

CANADA

(CLASS ACTION)  
SUPERIOR COURT

PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

Nº: 500-06-000798-161

STÉPHANIE J. BENABU

Applicant

v.

VIDÉOTRON S.E.N.C.

VIDÉOTRON LTÉE

NETFLIX INC.

BELL CANADA

[...]

ROGERS COMMUNICATIONS INC.

[...]

APPLE INC.

LINKEDIN IRELAND

GOOGLE INC.

SHOMI PARTNERSHIP

ROGERS MEDIAS INC.

[...]

SIRIUS XM CANADA INC.

SPOTIFY CANADA INC.

AFFINITAS GMBH

MATCH.COM LLP

[...]

AUDIBLE INC.

Defendants

SETTLEMENT AGREEMENT

PREAMBLE

**WHEREAS** on or about July 4<sup>th</sup>, 2016, the Applicant Stéphanie J. Benabu (the "**Applicant**"), both individually and on behalf of the Putative Class Members, instituted an *Application to Authorize the bringing of a class action and to appoint the status of representative* (the "**Application**") against Audible Inc. ("**Audible**") a non-resident person of Canada and all other Defendants named in the heading of the present Settlement Agreement (collectively the "**Defendants**")



alleging a practice of offering services or goods since July 4<sup>th</sup>, 2013 which would have been contrary to s. 230 c) of the *Consumer Protection Act*, chapter P-40.1 ("**CPA**");

**WHEREAS** the class action has not yet been authorized;

**WHEREAS** Applicant is namely alleging that Audible engaged in purported "free trials" contrary to s. 230 c) CPA by offering goods or services free for a certain period of time, before charging the Putative Settlement Class Members the regular price if the members did not take steps to indicate they do not wish to obtain the goods or services after the said period;

**WHEREAS** Audible believes that it is not liable in respect of the alleged non-compliance with the CPA and that it has good and reasonable defences in respect of the claims made in this Proceeding;

**WHEREAS** the Applicant, both individually and on behalf of the Putative Settlement Class Members, and Audible (the "**Settling Parties**") have nevertheless entered into negotiations on a without prejudice basis and as a result of these negotiations, have entered into this Settlement Agreement, which embodies all of the terms and conditions of said settlement between Audible and the Applicant, both individually and on behalf of the Putative Settlement Class Members, subject to Court approval;

**WHEREAS** through the Settlement Agreement, the Settling Parties wish to settle among themselves and on behalf of the Putative Settlement Class Members any and all claims, allegations or causes of action of whatever nature in relation to the facts alleged in the Proceeding and namely in the Application and supporting exhibits, in accordance with the terms and conditions of the Settlement Agreement;

**WHEREAS** Audible does not admit, through the negotiations, the execution or implementation of this Settlement Agreement or otherwise, the merits of the purported class action or any allegation of unlawful conduct or the existence of a conduct giving rise to a cause of action in this Proceeding and namely in the Application, whether by class action or in any other way;

**WHEREAS** the Settling Parties have reviewed and fully understand the terms of this Settlement Agreement and, having regard to their analysis of the facts and law applicable to the Applicant's claims, the burdens and expenses associated with prosecuting the Application, including the risks and uncertainties associated with a trial, and having regard to the value of the settlement, have concluded that this Settlement Agreement is fair, reasonable and in the best interests of the Putative Settlement Class Members and the administration of justice;

**AND WHEREAS** for the purposes of settlement only and contingent on approval by the Court as provided for in this Settlement Agreement, the Settling Parties have consented to authorization of the Application as class proceeding and have consented to Settlement Class Members and the Common Issue;

**NOW THEREFORE**, in consideration of the covenants, agreements and releases set forth herein and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Settling Parties that the Proceeding as against Audible be definitely settled, without costs for the Settling Parties and the Settlement Class Members, subject to Court approval, on the terms and conditions set out below;

THE PARTIES AGREE AS FOLLOWS:

I. SPECIFICATIONS AND DEFINITIONS

1. All amounts of money mentioned in the present Settlement Agreement are in Canadian dollars;
2. In addition to the definitions already provided for in the Preamble, the following definitions apply to this Settlement Agreement:

**Applicant's Class Counsel:** means the firm of LPC Avocat Inc.;

**Audible's Counsel:** means the firm of Gowling WLG (Canada) LLP;

**Class Counsel Fees:** means the total of all fees, disbursements, costs, interests and/or charges of the Applicant's Class Counsel;

**Class Period:** means the period from July 4<sup>th</sup>, 2013 to the date of the last signature of this Settlement Agreement;

**Common Issue:** means the following question: During the Class Period, did Audible's alleged practice violate paragraph c of section 230 of the CPA, and, if so, are Putative Class Members entitled to compensation?

**Court:** refers to the Québec Superior Court and as the case may be to the Québec Court of Appeal;

**Date of payment:** means, for the purposes of payment of Class Counsel Fees, ten (10) days following the Final Judgment;

**Eligible Account:** means an Audible.com account that meets the following cumulative criteria: a) was opened by a natural person physically residing in the province of Québec during the Class Period further to signing up for a 30-day trial on Audible.com while continuing to physically reside within the province of Québec b) has actually paid membership fees as a result of maintaining its membership for at least thirty (30) days after the date of signing up;

**Final Judgment:** means a judgment rendered by the Québec Superior Court approving this Settlement Agreement. The Settling Parties agree that this judgment approving the Settlement Agreement will become final upon expiry of a period of thirty (30) days or if an appeal is filed, when such appeal is dismissed by the final Court of Appeal;

**Notice(s):** means the Notice of approval hearing, and/or the Notice of Settlement Agreement approval and the forwarding emails to be sent to the Settlement Class Members after the Court approves this Settlement Agreement, as attached as Schedules "A" to "D";

**Proceeding:** means the proceeding commenced by the Applicant in the above-mentioned file N° 500-06-000798-161 of the Québec Superior Court, District of Montréal, including the Application and Exhibits filed and any other related proceedings;

**Putative Class Members:** means any person part of the Class or Subclass as described in the Application;

**Putative Settlement Class Members:** means any Putative Class Member that has an Eligible Account;

**Right of Exclusion:** means the right of a Putative Settlement Class Member to exclude his/her Eligible Account from the Settlement Agreement using the instructions provided in the Notice of approval hearing (Schedules "A" and "B"), therefore opting out of the class action and this Settlement Agreement;

**Right of Withdrawal:** means Audible's right to withdraw from the Settlement Agreement as set out in sections 20 to 22;

**Right to Object:** means the presentation of an argument or of an objection regarding the Settlement Agreement by a Putative Settlement Class Member with an Eligible Account, using the instructions provided in the Notice of approval hearing, Schedules "A" and "B";

**Settlement Class Members:** means any Putative Settlement Class Member that has an Eligible Account and who has not validly opted-out of the Settlement Agreement in accordance with this settlement and the Notices approved by the Court;

**Schedules:** means all the documents that the Settling Parties have attached to the Settlement Agreement (Schedules "A" to "D");

**Settlement Agreement:** means this agreement including the Preamble and the Schedules;

**Settlement Credit:** means a specific credit offered in the context of this Settlement Agreement applicable toward the purchase of one Single-Volume Audiobook on Audible.com regardless of the announced purchase price. This credit has no cash value, is non-transferrable, non-refundable and does not expire so long as comparable goods are offered by Audible. An Audible membership is not required to redeem it;

**Single-Volume Audiobook:** means a single volume Audiobook (recording of a text being read) which could be purchased on Audible.com thus excluding multi-volumes Audiobooks;

## II. SCOPE AND EXTENT OF THE SETTLEMENT AGREEMENT

3. The fulfillment of each and every one of the conditions mentioned in the present Settlement Agreement is a condition precedent to the Settlement Agreement, failing which the Settlement Agreement will be null and void and will not give rise to any right or obligation in favor of or against the Settling Parties and the Settlement Class Members;
4. The Settlement Agreement is conditional upon the Court approving it in its entirety, failing which the Settlement Agreement will be null and void and will not give rise to any right or obligation in favor of or against the Settling Parties and the Settlement Class Members;
5. Any documents or information provided by Audible to Applicant and or Applicant's Class Counsel during the negotiations or in the carrying out of this Settlement Agreement on a without prejudice basis shall not be referred to or used as evidence in any future civil, criminal or administrative action or proceeding;
6. The Settling Parties shall use their best efforts to effectuate this Settlement Agreement and obtain the approval of this Settlement Agreement by the Court, promptly, completely

and finally. The Settling Parties undertake to cooperate in that context and make and deploy the efforts and means required to support and demonstrate the fairness and reasonableness of the Settlement Agreement in order to obtain the Court's approval with respect to same;

7. Until the filing of the application to approve the Notice of approval hearing and for authorization of the class action for settlement purposes only, it was the Settling Parties' intention to keep confidential the fact that a settlement occurred as well as the terms and conditions of the Settlement Agreement and not to disclose them without obtaining prior written consent of both Applicant's Class Counsel and Audible's Counsel;

### III. NATURE AND CONSIDERATION OF THE SETTLEMENT AGREEMENT

8. The Preamble forms an integral part of this Settlement Agreement;
9. For the purposes of settling this matter amicably at this stage of the proceedings and avoiding further protracted and costly litigation, and without admission, the Settling Parties confirm that the facts and considerations justifying the Settlement Agreement include the following *inter alia*:
  - The Application was filed on July 4<sup>th</sup>, 2016 and the class action has not been authorized;
  - The Application alleges that Audible has infringed s. 230 c) of the CPA in offering a service and/or good free for a certain period of time, before charging the regular price if the members did not take steps to indicate they do not wish to obtain the goods or services after the said period;
  - Audible contests said claims;
  - Audible, without any admission, nevertheless agrees to provide two (2) Settlement Credits to all the Eligible Accounts of each Settlement Class Members;
  - Each of these Settlement Credits are valid towards the purchase of one (1) Single-Volume Audiobook on Audible.com regardless of the announced purchase price and an Audible membership is not required for redemption;
  - The remittance of two (2) Settlement Credits represent a global approximate value of \$590,000;
  - The two (2) Settlement Credits will be deposited by Audible directly into each Eligible Account of the Settlement Class Members within thirty (30) days of the Final Judgment;
  - As per this Settlement Agreement, the Settling Parties agree that there should not be any other award or damages either of compensatory, moral or of punitive nature to the Putative Settlement Class Members;
  - The Settling Parties agree that the consideration described above is proportional to the risks and uncertainties of pursuing the Application and consider that the agreement evidenced by the Settlement Agreement represents sound administration of justice and is fair, advisable, reasonable in the circumstances and in the best interests of the Settlement Class Members;

#### IV. IMPLEMENTATION OF THE SETTLEMENT AGREEMENT

10. At a time mutually agreed by the Settling Parties after this Settlement Agreement is executed, Applicant's Class Counsel shall bring before the Court an application to approve the Notice of approval hearing and for authorization of the class action for settlement purposes only;
11. The Settling Parties understand and agree that the Court will authorize the class action for settlement purposes only. At a time mutually agreed by the Settling Parties, Applicant's Class Counsel will then bring before the Court an application for approving this Settlement Agreement;
12. The Settling Parties agree that the Notice(s) will be emailed by Audible directly to the current and known email address of any Eligible Account as set out below and at its own cost:
  - a. The Notice of approval hearing will be attached to an email the content of which is described in Schedules "A" and "B". The email and Notice of approval hearing provide information pertaining to the date and place where the application to approve the Settlement Agreement and Class Counsel Fees will be heard by the Court. It also includes information about the Settlement Credits, the Right of Exclusion (opt out) and the Right to Object;
  - b. The Notice of Settlement Agreement approval will be attached to an email the content of which is described in Schedules "C" and "D", which will advise that the Settlement Agreement has been approved by the Court by Final Judgment;

The Settling Parties acknowledge that the form and transmission method of the Notices is a fundamental term of this Settlement Agreement and the failure of any Court to approve the form, transmission method and content of the Notices as agreed upon, shall give rise to a right of termination pursuant to sections 23 to 25 and following of this Settlement Agreement;

13. Applicant's Class Counsel will be responsible at its own cost for posting copies of the Notices and of the Settlement Agreement on its firm website, social media and Court registry subject to obtaining prior approval from Audible's Counsel;
14. The Settling Parties agree that a specific and direct emailing to the Eligible Accounts with the Notices and the websites' references as contemplated, are an appropriate and complete method to properly notify and inform the Putative Settlement Class Members in accordance with the principles of proportionality;
15. Given the nature of the Settlement Agreement that is based on providing Settlement Credits to Eligible Accounts and the required time for Audible to send the Notices, the Settling Parties, subject to the entire Court's discretion and availability of course, are aiming to proceed with the pre-approval hearing on October 27, 2017 and with the hearing for the approval of the Settlement Agreement on a date to be confirmed by the Court with a view to obtain a Final Judgment on the Settlement Agreement and then proceed promptly with sending the Notice of Settlement Agreement approval (Schedules "C" and "D");



**V. RIGHT OF EXCLUSION (OPT OUT)**

16. Putative Settlement Class Members have the right to exclude themselves (opt out) from the Settlement Agreement;
17. Exercise of the Right of Exclusion by a Putative Settlement Class Member entails the loss of the right to benefit from the Settlement Agreement and the loss of the status as a Putative Settlement Class Member;
18. A Putative Settlement Class Member wishing to exercise his or her Right of Exclusion must do so in accordance with the instructions and the opt out deadline provided in Schedules "A" and "B";
19. Putative Settlement Class Members who have not exercised the Right of Exclusion on or before the opt out deadline will be irrevocably deemed to have chosen to participate in the Settlement Agreement and will be bound by the Settlement Agreement following its approval by the Court and by all judgments or orders subsequently issued by the Court, if any;

**VI. RIGHT OF WITHDRAWAL**

20. Applicant's Class Counsel will communicate to Audible's Counsel, upon receipt and at the latest five (5) days after the expiration of the opt out deadline, copies of any Rights of Exclusions received and a list of the Putative Settlement Class Members who have exercised a Right of Exclusion pursuant to the Notice of approval hearing;

Should these Rights of Exclusions received represent more than fifty (50) Eligible Accounts, then Audible will be entitled to terminate and put an end to the Settlement Agreement at no cost, without being bound to do so pursuant to its Right of Withdrawal. The Right of Withdrawal will be exercised at the sole discretion of Audible and will not require consultation with or consent of the Applicant or of the Applicant's Class Counsel;

21. The Right of Withdrawal must be exercised no later than ten business (10) days after Applicant's Class Counsel sends to Audible's Counsel the list of the Rights of Exclusions received;
22. The Right of Withdrawal will be exercised by means of a letter (embodied in an email) sent by Audible's Counsel to Applicant's Class Counsel and by the communication of a copy of such letter to the Court through an email;

**VII. RIGHT OF TERMINATION AND UNDERTAKINGS**

23. If the Court declines to approve this Settlement Agreement in its entirety for any reason, this Settlement Agreement shall be considered terminated (except if the Settling Parties mutually agree otherwise) and shall be null and void and have no further force or effect, shall not be binding on the Settling Parties and shall not be used as evidence or otherwise in any litigation;
24. The Applicant and the Applicant's Class Counsel agree that no document, as the case may be, or information provided by Audible with respect to this Settlement Agreement may be shared with anyone in any way whatsoever, or used, directly or indirectly, by the Applicant's Class Counsel or by the Applicant, in any way and for any purpose, except in accordance with the present Settlement Agreement;



25. If this Settlement Agreement is terminated or if Audible exercises its Right of Withdrawal, the terms and conditions contained in sections 5, 23 to 25, 30 to 33, and the definitions and schedules applicable, are maintained and continue to have effect. All the other provisions of this Settlement Agreement and all the obligations contained herein immediately cease to exist and the Settling Parties are returned to the positions they were respectively in prior to the execution of this Settlement Agreement;

#### **VIII. CLASS COUNSEL FEES**

26. Within the application for approval of this Settlement Agreement, Applicant's Class Counsel will be asking the Court to approve the Class Counsel Fees;
27. As part of the Settlement Agreement, Audible agrees to pay Applicant's Class Counsel, Class Counsel Fees of \$147,500.00 plus applicable taxes at the agreed Date of payment. If the Court approves this Settlement Agreement, and in consideration of the payment of the said Class Counsel Fees, Applicant's Class Counsel will not, directly or indirectly, claim from Audible or the Putative Settlement Class Members any other fee or disbursement of any kind or based on any source;

#### **IX. RELEASE IN FAVOR OF AUDIBLE**

28. By this Settlement Agreement, the Applicant, in her own name and on behalf of the Settlement Class Members, and on behalf of their mandataries, representatives, successors and assigns, if any, give a full, general and final release and discharge to Audible and its affiliates and all of their respective officers, directors, counsels, mandataries, representatives, insurers, employees, professionals, staffs, successors and assigns for any claim, suit, complaint, cause of action, damages, including namely compensatory, moral or punitive or costs of any kind whatsoever, including namely for expert fees, disbursements, judicial fees and legal fees, that the Applicant and the Settlement Class Members had, have or may have, directly or indirectly, with respect to the facts alleged and conclusions sought in the Proceeding with respect to the Audible service, including namely the Application and the supporting exhibits;
29. This release will take effect as of the date the Settlement Credits will be put in the Settlement Class Members Eligible Accounts;
30. No provision of the Settlement Agreement will constitute or be deemed to constitute or be construed as constituting a waiver by Audible of any right or defense against any claim, suit or cause of action with respect to the facts alleged in the Application or to its relationship with its clients;
31. Moreover, it should not be construed as a waiver with respect to any claim, suit or cause of action of a Putative Settlement Class Member that has exercised a Right of Exclusion or a waiver by Audible of any right or defense in contesting the Application should the Settlement Agreement not be approved by the Court or otherwise become null and void owing to the application of any of the provisions of the Settlement Agreement;
32. None of the obligations, of whatever kind, assumed by Audible and Audible's Counsel in executing the Settlement Agreement nor the consent of Audible to the Settlement Agreement taking place or to the Court Issuing any pre-approval or judgment approving the Settlement Agreement shall constitute in any manner an admission of the liability by Audible past, present or future or to its relationship with its clients;





33. Applicant's Class Counsel, nor anyone employed by, associated with, or a partner with the Applicant's Class Counsel, may directly or indirectly participate or be involved in or in any way assist with respect to any claim made or action commenced by any person against Audible which relates to or arises from the facts alleged in the Application;

#### X. SCHEDULES

34. The following Schedules form an integral part of the Settlement Agreement and are incorporated therein as if they were recited at length therein:
- **Schedule "A":** the Notice of approval hearing and forwarding email;
  - **Schedule "B":** *l'avis d'audition d'approbation et le courriel de transmission;*
  - **Schedule "C":** the Notice of Settlement Agreement approval and forwarding email;
  - **Schedule "D":** *l'avis d'approbation de l'entente de règlement et le courriel de transmission;*

#### XI. FINAL PROVISIONS

35. The division of this Settlement Agreement into headings is for convenience of reference only and shall not affect the construction or interpretation of this Settlement Agreement;
36. This Settlement Agreement shall be governed by the laws of Québec;
37. This Settlement Agreement constitutes the entire agreement among the Settling Parties, and supersedes all prior understandings, undertakings, representations, agreements in connection herewith. None of the Settling 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;
38. The Settlement Agreement will not be considered to constitute an admission or acknowledgment by any of the Parties of the validity of any right, claim or defense;
39. In the event of a discrepancy between the wording of the notices to Putative Settlement Class Members and the Settlement Agreement, the wording of the Settlement Agreement will take precedence;
40. All costs associated with the implementation and execution of the Settlement Agreement that have not been specifically provided for by the Settlement Agreement, if any, will be borne by the party that agrees to incur it and its reimbursement may not be claimed from any other party;
41. This Settlement Agreement constitutes a transaction in accordance with Articles 2631 and following of the *Civil Code of Québec*;
42. Only in case of a technical difficulty in the course of the implementation of the Settlement Agreement, Applicant's Class Counsel is expressly authorized by the Applicant on behalf of the Putative Settlement Class Members to enter into any modifications or amendments to this Settlement Agreement, with Audible's prior approval, such modifications or

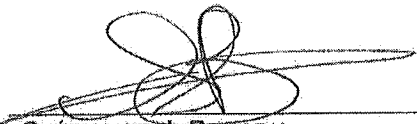


amendments being of a technical nature with no impact as to the essence of the Settlement Agreement;


43. This Settlement Agreement may be signed in several copies which, together, shall be deemed to constitute one and the same agreement, and any signature transmitted by fax or electronic means in PDF format shall be deemed to constitute a signature.

**AGREED AND EXECUTED:**


IN MONTRÉAL  
ON October 20<sup>th</sup>, 2017

  
STÉPHANIE J. BENABU

IN MONTRÉAL  
ON October 20, 2017

  
LPC AVOCAT INC.  
Per: Joey Zukran, Class Counsel  
Attorney for Applicant

IN NEW JERSEY  
ON October 23<sup>rd</sup>, 2017

  
AUDIBLE INC.  
PER: Cynthia Chiu  
CFO

IN MONTRÉAL  
ON October 23<sup>rd</sup>, 2017

Gowling WLG (Canada) LLP  
GOWLING WLG (CANADA) LLP  
Attorneys for Audible Inc.

## SCHEDULE "A"

[AUDIBLE LOGO]

• , 2017

Dear Audible Customer:

According to our records, you lived within the Province of Québec and, between July 4, 2013 and October 23, 2017, you signed up for a 30-day trial on Audible.com and maintained your membership after the trial period was over. If our records are correct, please carefully read the attached notice of a class action proceeding on behalf of Québec residents against Audible and other companies, and a proposal for the Court to approve a settlement with Audible.

If approved by the Court, the proposed settlement will provide impacted customers with two (2) settlement credits that may be used towards the purchase of two single-volume audiobooks on Audible.com in exchange for a release of Audible for any claims related to the 30-day trial offer and continued membership. The settlement credits do not expire and an Audible membership is not required to redeem them. Details of the settlement approval are in the attached notice.

Thank you for being an Audible customer.

## Notice of Approval Hearing

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### The Class Action Proceeding

On July 4, 2016, a class action lawsuit was filed by a Québec consumer ("the Representative Plaintiff") against numerous defendants, including Audible Inc. The Representative Plaintiff claims that since July 4, 2013, the defendants offered services in violation of the Québec *Consumer Protection Act (CPA)* (chapter P-40.1). More specifically, it is alleged that, contrary to CPA s. 230 c), Audible and other companies allowed customers to sign up to receive goods or services for free for a certain period and then began charging for those goods or services unless the customers took steps to indicate that they no longer wished to receive such goods or services after the trial period.

The class action lawsuit is more fully described in the *Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative*.

On • , 2017, the Superior Court of Québec authorized the *Class Action against Audible* for settlement purposes only.

### The Audible Settlement Approval Hearing

The purpose of this notice is to inform you that the Parties have reached the *Audible Settlement Agreement*, without any admission of liability on the part of Audible.

The *Audible Settlement Agreement* is subject to Court approval. The Superior Court of Québec will hold a hearing on • , 2017 at 9:00, in room • of the Montréal Courthouse located at 1 Notre-Dame Street East in Montréal, to determine whether the Court will approve the *Audible Settlement Agreement*.

You may attend the hearing if you wish but you have no obligation to do so. If you agree with the proposed settlement and wish to be bound by it, you have nothing at all to do.

### Summary of Audible Settlement Agreement

According to the *Audible Settlement Agreement*, Audible agrees to provide two (2) settlement credits to all eligible accounts of each settlement class member. These credits may be used towards the purchase of any single-volume audiobook on [Audible.com](http://Audible.com), regardless of the announced purchase price. These credits have no cash value, are not transferable, and are non-refundable. The settlement credits do not expire and an Audible membership is not required to redeem them.

As part of the *Audible Settlement Agreement*, Audible will receive from the Representative Plaintiff and the other settlement class members a full release of any and all claims made in the *Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative* against Audible.

Audible also agrees to pay the class counsel fees of LPC Avocat Inc. (as detailed in the *Audible Settlement Agreement*).

### Right of Exclusion (Opt Out)

If you do not wish to be bound by the *Class Action against Audible* and the *Audible Settlement Agreement*, you must send, by no later than • , to the clerk of the Superior Court of Québec a signed request of exclusion containing all of the following information:

1. The name and Court docket number of this case, which is: *Benabu vs. Vidéotron S.E.N.C.R.L.* et al. (500-06-000798-161);
2. Your name, address, phone number(s) and email address(es) associated with your Audible.com account; and
3. Specific confirmation that you wish to exclude yourself (opt out) of the *Class Action against Audible* and the *Audible Settlement Agreement*.

The request for exclusion (opt out) must be sent by registered or certified mail to the Court, with a copy to class counsel, at the following addresses:

<u>TO:</u> Greffe de la Cour supérieure du Québec PALAIS DE JUSTICE DE MONTRÉAL 1 Notre-Dame Street East Room 2.120 Montréal (Québec) H2Y 1B5	<u>WITH COPY</u> <u>TO:</u> Mtre Joey Zukran LPC Avocat Inc. 5800, Cavendish Blvd. Suite 411 Côte St-Luc, Québec, H4W 2T5 email: jzukran@lpclex.com fax: (514) 221-4441
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If you opt-out from the *Class Action against Audible* and *Audible Settlement Agreement*, you will not be eligible to receive the two (2) settlement credits from Audible and you will be solely responsible for ensuring and prosecuting your own rights and recourses against Audible at your own costs and within any applicable legal time periods.

You will not receive any further notice regarding your right to opt-out with respect to the *Class Action against Audible*.

### Right to Object or to Make Arguments With Regard to the Settlement

The Parties' attorneys will make representations to the Court in support of the *Audible Settlement Agreement* during the above-mentioned settlement approval hearing. If you wish, you can also come to Court to present your arguments or objections (Right to Object) with regard to the *Audible Settlement Agreement*. You have no obligation to do so.

To exercise your Right to Object, you must submit a signed objection notice that briefly states your name, contact information, the reasons why you object, whether your intent is to be present in Court during the *Audible Settlement Agreement* approval hearing on • , and if you intend to be represented by independent counsel (providing the name and contact information of said counsel, if known).

The objection notice must be sent by no later than • , to class counsel at:

Mtre Joey Zukran, LPC Avocat Inc., 5800, Cavendish Blvd, Suite 411, Côte St. Luc, Québec, H4W 2T5, email: jzukran@lpclex.com, fax: (514) 221-4441.

If you agree with the proposed settlement and wish to be bound by the *Audible Settlement Agreement*, you have no obligation to submit any notices whatsoever and you have no obligation to be present at the hearing.

### **For More Information**

For more information and to access a copy of the complete terms of the *Audible Settlement Agreement* and the Court judgment(s), you can access the following website: [WWW.LPCLEX.COM](http://WWW.LPCLEX.COM).

**This notice has been approved by the Superior Court of Québec.**

## SCHEDULE B

[AUDIBLE LOGO]

" • ", 2017

Cher client Audible:

Selon nos dossiers, vous avez résidé dans la province de Québec et, entre le 4 juillet 2013 et le 23 octobre 2017, vous vous êtes inscrit à un essai de 30 jours sur Audible.com et avez maintenu votre abonnement après l'expiration de cette période d'essai. Si nos dossiers sont exacts, nous vous prions de lire attentivement l'avis ci-joint relatif à une action collective au nom des résidents du Québec à l'encontre d'Audible et d'autres compagnies, et d'une proposition à la Cour pour l'approbation d'un règlement intervenu avec Audible.

Si approuvé par la Cour, le règlement proposé prévoit que les clients visés recevront deux (2) crédits de règlement qui pourront être utilisés pour l'achat de deux livres audio à volume unique sur Audible.com en échange d'une quittance en faveur d'Audible pour toute réclamation relative à l'offre d'essai de 30 jours et du maintien de votre abonnement. Les crédits de règlement n'expirent pas et un abonnement à Audible n'est pas requis pour les échanger. Les détails du règlement se retrouvent dans l'avis ci-joint.

Merci d'être un client d'Audible.

## AVIS D'APPROBATION DE L'ENTENTE DE RÈGLEMENT

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### La procédure d'action collective

Le 4 juillet 2016, une action collective a été déposée par un consommateur québécois (le « représentant des demandeurs ») contre plusieurs défendeurs, incluant Audible Inc. Le représentant des demandeurs allègue que depuis le 4 juillet 2013, les défendeurs ont offert des services en contravention de l'article 230 c) de la *Loi sur la protection du consommateur (LPC)* (chapitre P-40.1). Plus spécifiquement, il est allégué que, contrairement à l'article 230 c) de la LPC, Audible et d'autres compagnies auraient offert gratuitement des produits et des services pour une certaine période de temps, avant de facturer les clients le prix régulier pour ces produits et services si ceux-ci ne prenaient pas les mesures pour indiquer qu'ils ne souhaitaient plus recevoir les biens ou les services après ladite période d'essai;

L'action collective est plus amplement décrite dans la *Requête en autorisation d'exercer une action collective et pour attribution du statut de représentant*;

Le " • " 2017, la Cour supérieure du Québec a autorisé l'*action collective à l'encontre d'audible* pour des fins de règlement uniquement.

### L'audition sur l'approbation du règlement Audible

Le but de cet avis est de vous informer que les parties ont conclu l'*Entente de règlement Audible*, sans aucune admission de responsabilité de la part d'Audible.

L'*Entente de règlement Audible* est sujette à l'approbation de la Cour. La Cour supérieure du Québec tiendra une audition le " • " 2017, à 9 h, en salle " • " du Palais de justice de Montréal situé au 1, rue Notre-Dame Est à Montréal, pour déterminer si elle approuvera l'*Entente de règlement Audible*.

Vous pouvez assister à l'audition si vous le souhaitez mais vous n'avez aucune obligation de ce faire. Si vous êtes d'accord avec le règlement proposé et souhaitez être lié par celui-ci, vous n'avez rien à faire.

### Résumé de l'Entente de règlement Audible

Selon l'*Entente de règlement Audible*, Audible accepte de déposer deux (2) crédits de règlement dans tous les comptes admissibles de tous les membres de la classe de règlement. Ces crédits pourront être utilisés pour l'achat de tous livres audio à volume unique sur [Audible.com](http://Audible.com) sans tenir compte du prix d'achat annoncé. Ces crédits n'ont aucune valeur monétaire, sont non transférables et non remboursables. Les crédits de règlement n'expirent pas et un abonnement à Audible n'est pas requis pour les échanger.

L'*Entente de règlement Audible* prévoit qu'Audible recevra du représentant des demandeurs et des autres membres de la classe de règlement une quittance complète pour toute réclamation faite dans la *Requête en autorisation d'exercer une action collective et pour attribution du statut de représentant* à l'encontre d'Audible.

Audible consent également à payer les honoraires de LPC Avocat Inc. (tels que détaillés dans l'*Entente de règlement Audible*).



## Droit d'exclusion

Si vous ne souhaitez pas être lié par cette *Action collective contre Audible* et cette *Entente de règlement Audible*, vous devez envoyer, au plus tard le " • ", au greffier de la Cour supérieure du Québec une demande d'exclusion dûment signée contenant toutes les informations suivantes :

1. Le nom et le numéro de dossier de Cour de cette affaire, lequel est : *Benabu c. Vidéotron s.e.n.c.r.l.* (500-06-000798-161);
2. Vos nom, adresse, numéro(s) de téléphone et adresse(s) courriel associés à votre compte Audible.com; et
3. Une confirmation spécifique que votre volonté est de vous exclure de l'*Action collective contre Audible* et de l'*Entente de règlement Audible*.

La demande d'exclusion doit être envoyée par courrier recommandé ou certifié (avec une copie aux avocats du groupe) à l'adresse suivante :

<u>À:</u> Greffe de la Cour supérieure du Québec PALAIS DE JUSTICE DE MONTRÉAL 1, rue Notre-Dame Est Salle 2.120 Montréal (Québec) H2Y 1B5	<u>AVEC COPIE</u> <u>À:</u> Me Joey Zukran LPC Avocat Inc. 5800, boul. Cavendish #411 Côte St-Luc, Québec, H4W 2T5 Courriel: jzukran@lpclex.com Télécopieur: (514) 221-4441
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Si vous décidez de vous exclure de l'*Action collective contre Audible* et de l'*Entente de règlement Audible*, vous ne serez pas éligible à recevoir les deux (2) crédits de règlement et vous aurez l'entière responsabilité de veiller à l'exercice de vos propres droits et recours à l'encontre d'Audible, à vos propres frais et à l'intérieur des délais légaux applicables.

Vous ne recevrez pas d'autre avis concernant votre droit de vous exclure relativement à l'*Action collective contre Audible*.

## Droit d'objection ou droit de soumettre des arguments en lien avec le règlement

Les avocats des Parties feront les représentations à la Cour à l'appui de l'*Entente de règlement Audible* à l'audition sur l'approbation du règlement mentionnée ci-dessus. Si vous le souhaitez, vous pouvez aussi vous présenter à la Cour pour soumettre vos arguments ou vos objections (« droit d'objection ») relativement à l'*Entente de règlement Audible*. Vous n'avez aucune obligation de ce faire.

Pour exercer votre droit d'objection, vous devez soumettre un avis d'objection signé lequel doit brièvement contenir votre nom, vos coordonnées, les raisons pour lesquelles vous vous objectez, si vous entendez être présent à la Cour durant l'audition sur l'approbation de l'*Entente de règlement Audible* le " • ", et si vous entendez être représenté par un avocat indépendant (fournir le nom et les coordonnées de cet avocat si connus).

L'avis d'objection doit être envoyé au plus tard le " • " aux avocats du groupe au :

Me Joey Zukran  
LPC Avocat Inc.  
5800, boulevard Cavendish  
Bureau 411  
Côte St. Luc (Québec) H4W 2T5  
Courriel : [jzukran@lpclex.com](mailto:jzukran@lpclex.com)  
Télécopieur : (514) 221-4441.

Si vous êtes d'accord avec le règlement proposé et vous souhaitez être lié par ladite *Entente de règlement Audible*, vous n'avez aucune obligation de soumettre quelque avis que ce soit et vous n'avez aucune obligation d'être présent à l'audition.

#### **Pour plus d'information**

Pour plus d'information et pour obtenir une copie complète des termes de l'*Entente de règlement Audible* et des jugements rendus par la Cour, vous pouvez accéder au site Internet suivant : WWW.LPCLEX.COM.

**Cet avis a été approuvé par la Cour supérieure du Québec.**

## SCHEDULE "C"

[AUDIBLE LOGO]

• , 201 •

Dear Audible Customer:

According to our records, you lived within the Province of Québec and, between July 4, 2013 and October 23, 2017, you signed up for a 30-day trial on Audible.com and maintained your membership after the trial period was over. If our records are correct, please carefully read the attached notice of a class action proceeding confirming the approval by the Court of a settlement with Audible.

In accordance with the approved settlement, Audible will deposit directly into your account two (2) settlement credits that may be used towards the purchase of two single-volume audiobooks on Audible.com. The settlement credits do not expire and an Audible membership is not required to redeem them. Details of the settlement approval are in the attached notice.

Thank you for being an Audible customer.

## **Notice of Settlement Approval**

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### **The Class Action Proceeding**

On July 4, 2016, a class action lawsuit was filed by a Quebec consumer (the “representative plaintiff”) against numerous defendants, including Audible Inc. The representative plaintiff claims that, since July 4, 2013, the defendants offered services in violation of the Québec *Consumer Protection Act* (CPA) (chapter P-40.1). More specifically, it is alleged that, contrary to CPA s. 230 c), Audible and other companies allowed customers to sign up to receive goods or services for free for a certain period and then began charging for those goods or services unless the customers took steps to indicate that they no longer wished to receive such goods or services after the trial period.

The class action lawsuit is more fully described in the *Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative*.

On • , 2017, the Superior Court of Québec authorized the *Class Action against Audible* for settlement purposes only.

### **The Audible Settlement Approval**

On or about • 2017, Audible sent a notice informing you that the Parties reached the *Audible Settlement Agreement*, without any admission of liability and that a settlement approval hearing was to take place.

On • , the Superior Court of Québec approved the *Audible Settlement Agreement*.

### **Summary of Audible Settlement Agreement**

According to the *Audible Settlement Agreement*, Audible agrees to provide two (2) settlement credits to all eligible accounts of each settlement class member. These credits may be used towards the purchase of single-volume audiobook on Audible.com, regardless of the announced purchase price. These credits have no cash value, are not transferable and non-refundable. The settlement credits do not expire and an Audible membership is not required to redeem them. The settlement credits do not expire and an Audible membership is not required to redeem them.

Audible also agrees to pay the class counsel fees of representative plaintiff as detailed in the *Audible Settlement Agreement*.

As part of the *Audible Settlement Agreement*, Audible will receive from the representative plaintiff and the other settlement class members a full release of any and all claims made in the *Application to Authorize the Bringing of a Class Action and to appoint the Status of Representative* against Audible.

### **FOR MORE INFORMATION**

For more information and to access a copy of the complete terms of the *Audible Settlement Agreement* and the Court judgment(s), you can access the following website: [WWW.LPCLEX.COM](http://WWW.LPCLEX.COM)

**This notice has been approved by the Superior Court of Québec.**

## ANNEXE “D”

[AUDIBLE LOGO]

• , 201 •

Cher client Audible:

Selon nos dossiers, vous avez résidé dans la province de Québec et, entre le 4 juillet 2013 et le 23 octobre 2017, vous vous êtes inscrit à un essai de 30 jours sur Audible.com et avez maintenu votre abonnement après l'expiration de cette période d'essai. Si nos dossiers sont exacts, nous vous prions de lire attentivement l'avis ci-joint relatif à une action collective confirmant l'approbation par la Cour d'un règlement avec Audible.

Conformément au règlement approuvé, Audible déposera directement dans votre compte deux (2) crédits de règlement qui pourront être utilisés pour l'achat de deux livres audio à volume unique sur Audible.com. Les crédits de règlement n'expirent pas et un abonnement à Audible n'est pas requis pour les échanger. Les détails de l'approbation du règlement se retrouvent dans l'avis joint.

Merci d'être un client Audible.

## AVIS D'APPROBATION DE L'ENTENTE DE RÈGLEMENT AUDIBLE

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### La procédure d'action collective

Le 4 juillet 2016, une action collective a été déposée par un consommateur québécois (le « Représentant des demandeurs ») contre plusieurs défendeurs, incluant Audible Inc. Le représentant des demandeurs allègue que depuis le 4 juillet 2013, les défendeurs ont offert des services en contravention de l'article 230 c) de la *Loi sur la protection du consommateur (LPC)* (chapitre P-40.1). Plus spécifiquement, il est allégué que, contrairement à l'article 230 c) de la LPC, Audible et d'autres compagnies auraient offert gratuitement des produits et des services pour une certaine période de temps, avant de facturer les clients le prix régulier pour ces produits et services si ceux-ci ne prenaient pas les mesures pour indiquer qu'ils ne souhaitent plus recevoir les biens ou les services après ladite période.

L'action collective est plus amplement décrite dans la *Requête en autorisation d'exercer une action collective et pour attribution du statut de représentant*.

Le " • " 2017, la Cour supérieure du Québec a autorisé l'*Action Collective contre Audible* à des fins de règlement uniquement.

### L'approbation du règlement audible

Le ou vers le • , 2017, Audible a transmis un avis vous informant que les Parties avaient conclu l'*Entente de règlement Audible*, sans aucune admission de responsabilité et qu'une audition sur l'approbation du règlement allait se tenir.

Le • , la Cour supérieure du Québec a approuvé l'*Entente de règlement Audible*.

### Résumé de l'Entente de règlement Audible

Selon l'*Entente de règlement Audible*, Audible accepte de déposer deux (2) crédits de règlement dans tous les comptes admissibles de tous les membres de la classe de règlement. Ces crédits pourront être utilisés pour l'achat de tous livres audio à volume unique sur [Audible.com](http://Audible.com) sans tenir compte du prix d'achat annoncé. Ces crédits n'ont aucune valeur monétaire, sont non transférables et non remboursables. Les crédits accordés n'expirent pas et un abonnement Audible n'est pas requis pour les réclamer.

Audible consent également à payer les honoraires de LPC Avocats Inc. (tels que détaillés dans l'*Entente de règlement Audible*).

L'Entente de règlement Audible prévoit qu'Audible recevra du représentant des demandeurs et des autres membres de la classe de règlement une quittance complète pour toute réclamation faite dans la *Requête en autorisation d'exercer une action collective et pour attribution du statut de représentant* à l'encontre d'Audible.

### Pour plus d'information

Pour plus d'information et pour obtenir une copie complète des termes de l'*Entente de règlement Audible* et des jugements rendus par la Cour, vous pouvez accéder au site Internet suivant : [WWW.LPCLEX.COM](http://WWW.LPCLEX.COM).

**Cet avis a été approuvé par la Cour supérieure du Québec**