

[TRANSLATION]

SUPERIOR COURT
(Class Action)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF QUÉBEC

No.: 200-06-000231-194

NATHALIE BOULAY
-AND-
HUGO LANGLOIS
-AND-
MATHIEU BEAUCHEMIN
-AND-
SAMUEL BOYER

Applicants

v.

FÉDÉRATION DES CAISSES DESJARDINS DU QUÉBEC

Respondent

FINAL SETTLEMENT AGREEMENT

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I. PREAMBLE

WHEREAS on June 20, 2019, the Fédération des caisses Desjardins du Québec publicly disclosed that its members' and clients' data were leaked by a malicious ex-employee;

WHEREAS on June 20, 2019, the Applicant, Nathalie Boulay, filed an application for authorization to institute a class action before the Superior Court of Québec in the district of Québec bearing Court number 200-06-000231-194;

WHEREAS on June 21, 2019, the Applicant, Hugo Langlois, filed an application for authorization to institute a class action before the Superior Court of Québec in the district of Montréal bearing Court number 500-06-001009-196;

WHEREAS the Applicants are parties to the *Demande modifiée pour obtenir l'autorisation d'exercer une action collective et pour obtenir le statut de représentants* filed in Court number 200-06-000231-194 (*Nathalie Boulay et al. v. Fédération des caisses Desjardins du Québec*), which seeks authorization to institute a class action on behalf of any person included in the following national class:

[TRANSLATION]

“Any person whose personal information held by the Fédération des Caisses Desjardins du Québec was transmitted without authorization following the data breach disclosed publicly on June 20, 2019.”

WHEREAS the Applicants are claiming moral and compensatory damages in civil liability and in violation of the *Act respecting the Protection of Personal Information in the Private Sector*, as well as punitive damages under the *Charter of Human Rights and Freedoms*;

WHEREAS another proposed class action concerning the Data Breach was filed on June 21, 2019 before the Supreme Court of British Columbia in Court number VIC-S-S-192723 (*Matthew Wenman v. Desjardins Cabinet de Services Financiers et al.*);

WHEREAS this Settlement Agreement binds all Class Members across Canada and is intended to settle any claim regarding the Data Breach alleged in the above-mentioned class actions by obtaining indemnities for Class Members and by providing a release on their behalf to Desjardins, the whole in accordance with the terms of this Settlement Agreement;

WHEREAS Desjardins declares that it has voluntarily implemented a series of protection measures for its members and clients in the wake of the Data Breach in order to, without limitation, prevent the risk of fraud and identity theft, to reimburse losses related to unauthorized transactions in Desjardins accounts, to assist victims of fraud and identity theft and to reimburse costs related to the identity restoration process and denies that an application for authorization to institute a class action is appropriate in the circumstances;

WHEREAS the Parties have agreed to resolve, without admission, in a final and complete manner, the claims of the Applicants and the putative class members they wish to represent;

WHEREAS in the course of a mediation before the Honourable François Rolland, former Chief Justice of the Superior Court of Québec, the Parties entered into a Settlement Agreement in Principle on December 6, 2020, a copy of which is attached to this Final Settlement Agreement as **Schedule 1**;

WHEREAS Class Counsel consider this Final Settlement Agreement to be fair, reasonable and in the best interests of Class Members;

WHEREAS this Final Settlement Agreement reflects the terms of the Settlement Agreement in Principle (Schedule 1);

WHEREAS the Parties agree that this Final Settlement Agreement constitutes a fair, reasonable and adequate resolution with respect to the claims of Class Members;

WHEREAS this Final Settlement Agreement will be submitted to the Court for approval;

WHEREAS the Parties agree that the negotiations between the Parties, the conclusion of the Settlement Agreement in Principle and the conclusion of this Final Settlement Agreement, as well as its approval by the Court, shall not constitute an admission of any liability whatsoever on the part of Desjardins, nor the existence of any damage whatsoever, and that they may not, under any circumstances, be used to establish the existence of any liability or damage whatsoever, nor for any other purpose in this class action or any other proceeding or matter;

IN CONSIDERATION of the foregoing, together with the agreements, undertakings and releases more fully set forth in this Final Settlement Agreement, the satisfactory and fair nature of which is hereby acknowledged, **THE PARTIES AGREE AS FOLLOWS:**

II. DEFINITIONS

1. Unless otherwise provided in this Final Settlement Agreement, the following definitions apply for the purposes of this Final Settlement Agreement. Words used in the singular include the plural and vice versa, unless the context clearly indicates the opposite:
 - a. **“Administration Protocol”** means the protocol established for the administration of the Claims and the distribution of indemnities to Class Members, the form and content of which are substantially in accordance with **Schedule 5** of the Final Settlement Agreement;
 - b. **“Amended Application for Authorization”** means the *Demande modifiée pour obtenir l'autorisation d'exercer une action collective et pour obtenir le statut de représentants* the filing of which was authorized by the Superior Court of Québec on April 2, 2020 as part of the Class Action bearing Court number 200-06-000231-194;
 - c. **“Annual Limit”** means the maximum value of the indemnities that may have to be paid to Subclass 2 Members, based on the claim year and the following declining limits:

Claim Year	Annual Limit
No. 1	\$27,000,000
No. 2	\$3,800,000
No. 3	\$2,000,000

- d. **“Applicants”** means Nathalie Boulay, Hugo Langlois, Mathieu Beauchemin and Samuel Boyer;
- e. **“Application for Approval”** means the application for approval of this Final Settlement Agreement (including its Schedules) and the application of Class Counsel for the approval of their legal fees and extrajudicial costs and disbursements (plus applicable taxes), referred to in paragraph 42 of this Final Settlement Agreement;
- f. **“Application for Pre-Approval”** means the application referred to in paragraph 30 of this Final Settlement Agreement;
- g. **“Approval Date”** means the date on which the Approval Judgment is rendered;
- h. **“Approval Judgment”** means, as applicable, the judgment of the Court approving the Final Settlement Agreement (including its Schedules) and deciding the application of Class Counsel for approval of their legal fees and extrajudicial costs and disbursements;
- i. **“Claim”** means a Claim Form sent to the Claims Administrator;
- j. **“Claimant”** means a Class Member who has completed a Claim Form and has sent it to the Claims Administrator;
- k. **“Claims Administrator”** means the independent claims administrator designated pursuant to paragraph 24 of this Final Settlement Agreement;
- l. **“Claim Form”** means the form that Class Members must complete in order to obtain an indemnity under the Final Settlement Agreement, the form and content of which are substantially in accordance with **Schedule 3** of this Final Settlement Agreement;“
- m. **“Claim Period for Subclass 1 Members”** means the period of time during which a Subclass 1 member may file a Claim. It shall commence at a time determined individually for each Subclass 1 Member during the Explanatory Notice Period, which shall be the earlier of: (1) the date on which such member receives the Explanatory Notice in accordance with sub-paragraphs 6(a) and (b) of the Administration Protocol (Schedule 5); or, in the alternative, (2) the date of publication of the Explanatory Notice in newspapers in accordance with section 7 of the Administration Protocol (Schedule 5). It ends six (6) months after the end of the Explanatory Notice Period;
- n. **“Claim Period for Subclass 2 Members”** means the period commencing at the beginning of Claim Year No. 1 and ending at the end of Claim Year No. 3;
- o. **“Claim Year No. 1”** means the first period during which each Subclass 2 Member may file a Claim. It begins at a time determined individually for each Subclass 2 Member during the Explanatory Notice Period, which is the earlier of: (1) the date on which such member receives the Explanatory Notice in accordance with subparagraphs 6(a) and (b) of the Administration Protocol (Schedule 5); or, in the alternative, (2) the date of publication of the Explanatory Notice in newspapers in

accordance with section 7 of the Administration Protocol (Schedule 5). It ends on the same date for all Subclass 2 members, namely one year after the end of the Explanatory Notice Period;

- p. **“Claim Year No. 2”** means, for Subclass 2 members, the year following Claim Year No. 1;
- q. **“Claim Year No. 3”** means, for Subclass 2 Members, the year following Claim Year No. 2;
- r. **“Class”** means the national class described in paragraph 1 of the Amended Application for Authorization, namely [TRANSLATION] “Any person whose personal information held by the Fédération des Caisses Desjardins du Québec was transmitted without authorization following the data breach disclosed publicly on June 20, 2019”;
- s. **“Class Action”** means the applications for authorization to institute class actions filed by the Applicants against Desjardins and other entities, based on the facts alleged in the proceedings filed before the Superior Court of Québec bearing Court numbers 200-06-000231-194 and 500-06-001009-196;
- t. **“Class Counsel”** means Siskinds Desmeules LLP and Kugler Kandestin LLP;
- u. **“Compensable Actions”** means:
 - i. the registration with Equifax or other monitoring services;
 - ii. the implementation and adjustment of alerts on monitoring services, including fraud alerts;
 - iii. the resolution of any problems or delays that arise during a credit approval application due to the implementation of the monitoring service or a fraud alert;
 - iv. research and/or communications with Desjardins or other sources of information to understand and determine how to protect oneself against the consequences of the Data Breach;
 - v. steps taken to rectify an Identity Theft.
- v. **“Court”** means the Superior Court of Québec sitting in the District of Québec;
- w. **“Data Breach”** means the leak of Desjardins members’ and clients’ data that was publicly disclosed by Desjardins on June 20, 2019, which is covered by the Class Action and the Wenman Class Action;
- x. **“Desjardins”** means the Fédération des caisses Desjardins du Québec;
- y. **“Desjardins Caisses”** means all the Desjardins Caisses that are members of the Fédération des caisses Desjardins du Québec and the Caisse Desjardins Ontario

Credit Union Inc., as well as any other location of the Fédération des caisses Desjardins du Québec located in Canada;

- z. **“Desjardins Counsel”** means McCarthy Tétrault LLP;
- aa. **“Disclosure”** means the day on which Desjardins publicly announced the Data Breach, i.e., June 20, 2019;
- bb. **“Documentary Evidence”** means, for the strict purposes of Subclass 2 Members, the objective documentary evidence to demonstrate that the Claimant’s Identity Theft is probable, such as emails, letters, statements of account, receipts, invoices, written notices, screenshots, etc. The sole personal declaration of the Claimant, sworn or not, does not constitute Documentary Evidence;
- cc. **“Explanatory Notice”** means the notice intended to inform Class Members of the approval of the Final Settlement Agreement, their right to make a claim and the time limit for doing so, as well as the terms and conditions of the indemnification and administration of the claims provided for therein, the form and content of which is substantially in accordance with **Schedule 8** of this Final Settlement Agreement;
- dd. **“Explanatory Notice Period”** means the period of time, not to exceed thirteen (13) weeks, commencing on the Start Date of the Explanatory Notice Period, during which the Explanatory Notice of the Final Settlement Agreement shall be provided and published, as set forth in Sections 6 and 7 of the Administration Protocol (Schedule 5);
- ee. **“Final Settlement Agreement”** means this Final Settlement Agreement, including its Schedules, between the Parties to settle the Class Action;
- ff. **“Final Report of Administration”** means the written report produced by the Claims Administrator within 90 days after all indemnities have been paid for all Valid Claims, indicating the total amount of indemnities paid in connection with the execution of the Final Settlement Agreement;
- gg. **“Fonds d’aide”** means the Fonds d’aide aux actions collectives established under the *Act respecting the Fonds d’aide aux actions collectives*, CQLR c. F-3.2.0.1.1;
- hh. **“Identity Theft”** means the act of committing fraud by gathering and using a person’s personal information, unduly and without the person’s knowledge and by pretending to be that person. Identity Theft excludes fraudulent transactions on a credit card that was lawfully obtained by a Class Member, but includes the following transactions:
 - i. Opening of illegitimate financing or products, such as false enrolment for a banking product (e.g., financing) or a non-banking service (e.g., cellular);
 - ii. Account takeover by a person who has sufficient personal information to circumvent authentication mechanisms and modify the information allowing access to and trading in the account.

- ii. **“Invalid Claim”** or **“Rejected Claim”** means the rejected Claim or the Claim deemed invalid by the Claims Administrator at the end of or during the claims processing process provided for in the Final Settlement Agreement and which will not be entitled to compensation provided for in the Final Settlement Agreement;
- jj. **“Notice of Approval Hearing”** means the notice informing Class Members of the hearing for the approval of the Final Settlement Agreement and the legal fees and extrajudicial costs and disbursements of Class Counsel, the form and content of which is substantially in accordance with **Schedule 2** of this Final Settlement Agreement;
- kk. **“Opt-Out Right”** means the right of a Class Member to opt-out from the Class Action in accordance with section 580 of the *Code of Civil Procedure*, such that said class member will not be entitled to benefit from this Final Settlement Agreement;
- ll. **“Parties”** means Desjardins and the Applicants;
- mm. **“Pre-Approval Judgment”** means the judgment of the Court approving the application that Class Counsel will file in accordance with paragraphs 30 to 32 of the Final Settlement Agreement;
- nn. **“Protection Measures”** means the protection measures voluntarily implemented by Desjardins, for its members and clients in the wake of the Disclosure, including without limitation, protection of all assets and accounts held at Desjardins, the possibility of registering for Equifax’s credit monitoring service for a period of five years, the possibility of accessing, at no cost, TransUnion’s credit rating and credit record on the online AccèsD platform, and accompanying measures for identity restoration, as appears in **Schedule 4** of the Final Settlement Agreement;
- oo. **“Releasees”** means the Applicants and all Class Members, as well as their respective heirs, liquidators, successors, representatives, agents, attorneys, tutors, curators and assigns, and in the case of legal persons, with respect to a claim that they may have under the Final Settlement Agreement, their respective past, present or future subsidiaries, affiliated companies, related companies, divisions, associates, partners, insurers, predecessors, successors, assigns, officers, directors, agents, managers, members, servants, employees, lawyers, consultants, representatives, attorneys and subcontractors;
- pp. **“Released Claims”** means all recourses, demands, actions, causes of actions, claims, whether collective, individual or otherwise, personal or by subrogation, seeking orders of any kind (including injunctive relief) and/or damages of any kind (including compensatory, punitive or other damages), including interest, additional indemnities, costs, expenses, expert fees, penalties and legal fees (including Class Counsel fees), known or unknown, anticipated or unanticipated, alleged or not, actual or contingent and liquidated or unliquidated, relating in any way to the Data Breach, the allegations of the Class Action and the supporting exhibits and the allegations of the Wenman Class Action and the supporting exhibits, that the Releasees may have against the Released Parties;

- qq. **“Released Parties”** means Desjardins, all the Desjardins Caisses, the Caisse Desjardins Ontario Credit Union Inc. and all the Desjardins Group entities, as well as their respective past, present and future subsidiaries, affiliated companies, related companies, divisions, associates, partners, insurers, predecessors, successors, assigns, officers, directors, agents, managers, members, servants, employees, lawyers, consultants, representatives, attorneys and subcontractors and heirs;
- rr. **“Settlement Agreement in Principle”** means the agreement in principle entered into on December 6, 2020 by Class Counsel and Desjardins Counsel as part of a mediation before the Honourable François Rolland, attached to this Final Settlement Agreement as **Schedule 1**;
- ss. **“Start Date of the Explanatory Notice Period”** means the first Business Day of the Explanatory Notice Period, as ordered in the Approval Judgment, which shall be at least 30 days after the Approval Date, unless the Approval Judgment is appealed, in which case the Start Date of the Explanatory Notice Period shall be suspended by the Court if Desjardins so requests;
- tt. **“Subclass 1”** means the subclass consisting of all Class Members;
- uu. **“Subclass 2”** means the subclass consisting of Class Members who have been or will be the subject of an Identity Theft since the Data Breach;
- vv. **“Subclass 1 Limit”** means the maximum value of the indemnities that may be required to be paid to the Subclass 1 Members, i.e., \$168,052,500;
- ww. **“Subclass 2 Limit”** means the maximum value of the indemnities that may be required to be paid to Subclass 2 Members, i.e., \$32,800,000;
- xx. **“Total Limit of Indemnification”** means the maximum value of the indemnities that may be required to be paid to Class Members for the purposes of the Class Action, i.e., the amount of \$200,852,500 (corresponding to the amount of the Subclass 1 Limit and the Subclass 2 Limit);
- yy. **“Valid Claim”** means the Claim of a Subclass 1 Member filed during the Claim Period for Subclass 1 Members and/or the Claim of a Subclass 2 Member filed during the Claim Period for Subclass 2 Members, which is deemed valid and accepted by the Claims Administrator upon completion of the claims process set forth in the Final Settlement Agreement, and which will entitle the Claimant to an indemnity under the Final Settlement Agreement;
- zz. **“Wenman Class Action”** means the class action instituted by Matthew Wenman against Desjardins and other related entities based on the facts alleged in the proceedings filed before the Supreme Court of British Columbia in Court number VIC-S-S-192723 (*Matthew Wenman v. Matthew Wenman v. Desjardins Cabinet de Services Financiers Inc. et al.*);

III. PAYMENT AND INDEMNIFICATION

2. The indemnities provided for in the Final Settlement Agreement will be paid to the Subclass 1 Members and Subclass 2 Members who send Valid Claims to the Claims Administrator.
3. The indemnities payable to Subclass 1 Members and Subclass 2 Members will be distributed at the end of the claims process provided for in the Administration Protocol (Schedule 5), subject to the approval of the Court.
4. The indemnities paid pursuant to the Final Settlement Agreement include all damages, interest and additional indemnity.
5. The recovery provided for in the Final Settlement Agreement is an individual recovery for both Subclass 1 Members and Subclass 2 Members.
6. It is understood that the Fonds d'aide will take the percentage identified in subsection 1(3)(a) of the *Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives*, i.e., 2% of any individual claim made by Class Members.

A. Indemnification of Subclass 1 Members

7. Each Subclass 1 Member who has submitted a Valid Claim will receive compensation for the loss of time incurred in connection with the Data Breach.
8. Only Subclass 1 Members who have filed a Valid Claim for the time spent on Compensable Actions for 30 minutes or more will be entitled to compensation.
9. The loss of time for Subclass 1 Members will be compensated on an hourly basis of \$18.00.
10. Subclass 1 Members may submit a Claim for a maximum loss of time of 5 hours, which corresponds to a maximum indemnity of \$90.00.
11. Each Subclass 1 Member may submit only one Claim as a Subclass 1 Member and shall not be entitled to any other form of indemnity or claim (other than those provided for under the Protection Measures and/or the registration for Equifax, as the case may be), subject to also having a Valid Claim as a Subclass 2 Member in accordance with paragraph 15 of the Final Settlement Agreement;
12. Subclass 1 Members will be entitled to compensation for the loss of time in increments of 30 minutes, as set out in Table 1 below:

TABLE 1

Loss of time	Compensation:
< 30 min	\$0
30 min < 1h	\$9.00
1 < 1.5	\$18.00

1.5 < 2	\$27.00
2 < 2.5	\$36.00
2.5 < 3	\$45.00
3 < 3.5	\$54.00
3.5 < 4	\$63.00
4 < 4.5	\$72.00
4.5 < 5	\$81.00
≥ 5	\$90.00

13. If the total of the Valid Claims of Subclass 1 Members exceeds the Subclass 1 Limit, the amount thereof will be paid on a pro-rata basis of the total of the Valid Claims of Subclass 1 Members.
14. If the total of the Valid Claims of Subclass 1 Members does not exceed the Subclass 1 Limit, the difference between the Subclass 1 Limit and the total amount of the Valid Claims of the Subclass 1 Members will not have to be disbursed by Desjardins.

B. Indemnification of Subclass 2 Members

15. Each Subclass 2 member who has submitted a Valid Claim will be entitled to a lump sum indemnity of \$1,000, subject to the claims process and terms set out in the Administration Protocol, Schedule 5 of the Final Settlement Agreement.
16. Each Subclass 2 Member may submit only one Claim as a Subclass 2 Member and shall not be entitled to any other form of indemnity or claim (other than those provided for under the Protection Measures and/or the registration for Equifax, as the case may be), except the indemnity that the Subclass 2 Member may receive as a Subclass 1 Member in accordance with paragraphs 7 to 14 of the Final Settlement Agreement.
17. If the total amount of the Valid Claims received from Subclass 2 Members exceeds the Annual Limit for a given Claim Year, the amount thereof will be paid on a pro-rata basis of the Valid Claims filed during that Claim Year by Subclass 2 Members.
18. If the total amount of the Valid Claims received from Subclass 2 Members does not exceed the Annual Limit for a given Claim Year, the difference between the Annual Limit and the total amount of the Valid Claims filed by Subclass 2 Members for that given Claim Year will not have to be disbursed by Desjardins.
19. Notwithstanding paragraphs 17 and 18 of the Final Settlement Agreement, if the total of the Valid Claims received during Claim Year No. 1 exceeds the Annual Limit for Claim Year No. 1, and the Annual Limit for Claim Year No. 2 and/or Claim Year No. 3 are not reached, the difference between the Annual Limit for Claim Year No. 2 and/or Claim Year No. 3 and the total amount of the Valid Claims of Subclass 2 Members filed during these respective periods will be paid to those Subclass 2 Members who submitted a Valid Claim for Claim Year No. 1, up to the amount of the difference between the amount of \$1,000 and the indemnity paid in Claim Year No. 1.

C. Registration for Equifax

20. For the period beginning on the Start Date of the Explanatory Notice Period and ending one (1) year after the end of the Explanatory Notice Period, a Class member is entitled to register, at Desjardins' expense, for the credit monitoring service provided by Equifax for a period of five (5) years if the Class Member has not already subscribed to such service before the Start Date of the Explanatory Notice Period. For greater certainty, Desjardins will allow such member to register for the Equifax credit monitoring service on the same terms and conditions as those applicable to Class Members who registered for this service prior to the Start Date of the Explanatory Notice Period.
21. Desjardins will not modify the registration of Class Members who have already taken advantage of the registration for Equifax's credit monitoring service on the Start Date of the Explanatory Notice Period, thereby ensuring that they continue to benefit from Equifax's credit monitoring service for a period of five (5) years, free of charge, from the date of their registration.

D. Protection Measures

22. Class Members are entitled to benefit from the Protection Measures for a period of at least five (5) years following the Start Date of the Explanatory Notice Period.

IV. CLAIMS ADMINISTRATOR

A. Appointment of the Claims Administrator

23. The Claims of Class Members will be processed and administered by the Claims Administrator in accordance with the Final Settlement Agreement, including the Administration Protocol (Schedule 5). The Claims Administrator acts as an independent officer of justice who remains subject to the Court's oversight and supervision.
24. The Claims Administrator chosen by mutual agreement of the Parties is RicePoint Administration Inc.
25. The fees and expenses of the Claims Administrator will be borne by Desjardins, in addition to any other amount payable under this Final Settlement Agreement.

B. Confidentiality Agreement of the Claims Administrator

26. It is understood that the Claims Administrator shall maintain the confidentiality of all the terms of the Final Settlement Agreement and shall not disclose them without the prior consent of Class Counsel and Desjardins Counsel, or to the extent required to give effect to the terms of the Final Settlement Agreement, or when otherwise required by law.
27. Any information provided to the Claims Administrator by a Claimant, Class Counsel, or Desjardins Counsel will only be used to implement and administer the claims process, and to assess and consider the eligibility of the Claims submitted under the Final Settlement Agreement. Information relating to a Claimant will be kept strictly confidential and private and will not be disclosed without the Claimant's express written consent.

V. APPROVAL OF THE FINAL SETTLEMENT AGREEMENT

28. The Parties and their attorneys will make every effort to implement the Final Settlement Agreement.
29. The Parties undertake to collaborate and implement the efforts and means required to ensure that the Final Settlement Agreement is approved and given full effect. To this end, the Parties undertake to jointly make a submission before the Court that the Final Settlement Agreement is fair and reasonable, and that it was concluded in the best interests of Class Members.

A. Application for Pre-Approval

30. Class Counsel will file an Application for Pre-Approval to obtain orders from the Court:
- a. Authorizing the Class Action for the purpose of approving the Final Settlement Agreement only and with respect to the following common issue: [TRANSLATION] *“Regarding the Data Breach, did Desjardins breach its obligations and, if so, are the Class Members entitled to compensation?”*
 - b. Appointing the Applicants as representatives in the Class Action for approval of the Final Settlement Agreement only;
 - c. Defining the Class for approval of the Final Settlement Agreement only;
 - d. Establishing the procedure to be followed by Class Members who wish to exercise their Opt-Out Right;
 - e. Setting the deadline for exercising the Opt-Out Right at 60 days from the date of the Pre-Approval Judgment (**Schedule 2**);
 - f. Establishing the procedure to be followed by Class Members who wish to assert their contentions regarding the Final Settlement Agreement and within what time frame;
 - g. Provisionally appointing RicePoint Administration Inc. as the Claims Administrator as of the date of the Pre-Approval Judgment for the purpose of permitting RicePoint to advise Class Members regarding the Notice of Approval Hearing, the exercise of the Opt-Out Right, and the procedures Class Members must follow to pursue their claims regarding the Final Settlement Agreement;
 - h. Approving, substantially, the form, content and methods of dissemination of the Notice of Approval Hearing, it being understood that, subject to the Court’s approval, the Notice of Approval Hearing will be published in each of the following newspapers:
 - i. *La Presse +;*
 - ii. *Le Devoir;*
 - iii. *Le Journal de Montréal;*

- iv. *Le Journal de Québec;*
- v. *The Montreal Gazette;*
- vi. *The National Post;*
- vii. *Local newspapers for the Québec regions, namely:*
 - 1) *Le Droit (Gatineau);*
 - 2) *La Voix de L'Est (Granby);*
 - 3) *La Tribune (Sherbrooke);*
 - 4) *Le Nouvelliste (Trois-Rivières);*
 - 5) *Le Quotidien (Saguenay);*
- viii. *The Vancouver Sun;*
- ix. *The Victoria Times-Colonist.*

- 31. Class Counsel will submit to Desjardins Counsel a draft of the Application for Pre-Approval Counsel and a draft of the judgment for comments fifteen (15) days before the expected date of notification. Class Counsel agree to consider in good faith the bona fide comments submitted by Desjardins Counsel in connection with the Application for Pre Approval.
- 32. The Applicants will make every effort to submit the Application for Pre-Approval as soon as possible subject to the Court's availability.
- 33. Until the Application for Pre-Approval is filed, the Parties, Class Counsel and Desjardins Counsel will maintain the confidentiality of all the terms of the Final Settlement Agreement and will not disclose them without the prior consent of Class Counsel and Desjardins Counsel, or to the extent required to give effect to the terms of the Final Settlement Agreement, or when otherwise required by law.
- 34. Following the filing of the Application for Pre-Approval, the Parties, Class Counsel and Desjardins Counsel undertake to limit their direct or indirect public statements regarding the Class Action and the Final Settlement Agreement, whether on social media or in response to requests for information and interviews from the media, to statements that explain, promote and/or approve the virtues of the Final Settlement Agreement or which comply with the content of the Notice of Approval Hearing and/or Explanatory Notice. The Applicants and Class Counsel will not take any action or make any statement, directly or indirectly, that may imply that the Final Settlement Agreement constitutes an admission of liability or the veracity of the allegations of the Class Action.

B. Dissemination of the Notice of Approval Hearing

- 35. Within 30 days of the Pre-Approval Judgment, the Notice of Approval Hearing (Schedule 2) will be:

- a. sent by the AccèsD service to each Class Member with a Desjardins AccèsD account; and
 - b. published in the newspapers identified in paragraph 30 of the Final Settlement Agreement, if possible on the same occasion and on the same date, and/or in accordance with the terms and conditions identified in the Pre-Approval Judgment.
36. The costs of publishing the Notice of Approval Hearing will be borne by Desjardins, in addition to any other amount payable under the Final Settlement Agreement.

C. Opt-Out Procedure and presentation of objections

37. Class Members who have not exercised their Opt-Out Right in the prescribed manner shall be irrevocably deemed to have chosen to participate in the Final Settlement Agreement and shall be bound by it, if approved, and by any judgment or order relating thereto.
38. A Class Member who wishes to exercise his or her Opt-Out Right shall, before the expiry of the opt-out period set by the Pre-Approval Judgment, file a written document with the Office of the Court and send it to the Claims Administrator stating the following:
- a. his or her name and contact information; and
 - b. a signed declaration advising of his or her decision to exclude himself or herself from the Class Action and the Final Settlement Agreement.
39. A Class Member who wishes to assert with the Court his or her objection to the Final Settlement Agreement shall, before the expiration of the time limit set by the Pre-Approval Judgment, send to the Claims Administrator in writing the following:
- a. his or her name and contact information; and
 - b. a signed statement detailing his or her objection to the Final Settlement Agreement and whether or not he or she intends to be represented by counsel to assert said objection.
40. The Claims Administrator shall, upon receipt, provide Class Counsel and Desjardins Counsel with a copy of all comments, objections or requests for exclusion received in response to the publication of the Notice of Approval Hearing.
41. At any time prior to the hearing of the Application for Approval, Class Counsel will be free, in their sole discretion, to contact any Class Member who has exercised his or her Opt-Out Right to verify that this person understands the benefits offered to him or her under the Final Settlement Agreement and that he or she has made an informed decision when determining his or her participation or exclusion. Any Class Member who is contacted by Class Counsel in the manner described in this paragraph and who, before the hearing of the Application for Approval, provides Class Counsel with a directive not to take into account the prior exercise of his or her Opt-Out Right, shall retain his or her status as a Class Member.

D. Application for Approval

42. As soon as possible after the expiry of the deadline for the exercise of the Opt-Out Right set out by the Court in the Pre-Approval Judgment, Class Counsel will file an Application for Approval with the Court seeking orders:
- a. Approving the Final Settlement Agreement;
 - b. Ordering the Parties and Class Members, except those who have excluded themselves in accordance with the Final Settlement Agreement and the Pre Approval Judgment, to comply with the terms and conditions of the Final Settlement Agreement;
 - c. Approving the Administration Protocol (Schedule 5);
 - d. Substantially approving the form and content of the Claim Form (Schedule 3);
 - e. Appointing the Claims Administrator;
 - f. Ordering the Claims Administrator to maintain the confidentiality of any information concerning Class Members in accordance with paragraphs 46 to 48 of the Final Settlement Agreement;
 - g. Approving, substantially, the form, content and methods of dissemination of the Explanatory Notice;
 - h. Setting the Start Date of the Explanatory Notice Period; and
 - i. Approving the legal fees and extrajudicial costs and disbursements (plus applicable taxes) of Class Counsel.
43. Class Counsel will submit a draft of the Application for Approval and a draft of the judgment for approval to Desjardins Counsel within fifteen (15) days of the expected date of notification. Class Counsel agree to consider the bona fide comments submitted by Desjardins' Counsel in connection with the Application for Approval.
44. The Final Settlement Agreement will become enforceable on the Approval Date only.

E. Transmission of Information to the Claims Administrator

45. Before the Start Date of the Explanatory Notice Period, Desjardins must send the Claims Administrator all the information necessary to allow the Claims to be processed. In order to preserve the confidentiality of Class Members' data and to reduce the risks inherent in any transfer of personal data, Desjardins will not transfer to the Claims Administrator any personally identifiable data about Class Members. Desjardins shall pre-validate the eligibility of Claimants upon delivery of the Explanatory Notice or validate the eligibility of Claimants itself using information collected by the Claims Administrator. If Desjardins is unable to validate a Claimant's eligibility using the information collected by the Claims Administrator, Desjardins shall so inform the Claims Administrator and shall advise the Claims Administrator which information collected is not sufficient to validate the Claimant's eligibility. The Claims Administrator, at its request and at its sole discretion, may then

validate the eligibility of said Claimant by means of a secure method to be determined between Desjardins and the Claims Administrator and which will not involve the transfer of personal data. At the end of this exercise, the Claims Administrator's decision as to whether or not to validate the eligibility of said Claimant shall be final and without appeal.

46. The Claims Administrator will sign a confidentiality agreement, a copy of which is attached hereto as **Schedule 6**, prohibiting the Claims Administrator from using any information about Class Members, including the information provided in accordance with this Final Settlement Agreement and that is collected in the administration of said agreement, for purposes other than those provided for in the Final Settlement Agreement, committing the Claims Administrator to take all necessary security measures to protect the information about Class Members and prohibiting the release of any such information except in cases provided for by law or pursuant to an order of the Court, in which case the Parties shall be informed thereof without delay.
47. As part of the approval of the Final Settlement Agreement by the Court, the Parties will further request the Court to order the Claims Administrator to maintain the confidentiality of any information relating to Class Members, including the information provided in accordance with this Final Settlement Agreement and that is collected in the administration of said agreement, and to prohibit the Claims Administrator from using such information about Class Members for purposes other than those provided for in the Final Settlement Agreement or to disclose such information, except as provided by law or pursuant to an order of a court of competent jurisdiction.
48. For greater certainty, to approve the Final Settlement Agreement, the Court shall allow Desjardins to transmit to the Claims Administrator certain information concerning Class Members in accordance with the Final Settlement Agreement and for the sole purposes set out therein. To do so, the Parties will jointly ask the Court to order that Desjardins be relieved of any other duty of confidentiality under applicable laws or under an applicable secret or privilege, for the sole purpose of allowing such transmission.

VI. RELEASE

49. Effective on the Approval Date, in consideration of the commitments contained in the Final Settlement Agreement, the Releasees shall give a full and final release to the Released Parties, and discharge and relieve them, totally, entirely, and forever, in respect of all Released Claims.
50. This Release covers the entirety of the Released Parties' share in any solidary liability in respect of the Released Claims, which the Releasees acknowledge to have received under the Final Settlement Agreement. The Releasees shall accordingly release the Released Parties from solidary liability.
51. The Releasees acknowledge that they may discover new or different facts from those they know or believe they know about the Data Breach and the facts alleged in the proceedings in the Class Action, and that they intend to give a full and final release to the Released Parties in accordance with paragraph 49, notwithstanding the discovery or existence of new or different facts.
52. The Releasees and Class Counsel agree not to undertake, institute, file, continue or intervene in connection with, directly or indirectly, in the Province of Québec or anywhere

else, in their own name or on behalf of any other person, any recourse, demand, action, cause of action, claim, whether collective, individual or any other nature, in respect of the Released Claims against the Released Parties, or any other person that would result in recourse or proceedings in warranty against the Released Parties or forced intervention by the latter.

53. The Applicants and Class Counsel agree to work with Desjardins in connection with any necessary proceedings filed by Desjardins to have the release resulting from the Final Settlement Agreement applied in the Wenman Class Action.
54. If the Court approves the Final Settlement Agreement and the Approval Judgment is rendered, the Applicants, Class Members and Class Counsel agree not to, directly or indirectly, institute any proceedings, complaints, actions, claims of any nature whatsoever resulting, in whole or in part, from a cause, act, omission or other fact or exhibit in support of the proceedings, in relation to the facts alleged in the proceedings in the Class Action.
55. This Release is without prejudice to the existence and right of Class Members to avail themselves of the Protection Measures, which will be maintained in force for a period of at least five (5) years from the Approval Date, and/or from the registration for Equifax, as the case may be.

VII. EFFECT OF THE FINAL SETTLEMENT AGREEMENT

56. The Parties expressly reserve all their rights if the Final Settlement Agreement is not approved by the Court or does not take effect for any reason.
57. Desjardins has denied and continues to deny each of the allegations of liability and fault; Desjardins asserts that it has strong factual and legal defences with respect to all the alleged claims and that these claims are unfounded. Without admission of fault or liability of any nature whatsoever, Desjardins accepts the terms of the Final Settlement Agreement provided that all issues relating to the subject matter of the dispute are hereby fully resolved.
58. The Parties agree that the Final Settlement Agreement, whether or not it is terminated, and everything contained therein, as well as the negotiations, documents, discussions and procedures in any way, directly or indirectly, associated with the Final Settlement Agreement, shall not be used, offered or received as evidence in any pending or future civil, criminal or administrative action or proceeding, except in a pending or future proceeding to approve and/or execute the Final Settlement Agreement, to defend against Released Claims or otherwise as required by law.
59. No provision of the Final Settlement Agreement shall constitute or shall be construed or considered to constitute a waiver by Desjardins of any right or defence against any claim, demand or cause of action of a Class Member who exercised the Opt-Out Right or a waiver by Desjardins of any right or defence in the context of the dispute of the Class Action if the Final Settlement Agreement is not approved by the Court or otherwise becomes null and void pursuant to any provision of the Final Settlement Agreement.
60. All obligations of any nature assumed by Desjardins and Desjardins Counsel pursuant to the Final Settlement Agreement do not constitute an admission of liability on the part of

Desjardins, nor does Desjardins' consent to the Final Settlement Agreement or to the issuance of the Approval Judgment.

61. If, for any reason, the Final Settlement Agreement is not approved or does not take effect or is terminated, the Final Settlement Agreement and any documents exchanged during negotiations cannot be interpreted as an admission of liability on the part of Desjardins.

VIII. FEES OF CLASS COUNSEL

62. Desjardins will pay Class Counsel their judicial and extrajudicial fees and disbursements, plus applicable taxes, in lieu of the Applicants and Class Members, in addition to any other amount payable under the Final Settlement Agreement, subject to the approval of the Court.
63. The Parties shall make the necessary efforts to attempt to reach an agreement on the amount of such fees and disbursements.
64. In the absence of an agreement within the meaning of paragraph 63, the Parties shall proceed with a mediation session before the Honourable François Rolland, to attempt to reach an agreement on the amount of such fees and disbursements and, if no agreement reached, the Court shall decide on the applicable fees and disbursements.
65. If the Parties have agreed on the amount of fees and disbursements, it is understood that Desjardins undertakes not to contest the request for judicial and extrajudicial fees and disbursements of Class Counsel, and to make representations in response to the Court's questions supporting the agreement regarding the judicial and extrajudicial fees and disbursements of Class Counsel.
66. The Final Settlement Agreement is in no way conditional upon the approval of the judicial and extrajudicial fees and disbursements of Class Counsel. Any order or proceeding with respect to the judicial and extrajudicial fees and disbursements of Class Counsel, as well as any appeal relating thereto or any subsequent cancellation or amendment, shall not have the effect of terminating or cancelling the Final Settlement Agreement, nor of modifying or affecting the implementation, performance and deadlines set out in the Final Settlement Agreement.
67. In consideration of the payment of legal fees and extrajudicial costs and disbursements (plus applicable taxes) provided for in the Final Settlement Agreement, Class Counsel agree not to claim from Desjardins or Class Members any other judicial or extrajudicial fees or disbursements of any kind, directly or indirectly, and will not take any percentage from any other amount payable under the Final Settlement Agreement.
68. Unless otherwise provided in the Final Settlement Agreement, the Parties shall assume their respective costs incurred.

IX. TERMINATION OF THE FINAL SETTLEMENT AGREEMENT

69. Desjardins will have the right to terminate the Final Settlement Agreement in any of the following circumstances:

- a. the Applicants fail to comply with any of their obligations or the conditions under the Final Settlement Agreement and do not cure such breach within ten (10) days of receipt of a written notice of default sent by Desjardins or Desjardins Counsel;
- b. the Application for Pre-Approval or the Application for Approval is not granted substantially by the Court or by an appellate court, particularly with respect to the approval of the Final Settlement Agreement;
- c. the number of Class Members who have exercised the Opt-Out Right exceeds a certain number of Excluded Members, which number is set forth in the Maximum Excluded Members Agreement, a copy of which is filed under seal and attached to this Final Settlement Agreement as **Schedule 7**;

by providing a written notice to the Applicants and Class Counsel, within ten (10) days of the occurrence of the circumstances described in sub-paragraph a. and b., or within thirty (30) days of receipt by Desjardins of all comments, contentions or requests for exclusion within the meaning of paragraph 40 following the expiration of the time period set forth in the Pre-Approval Judgment to exercise the Opt-Out Right concerning the circumstance described in sub-paragraph c.

- 70. Desjardins undertakes to make reasonable efforts not to incite or encourage any Class Member, including, without limitation, its officers and employees, to avail themselves of the Opt-Out Right.
- 71. If the Application for Pre-Approval or the Application for Approval (except, in the case of the Application for Approval, the request of Class Counsel to obtain approval of their judicial and extrajudicial fees and disbursements) is not granted substantially, particularly with respect to the approval of the Final Settlement Agreement, the Applicants, collectively and not separately, will have the right to terminate the Final Settlement Agreement by providing a written notice to Desjardins and Desjardins Counsel within ten (10) days of the occurrence of the circumstances mentioned above.
- 72. If the Settlement Agreement is terminated in accordance with its terms:
 - a. the Final Settlement Agreement shall be deemed null and void, shall not give rise to any right or obligation in favour of or against the Parties and Class Members and shall not be admissible, presented as evidence or used in litigation for any purpose whatsoever;
 - b. all applications made and orders rendered under the Final Settlement Agreement shall be null and void (except paragraphs 56 to 61 and 72 and the corresponding definitions provided for in paragraph 1 of the Final Settlement Agreement), shall be inoperative with respect to the Parties and shall not be presented as evidence or used in litigation for any purpose whatsoever; and
 - c. the Parties shall take all necessary measures and make all necessary representations to ensure that each of them is in the same situation for the purposes of the Class Action as if the Final Settlement Agreement had not been negotiated, entered into or filed with the Court, including by making the requisite motions to set aside any approval order issued or authorization of the Class Action; Desjardins reserves the right to contest said authorization of the Class Action.

X. GENERAL PROVISIONS

73. In the Final Settlement Agreement:
- a. the division of the Final Settlement Agreement into paragraphs and the insertion of headings are for reference purposes only and will not affect the interpretation of the Final Settlement Agreement; and
 - b. the terms “Final Settlement Agreement”, “below”, “above”, “herein” and similar expressions refer to the Final Settlement Agreement and not to a specific paragraph or a specific portion of the Final Settlement Agreement.
74. For the purposes of the computation of time set out in the Final Settlement Agreement, unless otherwise indicated:
- a. when there is a reference to a number of days between two events, the day that marks the starting point is not counted, but the day of the deadline is counted;
 - b. where there is a reference to a number of months between two events, the period expires on the day of the last month that bears the same date as the event that causes the period to run; if there is no identical date, the period expires on the last day of the month; and
 - c. when a period expires on a statutory holiday as defined by the *Code of Civil Procedure*, the period will expire on the following non-statutory holiday.
75. As part of the Final Settlement Agreement, the Final Settlement Agreement, the Administration Protocol, all notices to Class Members and all the claim forms – whatever they may be – will be drafted in both French and English. In the event of any inconsistency or discrepancy between a French version and an English version of a document, the French version shall prevail.
76. The notices to Class Members will be published in the newspapers in accordance with the respective language of such newspapers, and Desjardins will make reasonable efforts to have these notices distributed to members based on their language of correspondence, based on the available information held by Desjardins.
77. The Court will have sole and exclusive jurisdiction over the implementation, administration, interpretation and enforcement of the terms of the Final Settlement Agreement and the Parties and Class Members acknowledge the Court’s jurisdiction.
78. The Final Settlement Agreement will be interpreted in accordance with the laws of the Province of Québec and those of Canada.
79. The Final Settlement Agreement takes precedence over the Agreement in Principle and any other agreement, undertaking, representations, negotiations and agreement between the Parties. None of the Parties will be bound by any other prior obligation, condition or representation with respect to the Final Settlement Agreement, unless expressly incorporated herein.

80. The Final Settlement Agreement may not be modified or amended, except in writing and with the consent of the Applicants and Desjardins, and such modifications or amendments must be approved by the Court.
81. The Final Settlement Agreement will be binding on the Applicants, Class Members, Desjardins, Released Parties, and Releasees and all their successors and assignees.
82. The Final Settlement Agreement may be signed in several counterparts, which together constitute one and the same agreement, and a signature by fax or in a PDF file will be deemed an original signature for the purpose of signing the Final Settlement Agreement.
83. The Final Settlement Agreement was the subject of negotiations and discussions between Desjardins and Class Counsel, and each of the Parties was represented and advised by a competent lawyer. The Parties therefore waive the application of any law, rule, case law or other sources of law that would otherwise provide or could otherwise cause the Final Settlement Agreement to be interpreted against the authors of the Final Settlement Agreement. The Parties also agree that the content of previous versions of the Settlement Agreement shall not affect the appropriate interpretation of the Final Settlement Agreement.
84. The Final Settlement Agreement constitutes a transaction under articles 2631 and following of the *Civil Code of Québec*, CQLR c. CCQ-1991, and the Parties hereby waive any request relating to an error of fact, law and/or calculation.
85. The preamble is an integral part of the Final Settlement Agreement.
86. Any communication to the Applicants or Desjardins regarding the implementation and performance of the Final Settlement Agreement must be made in writing, either by courier or by email, and must be addressed as follows:

For the Applicants:

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