

CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

Made on March 27, 2023
(the "Execution Date")

Between

GABRIEL GUESE
(the "Plaintiff")

AND

ZOOM VIDEO COMMUNICATIONS, INC.
(the "Defendant" or "Zoom")

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RECITALS

- A. WHEREAS the Plaintiff in the Proceeding filed claims culminating in the Amended Notice of Civil Claim on January 23, 2023 (the "Proceeding"). The Proceeding advances four theories of alleged conduct by Zoom: (i) alleged unauthorized sharing of users' information with Facebook through the incorporation of Facebook's software development kit in the iOS Zoom application; (ii) alleged unauthorized sharing of users' information with Google through the incorporation of Google's Firebase Analytics software development kit in the Android Zoom application; (iii) unauthorized sharing of users' information with third parties through third-party developers' development and deployment of apps that integrate with Zoom's products; and (iv) alleged misrepresentations that Zoom provided end-to-end encryption at a time when the Plaintiff alleges that Zoom did not;
- B. WHEREAS Zoom has entered into a class-action settlement with respect to similar claims brought against it in the United States in a matter entitled In Re: Zoom Video Communications, Inc. Privacy Litigation, Case No. 5:20-cv-02155 (N.D. Cal.), which was preliminarily approved by the Court on October 21, 2021 and that was finally approved by that court on April 21, 2022
- C. WHEREAS as part of the U.S. settlement Zoom has agreed to monetary relief and injunctive relief, including requirements related to (i) meeting security, (ii) privacy disclosures and notifications, and (iii) the sharing of user data with third-party providers of software development kits and third-party developers.
- D. AND WHEREAS the Defendant denies that it has engaged in any wrongdoing and denies all claims asserted by the Plaintiff in the Proceeding. This Settlement Agreement shall in no event be construed or deemed to be evidence of or an admission, presumption or concession on the part of the Defendant of any fault, liability, or wrongdoing as to any facts or claims asserted in the Proceeding (or any infirmity in the defenses it has asserted or could assert in the Proceeding), or any other actions or proceedings, and shall not be interpreted, construed, offered, or received in evidence or otherwise used against the Defendant in any other action or proceeding, in this jurisdiction or elsewhere, whether civil, criminal or administrative;
- E. AND WHEREAS the Parties, each represented by independent and competent legal counsel, have conducted sustained, good-faith negotiations in an effort to resolve the issues raised in this proceeding and after these extensive arms-length negotiations, the Parties reached an agreement in principle to settle on the terms and conditions embodied in this Settlement Agreement.
- F. AND WHEREAS the Plaintiff and the Defendant are entering into this Settlement Agreement in order to achieve a full and final resolution of all claims asserted or which could have been asserted against the Defendant by the Plaintiff or the Class in the Proceeding.
- G. AND WHEREAS Class Counsel have reviewed and fully understand the terms of this Settlement Agreement and, based on their analyses of the facts and law applicable to the claims made by the Plaintiff and Class, having regard to the burdens and expense in prosecuting the Proceeding, including the time, risks and uncertainties associated with trials and appeals, and having regard to the value of the Settlement Agreement, have

concluded that this Settlement Agreement is fair, reasonable and in the best interests of the Settlement Class.

- H. AND WHEREAS the Parties acknowledge that the Settlement is contingent on approval by the Court as provided for in this Settlement Agreement, and entered into with the express understanding that this Settlement shall not derogate from the respective rights of the Parties relating to the Proceeding in the event that this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason.
- I. AND WHEREAS for the purposes of settlement only and contingent on approval by the Court as provided for in this Settlement Agreement, the Parties consent to certification of the Common Issues and the Settlement Class solely for the purpose of implementing this Settlement Agreement.

NOW THEREFORE, in consideration of the covenants, agreements and releases set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that the Proceeding be settled and dismissed on the merits, without costs as to the Plaintiff, the Settlement Class or the Defendant, subject to the approval of the Court, on the following terms and conditions:

1. PREAMBLE AND SCHEDULES

- 1.1.1 The Parties represent to one another that the statements made in the preamble to this Settlement Agreement are true and correct and form an integral part of this Settlement Agreement.
- 1.1.2 The schedules appended to this Settlement Agreement form an integral part of this Settlement Agreement. The schedules to this Settlement Agreement are:
 - (a) Schedule A – Common Issues for Consent Certification Order
 - (b) Schedule B – Distribution Protocol
 - (c) Schedule C – Form of Certification and Notice Approval Order
 - (d) Schedule D – Form of Certification Notice (Short Form)
 - (e) Schedule E – Form of Certification Notice (Long Form)
 - (f) Schedule F – Form of Settlement Approval Order
 - (g) Schedule G – Form of Settlement Approval Notice (Short Form)
 - (h) Schedule H – Form of Settlement Approval Notice (Long Form)

2. DEFINITIONS

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

- (a) Administration Expenses means all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable by or on behalf of the Plaintiff or Class Counsel or Claims Administrator or otherwise, for the final approval of this Settlement Agreement and for providing notice to the Class and for administering the Settlement including overseeing the Distribution Protocol, but excluding Class Counsel Fees and Disbursements.
- (b) Claims Administrator means the person or entity appointed by the Court to administer the Settlement Agreement and oversee the Distribution Protocol.
- (c) Class Counsel means Collette Parsons Corrin LLP and Murphy Battista LLP.
- (d) Class Counsel Fees and Disbursements are all fees, disbursements, costs, interest, GST/HST and other applicable taxes or charges of Class Counsel.
- (e) Class Counsel Fees and Disbursements Approval Date means the date when the Court's order approving Class Counsel Fees and Disbursements becomes a Final Order.
- (f) Common Issues means the common issues for the purposes of settlement, which are set out at Schedule A.
- (g) Consent Certification Application means an application for certification of the Common Issues for the purposes of effecting the Settlement.
- (h) Court means the Supreme Court of British Columbia.
- (i) Defendant means Zoom Video Communications, Inc.
- (j) Distribution Protocol means the protocol for the distribution of the Net Settlement Funds approved by the Court. The Parties' proposed form of Distribution Protocol is attached at Schedule B.
- (k) Effective Date means the date when the Final Order has been received from the Court approving this Settlement Agreement.
- (l) End User Account means a Zoom Meetings user account that belonged to, was controlled by, or was provisioned by a person paying for a Zoom Meetings subscription.
- (m) Enterprise and Business Subscribers means purchasers of Zoom Meetings licenses for the "Enterprise," "Business," or "Business Plus" levels of Zoom's pricing plans (as opposed to other account types, including "Basic" or "Pro" levels (see [<https://zoom.us/pricing>]), plus any purchaser of 100 or more Zoom Meetings licenses.
- (n) Final Order means a final judgment or final approval order entered by the Court in respect of the certification of the Proceeding as a class proceeding and the approval of this Settlement Agreement once the time to appeal

such judgment or order (or the time to seek leave to appeal such judgment or order) has expired without any appeal being taken, or if an appeal from the judgment or order is taken, the affirmation of such final judgment or approval order in its entirety, without modification, by the court of last resort to which an appeal of such final judgment or approval order may be taken.

- (o) Net Settlement Funds means the Settlement Amount less Class Counsel Fees and Disbursements, Administration Expenses, and any honorarium for the Plaintiff.
- (p) Notice means the form of notice agreed by the Parties and approved by the Court, which informs the Settlement Class of:
 - (i) the Court's certification of the Proceeding;
 - (ii) the principal elements of the Settlement
 - (iii) the date and location of the hearing of the Settlement Approval Application;
 - (iv) the Opt-Out Procedure;
 - (v) the Opt-Out Deadline
 - (vi) Class Counsel Fees to be requested by Class Counsel; and
 - (vii) the process for objecting to the Settlement or to Class Counsel Fees.
- (q) Notice Approval Application means an application for an order of the Court:
 - (i) approving the form, content and manner of distribution of the Notice;
 - (ii) approving the Opt-Out Procedure;
 - (iii) setting Opt-Out Deadline; and
 - (iv) such other relief as the Parties may request.
- (r) Opt-Out Deadline means the date which is thirty (30) days after the first publication of any form of the Notice.
- (s) Opt-Out Procedure means the procedure fixed by the Court by which any member of the Settlement Class may opt-out of the Proceeding.
- (t) Opt-Out Threshold means more than 5,000 Settlement Class Members opt out of the Proceeding in accordance with the Opt-Out Procedure.
- (u) Other Actions means actions or proceedings, other than the Proceeding, relating to Released Claims commenced by a Settlement Class Member, either before or after the Effective Date.

- (v) Parties means the Plaintiff, on behalf of the Settlement Class Members, and the Defendant.
- (w) Plaintiff means Gabriel Guese.
- (x) Proceeding means British Columbia Court File No. S-203879 (Vancouver Supreme Court Registry).
- (y) Released Claims means any and all manner of claims, demands, actions, suits, causes of action, whether class, individual or otherwise in nature, whether personal or subrogated, damages whenever incurred, damages of any kind including compensatory, punitive or other damages, liabilities of any nature whatsoever, including interest, costs, expenses, class administration expenses (including the Administration Expenses), penalties, and lawyers' fees (including Class Counsel Fees), known or unknown, suspected or unsuspected, foreseen or unforeseen, actual or contingent, and liquidated or unliquidated, in law, under statute, or in equity, that Releasers, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have, arising from or relating in any way to the claims alleged and facts stated in the Proceeding, namely:
 - (i) unauthorized sharing of users' information with third-parties through the incorporation of Facebook's software development kit in the iOS Zoom Meetings application;
 - (ii) unauthorized sharing of users' information with third-parties through the incorporation of Google's Firebase Analytics software development kit in the Android Zoom Meetings application;
 - (iii) unauthorized sharing of users' information with third-parties through third-party developers' development and deployment of apps that integrate with Zoom Meetings; and
 - (iv) misrepresentations concerning end-to-end encryption for Zoom Meetings.

including without limitation, any such claims which have been asserted, would have been asserted, or could have been asserted, directly or indirectly, whether in British Columbia or elsewhere, as a result of or in connection with claims for breach of privacy statutes, negligence, intrusion upon seclusion, breach of confidence, breach of contract, unjust enrichment, breach of consumer protection legislation, negligent or fraudulent misrepresentation, or any other cause of action however or wherever arising.

- (z) Releasees means, jointly and severally, individually and collectively, the Defendant and all of its respective present and former, direct and indirect, parents, subsidiaries, divisions, affiliates, partners, insurers, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and their respective past, present and future

officers, directors, employees, agents, shareholders, attorneys, trustees, servants and representatives; and the predecessors, successors, purchasers, heirs, executors, administrators, trustees and assigns of each of the foregoing.

- (aa) Releasors means, jointly and severally, individually and collectively, the Plaintiff and the Settlement Class Members and their respective predecessors, successors, heirs, executors, administrators, trustees, assigns, counsel and affiliates of any kind.
- (bb) Settlement means the settlement provided for in this Settlement Agreement.
- (cc) Settlement Agreement means this agreement and release, including the recitals and schedules.
- (dd) Settlement Amount means CDN \$2,000,000, which amount is the entirety of the Defendant's liability under this Settlement Agreement.
- (ee) Settlement Approval Application means an application for approval of the Settlement pursuant to s. 35 of the Class Proceedings Act, RSBC 1996, c. 50.
- (ff) Settlement Approval Notice means the notice advising Settlement Class Members that the Settlement has been approved and describing how Class Members can participate in the distribution of the Settlement Benefits.
- (gg) Settlement Benefits means the share of the Net Settlement Funds, if any, available to a Settlement Class Member in accordance with the Distribution Protocol.
- (hh) Settlement Class or Class means all persons in Canada who had a registered Zoom Meetings user account or a paid Zoom Meetings subscription as of June 30, 2020 and who:
 - (i) registered, used, opened, or downloaded the Zoom Meetings Application between April 1, 2018 and June 30, 2020; or
 - (ii) paid money to Zoom for a Zoom Meetings subscription between April 1, 2018 and June 30, 2020,

but excluding Enterprise and Business Subscribers as of June 30, 2020 and End User Accounts associated with Enterprise and Business Subscribers as of June 30, 2020.
- (ii) Settlement Class Members means a member of the Settlement Class who does not validly opt-out of the Settlement Class in accordance with the Court approved Opt-Out Procedure.
- (jj) Trust Account means a trust account in the name of the Claims Administrator as trustee.

- (kk) “Zoom Meetings App” or “Zoom Meetings Application” means Zoom’s software and web-based application known as “Zoom Meetings” or “Zoom Cloud Meetings,” as well as third-party applications built using a Zoom software development kit that provide users the ability to access Zoom videoconferencing meetings. For clarity, Zoom Meetings App does not include other Zoom products, such as Zoom Phone, Zoom Video Webinars, OnZoom, or Zoom Events.

3. APPLICATIONS FOR CERTIFICATION AND APPROVAL

3.1 CERTIFICATION AND APPROVAL

- 3.1.1 Following the execution of the Settlement Agreement, and on a timeline as agreed between the Parties, Class Counsel shall bring the Consent Certification Application and the Notice Approval Application (which can be heard concurrently), and the Settlement Approval Application.

3.2 SETTLEMENT CLASS AND COMMON ISSUES

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

3.3 CERTIFICATION WITHOUT PREJUDICE

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

3.4 PRE-APPLICATION CONFIDENTIALITY

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

4. REQUIRED NOTICES

4.1 NOTICE OF HEARING AND OPT-OUT

4.1.1 Following the hearing of the Consent Certification Application and the Notice Approval Application, and upon the Court issuing an order certifying the Proceeding as a class proceeding and approving the Notice, Class Counsel or the Claims Administrator shall disseminate the Notice using a method ordered by the Court.

4.2 NOTICE OF SETTLEMENT APPROVAL

4.2.1 Following the hearing of the Settlement Approval Application and upon the Court issuing an order approving the Settlement and upon that order becoming a Final Order, Class Counsel or the Claims Administrator shall disseminate the Settlement Approval Notice using a method ordered by the Court.

5. OPTING OUT

5.1 PROCEDURE

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

(a) Members of the Settlement Class seeking to opt out of the Proceeding must do so within 30 days from the first date of distribution of the Notice, by sending a complete and validly executed written election to opt out to the Claims Administrator, which election must be received on or before the Opt-Out Deadline. The written election to opt out must include the following information:

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

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

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

5.2 OPT-OUT REPORT

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

5.3 OPT-OUT THRESHOLD

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

6. PAYMENT AND ADMINISTRATION

6.1 THE SETTLEMENT AMOUNT

- 6.1.1 Within 14 business days of the date of the Final Order, the Claims Administrator shall establish the Trust Account.
- 6.1.2 Within 30 business days of the Final Order, Zoom shall pay the Settlement Amount into the Trust Account.
- 6.1.3 Subject to and following the Final Order approving the Settlement, the Settlement Amount shall be distributed by the Claims Administrator in accordance with this Settlement Agreement, including the Distribution Protocol.

6.2 CLAIMS ADMINISTRATION

- 6.2.1 The Notice Approval Application shall seek the appointment of the Claims Administrator.
- 6.2.2 The Claims Administrator shall not pay any amount from the Trust Account except in accordance with this Settlement Agreement or in accordance with an order of the Court obtained on notice to Class Counsel and the Defendant.

6.3 SETTLEMENT ADMINISTRATION EXPENSES

- 6.3.1 The Claims Administrator shall use the Settlement Amount in the Trust Account to fund the Administration Expenses.
- 6.3.2 The Settlement Class Members shall be responsible for all Administration Expenses, including the costs of the Notice and the Settlement Approval Notice.
- 6.3.3 The Defendant shall not have any responsibility, financial obligations or liability whatsoever with respect to the investment, distribution or administration of monies in the Trust Account including, but not limited to, Administration Expenses and Class Counsel Fees and Disbursements.

6.4 NO FURTHER PAYMENTS

- 6.4.1 The Settlement Amount shall be paid by the Defendant in full satisfaction of the Released Claims against the Releasees.
- 6.4.2 Subject to the Defendant's obligations in this Settlement Agreement and in furtherance of the approval and implementation of this Settlement Agreement, as set out herein, the Releasees shall have no obligation to pay any amount in

addition to the Settlement Amount, for any reason, pursuant to or in furtherance of this Settlement Agreement.

7. DISTRIBUTION

7.1 DISTRIBUTION PROTOCOL

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

8. CLASS COUNSEL FEES AND ADMINISTRATION EXPENSES

8.1 FEES AND EXPENSES

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

9. RELEASES AND DISMISSALS

9.1 RELEASE OF RELEASEES

- 9.1.1 Upon the Effective Date, and in consideration of payment of the Settlement Amount, and for other valuable consideration set forth in this Settlement Agreement, the Releasers forever and absolutely release the Releasees from the Released Claims.

9.2 NO FURTHER CLAIMS

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

9.3 DISMISSAL OF THE PROCEEDING

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

10. EFFECT OF SETTLEMENT

10.1 NO ADMISSION OF LIABILITY

10.1.1 Whether or not this Settlement Agreement is terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by the Defendant, or of the truth of any of the facts or other allegations made in the Proceeding or any other pleading filed by the Plaintiff in relation to the allegations made in the Proceeding.

10.2 AGREEMENT NOT EVIDENCE

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

11. ADMINISTRATION AND IMPLEMENTATION

11.1 MECHANICS OF ADMINISTRATION

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

11.2 NO LIABILITY FOR ADMINISTRATION

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

11.3 PROVISION OF SETTLEMENT CLASS INFORMATION

11.3.1 In order to enable the Claims Administrator to administer the Settlement Agreement, including to provide notice to the Settlement Class Members and to calculate claims and payments, Zoom shall, if so ordered by the court, deliver to the Claims Administrator all names, email addresses, billing addresses, and information sufficient for the Claims Administrator to calculate claims under the Distribution Protocol for all persons that Zoom's records reasonably indicate are likely to be members of the Settlement Class (the "**Settlement Class Information**").

11.3.2 Because the Settlement Class Information will be provided to the Claims Administrator solely to enable the Claims Administrator to administer the Settlement Agreement, including to provide notice to Settlement Class Members and to calculate claims and payments, the Claims Administrator will execute a confidentiality and non-disclosure agreement with Defendant, Defendant's Counsel, and Class Counsel and will ensure that any information provided to it by Settlement Class Members, Class Counsel, the Defendant's Counsel, or the Defendant will be secure and used solely for the purpose of administering the Settlement Agreement.

12. TERMINATION OF SETTLEMENT AGREEMENT

12.1 RIGHT OF TERMINATION

12.1.1 In the event that:

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

this Settlement Agreement may be terminated at the election of the Defendant by way of written notice to Class Counsel and, except as provided for in Section 12.4, following termination in accordance with this section, it shall be null and void and have no further force or effect, shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation

12.1.2 Any order, ruling or determination made by the Court with respect to Class Counsel's fees or with respect to the Distribution Protocol or with respect to the

Opt-Out Procedure shall not be deemed to be a material modification of all, or a part, of this Settlement Agreement and shall not provide any basis for the termination of this Settlement Agreement.

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

12.2 IF SETTLEMENT AGREEMENT TERMINATED

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

12.3 ALLOCATION OF MONIES IN THE TRUST ACCOUNT FOLLOWING TERMINATION

12.3.1 If the Settlement Agreement is terminated in accordance with its terms after the Settlement Amount is paid into the Trust Account, the Claims Administrator shall return to the Defendant all monies remaining in the Trust Account after deduction of Administrative Expenses reasonably incurred up to the date of termination within thirty (30) business days of notice of termination by the Defendant.

12.4 SURVIVAL OF PROVISIONS AFTER TERMINATION

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

13. MISCELLANEOUS

13.1 APPLICATIONS FOR DIRECTIONS

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

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

13.2 HEADINGS ETC.

13.2.1 In this Settlement Agreement:

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

13.3 COMPUTATION OF TIME

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

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

13.4 ONGOING JURISDICITON

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

13.5 GOVERNING LAW

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

13.6 ENTIRE AGREEMENT

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

13.7 AMENDMENTS

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

13.8 BINDING EFFECT

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

13.9 COUNTERPARTS

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

13.10 RECITALS

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

13.11 SCHEDULES

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

13.12 NOTICE

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

For the Plaintiff:

Gabriel Guese
c/o Collette Parsons Corrin LLP
1750-700 West Georgia Street
Vancouver, BC V7Y 1B6
rparsons@cpclegal.ca

For Class Counsel:

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and

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For the Defendant:

Zoom Video Communications, Inc.
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Vancouver, BC V6E 0CE
jyates@mccarthy.ca

For Defendant's counsel:


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

13.13 DATE OF EXECUTION

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



ANGELA BESPFLUG
Counsel for the Plaintiff, Gabriel Guese



JILL YATES
Counsel for the Defendant,
Zoom Video Communications, Inc.