

**SETTLEMENT AGREEMENT**

Made as of April 20, 2023

**Between:**

**RAPHAEL BADAoui and BENJAMIN LOEUB**

(the Plaintiffs)

-and-

**APPLE INC. and APPLE CANADA INC.**

(the Defendants)

**TABLE OF CONTENTS**

Article I – DEFINITIONS	5
1.1 Definitions .....	5
Article II – BEST EFFORTS TO SECURE COURT APPROVAL	9
2.1 Best Efforts .....	9
2.2 Court Approval Require for Enforceable Agreement .....	9
Article III – OPT-OUT PROCEDURE	10
3.1 Court Approval of Opt-Out Process and Deadlines .....	10
Article IV – SETTLEMENT APPROVAL	10
4.1 Applications for Approval of Notice of Hearing .....	11
4.2 Application for Approval .....	11
Article V – SETTLEMENT BENEFITS	11
5.1 Composition of the Settlement and the Settlement Amount .....	11
5.2 Taxes and Interest .....	12
5.3 The Battery Claim .....	13
Article VI – DISTRIBUTION OF THE SETTLEMENT FUND	13
6.1 Distribution Protocol.....	13
6.2 No Responsibility for External Administration Fees .....	13
6.3 Fonds d'aide aux actions collectives ("Fond d'aide").....	13
6.4 Rendering of Account and Closing Judgment.....	13
Article VII – TERMINATION OF SETTLEMENT AGREEMENT	14
7.1 Right of Termination.....	14
7.2 If Settlement Agreement is Terminated .....	15
7.3 Allocation of Monies in the Account Following Termination.....	16
Article VIII – RELEASES AND DISMISSALS	16
8.1 Release of Releasees.....	16
8.2 No Further Claims.....	16
Article IX – EFFECTS OF SETTLEMENT	16
9.1 No Admission of Liability.....	16
9.2 This Agreement is Not Evidence.....	17
Article X – EFFECTS OF SETTLEMENT	17

10.1	Notice Required .....	17
10.2	Costs of Disseminating Notice .....	17
10.3	Method of Disseminating Notices .....	17
Article XI – CLASS COUNSEL AND ADMINISTRATION FEES		18
11.1	Class Counsel Fees and Release.....	18
11.2	Administration Expenses .....	18
Article XII – MISCELLANEOUS		18
12.1	Application for Directions .....	18
12.2	Heading, etc.....	18
12.3	Computation of Time.....	18
12.4	Governing Law.....	19
12.5	Entire Agreement.....	19
12.6	Amendments.....	19
12.7	No Waiver .....	19
12.8	Binding Effect.....	19
12.9	Counterparts .....	19
12.10	Negotiated Agreement.....	20
12.11	Language.....	20
12.12	Transaction .....	20
12.13	Recitals .....	20
12.14	Schedules .....	20
12.15	Acknowledgements.....	20
12.16	Authorized Signatures.....	21
12.17	Notice.....	21
	Date of Execution .....	23

## RECITALS

- A. WHEREAS the Plaintiff Raphael Badaoui commenced a proposed class action for authorization in the Quebec Superior Court on December 7, 2018, bearing Court file no. 500-06-000897-179 as against the Defendants, which was further amended on or around December 7, 2018 to add plaintiff Benjamin Loeub;
- B. WHEREAS the Authorization Judgment was rendered on July 16, 2019 by the Honourable Chantal Corriveau, J.C.S.;
- C. WHEREAS on March 17, 2021, and as rectified on April 15, 2021, the Quebec Court of Appeal, in Court file number 500-09-028533-198, overturned the Authorization Judgment in part, and redefined the Battery Class and common questions (the “**Court of Appeal Judgment**”);
- D. WHEREAS the Plaintiffs filed their originating application in the Quebec Superior Court on or around June 15, 2021, as against the Defendants (which, together with the Court of Appeal Judgment, constitutes the “**Class Action**”);
- E. WHEREAS the Class Action asserts claims against the Defendants on behalf of the Class in relation to the batteries in certain iPhones manufactured and sold by the Defendants, as well as the AppleCare and AppleCare+ service offered by the Defendants;
- F. WHEREAS the Plaintiffs maintain that the claims in the Class Action are valid; the Defendants deny all of the allegations asserted by the Plaintiffs in the Class Action, and maintain that they have good and valid defences to the claims asserted therein;
- G. WHEREAS the Parties estimate that a further three years of litigation could be required to litigate this matter through trial (excluding appeals);
- H. WHEREAS the Parties participated in a confidential mediation with the Honourable Robert Mongeon on November 1, 2022, at the end of which they agreed to a binding agreement in principle to resolve the Class Action, subject to approval by the Superior Court of Québec, and have continued arm’s-length settlement discussions since the mediation to reach this Settlement Agreement;
- I. WHEREAS the Parties have agreed to enter into this Settlement Agreement in order to achieve an early full and final resolution of the Class Action and to avoid further expense, inconvenience and burdens of protracted litigation, the whole subject to approval by the Superior Court of Québec;
- J. WHEREAS the Parties and their respective counsel have reviewed and fully understand the terms of this Settlement Agreement and, based on their respective analyses of the facts and law applicable to the Plaintiffs’ claims asserted in the Class Action, and having regard to the burdens and expense of prosecuting the Class Action, including, in particular, the risks and uncertainties associated with trials and appeals, and taking into account the maximum recovery for the Class weighed against those costs, risks, uncertainties and delays, the Parties and their respective counsel have concluded that this Settlement Agreement is fair, reasonable and in the best interest of the Class;

- K. WHEREAS the Plaintiffs and Class Counsel agree that neither this Settlement Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be an admission by, or evidence against the Defendants, or evidence of the truth of any of the Plaintiffs' allegations against the Defendants, and the Defendants and Defense Counsel agree that neither this Settlement Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be an admission by, or evidence against the Plaintiffs' or the Class, or evidence of the truth or validity of any of the Defendants' defences or arguments against the Plaintiffs' claims; and
- L. WHEREAS the Parties therefore wish to, and hereby do, finally resolve the Class Action and all Released Claims, as defined below, subject to the approval of this Settlement Agreement by the Superior Court of Québec;
- M. WHEREAS the Parties agree to resolve the Class Action for both the Battery Class and the AppleCare Class. For clarity, the resolution of both the Battery Class and the AppleCare Class, as provided for in this Settlement Agreement and its schedules, are a material part of this agreement.

NOW THEREFORE, in consideration of the covenants, agreements and releases set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that this class action shall be settled on the following terms and conditions:

## ARTICLE I – DEFINITIONS

### 1.1 Definitions

The following terms, as used in this Agreement, including the Recitals, mean:

- (a) **Account** means an interest-bearing trust account with a Canadian financial institution under the control of the Claims Administrator in which the Settlement Amount will be held in trust, including the Total Settlement Fund, which will be held until distributed pursuant to the Distribution Protocol or as detailed in this Settlement Agreement.
- (b) **Administration Expenses** means all fees, disbursements, expenses, costs, taxes and any other amounts incurred by, payable by, or chargeable by the Claims Administrator, for the approval, implementation and operation of this Settlement Agreement including the costs of distribution of the Total Settlement Fund and the costs of notices to the Class, and this does not include the: (i) internal fees, costs or expenses of the Defendants to provide information to the Claims Administrator in order to provide notices to the Class as provided in the Notice Plan; (ii) fees, costs and disbursements payable to Defence Counsel; and (iii) Class Counsel Fees. For clarity, the Administration Expenses are to be paid by the Defendants, and are not included in the Settlement Amount or the Total Settlement Fund.
- (c) **Apple** refers collectively to Apple Canada Inc. and Apple Inc., Defendants in the Class Action.

- (d) **AppleCare** means the service and technical support plans provided by the Defendant Apple Canada Inc. known under the brand names AppleCare and AppleCare+.
- (e) **AppleCare Claim** means the portion of the Class Action covering the AppleCare Class and the allegations related thereto.
- (f) **AppleCare Class or Amended AppleCare Class** means “All consumers who, between December 20, 2015 and January 26, 2023, purchased AppleCare and/or AppleCare+ for an Apple product in Quebec, including but not limited to an iPhone, Apple Watch, iPad, iPod, Mac and/or MacBook and were not informed of their legal warranty under the Consumer Protection Act at the time of purchase”, but excludes any person who will validly opt out according to the procedure set out in this Settlement Agreement and the *Notice of Hearing, Opt-Out and Discontinuance*, and **AppleCare Class Member** means any one thereof.
- (g) **Battery** means the rechargeable battery in the iPhones covered by the Battery Class.
- (h) **Battery Claim** means the portion of the Class Action covering the Battery Class and the allegations related thereto.
- (i) **Battery Class** means “All consumers who purchased an iPhone since December 29, 2014” as defined by the Court of Appeal Judgement, and in the Originating Application, but excludes any person who will validly opt out according to the procedure set out in this Settlement Agreement and the *Notice of Hearing, Opt-Out and Discontinuance*, and **Battery Class Member** means any one thereof.
- (j) **Claims Administrator** means the entity chosen by the Defendants, and approved and appointed by the Court to administer this Settlement Agreement, and any employees of such entity.
- (k) **Claims Deadline** is the date that is sixty (60) days from the date that Notice of Court Order is first disseminated.
- (l) **Claims Period** means the period beginning on the date that Notice of Court Order is first published, and ending on the Claims Deadline.
- (m) **Class** means the members of the *Battery Class* and *AppleCare Class*, but excludes any person who will validly opt out according to the procedure set out in this Settlement Agreement and the *Notice of Hearing, Opt-Out and Discontinuance*, and **Class Member** means any one thereof.
- (n) **Class Counsel** means LPC Avocat Inc. and Renno Vathilakis Inc.
- (o) **Class Counsel Fees and Disbursements** means the amount payable to Class Counsel in fees, disbursements, costs, interest, GST, QST, and other applicable taxes or charges of Class Counsel in respect of the prosecution of the Class Action, as approved by the Court.

- (p) **Consumer Cash Payment** means the payment of CAD \$25.00 per AppleCare contract to Eligible AppleCare Class Members only, pursuant to the terms of the Distribution Protocol, in the form of **Schedule F** hereto.
- (q) **Consumer Cash Reimbursement** means the payment to Eligible AppleCare Class Members only, in Canadian Dollars, of up to 50% of what they paid for AppleCare, before sales tax, according to the Defendants' records, pursuant to the terms of the Distribution Protocol, in the form of **Schedule F** hereto.
- (r) **Court** means the Superior Court of Québec.
- (s) **Defence Counsel** means McCarthy Tétrault LLP.
- (t) **Defendants** means Apple Inc. and Apple Canada Inc., and **Defendant** means any one thereof.
- (u) **Devices** means any electronic product manufactured, sold and/or distributed by the Defendants, including but not limited to iPhone, Apple Watch, iPad, iPod, Mac and/or MacBook, and **Device** means any one thereof.
- (v) **Distribution Protocol** means the plan for distributing the Total Settlement Fund and accrued interest to the Eligible AppleCare Class members as approved by the Court, in the form of **Schedule F** hereto.
- (w) **Effective Date** means (i) the date upon which the ability to appeal from the last-rendered anticipated Second Order expires; or (ii) if any appeal is taken from the Second Order, then the Effective Date shall be the date upon which any such appeal is concluded by way of a Final order.
- (x) **Eligible AppleCare Class Members** means AppleCare Class Members who purchased AppleCare in an Apple Store in Quebec. This specifically excludes the purchase of AppleCare by any other method, including but not limited to online or over the phone.
- (y) **Final** when used in relation to a Court order means all rights of appeal from such order or judgment have expired or have been exhausted and that the ultimate court of appeal (or court of last resort) to which an appeal (if any) was taken has upheld such order.
- (z) **First Order** means the proposed order of the Court: (1) approving the Notice of Hearing, the Opt-Out and objection deadlines, and the Discontinuance; and (2) the appointment of the Claims Administrator, which will be substantially in the form of **Schedule A** hereto or as modified by the Court.
- (aa) **Fonds d'aide** means the *Fonds d'aide aux actions collective* created pursuant to the *Act respecting the Fonds d'aide aux actions collectives* (CQLR c F-3.2.0.1.1).
- (bb) **Notice of Hearing, Opt-Out and Discontinuance** means (as applicable) the French and English notice of the hearing for settlement approval, approved by the Court, to inform the Class of *inter alia*: (1) the intention of the Plaintiffs and Class Counsel to discontinue or otherwise withdraw the Battery Class and the

corresponding Battery Claim, (2) the Opt-Out Procedure and Opt-Out Deadline; (3) the date of the hearing to approve this Settlement Agreement; and (4) the key terms of this Settlement Agreement, which will be substantially in the form of **Schedule B** hereto, or as modified by the Court.

- (cc) **Notice of Court Order** means (as applicable) the notice of the order approving the settlement, Class Counsel Fees and Disbursements and the discontinuance of the Battery Claim, as approved by the Court, to inform the Class Members of *inter alia*: (1) the approval of this Settlement Agreement, (2) the process by which the Eligible AppleCare Class Members will receive payment and can make a claim, and (3) the discontinuance of the Battery Claim on behalf of the Battery Class.
- (dd) **Opt-Out Deadline** means the date which is thirty (30) days from the date that Notice of Hearing, Opt-Out and Discontinuance is first published.
- (ee) **Opt-Out Procedure** means the procedure to be fixed by Order of the Court by which any Class Member(s) who wish(es) to do so may opt out of the Class Action.
- (ff) **Parties**, when capitalized, means the Plaintiffs and the Defendants, and **Party** means any one thereof.
- (gg) **Practice Change** means the agreed upon change between the Parties to the practice of the Defendant Apple Canada Inc. in Quebec, as it relates to the sale of AppleCare in Quebec.
- (hh) **Released Claims** means any and all manner of claims, complaints, demands, actions, suits, causes of action, whether class, individual or otherwise in nature, damages of any kind whenever incurred, declaratory relief, liabilities of any nature whatsoever, including assigned claims, claims for injunction, contribution, indemnity, interest, costs, expenses, class administration expenses (including Administration Expenses), and lawyers' fees (excluding Class Counsel Fees, which are addressed at Article 11.1 of the present Settlement Agreement), known or unknown, suspected or unsuspected, foreseen or unforeseen, actual or contingent, and liquidated or unliquidated, in law, under statute or in equity, that the Releasors, or any of them, whether directly or indirectly, ever had, could have had, or now have that were the subject matter of allegations by or on behalf of the Releasors in the Class Action, or related to the facts alleged by or on behalf of the Releasors in the Class Action, or any them.
- (ii) **Releasees** means the Defendants and their respective predecessors, successors, parents, subsidiaries, affiliates, divisions, partners, insurers and past and current officers, directors, employees, agents, shareholders and beneficiaries of any kind.
- (jj) **Releasors** means, individually and collectively, the Plaintiff Benjamin Loeub and the AppleCare Class Members, and their respective successors, heirs, executors, administrators, trustees, assigns, devisees or representatives of any kind (excluding Class Counsel, whose release is addressed at Article 11.1 of the present Settlement Agreement).
- (kk) **Second Order** means the anticipated order of the Court at **Schedule E** approving the terms of this Settlement Agreement, approving Class Counsel Fees and



approving the discontinuance or withdrawal the Battery Class and the corresponding Battery Claim.

- (ll) **Settlement** means the settlement provided for in this Settlement Agreement.
- (mm) **Settlement Agreement** means this agreement, including the recitals and Schedules.
- (nn) **Settlement Amount** means the all-inclusive amount of six million Canadian Dollars (CAD \$6,000,000.00), payable by the Defendants, plus any interest earned on any portion of the Settlement Amount after it has been transferred to the Account pursuant to Article V of this Settlement Agreement until the last payment is made pursuant to the Distribution Protocol (**Schedule F**). The Total Settlement Fund and Class Counsel Fees and Disbursements are included in the Settlement Amount.
- (oo) **Total Settlement Fund** means the portion of the Settlement Amount left for distribution to class members after the deduction is made of Class Counsel Fees and Disbursements. For clarity, this amount is inclusive of any and all Class Member payments or claims. It excludes Class Counsel Fees and Disbursements. It also excludes Administration Expenses, which will be paid separately by the Defendants.

## **ARTICLE II – BEST EFFORTS TO SECURE COURT APPROVAL**

### **2.1 Best Efforts**

The Parties shall use their best efforts to effectuate this Settlement Agreement and shall cooperate to seek and obtain the Court's approval of this Settlement Agreement and all other matters addressed herein.

If the Defendants intend to seek a sealing order in respect of commercially-sensitive information to be included in the materials submitted on any of the applications contemplated under this Settlement Agreement, they will notify Class Counsel in advance. The Plaintiffs and Class Counsel will not object to such an Application for a sealing order.

The Defendants will cooperate to provide information to Class Counsel and the Court that is reasonable and necessary for the Plaintiffs to seek and obtain Court approval of this Settlement Agreement, including without limitation the total number of AppleCare contracts of Eligible AppleCare Class Members, the total amount paid by Eligible AppleCare Class Members for AppleCare, and the total number of Eligible AppleCare Class Members.

### **2.2 Court Approval Require for Enforceable Agreement**

With the exception of those Articles expressly stated to survive termination of this Settlement Agreement, this Settlement Agreement shall be of no force or effect unless it is approved by the Court.

### **ARTICLE III – OPT-OUT PROCEDURE**

#### **3.1 Court Approval of Opt-Out Process and Deadlines**

- (a) Class Counsel shall seek the Court's approval of the following opt-out procedure as part of the Applications for Approval of Notice of Hearing, Opt-Out and Discontinuance outlined in Article 4.1 below:
- (i) Class Members seeking to opt out of the Class Action must do so within thirty (30) days from the date that Notice of Hearing, Opt-Out and Discontinuance is first disseminated, by sending a complete and validly executed written election to opt out to Class Counsel at the email address to be provided in the Notice of Hearing, Opt-Out, and Discontinuance received on or before the Opt-Out Deadline. The written election of opt out must be sent by the Class Member or the Class Member's designee and must include the following information:
- The Court docket number of the Class Action (500-06-000897-179);
  - The Class Member's full name, current address, email address and telephone number; and
  - A statement to the effect that the Class Member is in fact a Class Member and wishes to be excluded from the Class Action.
- (b) Class Members who opt out of the Class Action shall not be members of the Class, and shall have no further right to participate in the Class Action or to share in the distribution of funds as a result of the Settlement Agreement.
- (c) Upon expiry of the Opt-Out Deadline, Class Counsel shall provide the Defendants with copies of the opt outs received.
- (d) The Defendants shall not be required to pay any part of the Settlement Amount or the Total Settlement Fund in respect of any Class Member who validly opted out of the Class Action.
- (e) Under article 580 of the Code of Civil Procedure of Québec, a Class Member eligible to opt out pursuant to this section who does not discontinue an originating application having the same subject matter as the Class Action before the Opt-Out Deadline has expired, is deemed to have opted out.

### **ARTICLE IV – SETTLEMENT APPROVAL**

Subject to the direction of the Court regarding the approval process, the Parties propose to seek the orders contemplated in this Settlement Agreement as follows. The Parties agree that the applications contemplated in this article may be conducted in person, by videoconference, or by teleconference, as directed by the Court.

#### 4.1 Applications for Approval of Notice of Hearing

- (a) As soon as practicable after this Settlement Agreement is executed, Plaintiffs shall bring an application for the Court's approval of an order substantially in the form of the draft First Order at **Schedule A** (being the draft order approving the Notice of Hearing, Opt-Out and Discontinuance and appointing the Claims Administrator). The Defendants will consent to this application.
- (b) Until the application for the Court's approval of an order substantially in the form of the draft First Order at **Schedule A** is brought, the Parties shall keep all of the terms of the Settlement Agreement confidential and shall not disclose them without prior written consent of the Parties, except as required for the purposes of financial reporting, communications with insurer and auditors, and/or the preparation of financial records (including tax returns and financial statements), as necessary to give effect to its terms or as otherwise required by law.

#### 4.2 Application for Approval

- (a) As soon as practicable after an order substantially in the form of the First Order is made, and the Notice of Hearing, Opt-Out and Discontinuance published as detailed in the Notice Plan (**Schedule C**), the Plaintiffs shall bring an application for the Court's issuance of an order substantially in the form of the draft Second Order at **Schedule D** (being the draft order approving this Settlement and Class Counsel Fees, as well as the discontinuance of the Battery Claim on behalf of the Battery Class). The Defendants will consent to this application, and the *Fonds d'aide* will be served with the application. The Defendants will take no position on the aspects of such application that concern Class Counsel Fees, other than that they agree to pay the Class Counsel fees. The Parties waive any rights of appeal if the Second Order substantially in the form of **Schedule D** is granted by the Court.
- (b) The Defendants will review and approve all application materials before they are filed.
- (c) If the Plaintiffs, Class Counsel, the Defendants, or Defence Counsel become aware that a Class Member or other person intends to object to those applications, they will advise the Parties in writing as soon as practicable and in any event no later than 2 business days before the hearing of the application in Article 4.2 (a).

### **ARTICLE V – SETTLEMENT BENEFITS**

#### 5.1 Composition of the Settlement and the Settlement Amount

- (a) Within thirty (30) days of the execution of this Settlement Agreement, the Defendants shall place CAD \$6,000,000.00 representing the Settlement Amount, in trust with Defence Counsel. Within five (5) business days of such deposit, Defence Counsel will confirm to Class Counsel that it is holding this amount in trust in an interest-bearing account.
- (b) This Settlement Agreement provides for Eligible AppleCare Class Members to:

- (i) Directly and automatically receive the Consumer Cash Payments, pursuant to the terms of the Distribution protocol (**Schedule F**); and
- (ii) Be able to submit a claim in order to receive Consumer Cash Reimbursements, pursuant to the terms of the Distribution protocol (**Schedule F**).

The Consumer Cash Payments and Consumer Cash Reimbursements will be paid out of the Total Settlement Fund.

- (c) Within ten (10) business days of the Effective Date, Defence Counsel shall transfer the Settlement Amount to the Account.
- (d) Within twenty-five (25) business days of the Effective Date, the Claims Administrator shall transfer to Class Counsel payment in the amount of the Class Counsel Fees and Disbursements approved by the Court, in full satisfaction of any claims for fees, costs and disbursements related to the Class Action (as described more fully at Article 11.1 of the present Settlement Agreement).
- (e) The Claims Administrator will be responsible for the distribution and claims process as outlined in the Distribution Protocol (Schedule F).
- (f) Defendants' payment of the Settlement Amount to the Account will be in full satisfaction of the Released Claims against the Releasees, subject to approval of the Court.
- (g) Defendants shall not have any obligation to pay any amount in addition to the Settlement Amount, unless otherwise expressly provided for in this Agreement.

## **5.2 Taxes and Interest**

- (a) Except in the event of termination of this Settlement Agreement, all interest earned on the Settlement Amount after it is transferred to the Account, shall accrue to the benefit of the AppleCare Class and shall become and remain part of the Total Settlement Fund.
- (b) Subject to Article 5.2(c), all taxes payable on any interest that accrues on the Settlement Amount in the Account or otherwise in relation to the Settlement Amount, which becomes part of the Total Settlement Fund, shall be the sole responsibility of the Account. The Defendants shall provide the Claims Administrator with all information reasonably required in order to fulfill all tax reporting and payment requirements arising from the Settlement Amount in the Account, including any obligation to report taxable income and make tax payments, and the Claims Administrator will make such payments and prepare such reports as required. All taxes (including interest and penalties) due with respect to the income earned on the Settlement Amount shall be paid from the Account and deducted from the Total Settlement Fund.
- (c) The Parties agree that the Plaintiffs, Defendants, Class Counsel, and Defense Counsel are in no way liable for any taxes any Class Members may be required to pay as a result of receiving any benefits under this Settlement Agreement. No

opinion concerning the tax consequences of this Settlement Agreement to any Class Member is given or will be given by the Parties or their respective counsel, nor is any Party or their counsel providing any representation or guarantee respecting the tax consequences of this Settlement Agreement as to any Class Member. Each Class Member and Class Counsel are responsible for their tax reporting and other obligations respecting this Settlement Agreement, if any.

### **5.3 The Battery Claim**

- (a) As provided for at Article 4.2 of this Settlement Agreement, at the same time as the approval of the Notice of Hearing, Opt-Out and Discontinuance and the appointment of the Claims Administrator, Class Counsel will apply to the Court to discontinue or otherwise withdraw the Battery Claim on behalf of the Battery Class and Plaintiff Raphael Badaoui, which will be discontinued or withdrawn without any payment to the Battery Class, Plaintiff Raphael Badaoui or Class Counsel, and without any release from the Battery Class for the Battery Claim. The Defendants will not seek any costs in relation to the discontinuance of the Battery Class.
- (b) Class Counsel stipulates that they have no current intention to, and will not, recommence an identical or similar claim related to the Battery Claim.
- (c) If the Discontinuance is approved, Plaintiffs will file a Notice of Discontinuance into the Court record on behalf of the Battery Class.

## **ARTICLE VI– DISTRIBUTION OF THE SETTLEMENT FUND**

### **6.1 Distribution Protocol**

The Distribution Protocol is part of this Settlement Agreement and will be subject to approval by the Court, as part of the application seeking Court approval of this Settlement Agreement (the Second Order). The Distribution Protocol is set out at **Schedule F** hereto.

### **6.2 No Responsibility for External Administration Fees**

The Defendants acknowledge that it may incur internal costs to provide information to the Claims Administrator in order to provide notices to Class Members pursuant to the Notice Plan. However, the Defendants will not be required to incur any external administration fees (separate from the Administration Expenses) in connection with the Distribution Protocol.

### **6.3 Fonds d'aide aux actions collectives (“Fond d'aide”)**

The Parties acknowledge that the Settlement Agreement is subject to the *Act respecting the Fonds d'aide aux actions collectives*, C.Q.L.R., c. F-3.2.0.1.1, the *Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives*, C.Q.L.R., c. F-3.2.0.1.1.r.2 and the *Code of Civil Procedure*, C.Q.L.R., c. C-24.01.

### **6.4 Rendering of Account and Closing Judgment**

- (a) Within six (6) months following the completion of the distribution of the Total Settlement Fund in accordance with the Distribution Protocol, the Claims Administrator will provide a “**Rendering of Account**” in a detailed report of its

administration in conformity with the *Regulation of the Superior Court of Québec in civil matters, C-25.01, r. 0.2.1*, (the “**Regulation**”) which will be sent to the Parties, the Fonds d’aide, and the Court. In addition, if not already required by the Regulation, the Rendering of Account will include the following:

- (i) The fact that the Settlement has been duly implemented;
  - (ii) The fact that the Notice of Court Order had been communicated in accordance with the terms and conditions set out in the Settlement;
  - (iii) The number and total amount of Consumer Cash Payments made;
  - (iv) The number and total amount of Consumer Cash Reimbursements made;
  - (v) The balance, if any, remaining from the Settlement Amount, and the totals to be distributed pursuant to Article 6.4 (b) below.
- (b) If any balance pursuant to Article 6.4(a)(v) remains, within 30 days after the Rendering of Account, the Fonds d’aide will receive the share of the balance to which it is entitled by law, if any. The remainder of the balance will be paid cy-près to the charity/charities chosen by the Plaintiffs and the Defendants, which must be approved by the Court in the Second Order.
- (c) Within 30 days after the Rendering of Account, Defendants shall make an application to obtain a closing judgment.

## **ARTICLE VII – TERMINATION OF SETTLEMENT AGREEMENT**

### **7.1 Right of Termination**

- (a) The Defendants shall have the option to terminate this Settlement Agreement in the event that:
- (i) the Plaintiffs breach any material term of this Settlement Agreement;
  - (ii) The Court declines to issue an order substantially in the form of the Second Order, to approve any material part of the Settlement Agreement (which does not include Class Counsel Fees and Disbursements), or requires a material change to the Settlement Agreement as pre-condition to approval. For greater certainty, a material part of the Settlement necessarily includes, but is not limited to, the discontinuance or withdrawal of the Battery Claim on behalf of the Battery Class;
  - (iii) If the number of valid opt outs exceeds 2,500 of the AppleCare Class; or
  - (iv) The Court issues an order substantially in the form of the Second Order, but it does not become Final or is materially altered on appeal.
- (b) The Plaintiffs and Class Counsel, collectively but not separately, shall have the option to terminate the Settlement Agreement in the event that:
- (i) The Defendants breach any material terms of this Settlement Agreement;

- (ii) The Court declines to issue an order substantially in the form of the Second Order, or to approve of any material part of the Settlement Agreement (which does not include Class Counsel Fees and Disbursements), or requires a material change to the Settlement Agreement as pre-condition to approval; or
  - (iii) The Court issues an order substantially in the form of the Second Order, but it does not become Final or is materially altered on appeal.
- (c) If the Defendants elect to terminate the Settlement Agreement pursuant to Article 7.1(a), or the Plaintiffs together with Class Counsel elect to terminate the Settlement Agreement pursuant to Article 7.1(b), a written notice of termination shall be provided by the terminating Party(s) to the other Party(s) forthwith, and, in any event, no later than 10 business days after the event upon which the terminating Party relies. Upon delivery of such written notice, this Settlement Agreement shall be terminated and, except as provided for in Articles 7.2 and 7.3, and the related Definitions in Article I, it shall be null and void and have no further force or effect, shall not be binding on the Parties, and shall not be used as evidence or otherwise in any Released Claims, including but not limited to any trial on the merits, except with the written consent of all Parties or as otherwise required by a Court.
- (d) Any order, ruling or determination made by the Court with respect to the Class Counsel's Fees shall not be a material modification of this Settlement Agreement and shall not constitute a basis for the termination of this Settlement Agreement.

## **7.2 If Settlement Agreement is Terminated**

If this Settlement Agreement is terminated:

- (a) The Parties will be restored to their respective positions prior to the execution of this Settlement Agreement and prior to the initiation of the mediation process, except as expressly provided for herein;
- (b) Any step taken by the Defendants or the Plaintiffs in relation to this Settlement Agreement shall be without prejudice to any position that the Parties may later take in respect of any procedural or substantive issues in the Class Action;
- (c) Any order or judgment rendered by the Court pursuant to this Settlement Agreement shall be set aside or vacated. The Parties consent and will cooperate in seeking to have all prior orders or judgments sought from and rendered by the Court, in accordance with this Settlement Agreement, set aside and declared null and void and of no force or effect, and any Party shall be estopped from asserting otherwise; and
- (d) All documents and information exchanged by the Parties during the settlement process are subject to settlement privilege, except to the extent that the documents or information were, are or become publicly available. Within thirty (30) days of such termination having occurred, Class Counsel shall destroy all documents and other materials provided by the Defendants or containing or reflecting information derived from such documents for the purposes of implementing this Settlement.

Class Counsel shall provide Defence Counsel with a written certification by Class Counsel of such destruction.

### **7.3 Allocation of Monies in the Account Following Termination**

If the Settlement Agreement is terminated after the Settlement Amount (or any portion thereof) has been transferred to Defence Counsel in trust or the Account, the Settlement Amount shall be returned to the Defendants, including accrued interest, but less:

- (a) The amount of any income taxes paid or owing in respect of any interest earned on the Settlement Amount while on deposit in the Account; and
- (b) Any Administration Expenses that have actually been incurred as at the date of termination, including costs associated with any Notices, and the estimated costs of Administration Expenses to be incurred to provide notice to the Class that the Settlement Agreement has been terminated, if such notice is required by the Court, as well as costs associated with the Claims Administrator. In this regard, the Parties hereby agree and acknowledge that the Plaintiffs, the Class Members and Class Counsel will never be liable or responsible to pay for any portion of the Administration Expenses, including without limitation and costs associated with any Notices. The Defendants will therefore solely be responsible to pay for any and all such Administration Expenses and Notice costs.

## **ARTICLE VIII – RELEASES AND DISMISSALS**

### **8.1 Release of Releasees**

Except in the case of the termination of this Settlement Agreement, and conditional upon the approval of this Settlement Agreement by the Court, upon transfer of the Settlement Amount into the Account pursuant to Article 5.1(c) and in consideration of the payment of the Settlement Amount into the Account and for other valuable consideration set forth in this Settlement Agreement, the Releasors shall forever and absolutely release the Releasees from the Released Claims. The Plaintiff Benjamin Loeb acknowledges that he may thereafter discover facts in addition to, or different from, the facts which they know or believe to be true regarding the Released Claims, and it is his intention to release fully, finally and forever all Released Claims and, in furtherance of such intention, this release shall be and remain in effect notwithstanding the discovery or existence of new or different facts.

### **8.2 No Further Claims**

The Releasors shall not now, nor hereafter institute, continue, maintain, or assert, either directly or indirectly, on their own behalf or on behalf of any class or any other person, any Released Claim against any Releasee or any other person who may claim contribution or indemnity from any Releasee in respect of any Released Claim.

## **ARTICLE IX– EFFECTS OF SETTLEMENT**

### **9.1 No Admission of Liability**

Whether or not this Settlement Agreement is approved or terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions, and



proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed, or interpreted to be an admission of any violation of any statute or law, or of any fault, wrongdoing or liability by any of the Releasees, or of the truth of any claims or allegations contained in the Class Action or any other allegation made by the Plaintiffs or the Class in any forum or context. The Releasees deny any liability and deny the truth of the allegations made against them. If the Settlement Agreement is not approved, they will defend the Class Action at trial.

The Defendants reserve their rights and defences with respect to anyone who validly opted out of the Class Action, and no term of this Settlement Agreement shall be tendered as evidence in any subsequent litigation by any such person against the Defendants.

## **9.2 This Agreement is Not Evidence**

The Parties agree that, whether or not it is approved or terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions, and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence, or received in evidence in any pending or future civil, criminal, or administrative action or other proceeding, except in a proceeding to approve or enforce this Settlement Agreement or in connection with the other applications contemplated in this Settlement Agreement, or to defend against the assertion of Released Claims, or as otherwise required by law, or with the written consent of all Parties.

## **ARTICLE X – EFFECTS OF SETTLEMENT**

### **10.1 Notice Required**

The Class shall be given the following notices, subject to approval by the Court:

- (a) Notices of Hearing and Opt-Out (**Schedule B**);
- (b) Notices of Court Order (**Schedule E**);
- (c) Notice of termination of this Settlement Agreement if it is terminated pursuant to this Settlement Agreement, or as otherwise ordered by a Court, in a form to be agreed upon by the Parties and approved by the Court or, if the Parties cannot agree on the form of the notice of termination of the Settlement Agreement, then in the form ordered by the Court.

### **10.2 Costs of Disseminating Notice**

The costs of disseminating each Notice shall be paid by the Defendants, regardless of whether the Settlement is approved by the Court or the Settlement Agreement is terminated. The Plaintiffs, the Class and the Class Counsel are not liable to pay for such costs.

### **10.3 Method of Disseminating Notices**

The Notices required under Article 10.1 shall be disseminated pursuant to the Notice Plan attached as **Schedule C** as approved by the Court or in a manner otherwise ordered by the Court.

## **ARTICLE XI – CLASS COUNSEL AND ADMINISTRATION FEES**

### **11.1 Class Counsel Fees and Release**

- (a) As part of the application for approval detailed at Article 4.2(a), Class Counsel will seek the Court's approval of Class Counsel Fees and Disbursements in the amount of 30% of the Settlement Amount plus taxes and disbursements, and an order that the Class Counsel Fees and Disbursements shall be paid as outlined in Article 5.1(d). The Defendants will take no position on this request, other than that they have agreed to pay these amounts.
- (b) Upon full payment of the Class Counsel Fees approved by the Court to Class Counsel pursuant to the order to be rendered by the Court, Class Counsel forever releases the Releasees of and from any and all claims or demands for fees, costs, expenses and/or disbursements, known or unknown, that Class Counsel ever had, could have had, or now has, whether directly or indirectly related to the Class Action.

### **11.2 Administration Expenses**

The Defendants shall not be liable for any fees, disbursements or taxes of the lawyers, experts, advisors, agents, or representatives of Class Counsel, the Plaintiffs or the Class, all of which shall be paid from the Settlement Amount, as approved by the Court.

## **ARTICLE XII – MISCELLANEOUS**

### **12.1 Application for Directions**

- (a) The Plaintiffs, Defendants, or the Claims Administrator may bring applications to the Court for directions in respect of the implementation and administration of this Settlement Agreement at any time.
- (b) All applications contemplated by this Settlement Agreement shall be on reasonable notice to the Parties.

### **12.2 Heading, etc.**

In this Settlement Agreement:

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

### **12.3 Computation of Time**

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

- (a) Where there is a reference to a number of days between two events, the number of days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and
- (b) Only in the case where the time for doing an act expires on a holiday or a weekend, the act may be done on the next day that is a business day.

#### **12.4 Governing Law**

This Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Québec and Canada.

#### **12.5 Entire Agreement**

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

#### **12.6 Amendments**

This Settlement Agreement may not be modified or amended except in writing and on consent of the Plaintiffs and the Defendants, subject to approval by the Court where required.

#### **12.7 No Waiver**

No waiver of any provision of this Settlement Agreement will be binding unless consented to in writing by the Parties. No waiver of any provision of this Settlement Agreement will constitute a waiver of any other provision.

#### **12.8 Binding Effect**

This Settlement Agreement shall be binding upon and inure to the benefit of the Plaintiffs, the Class Members, the Defendants, the Releasors, and the Releasees once it is approved by a Final order of the Court, except that the Parties are required to perform their obligations under this Settlement Agreement prior to the application for approval of this Settlement Agreement. Without limiting the generality of the foregoing, each and every covenant and agreement made by the Plaintiffs shall be binding upon all Releasors, once it is approved by Final order of the Court.

#### **12.9 Counterparts**

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

#### **12.10 Negotiated Agreement**

This Settlement Agreement has been the subject of negotiations and discussions among the Parties, each of which has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement shall have no force and effect. The Parties further agree that the language contained in 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.

#### **12.11 Language**

The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; *les parties reconnaissent avoir exigé que la présente convention de règlement et tous les documents connexes soient rédigés en anglais*. Nevertheless, a French translation of this Settlement Agreement, including the Distribution Protocol and the Notices shall be prepared, the cost of which shall be paid for by the Defendants.

#### **12.12 Transaction**

The present Settlement Agreement constitutes a transaction in accordance with Articles 2631 and following of the *Civil Code of Quebec*.

#### **12.13 Recitals**

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

#### **12.14 Schedules**

The Schedules annexed hereto form part of this Settlement Agreement and are:

- (a) **Schedule A** – Draft First Order.
- (b) **Schedule B** – Notice of Hearing, Opt-Out and Discontinuance.
- (c) **Schedule C** – Notice Plan.
- (d) **Schedule D** – Draft Second Order.
- (e) **Schedule E** – Notice of Court Order.
- (f) **Schedule F** – Distribution Protocol.

#### **12.15 Acknowledgements**

Each of the Parties hereby affirms and acknowledges that:

- (a) He, she, or a representative of the Party with the authority to bind the Party with respect to the matters set forth herein has read and understood the Settlement Agreement;

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

#### **12.16 Authorized Signatures**

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.

#### **12.17 Notice**

Where this Settlement Agreement requires a Party to provide notice or any other communication or document to another, such notice, communication or document shall be provided by email, facsimile 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:

**LPC Avocat Inc.**

276 Saint-Jacques Street, Suite 801  
Montreal, QC, H2Y 1N3

**Mtre Joey Zukran**

Telephone: 514-379-1572  
Fax: 514-221-4441  
Email: jzukran@lpclex.com

**Renno Vathilakis Inc.**

276 Saint-Jacques Street, Suite 801  
Montreal, QC, H2Y 1N3

**Mtre Michael E. Vathilakis**

**Mtre Karim Renno**

Telephone: 514-937-1221  
Fax: 514- 221-3334  
Email: mvathilakis@renvath.com  
krenno@renvath.com

For the Defendants and Defence Counsel:

**McCarthy Tétrault LLP**

1000 Gauchetière Street West, suite MZ400  
Montreal, QC H3B 0A2

**Mtre Sarah Woods**

**Mtre Marie Rondeau**

Telephone: 514-397-4100

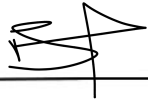
Facsimile: 514-875-6246

Email: [swoods@mccarthy.ca](mailto:swoods@mccarthy.ca)  
[mrondeau@mccarthy.ca](mailto:mrondeau@mccarthy.ca)

**Date of Execution**

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

Dated at Montreal, Quebec, Canada, this 20 day of April, 2023

  
\_\_\_\_\_

**RAPHAEL BADAOU**

Plaintiff

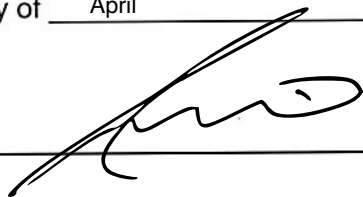
Dated at Montreal, Quebec, Canada, this \_\_\_\_\_ day of \_\_\_\_\_, 2023

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**BENJAMIN LOEUB**

Plaintiff

Dated at Montreal, Quebec, Canada, this 20 day of April, 2023

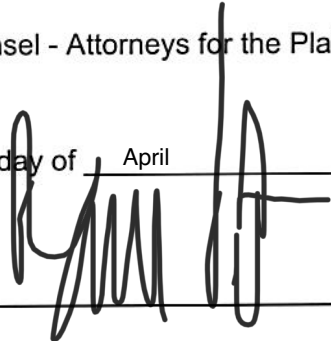
  
\_\_\_\_\_

**LPC AVOCAT INC.**

Per: Joey Zukran

Class Counsel - Attorneys for the Plaintiffs and the Class

Dated at Montreal, Quebec, Canada, this 20 day of April, 2023

  
\_\_\_\_\_

**RENNO VATHILAKIS INC.**

Per: Michael E. Vathilakis

Class Counsel - Attorneys for the Plaintiffs and the Class

**Date of Execution**

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

Dated at Montreal, Quebec, Canada, this \_\_\_\_\_ day of \_\_\_\_\_, 2023

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**RAPHAEL BADAOU**

Plaintiff

Dated at Montreal, Quebec, Canada, this 20 day of April, 2023



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**BENJAMIN LOEUB**

Plaintiff

Dated at Montreal, Quebec, Canada, this \_\_\_\_\_ day of \_\_\_\_\_, 2023

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**LPC AVOCAT INC.**

Per: Joey Zukran

Class Counsel - Attorneys for the Plaintiffs and the Class

Dated at Montreal, Quebec, Canada, this \_\_\_\_\_ day of \_\_\_\_\_, 2023

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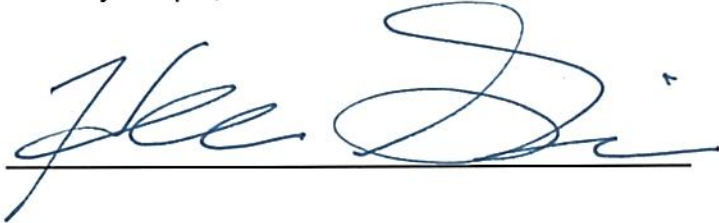
**RENNO VATHILAKIS INC.**

Per: Michael E. Vathilakis

Class Counsel - Attorneys for the Plaintiffs and the Class



Dated at Cupertino, California, USA, this 20th day of April, 2023

A handwritten signature in blue ink, appearing to read 'Heather Grenier', is written over a solid horizontal line.

**APPLE INC. AND APPLE CANADA INC.**

Per: Heather Grenier, VP, Commercial Litigation/Legal and Global Security Operations

Defendants

## SCHEDULE A

### Superior Court (Class Action Division)

CANADA

PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

NO.: 500-06-000897-179

DATE: , 2023

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**IN THE PRESENCE OF: THE HONOURABLE MARIE-CHRISTINE HIVON, J.S.C.**

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**RAPHAEL BADAoui**  
and  
**BENJAMIN LOEUB**

Representative Plaintiffs

v.

**APPLE INC.**  
and  
**APPLE CANADA INC.**

Defendants

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### **JUDGMENT**

(APPROVING THE NOTICE OF HEARING, OPT-OUT AND DISCONTINUANCE, AND  
APPOINTING A CLAIMS ADMINISTRATOR)

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1. **CONSIDERING** the Authorization Judgment rendered on July 16, 2019 by the Honourable Chantal Corriveau, J.S.C., and the Court of Appeal Judgment on March 17, 2021, and as rectified on April 15, 2021, bearing Court file no. 500-09-028533-198;
2. **CONSIDERING** the transaction executed between the Plaintiffs and Defendants on April 20, 2023 (the "**Settlement Agreement**"), together with its Schedules, attached as Annex A;

3. **CONSIDERING** that the Plaintiffs now bring an Application for the Approval of the Notice of Hearing, Opt-Out and Discontinuance, and Appointment of the Administrator;
4. **CONSIDERING** that the Parties are jointly asking the Court to approve notices informing Class Members that the Settlement Agreement will be submitted to the Court for approval, and that Plaintiffs and Class Counsel are seeking the discontinuance of the Battery Claim on behalf of the Battery Class;
5. **CONSIDERING** that the Parties are jointly asking the Court to appoint RicePoint Administration Inc. as the Claims Administrator;
6. **CONSIDERING** the submissions of counsel for the Representative Plaintiffs and counsel for the Defendants;
7. **CONSIDERING** the proposed French and English versions of the Notice of Hearing, Opt-Out and Discontinuance attached as Schedule B to the Settlement Agreement;
8. **CONSIDERING** the proposed Notice Plan attached as Schedule C to the Settlement Agreement;
9. **CONSIDERING** that RicePoint Administration Inc. accepts to be appointed as the Claims Administrator;

**POUR CES MOTIFS, LE TRIBUNAL :****WHEREFORE, THE COURT:**

10. **ORDONNE** que les définitions apparaissant dans l'Entente d règlement s'appliquent au présent jugement, à moins qu'elles ne soient expressément modifiées dans les présentes;
  11. **MODIFIE** les définitions des groupes comme suit :
- |  |   |
|--|---|
| <p><b>Groupe Piles rechargeables Apple :</b></p> <p>Tous les consommateurs qui ont acheté depuis le 29 décembre 2014 un iPhone;</p> <p><b>Groupe AppleCare :</b></p> <p>Tous les consommateurs qui ont acheté entre le 20 décembre 2015 et</p> | <p><b>ORDERS</b> that the definitions found in the Settlement Agreement find application in the present Judgment, except if specifically modified herein;</p> <p><b>MODIFIES</b> the class descriptions as follows:</p> <p><b>Apple Battery Class:</b></p> <p>All consumers who purchased an iPhone from December 29, 2014.</p> <p><b>AppleCare Class:</b></p> <p>All consumers who, between December 20, 2015 and January 26, 2023, purchased AppleCare and/or AppleCare+ for an Apple product in Quebec, including but not limited to an iPhone, Apple Watch, iPad, iPod, Mac</p> |
|--|---|

le 26 janvier 2023 « AppleCare » ou « AppleCare+ » pour un produit Apple au Québec, y compris mais sans s'y limiter, un iPhone, Apple Watch, iPad, iPod, Mac et/ou MacBook et qui n'ont pas été informé de leur garantie légale en vertu de la Loi sur la protection du consommateur au moment de l'achat.

and/or MacBook and were not informed of their legal warranty under the Consumer Protection Act at the time of purchase.

AVIS D'AUDITION, D'EXCLUSION ET DÉSISTEMENT

12. **APPROUVE** l'Avis d'audience, d'exclusion et désistement aux membres du groupe, dans sa version française et anglaise, substantiellement sous la forme de l'annexe B de l'Entente de règlement.
13. **APPROUVE** le Plan relatif aux avis joint comme annexe C de l'Entente de règlement;
14. **ORDONNE** que l'Avis d'audience, d'exclusion et désistement, substantiellement sous la forme de l'annexe B de l'Entente de règlement, soit diffusé conformément au Plan relatif aux avis (Annexe C de l'Entente de règlement), dont les frais de diffusion sont payés par les Défenderesses conformément aux termes du Plan relatif aux avis (Annexe C à la Transaction), peu importe si l'Entente de règlement est approuvée;

NOTICES OF HEARING, OPT-OUT AND DISCONTINUANCE

- APPROVES** the Notice of Hearing, Opt-Out and Discontinuance to Class Members, in its French and English version, substantially in the form of Schedule B to the Settlement Agreement;
- APPROVES** the Notice Plan attached as Schedule C to the Settlement Agreement;
- ORDERS** that the Notice of Hearing, Opt-Out and Discontinuance, substantially in the form of Schedule B to the Settlement Agreement, shall be disseminated in accordance with the Notice Plan (Schedule C to the Settlement Agreement), the costs of which shall be paid by the Defendants, in accordance with the terms set out in the Notice Plan (Schedule C to the Settlement Agreement) regardless of whether the Settlement Agreement is approved;

PROCÉDURE D'EXCLUSION ET D'OBJECTIONS

15. **DÉCLARE** que les Membres du Groupe désirant s'objecter à l'approbation par le Tribunal de

OPT OUT AND OBJECTIONS PROCEDURES

- DECLARES** that Class Members who wish to object to Court approval of the Settlement must do so in the manner provided for in the

l'Entente de règlement devront procéder de la manière prévue dans l'Avis d'audience, d'exclusion et désistement (Annexe B de l'Entente de règlement), au plus tard le **11 juin 2023**;

16. **DÉCLARE** que les Membres du Groupe désirant s'exclure de l'action collective et de l'application de l'Entente de règlement devront transmettre un avis écrit confirmant leur intention de s'exclure du Groupe de la manière prévue dans l'Avis d'audience, d'exclusion et désistement (Annexe B de l'Entente de règlement), au plus tard le **11 juin 2023**;
17. **DÉCLARE** que les Membres du Groupe qui n'auront pas requis leur exclusion du Groupe seront liés par tout jugement à être rendu quant à la présente action collective conformément à la loi;

Notice of Hearing, Opt-Out and Discontinuance (Schedule B of the Settlement Agreement) by **June 11, 2023**;

**DECLARES** that Class Members who wish to opt-out from the class action and the settlement thereof may do so by delivering a written notice confirming their intention to opt-out of this class action, in the manner provided for in the Notice of Hearing, Opt-Out and Discontinuance (Schedule B of the Settlement Agreement) by **June 11, 2023**;

**DECLARES** that all Class Members that have not requested their exclusion be bound by any judgement to be rendered on the class action in the manner provided for by the law;

#### ADMINISTRATEUR DES RÉCLAMATIONS

#### CLAIMS ADMINISTRATOR

18. **DÉSIGNE** RicePoint Administration Inc. comme Administrateur des Réclamations;

**DESIGNATES** RicePoint Administration Inc. as Claims Administrator;

19. **ORDONNE** que les Défenderesses divulgue à l'Administrateur des Réclamations les noms, courriels, adresses postales et toutes les informations d'identification nécessaires des Membres du Groupe que les Défenderesses détiennent (conformément au Protocole de distribution), afin de :

**ORDERS** that the Defendants disclose to the Claims Administrator the names, emails, mailing addresses and all necessary identifying information of Class Members that Defendants hold (as per the Distribution Protocol), in order to:

- (a) faciliter la distribution des avis approuvés par le Tribunal aux Membres du Groupe les informant du présent

- (a) facilitate the distribution of Court-approved notice to Class Members advising them of this Judgment and the date and information relating to the

- jugement ainsi que de la date et des informations relatives à l'audience de la Demande d'approbation du règlement; et
- (b) faciliter le processus de réclamation éventuel découlant de tout jugement ultérieur approuvant l'Entente de règlement.
20. **ORDONNE** à l'Administrateur des Réclamations de créer, dans les dix (10) jours suivant le présent jugement, un Site Web de Règlement, conformément au Plan relatif aux avis. Le Site Web de Règlement comprendra :
- (a) une copie de l'Entente de règlement avec ses annexes, ainsi que les procédures et jugements pertinents dans le cadre de l'Action Collective;
- (b) une copie de l'Avis d'audience, d'exclusion et désistement (Annexe B) en anglais et en français;
- (c) les coordonnées de l'Administrateur des Réclamations et les coordonnées des Avocats du Groupe;
- settlement approval hearing; and
- (b) facilitate the process for the eventual administration of claims arising from any later judgment approving the Settlement Agreement.
- ORDERS** that within ten (10) days of the present Judgment, the Claims Administrator shall set up a Settlement Website, in accordance with the Notice Plan. The Settlement Website will include:
- (a) Copies of the Settlement Agreement with its schedules, and relevant proceedings and judgments in the Class Action;
- (b) Copies of the Notice of Hearing, Opt-Out and Discontinuance (Schedule B), in English and French;
- (c) The Claims Administrator's contact information and Class Counsel's contact information;
21. **ORDONNE** que les documents accessibles sur le Site Web de Règlement soient également accessibles sur le site Web du cabinet des Avocats du Groupe : [www.lpclex.com/AppleCare](http://www.lpclex.com/AppleCare) et sur le Registre des actions collectives du Québec;
- ORDERS** that the documents available on the Settlement Website be also made available on the website of Class Counsel: [www.lpclex.com/AppleCare](http://www.lpclex.com/AppleCare) and on the Quebec Class Action Registry;

22. **ORDONNE** à l'Administrateur des Réclamations de préserver la confidentialité des renseignements fournis au titre du présent jugement et de ne les communiquer à quiconque, y compris, notamment, à un avocat (sauf les avocats dont il retient les services), à moins que la communication ne soit strictement nécessaire pour l'exécution du Plan relatif aux avis et/ou pour la facilitation du processus d'administration des réclamations conformément à l'Entente de règlement;
- ORDERS** that the Claims Administrator shall maintain confidentiality over and shall not share the information provided pursuant to this Judgment with any other person, including, but not limited to any lawyer (except any lawyers retained by the Claims Administrator), unless doing so is strictly necessary for executing the Notice Plan and/or facilitating the claims administration process in accordance with the Settlement Agreement;
23. **ORDONNE** à l'Administrateur des Réclamations d'utiliser les renseignements qui lui sont fournis au titre du présent jugement uniquement aux fins d'exécution du Plan relatif aux avis et de facilitation du processus d'administration des réclamations conformément à l'Entente de règlement, et à aucune autre fin;
- ORDERS** that the Claims Administrator shall use the information provided to it pursuant to this Judgment for the sole purpose of executing the Notice Plan and facilitating the claims administration process in accordance with the Settlement Agreement, and for no other purpose;
24. **ORDONNE** que l'Administrateur des Réclamations fournisse un avis du présent jugement conformément au Plan relatif aux avis;
- ORDERS** that the Claims Administrator shall provide notice of this Judgment pursuant to the Notice Plan;
25. **ORDONNE** que les Frais d'administration soit payés par les Défenderesses à l'Administrateur des réclamations;
- ORDERS** that the Administration Expenses will be paid to the Claims Administrator by the Defendants;

LOIS SUR LA PROTECTION DES RENSEIGNEMENTS PERSONNELS ET COMMUNICATION DE CES RENSEIGNEMENTS

PRIVACY LAWS AND DISCLOSURE OF PERSONAL INFORMATION

26. **ORDONNE ET DÉCLARE** que le présent jugement constitue un jugement obligeant les Défenderesses à communiquer des renseignements personnels au sens

**ORDERS AND DECLARES** that this Judgment constitutes a Judgment compelling the production of the information by the Defendants within the meaning of applicable privacy laws, and that this Judgment satisfies the requirements of all

des lois sur la protection des renseignements personnels applicables, et que le présent jugement respecte les exigences de toutes les lois sur la protection des renseignements personnels applicables;

applicable privacy laws;

**AUDIENCE D'APPROBATION DU RÈGLEMENT**

**SETTLEMENT APPROVAL HEARING**

27. **FIXE** la date de l'Audience d'approbation de l'Entente de règlement au **12 juin 2023 à 9h00**, en salle 2.08 du Palais de justice de Montréal;

**SCHEDULES** the settlement approval hearing on **June 12, 2023 at 9:00 a.m.** in room 2.08 of the Montreal Courthouse;

28. **ORDONNE** que la date et l'heure pour la tenue de l'audience d'approbation de l'Entente de règlement puissent être reportées par le Tribunal sans autre avis aux Membres du Groupe autre que l'avis qui sera affiché sur le site web des Avocats du Groupe ([www.lpclex.com/AppleCare](http://www.lpclex.com/AppleCare)) et le site web du règlement;

**ORDERS** that the date and time of the settlement approval hearing may be subject to adjournment by the Court without further publication notice to the Class Members, other than such notice which will be posted on Class Counsel's website ([www.lpclex.com/AppleCare](http://www.lpclex.com/AppleCare)) and the Settlement Website;

**LE TOUT, SANS FRAIS.**

**THE WHOLE, WITHOUT COSTS.**

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MARIE-CHRISTINE HIVON, J.S.C.

Mtre. Joey Zukran  
LPC Avocat inc.  
Mtre. Michael Vathilakis  
Mtre. Karim Renno  
Renno Vathilakis Avocats inc.  
Attorneys for the Representative Plaintiffs

Mtre. Sarah Woods  
Mtre. Marie Rondeau  
McCarthy Tétrault LLP  
Attorneys for the Defendants



## **SCHEDULE B**

### **QUEBEC CLASS ACTION SETTLEMENT**

#### **NOTICE OF HEARING FOR SETTLEMENT APPROVAL HEARING, OPT-OUT AND DISCONTINUANCE**

##### ***BADAoui V. APPLE CANADA INC. ET AL. CLASS ACTION* N° 500-06-000897-179**

**This notice is to all persons who:**

- (1) purchased an iPhone since December 29, 2014 (Battery Class), and/or**
- (2) between December 20, 2015 and January 26, 2023, purchased AppleCare and/or AppleCare+ for an Apple product in Quebec including but not limited to an iPhone, Apple Watch, iPad, iPod, Mac and/or MacBook and were not informed of their legal warranty under the *Consumer Protection Act* at the time of purchase (AppleCare Class).**

**PLEASE READ THIS NOTICE CAREFULLY. IT MAY AFFECT YOUR RIGHTS.**

**THIS CLASS ACTION HAS BEEN SETTLED, SUBJECT TO COURT APPROVAL.**

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#### **AUTHORIZATION OF THE CLASS ACTION**

On December 29, 2017, a class action was commenced in Quebec against Apple Canada Inc. and Apple Inc. (“Apple”), and later amended, notably alleging that: (1) Apple failed in its duty to inform consumers of the limited lifespan of the rechargeable batteries in relation to the lifespan of the iPhone when consumers purchased an iPhone, and (2) when selling AppleCare and/or AppleCare+, Apple failed in its duty to inform Quebec consumers, orally and in writing, in the manner prescribed by regulation, of the existence and nature of the legal warranty under the *Consumer Protection Act* (“CPA”). The Representative Plaintiffs asked the Court to order Apple to pay compensatory and punitive damages in amounts to be determined.

On July 16, 2019, the Honourable Justice Chantal Corriveau of the Superior Court of Québec authorized the bringing of this class action against the Defendants. On March 17, 2021, and as rectified on April 15, 2021, the Quebec Court of Appeal redefined one of two class descriptions and a common question. The classes were defined as follows:

##### **Apple Battery Class**

All consumers who purchased an iPhone since December 29, 2014.

##### **AppleCare Class:**

All consumers who, since December 20, 2015, purchased “AppleCare” and/or “AppleCare+” for an Apple product including an iPhone, Apple

Watch, iPad, iPod and/or MacBook and were not informed of their legal warranty under the *Consumer Protection Act* at the time of purchase.

(Together, the “**Classes**” or “**Class Members**”)

The common questions authorized are as follows:

1. Did Apple fail in its duty to inform consumers of the limited lifespan of the rechargeable batteries in relation to the lifespan of the iPhone when they purchased the product it manufactured and sold?
2. Did Apple fail in its duty to inform in its representations to Quebec consumers regarding the AppleCare and/or AppleCare+ warranty, in violation of section 228.1 CPA?
3. In the absence of adequate information when representing the AppleCare and/or AppleCare+ warranty to Quebec consumers, are the latter entitled to the remedies provided for under section 272 CPA and, if so, which ones?
4. Should Apple pay compensatory and/or punitive damages to class members and in what amount?

As a Class Member, you have the right to intervene in the present Class Action, in the manner provided for by law. No Class Member other than the representative plaintiff or an intervenor may be required to pay legal costs arising from the class action.

### **PROPOSED SETTLEMENT OF THE CLASS ACTION**

The parties to this class action have reached a proposed settlement (the “**Settlement Agreement**”), subject to obtaining the approval of the Superior Court of Quebec. The Settlement Agreement provides that the Defendants will pay a total of \$6,000,000.00 CAD, which includes the payment of Class Counsel fees of 30% of this amount (\$1,800,000.00 CAD) plus taxes and disbursements, but excludes the payment of Administration Expenses, which will be paid separately by the Defendants.

This Settlement Agreement is a compromise of disputed claims and is not an admission of liability, wrongdoing or fault on the part of the Defendants.

The Settlement Agreement, if approved by the Court, provides for benefits to be paid to Eligible AppleCare Class Members. An Eligible AppleCare Class Member is an AppleCare Class Member who purchased AppleCare in a Quebec Apple Store. This specifically excludes the purchase of AppleCare by any other method.

If approved by the Court, this Settlement Agreement provides for Eligible AppleCare Class Members to:

- a) automatically receive \$25.00 per AppleCare contract purchased in an Apple Store in Quebec between December 20, 2015 and January 26, 2023;
- b) be able to submit a claim that, if approved, will provide for an additional amount of up to 50% of what they paid for their AppleCare contract(s), before sales tax, between December 20, 2015 and January 26, 2023.

Eligible AppleCare Class Members will receive these payments via an e-transfer to their last known e-mail address that the Defendants have on file.

If you are receiving this Notice by post, Apple does not have a valid email address for you on file. Please contact the Claims Administrator to provide information for an e-transfer. Otherwise, if the settlement is approved, you will receive a cheque to this same address.

In return for the payment of the Settlement Amount, the Defendants will receive a release from the AppleCare Class Members and a declaration of settlement out of court of the Class Action.

### **DISCONTINUANCE OF THE BATTERY CLASS**

The Plaintiffs will discontinue the claims related to the Battery Class. If the Court allows the discontinuance, the Battery Class and related Battery Claim will be terminated. Limitation periods will no longer be suspended. Therefore, should they so desire, Battery Class Members may pursue their own legal claims at their own expense.

The Battery Class Members will not be compensated related to this claim and no release from the Battery Class will be given towards the Defendants.

### **SETTLEMENT APPROVAL HEARING**

A hearing before the Superior Court of Québec will be held on **June 12, 2023 at 9:00 a.m.**, at the Montreal courthouse located at 1, Notre-Dame East Street, Montreal, Quebec, in **room 2.08**, or via a TEAMS link. This date may be subject to adjournment by the Court without further publication notice to the Class Members, other than such notice which will be posted on Class Counsel's website [www.lpclex.com/AppleCare](http://www.lpclex.com/AppleCare) or on the claim's administrator's website: [www.ConsumerWarrantyClassAction.com](http://www.ConsumerWarrantyClassAction.com).

### **If you wish to be included in the Class Action, you have nothing to do.**

### **If you do not wish to participate in this class action:**

If you are a member of the AppleCare Class or the Battery Class and you wish to exclude yourself from the Class Action, you will not be entitled to participate further in the Class Action, or to share in the distribution of funds received as a result of the Settlement Agreement. To exclude yourself, you must send a notice no later than **June 11, 2023**, by email to Class Counsel at the following address: [jzukran@lpclex.com](mailto:jzukran@lpclex.com). You must state that you wish to exclude yourself from the class action *Badaoui v. Apple Canada Inc. et al.* (case number N° 500-06-000897-179).

### **If you wish to object to the terms of the proposed Settlement Agreement:**

If you disagree with the Settlement Agreement, but you do not wish to opt out of the class action, you can object to the Settlement Agreement by delivering a written submission on or before **June 11, 2023**, filed with the Court or Class Counsel (at the following address: [jzukran@lpclex.com](mailto:jzukran@lpclex.com)) in accordance with the proposed Settlement Agreement and containing the following information:

- (a) The objector's name, address, telephone number(s), fax number (where applicable) and email address(es);
- (b) A brief statement outlining the nature of, and reason for, the objection; and
- (c) A statement as to whether the objector intends to appear at the Settlement Approval Hearing in person or by legal counsel and, if by legal counsel, the name, address, telephone number, fax number and email address of such legal counsel.

Please note that the Court cannot change the terms of the Settlement Agreement. Any objections will be used by the Court to consider whether to approve the Settlement Agreement or not.

**Class Members who do not oppose the proposed Settlement Agreement do not need to appear at any hearing or take any other action to indicate their desire to support the proposed Settlement Agreement.**

If the Settlement Agreement is approved, another notice to Class Members will be sent explaining the method of distributing the settlement funds and confirming the approval of the discontinuance of the Battery Class.

### **MORE INFORMATION**

For further information or details about the proposed Settlement Agreement, you may contact class counsel identified below. Your name and any information provided will be kept confidential. Please do not contact the Defendants, or the judges of the Superior Court.

**Mtre. Joey Zukran**

**LPC Avocat Inc.**

276 rue Saint-Jacques, Suite 801  
Montréal, Québec, H2Y 1N3  
Telephone: 514 379-1572  
Email: [jzukran@lpclex.com](mailto:jzukran@lpclex.com)

**Mtre. Michael Vathilakis**

**Renno Vathilakis Inc.**

145 St-Pierre Street, Suite 201  
Montreal, Quebec, H2Y 2L6  
Telephone: 514 937-1221  
Email: [mvathilakis@renvath.com](mailto:mvathilakis@renvath.com)

You may also visit the Settlement Website at [www.ConsumerWarrantyClassAction.com](http://www.ConsumerWarrantyClassAction.com) or contact the Claims Administrator:

**RicePoint Administration Inc.**

**P.O. Box 3355**

**London, Ontario, N6A 4K3**

**1-855-662-1833**

### **INTERPRETATION**

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

**THE PUBLICATION OF THIS NOTICE TO CLASS MEMBERS  
HAS BEEN APPROVED AND ORDERED BY THE SUPERIOR COURT OF QUEBEC.**

## SCHEDULE C

### NOTICE PLAN

#### A. NOTICE OF HEARING FOR SETTLEMENT APPROVAL, OPT-OUT AND DISCONTINUANCE (“NOTICE OF HEARING, OPT-OUT AND DISCONTINUANCE”)

- (1) For the purposes of this Notice Plan, the definitions found in the Settlement Agreement apply.
- (2) The Notice of Hearing, Opt-Out and Discontinuance shall be disseminated as follows:
  - (a) The Defendants will provide the Claims Administrator with a list of the most recent email address and postal address for the Class Member having purchased AppleCare, as further detailed in the Distribution Protocol (**Schedule F**).
  - (b) The Claims Administrator will send the Notice of Hearing, Opt-Out and Discontinuance (**Schedule B**) to Class Members by email wherever email addresses are available, using the email addresses for Class Members provided by the Defendants, except where Class Counsel has provided the Claims Administrator with updated email addresses, in which case the Claims Administrator shall use the updated email address. If the email bounces back, the Claims Administrator will send the Notice of Hearing, Opt-Out and Discontinuance (**Schedule B**) to Class Members by mail, using the mailing address for Class Members provided by the Defendants.
  - (c) If the Defendants have no email address on file, the Claims Administrator will send the Notice of Hearing, Opt-Out and Discontinuance (**Schedule B**) to Class Members by mail, using the mailing address for Class Members provided by the Defendants, except where Class Counsel has provided the Claims Administrator with updated contact information, in which case the Claims Administrator shall use the updated contact information.
- (3) Once the Settlement is made public by the filing of material before the Court in connection therewith, Class Counsel will have the option, at their expense, to post the Notice of Hearing, Opt-Out and Discontinuance (**Schedule B**), the Settlement

Agreement with its schedules and any relevant proceedings and judgments on their firm website.

- (4) Class Counsel and the Claims Administrator may also provide a copy of the Notice of Hearing, Opt-Out and Discontinuance (**Schedule B**) by email to any person who has contacted them requesting a copy of said notice in respect of this class action.
- (5) Within ten (10) days of the First Order, the Claims Administrator will set up and post a website to inform Class Members about the Settlement and for the distribution of the Settlement Amount if the Settlement is approved by the Court ("**Settlement Website**"). The Settlement Website will include:
  - (i) The copies of the Settlement Agreement with its schedules;
  - (ii) Copies of the First Order;
  - (iii) The copies of the Notice of Hearing, Opt-Out and Discontinuance, in English and French; and
  - (iv) The Claims Administrator's contact information and the Class Counsel's contact information.
- (6) The documents available on the Settlement Website will also be made available on the website of Class Counsel: [www.lpclex.com/AppleCare](http://www.lpclex.com/AppleCare), as well on the Quebec Class Action Registry.

**B. NOTICE OF ORDER FOR SETTLEMENT APPROVAL, CLASS COUNSEL FEE APPROVAL AND DISCONTINUANCE ("NOTICE OF COURT ORDER")**

- (1) Within twenty (20) days of the Effective Date, the Notice of Court Order shall be disseminated as follows:
  - (a) The Claims Administrator will send the Notice of Court Order (**Schedule E**) to Class Members by email wherever email addresses are available, using the email addresses previously provided by the Defendants, except where Class Counsel has provided the Claims Administrator with updated email addresses, in which case the Claims Administrator shall use such updated email addresses. If the email bounces back, the Claims Administrator will send the Notice of Court Order (**Schedule E**) to Class Members by mail, using the mailing address for Class Members provided by the Defendants.

- (b) If the Defendants has no email address on file, the Claims Administrator will send the Notice of Court Order to Class Members by mail, using the mailing address for Class Members provided by the Defendants, except where Class Counsel has provided the Claims Administrator with updated contact information, in which case the Claims Administrator shall use the updated contact information.
- (2) Class Counsel will have the option to also, at their expense, post the Notice of Court Order on their firm website.
- (3) Class Counsel and the Claims Administrator may also provide a copy of the Notice of Court Order by email to any person who has contacted them requesting a copy of said notice in respect of this class action.
- (4) Within 10 days of the Effective Date, the Claims Administrator will publish on the Settlement Website the following notices:
  - (a) The Notice of Court Order, in English and in French;
  - (b) The Claims Form (as defined in the Distribution Protocol, **Schedule F** to the Settlement Agreement);
  - (c) The copy of the Second Order.
- (5) The documents available on the Settlement Website will also be made available on the website of Class Counsel: [www.lpclex.com/AppleCare](http://www.lpclex.com/AppleCare), as well on the Quebec Class Action Registry.

**SCHEDULE D**

Superior Court  
(Class Action Division)

CANADA

PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

NO.: 500-06-000897-179

DATE: [ADD] , 2023

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**IN THE PRESENCE OF: THE HONOURABLE MARIE-CHRISTINE HIVON, J.S.C.**

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**RAPHAEL BADAoui**  
and  
**BENJAMIN LOEUB**

Representative Plaintiffs

v.

**APPLE INC.**  
and  
**APPLE CANADA INC.**

Defendants

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**JUDGMENT**

(ON APPLICATION FOR SETTLEMENT APPROVAL, FOR APPROVAL OF CLASS COUNSEL FEES AND APPROVAL OF THE DISCONTINUANCE OF THE BATTERY CLASS)

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1. **WHEREAS** the Representative Plaintiffs have brought before this Court an *Application to Approve a Class Action Settlement and for Approval of Class Counsel Fees* (the “Application for Approval”);



2. **WHEREAS** the Representative Plaintiff Raphael Badaoui has brought before this Court an *Application for Discontinuance of the Battery Class*;
3. **CONSIDERING** the Applications before the Court;
4. **CONSIDERING** the exhibits in the file;
5. **CONSIDERING** the copy of the Settlement Agreement attached as Exhibit R-1 in support of the Application for Approval;
6. **CONSIDERING** the submissions of counsel for the Representative Plaintiffs and counsel for the Defendants;
7. **CONSIDERING** that Defendants consent to the Application according to its conclusions and agree to pay the Class Counsel Fees requested in said Application;
8. **CONSIDERING** the mandate signed by the Representative Plaintiffs provides for the payment of Class Counsel Fees of 30% plus taxes of the Settlement Amount, plus disbursements, and that this amount is fair and reasonable according to the jurisprudence;
9. **CONSIDERING** that the Parties concluded a Settlement Agreement that provides for benefits for the Eligible AppleCare Class Members only and discontinues the Battery Claim regarding the Battery Class Members;
10. **CONSIDERING** the Practice Change stipulated by the Defendants and agreed upon by the Parties;
11. **CONSIDERING** that no release is given to the Defendants by the Battery Class, and that the Battery Class Members may introduce their own individual or class claims if they so desire;
12. **SEEING** the consent by the Defendants to the discontinuance without costs with respect to the Battery Class;
13. **CONSIDERING** article 585 C.C.P. requires the approval of the Court for a discontinuance after the authorization of a class action;
14. **CONSIDERING** that the Court finds, in the circumstances, the discontinuance to be appropriate and not contrary to the interest of justice;

**POUR CES MOTIFS, LE TRIBUNAL:**

**ORDONNE** que les définitions apparaissant dans l'Entente de Règlement s'appliquent au présent jugement, à moins

**FOR THESE REASONS, THE COURT:**

**ORDERS** that the definitions found in the Settlement Agreement find application in

qu'elles ne soient expressément modifiées dans les présentes;

**ACCUEILLE** la *Demande d'approbation d'un règlement d'une action collective et des Honoraires des Avocats du Groupe*;

**APPROUVE** l'Entente de Règlement en tant que transaction au sens de l'article 590 du *Code de procédure civile* et **ORDONNE** aux Parties de s'y conformer;

**DÉCLARE** l'Entente de Règlement (y compris son préambule et ses Annexes) juste, raisonnable et dans l'intérêt véritable des Membres du Groupe, constituant une transaction au sens de l'article 2631 du *Code civil du Québec*, qui lie toutes les parties et tous les Membres du Groupe;

**DÉCLARE** que le paiement par les Défenderesses du Montant de Règlement, suivant l'Entente de Règlement, sera versé en règlement intégral des Réclamations Quittancées contre les Parties Quittancées au sens attribué à ces termes dans l'Entente de Règlement;

**APPROUVE** les Honoraires des Avocats du Groupe prévus à l'article 11 de l'Entente de Règlement et **ORDONNE** le paiement des Honoraires des Avocats du Groupe sur le Montant de Règlement, tel que prévu dans l'Entente de Règlement;

**APPROUVE** le Protocole de Distribution et **ORDONNE** aux Parties de s'y conformer;

**ORDONNE** l'ajout des éléments suivants sur le Site Web de Règlement de l'Administrateur des Réclamations, dans les dix (10) jours suivant la Date Effective :

(i) le Formulaire de Réclamation pour

the present Judgment, except if specifically modified herein;

**GRANTS** the *Application to Approve a Class Action Settlement and for Approval of Class Counsel Fees*;

**APPROVES** the Settlement Agreement as a transaction pursuant to article 590 of the *Code of Civil Procedure* and **ORDERS** the Parties to abide by it;

**DECLARES** that the Settlement Agreement (including its Recitals and its Schedules) is fair, reasonable and in the best interest of the Class Members and constitutes a transaction pursuant to article 2631 of the *Civil Code of Quebec*, binding upon all parties and upon all Class Members;

**DECLARES** that the Defendants' payment of the Settlement Amount as detailed in the Settlement Agreement will be in full satisfaction of the Released Claims against the Releasees as defined in the Settlement Agreement;

**APPROVES** the Class Counsel Fees provided for at section 11 of the Settlement Agreement and **ORDERS** that the Class Counsel Fees and disbursements be paid from the Settlement Amount, as outlined in the Settlement Agreement;

**APPROVES** the Distribution Protocol and **ORDERS** the Parties to abide by it;

**ORDERS** that, within ten (10) days of the Effective Date, the Claims Administrator shall add the following to the Settlement Website:

- le Remboursement Consommateur;
- (ii) une copie de l'Avis d'Ordonnance de la Cour, en anglais et en français;
- (iii) une copie de la présente Ordonnance.

- (i) The Claim Form for the Consumer Cash Reimbursement;
- (ii) Copies of the Notice of Court Order, in English and French; and
- (iii) A copy of this Order.

**ORDONNE** que les documents accessibles sur le Site Web de Règlement soient également accessibles sur le site Web du cabinet des Avocats du Groupe : [www.lpclex.com/AppleCare](http://www.lpclex.com/AppleCare);

**ORDERS** that the documents available on the Settlement Website be also made available on the website of Class Counsel: [www.lpclex.com/AppleCare](http://www.lpclex.com/AppleCare);

**ORDONNE** la distribution du Fonds de Règlement Total conformément au Protocole de Distribution joint à l'Annexe F de l'Entente de Règlement;

**ORDERS** that the distribution of the Total Settlement Fund be carried out following the Distribution Protocol, found in Schedule F to the Settlement Agreement;

**ORDONNE** à l'Administrateur des Réclamations de fournir, dans les six (6) mois suivant la réalisation de la distribution du Fonds de Règlement Total, une Reddition de Compte conformément à la clause 6.4 de l'Entente de Règlement, afin qu'un jugement de clôture puisse être rendu;

**ORDERS** that, within six (6) months following the completion of the distribution of the Total Settlement Fund, the Claims Administrator will provide a Rendering of Account as provided for at Article 6.4 of the Settlement Agreement, so that a closing judgment can then be pronounced;

**ORDONNE** que, s'il reste un reliquat à la suite de la distribution du Fonds de Règlement Total, conformément à l'article 6.4(a)(v) de l'Entente de Règlement, le Fonds d'aide recevra la part du reliquat à laquelle elle a droit en vertu de la loi ;

**ORDERS** that, if any balance remains following the distribution of the Total Settlement Fund, pursuant to Article 6.4(a)(v) of the Settlement Agreement, the Fonds d'aide will receive the share of the balance to which it is entitled by law;

**ORDONNER** le versement cy-près du reste du reliquat après le paiement au *Fonds d'aide aux actions collectives* à un organisme de bienfaisance à être approuvé par le Tribunal;

**ORDERS** that the remainder of the balance remaining after payment to the *Fonds d'aide aux actions collectives* will be paid cy-près to a charitable organization to be approved by the Court;

**APPROUVER** les Avis de l'Ordonnance d'Approbation du Règlement substantiellement dans la forme prévue à l'Annexe E de l'Entente de Règlement ;

**APPROVES** the Notices of Settlement Approval substantially in the form of Schedule E to the Settlement Agreement;

**ORDONNER** la diffusion des Avis de l'Ordonnance d'Approbation du Règlement (substantiellement dans la forme prévue à l'Annexe E de l'Entente de Règlement) conformément au Plan Relatif aux Avis joint à l'Annexe C de l'Entente de Règlement;

**ACCUEILLE** la *Demande de désistement par le Groupe de Piles rechargeable*;

**ACCUEILLE** les demandeurs de se désister de la Demande introductive d'instance concernant le Groupe de Piles rechargeable, et les réclamations et questions communes connexes;

**PERMET** aux demandeurs de déposer leur avis de désistement au dossier de la Cour dans les 30 jours suivant la date du présent Jugement;

**LOIS SUR LA PROTECTION DES RENSEIGNEMENTS PERSONNELS ET COMMUNICATION DE CES RENSEIGNEMENTS**

**ORDONNE** à l'Administrateur des Réclamations d'utiliser les renseignements identifiable concernant une personne qui lui sont fournis tout au long de la procédure de réclamation dans le seul but de faciliter la procédure d'administration des réclamations conformément à l'Entente de Règlement et à aucune autre fin;

**ORDONNE ET DÉCLARE** que le présent Jugement constitue un Jugement obligeant les Défenderesses à communiquer des renseignements personnels au sens des lois sur la protection des renseignements personnels applicables, et que le présent Jugement respecte les exigences de

**ORDERS** that such Notices of Settlement Approval (substantially in the form of Schedule E to the Settlement Agreement) be disseminated in accordance with the Notice Plan found at Schedule C to the Settlement Agreement;

**GRANTS** the *Application for Discontinuance of the Battery Class*;

**AUTHORIZES** the Plaintiffs to discontinue in part the Originating Application with respect to the Battery Class, and related claims and common questions;

**ALLOWS** the Plaintiffs to file their discontinuance in the Court record within 30 days following the date of this Judgment;

**PRIVACY LAWS AND DISCLOSURE OF PERSONAL INFORMATION**

**ORDERS** that the Claims Administrator shall use the personally identifiable information provided to it throughout the claims process for the sole purpose of facilitating the claims administration process in accordance with the Settlement Agreement and for no other purpose;

**ORDERS AND DECLARES** that this Judgment constitutes a Judgment compelling the production of the information by the Defendants within the meaning of applicable privacy laws, and that this Judgment satisfies the requirements of all applicable privacy laws.

toutes les lois sur la protection des  
renseignements personnels applicables;

**LE TOUT** sans frais de justice.

**THE WHOLE** without legal costs.

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MARIE-CHRISTINE HIVON, J.S.C.

Mtre. Joey Zukran  
LPC Avocat inc.  
Mtre. Michael Vathilakis  
Mtre. Karim Renno  
Renno Vathilakis Avocats inc.  
Attorneys for the Representative Plaintiffs

Mtre. Sarah Woods  
Mtre. Marie Rondeau  
McCarthy Tétrault  
Attorneys for the Defendants

**SCHEDULE E**  
**QUEBEC CLASS ACTION SETTLEMENT**

**NOTICE OF SETTLEMENT APPROVAL**

***BADAoui V. APPLE CANADA INC. ET AL. CLASS ACTION***  
**N° 500-06-000897-179**

This notice is to all persons who:

- (1) purchased an iPhone since December 29, 2014 (Battery Class), and/or
- (2) between December 20, 2015 and January 26, 2023, purchased AppleCare and/or AppleCare+ for an Apple product in Quebec including but not limited to an iPhone, Apple Watch, iPad, iPod, Mac and/or MacBook and were not informed of their legal warranty under the *Consumer Protection Act* at the time of purchase (AppleCare Class).

**PLEASE READ THIS NOTICE CAREFULLY. IT MAY AFFECT YOUR RIGHTS**

**THIS CLASS ACTION SETTLEMENT HAS BEEN APPROVED BY THE COURT.**

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**SETTLEMENT APPROVED**

The parties have negotiated a settlement of the class action (the “**Settlement Agreement**”), which was approved by the Superior Court of Quebec on [DATE], and therefore determined to be fair, reasonable and in the best interest of the Settlement Class.

The Defendants deny any liability and deny the truth of the allegations made against it. The settlement (as described below) is a compromise of disputed claims in order to achieve an early full and final resolution of the class action, without any admission or findings of liability or wrongdoing against the Defendants.

**THE SETTLEMENT TERMS**

This Notice provides a summary of the settlement terms. Further details of the settlement including a copy of the Settlement Agreement and other relevant Judgments, notices or proceedings may be found on the Settlement Website at [www.ConsumerWarrantyClassAction.com](http://www.ConsumerWarrantyClassAction.com). You must submit a claim on this Settlement Website by [date] to obtain the additional monetary compensation described below.

The Settlement Agreement provides that the Defendants will pay a total of \$6,000,000.00 CAD, which includes the payment of Class Counsel fees of 30% of this amount (\$1,800,000.00 CAD) plus taxes and disbursements, but excludes the payment of Administration Expenses.

The Settlement Agreement provides for benefits to be paid to Eligible AppleCare Class Members. An Eligible AppleCare Class Member is an AppleCare Class Member who purchased AppleCare

in a Quebec Apple Store. This specifically excludes the purchase of AppleCare by any other method.

The Settlement Agreement provides for Eligible AppleCare Class Members to:

- a) automatically receive \$25.00 per AppleCare contract purchased in an Apple Store in Quebec between December 20, 2015 and January 26, 2023;
- b) be able to submit a claim that, if approved, will provide for an additional amount of up to 50% of what they paid for their AppleCare contract(s), before sales tax, between December 20, 2015 and January 26, 2023.

Eligible AppleCare Class Members will receive these payments via an e-transfer to their last known e-mail address that the Defendants have on file.

If you are receiving this Notice by post, Apple does not have a valid email address for you on file. Please contact the Claims Administrator to provide information for an e-transfer. Otherwise, if the settlement is approved, you will receive a cheque to this same address.

Eligible AppleCare Class Members can submit a claim for the additional amount by submitting a Claim Form before the filing deadline: **[DATE], 2023**. You will be required to attest that you were not informed orally and in writing of the existence of the legal warranty when purchasing AppleCare, pursuant to the requirements of the *Consumer Protection Act* and its relevant regulation.

In return for providing the benefits, the Defendants will receive a release from the AppleCare Class Members and a declaration of settlement out of court of the class action.

The settlement is a compromise of disputed claims and is not an admission of liability, wrongdoing or fault on the part of Defendants.

## **AUTHORIZATION OF THE CLASS ACTION**

On December 29, 2017, a class action was commenced in Quebec against Apple Canada Inc. and Apple Inc. ("Apple"), and later amended, notably alleging that: (1) Apple failed in its duty to inform consumers of the limited lifespan of the rechargeable batteries in relation to the lifespan of the iPhone when consumers purchased an iPhone, and (2) when selling AppleCare and/or AppleCare+, Apple failed in its duty to inform Quebec consumers, orally and in writing, in the manner prescribed by regulation, of the existence and nature of the legal warranty under the *Consumer Protection Act* ("CPA"). The Representative Plaintiffs asked the Court to order Apple to pay compensatory and punitive damages in amounts to be determined.

On July 16, 2019, the Honourable Justice Chantal Corriveau of the Superior Court of Québec authorized the bringing of this class action against the Defendants. On March 17, 2021, and as rectified on April 15, 2021, the Quebec Court of Appeal redefined one of two class descriptions and a common question. The classes were defined as follows:

### **Apple Battery Class**

All consumers who purchased an iPhone since December 29, 2014.

**AppleCare Class:**

All consumers who, since December 20, 2015, purchased “AppleCare” and/or “AppleCare+” for an Apple product including an iPhone, Apple Watch, iPad, iPod and/or MacBook and were not informed of their legal warranty under the *Consumer Protection Act* at the time of purchase.

(Together, the “**Classes**” or “**Class Members**”)

This class action has now been settled, as described above.

**DISCONTINUANCE**

On [Date], 2023, the Superior Court of Quebec authorized the Plaintiffs to discontinue the class action related to the Battery Class and their claims, thereby putting an end to the Battery Class portion of the class action.

Be aware that now that the Court has allowed the discontinuance, the class action related to the Battery Class is terminated. Limitation period are no longer suspended. Therefore, should they so desire, individuals may pursue their own legal claims, at their own expense.

**MORE INFORMATION**

For further information or details about the Settlement Agreement, you may contact class counsel identified below. Your name and any information provided will be kept confidential. Please do not contact the Defendants, or the judges of the Superior Court.

**Mtre Joey Zukran****LPC Avocat Inc.**

276 rue Saint-Jacques, Suite 801  
Montréal, Québec, H2Y 1N3  
Telephone: 514 379-1572  
Email: [jzukran@lpclex.com](mailto:jzukran@lpclex.com)

**Mtre. Michael Vathilakis****Renno Vathilakis Inc.**

145 St-Pierre Street, Suite 201  
Montreal, Quebec, H2Y 2L6  
Telephone: 514 937-1221  
Email: [mvathilakis@renvath.com](mailto:mvathilakis@renvath.com)

You may also visit the Settlement Website at [www.ConsumerWarrantyClassAction.com](http://www.ConsumerWarrantyClassAction.com) or contact the Claims Administrator:

**RicePoint Administration Inc.**  
**P.O. Box 3355**  
**London, Ontario, N6A 4K3**  
**1-855-662-1833**



**INTERPRETATION**

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

**THE PUBLICATION OF THIS NOTICE TO CLASS MEMBERS  
HAS BEEN APPROVED AND ORDERED BY THE SUPERIOR COURT OF QUEBEC.**

**SCHEDULE F**  
**DISTRIBUTION PROTOCOL**

**PART I – DEFINITION**

1. For the purposes of this Distribution Protocol, the definitions found in the Settlement Agreement apply, in addition to the following definitions:

- (a) **“Claim”** means the request made by Eligible AppleCare Class Members or their representatives for Consumer Cash Reimbursements as provided for in this Protocol.
- (b) **“Claims Period”** refers to the period during which the Claims Administrator will collect information and receive Eligible AppleCare Class Members’ claims in its online Claim Form or otherwise. The Claims Period will span sixty (60) calendar days and will start running from the date the Notice of Court Order is sent to Class Members.
- (c) **“Claim Form”** means the online form, agreed to by the Parties, found in the Claims Administrator’s Settlement Website that Eligible AppleCare Class Members must complete and submit online (or in paper form upon request to the Claims Administrator).
- (d) **“Filing Deadline”** means the last day of the Claims Period.

**PART II – GENERAL PRINCIPLES OF DISTRIBUTION**

2. This Distribution Protocol is intended to govern the distribution of the Total Settlement Fund pursuant to the Settlement Agreement.

3. All amounts expressed in this Distribution Protocol are in Canadian Dollars (CAD).

**PART III – ADMINISTRATION AND NOTIFICATION COSTS AND ORDER OF DISTRIBUTION**

4. The intention of the Parties is that the Administration Expenses will not have an impact on the Settlement Amount. The Administration Expenses will be paid separately by the Defendants.
5. The Claims Administrator will issue quarterly invoices to the Defendants for payment of the Administration Expenses beginning after the appointment of the Claims Administrator by the Court.
6. Once the Court approved Class Counsel Fees and Disbursement have been paid, the remainder of the Settlement Amount including any interest (the Total Settlement Fund) will be used to pay for the Consumer Cash Payments and the Consumer Cash Reimbursements.

**PART IV – SETTLEMENT WEBSITE**

7. Within ten (10) days of the First Order, the Claims Administrator will set up and post a website to inform Class Members about the Settlement and for the distribution of the Settlement Amount if the Settlement is approved by the Court (“**Settlement Website**”). The Settlement Website will include:
  - (i) The copies of the Settlement Agreement with its schedules;
  - (ii) Copies of the First Order;
  - (iii) The copies of the Notice of Hearing, Opt-Out and Discontinuance, in English and French; and
  - (iv) The Claims Administrator’s contact information and the Class Counsel’s contact information.
8. The URL of the Settlement Website must be approved by the Defendants.
9. The documents available on the Settlement Website will also be made available on the website of Class Counsel ([www.lpclex.com/AppleCare](http://www.lpclex.com/AppleCare)).

10. Within ten (10) days of the Effective Date, the Claims Administrator will add the following to the Settlement Website:

- (i) The Claim Form;
- (ii) The copies of the eventual Notice of Court Order, in English and French; and
- (iii) The copy of the Second Order.

11. The Settlement Website will allow AppleCare Class Members to provide and update their personal information as needed, but will not display any Class Member's personal information.

12. The Claims Administrator will create an email address specifically for this settlement where Class Members can contact them via email. The email address must be approved by the Defendants. This email service will be available as of the publication of the Notice of Hearing, Opt-Out and Discontinuance.

#### **PART V – INFORMATION ABOUT CLASS MEMBERS**

13. Within ten (10) business days following the First Order, the Defendants will provide a list of all Class Members for the purpose of sending notice to the Claims Administrator. The Defendant will create one list of Battery Class Members, and another list of AppleCare Class Members. These lists will include, for each individual (if known):

- (i) Their full name;
- (ii) Their email address;
- (iii) Their home address.

14. Within five (5) business days following the Effective Date, the Defendants will provide a list of all Eligible AppleCare Class Members to the Claims Administrator. This list will include, for each individual (if known):

- (i) Their full name;
- (ii) Their email address;
- (iii) Their home address;
- (iv) The date on which they purchased AppleCare;
- (v) The Device associated to the relevant AppleCare contract, if available;  
and
- (vi) The amount paid for AppleCare before sales tax.

#### **PART VI – DISTRIBUTION OF THE TOTAL SETTLEMENT FUND**

15. The following describes the distribution of the Consumer Cash Payments, as well as the Consumer Cash Reimbursements to Eligible AppleCare Class Members whose Claims are accepted by the Claims Administrator.

16. Within 20 days from the Effective Date, as outlined in the Notice Plan (Schedule C), the Claims Administrator will send an email to Eligible AppleCare Class Members containing the Notice of Court Order, which will notably explain the benefits available and distribution process. It will also contain a link to the Settlement Website to access the Claims Form for the Consumer Cash Reimbursement.

17. Eligible AppleCare Class Members will automatically be sent via e-transfer a Consumer Cash Payment, meaning CAD \$25.00 per AppleCare contract that meets the criteria. For clarity, eligible AppleCare contracts are AppleCare contracts for Devices purchased by Quebec consumers in an Apple Store in Quebec between December 20, 2015 and January 26, 2023.

18. No further action will be required of Eligible AppleCare Class Members to receive a Consumer Cash Payment unless they wish to update or modify their contact information with the Claims Administrator.

19. Eligible AppleCare Class Members are also be able to submit a Claim for a Consumer

Cash Reimbursement, meaning the payment, in Canadian Dollars, of **up to 50%** of what they paid for AppleCare, before sales tax, according to the Defendants' records. No proof of purchase or documentation is required, but the Defendants reserve their right to refuse or correct claims to ensure that the correct amount is paid.

20. To make a valid Claim, Eligible AppleCare Class Members must submit a valid and timely Claim Form to the Claims Administrator on or before the Filing Deadline. No Claim Forms will be accepted by the Claims Administrator past the Filing Deadline.

21. A paper Claim Form can be provided upon request by contacting the Claims Administrator. The paper Claim Form must be postmarked no later than the Filing Deadline in order to be considered valid.

22. Eligible AppleCare Class Members must include their full name, address and email address associated in the Claim Form. Space will be provided in the Claim Form to provide updated information to the extent the contact information of the Eligible AppleCare Class Member has changed since purchasing AppleCare.

23. In the Claim Form, Eligible AppleCare Class Members must provide sufficient information for the Claims Administrator to be able to establish that the claimant corresponds to an individual on the list of Eligible AppleCare Class Members. Such information will be verified by the Claims Administrator against the list of individuals provided by the Defendants.

24. The Claims Form will require the claimant Eligible AppleCare Class Member to attest that they were not informed orally and in writing of the existence of the legal warranty when purchasing AppleCare, pursuant to the requirements of the *Consumer Protection Act* and its relevant regulation.

25. The Eligible AppleCare Class Member claimant will attest to the above by checking a box

in the Claim Form so indicating. Failure to do so will render the Claim deficient.

26. The funds (the Consumer Cash Payment and Consumer Cash Reimbursement) will be transferred electronically to the email address provided in the Claim Form, where the Consumer Cash Reimbursement is accepted by the Claims Administrator. In advance of the e-Transfer being sent, the Claims Administrator will provide advance notification to the Eligible Class Members with a security answer.

27. In the event that an Eligible AppleCare Class Member does not submit a Claim, the Consumer Cash Payment will be transferred electronically to the email address that Defendants provided to the Claims Administrator from their records.

28. In the event that an Eligible AppleCare Class Member does not submit a Claim, and the Defendants nor Class Counsel have provided the Claims Administrator with an email address to transfer the Consumer Cash Payment, the Consumer Cash Payment will be paid by cheque to the home address that Defendants provided to the Claims Administrator from their records.

29. The Parties and the Claims Administrator will not be liable for any invalid contact information resulting in the non-receipt of Consumer Cash Payments or Consumer Cash Reimbursements, but Eligible AppleCare Class Member will be able to update their contact information with the Claim Administrator.

30. The Claims Form must be submitted to the Claims Administrator during the Claims Period for the Claim to be valid.

31. The Claims Administrator will verify that the Claims Forms are valid and meet the criteria of the Settlement Agreement and its schedules.

32. Within 45 days of the Claims Deadline, the Claims Administrator will distribute the funds (the Consumer Cash Payment and Consumer Cash Reimbursement for valid Claims) to Eligible AppleCare Class Members as described above.

33. In the event that the total amount of Consumer Cash Payment and approved Claims surpasses the Total Settlement Fund, the Consumer Cash Reimbursements will be paid on a

*pro rata* basis, following the same distribution procedure described above.

34. If a claimant is not on the list of Eligible AppleCare Class Members provided by the Defendants, the Claims Administrator will make an account of this to Class Counsel and Defence Counsel. In such a case, and unless both Class Counsel and Defence Counsel agree otherwise, the claimant will be asked to provide:

- (a) sufficient proof of identity; and
- (b) sufficient proof of purchase of AppleCare for a Device in an Apple Store in Quebec between December 20, 2015 and January 26, 2023.

#### **PART VII – REMAINING FUNDS**

35. During the Claim Period, the Claims Administrator will provide periodic updates to Class Counsel and Defence Counsel, notably in the event of material developments in the distribution process.

36. Any e-transfers issued under the settlement will remain active and valid for 30 days from their issuance, following which the e-transfer will be cancelled by the Claims Administrator.

37. Any cheques issued under the settlement will remain valid for six (6) months from their issuance, following which they will be considered stale-dated and will be cancelled by the Claims Administrator.

38. The amounts of any such cancelled cheques or e-transfers will be returned to the Account and the *Fonds d'aide* will receive the share of the balance to which it is entitled by law, if any, and the remainder of the balance will be paid *cy-près*.

39. Within six (6) months following the distribution of the Settlement Amount in accordance with the Distribution Protocol and the Settlement Agreement, the Claims Administrator will issue a detailed report of its administration respecting the provisions of the *Regulation of the Superior*



*Court of Québec in civil matters, C-25.01, r. 0.2.1*, which will be sent to the Parties, the *Fonds d'aide* and the Court, as per Article 6.4 of the Settlement Agreement.

### **PART VIII – RESOLUTION OF DISPUTES**

40. The Claims Administrator's determinations regarding claims received and the distribution of the Total Settlement Fund are final and non-appealable. Prior to making a determination, the Claims Administrator may consult with Class Counsel and Defense Counsel to resolve any questions or uncertainties relating to such determinations.

### **PART IX – CONFIDENTIALITY**

41. All information received from the Defendants or Class Members is collected, used, and retained by the Claims Administrator and/or Class Counsel pursuant to, *inter alia*, the *Personal Information Protection and Electronic Documents Act*, SC 2000, c 5 for the purposes of administering their claims.

42. All such information is also to be treated confidentially in accordance with any Confidentiality Order rendered by the Court.