

Court File No.: CV-20-00648565-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE ) THURSDAY, THE 12<sup>TH</sup>  
 )  
JUSTICE AKBARALI )  
 ) DAY OF DECEMBER, 2024

BETWEEN:

CAROL SHRIQUI

**Plaintiff**

and

BLACKBAUD CANADA, INC.  
and BLACKBAUD INC.

**Defendants**

Proceeding under the *Class Proceeding Act, 1992*

**ORDER  
(Settlement Approval, Dismissal, and Counsel Fee Approval)**

**THIS MOTION** made by the Representative Plaintiff for an Order approving the Settlement Agreement in this matter pursuant to subsection 27.1 of the *Class Proceedings Act, 1992*, S.O. 1992, c.6 (“the *Act*”) along with an Order approving Class Counsel Fees, was heard by video conference on this day, at 330 University Avenue, Toronto, Ontario.

**UPON READING** the Motion Record of the Representative Plaintiff, including the Settlement Agreement attached to this Order as Schedule “A” (“the Settlement Agreement”), the Responding Record of the Defendants, the Facts of the Plaintiff and of the Defendants, and upon hearing the submissions of Class Counsel and of counsel for the Defendants;

**AND ON BEING ADVISED** that the Defendants consent to this Order;

**AND ON BEING ADVISED** that the parallel proposed class proceeding commenced in British Columbia as *Wittman v Blackbaud Inc and Blackbaud Canada Inc*, S-207965 (the “BC Action”) shall be discontinued, after dismissal of this action, in accordance with the terms of the Settlement Agreement;

**AND** without any admission of liability on the part of any of the Defendants, the Defendants having denied liability in this Action and in the BC Action;

**AND** pursuant to an Endorsement released this day:

1. **THIS COURT ORDERS AND DECLARES** that the capitalized terms in this Order shall bear the meanings as defined in the Settlement Agreement;
  2. **THIS COURT ORDERS AND DECLARES** that the terms of settlement of this action, as set out in the Settlement Agreement (“the Settlement”), is fair and reasonable and in the best interests of the Settlement Class and is hereby approved pursuant to s. 27.1 of the *Act*, and shall be implemented in accordance with its terms.
  3. **THIS COURT ORDERS** that this action is certified as a class proceeding for settlement purposes only;
  4. **THIS COURT ORDERS** that the Class be defined as:  
  
all Canadian residents who were Constituents of Customers of the Defendants in Canada whose Personal Information was accessed by unauthorized parties in or as a result of the Data Breach
  5. **THIS COURT ORDERS** that the following issue is common to the Class:
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Did the Defendants owe the Plaintiff and Class Members a duty of care in respect of the Data Breach?

6. **THIS COURT ORDERS** that Carol Shriqui be appointed as Representative Plaintiff;
  7. **THIS COURT ORDERS** that notice of this Order for Certification and Settlement Approval shall be given by Class Counsel in this Action and in the BC Action, by posting this Order along with the form attached to this Order as Schedule “B” (the “Notice”) on their law firm websites and by delivering the Notice to any Class Members for whom they have contact information, and that such Notice fulfills the notice requirements under sections 17 and 27.1(12) of the *Class Proceedings Act, 1992*;
  8. **THIS COURT ORDERS** that the Settlement is for the amount of CAD \$340,000 for the release of all Class members Canada-wide; and that the balance of the Settlement sum, after payment of class counsel fees and disbursements in Ontario and British Columbia, shall be distributed *cy prè*s and divided equally to the Samuelson-Glushko Canadian Internet Policy and Public Interest Clinic – University of Ottawa, and The Computer Science Data Security Fund – University of Saskatchewan;
  9. **THIS COURT ORDERS** that Class Counsel’s fees of \$60,000 + HST and disbursements of \$37,157.85 are hereby approved;
  10. **THIS COURT ORDERS** that, upon the Effective Date, the Releasors forever and absolutely release, relinquish and discharge the Releasees from the Released Claims;
  11. **THIS COURT ORDERS** that upon the Effective Date, this action be and is dismissed with prejudice, without further Order of this Court; and
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12. **THIS COURT ORDERS** that for the purposes of administration of this Order, the Ontario Court shall retain the sole ongoing supervisory jurisdiction, and that the Plaintiff, the Defendants or Class Counsel may apply to the Court for directions in respect of the implementation of this Order or relating to any other matter arising therefrom.

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JUSTICE AKBARALI

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**SCHEDULE "A"**

Court File No. CV-20-00648565-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

CAROL SHRIQUI

**Plaintiff**

-and-

BLACKBAUD CANADA, INC. AND BLACKBAUD, INC.

**Defendants**

*Proceeding under the Class Proceedings Act, 1992*

**SETTLEMENT AGREEMENT**

**RECITALS**

- A. **WHEREAS**, Blackbaud, Inc. ("Blackbaud US") is an American cloud software company which provides cloud software, services, expertise, and data intelligence to organizations engaged in philanthropic activities, including non-for-profit organizations and corporate social responsibility divisions of corporations ("**Customers**"), and Blackbaud Canada, Inc. ("Blackbaud Canada") is a wholly-owned subsidiary of Blackbaud US, incorporated under the laws of Ontario (and together with Blackbaud US, "**Blackbaud**");
- B. **AND WHEREAS** in May 2020, Blackbaud US discovered that cyber criminals had perpetrated a ransomware attack against it: the unknown and unauthorized intruders had access to some of Blackbaud US's systems from about February 7, 2020 to May 20, 2020, and were able to unlawfully extract a copy of a subset of data of Constituents collected and



- stored by Customers, including Personal Information belonging to some Class Members, from Blackbaud US's self-hosted environment (the "Data Breach");
- C. **AND WHEREAS**, the Plaintiff commenced this Action, on behalf of Class Members for, *inter alia*, compensation for the alleged impact of the Data Breach on Class Members;
- D. **AND WHEREAS** the Plaintiff in a parallel proposed class proceeding commenced an action in British Columbia, bearing Vancouver Registry Docket No. S-207965 (the "BC Action");
- E. **AND WHEREAS** the Defendants have disputed their liability and do not admit, by the execution of this Settlement Agreement or otherwise, any allegation of unlawful conduct alleged in the Actions and otherwise deny all liability under any pleaded or possible cause of action related to the Data Breach, and assert that they have complete defences in respect of the merits of the Actions;
- F. **AND WHEREAS** the Parties, through their counsel, have engaged in confidential and arm's length settlement discussions and negotiations with a view to resolving the Action and the BC Action;
- G. **AND WHEREAS**, during and in the course of those settlement discussions and negotiations, the Defendants made the Representations to the Plaintiff in the Action and the Plaintiff in the BC Action on which the said Plaintiffs have relied reasonably in reaching this Settlement;
- H. **AND WHEREAS**, as a result of those settlement discussions and negotiations, the Parties have reached this Settlement, and they have entered into this Settlement Agreement, which embodies all of the terms and conditions of the Settlement between the Plaintiffs (both





individually and on behalf of the Settlement Class, and the Defendants, subject to the approval of the Court;

- I. **AND WHEREAS** the Plaintiff in the BC Action has agreed to settle that Action as a Class Member in the Ontario Action, and shall be bound by the same terms and conditions as provided herein, such that the term "Plaintiff" herein shall be read, where applicable, to refer to and bind the Plaintiff in the BC Action;
- J. **AND WHEREAS** the Defendants are entering into this Settlement Agreement to achieve a final resolution of all claims asserted or which may have been asserted by the Plaintiff and the Settlement Class in the Action, and to avoid the expense, inconvenience and distraction of further burdensome and protracted litigation;
- K. **AND WHEREAS** the Plaintiff has reviewed and fully understands the terms of this Settlement Agreement and, based on Class Counsel's analyses of the facts and law applicable to the Plaintiff's claims asserted in the Action, and having regard to the burdens and expense of prosecuting the Action, including, in particular, the risks and uncertainties associated with certification, trials and appeals, the Plaintiff in the Action (and the Plaintiff in the BC Action) have each concluded that this Settlement Agreement is fair, reasonable and in the best interests of the Class;
- L. **AND WHEREAS** the Parties therefore wish to and hereby finally resolve the Action (and the BC Action) as against the Defendants, without an admission of liability, and without any admission by the Defendants that Class Members are entitled, at law, to compensation or payment for any of the losses and damages alleged in the Action;

- M. **AND WHEREAS** the Plaintiff in the BC Action agrees that it will be more economical to seek settlement in a single jurisdiction on behalf of all Class Members in Canada, and agrees that Ontario is a proper jurisdiction in which to conduct the Settlement;
- N. **AND WHEREAS** the Defendants agree to consent to a discontinuance in the BC Action without costs, which shall be filed in accordance with the terms of this Agreement;
- O. **AND WHEREAS** the Parties acknowledge that the Settlement is contingent on approval by the Ontario Court as provided for in this Settlement Agreement, and is entered into with the express understanding that this Settlement shall not derogate from the respective rights of the Parties relating to the Action in the event that this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason;
- P. **AND WHEREAS** the Plaintiff and the Defendants 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 Plaintiff or the Defendants, or evidence of the truth of any of the Plaintiff's allegations or the validity of any of the Defendants' defences, which allegations are expressly denied by the Defendants and which defences are expressly denied by the Plaintiff;

**NOW THEREFORE**, in consideration of the covenants, agreements and releases set forth in this Settlement Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that the Action shall be settled and dismissed with prejudice, each without costs paid by or to the Plaintiff, the Settlement Class or the Defendants, subject to the approval of the Court, on the following terms and conditions:

## SECTION 1 – DEFINITIONS

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

- (1) **“Action”** means the herein action, namely, *Carol Shriqui v. Blackbaud Canada Inc.* et al., commenced in the Ontario Court at Toronto and bearing the Court File No. CV-20-00648565-00CP;
- (2) **“BC Action”** means the action styled *Wittman v Blackbaud Inc and Blackbaud Canada Inc*, in the Supreme Court of British Columbia and bearing Docket Number S-207965.
- (3) **“BC Court”** means the Supreme Court of British Columbia;
- (4) **“BC Discontinuance”** means the discontinuance of the BC Action without costs to the Defendants;
- (5) **“CJA”** means the *Courts of Justice Act*, RSO 1990, c. C-43, as amended;
- (6) **“Class”** and **“Class Members”** means all Canadian residents who were Constituents of Customers of the Defendants in Canada whose Personal Information was accessed by unauthorized parties in or as a result of the Data Breach;
- (7) **“Class Counsel”** means:

Bryan C. McPhadden  
McPhadden Samac Tuovi Haté LLP  
27<sup>th</sup> Floor, 161 Bay St  
Toronto, Ontario M5J 2S1

Glyn Hotz  
Hotz Lawyers  
1 Maison Parc Crt.  
Vaughan, Ontario L4J 9K1

Saro J. Turner  
Ryan T. Matheuszik  
Slater Vecchio LLP  
777 Dunsmuir St 18<sup>th</sup> Floor,  
Vancouver, British Columbia

- (8) **“Class Counsel Disbursements”** means the disbursements, interest and applicable taxes incurred by Class Counsel in the prosecution of the Action and the BC Action and approved by an Order of the Court;
- (9) **“Class Counsel Fees”** means the Class Counsel Fees incurred by Class Counsel in the prosecution of the Action and the BC Action and approved by an Order of the Court;
- (10) **“Constituents”** means donors, prospective donors and others whose information is in the hands of Blackbaud Customers;
- (11) **“Court”** means the Ontario Superior Court of Justice;
- (12) **“Cy Pres Award”** means the awards, if any, to Samuelson-Glushko Canadian Internet Policy and Public Interest Clinic – University of Ottawa and to  
The Computer Science Data Security Fund – University of Saskatchewan;
- (13) **“Defence Counsel”** means McCarthy Tétrault LLP;
- (14) **“Defendants”** means Blackbaud Canada Inc. and Blackbaud, Inc.
- (15) **“Effective Date”** means the date upon which the Settlement Approval Order becomes a Final Order;
- (16) **“Execution Date”** means the date on which the last of the Parties signs this Settlement Agreement;
- (17) **“Final Order”** means the later of the dates upon which: (i) the time to appeal the Order of the Court approving this Settlement Agreement has expired without any appeal being taken; or (ii) if an appeal is taken, all appeals and any time period for a further appeal have concluded;
- (18) **“Parties”** means the Plaintiff and the Defendants in the Action, who are the signatories to this Settlement Agreement, and **“Party”** means any one thereof;

- (19) **“Personal Information”** means information about Class Members which could have included their demographic, personal, and financial information, including, but not limited to their name, age, address, driver’s licence details, credit card information, and spousal identity, as well as publicly available information including, but not limited to, their identified assets and history of philanthropic and political gift-giving name, age, address, driver’s licence details, credit card information, identified assets, history of philanthropic and political gift-giving, and spousal identity;
- (20) **“Released Claims”** means any and all manner of claims, demands, actions, suits, and causes of action, whether class, individual, representative or otherwise in nature, whether personal or subrogated, and damages of any kind including compensatory, nominal, punitive or other damages, whenever incurred, and liabilities of any nature whatsoever, including for interest, costs, expenses, class administration expenses, penalties, and lawyers’ fees (including Class Counsel Fees and Class Counsel Disbursements), known or unknown, suspected or unsuspected, foreseen or unforeseen, actual or contingent, and liquidated or unliquidated, in law, under statute or at equity, that the 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, relating in any way to any conduct alleged (or which could have been alleged) in the Action including, without limitation, any such claims which have been asserted, would have been asserted, or could have been asserted, directly or indirectly, whether in Canada or elsewhere, as a result of or in connection with any alleged conduct related to, arising from, or described in the Action on account of, causing, arising out of or resulting from

the Data Breach. The Released Claims do not include any obligations under this Settlement Agreement;

- (21) **“Releasees”** means, jointly and severally, individually and collectively, the Defendants and their respective present and former, direct and indirect, parents, subsidiaries, divisions, affiliates, partners, principals, insurers, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and all of their respective past, present and future officers, directors, employees, stockholders, shareholders, agents, employed or retained lawyers, trustees, servants and representatives, and the predecessors, successors, purchasers, heirs, executors, administrators and assigns of each of the foregoing;
- (22) **“Releasers”** means, jointly and severally, individually and collectively, the Plaintiff in the Action, the Plaintiff in the BC Action, and the Settlement Class and their respective successors, heirs, executors, administrators, trustees and assigns;
- (23) **“Representations”** means these statements made to the opposing Party for the purposes of this Agreement, and which are reasonably believed to be true by the representing Party:
- (a) by the Defendants, that the cyber criminals exfiltrated Personal Information of Class Members;
  - (b) by the Defendants, that they have no knowledge of any improper use of Class Members’ Personal Information arising from the Data Breach;
  - (c) by the Defendants, that they do not have a list of the Class Members or their contact information; and

- (d) by the Plaintiff, that no Class Members have contacted Class Counsel about the Data Breach;
- (24) **“Representative Plaintiffs’ Honoraria”** means such amount as the Court may approve to be paid to the representative Plaintiffs;
- (25) **“Settlement”** means the resolution of the dispute between the purported Class in the Action and in the BC Action and the Defendants thereto, as defined by the terms of this Settlement Agreement, if approved by the Court;
- (26) **“Settlement Agreement”** means this agreement, including the Recitals and Schedules hereto;
- (27) **“Settlement Approval Motion”** means the motion for an Order of the Court:
- (a) conditionally certifying this Action for the purposes of settlement approval (“Conditional Certification”);
  - (b) approving the Settlement Agreement;
  - (c) approving the manner of distribution of the **Settlement Funds**;
  - (d) dismissing the Action;
  - (e) approving the fee request of Class Counsel; and,
  - (f) such other relief as the Parties may request;
- (28) **“Settlement Approval Order”** means the Order approving the Settlement Agreement, the manner of distribution of Settlement Funds and granting any other relief granted on the Settlement Approval Motion;
- (29) **“Settlement Class”** means the Class Members;
- (30) **“Settlement Funds”** is the \$340,000 to be paid by the Defendants.

## **SECTION 2– POST-EXECUTION DATE STEPS**

### **2.1 Costs**

Each party shall bear their own costs of all court attendances in order to complete this Settlement.

### **2.2 No Admission or Inference of Liability**

The Defendants shall consent to all of the Court Orders required to complete the approval of this Settlement, solely for the purposes of implementing the Settlement, and the Defendants' consent shall not be taken to be an admission of liability or legal responsibility for the pleaded damages and losses, and may not be relied upon by the Plaintiff, the Settlement Class Members or any other person in this or any other court proceeding relating to the Data Breach.

### **2.3 Motion for Conditional Certification and for Approval of Settlement Hearing Notice**

(1) As soon as practicable following the Execution Date, the Plaintiff shall bring a consent Motion for conditional Certification, and then Settlement Approval, as well as a Motion for Approval of Class Counsel Fees and Disbursements;

(2) The sole common issue to be certified shall be:

“Did the Defendants owe the Plaintiff and Class Members a duty of care in respect of the Data Breach?”

## **SECTION 3 – NOTICE OF SETTLEMENT APPROVAL HEARING**

### **3.1 Mode of Dissemination**

There shall be no notice of the Settlement Approval Motion hearing.



## **SECTION 4 – SETTLEMENT APPROVAL**

### **4.1 The Settlement Approval Motion**

- (1) The Plaintiff shall bring a motion for Conditional Certification of the Action for settlement purposes, and for approval of this Settlement Agreement, and for approval of the Notice of Settlement Approval;
- (2) The foregoing shall include Class Counsel seeking approval of the cy pres award(s);
- (3) At the same time, Class Counsel may bring their motion for Class Counsel Fee and Class Counsel Disbursement Approval;
- (4) The Defendants' consent to Conditional Certification does not extend to Class Counsel's motion for approval of Class Counsel Fees or Class Counsel Disbursements, about which the Defendants shall take no position.
- (5) The terms of the Order approving this Settlement Agreement shall be as agreed to by the Parties and approved by the Court.

### **4.2 Date Upon Which Settlement Is Final**

This Settlement shall become final on the Effective Date.

### **4.3 Discontinuance of BC Action**

- (1) The Defendants and the Plaintiff in the BC Action agree to a discontinuance of the BC Action without costs to any Party.

(2) Within five (5) days of the date of the Settlement Approval Order, the Plaintiff in the BC Action shall arrange for a case management conference with the assigned BC Judge at which conference the Parties shall advise of the Settlement.

(3) Within five (5) days of the case management conference referred to above, the Plaintiff in the BC Action shall serve and file a notice of discontinuance.

#### **4.4 Class Counsel's Fees and Disbursements**

(1) Class Counsel will bring a motion for approval of Class Counsel Fees and Class Counsel Disbursements contemporaneously with or immediately following the Settlement Approval Motion, and such Class Counsel Fees and Class Counsel Disbursements as are approved by the Court will be a first charge on and be paid out of the Settlement Funds.

(2) The Defendants shall pay Class Counsel Fees and Class Counsel Disbursements as set out below in Section 6.

(3) The Defendants shall pay Class Counsel Fees and Class Counsel Disbursements, as awarded by the Court, to McPhadden Samac Tuovi Haté LLP on behalf of the law firms designated as Class Counsel in the Settlement Approval Order, in trust, by wire transfer.

(4) The payments of the Cy Pres Award(s) shall be paid net of Class Counsel Fees, Class Counsel Disbursements, any Representative Plaintiff's Honoraria, and any notice payments, all as approved by the Court. Any Cy Pres Award(s) shall be shared equally by Samuelson-Glushko Canadian Internet Policy and Public Interest Clinic – University of Ottawa and The Computer Science Data Security Fund – University of Saskatchewan.

## **SECTION 5 – NOTICE OF SETTLEMENT APPROVAL**

### **5.1 Mode of Dissemination**

- (1) The Notice of Settlement Approval shall be disseminated by being posted on the websites of Class Counsel.
- (2) If further notice is required, then the cost of distributing the Notice of Settlement Approval shall be paid by the Defendants out of the Settlement Funds.

## **SECTION 6 – DISTRIBUTION OF SETTLEMENT FUNDS**

### **6.1 Payment of Settlement Funds**

- (1) Within five (5) business days of the Effective Date, the Defendants shall pay the Settlement Funds in accordance with the terms of the Settlement Approval Order as follows:
  - (a) the amounts approved by the Court for Class Counsel Fees (proposed to be \$127,939 - being  $\$340,000 \times 33.3\%$ , + 13% HST) and for Class Counsel Disbursements;
  - (b) the amount approved, if any, by the Court as Honoraria payable to the Plaintiff in the Action and to the Plaintiff in the BC Action of \$1,000 each; and
  - (c) payment of the balance of the Settlement Funds after payment of the amounts in (a) and (b), and any sum ordered by the Court to be paid for the delivery of Notice, by way of Court-approved *cy pres* awards.
- (2) The Parties acknowledge that Settlement Funds are to be provided by the Defendants, such payment is without admission of liability by the Defendants, and without any admission by the

Defendants that Class Members are entitled, at law, to compensation or payment for any of the losses and damages alleged in the Action.

## **6.2 No Further Payments**

- (1) The Defendants shall pay the above amount in full satisfaction of the Released Claims against the Releasees.
- (2) Subject to the Defendants' obligations in furtherance of the approval and implementation of this Settlement Agreement, as set out herein, the Defendants and Releasees shall have no obligation to pay any amount in addition to the Settlement Benefits, for any reason, pursuant to or in furtherance of this Settlement Agreement.
- (3) The Plaintiff and Class Members including their heirs, executors, predecessors, successors, assigns and agents, have no personal obligation to pay anything to the Defendants or any of the Releasees in relation to this Settlement Agreement or the Action.

## **SECTION 7 – BEHAVIOUR MODIFICATION**

### **7.1 Behavior Modification Already Achieved**

The Parties acknowledge that Blackbaud US has already committed to behaviour modification as a result of proceedings in the United States, and that Canadians and Class Members will receive the full benefit of the Defendant's commitment to improved security and data retention policies. The Parties agree that no additional commitment to behaviour modification on the part of the Defendants is required.

## **SECTION 8 – STEPS TO EFFECTUATE SETTLEMENT AGREEMENT**

### **8.1 Reasonable Efforts**

(1) The Parties shall take all reasonable steps to effectuate this Settlement Agreement and to secure its approval and the prompt, complete and final dismissal with prejudice of the Action on a without costs basis as against the Defendants, and the discontinuance of the BC Action, including cooperating with the Plaintiff's efforts to obtain the approval and orders required from the Court and the implementation of this Settlement Agreement.

(2) The Parties agree that, if necessary to give effect to this Settlement Agreement in British Columbia, they will co-operate in entering into such further documentation and agreements using language as required to effect the agreed-upon results, and applying to the necessary Courts for directions.

(3) Each Party shall bear its own costs in relation to any steps contemplated in or taken in accordance with this section.

### **8.2 Mechanics of Administration**

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 thereafter, if necessary, by the Court on motion brought by any Party.

### **8.3 Action in Abeyance**

Until the Parties have obtained the Settlement Approval Order for this Settlement Agreement is terminated in accordance with its terms, whichever occurs first, the Parties agree to hold in abeyance all other steps in the Action and the BC Action other than the Certification and Settlement Approval Motion contemplated by this Settlement Agreement and such other matters required to implement the terms of this Settlement Agreement, unless otherwise agreed in writing by the Parties.

## **SECTION 9 – RELEASES AND DISMISSAL**

### **9.1 Release of the Releasees**

- (1) Upon the Effective Date, and in consideration of payment of the Settlement Benefits, and for other valuable consideration set forth in this Settlement Agreement, the Releasors forever and absolutely release, relinquish and discharge the Releasees from the Released Claims that any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have, excepting the obligations created by this Settlement Agreement.
- (2) The Plaintiff acknowledges that the Plaintiffs or the Class may hereafter discover facts in addition to, or different from, those facts which they know or believe to be true regarding the subject matter of the Settlement Agreement, but it is their intention to release fully, finally and forever all Released Claims and, in furtherance of such intention, this Agreement and that release shall be and remain in effect notwithstanding the discovery or existence of new or different facts.
- (3) Except as provided herein, this Settlement Agreement does not settle, compromise, release or limit in any way whatsoever any claim by the Class against any person other than the Releasees.

## **9.2 No Further Claims**

(1) Upon the Effective Date, the Releasors shall not now or hereafter institute, continue, maintain, intervene in or assert, either directly or indirectly, whether in Ontario, British Columbia, or elsewhere, on his or her own behalf or on behalf of any class or any other person, any proceeding, cause of action, claim or demand against the Releasees, or any other person who may claim contribution or indemnity, or other claims over, for relief from the Releasees, whether pursuant to statute or at common law or equity, in respect of any Released Claim.

(2) Upon the Effective Date, each member of the Settlement Class shall be deemed to irrevocably consent to the dismissal, without costs, with prejudice and without reservation, of his, her or its action against the Releasees.

## **9.3 Material Term**

Without in any way limiting the ability of the Parties to assert that other terms in this Settlement Agreement are material terms, the releases and reservation of rights contemplated in this Section shall be considered a material term of the Settlement Agreement and the failure of the Courts to approve the releases and/or reservation of rights contemplated herein shall give rise to a right of termination pursuant to Section 11 of the Settlement Agreement.

## **SECTION 10 – EFFECT OF SETTLEMENT**

### **10.1 No Admission of Liability or Concessions**

(1) The Plaintiff and the Defendants expressly reserve all of their respective rights if the Settlement is not approved, is terminated or otherwise fails to take effect for any reason.

(2) This Settlement Agreement, whether or not it is implemented, anything contained in it, any and all negotiations, discussions, documents, and communications associated with this Settlement Agreement, and any action taken to implement this Settlement Agreement, shall not be deemed, construed, or interpreted to be:

(a) an admission or concession by the Defendants of any fact, fault, omission, wrongdoing or liability, or of the truth of any of the claims or allegations made or which could have been made against the Defendants in the Action, or of the application of any of the pleaded statutes to any of the claims made in the Action, or of the entitlement of any Class Member to compensation or payment for any of the losses and damages alleged in the Action; or

(b) an admission or concession by the Plaintiff, Class Counsel or the Class of any weakness in the claims of the Plaintiff and the Class, or that the consideration to be given hereunder represents the amount that could or would have been recovered from the Defendants after the trial of the Action.

#### **10.2 Agreement Not Evidence or Presumption**

(1) This Settlement Agreement, whether or not it is implemented, and anything contained herein, and any and all negotiations, discussions, documents, communications, and proceedings associated with this Settlement Agreement, shall not be referred to, offered as evidence or received in evidence in any pending or future civil, quasi-criminal, criminal or administrative action or disciplinary investigation or proceeding brought by any persons or government entity or quasi-government Commission in any jurisdiction:

(a) against the Defendants, or any of them, as evidence, or a presumption of a concession or admission of anything; or



(b) against the Plaintiffs, Class Counsel, or the Class, as evidence, or a presumption, of a concession or admission:

(i) of any weakness in the claims of the Plaintiff and the Class; or

(ii) that the consideration to be given hereunder represented the amount that could or would have been recovered from the Defendants after trial of the Action.

(2) Notwithstanding s. 10.2(1), this Settlement Agreement may be referred to or offered as evidence to obtain the orders or directions from the Court contemplated by this Settlement Agreement, in a proceeding to approve and/or enforce this Settlement Agreement, to defend against the assertion of Released Claims, as may be necessary, or as otherwise required by law.

## **SECTION 11 – TERMINATION**

### **11.1 Right of Termination**

(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;

(c) an Order approving this Settlement Agreement is reversed on appeal and the reversal becomes a Final Order; or

(d) the BC Court declines to discontinue the BC Action without costs;

the Plaintiff and Defendants shall each have the right to terminate this Settlement Agreement by delivering a written notice within ten (10) days following an event described above, subject to the Parties using best efforts and good faith to attempt to resolve any issues in furtherance of resolution

of the Action on such modified terms as may be required to obtain the Court's approval, except that the Defendants shall have no obligation to negotiate any increase to the compensation provided for by this Settlement Agreement.

(2) In addition, if the Settlement Funds are not paid in accordance with Section 6.1 the Plaintiff shall have the right to terminate this Settlement Agreement by delivering a written notice to the Defendants and be at liberty to continue the Actions.

(3) Any order, ruling or determination made or rejected by the Court with respect to Class Counsel Fees or Class Counsel Disbursements shall not be deemed to be a material modification of all, or a part, of this Settlement Agreement and shall not provide a basis for the termination of this Settlement Agreement.

(4) Except as provided for in ss. 10.1(1) and (2), if the Plaintiff or the Defendants exercise the right to terminate, the Settlement Agreement shall be null and void and have no further force or effect, and shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation or in any other way for any reason.

#### **11.2 Steps Required on Termination**

(1) If this Settlement Agreement is terminated after the Court has heard or decided any motion in the settlement approval process, either the Defendants or the Plaintiff shall, as soon as reasonably practicable after termination, on notice to the other Parties, bring a motion to the Court for Orders:

- (a) declaring this Settlement Agreement null and void and of no force or effect except for the provisions of those sections listed in s.10.1(1) and (2);

- (b) setting aside and declaring null and void and of no force or effect, *nunc pro tunc*, all prior orders or judgments sought from and entered by the Court in accordance with the terms of this Settlement Agreement; and
- (c) to obtain directions about any further notice to be provided to the Class about the termination of the Agreement, and the costs of any such notice shall be split evenly between the Plaintiff and the Defendants.

(2) Subject to s.10.2(2), the Parties shall consent to the order(s) sought in any motion made under s.11.2.

### **11.3 Notice of Termination**

- (1) If this Settlement Agreement is terminated, a notice of the termination will be given to the Class Members, the form and content of which notice is to be agreed upon by the Parties or as ordered by the Court, at an expense evenly split between the Plaintiff and the Defendants in the Action or as ordered by the Court.
- (2) The notice of termination, if necessary, shall be disseminated in a manner agreed upon by the Parties or as ordered by the Court.

### **11.4 Effect of Termination**

- (1) In the event this Settlement Agreement is terminated in accordance with its terms:
  - (a) the Parties will be restored to their respective positions prior to the execution of this Settlement Agreement, except as expressly provided for herein;
  - (b) the Parties will cooperate in seeking to have all prior orders or judgments sought from and entered by the Court, in accordance with the terms of 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;

(d) this Settlement Agreement will have no further force or effect and no effect on the rights of the Parties except as specifically provided for herein; and

(e) this Settlement Agreement will not be introduced into evidence or otherwise referred to in any litigation against the Defendants.

### **11.5 Disputes Relating to Termination**

(1) If there is a dispute about the termination of this Settlement Agreement, the Parties agree that the Court shall determine the dispute on a motion made by any Party on notice to every other Party.

### **11.6 Handling of Confidential Information in the Event of Termination**

(1) In the event of a valid termination, it is understood and agreed that 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 otherwise become publicly available.

## **SECTION 12 – MISCELLANEOUS**

### **12.1 Motions for Directions**

(1) Any of the Parties may apply to the Court for directions in respect of the interpretation, implementation and administration of this Settlement Agreement.

(2) All motions contemplated by this Settlement Agreement shall be on notice to all other Parties.

### **12.2 Headings, etc.**

(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;

(b) the terms “this Settlement Agreement,” “hereof,” “hereunder,” “herein,” “hereto,” and similar expressions refer to this Settlement Agreement and not to any particular section or other portion of this Settlement Agreement; and

(c) “person” means any legal entity including, but not limited to, individuals, corporations, sole proprietorships, general or limited partnerships, limited liability partnerships or limited liability companies.

### **12.3 Computation of Time**

(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; and

(b) only in the case where the time for doing an act expires on a holiday as “holiday” is defined in the Rules of Civil Procedure, RRO 1990, Reg 194, the act may be done on the next day that is not a holiday.

#### **12.4 Ongoing Jurisdiction**

(1) The Court shall exercise jurisdiction with respect to implementation, administration, interpretation and enforcement of the terms of this Settlement Agreement.

#### **12.5 Governing Law**

(1) Subject to s. 12.6(1), this Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

#### **12.6 Severability**

(1) Any provision hereof that is held to be inoperative, unenforceable or invalid in any jurisdiction shall be severable from the remaining provisions which shall continue to be valid and enforceable to the fullest extent permitted by law.

(2) In the event that the Court does not approve any term of this Agreement relating to the payment of Class Counsel Fees or Class Counsel Disbursements, such term(s) shall be severed from the remaining provisions which shall continue to be valid and enforceable to the fullest extent permitted by law.

#### **12.7 Entire Agreement**

(1) 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 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.

#### **12.8 Amendments**

(1) This Settlement Agreement may not be modified or amended except in writing and on consent of all Parties hereto, and any such modification or amendment after settlement approval must be approved by the Court(s) with jurisdiction over the matter to which the amendment relates.

#### **12.9 Binding Effect**

(1) If the Settlement is approved by the Court and becomes final, this Settlement Agreement shall be binding upon, and enure to the benefit of, the Plaintiff, the Settlement Class Members, the Defendants, the Releasees and the Releasors or any of them, and all of their respective heirs, executors, predecessors, 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 Defendants shall be binding upon all of the Releasees.

#### **12.10 Counterparts**

(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 a facsimile or electronic signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

### **12.11 Survival**

(1) The representations and warranties contained in this Settlement Agreement shall survive its execution and implementation.

### **12.12 Negotiated Agreement**

(1) This Settlement Agreement and the underlying Settlement have been the subject of confidential, lengthy and arm's-length negotiations and discussions among the Parties and Counsel. 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.

### **12.13 Language**

(1) The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais. Nevertheless, if required by the Court, Defence Counsel shall have a French translation of the Settlement Agreement, or a summary thereof, prepared at a cost to be paid by the Defendants. In the event of any dispute as to the interpretation or application of this Settlement Agreement, only the English version shall govern.

### **12.14 Recitals**

(1) The recitals to this Settlement Agreement are true, constitute material and integral parts hereof and are fully incorporated into, and form part of, this Settlement Agreement.



### **12.15 Acknowledgements**

- (1) Each Party hereby affirms and acknowledges that:
  - (a) they or a representative of the Party with the authority to bind the Party with respect to the matters set forth herein has reviewed this Settlement Agreement;
  - (b) the terms of this Settlement Agreement and the effects thereof have been fully explained to them or the Party's representative by their counsel;
  - (c) they 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, beyond the terms of the Settlement Agreement, with respect to the first Party's decision to execute this Settlement Agreement.

### **12.16 Notice**

- (1) Any notice, instruction, motion for court approval or motion for directions or court orders sought in connection with this Settlement Agreement or any other report or document to be given by any Party to any other Party shall be in writing and delivered by email, facsimile or letter by overnight delivery to:

For the Plaintiff, and the BC Action Plaintiffs and Class Counsel in the Action and the BC Action:

Bryan C. McPhadden  
McPhadden Samac Tuovi Haté LLP  
bmcphadden@mcst.ca

For the Defendants or any of them: to Defence Counsel.

Dana M. Peebles  
McCarthy Tétrault LLP  
dpeebles@mccarthy.ca

**12.17 Authorized Signatures**

(1) Each of the undersigned, on behalf of their law firm, represents that they are fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement on behalf of the Parties identified above:

For the Plaintiff, and the BC Action Plaintiff, and Class Counsel in the Action and the BC Action:

MCPHADDEN SAMAC TUOVI LLP

Per:



Bryan C. McPhadden,  
lawyers for the Plaintiff

SLATER VECCHIO LLP

Per:

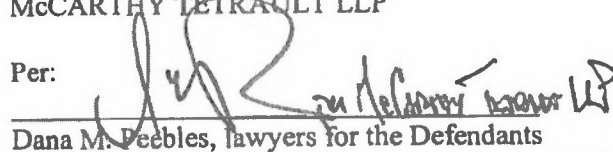
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Saro J. Turner, lawyers for the Plaintiff

For the Defendants:

McCARTHY TÉTRAULT LLP

Per:



Dana M. Peebles, lawyers for the Defendants

August 15, 2024

# **SCHEDULE “B”**

## **NOTICE OF SETTLEMENT APPROVAL**

***Shriqui v Blackbaud Canada, Inc. and Blackbaud, Inc.***,  
in the Ontario Superior Court of Justice, CV-20-00748565-00CP

***Wittman v Blackbaud, Inc. and Blackbaud Canada, Inc.***,  
in the Supreme Court of British Columbia, S-207965

To: All Canadian residents whose personal information was accessed by unauthorized parties in or as a result of a data breach involving servers and online infrastructure owned and maintained by Blackbaud, Inc.

### **A SETTLEMENT HAS BEEN APPROVED IN THESE CASES**

**THE ONTARIO COURT HAS APPROVED A SETTLEMENT.  
PLEASE READ TO DETERMINE HOW THIS AFFECTS YOUR LEGAL RIGHTS.**

#### **A. What are these class actions about?**

These two proposed class actions were commenced in 2020 in British Columbia and in Ontario (“the Actions”). Both Actions alleged that third-party hackers illegally accessed servers and online infrastructure owned and operated by Blackbaud Inc and Blackbaud Canada Inc (“Blackbaud”), and that through this data breach the hackers exfiltrated data that contained personal information of class members. The class actions alleged that Blackbaud did not adequately secure its servers and online infrastructure to prevent this criminal intrusion.

Blackbaud denies all such allegations.

#### **B. Who are the Class Members?**

You are a Class Member if you provided personal information to any charity which used the services of Blackbaud Inc and/or Blackbaud Canada Inc to administer charitable donation giving prior to May 31, 2020, and if your personal information was contained within the Blackbaud servers on that date.

#### **C. What settlement has been approved? How does this settlement affect my legal rights?**

The parties have reached a settlement for a total all-inclusive payment of CAD \$340,000 by Blackbaud. Blackbaud denies any liability, wrongdoing or fault in these matters, and the agreement to settle does not imply any such liability, wrongdoing or fault on the part of Blackbaud.

The Representative Plaintiffs and Class Counsel in both Actions recommended this settlement to the Courts because of the absence of any evidence that the exfiltrated data was ever used by the hackers or sold online to any person who used the data, and because of the absence of any evidence that any Class Member suffered any harm arising from the data breach.

In an Endorsement released on December 12, 2024, the settlement was approved in the Ontario Superior Court of Justice in Toronto, Ontario in the lawsuit *Shriqui v Blackbaud Canada Inc and Blackbaud Inc.*, CV-20-00748565-00CP.

Class Members will not receive funds directly. The balance of the settlement funds, after deduction of Court-approved legal fees, will be distributed to charities established to promote privacy and online security in Canada, as set out below.

In exchange for paying CAD \$340,000 (“the Settlement Funds”), Blackbaud will receive a full release of all claims, past, present, or future, on the part of Class Members.

#### **D. What About the B.C. Action?**

As a term of the settlement agreement, the parties sought and obtained Court approval of the settlement from the Ontario Court in the Ontario action (*Shriqui v Blackbaud Canada Inc and Blackbaud Inc.*). The British Columbia action (*Wittman v Blackbaud Inc and Blackbaud Canada Inc*, S-207965) was thereafter discontinued. Since both lawsuits covered the same Class Members (all affected Canadians regardless of province of residence), the discontinuance of the British Columbia action, after approval of the settlement in the Ontario action, had no effect on the legal position of Class Members.

#### **E. What happens to the money paid under the settlement?**

The Representative Plaintiff in the Ontario case entered into a contingency fee agreement with Class Counsel at the outset of that case, providing that Class Counsel were to be paid only in the event of a successful settlement or trial judgment.

The Ontario Court approved legal fees for Class Counsel in the amount of \$60,000 plus HST as well as reimbursement for expenses in the amount of \$37,157.85, to cover the work that Class Counsel has done in both cases, and for the disbursements that they have carried, over the past four years since these cases began.

After those deductions, the remainder of the Settlement Funds will be donated “*cy pres*” (that is, in lieu of direct payment to Class Members) to the following charities:

The Samuelson-Glushko Canadian Internet Policy & Public Interest Clinic (CIPPIC) at the University of Ottawa’s Faculty of Law. CIPPIC brings together a team of law faculty, staff lawyers, and law students to advance the public interest on critical law and technology issues including consumer privacy, free expression, telecommunications policy, intellectual property, and data and algorithmic governance.

The Computer Science Data Security Fund at the University of Saskatchewan’s Department of Computer Science. The Computer Science Data Security Fund supports programs and initiatives within the Department of Computer Science, specifically geared towards enhancing data security in Canada through research, education, and awareness.

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## **F. Interpretation**

This Notice contains a summary of some of the terms of the Settlement Agreement approved by the Ontario Court. If there is a conflict between the provisions of this Notice and the Settlement Agreement or the Court Order, the terms of the Settlement Agreement as approved by the Ontario Court shall prevail.

## **G. Who Were Class Counsel? Who Can I Contact If I Have A Question?**

McPhadden Samac Tuovi Haté LLP

Bryan C. McPhadden  
61 Jarvis Street,  
Toronto, Ontario, M5C 2H2

Slater Vecchio LLP

Saro J. Turner and Ryan T. Matheuszik  
Floor 18, 777 Dunsmuir Street,  
Vancouver, British Columbia, V7Y 1K4

**PLEASE DO NOT CALL BLACKBAUD, OR  
EITHER THE ONTARIO OR BRITISH COLUMBIA COURTS, ABOUT THIS NOTICE.**

This Notice was approved by the Ontario Superior Court of Justice.

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CAROL SHRIQUI  
**Plaintiffs**

BLACKBAUD CANADA, INC. and BLACKBAUD INC.  
**Defendants**

Court File No.: CV-20-00648565-00CP

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ONTARIO SUPERIOR COURT OF  
JUSTICE

Proceedings commenced at Toronto

Proceeding under the  
*Class Proceedings Act, 1992*

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**ORDER**  
**(Settlement Approval, Dismissal**  
**and Counsel Fee Approval)**

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**McPHADDEN, SAMAC, TUOVI LLP**

Lawyers

161 Bay Street, 27<sup>th</sup> Floor

Toronto, Ontario M5J 2S1

Bryan McPhadden (LSUC #28160K)

Tel: (416) 601-1020 Fax: (416) 601-  
1721

**Lawyers for the Plaintiff**

