

CANADA

PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

No.: 500-06-001132-212

**SUPERIOR COURT**  
(Class Actions)

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**GABRIEL BOURGEOIS**

Applicant

v.

**ELECTRONICS ARTS INC.,**  
and  
**ELECTRONICS ARTS (CANADA),**  
and  
**ACTIVISION BLIZZARD INC.,**  
and  
**ACTIVISION PUBLISHING INC.,**  
and  
**BLIZZARD ENTERTAINMENT INC.,**  
and  
**TAKE TWO INTERACTIVE SOFTWARE**  
**INC.,**  
and  
**TAKE TWO INTERACTIVE CANADA**  
**HOLDINGS INC.,**  
and  
**2K GAMES INC.,**  
and  
**ROCKSTAR GAMES INC.,**  
and  
**WARNER BROS ENTERTAINMENT INC.,**  
and  
**WARNER BROS ENTERTAINMENT**  
**CANADA INC.,**  
and  
**WARNER BROS. HOME ENTERTAINMENT**  
**INC.,**  
and  
**UBISOFT ENTERTAINMENT SA.,**  
and  
**UBISOFT INC.,**  
and  
**UBISOFT ENTERTAINMENT INC. /**  
**UBISOFT DIVERTISSEMENTS INC.,**  
and  
**MICROSOFT CORPORATION,**  
and  
**MICROSOFT CANADA INC.,**  
and  
**EPIC GAMES INC.,**  
and

**EPIC GAMES CANADA ULC,**  
and  
**SCOPELY INC.,**  
and  
**NIANTIC INC.,**  
and  
**KING DIGITAL ENTERTAINMENT GROUP  
INC.,**  
and  
**KING.COM LTD.,**  
and  
**ZYNGA INC.,**  
and  
**ZYNGA GAME CANADA LTD**

Respondents

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**APPLICATION FOR AUTHORIZATION TO DISCONTINUE AGAINST EPIC GAMES INC.  
AND EPIC GAMES CANADA ULC  
(Article 19 and 585 of the C.C.P.)**

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**IN SUPPORT OF HIS APPLICATION FOR AUTHORIZATION OF A DISCONTINUANCE, THE  
APPLICANT RESPECTFULLY SUBMITS:**

**INTRODUCTION**

1. The Applicant seeks leave of the court to discontinue his *Re-Amended Application for Authorization to Institute a Class Action & Obtain the Status of Representative Plaintiff* (“**Re-Amended Authorization Application**”) against the defendants Epic Games inc. and Epic Games Canada ULC (“**Epic**”).

**NATIONAL SETTLEMENT APPROVED**

2. By consent, and as was communicated to this Honourable Court on June 30, 2022, the Parties involved in this action and the Vancouver action proceeded before the Supreme Court of British Columbia for the purpose of concluding a multijurisdictional settlement for the benefit of all Canadian class members, including Québec residents.
3. On February 15, 2023, the Honourable Justice Majawa of British Columbia, approved a Canada-wide settlement resolving the matters at issue in this action against Epic, including Québec residents, in the parallel class action on the same issue in British Columbia *Glenn Johnston v. Epic Games et al.* (Court File No. S-220088, as appears on the copy of the Settlement Approval Order of the Supreme Court of British Columbia, which includes the Settlement Agreement executed by those parties as Schedule A to the Order, filed in support of this application as **Exhibit AP-1**).
4. In brief, highlights of this multijurisdictional settlement are:
  - a. The settlement is for CAD \$2,750,000, inclusive of disbursements, fees, administration and notice costs, as seen in Section 3.1 of the Settlement Agreement, Exhibit AP-1.

- b. The rights held by Québec class members are the same as those held by class members residing in other provinces as the Settlement proposes to distribute to each valid Class Member a maximum of \$25.00, the value of which corresponds to cover a significant majority of the average value of real money spent by players on in-game purchases in Epic's video games, as seen on the copy of the letter dated February 10, 2023 from Epic's legal counsel to Class Counsel **Exhibit AP-2**.
- c. Court-approved notice of the proposed settlement was disseminated widely across Canada in both French and English, through direct email notice, a social media campaign as well as dedicated settlement websites, with all settlement documents available in both languages, in conformity with Section 11.3 of the Settlement Agreement.
- d. Notice was published on the Québec Registry of Class Actions in French and English.
- e. Class Counsel located in Montréal responded to incoming inquiries regarding the proposed settlement, including inquiries from potential class members residing in Québec residents and/or who were French speaking.
- f. Finally, the Claims Administrator, Paiements Velvet Payments inc., is a Québec-based class actions administrator with fully bilingual operations based out of Montréal, Québec.

## LEGAL PRINCIPLES ON DISCONTINUANCE

- 5. Article 585 C.C.P. sets out that Court authorization is required to discontinue an application for authorization:

585. Le représentant doit être autorisé par le tribunal pour modifier un acte de procédure, se désister de la demande ou d'un acte de procédure ou renoncer aux droits résultant d'un jugement. Le tribunal peut imposer les conditions qu'il estime nécessaires pour protéger les droits des membres. L'aveu fait par le représentant lie les membres, sauf si le tribunal considère que cet aveu leur cause un préjudice.

585. The representative plaintiff must have the authorization of the court to amend a pleading, to discontinue the application, to withdraw a pleading or to renounce rights arising from a judgment. The court may impose any conditions it considers necessary to protect the rights of the class members. An admission by the representative plaintiff is binding on the class members unless the court considers that the admission causes them prejudice.

- 6. At the pre-authorization stage, the Court's role to protect the rights and interests of class members residing in Québec empowers them to refuse discontinuance of a proposed class action in favour of a multijurisdictional class action instituted outside of Québec pursuant to article 577 C.C.P.:

577. Le tribunal ne peut refuser d'autoriser l'exercice d'une action collective en se fondant sur le seul fait que les membres du groupe

577. The court cannot refuse to authorize a class action on the sole ground that the class

décrit font partie d'une action collective multiterritoriale déjà introduite à l'extérieur du Québec.

Il est tenu, s'il lui est demandé de décliner compétence ou de suspendre une demande d'autorisation d'une action collective ou une telle action, de prendre en considération dans sa décision la protection des droits et des intérêts des résidents du Québec.

Il peut aussi, si une action collective multiterritoriale est intentée à l'extérieur du Québec, refuser, pour assurer la protection des droits et des intérêts des membres du Québec, le désistement d'une demande d'autorisation ou encore autoriser l'exercice par un autre demandeur ou représentant d'une action collective ayant le même objet et visant le même groupe s'il est convaincu qu'elle assure mieux l'intérêt des membres.

members are part of a multi-jurisdictional class action already under way outside Québec.

If asked to decline jurisdiction, to stay an application for authorization to institute a class action or to stay a class action, the court is required to have regard for the protection of the rights and interests of Québec residents.

If a multi-jurisdictional class action has been instituted outside Québec, the court, in order to protect the rights and interests of class members resident in Québec, may disallow the discontinuance of an application for authorization, or authorize another plaintiff or representative plaintiff to institute a class action involving the same subject matter and the same class if it is convinced that the class members' interests would thus be better served.

7. In *École communautaire Belz c. Bernard*, [2021 QCCA 905](#), the Court of Appeal confirms that the Court's determination of whether to authorize an application for discontinuance of a proposed class action is limited to ensuring that the rights of the potential class members are not prejudiced and that the best interest of justice is protected:

[8] Son rôle, plaident-ils, se limite à deux choses : 1) s'assurer que le désistement ne cause pas de préjudice aux membres putatifs du groupe envisagé et 2) qu'il ne porte pas atteinte à l'intégrité du système de justice. Au-delà de cette analyse, le juge n'a pas à décider si le désistement est opportun, et, ainsi, n'a pas à évaluer la suffisance des raisons qui le motivent. La décision de se désister préalablement à l'autorisation, ajoutent-ils, appartient au requérant et à son avocat.

8. In their treatment of an application to discontinue an application to authorize a class action, the Court must also consider whether a notice to class members informing them of a discontinuance is required in the circumstances. A notice will be required notably where the discontinued claims remain unresolved the class members need to be informed if action is required to preserve their rights (see *Union des consommateurs c. Telus communications inc.*, [2021 QCCS 2681](#), par. 17, 59-67).
9. The Superior Court of Québec has granted applications for discontinuance in favour of a multijurisdictional settlement approved by a Superior Court in another Canadian jurisdiction in similar circumstances: see *Courneyea c. XL Foods inc.*, [2015 QCCS 6380](#); also see *Dessis c. Cash Store Financial Services Inc.*, [2016 QCCS 4545](#).
10. In *Dessis*, the Superior Court held that the rights of the Québec class members were protected because the potential class members resident in Québec had all the same rights as the class members located in other provinces:

[21] Le Tribunal estime que les droits des membres du Québec sont protégés. Rappelons que toutes les parties conviennent d'un règlement et que les membres du Québec possèdent les mêmes droits que les autres membres du groupe national. Après publication des avis dans les journaux et dans les deux langues officielles du Canada, la transaction

est approuvée par la Cour supérieure de justice de l'Ontario, tant en regard de la *Loi sur les arrangements avec les créanciers des compagnies* que de la *Class Proceedings Act* de l'Ontario. Toutes les parties consentent au désistement.

## **BENEFIT TO PROPOSED CLASS MEMBERS and ENHANCEMENT OF INTEGRITY OF JUSTICE SYSTEM**

11. The Application for Discontinuance does not negatively affect the interests of proposed class members.
12. Like in *Dessis*, the potential class members resident in Québec had all the same rights as the class members located in other provinces and the potential class members were provided notice in a fully bilingual manner.
13. All potential class members, including those located in Québec, were informed of their rights to Opt-Out or Object to the proposed settlement and had the benefit of access to the court-approved settlement. Any potential class members who were not interested in participating, but received court approved notice, had the opportunity to opt-out.
14. Not only is there an absence of prejudice to any proposed class members, but the entered court order with the Settlement Agreement appended is evidence of benefit to class members.
15. As the claims held by class members are resolved, there is no situation that requires a Notice to potential class members informing them of the discontinuance.
16. Second, granting the discontinuance requested would not undermine the integrity of the justice system in any way.
17. Rather, granting the application would promote the integrity of the justice system as it would support the class action objective of judicial economy as well as the principles of interprovincial comity.
18. Authorizing the discontinuance in these circumstances would serve judicial economy by avoiding unnecessary duplication before two jurisdictions in fact finding and legal analysis that has already been done before the Supreme Court of British Columbia. The efficiencies generated by this can now be directed at resolving other conflicts. This is the essence of judicial economy as described by the Supreme Court of Canada in *Western Canadian Shopping Centres Inc. v. Dutton*, [2001 SCC 46](#), par. 27.
19. Furthermore, granting this application for discontinuance would align with the “spirit of mutual comity that is required between the courts of different provinces in the Canadian legal space”, as underlined by the Supreme Court of Canada in their discussion of the importance of the principles of interprovincial comity in the context of class actions in *Canada Post Corp. v. Lépine*, [2009 SCC 16](#), par. 57.

## **FOR THESE REASONS, MAY IT PLEASE THE COURT:**

**ACCEILLIR** la présente demande;

**GRANT** the present application;

**AUTORISER** le requérant à se désister de sa *Re-Amended Application for Authorization to Institute a Class Action & Obtain the Status of Representative Plaintiff*, à l'encontre des défenderesses Epic Games inc. et Epic Games Canada ULC;

**PERMETTRE** le requérant de produire son désistement au dossier de la Cour dans les 15 jours de la date du présent jugement;

**LE TOUT** sans frais de justice.

**AUTHORIZE** the Applicant to discontinue their *Re-Amended Application for Authorization to Institute a Class Action & Obtain the Status of Representative Plaintiff* against Epic Games Inc. and Epic Games Canada ULC;

**ALLOW** the Applicant to file their discontinuance in the court record within 15 days following the date of this judgment;

**THE WHOLE** without legal costs.

Montréal, March 13, 2023



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**SLATER VECCHIO LLP**

**Me Saro Turner**

**Me Andrea Roulet**

Attorneys for Gabriel Bourgeois

5352 Saint Laurent boulevard

Montréal, Québec, H2T 1S1

Tel. : 514-534-0962

Fax : 514-552-9706

[acr@slatervecchio.com](mailto:acr@slatervecchio.com)

[sit@slatervecchio.com](mailto:sit@slatervecchio.com)



AP-1

No. S-220088

Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

Between

GLENN JOHNSTON

PLAINTIFF

and

EPIC GAMES INC AND EPIC GAMES CANADA ULC

DEFENDANTS

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

BEFORE } THE HONOURABLE JUSTICE MAJAWA } 15/FEB/2022

**ON THE APPLICATION OF** the Plaintiff coming on for hearing before the Honourable Mr. Justice Majawa at the Courthouse at 800 Smithe Street, Vancouver, British Columbia on February 15, 2023; and on hearing Saro Turner, Sam Jaworski, Ryan Matheuszik, and Andrea Roulet, lawyers for the plaintiff, and Nick Rodrigo and Faiz Lalani, lawyers for the defendants;

**ON READING** all materials filed and on hearing the submissions of counsel for the parties;

**AND ON BEING ADVISED** that all parties consent to the Order;

1. THIS COURT ORDERS that the terms of the settlement agreement reached between the parties as set out in the Settlement Agreement attached as **Schedule "A"** to this Order are hereby approved and that all capitalized terms in this Order have the same meaning as defined in such Settlement Agreement;
2. THIS COURT ORDERS AND DECLARES that the Settlement Agreement is fair, reasonable and in the best interest of the Class Members.
3. THIS COURT ORDERS AND DECLARES that, the Settlement Agreement is approved pursuant to section 35 of the *Class Proceedings Act*, R.S.B.C. 1996, c. 50 and shall be implemented in accordance with its terms;
4. THIS COURT ORDERS AND DECLARES that the **Releasors**, other than those who opt-out of the Settlement and as specified below, have fully and finally released the **Releasees** from the **Released Claims** pursuant to the following terms:

- a. **Proceedings** means both the B.C. Action and the Quebec Action;
- b. **B.C. Action** means *Johnston v Epic Games, Inc. et al.*, SCBC S-220088 (Vancouver);
- c. **Quebec Action** means *Bourgeois v Electronic Arts Inc et al*, No 500-06-001132-212 (Montreal);
- d. **Released Claims** means any and all manner of claims, demands, actions, suits, debts, judgments, losses, causes of action, whether class, individual or otherwise in nature, whether personal or subrogated, damages of any kind (including compensatory, punitive or other damages) whenever incurred, liabilities of any nature whatsoever, including interest, costs, expenses, class administration expenses, penalties, and lawyers' fees (including Class Counsel Fees), relating in any way to any conduct anywhere related to, arising from, or described in the Proceedings (or which could have been alleged in the Proceedings) prior to the date hereof including, without limitation, any such claims which have been, might have been, are now, or could have been asserted by any Plaintiff or any Class Member in an individual or representative capacity, directly or indirectly, arising out of, based upon, or related to, in whole or in part, the alleged facts and circumstances underlying the claims and causes of action set forth in the Proceedings.
- e. **Releasees** means, jointly and severally, individually and collectively, the Settling Defendants and all of their present and former direct and indirect parents, owners, subsidiaries, divisions, affiliates, associates, partners, insurers, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and all of their respective past, present and future officers, directors, employees, agents, shareholders, lawyers, attorneys, trustees, servants and representatives, members, managers and the predecessors, successors, purchasers, heirs, executors, administrators, assigns, beneficiaries and *ayants-droits* of each of the foregoing
- f. **Releasors** means, jointly and severally, individually and collectively, the Plaintiffs and the Class Members and their respective parents, subsidiaries, affiliates, predecessors, successors, heirs, executors, administrators, insurers, assigns, beneficiaries *and ayants droits*.
- g. The Class Counsel and Counsel for the Defendants acknowledge that the Released Parties and the Released Claims do not include personal injury claims, such as those set forth in the authorized class action *F.N. c. Epic Games* before the Quebec Superior Court file No. File No. 500-06-001024-195. Those claims do not overlap with the issues settled in this Settlement.
- h. 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 will fully, finally, forever and absolutely release, relinquish, acquit, and discharge the Releasees from and for the Released Claims that any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have, and shall not now or hereafter institute, maintain, or assert on their own behalf, on behalf of the Class, or on behalf of any other person or entity, any Released Claims.

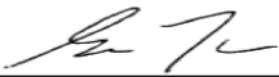
- i. Without limiting any other provisions herein, each Releasor who did not opt out will be deemed by the Settlement Agreement completely and unconditionally to have released and forever discharged the Releasees from any and all Released Claims, including all claims, actions, causes of action, suits, debts, duties, accounts, bonds, covenants, contracts, and demands whatsoever, whether known or unknown, that were asserted or could have been asserted in the Proceedings that are the subject of this Settlement Agreement or in relation to any of the facts alleged therein.
  - j. Upon the Effective Date, each Releasor will be forever barred and enjoined from continuing, commencing, instituting, maintaining, asserting or prosecuting, 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, litigation, investigation or other proceeding in any court of law or equity, arbitration, tribunal, proceeding, governmental forum, administrative forum, or any other forum, directly, representatively, or derivatively, against any of the Releasees, and/or any other person or third-party who may claim contribution or indemnity or claim over other relief from any Releasee, in respect of any Released Claims. For greater certainty and without limiting the foregoing, the Releasors shall not assert or pursue a Released Claim against any Releasee under the laws of any foreign jurisdiction.
  - k. Upon the Effective Date, each Class Member shall be deemed to irrevocably consent to the dismissal, without costs and with prejudice, of any other action or proceeding relating to the Released Claims against the Releasees and all such actions shall be dismissed, without costs and with prejudice.
5. THIS COURT ORDERS AND DECLARES that the Distribution Protocol as attached at **Schedule "A"** to the Settlement Agreement is approved, on the following additional conditions:
- a. if there is any *cy pres* distribution, the parties will seek direction or approval of the Court with respect to the remaining 50% of the undistributed amounts that may be distributed to any recipient other than the Law Foundation of British Columbia, pursuant to Section 36.2(i)(b) of the Class Proceedings Act.
6. THIS COURT ORDERS AND DECLARES that Paiements Velvet Payments Inc. shall be appointed Claims Administrator and administer the Settlement according to the Distribution Protocol as set out in Schedule "A" to the Settlement Agreement.

7. THIS COURT ORDERS AND DECLARES that that this Court retains continuing exclusive jurisdiction over the Class to administer, supervise, construe and enforce this Settlement Agreement;

8. THIS COURT ORDERS AND DECLARES that the parties may bring such motions to this Court for directions as may be required until the Effective Date;

9. THIS COURT ORDERS that upon the Effective Date, the B.C. Action shall be dismissed with prejudice as against the Settling Defendants and without costs to the Parties.

**THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER:**



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Signature of Lawyer for the Plaintiff  
Saro J. Turner



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Signature of Lawyer for the Defendants  
Nick Rodrigo

Digitally signed by  
Majawa, J

BY THE COURT

Digitally signed by  
Leung, Winnie

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REGISTRAR

**SCHEDULE A**  
to the Order Made After Application

**CANADIAN NATIONAL SETTLEMENT AGREEMENT**

Made as of October 5, 2022

Between

**GABRIEL BOURGEOIS AND GLENN JOHNSTON**

and

**EPIC GAMES, INC. AND EPIC GAMES CANADA ULC**

**RECITALS**

WHEREAS the Petitioner Bourgeois filed an application for authorization on March 2, 2021, as a proposed class proceeding (S.C.Q. 500-06-001132-212);

WHEREAS the Plaintiff Johnston commenced the B.C. Action on January 7, 2022, as a proposed class proceeding (S.C.B.C. S-220088);

WHEREAS the Settling Defendants deny the allegations and do not admit, through the execution of this Settlement Agreement or otherwise, any unlawful conduct, liability, wrongdoing, or fault of any kind by any Settling Defendant, as alleged in the Proceedings or otherwise;

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

WHEREAS the Parties intend by this Settlement Agreement to resolve all past, present and future claims of the Plaintiffs and Class Members arising out of or relating to the Proceedings;

WHEREAS the Parties, with the benefit of a prior resolution of similar claims in the United States, engaged in arm's-length settlement discussions and negotiations, that resulted in this Settlement Agreement, which includes all of the terms and conditions of the settlement between the Settling Defendants and the Plaintiffs, both individually and on behalf of the Class Members they seek to represent, subject to the approval of the B.C. Court;

WHEREAS Class Members with active accounts have already received certain benefits from the Settling Defendants in the form of V-Bucks and Credits automatically applied to their accounts;

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

**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 all claims of the Plaintiffs and Class Members in the Proceedings be settled and dismissed with prejudice without costs, subject to the approval of the Courts, on the following the terms and conditions:

## **Section 1 Definitions**

- 1.1 For the purposes of this Settlement Agreement only, including the Recitals and Schedules hereto:
- (a) **B.C. Action** means *Johnston v Epic Games, Inc. et al.*, SCBC S-220088 (Vancouver);
  - (b) **B.C. Court** means the Supreme Court of British Columbia;
  - (c) **Class** means “All legal and natural persons and their guardians/tutors or estates, who purchased random-item loot boxes in *Rocket League* or *Fortnite* at any time who were residents of Canada”;
  - (d) **Class Counsel** means Mathew P Good Law Corporation and Slater Vecchio LLP;
  - (e) **Class Counsel Fees** includes the fees and disbursements of Class Counsel, and any applicable taxes thereon;
  - (f) **Class Members** means members of the Class;
  - (g) **Courts** means the B.C. Court and the Quebec Court;
  - (h) **Defence Counsel** means Davies Ward Phillips & Vineberg LLP;
  - (i) **Distribution Protocol** means the protocol attached as **Schedule A**;
  - (j) **Effective Date** means the date set out in **section 4.3(f)**;
  - (k) **Final Order** means the later of a final judgment pronounced by the B.C. Court approving this Settlement Agreement in accordance with its terms, once the time to appeal such judgment has expired without any appeal being taken, or once there has been an affirmation of the approval of this Settlement Agreement in accordance with its terms, upon a final disposition of all appeals;
  - (l) **Honourarium** means any payment awarded individually to the Plaintiff in the B.C. in consideration of the Plaintiff’s time, effort, and result obtained for Class Members, as approved by the B.C. Court;
  - (m) **Notice** means the short form and long form of notice as approved by the B.C. Court as described in **section 11.2**;
  - (n) **Opt-Out Deadline** means the date which is thirty (30) days after the date the Notice is first published;

- (o) **Parties** means the Plaintiffs and Settling Defendants;
- (p) **Plaintiff Bourgeois** means Gabriel Bourgeois in the Quebec Action;
- (q) **Plaintiff Johnston** means Glenn Johnston in the B.C. Action;
- (r) **Plaintiffs** means both Glenn Johnston and Gabriel Bourgeois;
- (s) **Proceedings** means both the B.C. Action and the Quebec Action;
- (t) **Quebec Action** means *Bourgeois v Electronic Arts Inc et al*, No 500-06-001132-212 (Montreal);
- (u) **Quebec Class** means “All natural persons in Quebec, and their guardians or estates, who purchased random-item loot boxes in *Rocket League* or *Fortnite*”;
- (v) **Quebec Court** means the Superior Court of Quebec;
- (w) **Released Claims** means any and all manner of claims, demands, actions, suits, debts, judgments, losses, causes of action, whether class, individual or otherwise in nature, whether personal or subrogated, damages of any kind (including compensatory, punitive or other damages) whenever incurred, liabilities of any nature whatsoever, including interest, costs, expenses, class administration expenses, penalties, and lawyers' fees (including Class Counsel Fees), relating in any way to any conduct anywhere related to, arising from, or described in the Proceedings (or which could have been alleged in the Proceedings) prior to the date hereof including, without limitation, any such claims which have been, might have been, are now, or could have been asserted by any Plaintiff or any Class Member in an individual or representative capacity, directly or indirectly, arising out of, based upon, or related to, in whole or in part, the alleged facts and circumstances underlying the claims and causes of action set forth in the Proceedings.
- (x) **Releasees** means, jointly and severally, individually and collectively, the Settling Defendants and all of their present and former direct and indirect parents, owners, subsidiaries, divisions, affiliates, associates, partners, insurers, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and all of their respective past, present and future officers, directors, employees, agents, shareholders, lawyers, attorneys, trustees, servants and representatives, members, managers and the predecessors, successors, purchasers, heirs, executors, administrators, assigns, beneficiaries and *ayants-droits* of each of the foregoing.
- (y) **Releasors** means, jointly and severally, individually and collectively, the Plaintiffs and the Class Members and their respective parents, subsidiaries, affiliates, predecessors, successors, heirs, executors, administrators, insurers, assigns, beneficiaries and *ayants-droits*.
- (z) **Settlement Administrator** means Paiements Velvet Payments Inc.
- (aa) **Settlement Agreement** means this agreement, including recitals and schedules.

(bb) *Settling Defendants* means both of Epic Games, Inc. and Epic Games Canada ULC.

## Section 2 Condition Precedent

2.1 This Settlement Agreement shall be null and void and of no force or effect, subject to section 9.5 unless the B.C. Court approves this Settlement Agreement, and, if section 9.2 applies, the Quebec Court approves this Settlement Agreement for the Quebec Class.

## Section 3 Settlement Amount

3.1 Contingent on the approval of the Settlement Agreement by the B.C. Court (and/or the Quebec Court, as necessary), the Settling Defendants have agreed to pay the settlement amount of **CDN \$2,750,000** all inclusive (the “**Settlement Amount**”) on behalf of the Settling Defendants, without any admission of liability, in accordance with this Settlement Agreement.

3.2 The Parties acknowledge that funds will be required to pay for the Notice to class members prior to the issuance of the Settlement Approval Order, defined hereinbelow at section 11. These amounts will be remitted by the Settling Defendants to the Settlement Administrator to effect the Notice of the Settlement Approval Hearing described in section 11.1 and will be deducted from the Settlement Amount. The remainder of the Settlement Amount will be remitted to Settlement Administrator in trust within thirty (30) business days of the Effective Date, unless otherwise ordered by the B.C. Court.

3.3 The Settlement Amount shall be provided in full satisfaction of the Released Claims against the Releasees.

3.4 The Settlement Amount shall be all inclusive of all administration costs (including notice ), Class Counsel Fees, interest, costs, taxes, and any other expense whatsoever, though excluding translation costs, which will be borne by the Defendants.

3.5 The Settling Defendants shall have no obligation to pay to the Plaintiffs or the Class Members or any other party any amount in addition to the Settlement Amount, for any reason, pursuant to or in furtherance of this Settlement Agreement or the Proceedings.

3.6 Upon payment of the Settlement Amount to the Settlement Administrator after the Effective Date, the Settlement Administrator shall distribute the Settlement Amount as follows, subject to the approval of the B.C. Court:

- (a) As set out in section 5, to Class Counsel on account of Class Counsel Fees inclusive of all disbursements and applicable taxes, as approved by the B.C. Court;
- (b) As set out in section 6, to Class Counsel on account of any Honourarium awarded individually to the Plaintiff Johnston, as approved by the B.C. Court;
- (c) As set out in section 10 and Schedule A, to pay the costs of the Settlement Administrator under the Distribution Protocol, as approved by the B.C. Court;

- (d) As set out in section 10, to Class Members under the Distribution Protocol, as approved by the B.C. Court;
- (e) Following adjudication and payment of claims under the Distribution Protocol, six months after the Effective Date, any undistributed funds remaining will be distributed, as a *cy près* donation, with 50% of undistributed amounts going to the Law Foundation of British Columbia and the other 50% to one or more charitable organizations, agreed by the Parties, that may reasonably be expected to benefit Class Members.
- (f) To the extent that section 9.2 is engaged, then subsections 3.6(a) to (d) will be modified as follows:
  - (i) The Quebec Class's share of the Settlement Amount shall be 23%;
  - (ii) Class Counsel will ask the Quebec Court to approve fees on 23% of the Settlement Amount;
  - (iii) The *Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives* will apply on any remaining balance of the 23% share of the Settlement Amount attributable to the Quebec Class ;
  - (iv) The Distribution Protocol will be administered jointly for the Class and the Quebec Class;
  - (v) Following adjudication and payment of claims under the Distribution Protocol, six months after the Effective Date, any funds remaining attributable to the Quebec Class's 23% share of the Settlement Amount will be distributed as a *cy près* donation to one or more charitable organizations whose mission relates to promoting the wellbeing of those who consume video games and the Quebec Class, as agreed by the Parties, and subject to the approval of the Court.

#### **Section 4 Settlement Approval**

- 4.1 The Parties will use their best efforts to implement this settlement, obtain approval of this Settlement Agreement from the B.C. Court, and secure the prompt, complete and final disposition of the Proceedings.
- 4.2 The Parties agree to consent to certification of the Proceedings solely for settlement purposes.
- 4.3 Settlement approval shall be sought in the following way:
  - (a) As soon as practicable after execution of this Settlement Agreement, the Plaintiff Bourgeois will bring an application with the consent of the Settling Defendants before the Quebec Court to remove the Settling Defendants as respondents in the Quebec Action, in favour of the Settling Defendants' participation in the B.C. Action.
  - (b) As soon as practicable after execution of this Settlement Agreement, the Plaintiff Johnston and Class Counsel shall bring an application before the B.C. Court for consent certification

on behalf of the Class for settlement purposes only and approval of the Notice described in **section 11** (the “**Certification and Notice Approval Order**”).

- (c) The Certification and Notice Approval Order shall be substantially in the form attached as **Schedule B**.
- (d) As soon as practicable after (i) the Notice described in **section 11** has been published, and (ii) the deadline for opting out of the Class and objecting to the settlement have expired, the Plaintiff Johnston and Class Counsel shall bring an application before the B.C. Court for an order approving this Settlement Agreement (the “**Settlement Approval Order**”).
- (e) The Settlement Approval Order shall be substantially in the form attached as **Schedule C**.
- (f) If no appeal is taken from the Settlement Approval Order, the Settlement Approval Order will be deemed final 30 days after it is pronounced or, if any appeal is taken, upon the final disposition of the appeal.

## **Section 5 Class Counsel Fees**

- 5.1 Class Counsel may bring an application to the B.C. Court for approval of Class Counsel Fees contemporaneous with seeking approval of this Settlement Agreement or at such other time thereafter as they determine in their discretion.
- 5.2 Class Counsel Fees will be awarded at the discretion of the B.C. Court.
- 5.3 The Settling Defendants will not make submissions in relation to Class Counsel Fees.
- 5.4 The approval of Class Counsel Fees is not a material term of this Settlement Agreement and this Settlement Agreement shall not be contingent upon court approval of Class Counsel Fees. A separate order will be taken out dealing with Class Counsel Fees, disbursements, and any Honourarium for the Plaintiff Johnston.
- 5.5 Class Counsel Fees may only be paid out of the Settlement Amount after the Effective Date.
- 5.6 The Settling Defendants shall not be liable for any fees, disbursements, or taxes of any of Class Counsel or the Plaintiff Johnston’s or Class Members’ respective lawyers, experts, advisors, agents or representatives.

## **Section 6 Honourarium for Plaintiff Johnston**

- 6.1 Class Counsel may bring an application to the B.C. Court for approval of an Honourarium for the Plaintiff Johnson in the B.C. Action contemporaneous with seeking approval of this Settlement Agreement or at such other time thereafter as they determine in their discretion.
- 6.2 Any Honourarium to the Plaintiff Johnston will be awarded at the discretion of the B.C. Court.
- 6.3 The Settling Defendants will not make submissions in relation to any Honourarium for the Plaintiff Johnston.



- 6.4 The approval of an Honourarium to the Plaintiff Johnston is not a material term of this Settlement Agreement and this Settlement Agreement shall not be contingent upon court approval of any Honourarium for the Plaintiff Johnston.
- 6.5 Any Honourarium to the Plaintiff Johnston may only be paid out of the Settlement Amount after the Effective Date.
- 6.6 The Settling Defendants shall not be liable for any Honourarium to the Plaintiff Johnston or Class Members, if awarded by the B.C. Court.

## **Section 7 Releases and Dismissals**

- 7.1 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 Releasers will fully, finally, forever and absolutely release, relinquish, acquit, and discharge the Releasees from and for the Released Claims that any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have, and shall not now or hereafter institute, maintain, or assert on their own behalf, on behalf of the Class, or on behalf of any other person or entity, any Released Claims.
- 7.2 Without limiting any other provisions herein, each Releaser who did not opt out will be deemed by the Settlement Agreement completely and unconditionally to have released and forever discharged the Releasees from any and all Released Claims, including all claims, actions, causes of action, suits, debts, duties, accounts, bonds, covenants, contracts, and demands whatsoever, whether known or unknown, that were asserted or could have been asserted in the Proceedings that are the subject of this Settlement Agreement or in relation to any of the facts alleged therein.
- 7.3 Upon the Effective Date, each Releaser will be forever barred and enjoined from continuing, commencing, instituting, maintaining, asserting or prosecuting, 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, litigation, investigation or other proceeding in any court of law or equity, arbitration, tribunal, proceeding, governmental forum, administrative forum, or any other forum, directly, representatively, or derivatively, against any of the Releasees, and/or any other person or third-party who may claim contribution or indemnity or claim over other relief from any Releasee, in respect of any Released Claims. For greater certainty and without limiting the foregoing, the Releasers shall not assert or pursue a Released Claim against any Releasee under the laws of any foreign jurisdiction.
- 7.4 Upon the Effective Date, the B.C. Action shall be dismissed with prejudice as against the Settling Defendants and without costs to the Parties.
- 7.5 Upon the Effective Date, each Class Member shall be deemed to irrevocably consent to the dismissal, without costs and with prejudice, of any other action or proceeding relating to the Released Claims against the Releasees and all such actions shall be dismissed, without costs and with prejudice.

## **Section 8 No Admission of Liability**

- 8.1 The Parties agree that, whether or not this Settlement Agreement is finally approved or is terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions 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, regulation or law, or of any wrongdoing or liability by any Settling Defendant, or of the truth of any of the claims or allegations made in the Proceedings, or in any other pleading filed by the Plaintiffs.
- 8.2 The Parties further agree that, whether or not this Settlement Agreement is finally approved or is terminated, this Settlement Agreement, and anything contained herein, and any and all negotiations, documents, and discussions 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 in a proceeding to seek court approval of this Settlement Agreement, to give effect to and enforce the provisions of this Settlement Agreement, or to defend against the assertion of Released Claims, or as otherwise permitted by law.
- 8.3 Notwithstanding the Distribution Protocol and any payments to Class Members, and without restricting the generality of the foregoing, any distribution of funds pursuant to the distribution protocol is not an admission of liability or causation of damages in this or any Proceedings.

## **Section 9 Termination of Settlement Agreement**

- 9.1 The Parties expressly reserve all their respective rights and any Party may terminate this Settlement Agreement in the event that:
- (a) the B.C. Court declines to certify the B.C. Action for the purposes of settlement;
  - (b) the B.C. Court declines to approve this Settlement Agreement or any material part thereof or approves this Settlement Agreement in a materially modified form;
  - (c) the B.C. Court issues an order approving the settlement that is not substantially in the form attached to this Settlement Agreement as Schedule D; or
  - (d) the Settlement Approval Order does not become a final order.
- 9.2 If the Quebec Court declines to make the order under **section 4.3(a)**, then approval of this Settlement Agreement will be sought in the Quebec Court on behalf of the Quebec Class, on the same terms and with the same requirements as are otherwise applicable for the approval process before the B.C. Court for the Class, with whatever necessary procedural modifications are required in Quebec. If the Quebec Court declines to make the order under **section 4.3(a)**, that shall not constitute an event of termination under this Settlement Agreement. If the Quebec Court decides to make orders equivalent to those as referred to in **section 9.1**, then the Parties expressly reserve all their respective rights and any Party may terminate this Settlement Agreement.

- 9.3 Any order, ruling or determination with respect to Class Counsel Fees, Honourarium or the Distribution Protocol shall not be deemed to be a material modification of all, or a part, of this Settlement Agreement and shall not constitute any basis for the termination of this Settlement Agreement.
- 9.4 If material parts of the Settlement Agreement are not approved, or if approval of any material portion or provision of the Settlement Agreement is reversed or altered on appeal, or if terminated in accordance with **section 9.1**, then:
- (a) this Settlement Agreement shall become null and void and shall have no further force or effect except as provided for in **section 9.5** (Survival of Provisions after Termination);
  - (b) the Parties shall be restored to their respective positions in the Proceedings immediately prior to reaching the settlement;
  - (c) any order by the B.C. Court certifying the B.C. Action for the purposes of settlement or approving this Settlement Agreement shall be set aside and declared null and void and of no force or effect, and shall be without prejudice to any position of any of the Parties on any issue in the Proceedings or any other litigation;
  - (d) documents or communications related to the settlement (including the minutes of settlement, and this Settlement Agreement) shall have no force or effect and shall not be admissible in evidence for any purpose in the Proceedings or in any other proceeding.
- 9.5 If this Settlement Agreement is terminated or otherwise fails to take effect for any reason, the provisions of this Section and Sections 8, 9.1, 9.4, 13.3, and 13.5 and the definitions and Schedules applicable thereto shall survive the termination and continue in full force and effect. The definitions and Schedules shall survive only for the limited purpose of the interpretation of those aforementioned sections, within the meaning of this Settlement Agreement, but for no other purposes. All other provisions of this Settlement Agreement and all other obligations pursuant to this Settlement Agreement shall cease immediately.

## **Section 10 Administration**

- 10.1 The Settlement Administrator will be primarily responsible for the following (with assistance from Class Counsel where appropriate):
- (a) responding to inquiries from Class Members;
  - (b) receiving and maintaining Class Member correspondence regarding opting-out and objections to the Settlement and forwarding to this correspondence to Class Counsel without delay;
  - (c) publishing Notice; and
  - (d) reporting to the Court(s) on the outcome of the administration of the Distribution Protocol.

- 10.2 The costs of such administration are to be deducted from the Settlement Amount prior to distribution to Class Members.
- 10.3 The Parties will cooperate to assist the Settlement Administrator to transmit the Notice in accordance with **section 11** by email to potential Class members for whom the Settling Defendants can identify email addresses. The Settling Defendants are to provide email addresses to the Settlement Administrator where possible or otherwise facilitate dissemination of Notice by email. Unless with the Settling Defendants' prior consent, the emails provided by the Settling Defendants may only be used by the Settlement Administrator or their designate for the purpose of distributing the court-approved notice of certification and settlement.
- 10.4 Following the Effective Date and the transfer of funds under **section 3.2**, the Settlement Amount will be administered in accordance with the Distribution Protocol by the **Settlement Administrator**.
- 10.5 The Settlement Administrator's costs shall be paid from the Settlement Amount.
- 10.6 Under the Distribution Protocol, class membership will be proven by proof of receipt of the email notice of consent certification for settlement purposes or by proof of an account with the Settling Defendants that acquired random-item loot boxes in *Rocket League* or *Fortnite*.
- 10.7 The mechanics of the implementation and administration of this Settlement Agreement shall be determined by the B.C. Court, to the extent not provided for in this Settlement Agreement, if the Parties cannot agree. The B.C. Court is at liberty to amend the Distribution Protocol and such amendment shall not constitute any basis for the termination of this Settlement Agreement provided always that any payments made under the Distribution Protocol shall in no way constitute an admission of liability on the part of the Settling Defendants or any Releasee.

## **Section 11 Notice of the Settlement Approval Hearing**

- 11.1 Class Members will be given Notice of this Settlement Agreement and (i) the certification of the B.C. Action against the Settling Defendants for settlement purposes, (ii) the hearing at which the B.C. Court will be asked to approve the Settlement Agreement, and if brought contemporaneously, (iii) the requests to approve Class Counsel Fees and Honourarium.
- 11.2 The Notice described in **section 11.1** will be in the form attached as **Schedule C** (short form and long form) or as otherwise agreed by Class Counsel and Defence Counsel and approved by the B.C. Court, or in a form ordered by the B.C. Court.
- 11.3 The short and long form Notice shall be disseminated in English and French beginning within thirty (30) days following the issuance of the Certification and Notice Approval Order, in the following manner, unless otherwise ordered by the B.C. Court:
- (a) published through means of a Facebook, Instagram, Snapchat and TikTok campaign targeting members of the Class that will include a plain text message and a link to the Certification and Notice Approval Order in PDF format. The Facebook campaign shall run for a period of 20 days between the date of the Certification and Notice Approval Order and the date of the hearing on the Settlement Approval Order.

- (b) sent by email in accordance with **section 10.3**;
  - (c) posted by Class Counsel on Class Counsel's website, along with long form notice;
  - (d) posted by the Settlement Administrator on the claim website, along with long form notice.
- 11.4 All costs associated with the publication of the notice shall be paid from the Settlement Amount, except for any internal costs of the Parties.
- 11.5 If any court requires that additional notice be published, the Parties agree that the costs shall be paid from the Settlement Amount and the terms of payment shall follow the same procedure as for the Notice of the settlement approval hearing. To the extent that Class Counsel chooses to, or is ordered to publish any notice, press release or other communication to Class Members, the Settling Defendants shall review and approve the text of any such notice, press release or other communication prior to publication. The Defendants' approval of the text of any such notice shall not be withheld unreasonably.
- 11.6 The Settling Defendants shall not have any responsibility for the costs of the Notice or any additional notice required by any court, except for any internal costs associated with the provision of email notice under **section 10.3**.

## **Section 12 Opt-Outs**

- 12.1 Persons who want to opt out must do so by sending a written election to opt-out ("**Election**") by pre-paid mail, courier or email to Class Counsel at an address identified in the Notice. An Election to opt-out will only be valid if it is received by Class Counsel at the designated address on or before the Opt-Out Deadline.
- 12.2 The Election to opt-out must be signed by the person who wishes to opt-out and either (i) in the form attached as **Schedule D** or (ii) contain the following information in order to be valid:
- (a) the person's full name, current address and telephone number;
  - (b) a statement to the effect that the person wishes to be excluded from the Proceeding; and
  - (c) the reasons for opting out.
- 12.3 Opt-out forms or documents that purport to opt-out multiple Class Members, or so-called "mass" or "class" opt-outs, shall not be permitted.
- 12.4 Class Counsel shall provide Defence Counsel with copies of all Elections or opt-out forms received by Class Counsel at regular intervals and within five (5) business days of any request for same by Defence Counsel.
- 12.5 Upon the Settlement Approval Order becoming final, any Class Member who has not opted-out within the Opt-Out Deadline shall be bound by the terms of the Settlement Agreement.

- 12.6 With respect to any potential Class Member who validly opts-out, the Settling Defendants reserves all of their legal rights and defences.

### **Section 13 Miscellaneous**

- 13.1 The Recitals set out herein are incorporated with and form part of this Settlement Agreement.
- 13.2 The Schedules annexed hereto form part of this Settlement Agreement.
- 13.3 Class Counsel or Defence Counsel may apply to the Court for directions in respect of the implementation and administration of this Settlement Agreement. All applications contemplated by this Settlement Agreement, including applications to the Court for directions, shall be on notice to counsel for the Parties.
- 13.4 Except as otherwise provided herein, the Parties shall bear their own respective costs of the Proceedings and the approval and implementation of the Settlement Agreement. The Settling Defendants shall have no liability with respect to the administration of the Settlement Amount.
- 13.5 This Settlement Agreement shall be governed by, construed, and interpreted in accordance with the laws of the Province of British Columbia, except for section 4.3(a) and to the extent that section 9.2 is engaged, in which case the Quebec Class and the material provisions of the Settlement Agreement affecting the Quebec Class will be governed by the laws of the Province of Quebec.
- 13.6 The Settlement Agreement constitutes the entire agreement among the Parties, and supersedes any and all prior and contemporaneous understandings, undertakings, negotiations, representations, communications, promises, agreements, agreements in principle, and memoranda of understanding in connection herewith. The Parties agree that they have not received or relied on any agreements, representations, or promises other than as contained in the Settlement Agreement. None of the Parties shall be bound by any prior obligations, conditions, or representations with respect to the subject matter of this Settlement Agreement, unless expressly incorporated herein.
- 13.7 This Settlement Agreement may not be modified or amended except in writing and on consent of all Parties hereto.
- 13.8 This Settlement Agreement shall be binding upon, and ensure to the benefit of, the Plaintiffs, the Class Members, the Settling Defendants, the Releasors, the Releasees and all of their successors and assigns. Without limiting the generality of the foregoing, each and every covenant and agreement made by the Plaintiffs shall be binding upon all Releasors and each and every covenant and agreement made by the Settling Defendants shall be binding upon all of the Releasees.
- 13.9 This Settlement Agreement has been the subject of negotiations and discussions among the Parties, each of which has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement shall have no force and effect. The Parties further agree that the language contained or not contained in previous drafts of this Settlement Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Settlement Agreement.

- 13.10 The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English.
- 13.11 Each of the undersigned represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement.
- 13.12 This Settlement Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and a facsimile or electronically transmitted signature shall be deemed an original signature for purposes of executing this Settlement Agreement. This Settlement Agreement may be delivered and is fully enforceable in either original, faxed, or other electronic form provided that it is duly executed.
- 13.13 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 by overnight delivery to the representatives for the Party to whom notice is being provided, as identified below:

For the Plaintiffs and for Class Counsel in the Proceeding:

Saro J. Turner  
Andrea Roulet  
Slater Vecchio LLP  
[slt@slatervecchio.com](mailto:slt@slatervecchio.com)  
[acr@slatervecchio.com](mailto:acr@slatervecchio.com)

With a copy by email to:  
Mathew Good ([mat@goodbarrister.com](mailto:mat@goodbarrister.com))

For the Settling Defendants:

Nick Rodrigo  
Faiz Lalani  
Davies Ward Phillips & Vineberg LLP  
[nrodrigo@dwpv.com](mailto:nrodrigo@dwpv.com)  
flalani@dwpv.com

- 13.14 Date of Execution: The Parties have executed this Settlement Agreement as of the date on the cover page.
- 13.15 **Language.** It is the express wish of the parties that this Settlement Agreement and all related documents, excluding notice and other communications, be drawn up in the English language only, except to the extent that **section 9.2** is engaged, in which case any documents that are required by law to be in the French language will be in French. *Il est la volonté expresse des parties que cette entente de règlement et tous les documents s'y rattachant, en excluant les avis et les autres communications, soient rédigés en anglais seulement, sauf dans la mesure où l'article 9.2*

*s'applique, auquel cas tous les documents dont la loi exige qu'ils soient en français le seront en langue français.*

**FOR THE PLAINTIFFS AND FOR CLASS COUNSEL:**



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**Name: Sara Turner**

**Andrea Roulet**

Slater Vecchio LLP

Solicitors for Glenn Johnston and for Gabriel Bourgeois

**FOR THE SETTLING DEFENDANTS:**

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**Name: Nick Rodrigo**

**Faiz Lalani**

Davies Ward Phillips & Vineberg LLP

Solicitors for Epic Games Inc and Epic Games Canada ULC



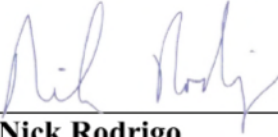
*s'applique, auquel cas tous les documents dont la loi exige qu'ils soient en français le seront en langue française.*

**FOR THE PLAINTIFFS AND FOR CLASS COUNSEL:**

---

**Name: Saro Turner**  
**Andrea Roulet**  
Slater Vecchio LLP  
Solicitors for Glenn Johnston and for Gabriel Bourgeois

**FOR THE SETTLING DEFENDANTS:**



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**Name: Nick Rodrigo**  
**Faiz Lalani**  
Davies Ward Phillips & Vineberg LLP  
Solicitors for Epic Games, Inc. and Epic Games Canada ULC

**SCHEDULE A**  
to the Settlement Agreement

**SCHEDULE A – DISTRIBUTION PROTOCOL**

1. In the event of a conflict between this Distribution Protocol and the Settlement Agreement, the Settlement Agreement shall govern.

**Additional Definitions**

2. This Distribution Protocol incorporates the definitions in the Settlement Agreement.
3. The following additional definitions apply in this Distribution Protocol:

“**Approved Claim**” means a claim submitted by a Class Member that (a) is timely, (b) is submitted in accordance with the directions on the Claim Form and the terms of the Settlement Agreement, (c) is physically signed or electronically verified by the Class Member, and (d) satisfies the conditions of eligibility for a settlement payment as set forth herein.

“**Claim Form**” means the form attached hereto as **Exhibit A**, or an electronic version thereof to be made available on the Settlement Website, as defined herein. The Claim Form must be completed and physically or electronically signed by each Class Member who wishes to file claims for a settlement payment. The Claim Form will require the Class Member to provide the specified information and to affirm that the information supplied is true and correct, but will not require notarization.

“**Claims Deadline**” means the date by which all Claim Forms must be postmarked or submitted on the Settlement Website to be considered timely and shall be set as a date no later than sixty (60) days after Notice of the settlement is conveyed to Class Members as provided below. The Claims Deadline shall be listed on the Settlement Website, as well as in the notice to Class Members and on the Claim Form.

“**Settlement Website**” means the website to be created, launched, and maintained by the Settlement Administrator and which allows for the electronic submission of Claim Forms and provides access to relevant case documents including the Notice, information about the submission of Claim Forms, and other relevant documents, including downloadable Claim Forms. The domain name of the Settlement Website shall be selected by the Parties and shall be “EpicLootBoxSettlementCanada,” or a similar name, if available.

“**Valid Claimant**” means a Class Members who submits a Valid Claim Form.

**Settlement Administrator**

4. The Settlement Administrator shall have discretion to carry out the intent of this Agreement and will be the sole arbiter of claims.

5. The Settlement Administrator may request information from the Settling Defendants as needed to evaluate a Claim, and if the Settling Defendants do not respond to the Settlement Administrator by the reasonable time or in the reasonable manner specified by the Settlement Administrator, the Settlement Administrator may provide the requested benefit if the Settlement Administrator believes it reasonable to do so even in the absence of information from the Settling Defendants.
6. The Settlement Administrator shall maintain reasonably detailed records of its activities under this Agreement. The Settlement Administrator shall maintain all such records as required by applicable law in accordance with its business practices and make such records available to Class Counsel and Defendants' Counsel upon request. The Settlement Administrator shall also provide reports and other information to the Court as the Court may require.
7. The Settlement Administrator shall take commercially reasonable measures to assert and protect the privacy rights of Class Members, including by maintaining the confidentiality and security of and preventing the unauthorized access or acquisition of any financial or personal information submitted in connection with any claim for benefits pursuant to this Agreement. The Parties shall have no responsibility or liability in connection with the Settlement Administrator's protection of Class Members' information.

#### **Claims Process**

8. Any Class Member is entitled to submit a Claim Form for compensation.
9. To claim entitlement to the compensation provided under this Settlement Agreement, a Settlement Class Member must:
  - (1) confirm a valid e-mail address to the Settlement Administrator in the manner described in the Notice by the deadlines provided therein;
  - (2) complete an on-line Claim Form which shall be transmitted to the Class Member by the Settlement Administrator at the email address they have provided, an agreed draft of which is attached as Exhibit A and;
  - (3) submit such completed Claim Form to the Settlement Administrator in the manner described in the Claim Form by the Claims Deadline (ie. no later than 60 days after first publication of Notice of the settlement).

If a Class Member fails to complete (1), (2) or (3) above in this section, then they will not be entitled to any portion of the settlement benefits, and will be subject to the Releases in respect of the Released Claims as defined in the Settlement Agreement.

10. Class Members who timely and validly submit Claim Forms shall receive payment of any settlement benefits to which they are entitled by means of an electronic payment by Interac e-

Transfer or other similar electronic means of payment as judged feasible by the Settlement Administrator sent to the valid e-mail address provided by the Class Member. Such payments may be retrieved for a period of thirty (30) days after transmittal of the same by the Settlement Administrator; provided that if any Class Member fails to timely retrieve an electronic payment, the payment will be withdrawn, the electronic transfer will be voided, the Class Member will be deemed to have received their full settlement benefits under the Settlement Agreement, and for the avoidance of doubt such Class Member shall still be subject to the Releases set forth in the Settlement Agreement. If any Class Member nevertheless attempts to retrieve an electronic transfer after the aforementioned 30-day time period, that Class Member shall be responsible for any associated fees, fines, or penalties, imposed by its financial institution, and for the avoidance of doubt such Class Member shall still be subject to the Releases set forth in the Settlement Agreement. The Parties shall have no responsibility or liability in connection with the provision of settlement benefits by the Settlement Administrator.

11. A Class Member wishing to submit a Claim Form for compensation must provide the Settlement Administrator with sufficient information to allow the Settling Defendants to verify their purchases of random-item loot boxes in *Rocket League* or *Fortnite*. The required information will include the Class Member's name, address, the email address associated with the *Fortnite* or *Rocket League* account, and *Fortnite* or *Rocket League* account number(s). Class Members who cannot provide their *Fortnite* or *Rocket League* account information must provide proof of the purchases at issue, such as an emailed receipt, a credit card receipt, or screen shot(s) of the purchase(s) from the Class Member's account's purchase history showing the Class Member's purchase and account information. This will be explained clearly in the Claim Form.
12. The Settlement Administrator may request additional information as needed to evaluate the Claim, and the Settlement Administrator may reject the Claim Form if the Class Member does not respond to the request by the reasonable time or in the reasonable manner specified by the Settlement Administrator. Class Members may, but will not be required to, submit documentation as part of their Claim Form.
13. A Class Member may file only *one* (1) Claim Form respecting *Fortnite* play and *Rocket League* play, regardless of the number of separate *Fortnite* and *Rocket League* accounts that Class Member opened or the number of loot boxes purchased.
14. Settlement benefits will be distributed by the Settlement Administrator as soon as practicable after the Effective Date.

## Exhibit A

### Claim Form

#### Lootbox Settlement Program in Canada

#### INSTRUCTIONS – TERMS AND CONDITIONS

**PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY TO DETERMINE IF YOU QUALIFY UNDER THIS SETTLEMENT PROGRAM.**

#### WHO IS ELIGIBLE TO MAKE A CLAIM

1. Class Members, defined as: all legal and natural persons and their guardians/tutors or estates, who purchased random-item loot boxes in *Rocket League* or *Fortnite* at any time who were residents of Canada (including without limitation any of its provinces and territories), except for those specifically excluded (listed below).
2. Specifically excluded from the definition of Class Members are:
  - a) all persons who timely and validly request exclusion (opt out) from the class action settlement, and
  - b) Releasees (as defined in the Settlement Agreement)

#### HOW TO MAKE A CLAIM

1. To qualify to receive compensation, you must:
  - a) meet the definition of Class Member as set forth above; AND
  - b) submit a valid e-mail address to the Settlement Administrator by • PM Eastern on • [EMAIL DUE DATE]; AND
  - c) fully complete and submit a Claim Form which will be transmitted to the Class Member by the Settlement Administrator along with any required documentation, in compliance with the instructions below.
2. The Claim Form must be signed by you (either electronically or in writing) under penalty of perjury affirming that you are a Class Member and that the information provided therein is true and accurate.
3. The Claim Form must be submitted as described above no later than **5:00 PM Eastern on • [CLAIM FORM DUE DATE]**. If you are a Class Member and you do not timely submit a valid Claim Form in accordance with these instructions, you will not be eligible to receive

compensation and you will remain subject to the releases in the Settlement Agreement.

4. Each Class Member may submit only one (1) Claim Form for all purchases of random-item loot boxes.
5. The maximum compensation available to Class Members under the settlement is \$25 regardless of the amount of random-item loot boxes purchased. Under the terms of the settlement, certain conditions may lead to Class Members with valid claims receiving less than this amount. For example, the compensation available will be reduced proportionately among all Class Members with valid claims if the total amount of eligible claims exceeds the Settlement Amount minus the costs and expenses of the settlement.
6. Duplicate, invalid, illegible, or incomplete Claim Forms will not be honoured.
7. Keep copies for your records.
8. Lost, late, or misdirected Claim Forms are not the responsibility of Epic Games, Inc., the other Releasees or the Settlement Administrator and will be invalidated.
9. Compensation can only be sent to a valid e-mail address via Interac e-transfer. You must have a bank account capable of receiving an Interac e-transfer to collect any compensation. Compensation can only be collected for a period of thirty (30) days after the Interac e-Transfer is sent to the e-mail address you provide.

**EPIC GAMES, INC. AND THE OTHER RELEASEES ALONG WITH CLASS COUNSEL ARE NOT RESPONSIBLE FOR THE ADMINISTRATION OF THE SETTLEMENT OR THE DISTRIBUTION OF THE SETTLEMENT AMOUNT. PLEASE CONTACT CLASS COUNSEL OR THE SETTLEMENT ADMINISTRATOR – NOT THE COURT OR EPIC’S COUNSEL – FOR FURTHER INFORMATION.**

## CLAIM FORM

### LOOT BOX SETTLEMENT PROGRAM IN CANADA

To seek compensation in the above-described Settlement Program, please provide all of the following information, failing which your claim may be rejected. Any compensation that is provided in response to your claim will be sent via Interac e-Transfer to the e-mail address you provide in Part 1 - Contact Information. Compensation will only be distributed after the Court grants final approval of the settlement, pending any appeals. Please be patient.

#### PART 1 - CONTACT INFORMATION

NOTE: The contact information is that of the person completing the Claim Form. Therefore, if you are a guardian submitting a Claim Form on behalf of a minor, or an estate executor submitting a Claim Form on behalf of a deceased person, the contact information should be YOUR contact information.

FULL NAME			
First name:		Last name:	

ADDRESS					
Civic Number		Apt or Unit Number		PO Box	
Street Name					
City					
Postal Code					

PHONE NUMBER	
Main Phone Number	
Alternative Phone Number	

EMAIL ADDRESS	
Email address	
NOTE: This is a currently valid e-mail address to which you wish to receive any Compensation, should you be deemed an Eligible Class Member after review of the information provided on your Claim Form by the Administrator.	

#### IF GUARDIAN

If acting on behalf of a minor who purchased random-item loot boxes, state the name of the minor and your relationship to them (ex. Parent, legal guardian).

NAME OF MINOR	
---------------	--

RELATIONSHIP TO MINOR	
-----------------------	--

**IF ESTATE**

If acting on behalf of a deceased person who purchased a random-item loot boxes, state the name of the deceased person and your relationship to them (ex. Estate executor, daughter, mother, etc.)

NAME OF DECEASED PERSON	
RELATIONSHIP TO DECEASED PERSON	

**PART 2 - INFORMATION REGARDING LOOT BOX PURCHASES**

E-mail address associated with <i>Fortnite</i> or <i>Rocket League</i> Account:  [If unable to provide the e-mail address associate with the <i>Fortnite</i> or <i>Rocket League</i> Account, see <b>NOTE</b> below]	
Approximate date of random-item loot box purchase(s) and/or use (if possible, please specify the month and year ) (MM/YYYY):	

**NOTE:** Class Members who cannot provide their *Fortnite* or *Rocket League* account information must provide proof of the random-item loot box purchases at issue, such as an emailed receipt, a credit card receipt, or screen shot(s) of the purchase(s) from the Class Member’s account’s purchase history showing the Class Member’s purchase and account information. Failure to provide such information will entail the rejection of the Claim.

**Please ensure to submit all supporting documentation at the same time as your Claim Form. If you do not submit your supporting documentation at the same time as your Claim Form, please ensure that your supporting documentation indicates the First and**



**Last Name you have provided in Part 1 – Contact Information so that the Claims Administrator can identify the documentation in support of your claim.**

**Acknowledgement and Certification:**

By signing and dating this form below, I acknowledge that I have read the terms and conditions herein and am qualified to seek compensation under this settlement. I further attest that I have not submitted, and will not in the future submit, any other Claim Form seeking compensation from this settlement.

I am presently 18 years of age or older and was a Canadian resident during the time that I purchased one or more random-item loot boxes or am acting on behalf of a minor who purchased random-item loot boxes. I further state under penalty of perjury that the information provided above is true, complete and accurate.

Date:

Type Full Name in lieu of Signature:

**If you have any questions while completing the Claim Form please contact the Claims Administrator at:**

**[TO BE INSERTED ONCE APPOINTED BY THE COURT]**

**EPIC GAMES, INC. AND THE OTHER RELEASEES ALONG WITH CLASS COUNSEL ARE NOT RESPONSIBLE FOR THE ADMINISTRATION OF THE SETTLEMENT OR THE DISTRIBUTION OF THE SETTLEMENT AMOUNT. PLEASE CONTACT CLASS COUNSEL OR THE SETTLEMENT ADMINISTRATOR – NOT THE COURT OR EPIC’S COUNSEL – FOR FURTHER INFORMATION.**

**SCHEDULE B – CERTIFICATION AND NOTICE APPROVAL ORDER**

,No. S-220088  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

Between

GLENN JOHNSTON

PLAINTIFF

and

EPIC GAMES, INC. AND EPIC GAMES CANADA ULC

DEFENDANTS

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

**ORDER MADE AFTER APPLICATION**

BEFORE } THE HONOURABLE JUSTICE \_\_\_\_\_ } \_\_\_/\_\_\_/2022

ON THE APPLICATION of the plaintiff, Glenn Johnston, coming on for hearing at Vancouver, BC on [date]. 2022; and on hearing [counsel];

THIS COURT ORDERS that:

1. For the purposes of the Order, except to the extent that they are modified in this Order, the definitions set out in the settlement agreement dated [date], 2022 (“**Settlement Agreement**”), and attached as **Schedule A** to this Order, apply to and are incorporated into this Order;
2. This action is certified as a class proceeding as against the Defendants for settlement purposes only;

3. The class is defined as: “All natural persons Canada, and their guardians or estates, who purchased random-item loot boxes in Rocket League or Fortnite” (the “**Class**” and “**Class Members**”);
4. Glenn Johnston is appointed the representative plaintiff on behalf of the Class;
5. Mathew P Good Law Corporation and Slater Vecchio LLP are appointed class counsel on behalf of the Class (“**Class Counsel**”);
6. The following common issue is certified for settlement purposes only:
 

Did the Defendants or any of them breach the *Business Practices and Consumer Protection Act* or any related provincial or territorial enactment in the operation of random-item loot boxes in *Rocket League* or *Fortnite*?
7. Notice is approved in the form set out as Schedule D to the Settlement Agreement;
8. Notice of certification will be distributed as provided for by Section 11 of the Settlement Agreement.
9. Opt outs must be made in accordance with Section 12 of the Settlement Agreement.
10. The Court appoints Paiements Velvet Payments Inc. as Settlement Administrator subject to the terms of the Settlement Agreement.

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

.....  
 Signature of  
 Lawyer for Class

.....  
 Signature of  
 Lawyer for the Defendants

By the Court.

.....

Registrar

**SCHEDULE C – SETTLEMENT APPROVAL ORDER**

No. S-220088  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

Between

GLENN JOHNSTON

PLAINTIFF

and

EPIC GAMES, INC. AND EPIC GAMES CANADA ULC

DEFENDANTS

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

**ORDER MADE AFTER APPLICATION**

BEFORE } THE HONOURABLE JUSTICE \_\_\_\_\_ } \_\_\_/\_\_\_/2022

ON THE APPLICATION of the plaintiff, Glenn Johnston, coming on for hearing at Vancouver, BC on **DATE**, 2022; and on hearing [**counsel**];

THIS COURT ORDERS that:

1. For the purposes of the Order, except to the extent that they are modified in this Order, the definitions set out in the settlement agreement dated **DATE**, 2022 (“**Settlement Agreement**”), and attached as **Schedule A** to this Order, apply to and are incorporated into this Order;
2. The Settlement Agreement is fair, reasonable and in the best interests of the Class;
3. The Settlement Agreement is approved pursuant to section 35 of the *Class Proceedings Act*, and shall be implemented and enforced in accordance with its terms;
4. This Order, including the Settlement Agreement, is binding upon each member of the Class, including those persons who are minors or mentally incapable;

5. This action be and is hereby dismissed against the Defendants with prejudice and without costs against any party;
6. Each member of the Class shall be deemed to irrevocably consent to the dismissal, without costs and with prejudice, of any other action or proceeding relating to the Released Claims against the Releasees and all such actions or proceedings shall be dismissed, without costs and with prejudice, upon the Effective Date;
7. Each Releasor has released and shall be conclusively deemed to have forever and absolutely released the Releasees from the Released Claims;
8. Each Releasor shall not now or hereafter institute, maintain, intervene in 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 proceeding, cause of action, claim or demand against any Releasee or any other person who may claim contribution or indemnity, or other claims over relief, from any Releasee, whether pursuant to the *Negligence Act*, RSBC 1996, c 333 or other legislation or at common law or equity in respect of any Released Claim; and
9. For purposes of administration of the Settlement Agreement and this Order, this Court retains an ongoing supervisory role to administer, supervise, construe and enforce the Settlement Agreement and this Order, subject to the terms and conditions set out in the Settlement Agreement and this Order.

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

.....  
 Signature of  
 Lawyer for Class

.....  
 Signature of  
 Lawyer for the Defendants

By the Court.

.....  
 Registrar

## **SCHEDULE D – NOTICE(S) TO CLASS MEMBERS**

### **Short-Form Notice**

English

#### **PROPOSED CLASS ACTION SETTLEMENT**

DID YOU PURCHASE RANDOM-ITEM LOOT BOXES IN  
*ROCKET LEAGUE* OR *FORTNITE*?

THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS

A class action settlement has been reached in *Johnston v. Epic Games Inc et al*, S.C.B.C. No. VLC-S-S-220088. The action was certified by the Supreme Court of British Columbia. This class action settlement also resolves the claims against Epic in the Quebec action *Gabriel Bourgeois c. Electronic Arts et al.*, Court File No. 500-06-001132-212.

The settlement is a compromise of disputed claims and is not an admission of liability, wrongdoing or fault by any of the defendants. The proposed settlement is subject to the approval of the Court.

The class action has been certified on behalf of “All natural persons in Canada, and their guardians or estates, who purchased random-item loot boxes in Rocket League or Fortnite”.

The Court has appointed Glenn Johnston as the representative plaintiff.

For the payment of CAD\$2,750,000, the Class will release the defendants from all claims raised in the legal proceedings. A compensation fund will be established to compensate Class members. The remaining settlement funds, after distribution of funds to the Eligible Class Members, payment of Claims Administrator, payment of Class Counsel fees, expenses, and any honourarium to the plaintiff, will be donated to charitable organizations approved by the Court.

The representative plaintiff has entered into a contingency fee agreement with class counsel for the

legal work providing for a maximum fee of [amount]%. Class Counsel will seek approval of their fees at or after the settlement approval hearing. The court will determine the amount to be paid to class counsel for legal fees and disbursements.

You are automatically included in the Class, and will be bound by the settlement if approved by the Court, unless you opt-out. If you do not want to be part of the lawsuit, you must opt-out of the proceeding by delivering an opt out form to Class Counsel by no later than [date that is 30 days after the Notice is published].

For members of the Class that wish to object to the settlement, Distribution Protocol, Class Counsel fees or the honoraria to the plaintiff, you must notify Class Counsel no later than [date that is 30 days after the Notice is published], in the manner set out in the long form notice.

If you are a Class Member and you do nothing, you will remain in the Class. You may make a claim for compensation if the Settlement is approved and you will lose any right to sue in relation to the released claims described in the Settlement Agreement.

**How Do I Claim Compensation?** If you are a Settlement Class Member, to ask for compensation, you must:

(1) provide your e-mail address at INSERT WEBSITE by 5:00 pm Eastern on [EMAIL DUE DATE] and

(2) complete and submit an online Claim Form which will be sent to you at the email address you provided in step (1) above by the Claim Form Due Date (to be determined) attesting to its contents under penalty of perjury.



Class Counsel are Slater Vecchio LLP and Mathew P Good Law Corporation.

More information on the settlement (including the opt-out form, and Settlement Agreement) is available at [insert website, email].

This notice has been authorized by the Supreme Court of British Columbia.

## Long-Form Notice

### NOTICE OF PROPOSED SETTLEMENT AND SETTLEMENT APPROVAL HEARING

#### **DID YOU PURCHASE RANDOM-ITEM LOOT BOXES IN *ROCKET LEAGUE* OR *FORTNITE*?**

#### **THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS**

A class action settlement has been reached between the parties in *Johnston v Epic Games Inc et al*, S.C.B.C. No. VLC-S-S-220088. The Supreme Court of British Columbia has certified the class action for the purposes of implementing the proposed settlement. The proposed settlement is a compromise of disputed claims and is not an admission of liability, wrongdoing, or fault by the defendants. The settlement is subject to the approval of the court.

The court has appointed Glenn Johnston as representative plaintiff. Class Counsel are Slater Vecchio LLP and Mathew P Good Law Corporation.

The defendants are Epic Games Inc. and Epic Games Canada ULC (“**Epic**”).

This class action settlement also resolves the claims against Epic in the Quebec action *Gabriel Bourgeois c. Electronic Arts et al.*, Court File No. 500-06-001132-212.

#### **What is the case about?**

The plaintiff alleges that the defendants breached various consumer protection laws in their offering and operation of random-item loot boxes in the video games *Rocket League* and *Fortnite*. From July 25, 2017 to February 5, 2019, players in *Fortnite: Save the World* could purchase “V-Bucks” to spend on “Loot Llamas”. From September 8, 2016 to December 4, 2019, players in *Rocket League* could purchase “Keys” to spend on “Crates”. The plaintiff sought to recover damages for himself and Class Members for alleged losses as a result of this conduct. The defendants deny the allegations.

#### **Who are in the Class and affected by the settlement?**

The Class consists of all natural persons in Canada, and their guardians or estates, who purchased random-item loot boxes in *Rocket League* or *Fortnite*.

If you had an account in *Rocket League* or *Fortnite*, you should have received an email confirming your membership in the Class.

### **What are the terms of the settlement?**

The settlement provides for the payment of CDN \$2,750,000 by Epic in exchange for a full release of all claims raised in the legal proceedings against it by the Class. The payment of the settlement amount is not an admission of liability, wrongdoing, or fault by the defendants.

A further hearing will be held on **November 27, 2022** to seek approval of the Settlement Agreement by the court. The hearing will take place in at 800 Smithe Street, Vancouver, B.C., before the Honourable Justice Majawa.

If approved, the settlement will be binding on all members of the Class who do not opt out of the proceeding.

The full settlement terms are available at [[ADMINISTRATOR WEBSITE URL – INSERTED ONCE APPROVED BY COURT](#)].

### **How do I participate?**

**If you want to be a member of this class action and participate in the settlement, you do not need to do anything.** You are automatically included as a member of the Class, unless you opt out of the applicable proceeding.

### **What if I do NOT want to participate?**

If you do **not** want to participate in the class action, you may exclude yourself (“opt-out”).

In order to opt-out, you must complete and sign an opt-out form and deliver it to Class Counsel by mail, courier, or email no later than [date that is 30 days after the Notice is published]. The opt-out form is available at [insert website].

Details on how to submit the opt-out form can be found in section 12 of the settlement agreement and the opt-out form.

The opt-out form must be emailed to [insert email address], or mailed or couriered to:

[insert]

### **Will I receive compensation from this settlement?**

Class Members who made in-game purchases, and who contend that any aspect of these purchases gives rise to a claim of consumer fraud, breach of contract, or other legal claim for damages regarding those purchases, will be able to submit claim forms for additional compensation.

To qualify for compensation, a Class Member is required to:

(a) provide a valid email address to the Settlement Administrator within 30 days from the publication of this notice, namely November 2022;

(b) timely submit a valid and complete Claim Form which will be sent to the Class Member by the Settlement Administrator at the address provided in step (a)

Each Class Member may submit only one (1) Claim Form.

Each Class Member who timely submits a valid Claim Form will receive an equal amount up to a maximum of \$25.00 per Class Member regardless of the number of lootboxes purchased by such Class Member. Under the terms of the settlement, certain conditions may lead to Class Members with valid claims receiving less than this amount. For example, the compensation available to Class Members will be reduced proportionately among all Class Members with valid claims if the total amount of eligible claims exceeds the Settlement Fund minus the costs and expenses of the settlement described in the Settlement Agreement, and summarized herein.

In order to receive any compensation from the settlement, a Settlement Class Member must have a valid e-mail address and a bank account capable of receiving payments via Interac e-transfer, as e-transfer is the only method through which compensation will be sent. Compensation can only be collected for a period of thirty (30) days after the e-transfer is sent.

Any remaining funds after distribution to eligible Class members and payment of expenses will be donated to the Law Foundation of British Columbia, [Video Game Charity Generally] as well as [Charity in Quebec and the *Fonds*].

#### **IMPORTANT DATES – WHEN TO MAKE A CLAIM:**

Class Members must transmit a valid e-mail address to the Claims Administrator by the E-Mail Due Date, no later than 5:00 PM Eastern on **November 2022**

To seek compensation from the settlement, a Settlement Class Member must complete and submit a Claim Form transmitted by the Settlement Administrator to the email address provided by the Class Member no later than 5:00 PM Eastern on [**CLAIM FORM DUE DATE**].

#### **What are the fee arrangements?**

Under the terms of their retainer agreement with the representative plaintiff, Class Counsel will seek approval of a fee of up to [amount]% of the settlement amount, plus disbursements and applicable taxes. Class Counsel will also seek payment of up to [amount] as honourarium for the B.C. representative plaintiff.

Class Counsel fees, disbursements, and any payments to the representative plaintiff are subject to court approval.

#### **Objections**

All members of the Class have the right to let the court know of any objection they have to the approval of the Settlement Agreement, Distribution Protocol, Class Counsel fees or honorarium to the representative plaintiff by delivering a letter or written objection to Class Counsel on or before [date that is 30 business] after the first Notice is published]. If a class member wishes to

object, the following information must be included in the letter or written objection delivered to Class Counsel:

- (a) The objector's full name, current mailing address, telephone number and email address;
- (b) A brief statement of the nature and reasons for the objection;
- (c) That the objector is a member of the Class;
- (d) Whether the objector intends to appear at the court hearing on their own behalf or through a lawyer, and if by a lawyer, the name, address, telephone number and email address of the lawyer; and
- (e) A statement that the foregoing information is true and correct.

**For more information or a copy of the Settlement Agreement**, go to [insert website].

You may also contact Class Counsel at [email] or [toll free number] or via mail at the following address:

[insert]

This notice has been authorized by the Supreme Court of British Columbia.

**SCHEDULE E – OPT-OUT ELECTION FORM**

***Johnston v Epic Games, Inc. et al, Supreme Court of British Columbia No. S-220088***

This is **NOT** a claim form. By completing this form, you are choosing not to participate in this proceeding or to receive any benefit from it.

If you opt-out, you should be aware that there are strictly enforced time limits within which you must take formal legal action to pursue your own claim. By opting-out, you will take full responsibility for taking all necessary legal steps to protect your claim.

If you wish to opt-out, you must complete, sign, and deliver this opt-out form to **Class Counsel** by mail, courier, or email no later than [date that is 30 days after the date the Notice is first published], 2022. To deliver your opt-out form to Class Counsel, you must email it to [insert email address], or mail or courier it to:

[insert]

I, \_\_\_\_\_, (full name) hereby exercise my right to opt-out of the class certified in *Johnston v Epic Games, Inc. et al*, Supreme Court of British Columbia No. S-220088. I confirm my understanding that I will not receive any benefits under the settlement reached in these proceedings, that I am not represented by Slater Vecchio LLP or Mathew P Good Law Corporation, and that I will be responsible for protecting my own interests in relation to the claims asserted in those proceedings.

Date: \_\_\_\_\_, 2022

**CONTACT INFORMATION**

<b>FULL NAME</b>			
First name:		Last name:	

<b>ADDRESS</b>					
Civic Number		Apt or Unit Number		PO Box	
Street Name					
City					
Postal Code					

<b>PHONE NUMBER</b>	
Main Phone Number	

<b>EMAIL ADDRESS</b>	
Email address	

Reasons for opting out (optional):

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**SCHEDULE E:**

[insert]

**DAVIES**1501 McGill College Avenue, 26th Floor  
Montréal, QC H3A 3N9 Canada

dwpv.com

Nick Rodrigo  
T 514.841.6548  
nrodrigo@dwpv.com

File 276058

February 10, 2023

**BY EMAIL**Mr. Ryan Matheuszik  
Slater Vecchio LLP  
P.O. Box 10445 Pacific Centre North  
18th Floor, 777 Dunsmuir Street  
Vancouver, British Columbia V7Y 1K4

Dear Ryan:

**No. S-220088 - Vancouver Registry  
Between: Glenn Johnston (Plaintiff) -and- Epic Games Inc.  
-and- Epic Games Canada ULC (Defendants)**

I am pleased to be able to confirm that for purposes of the settlement approval hearing scheduled for February 15, 2023 in the above captioned matter that up until the time in 2019 that Epic Games ceased selling lootboxes in any game platform:

Sixty-nine percent (69%) of Fortnite and Rocket League players who made in-game purchases spent less than ten dollars (\$10.00) on in-game purchases, approximately eighty-three percent (83%) spent less than twenty dollars (\$20.00) and ninety-five percent (95%) spent less than fifty dollars (\$50.00).

These figures were provided for purposes of settlement approval in the US class action, and we have no reason to believe that they would be materially different for Canadian players.

It is not possible to determine what in-game items were purchased by players using solely cash (as opposed to virtual currency earned in-game, or some mix of virtual currency purchased with cash and earned through gameplay), nor what amount of cash was used to make each individual purchase. The



DAVIES

foregoing information does however provide an idea of the total amount of cash spent by the typical player in the game.

I also confirm that lootboxes in particular were never sold at any time in the game *Fortnite: Battle Royale*, and therefore players of that game would not be class members in the above-captioned matter as they could never have purchased lootboxes to begin with through that game platform.

Yours very truly,



Nick Rodrigo

SUPERIOR COURT  
DISTRICT OF MONTRÉAL  
(Class Actions)

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**GABRIEL BOURGEOIS**

Applicant

v.

**ELECTRONICS ARTS INC. et al**

Respondents

---

---

**APPLICATION FOR AUTHORIZATION TO  
DISCONTINUE AGAINST EPIC GAMES INC. AND  
EPIC GAMES CANADA ULC  
(Article 19 and 585 of the C.C.P)**

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ORIGINAL

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**BS3107**

**SLATER VECCHIO LLP**  
5352 Boulevard Saint Laurent  
Montréal, QC, H2T 1S1  
P: +1 514-534-0962  
F: +1 514-879-9524  
[notification@slatervecchio.com](mailto:notification@slatervecchio.com)

Counsel for Applicant  
GABRIEL BOURGEOIS  
ME. ANDREA ROULET  
[acr@slatervecchio.com](mailto:acr@slatervecchio.com)  
Our file: CA0042-1

## Brittany Touchette

---

**From:** Andrea Roulet  
**Sent:** March 13, 2023 2:44 PM  
**To:** kchenevert@blg.com; mpmessier@blg.com; eric.lefebvre@nortonrosefulbright.com; olivier.nguyen@nortonrosefulbright.com; paule.hamelin@gowlingwlg.com; emily.bolduc@gowlingwlg.com; robert.torralbo@blakes.com; simon.seida@blakes.com; mbrixi@lavery.ca; srichemont@fasken.com; nboudreau@fasken.com; mkaddis@fasken.com; nrodrigo@dwpv.com; flalani@dwpv.com; jlortie@mccarthy.ca; agravel@mccarthy.ca; margaret.weltrowska@dentons.com; erica.shadeed@dentons.com; fgrondin@blg.com; pplante@blg.com  
**Cc:** Saro Turner; Andrea Roulet; mat@goodbarrister.com; irwin@liebmanlegal.com; lauren@liebmanlegal.com; Brittany Touchette  
**Subject:** NOTIFICATION - GABRIEL BOURGEOIS C. ELECTRONIC ARTS INC. ET AL./ Notification of Application for authorization to discontinue against Epic Games  
**Attachments:** 2023-03-13 - App for auth to discontinue against Epic - 500-06-001132-212.pdf

### NOTIFICATION PAR COURRIER ÉLECTRONIQUE / NOTIFICATION BY ELECTRONIC MAIL BORDEREAU D'ENVOI (ART. 134 C.P.C.)/TRANSMISSION SHEET (ART. 134 C.C.P)

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**DATE, HEURE ET MINUTES DE L'ENVOI / DATE AND TIME OF TRANSMISSION:**

March 13, 2023

Heure/Time : voir entête du courriel/see email header

---

**EXPÉDITEUR/SENDER:**

**Nom/Name :** Me Andrea Roulet  
**Étude/Firm:** Slater Vecchio LLP  
**Adresse/Address :** 5352 boul Saint-Laurent, Montréal (Québec) H2T 1S1  
**Téléphone/Telephone :** (514) 977-2376  
**Courriel/Email :** [acr@slatervecchio.com](mailto:acr@slatervecchio.com)  
**Notre référence/**  
**Our reference :** CA0042-1

---

**DESTINATAIRES/RECIPIENTS:**

Mtre Karine Chênevert Mtre Mathieu Piché-Messier	Borden Ladner Gervais LLP for Electronic Arts Inc. and Electronic Arts (Canada) Inc.  1000 de la Gauchetière St. W., Suite 900, Montréal, QC H3B 5H4	<a href="mailto:kchenevert@blg.com">kchenevert@blg.com</a> <a href="mailto:mpmessier@blg.com">mpmessier@blg.com</a>
Mtre François Grondin Mtre Patrick Plante	Borden Ladner Gervais LLP for Zynga Inc. and Zynga Game Canada Ltd.  1000 de la Gauchetière St. W., Suite 900, Montréal, QC H3B 5H4	<a href="mailto:fgrondin@blg.com">fgrondin@blg.com</a> <a href="mailto:pplante@blg.com">pplante@blg.com</a>
Mtre Éric C. Lefebvre Mtre Olivier V. Nguyen	Norton Rose Fulbright Canada S.E.N.C.R.L., S.R.L. for Activision	<a href="mailto:eric.lefebvre@nortonrosefulbright.com">eric.lefebvre@nortonrosefulbright.com</a> <a href="mailto:olivier.nguyen@nortonrosefulbright.com">olivier.nguyen@nortonrosefulbright.com</a>

	Blizzard Inc., Activision Publishing Inc., King Digital Entertainment Group Inc. and King.com Ltd.  1 Place Ville Marie, Suite 2500, Montréal, QC H3B 1R1	
Mtre Robert Torralbo Mtre Simon Jun Seida	Blake, Cassels & Graydon LLP for Warner Bros. Entertainment Inc., Warner Bros Entertainment Canada Inc. and Warner Bros. Home Entertainment Inc.  1 Place Ville Marie, Suite 3000, Montréal, QC H3B 4N8	<a href="mailto:robert.torralbo@blakes.com">robert.torralbo@blakes.com</a> <a href="mailto:simon.seida@blakes.com">simon.seida@blakes.com</a>
Mtre Sébastien Richemont Mtre Noah Michael Boudreau Mtre Mirna Kaddis	Fasken Martineau Dumoulin LLP for Microsoft Corporation and Microsoft Canada Inc.  800 Victoria Square, Suite 3500, Montréal, QC H4Z 1E9	<a href="mailto:srichemont@fasken.com">srichemont@fasken.com</a> <a href="mailto:nboudreau@fasken.com">nboudreau@fasken.com</a> <a href="mailto:mkaddis@fasken.com">mkaddis@fasken.com</a>
Mtre Nick Rodrigo Mtre Faiz Lalani	Davies Ward Phillips & Vineberg LLP for Epic Games, Inc. and Epic Games Canada ULC.  1501 McGill College Avenue, 26 <sup>th</sup> Floor, Montreal, QC H3A 3N9	<a href="mailto:nrodrigo@dwpv.com">nrodrigo@dwpv.com</a> <a href="mailto:flalani@dwpv.com">flalani@dwpv.com</a>
Mtre Jean Lortie Mtre Amanda Gravel	McCarthy Tetrault LLP for Scopely Inc.  1000 de la Gauchetière St. W. Suite 2500 Montreal, QC H3B 0A2	<a href="mailto:jlortie@mccarthy.ca">jlortie@mccarthy.ca</a> <a href="mailto:agravel@mccarthy.ca">agravel@mccarthy.ca</a>
Mtre Margaret Weltrowska Mtre Erica Shadeed	Dentons Canada LLP for Niantic Inc.  1 Place Ville Marie, Suite 3900, Montréal, QC H3B 4M7	<a href="mailto:margaret.weltrowska@dentons.com">margaret.weltrowska@dentons.com</a> <a href="mailto:erica.shadeed@dentons.com">erica.shadeed@dentons.com</a>
Mtre Paule Hamelin Mtre Emily Bolduc	Gowling WLG (Canada) LLP for Take Two Interactive Software Inc., Take Two Interactive Canada Holdings Inc., 2K Games Inc. and Rockstar Games Inc.  1 Place Ville Marie, Suite 3700, Montréal, QC H3B 3P4	<a href="mailto:paule.hamelin@gowlingwlg.com">paule.hamelin@gowlingwlg.com</a> <a href="mailto:emily.bolduc@gowlingwlg.com">emily.bolduc@gowlingwlg.com</a>
Mtre Myriam Brix	Lavery de Billy, LLP for Ubisoft  4000 - 1 Place Ville Marie Montréal, QC H4B 4M4	<a href="mailto:mbrix@lavery.ca">mbrix@lavery.ca</a>

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(Art. 19 and 585 CCP)

AND

Exhibit AP-1 Settlement Approval Order, No. S-22088, dated March 2, 2023

AND

Exhibit AP-2 Letter to Mr Ryan Matheuszik from Me Rodrigo, dated February 10, 2023

**Format du document/  
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**Andrea Roulet**

Associate/Avocate

Slater Vecchio LLP  
5352 boulevard Saint Laurent  
Montréal, Québec H2T 1S1

T: 514.977.2376

F: 514.552.9706

[acr@slatervecchio.com](mailto:acr@slatervecchio.com)

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