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8 *Attorney for Plaintiff*

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF MONTEREY**

13 C.J., a minor, individually and on behalf of all
14 others similarly situated,

15 Plaintiff,

16 v.

17 COGNOSPHERE PTE. LTD.,

18 Defendant.

Case No. 23CV001405

CASE DEEMED COMPLEX

ASSIGNED FOR ALL PURPOSES TO
JUDGE THOMAS W. WILLS

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

19 Date: September 29, 2023
20 Time: 8:30 a.m.
21 Dept.: 15

1 WHEREAS, pursuant to California Rules of Court 3.769, the parties seek entry of an
2 order preliminarily approving the Settlement of this Action pursuant to the settlement
3 agreement fully executed on or about May 1, 2023 (the “Agreement”), which, together with its
4 attached exhibits, sets forth the terms and conditions for a proposed Settlement of the Action;
5 and WHEREAS, the Court has read and considered the Settlement Agreement and its exhibits,
6 and Plaintiff’s Unopposed Motion for Preliminary Approval; IT IS HEREBY **ORDERED** as
7 follows:

8 1. The motion is GRANTED.

9 2. Capitalized terms not otherwise defined herein have the meanings set forth in
10 the Settlement Agreement.

11 3. All proceedings in the Action, other than proceedings necessary to carry out or
12 enforce the terms and conditions of the Agreement and this Order, are hereby stayed.

13 4. The Court has subject matter jurisdiction over the Action, and personal
14 jurisdiction over the Parties before it. Additionally, venue is proper pursuant to Cal. Civ. Code
15 § 395.

16 5. The Action is preliminarily certified as a class action, for settlement purposes
17 only, pursuant to California Rules of Court Rule 3.769 and Code of Civil Procedure § 382. The
18 Court preliminarily finds for settlement purposes that: (a) the Class certified herein is
19 sufficiently numerous that joinder of all such persons would be impracticable; (b) there are
20 questions of law and fact that are common to the Class, and those questions of law and fact
21 common to the Class predominate over any questions affecting any individual Class Member;
22 (c) the claims of the Plaintiff are typical of the claims of the Class they seek to represent for
23 purposes of settlement; (d) a class action on behalf of the Class is superior to other available
24 means of adjudicating this dispute; and (e) as set forth below, Plaintiff and Plaintiff’s Counsel
25 are adequate representatives of the Class. Defendant retains all rights to assert that the Action
26 may not be certified as a class action, other than for settlement purposes. The Court also
27 concludes that, because the Action is being settled rather than litigated, the Court “need not
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1 inquire whether the case, if tried, would present intractable management problems.” *See*
2 *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997).

3 6. The Settlement Class shall consist of “All persons in the United States of
4 America who made a purchase in Genshin Impact while under the age of 18.”

5 7. Upon preliminary review, the Court finds that the Agreement, and the
6 Settlement it incorporates is fair, reasonable, and adequate. *See Manual for Complex Litigation*
7 (Fourth) § 21.632 (2004). Accordingly, the Agreement is preliminarily approved and is
8 sufficient to warrant sending notice to the Class.

9 8. Certification of the Settlement Class shall be solely for settlement purposes,
10 without prejudice to the Parties, and with no other effect upon the Action. In the event the
11 Settlement Agreement is not finally approved by this Court, is terminated, or otherwise does
12 not take effect, the Parties preserve all rights and defenses regarding class certification.

13 9. The Court hereby appoints Plaintiff C.J. as Class Representative to represent the
14 Settlement Class.

15 10. The Court hereby appoints L. Timothy Fisher of Bursor & Fisher, P.A. as Class
16 Counsel for the Settlement Class.

17 11. Direct notice of the settlement is not required here because the Settlement
18 Agreement only releases claims for injunctive and/or declaratory relief and does not release the
19 monetary or damages claims of the Class, and thus the settlement expressly preserves the
20 individual rights of class members to pursue monetary claims against the Defendant.

21 Nonetheless, pursuant to the Settlement Agreement, documents pertaining to the Settlement,
22 preliminary approval, and final approval (including Plaintiff’s motion for attorneys’ fees and
23 incentive award and any opposition or reply papers thereto), shall be posted on Class Counsel’s
24 public website (<https://www.bursor.com/>).

25 12. Each Settlement Class Member shall be given a full opportunity to comment on
26 or object to the Settlement Agreement, and to participate at a Final Approval Hearing.
27 Comments or objections must be in writing, and must include (1) the name and case number of
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1 the Action (*C.J. v. Cognosphere Pte. Ltd.*, Case No. 23CV001405); (2) the Settlement Class
2 Member's full legal name and mailing address; (3) the personal signature of the Settlement
3 Class member; (4) the grounds for any objection; (5) the name and contact information of any
4 and all attorneys representing, advising, or assisting with the comment or objection, or who
5 may profit from pursuing any objection; and (6) a statement indicating whether the Settlement
6 Class Member intends to appear at the Final Approval Hearing, either personally or through
7 counsel. Written objections must be served on each of both Defense Counsel and Class
8 Counsel as follows:

9 C.J. v. Cognosphere Pte. Ltd.
10 c/o Bursor & Fisher, P.A.
11 1990 North California Blvd.
12 Suite 940
13 Walnut Creek, CA 94596

14 C.J. v. Cognosphere Pte. Ltd.
15 c/o Kecker, Van Nest & Peters LLP
16 633 Battery Street
17 San Francisco, CA 94111-1809

18 Defense Counsel and Class Counsel shall promptly furnish each other copies of any and all
19 objections that might come into their possession.

20 13. Class Members may also appear at the final approval hearing to state their
21 objections, whether or not they have made a written objection or given a notice to appear.

22 14. To be considered, written comments or objections must be submitted within 60
23 days after the entry of this Order. No Class Member shall be entitled to be heard at the Final
24 Approval Hearing, whether individually or through counsel, unless written notice of the Class
25 Member's intention to appear at the Final Approval Hearing is timely filed, or postmarked for
26 mail to the Court within 60 days after date of entry of this Order.

27 15. The date of the postmark on the envelope containing the written objection shall
28 be the exclusive means used to determine whether an objection has been timely submitted.
Class Members who fail to mail timely written objections in the manner specified above shall
be deemed to have waived any objections and shall be forever barred from objecting to the

1 Settlement Agreement and the proposed settlement by appearing at the Final Approval Hearing,
2 appeal, collateral attack, or otherwise.

3 16. The Court will hold a final approval hearing on January 26, 2024 at 8:30 a.m., in
4 the Superior Court of California, County of Monterey, located at 1200 Aguajito Rd, Monterey,
5 CA 93940, in Department 15. The purposes of the final approval hearing will be to: (i)
6 determine whether the proposed Settlement Agreement should be finally approved by the Court
7 as fair, reasonable, adequate, and in the best interests of the Settlement Class; (ii) determine
8 whether judgment should be entered pursuant to the Settlement Agreement, dismissing the
9 Action with prejudice and releasing the Released Persons of all claims as stated in the
10 Settlement Agreement; (iii) determine whether the Settlement Class should be finally certified;
11 (iv) rule on Class Counsel's motion for attorneys' fees, costs and service awards; (v) consider
12 any properly filed objections; and (vi) consider any other matters necessary in connection with
13 the final approval of the Settlement Agreement.

14 17. Class Counsel's application for attorneys' fees, costs and expenses shall be filed
15 and served no later than thirty (30) days after the Court's order of preliminary approval. Any
16 opposition, comment, or objection shall be filed no later than sixty (60) days after the Court's
17 order of preliminary approval. Any reply shall be filed no later than seventy-four (74) days
18 after the Court's order of preliminary approval.

19 18. The motion in support of final approval of the settlement shall be filed and
20 served no later than thirty (30) days after the Court's order of preliminary approval. Any
21 opposition or objection shall be filed no later than sixty (60) days after the Court's order of
22 preliminary approval. Any reply shall be filed no later than seventy-four (74) days after the
23 Court's order of preliminary approval.

24 19. The Court may, in its discretion, modify the date and/or time of the final
25 approval hearing, and may order that this hearing be held remotely or telephonically. In the
26 event the Court changes the date, time, and/or the format of the final approval hearing, the
27 Parties shall ensure that the updated information is posted on the Class Counsel's public
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1 website.

2 20. If the Settlement Agreement, including any amendment made in accordance
3 therewith, is not approved by the Court or shall not become effective for any reason
4 whatsoever, the Settlement Agreement and any actions taken or to be taken in connection
5 therewith (including this Preliminary Approval Order and any judgment entered herein), shall
6 be terminated and shall become null and void and of no further force and effect except for
7 (i) any obligations to pay for any expense incurred in connection with any notice and/or Other
8 Administration Costs as set forth in the Settlement Agreement, and (ii) any other obligations or
9 provisions that are expressly designated in the Settlement Agreement to survive the termination
10 of the Settlement Agreement.

11 21. Pending final determination of whether the Settlement Agreement should be
12 finally approved, Plaintiff and all Settlement Class Members are barred and enjoined from
13 filing, commencing, prosecuting, or enforcing any action against the Released Parties insofar as
14 such action asserts claims stated in Section VI of the Settlement Agreement, directly or
15 indirectly, in any judicial, administrative, arbitral, or other forum. This bar and injunction is
16 necessary to protect and effectuate the Settlement Agreement and this Preliminary Approval
17 Order, and this Court's authority to effectuate the Settlement, and is ordered in aid of this
18 Court's jurisdiction.

19 22. This Preliminary Approval Order, the Settlement Agreement, the fact that a
20 settlement was reached and filed, and all negotiations, statements, agreements, and proceedings
21 relating to the Settlement, and any matters arising in connection with settlement negotiations,
22 proceedings, or agreements shall not constitute, be described as, construed as, used as, offered
23 or received against Cognosphere as evidence or an admission or concession of: (a) the truth of
24 any fact alleged by Plaintiff in the Action; (b) any liability, negligence, fault, or wrongdoing of
25 Cognosphere or breach of any duty on the part of Cognosphere; or (c) that this Action or any
26 other action may be properly certified as a class action for litigation, non-settlement purposes.
27 This order is not a finding of the validity or invalidity of any of the claims asserted or defenses
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1 raised in the Action.

2 23. The Court shall retain jurisdiction over any claim relating to the Settlement
3 Agreement (including all claims for enforcement of the Settlement Agreement and/or all claims
4 arising out of a breach of the Settlement Agreement) as well as any future claims by any
5 Settlement Class Member relating in any way to the Released Claims.

6 24. The Court may, for good cause, extend any of the deadlines set forth in this
7 Preliminary Approval Order without further notice to Settlement Class Members. Without
8 further order of the Court, the Parties may agree to make non-material modifications in
9 implementing the Settlement that are not inconsistent with this Preliminary Approval Order.

10 IT IS SO ORDERED.

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12 Dated: _____

13 THOMAS W. WILLS
14 Judge of the Superior Court
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1 **PROOF OF SERVICE**

2 I am a resident of the State of California, over the age of eighteen years, and not a party to
3 the within action. My business address is Bursor & Fisher, P.A., 1990 North California Blvd,
4 Suite 940, Walnut Creek, California 94596. On October 3, 2023, I served the document(s):


5 **[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION
6 SETTLEMENT**

7 by e-mail transmission on that date. These documents were transmitted via e-mail to
8 the following e-mail addresses as set forth below.

9 Ajay S Krishnan
10 Christopher S Sun
11 Michelle S Ybarra
12 Daniel Twomey
13 **Keker Van Nest and Peters LLP**
14 633 Battery Street
15 San Francisco, CA 94111
16 415-391-5400
17 Fax: 415-397-7188
18 Email: akrishnan@keker.com
19 csun@keker.com
20 mybarra@kvn.com
21 dtwomey@keker.com

22 *Attorneys for Defendant*

23 I declare under penalty of perjury under the laws of the State of California that the above is
24 true and correct, executed on October 3, 2023, at Walnut Creek, California.

25 
26 _____
27 Judy Fontanilla
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