



# GRANTED WITH MODIFICATIONS

EXHIBIT A

## IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN RE: PIVOTAL SOFTWARE, INC.  
STOCKHOLDERS' LITIGATION

C.A. No. 2020-0440-KSJM

### [PROPOSED] SCHEDULING ORDER

WHEREAS, a stockholder class action is pending in this Court captioned *In re: Pivotal Software, Inc. Stockholders' Litigation*, C.A. No. 2020-0440-KSJM (the "Action");

WHEREAS, by Stipulation and Order Regarding Class Certification entered by the Court on November 4, 2021, this Court certified the Action as a non-opt out class action pursuant to Court of Chancery Rules 23(a), 23(b)(1) and 23(b)(2) on behalf of a Class consisting of all former record holders and beneficial owners of Class A common stock of Pivotal Software, Inc. ("Pivotal") who received \$15 per share in cash in exchange for their shares of Pivotal Class A common stock in connection with the acquisition of Pivotal by VMware, Inc. ("VMware") (the "Class Shares"), in their capacities as record holders or beneficial owners of Class Shares, together with their heirs, assigns, transferees, and successors-in-interest, in each case in their capacity as holders of Class Shares. Excluded from the Class are (i) defendants VMware, Dell Technologies Inc., Michael S. Dell, and Robert C. Mee (together, "Defendants") and their immediate family members, affiliates, legal representatives, heirs, estates, successors, or assigns; and (ii) any entity in which any

Defendant has had a direct or indirect controlling interest. Also excluded from the Class are (i) Cynthia Gaylor (the “Former Defendant”) and her immediate family members, affiliates, legal representatives, heirs, estates, successors, or assigns, and any entity in which the Former Defendant has had a direct or indirect controlling interest; and (ii) HBK Master Fund L.P. and HBK Merger Strategies Master Fund L.P. (collectively, the “Appraisal Stockholders”);

WHEREAS, (i) plaintiff Kenia Lopez (“Plaintiff”), on behalf of herself and the other members of the Class, with the exception of the Appraisal Stockholders; (ii) Defendants; and (iii) the Former Defendant (Plaintiff, Defendants, and the Former Defendant, together, the “Parties”) have determined to settle all claims asserted against Defendants and the Former Defendant in the Action on the terms and conditions set forth in the Stipulation and Agreement of Settlement, Compromise, and Release dated June 2, 2022 (the “Stipulation”) subject to the approval of this Court (the “Settlement”);

WHEREAS, in accordance with the Stipulation, the Parties have made an application, pursuant to Court of Chancery Rule 23, for entry of a scheduling order in accordance with the Stipulation, approving the form and content of the notice of the Settlement to the Class, and scheduling the date and time for the Settlement Hearing; and

WHEREAS, the Court having considered the Stipulation and the exhibits

attached thereto; the Stipulation being sufficient to warrant notice to the Class; and all Parties having consented to the entry of this Order.

**NOW THEREFORE, IT IS HEREBY ORDERED**, this \_\_\_ day of \_\_\_\_\_, 2022, as follows:

1. **Definitions**: Unless otherwise defined herein, capitalized terms used herein shall have the same meanings given to them in the Stipulation.

2. **Jurisdiction**: The Court has jurisdiction over the subject matter of the Action, and all matters relating to the Settlement, as well as personal jurisdiction over the Parties and each of the Class Members for purposes of the Action.

3. **Settlement Hearing**: The Court will hold a hearing (the “Settlement Hearing”) on \_\_\_\_\_, 2022, at \_\_:\_\_.m., either in person at the Court of Chancery of the State of Delaware, New Castle County, Leonard L. Williams Justice Center, 500 North King Street, Wilmington, Delaware 19801, or by telephone or video conference (in the discretion of the Court), to determine, among other things: (i) whether the proposed Settlement on the terms and conditions provided for in the Stipulation is fair, reasonable, and adequate to the Class, and should be approved by the Court; (ii) whether a Judgment, substantially in the form attached as Exhibit D to the Stipulation, should be entered dismissing the Action with prejudice as against Defendants; (iii) whether the proposed Plan of Allocation of the Net Settlement Fund is fair and reasonable, and should therefore be approved;

(iv) whether the application by Co-Lead Counsel for an award of attorneys' fees and expenses, including Plaintiff's application for an incentive award to be paid solely out of any attorneys' fees and expenses awarded by the Court, should be approved; and (v) any other matters that may properly be brought before the Court in connection with the Settlement. Notice of the Settlement and the Settlement Hearing shall be given to potential Class Members as set forth in paragraph 7 of this Order.

4. The Court reserves the right to adjourn and reconvene the Settlement Hearing, including consideration of the proposed Plan of Allocation and Co-Lead Counsel's fee and expense application and incentive award application, without further notice to the Class other than by announcement at the Settlement Hearing or any adjournment thereof.

5. The Court reserves the right to approve the Settlement at or after the Settlement Hearing with such modifications as may be consented to by the Parties and without further notice to the Class.

6. The Court may decide to hold the Settlement Hearing by telephone or video conference without further notice to the Class. Any Class Member (or his, her, or its counsel) who wishes to appear at the Settlement Hearing should consult the Court's docket and/or the Settlement website for any change in date, time, or format of the hearing.

7. **Retention of Settlement Administrator and Manner of Giving**

**Notice:** Co-Lead Counsel are hereby authorized to retain JND Legal Administration as the settlement administrator (the “Settlement Administrator”) to provide notice to potential Class Members and administer the Settlement, including the allocation and distribution of the Net Settlement Fund to eligible Class Members. Notice of the Settlement and the Settlement Hearing shall be given as follows:

(a) Within ten (10) business days following the date of entry of this Order by the Court, VMware, at no cost to the Settlement Fund, Co-Lead Counsel, or the Settlement Administrator, shall cause to be provided to the Settlement Administrator or Co-Lead Counsel in an electronically searchable form, such as Excel, the stockholder register from Pivotal’s transfer agent containing the names, mailing addresses and, if available, email addresses for all registered holders of Pivotal Class A common stock at the Closing of the Acquisition (the “Class Member Records”);

(b) Beginning not later than twenty (20) business days after the date of entry of this Order (such date that is twenty (20) business days after the date of entry of this Order, the “Notice Date”), the Settlement Administrator shall cause a copy of the Notice, substantially in the form attached to the Stipulation as Exhibit B, to be mailed by first-class U.S. mail, or emailed, to potential Class Members at the

addresses set forth in the Class Member Records or who otherwise may be identified through further reasonable effort;

(c) Not later than the Notice Date, the Settlement Administrator shall post a copy of the Notice on the website established for the Settlement;

(d) Not later than ten (10) business days after the Notice Date, the Settlement Administrator shall cause the Summary Notice, substantially in the form attached to the Stipulation as Exhibit C, to be published once in *Investor's Business Daily* and to be transmitted once over the *PR Newswire*; and

(e) Not later than seven (7) calendar days prior to the Settlement Hearing, Co-Lead Counsel shall serve on Counsel for Defendants and the Former Defendant and file with the Court proof, by affidavit or declaration, of such mailing and publication.

8. **Approval of Form and Content of Notice:** The Court: (a) approves, as to form and content, the Notice, attached to the Stipulation as Exhibit B, and the Summary Notice, attached to the Stipulation as Exhibit C, and (b) finds that the mailing of the Notice and publication of the Summary Notice in the manner and form set forth in paragraph 7 of this Order: (i) is the best notice practicable under the circumstances; (ii) constitutes notice that is reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the Action, the effect of the proposed Settlement (including the Releases to be provided thereunder), the

proposed Plan of Allocation, Co-Lead Counsel's application for an award of attorneys' fees and expenses, including Plaintiff's application for an incentive award, and Class Members' rights to object to any aspect of the Settlement, the Plan of Allocation, and/or Co-Lead Counsel's fee and expense application, including Plaintiff's application for an incentive award, and to appear at the Settlement Hearing; (iii) constitutes due, adequate, and sufficient notice to all persons and entities entitled to receive notice of the proposed Settlement; and (iv) satisfies the requirements of Court of Chancery Rule 23, the United States Constitution (including the Due Process Clause), and all other applicable law and rules. The date and time of the Settlement Hearing shall be included in the Notice and Summary Notice before they are mailed and published, respectively.

9. **Nominees Procedures:** Brokers and other nominees that held shares of Pivotal Class A common stock and received the Acquisition Consideration as record holders for the benefit of another person or entity shall be requested to either: (i) within seven (7) calendar days of receipt of the Notice, request from the Settlement Administrator sufficient copies of the Notice to forward to all such beneficial owners and within seven (7) calendar days of receipt of those Notices forward them to all such beneficial owners; or (ii) within seven (7) calendar days of receipt of the Notice, provide a list of the names, addresses, and, if available, email addresses of all such beneficial owners to the Settlement Administrator, in which

event the Settlement Administrator shall promptly mail the Notice to such beneficial owners. Upon full compliance with this Order, such nominees may seek reimbursement of their reasonable expenses actually incurred in complying with this Order by providing the Settlement Administrator with proper documentation supporting the expenses for which reimbursement is sought.

10. Brokers and other nominees that hold securities in their name on behalf of a beneficial owner are hereby ordered to provide information deemed necessary by the Settlement Administrator to assist eligible Class Members in connection with determining their entitlement to the Net Settlement Fund and to distribute the Net Settlement Fund consistent with the terms of the Plan of Allocation (or such other plan of allocation approved by the Court).

11. **Appearance at Settlement Hearing and Objections:** Unless the Court orders otherwise, any Class Member may enter an appearance in the Action, at his, her, or its own expense, individually or through counsel of his, her, or its own choice, by filing with the Register in Chancery and delivering a notice of appearance to Co-Lead Counsel and Defendants' Counsel, at the addresses set forth in paragraph 12 below, such that it is received no later than fourteen (14) calendar days prior to the Settlement Hearing, or as the Court may otherwise direct. Any Class Member who does not enter an appearance will be represented by Co-Lead Counsel, and shall



be deemed to have waived and forfeited any and all rights he, she, or it may otherwise have to appear separately at the Settlement Hearing.

12. Any Class Member may file a written objection to the proposed Settlement, Plan of Allocation, and/or Co-Lead Counsel's application for an award of attorneys' fees and expenses, including Plaintiff's application for an incentive award ("Objector"), if he, she, or it has any cause why the proposed Settlement, Plan of Allocation, and/or Co-Lead Counsel's application for an award of attorneys' fees and expenses, including Plaintiff's application for an incentive award, should not be approved; provided, however, that, unless otherwise directed by the Court for good cause shown, no Objector shall be heard or entitled to contest the approval of the terms and conditions of the proposed Settlement, Plan of Allocation, and/or Co-Lead Counsel's application for an award of attorneys' fees and expenses, including Plaintiff's application for an incentive award, unless that person or entity files a written objection with the Register in Chancery, Court of Chancery of the State of Delaware, New Castle County, Leonard L. Williams Justice Center, 500 North King Street, Wilmington, Delaware 19801 (electronically by File & Serve*Xpress*, by hand, by first-class U.S. mail, or by express service) and serves copies of the objection upon each of the following counsel at the following addresses such that they are received no later than fourteen (14) calendar days prior to the Settlement Hearing, with copies also emailed to [edward.timlin@blbglaw.com](mailto:edward.timlin@blbglaw.com), [joel@blockleviton.com](mailto:joel@blockleviton.com),

mcelio@gibsondunn.com, john.latham@alston.com, and  
andrew.ditchfield@davispolk.com:

*Co-Lead Counsel:* Edward Timlin, Bernstein Litowitz Berger & Grossmann LLP, 1251 Avenue of the Americas 44th Floor New York, New York 10020; and Joel Fleming, Block & Leviton LLP, 260 Franklin Street, Suite 1860, Boston, Massachusetts 02110.

*Defendants' Counsel:* Michael D. Celio, Gibson, Dunn & Crutcher LLP, 1881 Page Mill Road, Palo Alto, California 94304; John L. Latham, Alston & Bird LLP, One Atlantic Center, 1201 West Peachtree Street NE, Site 4900, Atlanta, Georgia 30309; and Andrew Ditchfield, Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, New York 10017.

13. Any objections must: (i) identify the case name and civil action number, “*In re: Pivotal Software, Inc. Stockholders’ Litigation*, C.A. No. 2020-0440-KSJM”; (ii) state the name, address, and telephone number of the Objector and, if represented by counsel, the name, address, and telephone number of the Objector’s counsel; (iii) be signed by the Objector; (iv) contain a specific, written statement of the objection(s) and the specific reason(s) for the objection(s), including any legal and evidentiary support the Objector wishes to bring to the Court’s attention, and if the Objector has indicated that he, she, or it intends to appear at the Settlement Hearing, the identity of any witnesses the Objector may call to testify, and any exhibits the

Objector intends to introduce into evidence at the hearing; and (v) include documentation sufficient to prove that the Objector is a member of the Class (*i.e.*, held shares of Pivotal Class A common stock and received the Acquisition Consideration). Documentation establishing that an Objector is a member of the Class must consist of copies of monthly brokerage account statements or an authorized statement from the Objector's broker containing the transactional and holding information found in an account statement.

14. Unless the Court orders otherwise, any Class Member who or which does not make his, her, or its objection in the manner provided herein shall: (i) be deemed to have waived and forfeited his, her, or its right to object to any aspect of the proposed Settlement, Plan of Allocation, or Co-Lead Counsel's application for an award of attorneys' fees and expenses, including Plaintiff's application for an incentive award; (ii) be forever barred and foreclosed from objecting to the fairness, reasonableness, or adequacy of the Settlement, the Judgment to be entered approving the Settlement, the Plan of Allocation, or Co-Lead Counsel's application for an award of attorneys' fees and expenses, including Plaintiff's application for an incentive award; and (iii) be deemed to have waived and to be forever barred and foreclosed from being heard, in this or any other proceeding, with respect to any matters concerning the Settlement, the Plan of Allocation, or the requested or awarded attorneys' fees or expenses and the requested incentive award.

15. **Stay and Temporary Injunction:** Pursuant to the Court's May 17, 2022 Order, all proceedings in the Action have been stayed until otherwise ordered by the Court, provided, however, that the Court may conduct such proceedings necessary to carry out or enforce the terms and conditions of the Stipulation. Pending final determination of whether the Settlement should be approved, (i) Plaintiff and all other Class Members are barred and enjoined from instituting, commencing, prosecuting, continuing, or in any way participating in any action or other proceeding asserting any Released Plaintiff's Claims against any Released Defendants' Persons; and (ii) Defendants and the Former Defendant are barred and enjoined from instituting, commencing, prosecuting, continuing, or in any way participating in any action or other proceeding asserting any Released Defendants' Claims against any Released Plaintiff's Persons.

16. **Settlement Fund:** The contents of the Settlement Fund that will be held in the Escrow Account shall be deemed and considered to be *in custodia legis* of the Court, and shall remain subject to the exclusive jurisdiction of the Court, until such time as they shall be distributed pursuant to the Stipulation and/or further order(s) of the Court.

17. **Notice and Administration Costs:** All Notice and Administration Costs shall be paid or reimbursed out of the Settlement Fund in accordance with the terms of the Stipulation without further order of the Court.

18. **Taxes:** Co-Lead Counsel are authorized and directed to prepare any tax returns and any other tax reporting form for or in respect to the Settlement Fund, to pay from the Settlement Fund any Taxes owed with respect to the Settlement Fund, and to otherwise perform all obligations with respect to Taxes and any reporting or filings in respect thereof without further order of the Court in a manner consistent with the provisions of the Stipulation. The Released Defendants' Persons shall have no liability whatsoever for any Taxes with respect to income earned by the Settlement Fund while on deposit in the Escrow Account.

19. **Termination of Settlement:** If the Settlement is terminated as provided in the Stipulation or the Effective Date of the Settlement otherwise fails to occur, this Order shall be vacated, rendered null and void, and be of no further force and effect, except as otherwise provided by the Stipulation; this Order shall be without prejudice to the rights of the Parties or the Class; and Plaintiff and Defendants shall revert to their respective positions in the Action as of immediately prior to the execution of the Term Sheet on May 2, 2022.

20. **Supporting Papers:** Co-Lead Counsel shall file and serve the opening papers in support of the proposed Settlement, Plan of Allocation, Co-Lead Counsel's application for an award of attorneys' fees and expenses, and Plaintiff's application for an incentive fee award no later than twenty-eight (28) calendar days prior to the Settlement Hearing. Any objections to the Settlement, the Plan of Allocation, and/or

the application for an award of attorneys' fees and expenses and/or incentive award shall be filed and served no later than fourteen (14) calendar days prior to the Settlement Hearing. If reply papers are necessary, they are to be filed and served no later than seven (7) calendar days prior to the Settlement Hearing.

21. **Retention of Jurisdiction:** The Court retains exclusive jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

22. **Extension of Deadlines:** The Court may, for good cause shown, extend any of the deadlines set forth in this Order without further notice to the Class.

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Chancellor Kathaleen St. J. McCormick

This document constitutes a ruling of the court and should be treated as such.

**Court:** DE Court of Chancery Civil Action

**Judge:** Kathaleen St Jude McCormick

**File & Serve**

**Transaction ID:** 67683113

**Current Date:** Jun 13, 2022

**Case Number:** 2020-0440-KSJM

**Case Name:** STAYED 5.17.2022/CONF ORD/CONS W/2020-0583-KSJM, IN RE: PIVOTAL SOFTWARE INC STOCKHOLDERS' LITIGATION

**Court Authorizer:** Kathaleen St Jude McCormick

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**Court Authorizer**

**Comments:**

The settlement hearing will be held in-person on October 4, 2022, at 1:30 p.m.

**/s/ Judge Kathaleen St Jude McCormick**