- iv. credit reports; and
- v. other costs, losses and/or reimbursed expenses.

Class Members who submit an approved substantiated claim will also be entitled to receive reimbursement for two hours of lost time, calculated at a rate of CAD \$20.00 per hour, for each category of approved substantiated loss.

Class Members submitting a claim for direct loss shall represent and warrant therein that they are the sole and exclusive owners of all claims that they personally are releasing under the Settlement and that they have not assigned, pledged, or in any manner whatsoever, sold, transferred, assigned or encumbered any right, title, interest or claim arising out of or in any way whatsoever pertaining to the Action, including without limitation, any claim for benefits, proceeds or value under the Action, and that such Class Member(s) are not aware of anyone other than themselves claiming any interest, in whole or in part, in the Action or in any benefits, proceeds or values under the Action.

If the available Distribution Amount is insufficient to pay all approved substantiated claims at that time, each claim will be proportionally reduced. No additional contributions will be made by the Defendants.

- b. Following the distribution, if there is any Distribution Amount remaining, Class Counsel will disburse such amounts on a pro rata basis to all Class Members.
3. Class Members will have 60 days from the dissemination of Notice of Settlement Approval and Claims Procedures to submit claims (“**Claims Period Deadline**”).
 4. Class Counsel will review the claims on a rolling basis but the review of all claims must be completed within 30 days of the Claims Period Deadline (“**Claims Review Deadline**”).
 5. Following the Claims Review Deadline, Class Counsel will process and complete all payments within 30 days, so that the entire claims process is completed within 120 days after Notice of Settlement Approval and Claims Procedures.
 6. Where claims are duplicative or otherwise invalid, Class Counsel shall reject those claims.
 7. Class Counsel’s decision concerning the validity of any particular Claim shall be final and binding. There shall be no right of appeal. Neither the Parties nor Class Counsel will be liable for any decisions or actions taken under the Distribution Protocol.
 8. Following the distribution, Class Counsel will disburse any remaining Distribution Amount to the Law Foundation of British Columbia.

9. Following the distribution, Class Counsel shall send a reporting letter to the Case Management Judge setting out the claims made, amounts paid out, and any other matters relevant to the Distribution Protocol process.

Part 3: Class Counsel's Duties and Responsibilities

10. Class Counsel shall administer the claims process and distribution in accordance with this Distribution Protocol and with the provisions of any orders of the Court and the Settlement Agreement under the oversight of Class Counsel and Defence Counsel and the ongoing authority and supervision of the Court.
11. Class Counsel's duties and responsibilities shall include the following:
 - a. establishing a claims process including a website and electronic web-based systems and procedures for completing, filing, receiving and adjudicating claims;
 - b. employing secure, web-based systems with electronic registration and record keeping wherever possible;
 - c. providing professional and timely support and assistance to Class Members applying for compensation;
 - d. providing efficient and timely adjudication of all claims made in accordance with industry standards;
 - e. providing timely payment of all valid claims;
 - f. providing complete and timely reporting to Defence Counsel in respect of all aspects of the claims process;
 - g. being bilingual in all respects;
 - h. maintaining the Claims information so as to permit Defence Counsel to audit the claims administration as they may determine, or if ordered by the Court;
 - i. fulfilling any obligations to report taxable income and make tax payments (including interest and penalties) due with respect to the income earned by the Settlement Amount.