



**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

Case No: 1266/7/7/16

BETWEEN:

**WALTER HUGH MERRICKS CBE**

**Class Representative**

- and -

- (1) MASTERCARD INCORPORATED**  
**(2) MASTERCARD INTERNATIONAL INCORPORATED**  
**(3) MASTERCARD EUROPE S.A. (formerly Mastercard Europe S.P.R.L)**

**Defendants**

**the (“Collective Proceedings”)**

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**[DRAFT] COLLECTIVE SETTLEMENT APPROVAL ORDER**

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[DRAFTING NOTE - Key for paragraph 5: / CR position / Mastercard position / Tribunal discretion]

**UPON** the making of an order dated 18 May 2022, pursuant to section 47B of the Competition Act 1998 (the “**1998 Act**”) and Rules 77 and 80 of the Competition Appeal Tribunal Rules 2015 (the “**Tribunal Rules**”), that Walter Hugh Merricks CBE (the “**Class Representative**”) be authorised to act as class representative to continue the Collective Proceedings on an opt-out basis (the “**CPO**”).

**AND UPON** the CPO specifying a deadline of 2 March 2023 by when (i) persons satisfying the class definition (such persons being defined as “**Class Members**”) who were domiciled within the UK as of 6 September 2016 had to notify an intention to opt out and (ii) Class

Members who were domiciled outside the UK as of 6 September 2016 had to notify an intention to opt in.

**AND UPON** those Class Members who did not opt out as well as those who opted in, amounting to approximately 44 million individuals, being referred to as the “**Represented Persons**”.

**AND UPON** the Class Representative and the Defendants entering a settlement agreement dated 3 December 2024 (the “**Collective Settlement Agreement**”).

**AND UPON** the Class Representative and the Defendants making a joint application dated 16 January 2025, pursuant to Rule 94 of the Tribunal Rules, for a collective settlement approval order (the “**CSAO Application**”).

**AND UPON** the Tribunal considering the CSAO Application, the terms of the Collective Settlement Agreement, and the supporting evidence (the “**Collective Settlement**”).

**AND UPON** hearing leading counsel for the Class Representative and the Defendants respectively at a hearing on 6 and 7 February 2025.

**AND UPON** any Represented Person who: (i) was domiciled in the United Kingdom on 6 September 2016 (the “**Domicile Date**”) and who does not opt out of the Collective Settlement pursuant to paragraph 9 of this Order; or (ii) was not domiciled in the United Kingdom on the Domicile Date but who opted into the Collective Proceedings by the 2 March 2023 deadline, and who opts into the Collective Settlement pursuant to paragraph 10 of this Order, being referred to as “**CSAO Represented Person**”.

**AND UPON** the Tribunal being satisfied that the terms of the Collective Settlement Agreement are just and reasonable.

**IT IS ORDERED THAT:**

**Approval of the Collective Settlement**

1. Pursuant to section 49A(5) of the 1998 Act, the settlement is approved on the terms of the Collective Settlement Agreement between the Class Representative and the Defendants that was exhibited to the fourth witness statement of Walter Hugh Merricks CBE and is annexed to this Order.

## The Settlement Sum

2. Pursuant to the Collective Settlement, and within twenty-eight (28) days of the date of this Order, the Defendants shall pay the Class Representative £200,000,000 in full and final settlement of the claims as against the Defendants in these Collective Proceedings (the “**Settlement Sum**”).
3. The Settlement Sum shall be held by Epiq Systems Ltd in an escrow account on behalf of the Class Representative and used to make payments in accordance with paragraphs 4 and 5 of this Order and with clauses 1, 2 and 5 of the Collective Settlement Agreement.
4. Pursuant to the CSAO Application, every CSAO Represented Person shall be entitled to submit a claim or claims for payment in accordance with the provisions set out in the CSAO Notice (defined below) and the Class Representative’s notice and administration plan (the “**Notice and Administration Plan**”) that is exhibited to the Fourth Witness Statement of Walter Merricks CBE, and by no later than 3 months after the date of the CSAO Notice.
5. Pursuant to the CSAO Application:
  - a. If up to 2,222,222 CSAO Represented Persons register for distribution, £100,000,000 of the Settlement Sum shall be made available for distribution to CSAO Represented Persons. They shall each receive a payment at the level of their pro rata share of the sum of £100,000,000 up to a maximum of [£45 / £70]. The sum of £[154,432,053.72] less the amount distributed<sup>1</sup> shall be paid to [the Access to Justice Foundation OR the Good Things Foundation] AND/OR [the Funder];<sup>2</sup> or
  - b. If more than 2,222,222 CSAO Represented Persons register for distribution, £100,000,000 [plus a proportion, if any, of £[54,432,053.72]] of the Settlement Sum shall be made available for distribution to CSAO Represented Persons. They shall each receive a payment at the level of their pro rata share of that sum,

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<sup>1</sup> And subject to any further deduction arising from the application (if any) of clause 8.2 and/or 18.1 of the Collective Settlement Agreement concerning costs, fees and/or VAT.

<sup>2</sup> Mastercard notes that if the Tribunal were not minded for an amount to be paid to the Good Things Foundation or the Access to Justice Foundation, it would be neutral as to whether the sum of £100,000,000 less the amount distributed is paid to: (a) CSAO Represented Persons in the form of pro rata payments above £45; and/or (b) the Funder: see Application para [X], Sansom 8, para 4.7(b)(ii).

up to a maximum of £45. The sum of £[154,432,053.72] less the amount distributed<sup>3</sup> shall be paid to [the Access to Justice Foundation OR the Good Things Foundation] AND/OR [the Funder]; and

- c. £[45,567,946.28] of the Settlement Sum shall be ringfenced for payment of the Funder's costs, fees and disbursements incurred to date, and anticipated future costs, fees and disbursements that the Funder has already committed to pay in relation to noticing, distribution and the making of the CSAO, that sum being reduced by any amount not actually paid by the Funder.

### **Discontinuance of the Collective Proceedings and release of claims**

6. These Collective Proceedings against the Defendants shall be discontinued upon the terms of the Collective Settlement Agreement, except for the purpose of enforcing those terms and this Order.
7. Pursuant to clause 4.2(b)(ii) of the Collective Settlement Agreement, any and all Claims (as defined in the Collective Settlement Agreement) brought by any CSAO Represented Person against the Defendants and the Mastercard Related Parties (as defined in the Collective Settlement Agreement) are fully and forever discharged.

### **Notification**

8. The Class Representative shall publicise this Order using the attached Collective Settlement Approval Order Notice approved by the Tribunal (the "CSAO Notice") and in accordance with the Notice and Administration Plan.

### **Opting out and opting in**

9. Any Represented Person who was domiciled in the United Kingdom on the Domicile Date may opt out of the Collective Settlement by giving the Class Representative notice of their

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<sup>3</sup> And subject to any further deduction arising from the application (if any) of clause 8.2 and/or 18.1 of the Collective Settlement Agreement concerning costs, fees and/or VAT.

decision to opt out in accordance with the attached Collective Settlement Notice and by no later than 3 months after the date of publication of the CSAO Notice.

10. Any Represented Person who was not domiciled in the United Kingdom on the Domicile Date may opt into the Collective Settlement by giving the Class Representative notice of their decision to opt in in accordance with the attached Collective Settlement Notice and by no later than 3 months after the date of publication of the CSAO Notice.

### **Costs**

11. The Class Representative and the Defendants shall bear their own costs, fees or other expenses of whatever nature incurred in connection with the Collective Proceedings, including prior to the granting of this Order by the Tribunal and any future costs in relation to the preparation, execution and carrying into effect of the Collective Settlement and this Order (including the costs incurred in connection with steps taken following the making of this Order, such as notification and distribution), save in respect of any costs, fees or other expenses of whatever nature that may be incurred by the Class Representative and Defendants in enforcing the terms of the Collective Settlement and as otherwise expressly provided for in the Collective Settlement.
12. In accordance with paragraph 5 above, in the event that the Funder fails to pay any costs, fees or other expenses incurred by the Class Representative, including but not limited to distribution costs, such costs, fees or other expenses, shall be paid by way of a deduction from the amounts to be paid to the Funder as provided for in paragraph 5 above.

### **General**

13. There be liberty for each party to the Collective Settlement to apply to the Tribunal for the purpose of enforcing the terms of the Collective Settlement without the need to bring a new claim.

**[Name]**

[Acting President/Chair] of the Competition  
Appeal Tribunal

Made: [Date] February 2025

Drawn: [Date] February 2025

**ANNEX 1 – CSAO NOTICE**