

CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

Made on May 19, 2023
(the “**Execution Date**”)

Among

NICHOLAS STEPHEN CREMA
(the “**Crema BC Plaintiff**”)

AND

STACIE STROHMAIER
(the “**Strohmaier BC Plaintiff**”)

AND

ANTONIO GAUDIO
(the “**Gaudio Ontario Plaintiff**”)

AND

RYAN COLLINS-SWARTZ
(the “**Swartz Ontario Plaintiff**”)

AND

CHERIF SALEH
(the “**Saleh Ontario Plaintiff**”)

AND

MARTY JAY BLYTHMAN
(the “**Saskatchewan Plaintiff**”)

AND

ALI HIBANAURA
(the “**Alberta Plaintiff**”, and together with the Crema BC Plaintiff, Strohmaier BC Plaintiff, Gaudio Ontario Plaintiff, Swartz Ontario Plaintiff, Saleh Ontario Plaintiff, and Saskatchewan Plaintiff, the “**Plaintiffs**”)

AND

APPLE CANADA INC.
(the “**Defendant Apple Canada**”)

AND

APPLE INC.
(the “**Defendant Apple**”, and together with the Defendant Apple Canada, “**Apple**” or the
“**Defendants**”)

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RECITALS

- A.** WHEREAS the Crema BC Plaintiff in British Columbia Supreme Court Vancouver Registry Action No. S-188008 filed claims against the Defendants culminating in the Amended Notice of Civil Claim on August 7, 2019, and an unfiled draft Second Amended Notice of Civil Claim delivered in or around March 2020 (the “Proceeding”). The Proceeding alleges breach of the *Business Practices and Consumer Protection Act*, breach of contract, the tort of deceit, negligence, breach of the *Competition Act*, trespass to personal property, and fraudulent concealment by Apple, and that Apple was unjustly enriched, in respect of the practice of performance mitigations related to, and battery defects in, iPhone 6, 6 Plus, 6s, 6s Plus, SE, 7 and 7 Plus smartphones with iOS versions 10.2.1, 10.3, 11 and/or 11.2 installed or downloaded;
- B.** WHEREAS the Strohmaier BC Plaintiff in British Columbia Supreme Court Vancouver Registry Action No. S-186592 filed a Notice of Civil Claim on June 8, 2018 against the Defendants (the “Strohmaier BC Proceeding”). The Strohmaier BC Proceeding alleges negligence, breach of warranty, breach of the British Columbia *Business Practices and Consumer Protection Act*, breach of the *Competition Act* by Apple, and that Apple was unjustly enriched, in respect of battery defects in iPhone 6, iPhone 6 Plus, iPhone 6s, iPhone 6s Plus, iPhone SE, iPhone 7 and iPhone 7 Plus smartphones;
- C.** WHEREAS the Gaudio Ontario Plaintiff in Ontario Superior Court of Justice File No. 479/18CL issued a Statement of Claim on March 2, 2018 against the Defendants (the “Gaudio Ontario Proceeding”). The Gaudio Ontario Proceeding alleges breach of the *Consumer Protection Act*, breach of the *Sale of Goods Act*, breach of contract, negligence, and trespass to chattels by Apple, and that Apple was unjustly enriched, in respect of battery defects in, and iOS updates for, iPhone SE, iPhone 6, iPhone 6s, iPhone 6 Plus, iPhone 6s Plus, iPhone 7, and iPhone 7 Plus smartphones;
- D.** WHEREAS the Swartz Ontario Plaintiff in Ontario Superior Court of Justice File No. CV-18-591399 issued a Statement of Claim on February 2, 2018 against the Defendants (the “Swartz Ontario Proceeding”). The Swartz Ontario Proceeding alleges breach of the *Competition Act* and trespass to chattels, and that Apple was unjustly enriched, in respect of improper iOS updates and battery defects in iPhone 6, iPhone 6 Plus, iPhone 6s, iPhone 6s Plus, or iPhone SE smartphones that had iOS 10.2.1 or higher installed, and iPhone 7 or iPhone 7 Plus smartphones that had iOS 11.2 or higher installed;
- E.** WHEREAS the Saleh Ontario Plaintiff in Ontario Superior Court of Justice File No. CV-18-592677-00CP issued a Statement of Claim on February 23, 2018 against the Defendants (the “Saleh Ontario Proceeding”). The Saleh Ontario Proceeding alleges breach of the *Consumer Protection Act*, breach of contract, the tort of deceit, negligence, trespass to personal property, and fraudulent concealment, and that Apple was unjustly enriched, in respect of improper iOS updates for and otherwise defective iPhone 6, 6 Plus, 6s, 6s Plus, SE, 7, and 7 Plus smartphones;

- F. WHEREAS the Saskatchewan Plaintiff in Saskatchewan Court of King's Bench File No. QB6 302 OT 2018 issued a Statement of Claim on January 25, 2018 against the Defendants (the "Saskatchewan Proceeding"). The Saskatchewan Proceeding alleges defective manufacturing, negligence, breach of warranty, breach of *The Consumer Protection and Business Practices Act*, and breach of the *Competition Act* by Apple, and that Apple was unjustly enriched, in respect of battery defects in iPhone 6, iPhone 6 Plus, iPhone 6s, iPhone 6s Plus, iPhone SE, iPhone 7 and iPhone 7 Plus smartphones;
- G. WHEREAS the Alberta Plaintiff in Alberta Court of King's Bench Action No. 1803 02688 issued a Statement of Claim on February 6, 2018 against the Defendants (the "Alberta Proceeding" and together with the Proceeding, Strohmaier BC Proceeding, Gaudio Ontario Proceeding, Swartz Ontario Proceeding, Saleh Ontario Proceeding, and the Saskatchewan Proceeding, the "Proceedings"). The Alberta Proceeding alleges defective manufacturing, negligence, breach of warranty, breach of the *Consumer Protection Act*, and breach of the *Competition Act* by Apple, and that Apple was unjustly enriched, in respect of battery defects in iPhone 6, iPhone 6 Plus, iPhone 6s, iPhone 6s Plus, iPhone SE, iPhone 7 and iPhone 7 Plus smartphones;
- H. AND WHEREAS the Defendants believe that they are not liable in respect of all claims asserted by the Plaintiffs in the Proceedings, and believe that they have good and reasonable defences in respect of all claims advanced in the Proceedings;
- I. AND WHEREAS the Defendants deny that they have engaged in any wrongdoing and deny all claims asserted by the Plaintiffs in the Proceedings. The Defendants do not admit through the execution of this Settlement Agreement any allegation as alleged in the Proceedings or at all. This Settlement Agreement shall in no event be construed or deemed to be evidence of or an admission, presumption, or concession on the part of the Defendants of any fault, liability, or wrongdoing as to any facts or claims asserted in the Proceedings (or any infirmity in the defences they have asserted or could assert in the Proceedings), or any other actions or proceedings, and shall not be interpreted, construed, offered, or received in evidence or otherwise used against the Defendants in any other action or proceeding, in these jurisdictions or elsewhere, whether civil, criminal or administrative;
- J. AND WHEREAS this Settlement Agreement does not constitute in any way a precedent to support the certification or authorization of actions of this nature;
- K. AND WHEREAS, despite their belief that they are not liable in respect of the claims asserted by the Plaintiffs in the Proceedings and that they have good and reasonable defences in respect of the claims advanced in the Proceedings, the Defendants have negotiated and entered into this Settlement Agreement to avoid the further expense, inconvenience, and distraction of burdensome litigation of the Proceedings and any other present or future litigation arising out of the facts that gave rise to them, to avoid the risks inherent in uncertain, complex, and protracted litigation and to achieve final resolutions of all claims asserted or that could have been asserted against the Releasees by the

Plaintiffs on their own behalf or on behalf of the classes they seek to represent in relation to the alleged facts giving rise to the Proceedings;

- L.** AND WHEREAS the Plaintiffs and the Defendants are entering into this Settlement Agreement in order to achieve a full and final resolution of all claims asserted or which could have been asserted against the Defendants by the Plaintiffs or the Proposed Class Members in the Proceedings;
- M.** AND WHEREAS the Parties each represented by independent and competent legal counsel, have conducted sustained, good-faith negotiations in an effort to resolve the issues raised in the Proceedings and after these extensive arms-length negotiations, the Parties reached an agreement in principle to settle on the terms and conditions embodied in this Settlement Agreement;
- N.** AND WHEREAS as a result of these settlement discussions and negotiations, the Defendants have entered into this Settlement Agreement, which embodies all of the terms and conditions of settlement between the Plaintiffs and Defendants, both individually and on behalf of the Settlement Class, subject to approval of the Court;
- O.** AND WHEREAS as part of this resolution, the Defendants have agreed to pay the Settlement Amount for the benefit of the Settlement Class;
- P.** AND WHEREAS 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 claims made by the Plaintiffs and Proposed Class Members, having regard to the burdens and expense in prosecuting the Proceedings, including the time, risks, and uncertainties associated with trials and appeals, and having regard to the value of the Settlement Agreement, have concluded that this Settlement Agreement is fair, reasonable and in the best interests of the Settlement Class;
- Q.** AND WHEREAS the Plaintiffs and the Settlement Class intend to fully and completely settle and resolve the claims advanced or that could have been advanced in the Proceedings as against the Releasees on the Effective Date pursuant to this Settlement Agreement;
- R.** AND WHEREAS the Parties therefore wish to, and hereby do, finally resolve on a nationwide basis other than for the Province of Quebec, without admission of liability, all of the Proceedings as against the Releasees;
- S.** AND WHEREAS the Parties acknowledge that the Settlement is contingent on approval by the Court as provided for in this Settlement Agreement, and entered into with the express understanding that this Settlement shall not derogate from the respective rights of the Parties relating to the Proceedings in the event that this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason; and

T. AND WHEREAS for the purposes of settlement only and contingent on approval by the Court as provided for in this Settlement Agreement, the Parties consent to certification of the Common Issues and the Settlement Class solely for the purpose of implementing this Settlement Agreement.

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 Parties that the Proceedings be settled and dismissed on the merits, without costs as to the Plaintiffs, the Settlement Class or the Defendants, subject to the approval of the Court, on the following terms and conditions:

1. RECITALS AND SCHEDULES

- 1.1.1 The Parties represent to one another that the statements made in the Recitals to this Settlement Agreement are true and correct and form an integral part of this Settlement Agreement.
- 1.1.2 The schedules appended to this Settlement Agreement form an integral part of this Settlement Agreement. The schedules to this Settlement Agreement are:
 - (a) Schedule A – Common Issues for Consent Certification of Proceeding
 - (b) Schedule B – Distribution Protocol
 - (c) Schedule C – Claim Form and Instructions (Online and Print Formats)
 - (d) Schedule D – Form of Certification and Notice Approval Order, Excluding Appendices “A”-“C”
 - (e) Schedule E – Form of Short Form Notice of Certification and Settlement Hearing
 - (f) Schedule F – Form of Long Form Notice of Certification and Settlement Hearing
 - (g) Schedule G – Form of Settlement Approval Order, Excluding Schedules
 - (h) Schedule H – Form of Short Form Notice of Claims Procedure
 - (i) Schedule I – Form of Long Form Notice of Claims Procedure

2. DEFINITIONS

- 2.1.1 For the purposes of this Settlement Agreement, including the Recitals and Schedules, the following definitions apply:

- (a) **Administration Expenses** form part of the Settlement Amount and means all fees, disbursements, expenses, costs, taxes, and any other amounts incurred or payable by or on behalf of the Plaintiffs or Class Counsel or Claims Administrator for approval, implementation and operation of this Settlement Agreement, including the costs of Notices and claims administration, but excluding Class Counsel Fees.
- (b) **Approved Claims** means those Claims that are approved by the Claims Administrator for payment.
- (c) **Claim** means any claim submitted by a Settlement Class Member in the required form, namely the Claim Form at Schedule "C".
- (d) **Claims Administrator** means the person or entity appointed by the Court to administer the Settlement Agreement and oversee the Distribution Protocol.
- (e) **Class Counsel** means Garcha & Company, McKenzie Lake Lawyers LLP, Orr Taylor LLP, Rochon Genova LLP, and Merchant Law Group LLP.
- (f) **Class Counsel Fees** form part of the Settlement Amount and means an amount equal to twenty-five percent (25%) of the Settlement Claim Funds that is to be paid to Class Counsel on account of all fees, disbursements, costs, interest, GST/HST and other applicable taxes or charges of Class Counsel.
- (g) **Class Counsel Fees Approval Date** means the date when the Court's order approving Class Counsel Fees becomes a final order, which date must be subsequent to the date of the Final Order.
- (h) **Common Issues** means the common issues for the purposes of settlement, which are set out at **Schedule A**.
- (i) **Consent Certification Application** means an application for certification of the Common Issues for the purposes of effecting the Settlement.
- (j) **Court** means the Supreme Court of British Columbia.
- (k) **Defence Counsel** means McCarthy Tétrault LLP.
- (l) **Defendants** means Apple Inc. and Apple Canada Inc.
- (m) **Distribution Protocol** means the protocol for the distribution of the Settlement Claim Funds, Class Counsel Fees, and any honorariums for the Plaintiffs approved by the Court. The Parties' proposed form of Distribution Protocol is attached at **Schedule B**.
- (n) **Effective Date** means the date when the Final Order has been received from the Court approving this Settlement Agreement.

- (o) **Final Order** means a final order made by a Court approving this Settlement Agreement that either (i) has not been appealed before the time to appeal such order has expired, if an appeal lies, or (ii) has been affirmed upon a final disposition of all appeals. For further certainty, any order made by a Court approving this Settlement Agreement will not become a Final Order until the time to appeal such an order has expired without any appeal having been taken or until the order has been affirmed upon a final disposition of all appeals.
- (p) **iPhone** means Apple iPhone 6, 6 Plus, 6s, 6s Plus, SE, 7 and 7 Plus smartphone devices.
- (q) **Maximum Settlement Amount** means fourteen million four hundred twenty seven thousand five hundred Canadian dollars (\$14,427,500).
- (r) **Minimum Settlement Amount** means eleven million one hundred thirty seven thousand five hundred Canadian dollars (\$11,137,500).
- (s) **Notice of Certification and Settlement Hearing** means the form or forms of notice, agreed to by the Parties, or such other form or forms as may be approved by the Courts, which inform the Settlement Class of (i) the principal elements of this Settlement Agreement; (ii) the certification of the Proceedings; (iii) the process and date by which Settlement Class members may opt out of the Proceedings; (iv) the date and location of the hearing of the Settlement Approval Application; and (v) the process for objecting to the Settlement.
- (t) **Notice of Claims Procedure** means any form or forms of notice, agreed to by the Parties, or such other form or forms as may be approved by the Courts, which inform the Settlement Class of (i) the approval of this Settlement Agreement and (ii) the process by which the Settlement Class Members may apply to obtain compensation from the Settlement Amount.
- (u) **Notices** mean (i) Notice of Certification and Settlement Hearing; (ii) Notice of Claims Procedure; (iii) notice of termination of this Settlement Agreement if it is terminated after notice provided for in accordance with (i) above or otherwise ordered by the Courts; and (iv) any other notice that may be required by the Courts.
- (v) **Notice Approval Application** means an application for an order of the Court:
 - (i) approving the form, content and manner of distribution of the Notice of Certification and Settlement Hearing;
 - (ii) approving the Opt-Out Procedure;
 - (iii) setting Opt-Out Deadline; and

- (iv) such other relief as the Parties may request.
- (w) **Opt-Out Deadline** means the date which is forty-five (45) days after the first publication of any form of the Notice of Certification and Settlement Hearing.
- (x) **Opt-Out Procedure** means the procedure fixed by the Court by which any member of the Settlement Class may opt-out of the Proceeding.
- (y) **Opt-Out Threshold** means more than 1,000 Settlement Class Members opt out of the Proceeding in accordance with the Opt-Out Procedure.
- (z) **Other Actions** means actions or proceedings, other than the Proceedings, relating to Released Claims commenced by a Settlement Class Member, either before or after the Effective Date.
- (aa) **Parties** means the Plaintiffs, on behalf of the Proposed Class Members, and the Defendants.
- (bb) **Plaintiffs** means Nicholas Stephen Crema, Stacie Strohmaier, Antonio Gaudio, Ryan Collins-Swartz, Cherif Saleh, Marty Jay Blythman, and Ali Hibanaura, on behalf of the Proposed Class Members.
- (cc) **Proceeding** means British Columbia Supreme Court Vancouver Registry Action No. S-188008.
- (dd) **Proceedings** means the Proceeding; British Columbia Supreme Court Vancouver Registry Action No. S-186592 (the “Strohmaier BC Proceeding”); Ontario Superior Court of Justice File No. 479/18CL (the “Gaudio Ontario Proceeding”); Ontario Superior Court of Justice File No. CV-18-591399 (the “Swartz Ontario Proceeding”); Ontario Superior Court of Justice File No. CV-18-592677-00CP (the “Saleh Ontario Proceeding”); Saskatchewan Court of King’s Bench File No. QB6 302 OT 2018 (the “Saskatchewan Proceeding”); and Alberta Court of King’s Bench Action No. 1803 02688 (the “Alberta Proceeding”).
- (ee) **Proposed Class Members** means the proposed class members in the Proceedings.
- (ff) **Released Claims** means any and all manner of claims, demands, actions, suits, causes of action, whether class, individual or otherwise in nature, whether personal or subrogated, damages whenever incurred, damages of any kind including compensatory, punitive or other damages, liabilities of any nature whatsoever, including interest, costs, expenses, class administration expenses (including the Administration Expenses), penalties, and lawyers’ fees (including Class Counsel Fees), known or unknown, suspected or unsuspected, foreseen or unforeseen, actual or contingent, and liquidated or unliquidated, in law, under statute, or in equity, that Releasers, or any of them, whether directly, indirectly, derivatively, or

in any other capacity, ever had, now have, or hereafter can, shall, or may have, arising from or relating in any way to the claims alleged and facts stated in the Proceedings, or any of them, including

- (i) performance mitigation features of iOS software versions 10.2.1, 10.3, 11 and/or 11.2 for iPhones, called “throttling” in the Plaintiffs’ allegations;
- (ii) alleged defects causing the iPhones to prematurely age, degrade, and shut down unexpectedly;
- (iii) alleged defects in the performance of the iPhone batteries; and
- (iv) alleged misrepresentations or intentional concealment concerning the foregoing

including without limitation, any such claims which have been asserted, would have been asserted, or could have been asserted, directly or indirectly, whether in British Columbia, Ontario, Saskatchewan, Alberta or elsewhere, as a result of or in connection with claims for breach of consumer protection legislation, negligence, breach of contract, breach of warranty, fraudulent concealment, negligent or fraudulent misrepresentation, breach of the *Competition Act*, trespass to personal property, trespass to chattels, breach of sale of goods legislation, unjust enrichment, or any other cause of action however or wherever arising.

- (gg) **Releasees** means, jointly and severally, individually and collectively, the Defendants and all of its respective present and former, direct and indirect, parents, subsidiaries, divisions, affiliates, joint ventures, licensees, franchisees, partners, insurers, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and their respective past, present and future officers, directors, employees, agents, shareholders, attorneys, trustees, servants and representatives; and the predecessors, successors, purchasers, heirs, executors, administrators, trustees and assigns of each of the foregoing.
- (hh) **Releasors** means, jointly and severally, individually and collectively, the Plaintiffs and the Settlement Class Members and their respective predecessors, successors, heirs, executors, administrators, trustees, assigns and affiliates of any kind.
- (ii) **Settlement** means the settlement provided for in this Settlement Agreement.
- (jj) **Settlement Agreement** means this agreement and release, including the recitals and schedules.
- (kk) **Settlement Amount** means the aggregate of the Settlement Claim Funds, Class Counsel Fees, Administration Expenses and any honorariums for the

Plaintiffs, and shall be no greater than the Maximum Settlement Amount and no less than the Minimum Settlement Amount.

- (ll) **Settlement Approval Application** means an application for approval of the Settlement pursuant to s. 35 of the *Class Proceedings Act*, R.S.B.C. 1996, c. 50.
- (mm) **Settlement Benefits** means the share of the Settlement Claim Funds, if any, available to a Settlement Class Member in accordance with the Distribution Protocol.
- (nn) **Settlement Claim Funds** form part of the Settlement Amount and means the funds sufficient to pay the Approved Claims in accordance with the Distribution Protocol.
- (oo) **Settlement Class** or **Class** means the Plaintiffs and all individuals, both corporate and natural persons, who are or were domiciled in Canada, excluding persons who are Quebec residents as of the Execution Date of this Settlement Agreement, who (i) purchased and/or owned iPhone 6, 6 Plus, 6s, 6s Plus, SE, 7 and 7 Plus smartphones, and (ii) installed or downloaded iOS version 10.2.1 or later (for iPhone 6, 6 Plus, 6s, 6s Plus, and SE) or iOS version 11.2 or later (for iPhone 7 and 7 Plus) before December 21, 2017, and their estates, administrators or other legal representatives, heirs or beneficiaries, but excluding (i) directors, officers, and employees of Apple or its subsidiaries and affiliated companies, as well as Apple's legal representatives, heirs, successors, or assigns, (ii) any member of the judiciary presiding over this matter, and (iii) any other individuals whose claims already have been adjudicated to a final judgment.
- (pp) **Settlement Class Members** means members of the Settlement Class who do not validly opt-out of the Settlement Class in accordance with the Court approved Opt-Out Procedure.
- (qq) **Trust Account** means a fully-insured trust account in the name of the Claims Administrator as trustee at a bank to be approved by Apple Inc.

3. APPLICATIONS FOR CERTIFICATION AND APPROVAL

3.1 CERTIFICATION AND APPROVAL

- 3.1.1 Following the execution of the Settlement Agreement, and on a timeline as agreed between the Parties, Class Counsel shall bring the Consent Certification Application, the Notice Approval Application, and the Settlement Approval Application.

3.2 SETTLEMENT CLASS AND COMMON ISSUES

- 3.2.1 The Parties agree that the Proceeding shall be certified as a class proceeding solely for purposes of seeking approval of this Settlement Agreement by the Court.
- 3.2.2 The Plaintiffs agree that the only proceeding they shall seek to have certified for the purposes of seeking approval of this Settlement Agreement is the Proceeding.
- 3.2.3 The Plaintiffs agree that, in the Consent Certification Application, the only common issues that they shall seek to have certified are the Common Issues and the only class that they shall seek to have certified is the Settlement Class.

3.3 CERTIFICATION WITHOUT PREJUDICE

- 3.3.1 In the event this Settlement Agreement is not approved or is terminated in accordance with its terms, the Parties agree that the prior certification of the Proceeding as a class proceeding against the Defendants for settlement purposes, including the definition of the Settlement Class and the statement of the Common Issues, shall be without prejudice to any position that any of the Parties may later take on any issue in the Proceeding or any other Proceedings or litigation.

3.4 PRE-APPLICATION CONFIDENTIALITY

- 3.4.1 Until the first of the applications required by section 3.1.1 is brought, the Parties shall keep all of the terms of the Settlement Agreement confidential and shall not disclose them without the prior written consent of counsel for the Defendants and Class Counsel, as the case may be, except as required for the purposes of financial reporting or the preparation of financial records (including tax returns and financial statements) or as otherwise required by law.

4. REQUIRED NOTICES

4.1 NOTICE OF CERTIFICATION AND SETTLEMENT HEARING

- 4.1.1 Following the hearing of the Consent Certification Application and the Notice Approval Application, and upon the Court issuing an order certifying the Proceeding as a class proceeding and approving the Notice of Certification and Settlement Hearing, Class Counsel or the Claims Administrator shall disseminate the Notice of Certification and Settlement Hearing by posting it on the Claims Administrator's website and by emailing a copy of it to the email address that the Defendants have on record for the Settlement Class Members, which names and email addresses shall be provided by the Defendants to the Claims Administrator in accordance with section 6.2.3, or using such other method ordered by the Court.

4.2 NOTICE OF CLAIMS PROCEDURE

- 4.2.1 Following the hearing of the Settlement Approval Application and upon the Court issuing an order approving the Settlement and upon that order becoming a Final Order, Class Counsel or the Claims Administrator shall disseminate the Notice of Claims Procedure by posting it on the Claims Administrator's website and by

emailing a copy of it to the email address that the Defendants have on record for the Settlement Class Members, which names and email addresses shall be provided by the Defendants to the Claims Administrator in accordance with section 6.2.3, or using such other method ordered by the Court.

5. OPTING OUT

5.1 PROCEDURE

5.1.1 As part of the Notice Approval Application, Class Counsel shall seek the Court's approval of the following Opt-Out Procedure:

(a) Members of the Settlement Class seeking to opt out of the Proceeding must do so within 45 days from the first date of distribution of the Notice of Certification and Settlement Hearing, by sending a complete and validly executed written election to opt out to the Claims Administrator, which election must be received by the Claims Administrator on or before the Opt-Out Deadline. The written election to opt out must include the following information:

- (i) the person's name, current address, and email address; and
- (ii) a statement to the effect that the person wishes to be excluded from the Proceeding.

5.1.2 Persons who opt out of the Proceeding shall no longer be part of the Settlement Class and shall have no further right to participate in the Proceeding or to receive any portion of the Settlement Benefits.

5.1.3 No person shall be required to pay Settlement Benefits in respect of any Class Member who validly opts out of the Proceeding.

5.2 OPT-OUT REPORT

5.2.1 Within 10 business days of the Opt-Out Deadline, the Claims Administrator shall provide the Parties with a report that sets out the names of any persons or entities who have validly opted-out of the Proceeding, along with any other information received from any such persons or entities under section 5.1.1.

5.3 OPT-OUT THRESHOLD

5.3.1 If the number of valid opt outs reported by the Claims Administrator exceeds the Opt-Out Threshold, the Defendants shall have the option, but not the obligation, to terminate this Settlement Agreement by providing written notice to Class Counsel prior to the hearing of the Settlement Approval Application.

6. PAYMENT AND ADMINISTRATION

6.1 PAYMENT OF THE SETTLEMENT AMOUNT

- 6.1.1 Within 14 business days of the date of the Final Order, the Claims Administrator shall establish the Trust Account.
- 6.1.2 Within a further 30 business days, the Defendants shall deposit the Minimum Settlement Amount in the Trust Account.
- 6.1.3 Administration Expenses, duly and properly incurred in accordance with this Settlement Agreement, shall be paid from the Trust Account.
- 6.1.4 Settlement Claim Funds, Class Counsel Fees, and any honorariums for the Plaintiffs shall be paid from the Trust Account, all in accordance with the Distribution Protocol.
- 6.1.5 Subject to and following the Final Order approving the Settlement, the Settlement Claim Funds, Class Counsel Fees, and any honorariums for the Plaintiffs shall be distributed by the Claims Administrator, all in accordance with this Settlement Agreement including the Distribution Protocol.

6.2 CLAIMS ADMINISTRATION

- 6.2.1 The Notice Approval Application shall seek the appointment of the Claims Administrator.
- 6.2.2 The Claims Administrator shall not pay any amount from the Trust Account except in accordance with this Settlement Agreement or in accordance with an order of the Court obtained on notice to Class Counsel and the Defendants.
- 6.2.3 Following the hearing of the Consent Certification Application and the Notice Approval Application, and with 14 days of the Court issuing an order certifying the Proceeding as a class proceeding, approving the Notice of Certification and Settlement Hearing, and appointing the Claims Administrator, Apple shall provide to the Claims Administrator the names, email addresses, and device serial numbers for the Settlement Class Members.

6.3 SETTLEMENT ADMINISTRATION EXPENSES

- 6.3.1 The Defendants shall not have any responsibility, financial obligations, or liability whatsoever with respect to the investment, distribution, or administration of monies in the Trust Account including, but not limited to, Administration Expenses and Class Counsel Fees.

6.4 NO FURTHER PAYMENTS

- 6.4.1 The Settlement Amount shall be paid by the Defendants in full satisfaction of the Released Claims against the Releasees.

6.4.2 Subject to the Defendants' obligations in this Settlement Agreement and in furtherance of the approval and implementation of this Settlement Agreement, as set out herein, the Releasees shall have no obligation to pay any amount in addition to the Settlement Amount, for any reason, pursuant to or in furtherance of this Settlement Agreement.

7. DISTRIBUTION

7.1 DISTRIBUTION PROTOCOL

- 7.1.1 As part of the Settlement Approval Application, Class Counsel shall seek an order from the Court approving the Distribution Protocol attached at **Schedule B**.
- 7.1.2 Subject to any orders issued by the Court, Settlement Class Members shall be eligible for the relief provided in this Settlement Agreement in accordance with the Distribution Protocol.

8. CLASS COUNSEL FEES AND ADMINISTRATION EXPENSES

8.1 FEES AND EXPENSES

- 8.1.1 Class Counsel shall bring applications for approval of Class Counsel Fees contemporaneously with the Settlement Approval Applications.
- 8.1.2 Class Counsel Fees, Administration Expenses, and any honorariums for the Plaintiffs shall be paid from the Settlement Amount.
- 8.1.3 Class Counsel Fees may only be paid out of the Trust Account after the Class Counsel Fees Approval Date.
- 8.1.4 The Defendants shall not be liable for any fees, disbursements, or taxes of any of Class Counsels', the Plaintiffs', or Settlement Class Members' respective lawyers, experts, advisors, agents, or representatives.
- 8.1.5 The procedure for, and the allowance or disallowance by the Court of, any request for Class Counsel Fees to be paid out of the Settlement Amount are not part of the Settlement provided for herein, and are to be considered by the Court separately from its consideration of the fairness, reasonableness, and adequacy of the Settlement provided herein.

9. RELEASES AND DISMISSALS

9.1 RELEASE OF RELEASEES

- 9.1.1 Upon the Effective Date, and in consideration of payment of the Settlement Amount, and for other valuable consideration set forth in this Settlement

Agreement, the Releasors forever and absolutely release the Releasees from the Released Claims.

9.2 NO FURTHER CLAIMS

9.2.1 The Releasors shall not now or hereafter institute, continue, maintain or assert, either directly or indirectly, whether in British Columbia or elsewhere, on their own behalf or on behalf of any class or any other person or entity, any action, suit, cause of action, claim or demand against any Releasee or any other person or entity who may claim contribution or indemnity, or other claims over relief, from any Releasee in respect of any Released Claims or any matter related thereto.

9.2.2 If a claim or proceeding by any of the Releasors results in any claim or proceeding against the Releasees, then the Releasors shall indemnify and save harmless such Releasees from all resulting liabilities, obligations, and costs (including, without limitation, legal fees on a solicitor and own client basis) up to a maximum of the Settlement Amount.

9.3 DISMISSAL OF THE PROCEEDING

9.3.1 On or immediately after the conclusion of the administration of the Settlement, the Proceedings shall be dismissed with prejudice and without costs as against the Releasees.

9.4 DISMISSAL OF OTHER ACTIONS

9.4.1 All Other Actions commenced by any Settlement Class Member, who does not opt-out, shall be dismissed against the Releasees, without costs and with prejudice.

10. EFFECT OF SETTLEMENT

10.1 NO ADMISSION OF LIABILITY

10.1.1 Whether or not this Settlement Agreement 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 Defendants, or of the truth of any of the facts or other allegations made in any of the Proceedings or any other pleading filed by the Plaintiffs.

10.2 AGREEMENT NOT EVIDENCE

10.2.1 The Parties agree that, whether or not it 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 referred to,

offered as evidence or received in evidence in any pending or future civil, criminal or administrative action or proceeding, except on an application to certify the Proceeding as a Class Proceeding for this purposes of giving effect to this Settlement Agreement, approve and/or enforce this Settlement Agreement, or to defend against the assertion of Released Claims, or as otherwise required by law.

11. ADMINISTRATION AND IMPLEMENTATION

11.1 MECHANICS OF ADMINISTRATION

11.1.1 Except to the extent provided for in this Settlement Agreement, the mechanics of the implementation and administration of this Settlement Agreement shall be determined by agreement between the Parties, each acting reasonably, or by the Court on applications brought by any of the Parties, where necessary.

11.2 NO LIABILITY FOR ADMINISTRATION

11.2.1 The Releasees have no responsibility for and no liability whatsoever with respect to the mechanics of the implementation and administration of this Settlement Agreement.

12. TERMINATION OF SETTLEMENT AGREEMENT

12.1 RIGHT OF TERMINATION

12.1.1 In the event that:

- (a) the Court declines to approve this Settlement Agreement or any material part hereof;
- (b) the Court issues an order approving this Settlement Agreement that is materially inconsistent with the terms of the Settlement Agreement; or
- (c) the order approving this Settlement Agreement does not become a Final Order,

this Settlement Agreement may be terminated at the election of the Defendants by way of written notice to Class Counsel and, except as provided for in section 12.3, following termination in accordance with this section, it 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.

12.1.2 Any order, ruling, or determination made by the Court with respect to Class Counsel's fees or with respect to the Distribution Protocol or with respect to the Opt-Out Procedure shall not be deemed to be a material modification of all, or a part, of this Settlement Agreement and shall not provide any basis for the termination of this Settlement Agreement.

12.1.3 In the event this Settlement Agreement is terminated in accordance with its terms, the Plaintiffs and the Defendants agree that the certification of the Proceeding as a class proceeding for settlement purposes, including the definitions of the Settlement Class and the Common Issues, shall be without prejudice to any position that either Party may later take on any issue in any of the Proceedings.

12.2 IF SETTLEMENT AGREEMENT TERMINATED

12.2.1 If this Settlement Agreement is terminated in accordance with its terms, any order certifying the Proceeding as a class proceeding on the basis of this Settlement Agreement or approving this Settlement Agreement shall be set aside and declared null and void and of no force or effect, and the Parties shall be estopped from asserting otherwise.

12.3 SURVIVAL OF PROVISIONS AFTER TERMINATION

12.3.1 If this Settlement Agreement is terminated in accordance with its terms, the provisions of section 12 [Termination], 10 [Effect of Settlement], 3.3 [Certification Without Prejudice], and 13 [Miscellaneous], and the definitions and Schedules applicable thereto, shall survive the termination and continue in full force and effect. All other provisions of this Settlement Agreement and all other obligations pursuant to this Settlement Agreement shall cease immediately.

13. MISCELLANEOUS

13.1 APPLICATIONS FOR DIRECTIONS

13.1.1 Class Counsel or the Defendants may apply to the Court for directions in respect of the implementation, interpretation, and administration of this Settlement Agreement.

13.1.2 All applications contemplated by this Settlement Agreement shall be on notice to the other Parties.

13.2 HEADINGS ETC.

13.2.1 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", "hereof", "hereunder" and similar expressions refer to this Settlement Agreement and not to any particular section or other portion of this Settlement Agreement.

13.3 COMPUTATION OF TIME

13.3.1 In the computation of time in this Settlement Agreement, except where a contrary intention appears,

- (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 or business days, as applicable; and
- (b) only in the case where the time for doing an act expires on a weekend or holiday, the act may be done on the next day that is not a weekend or holiday.

13.4 ONGOING JURISDICTION

13.4.1 The Court shall retain exclusive jurisdiction over the Proceeding, the Parties thereto and the Class Counsel Fees in the Proceeding. The Court's supervisory role and ongoing jurisdiction shall end following conclusion of the administration of the Settlement and the final distribution of the Settlement Amount.

13.5 GOVERNING LAW

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

13.6 ENTIRE AGREEMENT

13.6.1 This Settlement Agreement constitutes the entire agreement between the Parties, and supersedes all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle, and term sheets in connection herewith.

13.7 AMENDMENTS

13.7.1 This Settlement Agreement may not be modified or amended except in writing and on consent of the Parties hereto.

13.8 BINDING EFFECT

13.8.1 This Settlement Agreement shall be binding upon, and enure to the benefit of, the Plaintiffs, the Defendants, the Releasees and all of their successors and assigns. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by the Plaintiffs shall be binding upon all Releasors and each and every covenant and agreement made herein by the Defendants shall be binding upon all of the Releasees.

13.9 COUNTERPARTS

13.9.1 This Settlement Agreement may be executed in counterparts, all of which taken together shall be deemed to constitute one and the same agreement, and an electronic or facsimile signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

13.10 RECITALS

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

13.11 SCHEDULES

13.11.1 The Schedules annexed hereto form part of this Settlement Agreement.

13.12 NOTICE

13.12.1 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 the Plaintiffs:

Nicholas Stephen Crema
c/o Garcha & Company
#405 – 4603 Kingsway
Burnaby, BC V5H 4M4
ksgarcha@garchalaw.ca

Antonio Gaudio
c/o McKenzie Lake Lawyers LLP
140 Fullarton Street, Suite 1800
London, Ontario N6A 5P2
mike.peerless@mckenzielake.com

Ryan Collins-Swartz
c/o Orr Taylor LLP
200 Adelaide Street W, Suite 500
Toronto, ON M5H 1W7
jorr@ortaylor.com

Cherif Saleh
c/o Rochon Genova LLP
121 Richmond Street West
Suite 900
Toronto, Ontario M5H 2K1
416-393-0263

Stacie Strohmaier
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tmerchant@merchantlaw.com

Marty Jay Blythman
c/o Merchant Law Group LLP
100 - 2401 Saskatchewan Drive
Regina, Saskatchewan
tmerchant@merchantlaw.com

Ali Hibanaura
c/o Merchant Law Group LLP
310 Kingsway Garden Mall
Edmonton, Alberta T5G 3A6
tmerchant@merchantlaw.com

For Class Counsel:

Garcha & Company
#405 – 4603 Kingsway
Burnaby, BC V5H 4M4
ksgarcha@garchalaw.ca

McKenzie Lake Lawyers LLP
140 Fullarton Street, Suite 1800
London, Ontario N6A 5P2
mike.peerless@mckenzielake.com

Orr Taylor LLP
200 Adelaide Street W, Suite 500
Toronto, ON M5H 1W7
jorr@ortaylor.com

Rochon Genova LLP
121 Richmond Street West
Suite 900
Toronto, Ontario M5H 2K1
416-393-0263
jrochon@rochongenova.com

Merchant Law Group LLP
100 - 2401 Saskatchewan Drive
Regina, Saskatchewan
tmerchant@merchantlaw.com

For the Defendants:

Apple Inc. and Apple Canada Inc.
c/o McCarthy Tétrault LLP
Suite 2400, 745 Thurlow Street
Vancouver, BC V6E 0CE
jyates@mccarthy.ca

For Defendants' counsel:

McCarthy Tétrault LLP
Suite 2400, 745 Thurlow Street
Vancouver, BC V6E 0CE
jyates@mccarthy.ca

13.13 DATE OF EXECUTION

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

Nicholas Stephen Crema

Stacie Strohmaier

Marty Jay Blythman

Ali Hibanaura

Antonio Gaudio

Ryan Collins-Swartz

Cherif Saleh

Apple Inc.

Apple Canada Inc.

Schedule A – Common Issues for Consent Certification of Proceeding

1. Whether there were performance mitigations related to, and battery defects in, iPhone 6, 6 Plus, 6s, 6s Plus, SE, 7 and 7 Plus smartphones with iOS versions 10.2.1, 10.3, 11 and/or 11.2 installed or downloaded.

Schedule B – Distribution Protocol

1. The objective of this Distribution Protocol is to distribute the Settlement Claim Funds among Settlement Class Members.

DEFINITIONS

2. The definitions set out in the Settlement Agreement apply to this Distribution Protocol and are incorporated herein.
3. For the purposes of this Distribution Protocol, the following additional definitions apply:
 - a. **Claim Deadline** means the date that is 180 days from the Effective Date, or such other date ordered by the Court.
 - b. **Claim Finalization Date** means, if no claims are disputed in accordance with paragraph 14 of this Distribution Protocol, the end of the fourteen (14) day period contemplated in paragraph 14, or if claims are disputed in accordance with paragraph 14, the date on which a resolution has been reached with respect to all such disputed Claims, whichever is later.
 - c. **Claim Form** means the form used to obtain the information and supporting documentation necessary to verify that the individuals who submit Claims are Settlement Class Members, as described in paragraph 4 of this Distribution Protocol and attached as Schedule “C”.
 - d. **Verification Process** means the process described in paragraphs 7 to 14 of this Distribution Protocol pursuant to which the Claims Administrator and Parties review and verify that the Claims submitted are valid.

CLAIMS RECEIPT

4. The Claims Administrator, with the assistance of the Parties, shall prepare a Claim Form that shall be used to obtain the information and supporting documentation necessary to verify that persons are Settlement Class Members, including a serial number. Each Claim Form shall, among other things, require the Settlement Class Members to declare under oath that: (a) their iPhone 6, 6 Plus, 6s, 6s Plus, and SE iPhone ran iOS version 10.2.1 or later (for iPhone 6, 6 Plus, 6s, 6s Plus, and SE) or iOS version 11.2 or later (for iPhone 7 and 6 Plus) before December 21, 2017; (b) they experienced diminished performance on that device after the relevant iOS version was installed or downloaded; and (c) they are not and were not at the time they owned the device that is the subject of this claim (i) a director, officer, or employee of Apple or its subsidiaries or affiliated companies, or an Apple legal representative, heir, successor, or assign, (ii) a member of the judiciary presiding over the Proceeding, or (iii) an individual whose claim already has been adjudicated to a final judgment.
5. A Settlement Class Member may file a Claim with the Claims Administrator, using the required Claim Form, for receipt by the Claims Administrator on or before the Claim Deadline.

6. Persons who submit Claims after the Claim Deadline shall not receive any amount of the Settlement Claim Funds.

CLAIMS REVIEW AND VERIFICATION

7. The Claims Administrator shall receive and review each Claim Form and determine whether each Claim meets the requirements set forth in the Settlement Agreement including this Distribution Protocol. The Claims Administrator shall use best practices and all reasonable efforts and means to identify and reject duplicate and/or fraudulent claims, including, without limitation, indexing all Claims.
8. Claim Forms that do not meet the terms and conditions of this Settlement Agreement and/or the Claim Form instructions shall be promptly rejected by the Claims Administrator. Where a good faith basis exists, the Claims Administrator may reject a Claim Form for, among other reasons, the following:
 - a. the Claim Form identifies a product that is not covered by the terms of this Settlement;
 - b. the Claim Form identifies a product that cannot be matched to an eligible device;
 - c. failure to fully complete and/or sign the Claim Form;
 - d. illegible Claim Form;
 - e. the Claim Form is fraudulent;
 - f. the Claim Form is duplicative of another Claim Form;
 - g. the person submitting the Claim Form is not a Settlement Class Member;
 - h. the person submitting the Claim Form requests that payment be made to a person or entity other than the Settlement Class Member for whom the Claim Form is submitted;
 - i. the Claim Form is not timely submitted; or
 - j. the Claim Form otherwise does not meet the requirements of this Settlement Agreement.
9. The Claims Administrator shall have thirty (30) days from the Claim Deadline to exercise the right of rejection. The Claims Administrator shall notify the claimant using the contact information provided in the Claim Form of the rejection. Class Counsel and Defence Counsel shall be provided with copies of all such notifications of rejection, provided that the copies do not contain the name, email address, mailing address, or other personal identifying information of the claimant. If any claimant whose Claim Form has been rejected, in whole or in part, desires to contest such rejection, the claimant must, within ten (10) days from receipt of the rejection, transmit to the Claims Administrator by email or mail a notice and statement of reasons indicating the claimant's grounds for contesting

the rejection, along with any supporting documentation, and requesting further review by the Claims Administrator, in consultation with Class Counsel and Defence Counsel, of the denial of the Claim. If Class Counsel and Defence Counsel cannot agree on a resolution of the claimant's notice contesting the rejection, the disputed Claim shall be presented to the Court or a referee appointed by the Court for summary and non-appealable resolution. No person shall have any claim against Apple, Defence Counsel, the Plaintiffs, Class Counsel, and/or the Claims Administrator based on any eligibility determinations, distributions, or awards made in accordance with this Settlement Agreement. This provision does not affect or limit in any way the right of review by the Court or referee of any disputed Claim Forms as provided in this Settlement Agreement.

10. Within forty-five (45) days from the Claim Deadline, the Claims Administrator shall provide a spreadsheet to Class Counsel and Defence Counsel that contains information sufficient to determine:
 - a. the number of Settlement Class Members that submitted a Claim;
 - b. the number of submitted Claim Forms that are valid and timely, and which are not;
 - c. the number of submitted Claim Forms the Claims Administrator intends to treat as Approved Claims; and
 - d. the number of submitted Claim Forms the Claims Administrator has denied and the reason(s) for the denials.
11. The Claims Administrator shall provide supplemental spreadsheets with respect to any Claim Forms submitted after the expiration of the Claim Deadline, within a reasonable time after receiving such Claim Forms.
12. The materials that the Claims Administrator provides to Class Counsel pursuant to paragraphs 10 and 11 shall not contain the names, email addresses, mailing addresses, or other personal identifying information of the Settlement Class Members. The Claims Administrator shall retain the originals of all Claim Forms (including envelopes with postmarks, as applicable), and shall make copies available to Class Counsel or Defence Counsel (with redactions to remove the names, email addresses, mailing addresses, or other personal identifying information of the Settlement Class Members) upon request. All such spreadsheets and related materials (including Claim Forms) shall be designated as "Highly Confidential — Counsel's Eyes Only". Should Class Counsel believe they require the name, email address, mailing address, or other personal identifying information of any particular Settlement Class Member, Class Counsel and Defence Counsel shall meet-and-confer, on a case-by-case basis, to determine whether the release of such personal identifying information is necessary. Any disputes regarding whether such information may be released to Class Counsel shall be presented to the Court or a referee appointed by the Court for summary and non-appealable resolution. The Claims Administrator shall only release personal identifying information upon authorization of Apple and/or the authorization of the Court or referee.

13. Within forty-five (45) days from the Claim Deadline, the Claims Administrator shall provide to Defence Counsel and Class Counsel information sufficient to calculate the Settlement Amount including:
 - a. the per-device and aggregate cash payment for the Approved Claims calculated in accordance with paragraphs 18 to 19 of this Distribution Protocol (the Settlement Claim Funds);
 - b. total Administration Expenses;
 - c. any honorariums for the Plaintiffs; and
 - d. Class Counsel Fees.
14. Defence Counsel and Class Counsel shall have fourteen (14) days after receiving the information specified in paragraph 13 to contest the Claims Administrator's determination with respect to any of the submitted Claims. Defence Counsel and Class Counsel shall meet and confer in good faith within ten (10) days to reach resolution of any such disputed Claim(s). If Class Counsel and Defence Counsel cannot agree on a resolution of any such disputed Claim(s), the disputed Claim(s) shall be presented to the Court or a referee appointed by the Court for summary and non-appealable resolution.
15. If Defence Counsel and/or Class Counsel dispute any Claims as contemplated in paragraph 14, and the resolution contemplated in paragraph 14 results in any such disputed Claim(s) being rejected or the amount of such disputed Claim(s) changing, within fourteen (14) days of the Claim Finalization Date, the Claims Administrator shall provide Defence Counsel and Class Counsel with revised information sufficient to calculate the Settlement Amount including:
 - a. the per-device and aggregate cash payment for the Approved Claims calculated in accordance with paragraphs 18 to 19 of this Distribution Protocol (the Settlement Claim Funds);
 - b. total Administration Expenses;
 - c. any honorariums for the Plaintiffs; and
 - d. Class Counsel Fees.

PAYMENT OF SETTLEMENT AMOUNT

16. If the Settlement Amount is more than the Minimum Settlement Amount, within thirty (30) days of the Claim Finalization Date, the Defendants shall pay into the Trust Account any difference between the Settlement Amount and the Minimum Settlement Amount.
17. Within ninety (90) days of the Claim Finalization Date, the Claims Administrator shall, by e-transfer where possible and by mailed cheque where necessary, make the payments contemplated under this Settlement Agreement to:

- a. each Settlement Class Member with an Approved Claim;
- b. Class Counsel;
- c. the Plaintiffs in respect of any honorariums; and
- d. the Claims Administrator.

CLAIMS PAYMENT

18. Subject to paragraph 19, each Settlement Class Member that files an Approved Claim with the Claims Administrator on or before the Claim Deadline shall be entitled to a payment of seventeen dollars and fifty cents (\$17.50) for each iPhone owned.
19. Notwithstanding paragraph 18:
 - a. In no event shall the Settlement Amount exceed the Maximum Settlement Amount. If the Class Counsel Fees, Administration Expenses, any honorariums for the Plaintiffs, and the number of iPhone devices identified in Approved Claims submitted by Settlement Class Members multiplied by seventeen dollars and fifty cents (\$17.50), exceeds the Maximum Settlement Amount, then the cash payment for each iPhone identified in the Approved Claims shall be reduced on a *pro rata* basis to ensure the total of the Settlement Amount does not exceed the Maximum Settlement Amount.
 - b. If payment of seventeen dollars and fifty cents (\$17.50) for each iPhone identified in Approved Claims submitted by Settlement Class Members, Class Counsel Fees, Administration Expenses, and any honorariums for the Plaintiffs would not reach the Minimum Settlement Amount, the cash payment for each Approved Claim shall be increased on a *pro rata* basis until the Settlement Amount equals the Minimum Settlement Amount. Notwithstanding the foregoing portion of this paragraph, the *pro rata* payment for each Approved Claim per iPhone shall not exceed one hundred fifty dollars (\$150).
 - c. If multiple Settlement Class Members submit valid Claims pertaining to the same iPhone, the payment amount for that device shall be divided equally among those submitting Approved Claims regarding that particular iPhone.
20. If the cash payment for each Approved Claim is increased on a *pro rata* basis until the *pro rata* payment for each Approved Claim per iPhone amounts to \$150, and the aggregate of the Settlement Claim Funds, Class Counsel Fees, Administration Expenses, and any honorariums for the Plaintiffs still does not reach the Minimum Settlement Amount, within thirty (30) days of the Claims Administrator providing written confirmation that all payments contemplated in paragraph 17 have been made, the remainder of Minimum Settlement Amount in the Trust Account will be paid *cy-près* to the charity or charities chosen by Defendants and approved by the Court if needed.

Schedule C – Claim Form and Instructions (Online and Print Formats)

INSTRUCTIONS

Please read these instructions carefully and then select either the Electronic Claim Form or Printed Claim Form option at the bottom of the page. If you need assistance completing a Claim Form you may send an email to [e-mail address for Claims Administrator] or visit [link to FAQ page]. Refer back to [link to full Notice for Claims Procedure] for more information about the Settlement.

Deadline and Submission Method. Claims Forms must be either:

- (1) Submitted online by [date]; or
- (2) Printed and received by the Claims Administrator by [date].

Eligibility. The Settlement will provide a cash payment if you are the current or former owner of an eligible device and experienced diminished performance when running a certain version of iOS prior to December 21, 2017. See below for details.

Eligible devices and iOS versions:

- iPhone 6, 6 Plus, 6s, 6s Plus, or SE device running iOS 10.2.1 or later
- iPhone 7 and 7 Plus running iOS 11.2 or later.

You are limited to one cash payment per device. If you are the current or former owner of more than one eligible device, you must fill out a separate Claim Form for each device.

Unless you opt-out of this settlement and proceeding as explained in the Notice of Certification and Settlement Hearing, you will be bound by the Settlement Agreement and Release and Final Order even if you do not submit a Claim Form.

You must fill out and submit a complete and accurate Claim Form by any of the above submission methods by [date]. If your Claim Form is incomplete, contains false information, or is not submitted by the deadline, your claim will be rejected and you will waive all rights to receive a payment under this Settlement. The Claims Administrator may contact you to request more information to verify your claim. The information you provide will be treated as confidential and used for the purpose of this Settlement only.

Please select one of the Claim Form methods below to begin the Claim Form process.

Continue to Electronic Claim Form

Continue to Printed Claim Form

ELECTRONIC CLAIM FORM

In this electronic Claim Form, you must fill out and submit a complete and accurate Claim Form below by [date]. If your Claim Form is incomplete, contains false information, or is not submitted by the deadline, your claim will be rejected and you will waive all rights to receive a payment under this Settlement. The information you provide will be treated as confidential and used for the purpose of this Settlement only. Any payment provided in response to your claim will be issued to the email address you provide on this Claim Form, unless you elect to have payment mailed to the mailing address on this Claim Form. If you prefer to submit a Printed Claim Form, follow this [link].

Step 1—INFORMATION REQUIRED FOR ALL CLAIMANTS

| | | |
|-------------------|-------------------|-------------|
| First Name | Last Name | |
| Mailing Address 1 | Mailing Address 2 | |
| City | Province | Postal Code |
| Email Address | | |

iPhone Serial Number:

[You can find your serial number on your iPhone in Settings > General > About. If you no longer have your iPhone, you can check the barcode on your device's original packaging or refer to the original receipt or invoice.]

Please indicate your preferred method of payment. (Please select only one option from the drop-down menu.)

- **E-Transfer.** If I have submitted a valid claim, please send me an e-transfer at the email address above. I understand that I will be contacted at this email address with instructions for receiving the e-transfer, for which you will need to provide your routing and bank account number.
- **Mailed Cheque.** If I have submitted a valid claim, please send me a cheque at my mailing address above.

Step 2—DEVICE AND iOS VERSION (Please select only one option from the drop-down menu.)

- I am the current or former owner of an iPhone 6, 6 Plus, 6s, 6s Plus, or SE device that ran iOS 10.2.1 or later prior to December 21, 2017;
- I am the current or former owner of an iPhone 7 or 7 Plus device that ran iOS 11.2 or later prior to December 21, 2017.

Step 3—DECLARATION UNDER OATH, SIGNATURE, & DATE

- I experienced diminished performance on my iPhone 6, 6 Plus, 6s, 6s Plus, or SE device when running iOS 10.2.1 or later before December 21, 2017 OR my iPhone 7 or 7 Plus when running iOS 11.2 or later before December 21, 2017.
- I am or was on [EXECUTION DATE OF SETTLEMENT AGREEMENT], a Canadian resident, but not a resident of Quebec, and I am not and was not at the time I owned the device that is the subject of this claim: (i) a director, officer, or employee of Apple or its subsidiaries or affiliated companies, or an Apple legal representative, heir, successor, or assign, (ii) a member of the judiciary presiding over *Nicholas Stephen Crema v. Apple*

Inc. and Apple Canada Inc., British Columbia Supreme Court Vancouver Registry Action No. S-188008 or similar proposed class proceedings in other provinces, or (iii) an individual whose claim already has been adjudicated to a final judgment.

You must sign this Claim Form by checking the box below, typing your name, and entering today's date.

By checking this box, I declare under oath that the information above is true and correct to the best of my knowledge and belief. I understand that my claim is subject to audit, review, and validation using all available information.

Type Your Name Here to Sign Your Claim Form

Enter Today's Date Here YYYY-MM-DD

To file your claim, be sure to click on the [Submit Claim Form](#) button below.

REMINDERS

Your Claim Form must be submitted by [date]. Late or incomplete Claim Forms will be denied.

All information provided on this Claim Form is subject to verification.

After you click [Submit Claim Form](#), you will be able to print and save a copy of this Claim Form for your records.

[Submit Claim Form](#)

PRINTED CLAIM FORM

In this printed Claim Form, you must fill out and deliver a complete and accurate Claim Form below by [date]. If your Claim Form is incomplete, contains false information, or is not submitted by the deadline, your claim will be rejected and you will waive all rights to receive a payment under this Settlement. The information you provide will be treated as confidential and used for the purpose of this Settlement only. Any payment provided in response to your claim will be issued to the email address you provide on this Claim Form, unless you elect to have payment mailed to the mailing address on this Claim Form. If you prefer to submit a Claim Form electronically, visit [URL].

Please type or print clearly in blue or black ink.

Step 1—INFORMATION REQUIRED FOR ALL CLAIMANTS

Name (First and Last): _____

Address: _____

City: _____

Province: _____

Postal Code: _____

Email Address: _____

iPhone Serial Number:

[You can find your serial number on your iPhone in Settings > General > About. If you no longer have your iPhone, you can check the barcode on your device's original packaging or refer to the original receipt or invoice.]

Please indicate your preferred method of payment. (Please check only one option.)

- E-Transfer.** If I have submitted a valid claim, please send me an e-transfer at the email address above. I understand that I will be contacted at this email address with instructions for receiving the e-transfer.
- Mailed Cheque.** If I have submitted a valid claim, please send me a cheque at my mailing address above.

Step 2—DEVICE AND iOS VERSION (Please check only one option.)

- I am the current or former owner of an iPhone 6, 6 Plus, 6s, 6s Plus, or SE device that ran iOS 10.2.1 or later prior to December 21, 2017.
- I am the current or former owner of an iPhone 7 or 7 Plus device that ran iOS 11.2 or later prior to December 21, 2017.

Step 3—DECLARATION UNDER OATH, SIGNATURE, & DATE

- I experienced diminished performance on my iPhone 6, 6 Plus, 6s, 6s Plus, or SE device when running iOS 10.2.1 or later before December 21, 2017 OR my iPhone 7 or 7 Plus when running iOS 11.2 or later before December 21, 2017.

- I am or was on [EXECUTION DATE OF SETTLEMENT AGREEMENT], a Canadian resident, but not a resident of Quebec, and I am not and was not at the time I owned the device that is the subject of this claim: (i) a director, officer, or employee of Apple or its subsidiaries or affiliated companies, or an Apple legal representative, heir, successor, or assign, (ii) a member of the judiciary presiding over *Nicholas Stephen Crema v. Apple Inc. and Apple Canada Inc.*, British Columbia Supreme Court Vancouver Registry Action No. S-188008 or similar proposed class proceedings in other provinces, or (iii) an individual whose claim already has been adjudicated to a final judgment.

I declare under oath that the information above is true and correct to the best of my knowledge and belief. I understand that my claim is subject to audit, review, and validation using all available information.

SIGNED

DATED

Please retain a copy of this Claim Form for your records.

**Schedule D – Form of Certification and Notice Approval Order, Excluding Appendices
“A”-“C”**

No. S-188008
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

NICHOLAS STEPHEN CREMA

PLAINTIFF

AND:

APPLE INC. AND APPLE CANADA INC.

DEFENDANTS

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

**ORDER MADE AFTER APPLICATION FOR
CONSENT CERTIFICATION AND APPLICATION FOR NOTICE APPROVAL**

BEFORE)
) THE HONOURABLE JUSTICE MATTHEWS) [DATE]
)
)
)

ON THE APPLICATION of the Plaintiff coming on for hearing at 800 Smithe Street, Vancouver, British Columbia on [DATE] and on hearing [APPEARING COUNSEL], counsel for the Plaintiff; [APPEARING COUNSEL], counsel for the Defendants; on reading the Application Record of the Plaintiff, including the settlement agreement with the Defendants dated [DATE], attached to this order as Appendix “A” (the Settlement Agreement”); and on being advised that the Plaintiff and the Defendants consent to this Order;

THIS COURT ORDERS that:

1. In addition to any terms defined herein, the definitions in the Settlement Agreement are incorporated into this Order.
2. For the purposes of settlement, the Proceeding is certified as a class proceeding under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50.
3. [NAME] is appointed as Claims Administrator.
4. The Class Members shall be given notice of the certification of this Proceeding, the opt-out process, and the settlement approval hearing, and the short-form and long-form notices are approved, in substantially the form set out in Appendices “**B**” and “**C**” (collectively, the “Pre-Approval Notices”).
5. The Plan for Dissemination of Notices is approved in the form attached to this Order as Appendix “**D**”. The Pre-Approval Notices shall be disseminated substantially in accordance with the plan for dissemination.
6. Class Members may opt out of this Proceeding by complying with the Opt-Out Procedure prescribed by section 5 of the Settlement Agreement and described in the Pre-Approval Notices. No person may opt out of the Proceeding after the Opt-Out Deadline.
7. Any Class Member who opts out of the Proceeding in accordance with the Opt-Out Procedure and prior to the Opt-Out Deadline shall be excluded from the Settlement Class and the Proceeding. Any Settlement Class Member who does not opt out of the Proceeding in accordance with the Opt-Out Procedure, or otherwise with leave of this Court, shall be bound by the outcome of the Proceeding, including the Settlement Agreement.

8. The costs of issuing the Pre-Approval Notices shall be deducted from the Settlement Amount.

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:

K.S. Garcha, Counsel for the Plaintiff,
Nicholas Stephen Crema

Jill Yates
Counsel for the Defendants, Apple Inc. and
Apple Canada Inc.

By the Court

Registrar

APPENDIX “D”
PLAN FOR DISSEMINATION OF NOTICES

The Notices shall be distributed in the following manner:

1. Website Notice:

- a. The Claims Administrator will post on its website the:
 - i. Long Form Notice of Certification and Settlement Hearing;
 - ii. Short Form Notice of Certification and Settlement Hearing;
 - iii. Long Form Notice of Claims Procedure
 - iv. Short Form Notice of Claims Procedure
 - v. Settlement Agreement;
 - vi. Opt-Out Form;
 - vii. Distribution Protocol;
 - viii. Claim Forms; and
 - ix. Orders of the Court.
- b. Class Counsel and Defence Counsel will approve the content posted on the website.

2. Email Notice:

- a. The Claims Administrator will email each individual who is a member of the Settlement Class the Notices at the email address for that individual provided by the Defendants to the Claims Administrator.

Schedule E – Form of Short Form Notice of Certification and Settlement Hearing

APPLE IPHONE POWER MANAGEMENT CLASS ACTION

NOTICE OF CERTIFICATION AND SETTLEMENT HEARING

This notice is directed to all individuals, both corporate and natural persons, who are or were domiciled in Canada, excluding persons who are Quebec residents as of **[Execution Date of the Settlement Agreement]**, who (i) purchased and/or owned iPhone 6, 6 Plus, 6s, 6s Plus, SE, 7 and 7 Plus smartphones, and (ii) installed or downloaded iOS version 10.2.1 or later (for iPhone 6, 6 Plus, 6s, 6s Plus, and SE) or iOS version 11.2 or later (for iPhone 7 and 7 Plus) before December 21, 2017, and their estates, administrators or other legal representatives, heirs or beneficiaries, but excluding (i) directors, officers, and employees of Apple or its subsidiaries and affiliated companies, as well as Apple’s legal representatives, heirs, successors, or assigns, (ii) any member of the judiciary presiding over this matter, and (iii) any other individuals whose claims already have been adjudicated to a final judgment (the **“Class Members”**).

| | |
|---|--|
| <p align="center">WHAT IS THE CLASS ACTION ABOUT?</p> | <p>Proposed class action proceedings were brought against the defendants Apple Canada Inc. and Apple Inc. (together, “Apple”) in British Columbia, Ontario, Saskatchewan and Alberta (the “Proceedings”) in connection with allegations of (i) performance mitigation features of iOS operating software versions 10.2.1, 10.3, 11 and/or 11.2 for iPhones; (ii) defects causing the iPhones to prematurely age, degrade and shut down unexpectedly; (iii) defects in the performance of the iPhone batteries; and (iv) misrepresentations or intentional concealment concerning the foregoing. The Proceedings included a class action proceeding <i>Nicholas Stephen Crema v. Apple Inc. and Apple Canada Inc.</i>, British Columbia Supreme Court Vancouver Registry Action No. S-188008 (the “Class Action”).</p> |
| <p align="center">CERTIFICATION</p> | <p>On [DATE], the British Columbia Supreme Court certified the Class Action as a multi-jurisdictional class proceeding for settlement purposes and authorized Nicholas Stephen Crema to act as representative plaintiff on behalf of the Class Members.</p> |
| <p align="center">WHO IS AFFECTED BY THE CLASS ACTION?</p> | <p>The Class Action is brought on behalf of all Class Members. If you are a Class Member, you are automatically included in the Class Action unless you choose to exclude yourself (opt out) by [DATE].</p> |
| <p align="center">WHAT SETTLEMENT HAS BEEN REACHED?</p> | <p>Under the proposed settlement, Apple will make a minimum, non-reversionary payment of \$11,137,500 and a maximum payment of \$14,427,500, depending on the number of claims submitted. Each Class Member who does not opt out and who submits a valid claim is to receive a cash payment (the “Settlement”). The amount of the cash payment will depend on the total number of approved claims and other factors. The Settlement is a compromise of disputed claims and is not an admission of liability or wrongdoing by Apple. The Settlement is subject to approval of the court, and Class Members have a right to opt out of the Class Action or, if they do not opt out, to object to the Settlement.</p> |

| | |
|--|---|
| <p>HOW CAN I OPT OUT?</p> | <p>Class Members who do not wish to participate in the Class Action and Settlement must opt out by [DATE]. A Class Member who opts out will not be entitled to participate in the Class Action or the Settlement. However, their right to pursue a claim in a separate proceeding will not be affected.</p> <p>If you would like to exclude yourself from the Class Action, you can opt out by submitting a written request to the Claims Administrator: [INSERT ADMINISTRATOR]. If your request to opt out is not received by [DATE], it will not be considered valid and you will be bound by the Settlement. Your request should include your full name, current address, and email address, and a statement that you wish to be excluded from the Class Action. If a Class Member does not timely and properly opt out of the Class Action, or does not timely and properly file a claim form with the Claims Administrator, the Class Member will be forever barred from receiving any benefits under the Settlement, and from commencing or continuing any action against Apple relating to the subject of the Class Action.</p> |
| <p>HOW CAN I OBJECT?</p> | <p>The Settlement is subject to approval of the court, and Class Members who do not opt out may object to the Settlement. To do so, you must deliver your objection in writing to Class Counsel at the address below by [DATE]. The settlement approval hearing will take place on [DATE] at the courthouse at 800 Smithe Street, Vancouver, British Columbia.</p> |
| <p>WHERE CAN I GET MORE INFORMATION?</p> | <p>This notice is a summary. For more information about your rights and how to exercise them, please see the long-form notice at: [INSERT LINK TO SETTLEMENT ADMINISTRATOR'S WEBSITE]</p> |
| <p>WHO ARE THE LAWYERS FOR THE CLASS?</p> | <p>The law firm of Garcha & Company represents the Class Members:</p> <p>Telephone (toll-free): ● Email: ● Mail: #405 – 4603 Kingsway, Burnaby, BC V5H 4M4 Attn: iPhone Power Management Class Action</p> |

This notice was authorized by the Supreme Court of British Columbia.

Schedule F – Form of Long Form Notice of Certification and Settlement Hearing

APPLE IPHONE POWER MANAGEMENT CLASS ACTION

NOTICE OF CERTIFICATION AND SETTLEMENT HEARING

This notice is directed to:

All individuals, both corporate and natural persons, who are or were domiciled in Canada, excluding persons who are Quebec residents as of **[Execution Date of the Settlement Agreement]**, who:

- (i) purchased and/or owned Apple iPhone 6, 6 Plus, 6s, 6s Plus, SE, 7 and 7 Plus smartphones; and
- (ii) installed or downloaded iOS version 10.2.1 or later (for iPhone 6, 6 Plus, 6s, 6s Plus, and SE) or iOS version 11.2 or later (for iPhone 7 and 7 Plus) before December 21, 2017

and their estates, administrators or other legal representatives, heirs or beneficiaries but excluding:

- (i) directors, officers, and employees of Apple or its subsidiaries and affiliated companies, as well as Apple's legal representatives, heirs, successors, or assigns;
- (ii) any member of the judiciary presiding over this matter; and
- (iii) any other individuals whose claims already have been adjudicated to a final judgment.

(the "**Class Members**").

READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS. YOU MAY NEED TO TAKE PROMPT ACTION.

Purpose of this Notice

The purpose of this Notice is to advise Class Members of the certification and settlement of the proposed class action proceeding styled as *Nicholas Stephen Crema v. Apple Inc. and Apple Canada Inc.*, British Columbia Supreme Court Vancouver Registry Action No. S-188008 (the "**Class Action**") brought on behalf of the Class Members. This notice provides Class Members with information about how to opt out of the Class Action and settlement. **Class Members who wish to opt out must do so by [DATE]. If you are a Class Member and wish to participate in the settlement of the Class Action, no further action is required on your part at this time.**

Certification of the Class Actions

In 2018, proposed class proceedings were commenced against the defendants Apple Inc. and Apple Canada Inc. (together, "**Apple**"):

- (i) in the British Columbia Supreme Court styled as *Crema v. Apple Inc. and Apple Canada Inc.* (S-188008) and *Strohmaier v. Apple Inc. and Apple Canada Inc.* (S-186592);
- (ii) in the Ontario Superior Court of Justice styled as *Gaudio v. Apple Inc. and Apple Canada Inc.* (479/18CL), *Collins Swartz v. Apple Inc. and Apple Canada Inc.* (CV-18-591399), and *Saleh v. Apple Inc. and Apple Canada Inc.* (CV-18-592677-00CP);
- (iii) in the Saskatchewan Court of King's Bench styled as *Blythman v. Apple Inc. and Apple Canada Inc.* (QB6 302 OT 2018); and
- (iv) in the Alberta Court of King's Bench styled as *Hibanaura v. Apple Inc. and Apple Canada Inc.* (1803 02688)

(the “**Proceedings**”).

The Proceedings relate to allegations of (i) performance mitigation features of iOS operating software versions 10.2.1, 10.3, 11 and/or 11.2 for iPhones; (ii) defects causing the iPhones to prematurely age, degrade and shut down unexpectedly; (iii) defects in the performance of the iPhone batteries; and (iv) misrepresentations or intentional concealment concerning the foregoing.

On [DATE], the British Columbia Supreme Court certified the Class Action as a multi-jurisdictional class proceeding for settlement purposes and authorized Nicholas Stephen Crema to act as representative plaintiff on behalf of the Class Members.

The Settlement

Apple has agreed to pay between CAD\$11,137,500 and CAD\$14,427,500 (the “**Settlement Funds**”) in consideration of the full and final settlement of the claims of Class Members, including but not limited to the Class Action and the Proceedings (the “**Settlement**”). In return for the payment of the Settlement Funds, the Settlement provides that the claims of all Class Members asserted or which could have been asserted in the Class Action will be fully and finally released and the Class Action will be dismissed. The Settlement is not an admission of liability, wrongdoing, or fault on the part of Apple, which denies the allegations against it. The Settlement is subject to approval of the British Columbia Supreme Court, and Class Members have a right to object to the Settlement.

The Settlement Funds will be paid out in accordance with the Distribution Protocol in the Settlement Agreement, a partial summary of which follows. For more details, please refer to the Settlement Agreement available at [WEBSITE].

Approved Claims, Class Counsel Fees, Administration Expenses and any honorariums for the plaintiffs in the Proceedings will be paid out of the Settlement Funds.

Apple will provide a cash payment to each Class Member who submits an Approved Claim. To receive a cash payment, Class Members must submit a valid Claim Form for each iPhone device. The Claim Form requires each Class Member to provide, among other things, the Class Member's name, mailing address, iPhone serial number and a declaration under oath by the Class Member stating that (i) their iPhone 6, 6 Plus, 6s, 6s Plus, or SE iPhone ran iOS version

10.2.1 or later (for iPhone 6, 6 Plus, 6s, 6s Plus, and SE) or iOS version 11.2 or later (for iPhone 7 and 7 Plus) before December 21, 2017, and (ii) they experienced diminished performance on that device after the relevant iOS version was installed or downloaded.

The cash payment per Approved Claim depends on the actual number of approved claims and other factors, including Class Counsel Fees, Administration Expenses and any honorariums for the plaintiffs in the Proceedings. Under the proposed settlement, Apple will pay a minimum of CAD\$11,137,500 (the "**Minimum Settlement Amount**") and a maximum of CAD\$14,427,500 (the "**Maximum Settlement Amount**"). Under no circumstances will any of the Minimum Settlement Amount revert to Apple.

Apple will provide a cash payment for each Approved Claim, provided that Apple will not pay more than the Maximum Settlement Amount. If the total value of Approved Claims, Class Counsel Fees, Administration Expenses and any honorariums for the plaintiffs in the Proceedings exceeds the Maximum Settlement Amount, the value of each Approved Claim will be reduced on a *pro rata* basis. Additionally, under the Settlement, if the total value of Approved Claims, Class Counsel Fees, Administration Expenses and any honorariums for the plaintiffs in the Proceedings does not exceed the Minimum Settlement Amount, the value of each Approved Claim may be increased on a *pro rata* basis, up to a maximum of CAD\$150 per device.

In the event that the Approved Claims, Class Counsel Fees, Administration Expenses and any honorariums for the plaintiffs in the Proceedings are less than the Minimum Settlement Amount after the value of each Approved Claim is increased on a *pro rata* basis up to CAD\$150 per device, any amounts that remain undistributed will be allocated *cy-près* to a charity or charities chosen by Apple and approved by the court if needed.

What are your options?

Stay in Class Action

If the Settlement is approved by the court, all Class Members will be bound by its terms unless they have already opted out of the Class Actions. You do not have to do anything to be included in the Class Action. If any benefits, including any settlement funds, become available for distribution to the Class Members, you will be notified about how to ask for a share. You will be legally bound by all orders and judgments of the court, and you will not be able to sue Apple about claims that were (or could have been) asserted in the Class Action or the Proceedings.

Stay in the Class Action and Object to the Settlement or Class Counsel Fees

The hearing to decide whether to approve the Settlement and the payment of Class Counsel Fees will take place on [DATE] at [TIME] at the courthouse at 800 Smithe Street, Vancouver, British Columbia.

If you want to object to the proposed Settlement with Apple or the payment of Class Counsel Fees, you should do so by setting out your objection in writing addressed to Class Counsel at the address below. Your objection must be received by no later than [TIME] on [DATE].

If you opt out of the Class action, you may not object to the Settlement or Class Counsel Fees.

Opt Out of the Class Action

If you want to preserve your right to sue Apple on your own over the claims advanced in the Class Action, then you need to opt out from the Class Action. If you opt out, you cannot get any money or other benefits from the Class Action and you will not be represented by Class Counsel.

Any Class Member who does not wish to participate in the Settlement must opt out of the Class Action by sending a completed Opt-Out Form to [**CLAIMS ADMINISTRATOR**], which must be received by no later than 5:00 pm Pacific Standard Time on **[date forty-five (45) days after first publication of notice]**, 2023 (the “**Opt-Out Deadline**”). Those who opt-out will not be bound by the Settlement nor by the release of claims against Apple contained in the Settlement Agreement. The Opt-Out Form is attached as Appendix “A” to this Notice. No Class Members will be permitted to opt out of the Class Action after the Opt-Out Deadline.

If you opt out of the Class Action and you wish to bring or maintain your own lawsuit against Apple, you will take full responsibility for initiating or continuing your claim, and for the legal steps necessary to protect your claims. If the Settlement is approved by the court and you have not opted out, you will not be able to bring or maintain any other claim or legal proceeding against Apple relating to the claims that were (or could have been) advanced in the Class Action or the Proceedings.

Copies of Settlement Documents

Copies of the Settlement Agreement, Distribution Protocol, the Claim Form and the orders of the Court may be found on the Claims Administrator’s website (**[INSERT LINK]**) or by contacting Class Counsel via the contact information provided below.

Class Counsel

The law firm of Garcha & Company are Class Counsel. Inquiries may be directed to:

Telephone (toll-free): ●

Email: ●

Mail: #405 – 4603 Kingsway, Burnaby, BC V5H 4M4

Attn: iPhone Power Management Class Action

Interpretation

Capitalized terms not defined herein are as defined in the Settlement Agreement.

If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

PLEASE DO NOT CONTACT THE COURT WITH INQUIRIES ABOUT THE CLASS ACTION OR THE SETTLEMENT. All inquiries should be directed to the Claims Administrator or Class Counsel.

DISTRIBUTION OF THIS NOTICE HAS BEEN AUTHORIZED BY THE BRITISH COLUMBIA SUPREME COURT

Name of Witness: _____

Telephone: _____

Email: _____

For further information please consult the website located at: **[INSERT LINK]**

Schedule G – Form of Settlement Approval Order, Excluding Schedules

No. S-188008

VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

NICHOLAS STEPHEN CREMA

PLAINTIFF

AND:

APPLE INC. AND APPLE CANADA INC.

DEFENDANTS

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

**ORDER MADE AFTER APPLICATION
FOR APPROVAL OF SETTLEMENT**

BEFORE)
) THE HONOURABLE JUSTICE MATTHEWS) [DATE]
)
)

ON THE APPLICATION of the representative Plaintiff coming on for hearing at 800 Smithe Street, Vancouver, British Columbia on [DATE] for orders approving the agreement made between the Plaintiff and Defendants dated [DATE] (the “Settlement Agreement”) and the Distribution Protocol;

AND ON HEARING the submissions of [APPEARING COUNSEL], counsel for the Plaintiff; and [APPEARING COUNSEL], counsel for the Defendant;

THIS COURT ORDERS that:

Settlement Approval

1. The Settlement Agreement, as attached at **Schedule “A”**, is incorporated into this Order in its entirety and forms part of this Order.
2. In the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.
3. The Settlement Agreement is fair, reasonable, and in the best interests of the Class.
4. The Settlement Agreement is hereby 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 terms and the terms of this Order.
5. This Order, including the Settlement Agreement, is binding upon all members of the Class who have not validly opted out of the Proceeding, including those persons who are minors or mentally incapable and the requirements of Rule 20-2 of the *Supreme Court Civil Rules* are dispensed with in respect of the Proceeding.
6. Upon the Effective Date, each Releasor shall consent to or shall be deemed to have consented to the dismissal as against the Releasees of any other actions or proceedings, including the other Proceedings, that they or it has commenced, without costs and with prejudice.
7. Within a month of the Effective Date, counsel for the Plaintiffs shall take all necessary steps to have the court in which each other action or proceeding was commenced by any Releasor dismissed against the Releasees, without costs and with prejudice, including the other Proceedings.
8. Upon the Effective Date, each Releasor has released and shall be conclusively deemed to have forever, finally and absolutely released the Releasees from the Released Claims.

9. Upon the Effective Date, each Releasor (i) shall not now or hereafter threaten, institute, prosecute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim, proceeding, complaint or demand against, or collect or seek to recover from, any Releasee or any other person or persons who will or could bring or commence or continue any claim, crossclaim, claim over or any claim for contribution, indemnity or any other relief against any Releasee in respect of any Released Claims, and (ii) is permanently barred and enjoined from doing so in respect of any Released Claims.
10. All claims for contribution, indemnity or other claims over against a Releasee, whether asserted, unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, relating directly or indirectly to the Released Claims, which were or could have been brought in the Proceeding or otherwise, by any other person or party against a Releasee are barred, prohibited and enjoined in accordance with the terms of this Order (unless such claim is made in respect of a claim by person who has validly opted-out of the Proceeding).
11. For purposes of enforcement of this Order and the Settlement Agreement, this Court will retain an ongoing supervisory role and the Defendants acknowledge the jurisdiction of this Court and attorn to the jurisdiction of this Court solely for the purpose of implementing, administering, interpreting, and enforcing the Settlement Agreement and this Order subject to the terms and conditions set out in the Settlement Agreement and this Order.
12. No Releasee shall have any responsibility or liability relating to the administration of the Settlement Agreement or the Distribution Protocol or the administration, investment, or distribution of the Trust Account.
13. Subject to the provisions of the Settlement Agreement, the Settlement Amount, plus accrued interest less any monies paid out pursuant to the Settlement Agreement, shall be held in trust for the benefit of the Settlement Class pending further order of the Court.

14. In the event that the Settlement Agreement is terminated in accordance with its terms, by application made on notice to the Plaintiff or the Defendants, as appropriate:
 - a. This order shall be declared null and void and be without prejudice to any party; and
 - b. Each party shall be restored to their or its respective position in the proceeding as it existed immediately prior to the execution of the settlement agreement.
15. On notice to the Court, but without further order of the Court, the Parties to the Settlement Agreement may agree to reasonable extensions of time to carry out any of the provisions in the Settlement Agreement.
16. Upon conclusion of the administration of the Settlement, this proceeding will be dismissed without costs and with prejudice, which order can be sought through the case management process.

Distribution Approval

17. The Distribution Protocol attached to this Order as **Schedule “B”** is approved.
18. The Settlement Claim Funds paid in accordance with the Settlement Agreement shall be distributed by the Claims Administrator in accordance with the Distribution Protocol.
19. The short-form and long-form Notice of Claims Procedure is approved substantially in the form attached to this Order as **Schedules “C”** and **“D”**.
20. The Plan for Dissemination of Notices is approved in the form attached to this Order as **Schedule “E”**. The Notice of Claims Procedure shall be disseminated substantially in accordance with the plan for dissemination.

21. The costs of issuing the Notice of Claims Procedure shall be deducted from the Settlement Amount.
22. The claim form is approved substantially in the form attached to this Order as **Schedule “F”**.
23. All information provided by claimants as part of the claims process is collected, used and retained by the Claims Administrator, Class Counsel and their agents pursuant to the applicable privacy laws for the purposes of administering the Settlement Agreement, including evaluating the claimant’s eligibility status under the Settlement Agreement. The information provided by claimants shall be treated as private and confidential and shall not be disclosed without the express written consent of the claimant, except in accordance with the Settlement Agreement, Distribution Protocol, and/or an order of the Court.
24. No proceeding, cause of action, claim or demand may be brought against Class Counsel and/or the Claims Administrator concerning the implementation or administration of the Settlement Agreement or the Distribution Protocol without leave from the Court.

Endorsement of this Order

25. This Order may be executed in counterpart.

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:

K.S. Garcha, Counsel for the Plaintiff,
Nicholas Stephen Crema

Jill Yates

Counsel for the Defendants, Apple Inc. and
Apple Canada Inc.

By the Court

Registrar

Schedule H – Form of Short Form Notice of Claims Procedure

APPLE IPHONE POWER MANAGEMENT CLASS ACTION

NOTICE OF SETTLEMENT APPROVAL

This notice is directed to all individuals, both corporate and natural persons, who are or were domiciled in Canada, excluding persons who are Quebec residents as of **[Execution Date of the Settlement Agreement]**, who (i) purchased and/or owned iPhone 6, 6 Plus, 6s, 6s Plus, SE, 7 and 7 Plus smartphones, and (ii) installed or downloaded iOS version 10.2.1 or later (for iPhone 6, 6 Plus, 6s, 6s Plus, and SE) or iOS version 11.2 or later (for iPhone 7 and 7 Plus) before December 21, 2017, and their estates, administrators or other legal representatives, heirs or beneficiaries, but excluding (i) directors, officers, and employees of Apple or its subsidiaries and affiliated companies, as well as Apple’s legal representatives, heirs, successors, or assigns, (ii) any member of the judiciary presiding over this matter, and (iii) any other individuals whose claims already have been adjudicated to a final judgment (the **“Class Members”**).

| | |
|--|--|
| <p align="center">WHAT IS THE CLASS ACTION ABOUT?</p> | <p>Proposed class action proceedings were brought against the defendants Apple Canada Inc. and Apple Inc. (together, “Apple”) in British Columbia, Ontario, Saskatchewan and Alberta (the “Proceedings”) in connection with allegations of (i) performance mitigation features of iOS operating software versions 10.2.1, 10.3, 11 and/or 11.2 for iPhones; (ii) defects causing the iPhones to prematurely age, degrade and shut down unexpectedly; (iii) defects in the performance of the iPhone batteries; and (iv) misrepresentations or intentional concealment concerning the foregoing. The Proceedings included a class action proceeding <i>Nicholas Stephen Crema v. Apple Inc. and Apple Canada Inc.</i>, British Columbia Supreme Court Vancouver Registry Action No. S-188008 (the “Class Action”).</p> |
| <p align="center">WHO IS AFFECTED BY THE CLASS ACTIONS?</p> | <p>The Class Action affects the rights of all Class Members. If you are a Class Member and you did not opt out, you are automatically included in the Class Action.</p> |
| <p align="center">WHAT SETTLEMENT HAS BEEN REACHED?</p> | <p>Apple has agreed to make a minimum, non-reversionary payment of \$11,137,500 and a maximum payment of \$14,427,500, depending on the number of claims submitted, and each Class Member who does not opt out and who submits a valid claim is to receive a cash payment (the “Settlement”). The amount of the cash payment depends on the total number of approved claims and other factors.</p> <p>The Settlement is a compromise of disputed claims and is not an admission of liability or wrongdoing by Apple. The Settlement was approved by the British Columbia Supreme Court on [DATE].</p> |
| <p align="center">HOW DOES THIS AFFECT ME?</p> | <p>Class Members are eligible for compensation for each Approved Claim. To claim compensation, Class Members must submit a completed Claim Form no later than [DATE] (the “Claim Deadline”). If you do not file a</p> |

| | |
|--|---|
| | Claim Form by the Claim Deadline, you will not be able to claim money from the Settlement, and your claim will be extinguished. |
| WHERE CAN I GET MORE INFORMATION? | This notice is a summary. For more information about how to claim compensation, please contact the Claims Administrator and see the long-form Notice online at: • [LINK TO SETTLEMENT ADMINISTRATOR'S WEBSITE] |
| WHO IS CLASS COUNSEL? | The law firm of Garcha & Company represents the Class Members: Telephone (toll-free): • Email: • Mail: #405 – 4603 Kingsway, Burnaby, BC V5H 4M4 Attn: iPhone Power Management Class Action |
| WHO IS THE CLAIMS ADMINISTRATOR? | The Court has appointed [CLAIMS ADMINISTRATOR] as the Claims Administrator of the Settlement. The Claims Administrator can be contacted at: Email: • Telephone: • Fax: • |

This notice was authorized by the Supreme Court of British Columbia

Schedule I – Form of Long Form Notice of Claims Procedure

APPLE IPHONE POWER MANAGEMENT CLASS ACTION

NOTICE OF SETTLEMENT APPROVAL

This notice is directed to:

All individuals, both corporate and natural persons, who are or were domiciled in Canada, excluding persons who are Quebec residents as of **[Execution Date of the Settlement Agreement]**, who:

- (i) purchased and/or owned Apple iPhone 6, 6 Plus, 6s, 6s Plus, SE, 7 and 7 Plus smartphones; and
- (ii) installed or downloaded iOS version 10.2.1 or later (for iPhone 6, 6 Plus, 6s, 6s Plus, and SE) or iOS version 11.2 or later (for iPhone 7 and 7 Plus) before December 21, 2017

and their estates, administrators or other legal representatives, heirs or beneficiaries but excluding:

- (i) directors, officers, and employees of Apple or its subsidiaries and affiliated companies, as well as Apple's legal representatives, heirs, successors, or assigns;
- (ii) any member of the judiciary presiding over this matter; and
- (iii) any other individuals whose claims already have been adjudicated to a final judgment.

(the "Class Members").

READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS. YOU MAY NEED TO TAKE PROMPT ACTION.

Important Deadline

Claim Deadline (to file a claim for compensation): **[DATE]**

Claims Forms may not be accepted after the Claims Deadline. As a result, it is necessary that you act without delay.

Purpose of this Notice

The purpose of this Notice is to advise Class Members of the approval of the settlement of the proceeding styled as *Nicholas Stephen Crema v. Apple Inc. and Apple Canada Inc.*, British Columbia Supreme Court Vancouver Registry Action No. S-188008 (the "Class Action") brought on behalf of the Class Members. This notice provides Class Members with information about how to apply for compensation from the Settlement. **Class Members who wish to apply for compensation must do so by [DATE].**

Court Approval of the Settlement

In 2018, proposed class proceedings were commenced against the defendants Apple Inc. and Apple Canada Inc. (together, “**Apple**”):

- (v) in the British Columbia Supreme Court styled as *Crema v. Apple Inc. and Apple Canada Inc.* (S-188008) and *Strohmaier v. Apple Inc. and Apple Canada Inc.* (S-186592);
- (vi) in the Ontario Superior Court of Justice styled as *Gaudio v. Apple Inc. and Apple Canada Inc.* (479/18CL), *Collins Swartz v. Apple Inc. and Apple Canada Inc.* (CV-18-591399), and *Saleh v. Apple Inc. and Apple Canada Inc.* (CV-18-592677-00CP);
- (vii) in the Saskatchewan Court of King’s Bench styled as *Blythman v. Apple Inc. and Apple Canada Inc.* (QB6 302 OT 2018); and
- (viii) in the Alberta Court of King’s Bench styled as *Hibanaura v. Apple Inc. and Apple Canada Inc.* (1803 02688)

(the “**Proceedings**”).

The Proceedings relate to allegations of (i) performance mitigation features of iOS operating software versions 10.2.1, 10.3, 11 and/or 11.2 for iPhones; (ii) defects causing the iPhones to prematurely age, degrade and shut down unexpectedly; (iii) defects in the performance of the iPhone batteries; and (iv) misrepresentations or intentional concealment concerning the foregoing.

On [DATE], the British Columbia Supreme Court certified the Class Action as a multi-jurisdictional class proceeding for settlement purposes and authorized Nicholas Stephen Crema to act as representative plaintiff on behalf of the Class Members.

The parties have engaged in lengthy settlement negotiations. On ●, the plaintiffs in the Proceedings and Apple executed a Settlement Agreement providing for the settlement of the Proceedings and the Class Action (the “**Settlement**”).

Apple has agreed to pay between CAD\$11,137,500 and CAD\$14,427,500 (the “**Settlement Funds**”) in consideration of the full and final settlement of the claims of Class Members, including but not limited to the Class Action and the Proceedings. In return for the payment of the Settlement Funds, the Settlement provides that the claims of all Class Members asserted or which could have been asserted in the Class Action or the Proceedings will be fully and finally released and the Class Action will be dismissed. The Settlement is not an admission of liability, wrongdoing, or fault on the part of Apple, which denies the allegations against it.

On [DATE], the court approved the Settlement and ordered that it be implemented in accordance with its terms.

The Settlement Funds will be paid out in accordance with the Distribution Protocol in the Settlement Agreement, a partial summary of which follows. For more details, please refer to the Settlement Agreement available at [WEBSITE].

Class Members' Entitlement to Compensation

Pursuant to the court order approving the Settlement, the claims of Class Members that were or could have been asserted in the Class Action are now released and the Class Actions have been dismissed. Class Members may not pursue individual or class actions for those claims, regardless of whether or not they file a claim for compensation from the Settlement. **The Settlement therefore represents the only means of compensation available to Class Members in respect of the claims raised in the Class Action.**

Class Members will be eligible for compensation pursuant to the Settlement if they submit a completed Claim Form to the Claims Administrator, and their claim satisfies the criteria set out in the Distribution Protocol.

To be eligible for compensation under the Settlement, Class Members must submit their Claim Form and supplementary documentation, which must be received by **no later than [TIME] PT on [DATE]** (the "**Claim Deadline**"). Only Class Members are permitted to recover from the Settlement.

The claims approved by the Claims Administrator (the "**Approved Claims**"), Class Counsel Fees, Administration Expenses and any honorariums for the plaintiffs in the Proceedings will be paid out of the Settlement Funds in accordance with the Distribution Protocol.

Each Class Member who submits an Approved Claim will receive a portion of the Settlement Funds. As explained below, the payment per Approved Claim depends on the actual number of approved claims and other factors, including Class Counsel Fees, Administration Expenses and any honorariums for the plaintiffs in the Proceedings.

Apple will provide a cash payment for each Approved Claim, provided that Apple will not pay more than the Maximum Settlement Amount and will not pay less than the Minimum Settlement Amount. If the total value of Approved Claims, Class Counsel Fees, Administration Expenses and any honorariums for the plaintiffs in the Proceedings exceeds the Maximum Settlement Amount, the value of each Approved Claim will be reduced on a *pro rata* basis. Additionally, under the Settlement, total value of Approved Claims, Class Counsel Fees, Administration Expenses and any honorariums for the plaintiffs in the Proceedings does not exceed the Minimum Settlement Amount, the value of each Approved Claim may be increased on a *pro rata* basis, up to a maximum of CAD\$150 per device.

In addition to approving the Settlement, on [DATE], the court also awarded Class Counsel legal fees, expenses, applicable taxes and disbursements ("**Class Counsel Fees**") in the amount equal to 25% of the funds sufficient to pay the Approved Claims in accordance with the Distribution Protocol (the "**Settlement Claim Funds**"). As is customary in such cases, Class Counsel conducted the Class Action on a contingency fee basis. Class Counsel was not paid as the matter proceeded and funded the expenses of conducting the litigation. Class Counsel Fees will be deducted from the Settlement Funds before they are distributed to the Class Members.

Expenses incurred or payable relating to the approval, notification, implementation and administration of the Settlement ("**Administration Expenses**") will also be paid from the Settlement Funds before they are distributed to Class Members.

The representative plaintiffs in the Proceedings will be paid honorariums from the Settlement Funds before they are distributed to Class Members.

Under no circumstances will any of the Minimum Settlement Amount revert to Apple. In the event that the Approved Claims, Class Counsel Fees, Administration Expenses and any honorariums for the plaintiffs in the Proceedings are less than the Minimum Settlement Amount after the value of each Approved Claim is increased on a *pro rata* basis up to CAD\$150 per device, any amounts remain undistributed will be allocated *cy-près* to a charity or charities chosen by Apple and approved by the court if needed.

Administrator

The Court has appointed [**CLAIMS ADMINISTRATOR**] as the Claims Administrator of the Settlement. The Claims Administrator will, among other things: (i) receive and process the Claim Forms; (ii) determine Class Members' eligibility for and entitlement to compensation pursuant to the Distribution Protocol; (iii) communicate with Class Members regarding claims for compensation; and (iv) manage and distribute the Settlement Amount in accordance with the Settlement Agreement and the orders of the court. The Claims Administrator can be contacted at:

Email: ●
Telephone: ●
Fax: ●

Filing a Claim

All claims for compensation from the Settlement must be received by the Claims Administrator no later than [**DATE**].

The most efficient way to file a claim is to visit the Claims Administrator's website at [**WEBSITE ADDRESS**]. The website provides step-by-step instructions on how to file a claim. In order to verify claims, the Claims Administrator will require certain information and supporting documentation, including: the Class Member's iPhone serial number(s). **Accordingly, Class Members should visit the Administrator's website as soon as possible so that they have time to obtain the required documentation prior to the Claim Deadline.**

The Claims Administrator will also accept Claim Forms filed by mail or courier. To obtain a copy of the Claim Form, Class Members may print one from the Claims Administrator's website or contact the Claims Administrator to have one sent by regular mail or email. Forms sent by mail or courier should be sent to: ●.

Class Members with questions about how to complete or file a Claim Form, or the documentation required to support a claim, should contact the Claims Administrator via the contact information provided above.

Copies of Settlement Documents

Copies of the Settlement Agreement, Distribution Protocol, the Claim Form and the orders of the Courts may be found on the Claims Administrator's website ([**INSERT LINK**]) or by contacting Class Counsel via the contact information provided below.

Class Counsel

The law firm of Garcha & Company are Class Counsel. Inquiries may be directed to:

Telephone (toll-free): ●

Email: ●

Mail: #405 – 4603 Kingsway, Burnaby, BC V5H 4M4

Attn: iPhone Power Management Class Action

Interpretation

Capitalized terms not defined herein are as defined in the Settlement Agreement.

If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

PLEASE DO NOT CONTACT THE COURTS WITH INQUIRIES ABOUT THE CLASS ACTION OR THE SETTLEMENT. All inquiries should be directed to the Claims Administrator or Class Counsel.

DISTRIBUTION OF THIS NOTICE HAS BEEN AUTHORIZED BY THE BRITISH COLUMBIA SUPREME COURT