

CANADA

PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

NO: 500-06-001166-210

(Class Action)  
SUPERIOR COURT

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KATY HAROCH, [REDACTED]  
[REDACTED]

and

CLAUDE VAILLANCOURT, [REDACTED]  
[REDACTED]

Applicants

v.

**THE TORONTO-DOMINION BANK**, legal person having its principal establishment at 1350 René-Levesque boulevard West, 6<sup>th</sup> Floor, district of Montreal, Province of Quebec, H3G 1T4

and

**NATIONAL BANK OF CANADA**, legal person having its head office at 600, rue de la Gauchetière Ouest, 4<sup>th</sup> floor, district of Montreal, Province of Québec, H3B 4L2

and

**ROYAL BANK OF CANADA**, legal person having its head office at 1 Place Ville Marie, district of Montreal, Province of Quebec, H3B 3A9

and

**BANQUE DE MONTRÉAL**, legal person having its principal establishment at 119 Saint-Jacques Street, district of Montreal, Province of Quebec, H2Y 1L6

and

**THE BANK OF NOVA SCOTIA**, legal person having a principal establishment at 1002 Sherbrooke Street West, district of Montreal, Province of Quebec, H3A 3L6

and

**LAURENTIAN BANK OF CANADA**, legal person having a principal establishment at 1981 McGill College avenue, district of Montreal, Province of Quebec, H3A 3K3

and

**HSBC BANK OF CANADA**, legal person having a principal establishment at 160-2001 McGill College, district of Montreal, Province of Québec, H3A 1G1

and

**FÉDÉRATION DES CAISSES DESJARDINS DU QUÉBEC**, legal person having its head office at 100, rue des Commandeurs, Lévis, district of Québec, Province of Québec, G6V 7N5

and

**CAISSE DESJARDINS DU COEUR-DE-L'ÎLE**, legal person having its principal establishment at 2050, Boulevard Rosemont, Montréal, District of Montréal, Province of Québec, H2G 1T1

and

**CAISSE DESJARDINS DE L'ADMINISTRATION ET DES SERVICES PUBLICS**, legal person having its head office at 1035, rue De la Chevrotière, Québec, District of Québec, Province of Québec, G1R 5X4

and

**LA CAISSE POPULAIRE DE RAGUENEAU**, legal person having its principal establishment at 550 Route 138, Ragueneau, District of Baie Comeau, Province of Québec, G0H 1S0  
and

**CAISSE POPULAIRE DESJARDINS DE HAVRE-SAINT-PIERRE**, legal person having its principal establishment at 1072 rue de la Dulcinée, Havre-Saint-Pierre, District of Mingan, Province of Québec, G0G 1P0

and

**CAISSE POPULAIRE DESJARDINS DE BAIE-COMEAU**, legal person having its principal establishment at 267 boulevard Lasalle, Baie-Comeau, District of Baie-Comeau, Province of Québec, G4Z 1S7

and

**CAISSE POPULAIRE DESJARDINS DE MINGAN-ANTICOSTI**, legal person having its principal establishment at 998, Chemin du roi, CP 40, Longue-Pointe-de Mingan, District of Mingan, Province of Québec, G0G 1V0

and

**LA CAISSE POPULAIRE DESJARDINS DE SEPT-ÎLES**, legal person having its principal establishment at 760 Laure boulevard, Sept-Îles, District of Mingan, Province of Québec, G4R 1Y4

and

**CAISSE DESJARDINS DE PORT-CARTIER** legal person having its principal establishment at 8 boul. des Îles, Port-Cartier, District of Mingan, Province of Québec, G5B 2J4

and

**CAISSE POPULAIRE DESJARDINS DE HAUTERIVE**, legal person having its principal establishment at 990 Laflèche boulevard, Baie-Comeau, District of Baie-Comeau, Province of Québec, G5C 2W9  
and

**CAISSE POPULAIRE DESJARDINS DE BLANC-SABLON**, legal person having its principal establishment at 1056 Dr. Camille-Marcoux boulevard, Lourdes-de-Blanc Sablon, District of Mingan, Province of Québec, G0G 1W0

and

**CAISSE POPULAIRE DESJARDINS DU SAGUENAY-SAINT-LAURENT**, legal person having its principal establishment at 11 Sirois Street, CP 159, Les Escoumins, District of Baie-Comeau, Province of Québec, G0T 1K0

and

**CAISSE POPULAIRE DESJARDINS DE TÊTE-À-LA-BALEINE**, legal person having its principal establishment at 101 rue de la Chute, Tête-à-la-Baleine, District of Mingan, Province of Québec, G0G 2W0

and

**CAISSE DESJARDINS DU CENTRE DE LA HAUTE-CÔTE-NORD**, legal person having its principal establishment at 53, 2<sup>e</sup> avenue, Forestville, District of Baie-Comeau, Province of Québec, G0T1E0

and

**LA CAISSE POPULAIRE DE LA TABATIÈRE**, legal person having its principal establishment at 6, rue Desjardins, Gros-Mécatina (La Tabatière), District of Mingan, Province of Québec, G0G 1T0

and

**CAISSE DESJARDINS DE LA BAIE DES CHALEURS**, legal person having its principal establishment at 554, boulevard Perron Est, CP 2067, Maria, District of Bonaventure, Province of Québec, G0C 1Y0

and

**CAISSE POPULAIRE DESJARDINS MER ET MONTAGNES**, legal person having its principal establishment at 2, Rue de Couvent, Grande-Vallée, District of Gaspé, Province of Québec, G0E1K0

and

**CAISSE POPULAIRE DESJARDINS DU CENTRE-SUD GASPÉSIE**, legal person having its principal establishment at 70, Boul. René-Lévesque Est, Chandler, District de Gaspé, Province of Québec, G0C 1K0

and

**CAISSE DESJARDINS DE LA POINTE DE LA GASPÉSIE**, legal person having its principal establishment at 80, Rue Jacques-Cartier, Gaspé, District of Gaspé, Province of Québec, G4X 2V2

and

**CAISSE POPULAIRE DESJARDINS DES RAMÉES**, legal person having its principal establishment at 1278, Ch. De la Vernière, Les Îles-de-la-Madelaine (L'Étang-du-Nord), District of Gaspé, Province of Québec, G4T 3E6

and

**CAISSE POPULAIRE DESJARDINS DE HÂVRE-AUX-MAISONS**, legal person having

its principal establishment at 38, Ch. Central, Les Îles-de-la-Madelaine, District of Gaspé, Province of Québec, G4T 5G9

and

**CAISSE DESJARDINS DU LITTORAL GASPÉSIEN**, legal person having its principal establishment at 73, Grande-Allée Est, Grande-Rivière, District of Gaspé, Province of Québec, G0C 1V0

and

**CAISSE POPULAIRE DESJARDINS DE LA HAUTE-GASPÉSIE**, legal person having its principal establishment at 10, 1<sup>re</sup> avenue Est, Sainte-Anne-Des-Monts, District of Gaspé, Province of Québec, G4V 1A3

and

**CAISSE POPULAIRE DESJARDINS DE RIVIÈRE-DU-LOUP**, legal person having its principal establishment at 315, Boul. Armand-Thériault, Rivière-du-Loup, District of Kamouraska, Province of Québec, G5R 0C5

and

**CAISSE DESJARDINS DU BIC-SAINT-FABIEN**, legal person having its principal establishment at 157, Rue de Sainte-Cécile-du-Bic, Rimouski, District of Rimouski, Province of Québec, G0L 1B0

and

**CAISSE DESJARDINS DE RIMOUSKI**, legal person having its principal establishment at 100, Rue Julie-Réhel, Rimouski, District of Rimouski, Province of Québec, G5L 0G6

and

**CAISSE DESJARDINS DE MONT-JOLI-EST**

**DE LA MITIS**, legal person having its principal establishment at 1553, Boul. Jacques-Cartier, Mont-Joli, District of Rimouski, Province of Québec, G5H 2V9

and

**CAISSE DESJARDINS VALLÉE DE LA MATAPÉDIA**, legal person having its principal establishment at 15, rue du Pont, Amqui, District of Rimouski, Province of Québec, G5J 0E6

and

**CAISSE DESJARDINS DE VIGER ET VILLERAY**, legal person having its principal establishment at 91, Rue Saint-Jean-Baptiste, CP 197, L'Isle-Verte, District of Kamouraska, Province of Québec, G0L1K0

and

**CAISSE DESJARDINS DE LA MATANIE**, legal person having its principal establishment at 300, Rue du Bon-Pasteur, CP 248, Matane, District of Rimouski, Province of Québec, G4W 3N2

and

**CAISSE DESJARDINS DES BASQUES**, legal person having its principal establishment at 80, Rue Notre-Dame Ouest, Trois-Pistoles, District of Kamouraska, Province of Québec, G0L 4K0

and

**CAISSE DESJARDINS DE LA RIVIÈRE NEIGETTE**, legal person having its principal establishment at 24, Rue Principale, Saint-Anaclet-de-Lessard, District of Rimouski, Province of Québec, G0K 1H0

and

**CAISSE DESJARDINS DES LACS DE TÉMISCOUATA**, legal person having its principal establishment at 415, Av. Principale, Dégelis, District of Kamouraska, Province of Québec, G5T 1L4

and

**CAISSE DESJARDINS TRANSCONTINENTAL-PORTAGE**, legal person having its principal establishment at 1857, Rue Principale, Pohénégamook, District of Kamouraska, Province of Québec, G0L 1J0

and

**CAISSE DESJARDINS DE LA RÉGION DE THETFORD**, legal person having its principal establishment at 300, Boulevard Frontenac Est, Thetford Mines, District of Frontenac, Province of Québec, G6G 7M8

and

**CAISSE DESJARDINS DES ETCHEMINS**, legal person having its principal establishment at 223, 2<sup>ième</sup> Avenue, Lac-Etchemin, District of Beauce, Province of Québec, G0R 1S0

and

**CAISSE DESJARDINS DU SUD DE LA BEAUCE**, legal person having its principal establishment at 2880, 25<sup>ième</sup> Avenue, Saint-Prosper, District of Beauce, Province of Québec, G0M 1Y0

and

**CAISSE DESJARDINS DE BELLECHASSE**, legal person having its principal establishment at 730, Route Bégin, Saint-Anselme, District of Beauce, Province of Québec, G0R 2N0

and

**CAISSE DESJARDINS DE BEAUCE-CENTRE**, legal person having its principal establishment at 825, Avenue du Palais, Saint-Joseph-de-Beauce, District of Beauce, Province of Québec, G0S 2V0

and

**CAISSE DESJARDINS DE L'ANSE DE LA POCATIÈRE**, legal person having its principal establishment at 308, 4<sup>ième</sup> Avenue, La Pocatière, District of Kamouraska, Province of Québec, G0R 1Z0

and

**CAISSE DESJARDINS DES SOMMETS DE LA BEUCE**, legal person having its principal establishment at 9, Route 271 Sud, Saint-Éphrem-de-Beauce, District of Beauce, Province of Québec, G0M 1R0

and

**CAISSE DESJARDINS DE LA NOUVELLE-BEAUCE**, legal person having its principal establishment at 275, Avenue Marguerite-Bourgeoys, Sainte-Marie, District of Beauce, Province of Québec, G6E 3Y9

and

**CAISSE DESJARDINS DE LA MRC DE MONTMAGNY**, legal person having its principal establishment at 116, Boulevard Taché Ouest, Montmagny, District of Montmagny, Province of Québec, G5V 3A5

and

**CAISSE DESJARDINS DU CENTRE DE KAMOURASKA**, legal person having its principal establishment at 620, Rue Taché, Saint-Pascal, District of Kamouraska, Province of Québec, G0L 3Y0

and

**CAISSE DESJARDINS DU NORD DE L'ISLET**, legal person having its principal establishment at 339, Boulevard Nilus-Leclerc, L'Islet, District of Montmagny, Province of Québec, G0R 2C0

and

**CAISSE DESJARDINS DU SUD DE LA CHAUDIÈRE**, legal person having its principal establishment at 10555, Boulevard Lacroix, Saint-Georges, District of Beauce, Province of Québec, G5Y 1K2

and

**CAISSE DESJARDINS DES CHAMPS ET DES BOIS**, legal person having its principal establishment at 487, Avenue de l'École, Saint-Alexandre-de-Kamouraska, District of Kamouraska, Province of Québec, G0L 2G0

and

**CAISSE DESJARDINS DU CARREFOUR DES LACS**, legal person having its principal establishment at 572, Avenue Jacques-Cartier, Disraëli, District of Frontenac, Province of Québec, G0N 1E0

and

**CAISSE DESJARDINS DU SUD DE L'ISLET ET DES HAUTES-TERRES**, legal person having its principal establishment at 112, Rue Principale, Saint-Pamphile, District of Montmagny, Province of Québec, G0R 3X0

and

**CAISSE DESJARDINS DES CHUTES MONTMORENCY**, legal person having its principal establishment at 4, Rue Vachon,

Québec, District of Québec, Province of Québec, G1C 2V2

and

**CAISSE POPULAIRE DESJARDINS DE CHARLESBOURG**, legal person having its principal establishment at 155, 76<sup>e</sup> Rue Est, Québec, District of Québec, Province of Québec, G1H 1G4

and

**CAISSE DESJARDINS DE BEAUPORT**, legal person having its principal establishment at 799, Rue Clemenceau, Québec, District of Québec, Province of Québec, G1C 8J7

and

**CAISSE DESJARDINS DE QUÉBEC**, legal person having its principal establishment at 150, Rue Marie-de-l'Incarnation, Québec, District of Québec, Province of Québec, G1N 4G8

and

**CAISSE DESJARDINS DU PLATEAU MONTCALM**, legal person having its principal establishment at 1351, Chemin Sainte-Foy, Québec, District of Québec, Province of Québec, G1S 2N2

and

**CAISSE DESJARDINS DE LA CÔTE-DE-BEAUPRÉ**, legal person having its principal establishment at 9751, Boulevard Sainte-Anne, Sainte-Anne-de-Beaupré, District of Québec, Province of Québec, G0A 3C0

and

**CAISSE DESJARDINS DE L'ÎLE-D'ORLÉANS**, legal person having its principal

establishment at 1185, Chemin Royal, Saint-Pierre-de-l'Île-d'Orléans, District of Québec, Province of Québec, G0A 4E0

and

**CAISSE DESJARDINS DE LIMOILOU**, legal person having its principal establishment at 800, 3<sup>ième</sup> Avenue, Québec, District of Québec, Province of Québec, G1L 2W9

and

**CAISSE DESJARDINS DE LA CHAUDIÈRE**, legal person having its principal establishment at 103-1190B Rue de Courchevel, Lévis, District of Québec, Province of Québec, G6W 0M6

and

**CAISSE DESJARDINS DE LÉVIS**, legal person having its principal establishment at 995, Boulevard Alphonse-Desjardins, Lévis District of Québec, Province of Québec, G6V 0M5

and

**CAISSE DESJARDINS DE L'OUEST DE PORTNEUF**, legal person having its principal establishment at 1075, Boulevard Bona-Dussault, Saint-Marc-des-Carières, District of Québec, Province of Québec, G0A 4B0

and

**CAISSE POPULAIRE DESJARDINS DU PIÉMONT LAURENTIEN**, legal person having its principal establishment at 1638, Rue Notre-Dame, L'Ancienne-Lorette, District of Québec, Province of Québec, G2E 3B6

and

**CAISSE DESJARDINS DE CAP-ROUGE-SAINT-AUGUSTIN**, legal person having its principal establishment at 1111, Boulevard de la Chaudière, Québec, District of Québec, Province of Québec, G1Y 3T4

and

**CAISSE POPULAIRE DESJARDINS DE LES ECUREUILS**, legal person having its principal establishment at 984, Rue Notre-Dame, Donnacona, District of Québec, Province of Québec, G3M1J5

and

**CAISSE POPULAIRE DESJARDINS DE SAINT-RAYMOND-SAINTE-CATHERINE**, legal person having its principal establishment at 225, Avenue Saint-Maxime, Saint-Raymond, District of Québec, Province of Québec, G3L 3W2

and

**CAISSE DESJARDINS DU CENTRE DE PORTNEUF**, legal person having its principal establishment at 1, Rue du Jardin, Pont-Rouge, District of Québec, Province of Québec, G3H 0H6

and

**CAISSE POPULAIRE DESJARDINS DE NEUVILLE**, legal person having its principal establishment at 757, Rue des Érables, Neuville, District of Québec, Province of Québec, G0A 2R0

and

**CAISSE DESJARDINS DU CENTRE DE LOTBINIÈRE**, legal person having its principal establishment at 140, Rue Principale, Saint-Apollinaire, District of Québec, Province of Québec, G0S 2E0

and

**CAISSE DESJARDINS DE SILLERY- SAINT-LOUIS-DE-FRANCE**, legal person having its principal establishment at 1444, Avenue Maguire, Québec, District of Québec, Province of Québec, G1T 1Z3

and

**CAISSE DESJARDINS DES RIVIÈRES DE QUÉBEC**, legal person having its principal establishment at 2287, Avenue Chauveau, Québec, District of Québec, Province of Québec, G2C 0G7

and

**CAISSE DESJARDINS DE L'UNIVERSITÉ LAVAL**, legal person having its principal establishment at 1506-2325, Rue de l'Université, Québec, District of Québec, Province of Québec, G1V 0B3

and

**CAISSE DESJARDINS DE WENDAKE**, legal person having its principal establishment at 155, Rue Chef-Aimé-Romain, Wendake, District of Québec, Province of Québec, G0A 4V0

and

**CAISSE DESJARDINS DE SAINTE-FOY**, legal person having its principal establishment at 200-990, Avenue de Bourgogne, Québec, District of Québec, Province of Québec, G1W 0E8

and

**CAISSE DESJARDINS DE CHARLEVOIX-EST**, legal person having its principal establishment at 130, Rue John-Nairne, La

Malbaie, District of Charlevoix, Province of Québec, G5A 1Y1

and

**CAISSE DESJARDINS DU FLEUVE ET DES MONTAGNES (CHARLEVOIX)**, legal person having its principal establishment at 2, Rue Saint-Jean-Baptiste, Baie-Saint-Paul, District of Charlevoix, Province of Québec, G3Z1L7

and

**CAISSE POPULAIRE DESJARDINS DE L'ÎLE-AUX-COUDRES**, legal person having its principal establishment at 29, Chemin de la Traverse, L'Isle-aux-Coudres, District of Charlevoix, Province of Québec, G0A 3J0

and

**CAISSE DESJARDINS DE CHICOUTIMI**, legal person having its principal establishment at 245, Rue Racine Est, CP 8180, Chicoutimi, District of Chicoutimi, Province of Québec, G0A 3J0

and

**CAISSE DESJARDINS DU DOMAINE-DU-ROY**, legal person having its principal establishment at 841, Boulevard Saint-Joseph, Roberval, District of Roberval, Province of Québec, G8H 2L6

and

**CAISSE DESJARDINS DE JONQUIÈRE**, legal person having its principal establishment at 2358, Rue Saint-Dominique, CP 991, Jonquière, District of Chicoutimi, Province of Québec, G7X 7W8

and

**CAISSE POPULAIRE DESJARDINS D'ALMA**, legal person having its principal establishment at 600, Rue Collard Ouest, CP 2036, Alma, District of Alma, Province of Québec, G8B 5W1

and

**CAISSE DESJARDINS DES CINQ-CANTONS**, legal person having its principal establishment at 535, Rue Saint-Alphonse, Saint-Bruno, District of Alma, Province of Québec, G0W 2L0

and

**CAISSE DESJARDINS DE LA BAIE**, legal person having its principal establishment at 1262, 6<sup>ième</sup> Avenue, Saguenay, District of Chicoutimi, Province of Québec, G7B 1R4

**CAISSE DESJARDINS DU NORD DU LAC-SAINT-JEAN**, legal person having its principal establishment at 1200, Boulevard Wallberg, Dobleau-Mistassini, District of Roberval, Province of Québec, G8L 1H1

and

**CAISSE DESJARDINS D'ARVIDA KÉNOG-AMI**, legal person having its principal establishment at 1970, Boulevard Mellon, Jonquièrre, District of Chicoutimi, Province of Québec, G7S 3H1

and

**CAISSE DESJARDINS DU BAS-SAGUENAY**, legal person having its principal establishment at 243, Rue Saint-Jean-Baptiste, L'Anse-Saint-Jean, District of Chicoutimi, Province of Québec, G0V 1J0

and

**CAISSE DESJARDINS DE LA RIVE-NORD DU SAGUENAY**, legal person having its principal establishment at 2212, Rue Roussel, Chicoutimi, District of Chicoutimi, Province of Québec, G7G 1W7

and

**CAISSE POPULAIRE DESJARDINS DES PLAINES BORÉALES**, legal person having its principal establishment at 1032, Rue Saint-Cyrille, Normandin, District of Roberval, Province of Québec, G8M 4H5

and

**CAISSE DESJARDINS DE PEKUAKAMI**, legal person having its principal establishment at 1838, Rue Ouiatchouan, Mashteuiatsh, District of Roberval, Province of Québec, G0W 2H0

and

**CAISSE DESJARDINS DE GENTILLY LÉVRARD-RIVIÈRE DU CHÊNE**, legal person having its principal establishment at 1780, Avenue des Hirondelles, Bécancour, District of Trois-Rivières, Province of Québec, G9H 4L7

and

**CAISSE DESJARDINS DES CHÊNES**, legal person having its principal establishment at 242, Rue Sainte-Thérèse, Saint-Germain-de-Grantham, District of Drummond, Province of Québec, J0C 1K0

and

**CAISSE DESJARDINS DE GODEFROY**, legal person having its principal establishment at 4265, Boulevard Port-Royal, Bécancour, District of Trois-Rivières, Province of Québec, G9H 1Z3

and

**CAISSE DESJARDINS DE NICOLET**, legal person having its principal establishment at 181, Rue Notre-Dame, Nicolet, District of Trois-Rivières, Province of Québec, J3T 1V8

and

**CAISSE POPULAIRE DESJARDINS DE L'EST DE DRUMMOND**, legal person having its principal establishment at 330, Rue Notre-Dame, Notre-Dame-du-Bon-Conseil, District of Drummond, Province of Québec, J0C 1A0

and

**CAISSE DESJARDINS DES BOIS-FRANCS**, legal person having its principal establishment at 300, Boulevard des Bois-Francis Sud, CP, 800, Victoriaville, District of Arthabaska, Province of Québec, G6P 7W7

and

**CAISSE DESJARDINS DE L'ÉRABLE**, legal person having its principal establishment at 1658, Rue Saint-Calixte, CP 187, Plessisville, District of Frontenac, Province of Québec, G6L 2Y7

and

**CAISSE DESJARDINS DE DRUMMONDVILLE**, legal person having its principal establishment at 460, Boulevard Saint-Joseph, Drummondville, District of Drummond, Province of Québec, J2C 2A8

and

**CAISSE DESJARDINS DU CENTRE-DE-LA-MAURICIE**, legal person having its principal establishment at 2500, 105<sup>ième</sup> Avenue,

Shawinigan, District of Saint-Maurice,  
Province of Québec, G9P 1P6

and

**CAISSE DESJARDINS DE L'EST DE TROIS-RIVIÈRES**, legal person having its principal establishment at 670, Boulevard Thibeau, Trois-Rivières, District of Trois-Rivières, Province of Québec, G8T 6Z8

and

**LA CAISSE POPULAIRE DE MASKINONGÉ**, legal person having its principal establishment at 62, Rue Saint-Aimé, Maskinongé, District of Trois-Rivières, Province of Québec, J0K 1N0

and

**LA CAISSE POPULAIRE DE NOTRE DAME DU MONT CARMEL**, legal person having its principal establishment at 3960, Rue Monseigneur-Béliveau, Notre-Dame-du-Mont-Carmel, District of Trois-Rivières, Province of Québec, G0X 3J0

and

**CAISSE DESJARDINS DE TROIS-RIVIÈRES**, legal person having its principal establishment at 5625, Boulevard Jean-XXIII, Trois-Rivières, District of Trois-Rivières, Province of Québec, G8Z 4B2

and

**LA CAISSE POPULAIRE DE ST-ALEXIS DES MONTS**, legal person having its principal establishment at 41, Rue Richard, Saint-Alexis-Des-Monts, District of Saint-Maurice, Province of Québec, J0K 1V0

and

**CAISSE DESJARDINS DE MÉKINAC-DES CHENAUX**, legal person having its principal establishment at 400, Rue Notre-Dame, Saint-Tite, District of Saint-Maurice, Province of Québec, G0X 3H0

and

**CAISSE POPULAIRE DESJARDINS CITÉ DE SHAWINIGAN**, legal person having its principal establishment at 1560, Rue Trudel, Shawinigan, District of Saint-Maurice, Province of Québec, G9N 0A2

and

**CAISSE DESJARDINS DE LA TUQUE**, legal person having its principal establishment at 341, Rue Saint-Joseph, La Tuque, District of Saint-Maurice, Province of Québec, G9X 1L3

and

**CAISSE DESJARDINS DE L'OUEST DE LA MAURICIE**, legal person having its principal establishment at 75, Avenue Saint-Laurent, Louiseville, District of Trois-Rivières, Province of Québec, J5V 1J6

and

**CAISSE DESJARDINS DE SAINT-BONIFACE**, legal person having its principal establishment at 120, Rue Guillemette, Saint-Boniface, District of Saint-Maurice, Province of Québec, G0X 2L0

and

**CAISSE DESJARDINS DES VERTS-SOMMETS DE L'ESTRIE**, legal person having its principal establishment at 155, Rue Child, Coaticook, District of Saint-François, Province of Québec, J1A 2B4

and

**CAISSE DESJARDINS DE LAC MÉGANTIC – LE GRANIT**, legal person having its principal establishment at 4749, Rue Laval, Lac-Mégantic, District of Mégantic, Province of Québec, G6B 1C8

and

**CAISSE DESJARDINS DU NORD DE SHERBROOKE**, legal person having its principal establishment at 1845, Rue King Ouest, Sherbrooke, District of Saint-François, Province of Québec, J1J 2E4

and

**CAISSE DESJARDINS DES SOURCES**, legal person having its principal establishment at 535, 1<sup>re</sup> Avenue, Asbestos, District of Saint-François, Province of Québec, J1T 3Y3

and

**CAISSE DESJARDINS DU HAUT-SAINT-FRANÇOIS**, legal person having its principal establishment at 46, Rue de l'Hôtel-de-Ville, East Angus, District of Saint-François, Province of Québec, J0B 1R0

and

**CAISSE DESJARDINS DU LAC-MEMPHRÉMAGOG**, legal person having its principal establishment at 230, Rue Principale Ouest, Magog, District of Saint-François, Province of Québec, J1X 2A5

and

**CAISSE DESJARDINS DU VAL-SAINT-FRANÇOIS**, legal person having its principal establishment at 77, Rue Saint-Georges, Windsor, District of Saint-François, Province of Québec, J1S 2K5

and

**CAISSE DESJARDINS DES DEUX-RIVIÈRES DE SHERBROOKE**, legal person having its principal establishment at 1261, Rue King Est, Sherbrooke, District of Saint-François, Province of Québec, J1G 1E7

and

**CAISSE DESJARDINS DE BROME-MISSISQUOI**, legal person having its principal establishment at 101, Rue Principale, Cowansville, District of Bedford, Province of Québec, J2K 1J3

and

**CAISSE DESJARDINS DE GRANBY-HAUTE-YAMASKA**, legal person having its principal establishment at 450, Rue Principale, Granby, District of Bedford, Province of Québec, J2G 2X1

and

**CAISSE POPULAIRE DE WATERLOO**, legal person having its principal establishment at 4990, Rue Foster, Waterloo, District of Bedford, Province of Québec, J0E 2N0

and

**CAISSE POPULAIRE DESJARDINS DU BASSIN-DE-CHAMBLY**, legal person having its principal establishment at 455, Boulevard Brassard, Chambly, District of Longueuil, Province of Québec, J3L 4V6

and

**LA CAISSE POPULAIRE DE ST-THÉODORE D'ACTON**, legal person having its principal establishment at 1698, Rue Principale, Saint-Théodore-d'Acton, District of

Saint-Hyacinthe, Province of Québec, J0H 1Z0

and

**CAISSE DESJARDINS DE LA RÉGION DE SAINT-HYACINTHE**, legal person having its principal establishment at 1697, Rue Girouard Ouest, Saint-Hyacinthe, District of Saint-Hyacinthe, Province of Québec, J2S 2Z9

and

**CAISSE DESJARDINS DE LA POMME-RAIE**, legal person having its principal establishment at 200, Rue Desjardins Est, Farnham, District of Bedford, Province of Québec, J2N 1P9

and

**CAISSE DESJARDINS PIERRE-DE SAUREL**, legal person having its principal establishment at 385, Boulevard Polinquin, Sorel-Tracy, District of Richelieu, Province of Québec, J3P 5N6

and

**CAISSE DESJARDINS D'ACTON VALE-RIVIÈRE NOIRE**, legal person having its principal establishment at 1100, Rue Saint-André, Acton Vale, District of Saint-Hyacinthe, Province of Québec, J0H 1A0

and

**CAISSE DESJARDINS DE LA SEIGNEURIE DE RAMEZAY**, legal person having its principal establishment at 385, Rue Couture, Sainte-Hélène-de-Bagot, District of Saint-Hyacinthe, Province of Québec, J0H 1M0

and

**CAISSE DESJARDINS DE ROUVILLE**, legal person having its principal establishment at

1111, 3<sup>e</sup> Rue, Richelieu, District of Saint-Hyacinthe, Province of Québec, J3L 3Z2

and

**CAISSE DESJARDINS DE BELOEIL-MONT-SAINT-HILAIRE**, legal person having its principal establishment at 830, Rue Laurier, Beloeil, District of Saint-Hyacinthe, Province of Québec, J3G 4K4

and

**CAISSE DESJARDINS DU HAUT-RICHELIEU**, legal person having its principal establishment at 730, Boulevard d'Iberbville, Saint-Jean-sur-Richelieu, District of Iberville Province of Québec, J2X 3Z9

and

**CAISSE DESJARDINS DE JOLIETTE ET DU CENTRE DE LANAUDIÈRE**, legal person having its principal establishment at 1995, boulevard Firestone Est, Notre-Dame-des-Prairies, District of Joliette, Province of Québec, J6E 0V5

and

**CAISSE POPULAIRE DESJARDINS DE ST-ROCH-DE-L'ACHIGAN**, legal person having its principal establishment at 40, Rue du Docteur-Wilfrid-Locat, St-Roch-de-l'Achigan, District of Joliette, Province of Québec, J0K 3H0

and

**CAISSE DESJARDINS DE LA NOUVELLE-ACADIE**, legal person having its principal establishment at 4, Rue Beaudry, Saint-Jacques, District of Joliette, Province of Québec, J0K 2R0

and

**CAISSE DESJARDINS DE MONTCALM ET DE LA OUAREAU**, legal person having its principal establishment at 3690, Rue Queen, Rawdon, District of Joliette, Province of Québec, J0K 1S0

and

**CAISSE POPULAIRE DESJARDINS LE MANOIR**, legal person having its principal establishment at 820, Montée Masson, Mascouche, District of Joliette, Province of Québec, J7K 3B6

and

**CAISSE DESJARDINS DE D'AUTRAY**, legal person having its principal establishment at 701, Avenue Gilles-Villeneuve, Berthierville, District of Joliette, Province of Québec, J0K 1A0

and

**CAISSE DESJARDINS DU NORD DE LANAUDIÈRE**, legal person having its principal establishment at 20, Rue Saint-Gabriel, Saint-Gabriel-de-Brandon, District of Joliette, Province of Québec, J0K 2N0

and

**CAISSE DESJARDINS DE TERREBONNE**, legal person having its principal establishment at 801, Boulevard des Seigneurs, Terrebonne, District of Terrebonne, Province of Québec, J6W 1T5

and

**CAISSE DESJARDINS PIERRE-LE GARDEUR**, legal person having its principal establishment at 477, Rue Notre-Dame, Repentigny, District of Joliette, Province of Québec, J6A 2T6

and

**CAISSE DESJARDINS DES MOISSONS-ET-DE-ROUSSILLON**, legal person having its principal establishment at 296, Voie de Desserte de la route 132, Saint-Constant, District of Longueuil, Province of Québec, J5A 2C9

and

**CAISSE DESJARDINS DE SALABERRY-DE-VALLEYFIELD**, legal person having its principal establishment at 120, Rue Alexandre, Salaberry-de-Valleyfield, District of Beauharnois, Province of Québec, J6S 3K4

and

**CAISSE POPULAIRE DESJARDINS BEAUHARNOIS**, legal person having its principal establishment at 555, Rue Ellice, Beauharnois, District of Beauharnois, Province of Québec, J6N 1X8

and

**CAISSE DESJARDINS DU MONT-SAINT-BRUNO**, legal person having its principal establishment at 1649, Rue Montarville, Saint-Bruno-de-Montarville, District of Longueuil, Province of Québec, J3V 3T8

and

**CAISSE DESJARDINS DES PATRIOTES**, legal person having its principal establishment at 1071, Boulevard de Montarville, Boucherville District of Longueuil, Province of Québec, J4B 6R2

and

**CAISSE DESJARDINS DE L'OUEST DE LA MONTÉRÉGIE**, legal person having its principal establishment at 724, Boulevard

Saint-Jean-Baptiste, Mercier, District of Beauharnois, Province of Québec, J6R 0B2

and

**CAISSE DESJARDINS DE SAINT-HUBERT**, legal person having its principal establishment at 2400, Boulevard Gaétan-Boucher, Longueuil, District of Longueuil, Province of Québec, J3Y 5B7

and

**CAISSE DESJARDINS DE CHÂTEAUGUAY**, legal person having its principal establishment at 235, Chemin de la Haute-Rivière, Châteauguay, District of Beauharnois, Province of Québec, J6K 5B1

and

**CAISSE DESJARDINS DU VIEUX-LONGUEUIL**, legal person having its principal establishment at 1, Rue Saint-Charles Ouest, Longueuil, District of Longueuil, Province of Québec, J4H 1C4

and

**CAISSE POPULAIRE DE LA PRAIRIE**, legal person having its principal establishment at 450, Boulevard Taschereau, La Prairie, District of Longueuil, Province of Québec, J5R 1V1

and

**CAISSE DESJARDINS DES SEIGNEURIES DE LA FRONTIÈRE**, legal person having its principal establishment at 373, Rue Saint-Jacques, Napierville, District of Iberville, Province of Québec, J0J 1L0

and

**CAISSE DESJARDINS DU HAUT-SAINT-LAURENT**, legal person having its principal establishment at 4B, Rue Bridge, Ormstown, District of Beauharnois, Province of Québec, J0S 1K0

and

**CAISSE DESJARDINS CHARLES-LEMOYNE**, legal person having its principal establishment at 477, Avenue Victoria, Saint-Lambert, District of Longueuil, Province of Québec, J4P 2J1

and

**CAISSE DESJARDINS DE BROSSARD**, legal person having its principal establishment 8800, Boulevard Leduc, Brossard, District of Longueuil, Province of Québec, J4Y 0G4

and

**CAISSE DESJARDINS PIERRE-BOUCHER**, legal person having its principal establishment at 2401, Boulevard Rolland-Therrien, Longueuil, District of Longueuil, Province of Québec, J4N 1C5

and

**CAISSE POPULAIRE KAHNAWAKE**, legal person having its principal establishment at Kahnawake Complexe Services, River Road, CP 1987, Kahnawake, District of Longueuil, Province of Québec, J0L 1B0

and

**CAISSE DESJARDINS DE LA VALLÉE DES PAYS-D'EN-HAUT**, legal person having its principal establishment at 218, Rue Principale, Saint-Sauveur, District of Terrebonne, Province of Québec, J0R 1R0

and

**CAISSE DESJARDINS THÉRÈSE-DE BLAINVILLE**, legal person having its principal establishment at 201, Boulevard du Curé-Labelle, Sainte-Thérèse, District of Terrebonne, Province of Québec, J7E 2X6

and

**CAISSE DESJARDINS DE LA RIVIÈRE-DU-NORD**, legal person having its principal establishment at 100, Place du Curé-Labelle, Saint-Jérôme, District of Terrebonne, Province of Québec, J7Z 1Z6

and

**CAISSE DESJARDINS DE MONT-TREMBLANT** 470, Rue Charbonneau, Mont-Tremblant, District de Terrebonne, Province of Québec, J8E 3H4

and

**CAISSE DESJARDINS DU COEUR DES HAUTES-LAURENTIDES**, legal person having its principal establishment at 597, Boulevard Albiny-Paquette, Mont-Laurier, District of Labelle, Province of Québec, J9L 1L5

and

**CAISSE DESJARDINS DU LAC DES DEUX-MONTAGNES**, legal person having its principal establishment at 100, Rue Notre-Dame, Oka, District of Terrebonne, Province of Québec, J0N 1E0

and

**CAISSE POPULAIRE DESJARDINS DE SAINTE-AGATHE-DES-MONTS**, legal person having its principal establishment at 77, Rue Principale Est, Sainte-Agathe-des-Monts,

District of Terrebonne, Province of Québec,  
J8C 1J5

and

**CAISSE POPULAIRE DESJARDINS DE  
MIRABEL**, legal person having its principal  
establishment at 8000, Rue Saint-Jacques,  
Mirabel, District of Terrebonne, Province of  
Québec, J7N 2B7

and

**CAISSE DESJARDINS DE SAINT-MARTIN  
DE LAVAL**, legal person having its principal  
establishment at 2466, Boulevard Curé-  
Labelle, Laval, District of Laval, Province of  
Québec, H7T 1R1

and

**CAISSE POPULAIRE DESJARDINS DE  
L'ENVOLÉE**, legal person having its principal  
establishment at 13845, Boulevard du Curé-  
Labelle, CP 1200, Mirabel, District of  
Terrebonne, Province of Québec, J7J 1A1

and

**CAISSE DESJARDINS D'ARGENTEUIL**,  
legal person having its principal establishment  
at 570, Rue Principale, Lachute, District of  
Terrebonne, Province of Québec, J8H 1Y7

and

**CAISSE DESJARDINS DE LA ROUGE**, legal  
person having its principal establishment at  
550, Rue de l'Annonciation Nord, Rivière-  
Rouge, District of Labelle, Province of  
Québec, J0T 1T0

and

**CAISSE DESJARDINS DU NORD DE  
LAVAL**, legal person having its principal

establishment at 396, Boulevard Curé-Labelle, Laval, District of Laval, Province of Québec, H7L 4T7

and

**CAISSE DESJARDINS DE L'OUEST DE LAVAL**, legal person having its principal establishment at 440, Autoroute Chomedey, Laval, District of Laval, Province of Québec, H7X 3S9

and

**CAISSE DESJARDINS DE CHOMEDEY**, legal person having its principal establishment at 3075, Boulevard Cartier Ouest, Laval, District of Laval, Province of Québec, H7V 1J4

and

**CAISSE DESJARDINS DU CENTRE ET DE L'EST DE LAVAL**, legal person having its principal establishment at 4433, Boulevard de la Concorde Est, Laval, District de Laval, Province of Québec, H7C 1M4

and

**CAISSE DESJARDINS DE SAINT-EUSTACHE-DEUX-MONTAGNES**, legal person having its principal establishment at 575, Boulevard Arthur-Sauvé, Saint-Eustache, District of Terrebonne, Province of Québec, J7P 4X5

and

**CAISSE DESJARDINS DES GRANDS BOULEVARDS DE LAVAL**, legal person having its principal establishment at 3111, Boulevard Saint-Martin Ouest, Laval, District of Laval, Province of Québec, H7T 0K2

and

**CAISSE DESJARDINS DU SUD-OUEST DE MONTRÉAL**, legal person having its principal establishment at 4545 rue Notre-Dame Ouest, Montréal, District of Montréal, Province of Québec, H4C 1S3

and

**CAISSE DESJARDINS DU QUARTIER-LATIN DE MONTRÉAL**, legal person having its principal establishment at 1255, Rue Berri, Montréal, District of Montréal, Province of Québec, H2L 4C6

and

**CAISSE DESJARDINS DU CENTRE-NORD DE MONTRÉAL**, legal person having its principal establishment at 7915, Boulevard Saint-Laurent, Montréal, District of Montréal, Province of Québec, H2R 1X2

and

**CAISSE DESJARDINS DU PLATEAU-MONT-ROYAL**, legal person having its principal establishment at 435, Avenue du Mont-Royal Est, Montréal, District of Montréal, Province of Québec, H2J 1W2

and

**CAISSE DESJARDINS DE BORDEAUX—CARTIERVILLE—SAINT-LAURENT**, legal person having its principal establishment at 145-3500 Boulevard de la Côte-Vertu, Montréal, District of Montréal, Province of Québec, H4R 1P8

and

**CAISSE DESJARDINS DES VERSANTS DU MONT ROYAL**, legal person having its principal establishment at 1145, Avenue Bernard, Montréal, District of Montréal, Province of Québec, H2V 1V4

and

**CAISSE DESJARDINS DE NOTRE-DAME-DE-GRÂCE**, legal person having its principal establishment at 3830, Boulevard Décarie, Montréal, District of Montréal, Province of Québec, H4A 3J7

and

**CAISSE DESJARDINS DE L'ÎLE-DES-SOEURS—VERDUN**, legal person having its principal establishment at 5035, Rue de Verdun, Verdun, District of Montréal, Province of Québec, H4G 1N5

and

**CAISSE DESJARDINS DE LACHINE**, legal person having its principal establishment at 910, Rue Provost, Lachine, District of Montréal, Province of Québec, H8S 1M9

and

**CAISSE DESJARDINS DE VAUDREUIL - SOULANGES**, legal person having its principal establishment at 1-100, Boulevard Don-Quichotte, L'Île-Perrot, District of Beauharnois, Province of Québec, J7V 6L7

and

**CAISSE DESJARDINS DE L'OUEST-DE-L'ÎLE**, legal person having its principal establishment at 303, Boulevard Brunswick, Pointe-Claire, District of Montréal, Province of Québec, H9R 4Y2

and

**CAISSE DESJARDINS DE LASALLE**, legal person having its principal establishment at 7700, Boulevard Newman, Montréal, District of Montréal, Province of Québec, H8N 1X8

and

**CAISSE DESJARDINS DU COMPLEXE DESJARDINS**, legal person having its principal establishment at 226-5 Complexe Desjardins, Niveau Promenade, CP 244, Succ. Desjardins, Montréal, Province of Québec, H5B 1B4

and

**CAISSE DESJARDINS DE ROSEMONT – LA-PETITE-PATRIE**, legal person having its principal establishment at 2597, Rue Beaubien Est, Montréal, District of Montréal, Province of Québec, H1Y 1G4

and

**CAISSE DESJARDINS DE MERCIER-EST – ANJOU**, legal person having its principal establishment at 7000, Boulevard Joseph-Renaud, Anjou, District of Montréal, Province of Québec, H1K 3V5

and

**CAISSE DESJARDINS DE POINTE-AUX-TREMBLES**, legal person having its principal establishment at 13120, Rue Sherbrooke Est, Montréal, District of Montréal, Province of Québec, H1A3W2

and

**CAISSE DESJARDINS DU CENTRE-EST DE MONTRÉAL**, legal person having its principal establishment at 6955, Rue Jean-Talon Est, Montréal, District of Montréal, Province of Québec, H1S 1N2

and

**CAISSE POPULAIRE DESJARDINS D’HOCHELAGA-MAISONNEUVE**, legal person having its principal establishment at

3871, Rue Ontario Est, Montréal, District of  
Montréal, Province of Québec, H1W 1S7

and

**CAISSE POPULAIRE DESJARDINS  
UKRAINIENNE DE MONTRÉAL**, legal person  
having its principal establishment at 3250, Rue  
Beaubien Est, Montréal, District of  
Montréal, Province of Québec, H1X 3C9

and

**CAISSE DESJARDINS DE SAULT-AU-  
RÉCOLLET - MONTRÉAL-NORD**, legal  
person having its principal establishment at  
10205, Boulevard Pie IX, Montréal, District of  
Montréal, Province of Québec, H1H 3Z4

and

**CAISSE DESJARDINS DE RIVIÈRES-DES-  
PRAIRIES**, legal person having its principal  
establishment at 8300, Boulevard Maurice-  
Duplessis, Montréal, District of Montréal,  
Province of Québec, H1E 3A3

and

**CAISSE POPULAIRE DESJARDINS  
CANADIENNE ITALIENNE**, legal person  
having its principal establishment at 6999,  
Boulevard Saint-Laurent, Montréal, District of  
Montréal, Province of Québec, H2S 3E1

and

**CAISSE DESJARDINS DE HULL-AYLMER**,  
legal person having its principal establishment  
at 250 boulevard Saint-Joseph, Gatineau,  
District of Gatineau, Province of Québec, J8Y  
3X6

and

**CAISSE DESJARDINS DES COLLINES-DE L'OUTAOUAIS**, legal person having its principal establishment at 88 rue Principale Est, La Pêche, District of Gatineau, Province of Québec, J0X 2W0

and

**CAISSE POPULAIRE DESJARDINS DE GATINEAU**, legal person having its principal establishment at 655, Boulevard Saint-René Ouest, Gatineau, District of Gatineau, Province of Québec, J8T 8M4

**CAISSE POPULAIRE DESJARDINS GRACEFIELD**, legal person having its principal establishment at 32, rue Principale, C.P. 99, Gracefield, District of Gatineau, Province of Québec, J0X 1W0

and

**CAISSE DESJARDINS DES RIVIÈRES DE PONTIAC**, legal person having its principal establishment at 175 rue Principale, CP 70, Fort-Coulonge, District of Pontiac, Province of Québec, J0X 1V0

and

**CAISSE POPULAIRE DESJARDINS DE LA HAUTE-GATINEAU**, legal person having its principal establishment at 100 rue Principale Sud, bureau 29, Maniwaki, District of Labelle, Province of Québec, J9E 3L4

and

**CAISSE DESJARDINS DU COEUR-DES-VALLÉES**, legal person having its principal establishment at 104 rue Maclaren Est, Gatineau, District of Gatineau, Province of Québec, J8L 1K1

and

**CAISSE DESJARDINS DE LA PETITE-NATION**, legal person having its principal establishment at 105 rue Principale, Saint-André-Avellin, District of Gatineau, Province of Québec, J0V 1W0

and

**CAISSE DESJARDINS DU TÉMISCAMINGUE**, legal person having its principal establishment at 51 rue Sainte-Anne, Ville-Marie, District of Témiscamingue, Province of Québec, J9V 2B6

and

**CAISSE DESJARDINS DE ROUYN-NORANDA**, legal person having its principal establishment at 75 avenue Québec, Rouyn-Noranda, District of Rouyn-Noranda, Province of Québec, J9X 7A2

and

**CAISSE DESJARDINS DE L'EST DE L'ABITIBI**, legal person having its principal establishment at 602 3<sup>e</sup> Avenue, Val-d'Or, District of Abitibi, Province of Québec, J9P 1S5

and

**CAISSE DESJARDINS DE L'ABITIBI-OUEST**, legal person having its principal establishment at 66 5<sup>e</sup> Avenue Est, La Sarre, District of Abitibi, Province of Québec, J9Z 1K9

and

**CAISSE DESJARDINS D'AMOS**, legal person having its principal establishment at 2 rue Principale Nord, C.P. 670, Amos, District of Abitibi, Province of Québec, J9T 3X2

and

**CAISSE DESJARDINS DE CHIBOUGA-MAU**, legal person having its principal establishment at 519, 3<sup>e</sup> Rue, Chibougamau, District of Abitibi, Province of Québec, G8P 1N8

and

**CAISSE DESJARDINS EENOU EYYOU**, legal person having its principal establishment at 136 Amanda, Suite 200, Mistissini, District of Abitibi, Province of Québec, G0W 1C0

and

**CAISSE DESJARDINS DU RÉSEAU MUNICIPAL (MONTRÉAL, LONGUEUIL, REPENTIGNY)**, legal person having its principal establishment at 2600 boulevard Saint-Joseph, Montréal, District of Montréal, Province of Québec, H1Y 2A4

and

**CAISSE DESJARDINS DES TRANSPORTS**, legal person having its principal establishment at 5705 rue Sherbrooke Est, Montréal, District of Montréal, Province of Québec, H1N 1A8

and

**CAISSE DESJARDINS DES POLICIERS ET POLICIÈRES**, legal person having its principal establishment at 460 rue Gilford, Montréal, District of Montréal, Province of Québec, H2J 1N3

and

**CAISSE DESJARDINS HYDRO**, legal person having its principal establishment at 75 boulevard René-Lévesque Ouest, Suite 57, Montréal, District of Montréal, Province of Québec, H2Z 1A3

and

**CAISSE D'ÉCONOMIE DESJARDINS DU PERSONNEL MUNICIPAL (QUÉBEC)**, legal person having its principal establishment at 600, boulevard Pierre-Bertrand, Suite 100, Québec, District of Québec, Province of Québec, G1M 3W5

and

**CAISSE DESJARDINS DES TECHNOLOGIES DE L'INFORMATION**, legal person having its principal establishment at 288 rue Saint-Joseph, La Tuque, District of Saint-Maurice, Province of Québec, G9X 1K8

and

**CAISSE D'ÉCONOMIE DESJARDINS DE LA MÉTALLURGIE ET DES PRODUITS FORESTIERS (SAGUENAY-LAC-SAINT-JEAN)**, legal person having its principal establishment at 1936 boulevard Mellon, Jonquière, District of Chicoutimi, Province of Québec, G7S 3H3

and

**CAISSE DESJARDINS DES RESSOURCES NATURELLES**, legal person having its principal establishment at 500 rue Arnaud, Sept-Îles, District of Mingan, Province of Québec, G4R 3B5

and

**CAISSE DESJARDINS DU SECTEUR PUBLIC DE L'ESTRIE**, legal person having its principal establishment at 560 rue Bowen Sud, Sherbrooke, District of Saint-François, Province of Québec, J1G 2E3

and

**CAISSE DESJARDINS DES TRAVAILLEUSES ET TRAVAILLEURS UNIS**, legal person having its principal establishment at 545 boulevard Crémazie Est, Suite 302, Montréal, District of Montréal, Province of Québec, H2M 2V1  
and

**CAISSE DESJARDINS DES MILITAIRES**, legal person having its principal establishment at 190 rue Dubé, suite 109, Centre commercial Canex, Courcellette, District of Charlevoix, Province of Québec, G0A 1R1

and

**CAISSE DESJARDINS PORTUGAISE**, legal person having its principal establishment at 4244 boulevard Saint-Laurent, Montréal, District of Montréal, Province of Québec, H2W 1Z3

and

**CAISSE DESJARDINS DU CHÂINON**, legal person having its principal establishment at 315 rue MacDonald, Suite 102, Saint-Jean-sur-Richelieu, District of Iberville, Province of Québec, J3B 8J3

and

**CAISSE DESJARDINS DE L'ÉDUCATION**, legal person having its principal establishment at 9405 rue Sherbrooke Est, Suite 2500, Montréal, District of Montréal, Province of Québec, H1L 6P3

and

**CAISSE D'ÉCONOMIE DES LITUANIENS DE MONTRÉAL "LITAS"** (faisant affaires sous la dénomination Montreal Lithuanian Credit Union "**Litas**"), legal person having its principal establishment at 1475, rue De Sève,

Montréal, District of Montréal, Province of Québec, H4E 2A8

and

**CAISSE D'ÉCONOMIE DESJARDINS DES EMPLOYÉS EN TÉLÉCOMMUNICATION**, legal person having its principal establishment at 1050 Côte du Beaver Hall, Suite 340, Montréal, District of Montréal, Province of Québec, H2Z 0A5

and

**CAISSE DESJARDINS DE LA CULTURE**, legal person having its principal establishment at 215 rue Saint-Jacques Ouest, Suite 200, Montréal, District of Montréal, Province of Québec, H2Y 1M6

and

**CAISSE DESJARDINS DU SECTEUR DE L'ENSEIGNEMENT DES BASSES-LAURENTIDES**, legal person having its principal establishment at 500, chemin des Anciens, Deux-Montagnes, District of Terrebonne, Province of Québec, J7R 6A7

and

**CAISSE D'ÉCONOMIE SOLIDAIRE DESJARDINS**, legal person having its principal establishment at 155 boulevard Charest Est, Suite 500, Québec, District of Québec, Province of Québec, G1K 3G6

and

**CAISSE DESJARDINS DES EMPLOYÉS DE VILLE DE LAVAL**, legal person having its principal establishment at 4210 rue Garand, Laval, District of Laval, Province of Québec, H7L 5Z6

and

**CAISSE DESJARDINS DU RÉSEAU DE LA SANTÉ**, legal person having its principal establishment at 2100 boulevard de Maisonneuve Est, Suite 102, Montréal, District of Montréal, Province of Québec, H2K 4S1

Defendants

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**AMENDED APPLICATION TO AUTHORIZE THE BRINGING OF A CLASS ACTION AND TO APPOINT THE STATUS OF REPRESENTATIVE PLAINTIFFS**  
(ARTICLES 571 AND FOLLOWING C.C.P.)

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**TO THE HONOURABLE STÉPHANE LACOSTE, J.S.C., SITTING IN AND FOR THE DISTRICT OF MONTREAL, YOUR APPLICANTS STATE AS FOLLOWS:**

**I. INTRODUCTION**

1. This class action seeks the reimbursement of the illegal, excessive and arbitrary amounts charged to class members by the Defendants<sup>1</sup> when making a mortgage prepayment (*paiement anticipé*) on a fixed rate closed mortgage for a residential property;
2. The Defendants calculate the prepayment indemnity by using an interest rate differential (“**IRD**”) formula that does not comply with the one provided for in Directive CG-4 due to the fact that the Defendants add the concept of a “constant discount” that enables them to make a hidden profit off of the prepayment. Directive CG-4 stipulates as follows, as appears from **Exhibit P-1**:

<p>You will be charged a penalty if you pay more of your <b>mortgage</b> than the prepayment privilege allows. If you want to pay out all or part of your mortgage before the end of your term, you will also pay a penalty.</p> <p>Your penalty will be the greater of:</p>	<p>Vous paierez une pénalité si vous versez un montant supérieur au montant autorisé en vertu du privilège de paiement par anticipation. Si vous voulez rembourser la totalité ou une partie de votre hypothèque avant la fin de la durée du prêt, vous serez également assujetti à une pénalité.</p> <p>La pénalité est égale au montant le plus élevé des deux :</p>
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<sup>1</sup> Dans l'arrêt *Oratoire Saint-Joseph*, la Cour suprême valide la technique de rédaction de la demande d'autorisation qui reproche les mêmes torts à une pluralité de défendeurs, torts adressés collectivement « aux défendeurs », sans distinguer parmi eux (*Abihisira c. Stubhub inc.*, 2020 QCCS 139, para. 37).

<ul style="list-style-type: none"><li>• three months interest, or</li><li>• the interest rate differential: the difference between your mortgage rate and the rate of a mortgage that is closest to the remainder of your term, multiplied by the outstanding balance of your mortgage for the time that is left on your term. It is calculated on the amount being prepaid.</li></ul>	<ul style="list-style-type: none"><li>• trois mois d'intérêt; ou</li><li>• le différentiel du taux d'intérêt, soit l'écart entre votre taux hypothécaire et le taux d'une hypothèque pour une durée se rapprochant de celle qu'il reste à courir sur votre prêt hypothécaire existant, multiplié par le solde impayé de votre prêt hypothécaire pendant la durée qu'il reste à courir sur votre prêt. Il est calculé d'après le montant qui fait l'objet d'un paiement par anticipation.</li></ul>
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3. Federal instruction CG-4 – that is binding on all the Defendants – clearly states that the maximal prepayment charge is the higher of 3-months interest or the bank's<sup>2</sup> actual financial loss. As well, the loan agreements confirm that those charges are meant to cover a loss and not to make a profit, especially a hidden a profit (which was confirmed by the Defendants during the authorization hearing in S.C.M. file no. 500-06-000930-186);
4. The Applicants agrees that when a mortgage loan is reimbursed before its fixed term, the Defendants are entitled to an indemnity to cover their monetary loss;
5. Obviously, there is no loss if the interest rates at the time of reimbursement are the same at the time that the loan was taken or if the interest rates increased (because the Defendants can generate the same or more interest with the reimbursed funds). Nevertheless, in that case the federal directives and all of the Defendants' loan agreements prescribe an indemnity of 3-months interest – this amount is not contested;
6. When the interest rates decrease between the time of the loan and the reimbursement, the bank is entitled to the difference between those rates multiplied by the remainder of the term, also as prescribed by the federal directives that are binding on all of the Defendants (including the Caisses Desjardins Defendants who admitted in S.C.M. file no. 500-06-000930-186 that "*Elles se conforment toutefois sur une base volontaire aux principes généraux en vigueur*");
7. To illustrate the mechanism of the calculation of the indemnity, we refer the Court to Tables 1A-1C annexed hereto as part of Applicants' **Exhibit P-2**;

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<sup>2</sup> We use the term "bank" to refer to all the Defendants, including all the Caisses Desjardins.

8. The problem is that the Defendants artificially falsify the calculation of the interest rate by introducing a concept of discounts and using it without basis on the reality of the transactions;
9. Depending on the amount of the discount, the Defendants' IRD formula could generate a hidden profit for them from the mortgage prepayment. We here refer the Court to **Tables 2A to 2C** and **Tables 3A to 3B** of Exhibit P-2 to visualize the effect of introducing the discount;
10. The Applicants' legal syllogism is the following: The Defendants deceitfully incorporate the concept of a "constant discount" (as a percentage) in their IRD formula. They then incorporate this same constant discount to calculate the prepayment indemnity, even though the Defendants' discounts – just like their interest rates – vary constantly according to the borrower and over time. This artificially creates or inflates a loss, which is not allowed by Directive CG-4 and the Civil Code, and which is against the purported objective of the indemnity announced by the Defendants;
11. Simply put, by applying the exact same discount to their posted comparator rate (at the time of prepayment) as they do to the posted rate (at the time of the loan) the Defendants make an illegal and hidden profit. In order to calculate their actual loss at the time of prepayment – and to comply with Directive CG-4 – the Defendants must apply the discount to the comparator posted rate at the time of prepayment (as opposed to the discounts given years prior at the time of the loan);
12. Quebec's Court of Appeal concluded that the purpose of the prepayment indemnity is not to generate a profit for the Defendants as they do, rather to compensate a lender for the loss of interest income caused by the termination of the loan agreement before the end of its term (*Banque Toronto-Dominion c. Brunelle*, 2014 QCCA 1584, paras. 49-50);
13. However, the IRD method used by all of the Defendants enables them to charge Class members a prepayment indemnity that exceeds their actual monetary loss and to thereby generate substantial profits from the mortgage prepayment. This syllogism will be demonstrated herein using the Applicants' personal situations, respectively, vis-à-vis the TD Bank and the National Bank of Canada, and from documents provided by Class members and customers of the other Defendants;
14. All of the Defendants falsify the prepayment calculation to show or inflate a loss, when in reality there is either no loss at all, or a much lesser one. This problem has been widespread in Quebec for several years;
15. On November 1, 2020, La Presse published an article by Stéphanie Grammond titled "*Prisonnier de votre hypothèque*", disclosed as **Exhibit P-3**:

Généralement, la pénalité équivaut à trois mois d'intérêt ou au « différentiel du taux d'intérêt », selon la formule qui donne la pénalité la plus élevée.

Avec la formule du différentiel, les clients doivent verser une pénalité qui est fondée sur l'écart entre le taux de leur hypothèque et le taux pour une hypothèque équivalent au reste du terme. **L'idée est de compenser le manque à gagner du prêteur.**

**Or, les banques jouent sur les taux.**

Reprenons le cas de M. Vill, qui avait signé son hypothèque en 2016, attiré par les nombreuses publicités qui vantaient un taux de 2,49 % pour 63 mois. À l'époque, il s'agissait d'un « rabais » de 2,25 % par rapport au taux affiché (4,74 %).

**Mais qui paie véritablement le taux affiché ? Personne ! Alors, ce rabais n'est que de la poudre aux yeux qui sert à gonfler la pénalité pour empêcher le client de partir.**

Si je me fie à la calculatrice web de Desjardins, la pénalité de M. Vill correspond à l'écart entre son taux (2,49 %) et le taux affiché pour le terme restant (par exemple, 2,89 % pour un an), duquel il faut soustraire le fameux rabais de taux initial (2,25 %).

Cela nous mène à un taux théorique de 0,64 % pour un an. **Mais qui paie un taux aussi bas ? Encore une fois, personne ! Il n'y a rien en bas de 1,7 %.**

**Bref, le taux est déconnecté du marché, ce qui élargit le différentiel et gonfle la pénalité.**

16. The problem was also exposed in article published on January 8, 2020 in the Journal de Montréal titled "*À quand la fin des frais abusifs pour bris d'hypothèque ?*", disclosed as **Exhibit P-4**:

Oui, il y a des coûts pour les prêteurs lorsque le contrat doit être brisé, mais en comparaison, les « pénalités » financières infligées aux consommateurs sont disproportionnées et abusives. Ne soyons pas dupes, c'est une autre source de profits.

## **II. THE CLASS**

17. The Applicants wish[...] to institute a class action on behalf of the following class of which they are members, namely:

**Class:**

All persons who, since May 31, 2015: (i) paid to any of the Defendants (or to any of their affiliates) a mortgage prepayment charge in an amount that exceeds three months of interest when either entirely or partially paying off a

hypothecary loan or a collateral hypothec on a property located in the province of Quebec; [...]

(hereinafter referred to as the “**Class**”)

18. Prescription was suspended for all class members on May 31, 2018, when the Applicant, Ms. Haroch, filed her action in S.C.M. #500-06-000930-186 on behalf of the same persons included in the class above (article 2908 C.C.Q.). For greater clarity, the reason why the Class Period begins on May 31, 2015, is because the Court of Appeal concluded that the cause of action concerning the constant discount was not alleged or completely debated in S.C.M. #500-06-000930-186 (judgment of the Court of Appeal on October 4, 2021, in C.A. file no. 500-09-028532-190, at paras. 18-20);
19. Nonetheless, article 2908 C.C.Q. suspended prescription (as of May 31, 2018) for members included in the Class regardless of the new cause of action (as stated by this Honourable Court, see *Option Consommateur c. Banque de Montréal*, 2007 QCCS 6026, paras. 70-77). For example, on May 28, 2021, a letter was sent by the Fédération Desjardins’ head office to a Class member stating that she was included in class action S.C.M. file no. 500-06-000930-186, after this member sent a letter complaining about the manner in which the Defendants the Fédération Desjardins and the Caisse Desjardins du Coeur-de-l’île misapplied the discount in their IRD calculation causing her to pay an artificially inflated prepayment indemnity that exceeded their monetary loss, as it appears from the documents disclosed *en liasse* in a series as **Exhibit P-5** (see Exhibit 5.8);

### **III. CONDITIONS REQUIRED TO AUTHORIZE THIS CLASS ACTION AND TO APPOINT THE STATUS OF REPRESENTATIVE PLAINTIFFS (Art. 575 C.C.P.):**

#### **A) THE FACTS ALLEGED APPEAR TO JUSTIFY THE CONCLUSIONS SOUGHT**

##### **1) Ms. Haroch’s Claim against the TD Bank**

20. On or around March 2, 2015, Ms. Haroch signed a contract of adhesion titled “*Convention de CréditFlex Valeur domiciliaire TD avec garantie immobilière*”, in order to open a TD Home Equity Line of Credit (referred to by TD as the “**Flexline**” or “**CréditFlex**” in French) for the residential property she owned at the time situated at 340-342 Alexis-Nihon in Ville St-Laurent, Quebec, H4M 2A3, as it appears from her CréditFlex agreement disclosed as **Exhibit P-6**;
21. Ms. Haroch’s CréditFlex home equity line of credit account number was 0654-3259989, as it appears from Exhibit P-6;
22. On or around March 2, 2015, Ms. Haroch signed a second contract of adhesion (relating to the same CréditFlex account #0654-3259989) titled “*Convention de modification de la convention CréditFlex Valeur domiciliaire TD avec garantie immobilière*”, as it appears from the modification agreement to the CréditFlex

agreement disclosed as **Exhibit P-7**;

23. It appears that the purpose of having Ms. Haroch sign the modification agreement (Exhibit P-7 at page 2) was to convert a portion of the capital of the CréditFlex line of credit into a fixed term loan at a fixed interest rate;
24. The TD secured its loan with a “*Contrat d’hypothèque collatérale*” notarized on March 11, 2015, Applicant disclosing **Exhibit P-8**;
25. According to TD’s website, the TD Home Equity Flexline / CréditFlex “... lets you use the value of your home as collateral to give you a line of credit with a low interest rate” (<https://www.td.com/ca/en/personal-banking/products/mortgages/td-home-equity-flexline/>), Applicant disclosing **Exhibit P-9**;
26. TD CréditFlex/Flexline offers consumers a line of credit (secured by hypothec) with a revolving portion and an optional term portion. This case concerns the term portion of Ms. Haroch’s *CréditFlex*, where her hypothecary loan was fixed for a closed term of 5-years at a fixed interest rate of 2.79% (with a 25-year amortization period) after a so-called “discount” of 1.95%, as it appears from Exhibit P-7;
27. Ms. Haroch’s modified CréditFlex agreement, which came into effect on March 23, 2015 (the conversion date) contained the following contested clause concerning prepayment charges (see pages 2 and 7-10 of Exhibit P-7):

<b>Frais de remboursement anticipé</b>	<p>Si vous payez un montant supérieur à ce que vous permet votre privilège de remboursement anticipé, vous devez nous payer des frais de remboursement anticipé d'un montant correspondant au plus élevé entre :</p> <ul style="list-style-type: none"><li>a) trois (3) mois d'intérêt; et</li><li>b) le montant différentiel du taux d'intérêt : soit le montant correspondant à la différence entre votre taux d'intérêt annuel et le taux d'intérêt affiché pour un prêt hypothécaire dont la durée se rapproche le plus du reste de la durée de votre prêt hypothécaire, déduction faite de tout escompte sur le taux que vous avez reçu, multiplié par le montant remboursé par anticipation et multiplié par la durée restante.</li></ul>
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28. Paragraph b) in the clause above does not comply with section 6(4) of the *Cost of Borrowing (Banks) Regulations*, (SOR/2001-101), because: **i)** it is not made in language that is clear and simple; and **ii)** it is misleading because it enables the bank to charge a penalty of more than the difference between the interest rate charged to Ms. Haroch (and class members), on one hand, and the interest rate charged at the time of the reimbursement to other borrowers similarly situated. This is effected by the bank either: (a) falsely adding the “discount” given at the time of the loan; or (b) by subtracting the “discount” from the posted rate (at the time of the reimbursement) on the false assumption that the discount given to Ms. Haroch is identical for everyone all the time, which is simply not the case. Given that the “discount” varies, the inclusion of this factor falsifies the calculation and artificially creates or increases the loss that the bank was entitled to claim, contrary

to the law;

29. Paragraph b) in the clause above also does not comply with section 8(1) of the *Cost of Borrowing (Banks) Regulations*, (SOR/2001-101), which stipulates that the bank must provide the borrower with an initial “disclosure statement” that includes specific information. This information includes the “Prepayment Charges” as reproduced in the federal Directives, notably “CG-4 Information box examples for the Cost of Borrowing Regulations” (Exhibit P-1), which all of the Defendants undertook to comply with and acknowledged was binding on them in S.C.M. file no. 500-06-000930-186. Directive CG-4 does not refer to any rebate or discount concerning the calculation of the prepayment charges, as it appears below:

<b>Frais pour remboursement anticipé</b>	<p>Vous paierez une pénalité si vous versez un montant supérieur au montant autorisé en vertu du privilège de paiement par anticipation. Si vous voulez rembourser la totalité ou une partie de votre hypothèque avant la fin de la durée du prêt, vous serez également assujetti à une pénalité.</p> <p>La pénalité est égale au montant le plus élevé des deux :</p> <ul style="list-style-type: none"><li>• trois mois d'intérêt; ou</li><li>• le différentiel du taux d'intérêt, soit l'écart entre votre taux hypothécaire et le taux d'une hypothèque pour une durée se rapprochant de celle qu'il reste à courir sur votre prêt hypothécaire existant, multiplié par le solde impayé de votre prêt hypothécaire pendant la durée qu'il reste à courir sur votre prêt. Il est calculé d'après le montant qui fait l'objet d'un paiement par anticipation.</li></ul>
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30. Moreover, by introducing the concept of “discounts” in the disclosure statement and reproducing it in the prepayment clause, the TD Bank (and all Defendants) complicated the clause by adding an element into the equation that is not provided for in Directive CG-4. Doing so also complicated the clause to an extent that it could not be understood by a reasonable person within the meaning of article 1436 C.C.Q. For these reasons, the incomprehensible portion of the clause must be declared null and the only indemnity that can be charged is 3 months of interest;
31. The notion of “discount” is also not addressed whatsoever by the Court of Appeal in *Brunelle*, as in that case the customers paid a prepayment indemnity of only 3-months of interest;
32. Additionally, when signing her agreements and the deed (Exhibits P-6, P-7 and P-8), Ms. Haroch was never specifically explained that she would incur prepayment charges if she paid off her loan early (she was **not** asked to initial next

- to the contested clause), nor was she given any explanation about the incorporation of the constant discount into the formula used to calculate the IRD (i.e. "*le montant différentiel du taux d'intérêt*");
33. Ms. Haroch made her weekly payments for over 2 years and then eventually decided to sell her property secured by hypothec by the TD;
  34. On or around October 26, 2017, Ms. Haroch closed the sale of her property (340-342 Alexis-Nihon) at the notary and therefore had to pay off the existing balance of the fixed portion of her mortgage to TD prior to the closing date;
  35. On or around October 10, 2017, the TD prepared its Discharge/Transfer/Payout Statement, confirming that it will charge Ms. Haroch \$12,648.47 on account of "Prepayment Charge IRD", as it appears from said Statement disclosed as **Exhibit P-10**;
  36. There were 29 months remaining on Ms. Haroch's fixed term (last payment was due on March 16, 2020, as it appears at page 3 of Exhibit P-7);
  37. According to TD – and as it appears from the discharge statement (Exhibit P-10) – the balance owing on Ms. Haroch's fixed term and fixed rate loan as of October 10, 2017, was \$347,976.98;
  38. Based on a prepayment penalty of three months of interest (which is the only portion of the prepayment clause that was comprehensible to Ms. Haroch and which complied with Directive CG-4), the total amount that the TD should have charged Ms. Haroch on account of prepayment charges would be \$2,427.14 (based on her actual annual interest rate of 2.79%);
  39. Using its complicated IRD formula (which does not comply with the federal regulations and guidelines), and which is incomprehensible to Ms. Haroch, the TD calculated a prepayment charge of \$12,648.47;
  40. Ms. Haroch went to her branch and tried to negotiate in order to have the penalty waived or reduced, but the bank representative told her that the penalty is computer generated and that there was nothing they can do to reduce the amount;
  41. The prepayment charge of \$12,648.47 was disbursed directly from the notary to TD on or around October 26, 2017;
  42. TD's Discharge statement (Exhibit P-10) does not explain how it arrived to a prepayment charge of \$12,648.47, but we know that it used the IRD formula because a charge based on 3-months of interest would have been \$2,427.17;
  43. In order to reverse calculate TD's calculations based on the IRD formula, the Applicant discloses herewith a screen capture of TD's website from October 10, 2017 (i.e. when her penalty was calculated) as **Exhibit P-11**; This document shows that TD's interest rate for 2 years fixed (i.e. similar term to what was remaining on

Ms. Haroch’s mortgage) was 3.04%. As such, TD’s calculations were likely as follows (using the formula in its agreement reproduced at para. 27 above):

• Ms. Haroch’s annual interest rate:	2.79% <sup>3</sup>	Line A
• TD’s posted interest rate for a similar mortgage (2 years) in <b>October 2018</b> :	3.04%	
minus		
• <b>“Discount” initially received in March 2015:</b>	<u>1.95%</u> <sup>4</sup>	
	= 1.09%	Line B
• Line A minus Line B:	1.70%	Line C
• Line C x balance on mortgage of \$347,976.98:	\$5,915.60	Line D
• Line D ÷ 12 x 29 months remaining:	\$14,296.05	Line E

44. The Applicant hereby calls upon TD to adduce evidence explaining precisely how it calculated her prepayment charge, including the heretofore unknown variables used (notably the discount it was giving to borrowers off the posted rate of 3.04% for a 2-year fixed mortgage in October of 2017), as well as to file the missing pages of Exhibit P-10 (this is the only page of the discharge statement that Ms. Haroch has), which it curiously chose not to do voluntarily in file no. 500-06-000930-186;
45. In the interim, the problem with the chart above – and the issue underpinning the present class action – is that none of the Defendants are [...] comparing apples to apples. This is because we do not know what discount TD was giving on the similar 2-year fixed mortgage at the time of the Applicant’s prepayment. What is certain is that the TD was **not** issuing mortgage loans at 1.09% in 2018 (Line B), which is why calculating the IRD in this way is deceitful and prejudicial to Class members;
46. A representative of First National Financial LP, one of the top mortgage lenders in Canada, swore in an affidavit and provided a formula as proof, that had Ms. Haroch entered into her agreement with First National and prepaid her mortgage when she did with TD, she would have been charged a penalty equivalent to 3 months of interest on her loan, that is \$2,427.14 as opposed to the \$12,648.47 charged by TD. This is because First National does not incorporate the discount either in the initial rate or in the comparator rate and compares its net rate in 2015 (2.79%) to its net rate in October 2017 (2.94%), the whole as appears from the affidavit disclosed as **Exhibit P-12**;

<sup>3</sup> This rate includes the discount of 1.95%, meaning that the posted rate in March 2015 was 4.74%

<sup>4</sup> The problem is that the TD is applying a discount of 1.95% which it was not giving on a 2 year mortgage in October 2018.

47. In light of the above, the Applicant alleges that the TD could have – and likely did in fact – lend the amount that Ms. Haroch prepaid (\$347,976.98) to another borrower at an equivalent or higher interest rate than Ms. Haroch’s 2.79%;
48. Exhibit P-11 also leaves no doubt that the TD’s calculation did not produce a “neutral result”. Based on the data contained in Exhibit P-11, since the posted rate (3.04%) is greater than the contractual rate (2.79%) it is impossible to conclude that the TD suffered the interest rate differential loss it claimed from Ms. Haroch (i.e. in the amount of \$12,648.47), unless one is to accept the fantastic and unproven assumption that the TD also gave the same discount of 1.95% in October 2017 to all of its borrowers and that the TD was actually issuing mortgages at that time at an interest rate of 1.09% (that is the 3.04% posted rate minus the 1.95% discount it gave to Ms. Haroch in 2015) which is impossible;
49. Of outmost importance is that in its agreement, the TD Bank refers to the prepayment indemnity as “*compensatoires*” (Exhibit P-7 at page 10), meaning it should not generate a profit or windfall, but rather compensate the bank for a loss;
50. The TD did not suffer a loss of \$12,648.47 when Ms. Haroch prepaid her mortgage and the use of a “discount” enabled it to artificially create or show a greater loss and unlawfully charge a prepayment penalty to Ms. Haroch based on an illegal IRD clause when she prepaid her mortgage;
51. TD should have not charged Ms. Haroch more than \$2,427.17 (representing 3-months interest which she would have been charged had she had her mortgage with First National or Tangerine Bank to name a few top mortgage lenders in Canada) and therefore overcharged Ms. Haroch by \$10,221.30;
52. By incorporating the constant discount, the Defendants’ prepayment clause contains “unfair content” and becomes abusive pursuant to article 1437 C.C.Q. (see *Wang c. CST Consultants inc.*, 2021 QCCS 1104, para. 103);
53. Ms. Haroch was unhappy about paying the prepayment charge of \$12,648.47, but was in no position to negotiate with a giant bank such as TD, who imposes its formula and applies it with impunity and its sole discretion;
54. Ms. Haroch hereby claims a reimbursement in the amount of \$10,221.30 plus interest since May 31, 2018;
55. Ms. Haroch reiterates that TD’s clause concerning prepayment charges (“*Frais de remboursement anticipé*”) was incomprehensible to her, as she could never figure out or calculate the prepayment charge based on the information in the documents provided by TD until this day (Exhibits P-6, P-7 and P-10);
56. Ms. Haroch’s damages are a direct and proximate result of TD’s misconduct;
57. Ms. Haroch believes that further evidentiary support for her allegations will come to light after a reasonable opportunity for discovery;

## **2) Mr. Vaillancourt's Claim Against the National Bank of Canada**

- 57.1 On or around November, 2017, Mr. Vaillancourt signed a contract of adhesion (hypothecary loan agreement #5147592) with the National Bank of Canada for his residential property situated at 700 Alain Street #708, in the City of Quebec, Province of Quebec, G1X 4Y6, as it appears from a copy of his agreement disclosed as Exhibit P-37 (Mr. Vaillancourt hereby calls upon the National Bank of Canada to communicate the missing pages of this document to him without delay and they will form part of Exhibit P-37);
- 57.2 Mr. Vaillancourt discloses herewith a copy the document sent to him by the National Bank of Canada dated December 19, 2017, titled "Échéancier prêt hypothécaire" as Exhibit P-38;
- 57.3 Mr. Vaillancourt's hypothecary loan was fixed for a closed term of 5-years at a fixed interest rate of 3.34% (with a 25-year amortization period), after a so-called "discount" of 1.65% (i.e. the National Bank's posted rate at the time of 4.99% minus 3.34%) starting on February 1, 2018 and terminating on January 1, 2023;
- 57.4 Mr. Vaillancourt's agreement contained the following contested clause concerning prepayment charges (see page 2 of Exhibit P-37):

### **2) Comment est calculée l'indemnité en cas de remboursement anticipé avec indemnité**

Vous pouvez effectuer un remboursement partiel ou total du solde en capital de votre prêt avant la fin du terme, à la condition de payer à la Banque une indemnité, calculé sur le montant du remboursement anticipé de la façon suivante :

#### **Prêt hypothécaire à taux fixe**

Une **somme égale au plus élevé des deux montants suivants** :

- un montant correspondant à **3 mois d'intérêt**, calculé sur le montant du remboursement au taux affiché du prêt

OU

- la **somme des 2 montants** suivants :

(i) 1 mois d'intérêt, calculé sur le montant du remboursement au taux affiché de la Tranche, mais avec **un maximum de 500 \$**; et

(ii) **Différentiel d'intérêt** : le différentiel d'intérêts correspond à la valeur actualisée (calculé au taux standard indiqué ci-dessous) de l'excédent de l'intérêt que produirait le remboursement pendant le terme restant de la Tranche au taux affiché de la Tranche sur l'intérêt que produirait ce

remboursement pendant la même période au taux standard.

**Le taux standard** est le taux d'un prêt hypothécaire à taux fixe de même nature et d'un terme correspondant à la période restant à courir, que la Banque détermine et annonce de temps à autre selon ses pratiques habituelles. S'il n'existe pas de taux annoncé pour un terme correspondant à la période restant à courir, la Banque déterminera le taux standard pour les fins de la clause (ii) en utilisant un taux se situant entre les taux alors annoncés pour les deux termes les plus rapprochés de la période restant à courir.

L'exemple suivant illustre comment ce taux standard est déterminé...

57.5 Paragraph (ii) in the clause above does not comply with section 6(4) of the *Cost of Borrowing (Banks) Regulations*, (SOR/2001-101), because: i) it is not made in language that is clear and simple; and ii) it is misleading because it enables the bank to charge a penalty of more than the difference between the interest rate charged to Mr. Vaillancourt (and class members), on one hand, and the interest rate charged at the time of the reimbursement to other borrowers similarly situated. This is effected by the bank either: (a) falsely adding the "discount" given at the time of the loan; or (b) by subtracting the "discount" from the posted rate (at the time of the reimbursement) on the false assumption that the discount given to Mr. Vaillancourt is identical for everyone all the time, which is simply not the case. Given that the "discount" varies, the inclusion of this factor falsifies the calculation and artificially creates or increases the loss that the bank was entitled to claim, contrary to the law;

57.6 Paragraph (ii) in the clause above also does not comply with section 8(1) of the *Cost of Borrowing (Banks) Regulations*, (SOR/2001-101), which stipulates that the bank must provide the borrower with an initial "disclosure statement" that includes specific information. This information includes the "Prepayment Charges" as reproduced in the federal Directives, notably "*CG-4 Information box examples for the Cost of Borrowing Regulations*" (Exhibit P-1), which all of the Defendants undertook to comply with and acknowledged was binding on them in S.C.M. file no. 500-06-000930-186. Directive CG-4 does not refer to any rebate or discount concerning the calculation of the prepayment charges, as it appears below:

<b>Frais pour remboursement anticipé</b>	Vous paierez une pénalité si vous versez un montant supérieur au montant autorisé en vertu du privilège de paiement par anticipation. Si vous voulez rembourser la totalité ou une partie de votre hypothèque avant la fin de la durée du prêt, vous serez également assujéti à une pénalité.  La pénalité est égale au montant le plus élevé des deux : <ul style="list-style-type: none"><li>• trois mois d'intérêt; ou</li></ul>
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	<ul style="list-style-type: none"><li>• le différentiel du taux d'intérêt, soit l'écart entre votre taux hypothécaire et le taux d'une hypothèque pour une durée se rapprochant de celle qu'il reste à courir sur votre prêt hypothécaire existant, multiplié par le solde impayé de votre prêt hypothécaire pendant la durée qu'il reste à courir sur votre prêt. Il est calculé d'après le montant qui fait l'objet d'un paiement par anticipation.</li></ul>
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57.7 Moreover, by introducing the concept of “discounts” in the disclosure statement and reproducing it in the prepayment clause, the National Bank of Canada (and all Defendants) complicated the clause by adding an element into the equation that is not provided for in Directive CG-4. Doing so also complicated the clause to an extent that it could not be understood by a reasonable person within the meaning of article 1436 C.C.Q. For these reasons, the incomprehensible portion of the clause must be declared null and the only indemnity that can be charged is 3 months of interest;

57.8 The notion of “discount” is also not addressed whatsoever by the Court of Appeal in *Brunelle*, as in that case the customers paid a prepayment indemnity of only 3-months of interest;

57.9 Additionally, when signing his agreement (Exhibit P-37), Mr. Vaillancourt was never specifically explained that he would incur prepayment charges if he paid off his loan early (he was **not** asked to initial next to the contested clause), nor was he given any explanation about the incorporation of the constant discount into the formula used to calculate the IRD (i.e. “*le montant différentiel du taux d'intérêt*”);

57.10 Moreover, the National Bank’s clause reproduced above specifically mentions that the purpose of the prepayment charge is “*de payer à la Banque **une indemnité***” and the Applicant alleges that the National Bank (and all other banks) impose prepayment charges in amounts that far exceed indemnifying them for their loss, if any, and, in fact, generate profits from the charge;

57.11 Mr. Vaillancourt made his monthly payments for approximately 2.5 years and then eventually decided to pay off his mortgage early;

57.12 On or around August 26, 2020, Mr. Vaillancourt decided to prepay his mortgage in full and received a document from the National Bank titled “Information relative au remboursement anticipé de votre prêt hypothécaire” communicated herewith as **Exhibit P-39**;

57.13 This document (Exhibit P-39) prepared by the National Bank states that: “*Ce document constitue la divulgation requise au terme du **Code de conduite fédéral** relatif à l’information à l’information sur le remboursement anticipé des hypothèques*”, which is false because as alleged above and as appears from

- Exhibit P-1, the federal directives do not incorporate the concept of a “discount” into the prepayment penalty calculation;
- 57.14 This document (Exhibit P-39 at page 2, section 4) goes on to list the “*Éléments servant à calculer l’indemnit *” and that accordingly it will charge Mr. Vaillancourt \$8,023.52 on account of an “*indemnit *”;
- 57.15 There were 28 months remaining on Mr. Vaillancourt’s fixed term, as it appears at page 2 of Exhibit P-39;
- 57.16 According to the National Bank – and as it appears from Exhibit P-39 – the balance owing on Mr. Vaillancourt’s fixed term and fixed rate loan as of August 26, 2020, was \$219,754.37;
- 57.17 Based on a prepayment penalty of three months of interest (which is the only portion of the prepayment clause that was comprehensible to Mr. Vaillancourt and which complied with Directive CG-4), the total amount that the National Bank should have charged Mr. Vaillancourt on account of prepayment charges would be **\$1,834.95** (based on his actual annual interest rate of 3.34%);
- 57.18 This amount of \$1,834.95 would have been sufficient to “indemnify” the National Bank of Canada pursuant to its own prepayment clause (Exhibit P-37 at page 2);
- 57.19 Using its complicated IRD formula (which does not comply with the federal regulations and guidelines), and which is incomprehensible to Mr. Vaillancourt, the National Bank calculated a prepayment charge of **\$8,023.52**;
- 57.20 Mr. Vaillancourt tried to negotiate in order to have the penalty waived or reduced, but the National Bank of Canada refused;
- 57.21 The prepayment charge of \$8,023.52 was disbursed directly from the notary to the National Bank of Canada on or around August 2020;
- 57.22 Mr. Vaillancourt hereby calls upon the National Bank of Canada to adduce evidence explaining precisely how it calculated his prepayment charge, including the heretofore unknown variables used, notably, (i) its posted rate in August 2020 which is indicated as 3.41% in Exhibit P-39 but which appears to be incorrect based on **Exhibit P-40**; and (ii) the discount it was giving to borrowers off the posted rate (supposedly of 3.41%) for a 2-year fixed mortgage in August of 2020;
- 57.23 Mr. Vaillancourt reiterates that the National Bank of Canada did not suffer a loss of \$8,023.52 when he prepaid his mortgage and the use of a “discount” enabled it to artificially create or show a greater loss and unlawfully charge a prepayment penalty based on an illegal IRD clause when he prepaid his mortgage (as oppose to an “indemnit ” for its actual loss, if any);
- 57.24 The National Bank should have not charged Mr. Vaillancourt more than \$1,834.95 (representing 3-months interest which he would have been charged had he had

his mortgage with First National or Tangerine Bank to name a few top mortgage lenders in Canada) and therefore overcharged Mr. Vaillancourt by \$6,179.57;

57.25 By incorporating the constant discount, the Defendants' prepayment clause contains "unfair content" and becomes abusive pursuant to article 1437 C.C.Q. (see *Wang c. CST Consultants inc.*, 2021 QCCS 1104, para. 103);

57.26 Mr. Vaillancourt was unhappy about paying the prepayment charge of \$8,023.52, but was in no position to negotiate with a giant bank such as the National Bank, who imposes its formula and applies it with impunity and its sole discretion;

57.27 Mr. Vaillancourt hereby claims a reimbursement in the amount of \$6,179.57 plus legal interest;

57.28 Mr. Vaillancourt reiterates that the National Bank's clause concerning prepayment charges ("*Frais de remboursement anticipé*") is incomprehensible to him;

57.29 Mr. Vaillancourt's damages are a direct and proximate result of the National Bank's misconduct;

#### **IV. THE DEMONSTRATION OF A CAUSE OF ACTION AGAINST EACH DEFENDANT**

##### **A) The Fédération des Caisses Desjardins and the Caisses Defendants**

58. The Defendant the Fédération des Caisses Desjardins du Québec (hereinafter "**Fédération Desjardins**") is a merchant carrying on in the financial services industry, including as a hypothecary lender (either directly or via mandataries) among the other services it provides, as it appears from an extract of the CIDREQ, **Exhibit P-13**;

59. Olivier Nadeau (*Directeur gestion des produits de financement* for Fédération Desjardins) admitted the following in his Affidavit sworn on February 28, 2019, the Affidavit and its annexes disclosed herewith *en liasse* as Applicant's **Exhibit P-14**:

11. *La Fédération prépare les modèles types de contrats de prêt hypothécaire qui comportent des clauses prévoyant le paiement des indemnités en cas de remboursement hypothécaire anticipé, et les met à la disposition des caisses Desjardins. La Fédération recommande aux caisses Desjardins d'utiliser ces modèles, bien qu'aucun encadrement ou norme précise n'en gouverne l'utilisation ou l'application;*

##### **IV. Les indemnités payables lors d'un remboursement hypothécaire anticipé**

12. *Les caisses Desjardins sont les seules entités*

*responsables de l'exécution des clauses contractuelles prévoyant le paiement d'indemnités lors d'un remboursement anticipé;*

...

15. *Les caisses Desjardins n'imposent une indemnité supérieure à trois mois d'intérêts que dans des scénarios précis et identifiables **en fonction du terme du contrat** et du type de taux d'intérêt consenti;*

**ii. indemnités pouvant correspondre au DTI**

18. *Les clauses d'indemnité des contrats de prêt hypothécaire à taux fixe ferme consentis aux particuliers prévoient quant à eux que le membre peut rembourser de manière anticipée en payant une indemnité égale au plus élevé des deux montants suivants : 1) un montant égal a trois mois d'intérêts; OU 2) un montant égal à l'intérêt calculé sur le montant remboursé jusqu'à la fin du terme du prêt au taux d'intérêt égal au différentiel du taux d'intérêt, tel qu'il appert de la Convention d'utilisation de l'option multiprojets (CF-01255-575) **préparée par la Fédération et mise à la disposition des caisses Desjardins**, en liasse, pièce FCDQ-1;*

[Our emphasis in bold]

60. The Fédération Desjardins prepares, drafts and recommends the standard hypothecary loan contracts – and specifically the section concerning the prepayment indemnity – for the Caisses Desjardins Defendants;
61. The 227 Caisses Desjardins are called as Defendants because Mr. Nadeau admits that they are responsible for the “*execution*” of the mortgage prepayment indemnities paid by Class members. However, the fact that these entities demanded and received the prepayment indemnities does not exonerate the Fédération Desjardins from being solidarily liable towards the Class members, given that the Fédération Desjardins enabled, recommended and was instrumental to the creation and conclusion of illegal transactions;
62. Furthermore, clause 7.2(b)(ii) of the Desjardins sample contract provided by Mr. Nadeau specifies that it is the Fédération Desjardins that establishes the rates (and presumably the discounts) for the purposes of calculating the prepayment indemnity: “*le taux d'intérêt recommandé à ce moment la par la Fédération des caisses Desjardins du Québec à ses caisses affiliées...*” (Exhibit P-14 at p. 8-PDF);
63. In light of the above, the Fédération Desjardins is solidarily liable with each of the 227 “Caisses Desjardins” Defendants named herein for the damages suffered by each Class member who contracted with either entity;

64. Although there are many, the Applicant provides two examples below of how the Desjardins Defendants artificially create a loss (when interest rates rise) and artificially inflate a loss (when interest rates decrease);

**1. Desjardins Class Member Example #1 (interest rates increased since the loan)**

65. In September of 2016, this Class member, Mr. N., entered into a *Contrat de prêt à taux fixe garanti par hypothèque immobilière* with the Defendant the Caisse Desjardins de l'Administration et des Services publics (hereinafter "**CDASP**"). This contract provides that the CDASP will grant a hypothecary loan to Mr. N. of \$312,000.00 (clause 1) at a fixed interest rate of 2.489% (clause 3) for 63 months (clause 4), as it appears from **Exhibit P-15** (this is the only version of the contract that this member has; if Desjardins has a signed version of this agreement they should adduce it);
66. The CDASP provided Mr. N. with a document titled "Offre de financement – hypothèque immobilière" dated September 19, 2016, detailing the same terms as mentioned in the preceding paragraph, as it appears from **Exhibit P-16** (this contract is signed by the CDASP);
67. On November 29, 2016, the parties signed the "Acte de garantie hypothécaire immobilière" as it appears from **Exhibit P-17**. This document states at its article 1 that the only other document signed by this member was the "contrat de prêt à taux fixe" (i.e. Exhibit P-15) and no other document;
68. None of the documents provided to Mr. N. by the CDASP in 2016, including those mentioned in paras. 65-67 above, make any mention whatsoever that his contractual rate of 2.489% is based on a discount or reduction of any kind. In fact, the document sent by the CDASP to the notary dated November 25, 2016, shows that no discount was received, as it stipulates "Taux: 2.489 %" and "Taux préférentiel" and "Écart de taux" as "0.0 %", as it appears from the extract reproduced below (middle column, first three rows) of Applicant's **Exhibit P-18**:

Prêt					
Montant	312 000.00 \$	Taux	2.489 %	Date fin de taux	2016-12-15
Débours conservé par le créancier	18 385.00 \$	Taux préférentiel	0.0 %	Termes (mois)	63
Débours à être remis au conseiller juridique	293 615.00 \$	Écart de taux	0.0 %	Amortissement (mois)	300
Prime assurance à inclure	S/O	Période de calcul	S/O	Type de prêt	Fixe / Fermé
Prime assurance	0.00 \$	Taux minimum	S/O %	Pourcentage de retenue jusqu'à 35 jours après la fin des travaux	S/O %
Prix de vente	S/O \$	Taux maximal	0.0 %		
		Taux remboursement	15.0 %		

69. Around the month of August 2018, Mr. N. informed the CDASP that he would be prepaying the balance on his mortgage in full;
70. According to the tool provided on Desjardins' website used by Mr. N., the amount of the prepayment indemnity based on an interest rate of 2.489% - without any discount as per his agreement and hypothecary deed - was \$1,831.03, which is

an amount based on 3-months of interest because interest rates had increased from November 2016 to August 2018, as it appears from **Exhibit P-19**, as partially reproduced below:

Informations sur votre prêt - suite	
Avez-vous une assurance-prêt de Desjardins Sécurité Financière?	non
Taux d'intérêt hypothécaire	2,490 %
Rabais de taux hypothécaire obtenu	0,000 %
Avez-vous reçu une remise en argent au début du terme de votre prêt?	non
Montant de la remise	0,00 \$

  

Résultats	
Montant de l'indemnité à payer	Composition du montant de l'indemnité
 <b>1 831,03 \$</b>	Indemnité sur le montant remboursé : 1 831,03 \$
	Indemnité sur la remise en argent (s'il y lieu) : 0,00 \$
	Indemnité sur le rabais supplémentaire de l'an 1 des prêts à taux révisable annuellement (s'il y lieu) : 0,00 \$

71. A few days after Mr. N. performed this exercise with the Desjardins' online tool, Mr. Ciro Rios, a representative of the CDASP, performed the same exercise for Mr. N. and provided him with an almost identical figure as the amount of the prepayment indemnity (i.e. approximately \$1,831.00);
72. Clearly, if Mr. Rios, who is more experienced than the average borrower, understood from Mr. N.'s contract and file that no discount was given on his loan, it follows that Mr. N.'s interpretation and calculations were correct. However, as explained below, Desjardins changed its mind concerning the calculation, which only further confirms the incomprehensible nature of the clause to the average person (art. 1436) in its redaction and in its application;
73. On August 24, 2018, a different representative of the CDASP provided Mr. N. with a document titled "Calculs d'indemnité hypothécaire aux Particuliers", disclosed as **Exhibit P-20**, which was prepared by the Federation Desjardins;
74. All of a sudden – and without any contractual or legal basis for doing so – the CDASP and the Federation Desjardins incorporated a **discount of 2.25%** to Mr. N.'s contractual interest rate and to the comparator rate, thereby artificially inflating the prepayment penalty to \$4004.00 ("indemnité contractuelle") instead of \$1,810.00 (based on 3-months interest on that day), as it appears from Exhibit P-20, partially reproduced below:

Taux bulletin du prêt actuel	4,739	%
- Réduction de taux du prêt actuel	2,250	%
Taux du prêt actuel	2,489	% A (sans assurances)
Taux bulletin du terme de 36 mois	4,300	% (taux de comparaison en date du calcul)
- Réduction de taux du prêt actuel	2,250	%
Taux de comparaison ajusté	2,050	% B
Différence de taux	-0,439	% B - A
Indemnité de trois mois d'intérêts	1 810 \$	ou moins de trois mois s'il y a lieu
Indemnité de différence de taux	4 004 \$	
Réduction de taux du prêt actuel	1,000	% La première année (selon la convention)
Économie d'intérêt la 1 <sup>ère</sup> année	0,00 \$	
Économie d'intérêt à rembourser	0,00 \$	
<b>Indemnité contractuelle:</b>	<b>4 004 \$</b>	

75. It is worth mentioning here that even if the CDASP had informed Mr. N. that his contractual rate included a “discount” of 2.25% in writing pursuant to clause 7.2 of his contract – which is denied – the indemnity is still calculated on the false assumption that: (i) the Caisses gave an identical “constant discount” of 2.25% to all its clients both in November 2016 (when the loan was contracted) and in August 2018 (when the loan was reimbursed), even though interest rates increased; and (ii) that in August 2018 the Caisses were supposedly issuing fixed-term closed mortgages to all of their clients at a rate of 2.05% (that is 4.30% minus 2.25%), which was not the case;
76. To demonstrate that the Caisses were not issuing fixed-term closed mortgages to their clients at a rate of 2.05% in 2018 (and that they were not giving a constant discount of 2.25% at that time), the Applicant discloses a screen capture of the Federation Desjardins’ website from December 2018 (using a wayback machine) showing that its 5-year fixed rate was 3.99%, disclosed as **Exhibit P-21**. The Applicant also discloses a screen capture of the Federation Desjardins’ website from December 2016 showing that at the time when Mr. N. took his mortgage their website showed a posted rate of 2.84% to 2.89% for a 5-year fixed mortgage, **Exhibit P-22**;
77. All of this means that even when interest rates rise and enable the Defendants to charge a higher interest rate to new borrowers (which was the case for most of the Class Period), the Defendants nevertheless trigger the application of the more costly IRD method (instead of the lesser 3-month penalty) and artificially show a loss by falsely adding or subtracting a “discount” on the false premise that the discount given to the person prepaying their mortgage is identical for everyone all the time. The result of this deceitfulness is that when Class members pay off their loan early, the Defendants are always able to charge them a higher penalty based on their IRD formula, instead of 3-months interest. This practice is illegal because it does not respect the federal instructions that all of the Defendants voluntarily submit to, including the Caisses Desjardins, and because it overcompensates them;
78. For his part, Mr. N. agreed to pay an indemnity of 3-months of interest based on the terms of his contract and tried to contest the difference with Desjardins, as it appears from the emails thread of September 5, 2018, disclosed as **Exhibit P-23**:

“...C’est donc le montant de 1831.03 \$ que nous acceptons de payer.

Vous noterez que la différence entre les 2 montants est très élevé, soit de 2172.97 \$...”

79. It is clear that the CDASP and the Federation Desjardins refused to comply with section 7.2 of its contract (Exhibit P-15), and incorporated a discount in the calculation (which was an artificially inflated discount since Desjardins was not giving discounts of 2.25 % in November of 2018), thereby artificially increasing the amount of the indemnity;
80. On September 12, 2018, the CDASP withdrew the amount \$4004.00 from Mr. N.’s bank account to pay for the prepayment indemnity, as it appears from **Exhibit P-24**;
81. The CDASP did not suffer a loss of \$4004.00 when Mr. N. prepaid his mortgage and the use of a “constant discount” enabled it to artificially create or show a greater loss;
82. Notwithstanding the preceding paragraph, based on the fact that his contract (notably at clause 3) did not mention that Mr. N. received a discount, it follows that the CDASP and the Fédération Desjardins did not comply with their own agreements by incorporating the discount in the prepayment indemnity calculation, since clause 7.2(b)(ii) of this member’s contract provides that “*Si le membre a obtenu une **réduction de taux d’intérêt dont il a été informé par écrit lorsque le prêt a été accordé**, le taux de comparaison est réduit d’un pourcentage égal à la réduction de taux obtenue*”. As such, Mr. N. should have only paid \$1,810.00 as an indemnity;
83. The standard form agreement that Mr. N. signed was obviously not prepared exclusively for him and therefore all members whose contracts did not specify the discount in writing are entitled to have their indemnity recalculated without incorporating the notion of discounts (i.e. actual contractual rates minus actual comparator rate) and are entitled to compensation of the difference;
84. When faced with similar facts in *Doyle c. TD Canada Trust*, 2011 QCCQ 1212 (including that the discount was never mentioned in any of the contractual documents) the Court of Quebec ordered the bank to reimburse the surcharges calculated as a result of incorporating the discount into the prepayment calculation, as it appears from **Exhibit P-25**;

## **2. Desjardins Class Member Example #2 (interest rates decreased since the loan)**

85. On or around June 1, 2021, the Defendant the Caisse Desjardins du Coeur-de-l’île charged a Class member, Ms. B., a prepayment indemnity of \$5,303.00, as it appears from Ms. B.’s documents (series of exhibits already disclosed as Exhibit P-5, i.e. P-5.1 to P-5.8)

86. As it appears from Exhibit P-5.6, prior to paying the penalty Ms. B. sent a letter dated April 20, 2021 to this Caisse explaining in detail why she did not agree with how they were applying the “discount” to calculate her prepayment charge. The Caisse escalated her situation to the Fédération Desjardins whose response notably included the following (Exhibit P-5.8):

Selon la conversation qui s’est tenue avec vous et la soussignée le 9 avril dernier, nous comprenons que votre plainte découle de la méthode de calcul de l’indemnité hypothécaire utilisée lors du remboursement complet par anticipation d’un financement hypothécaire. Vous mentionnez que l’indemnité de Desjardins est légale car incluse dans le contrat, mais grandement abusive. Selon vous, elle devrait se limiter à compenser le manque à gagner de l’institution. En référence à votre situation, vous estimez qu’elle mène à une indemnité du double de celle à laquelle une personne pourrait s’attendre. Vous convenez bien qu’il y ait une indemnité à rembourser lors de la résiliation d’un contrat. Dans le cas de l’hypothèque, le manque à gagner vous semble une indemnité raisonnable correspondant à une perte réelle pour l’institution financière et vous n’avez aucune réticence à payer ce montant. Conséquemment, vous souhaitez que le calcul de votre indemnité soit révisé.

Nous devons vous informer que votre plainte concerne un dossier qui fait présentement l’objet de procédures judiciaires. **En effet, une action collective (dossier de cour numéro 500-06-000930-186) a été déposée pour trancher des questions similaires.** Vous pouvez obtenir plus de détails en consultant le Registre des actions collectives de la Cour supérieure du Québec (<https://www.registredesactionscollectives.quebec>). Par conséquent, le différend étant présentement devant les tribunaux, nous n’avons d’autre choix que de laisser le processus judiciaire suivre son cours.

Considérant ce qui précède, nous ne sommes donc pas en mesure de donner suite à votre demande et nous procéderons à la fermeture de votre dossier.

87. There are several issues with the Fédération Desjardins’ response to this Class member. First, on October 4, 2021, the Court of Appeal confirmed that the cause of action concerning the calculation of the indemnity with respect to the discount was not part of the class action in S.C.M. file no. 500-06-000930-186, and this after the Defendants, including Desjardins, presented this argument in their oral pleadings in first instance and in their Briefs and oral arguments in appeal;
88. Second, the document provided to this Class member by the Caisse Desjardins du Coeur-de-l’île titled “Calculs d’indemnité hypothécaire aux Particuliers” (Exhibit P-5.3) includes the following information:

Taux affiché du prêt actuel :	5,490 %	
- Réduction de taux du prêt actuel :	<u>1,900 %</u>	
= Taux du prêt actuel :	3,590 %	A
Taux affiché du terme de 24 mois :	2,940 %	
- Écart de taux :	<u>0,650 %</u>	
= Taux de comparaison ajusté :	2,290 %	B
Différence de taux :	-1.300 %	B - A
• Indemnité de trois mois d'intérêts (103 105,02 \$ x 3,59% / 12 x 3 mois)	912 \$ (according to Desjardins)	
• Indemnité de différence de taux (103 105,02 \$ x <b>2,55<sup>5</sup>%</b> / 12 x 26.9 mois)	5 303 \$ (according to Desjardins)	

89. The above is an example where interest rates decreased from the date of the loan to the date of prepayment, which is why this member explained to the Caisse in her letter that she was prepared to pay approximately \$2,600.00 which represents their actual financial loss (see Exhibit P-5.6);
90. The calculations used above by the Caisse and confirmed by the Fédération Desjardins are contrary to the purpose of clause 4.2b) of this member's agreement, the purpose of which is to calculate an indemnity representing the difference which the calculation shows as being 1.30% (see Exhibit P-5.2), and which further demonstrates the incomprehensible nature of the clause;
91. Moreover, according to Desjardins' own calculations the "**Difference de taux**" is **1.30 %**, yet it used the artificially inflated rate of 2.29% to calculate Ms. B's indemnity (which should actually be called a penalty since it does more than indemnify the Caisse for its loss):

Taux affiché du prêt actuel	5,490 %	
- Réduction de taux du prêt actuel	<u>1,900 %</u>	
Taux du prêt actuel	3,590 %	A (sans at
Taux affiché du terme de 24 mois	2,940 %	(taux affich
- Écart de taux	<u>0,650 %</u>	
Taux de comparaison ajusté	2,290 %	B (taux du
Différence de taux	-1,300 %	B - A
Indemnité de trois mois d'intérêts	912 \$	ou moins de tri
Indemnité de différence de taux	5 303 \$	

92. Given that Desjardins admits that the "différence de taux" is 1.30%, the calculation to compensate it for its loss of interest is: **3.59%** ("taux du prêt actuel" given in

<sup>5</sup> 5.49% - 2.94% = 2.55%

2017) – **2.29%** (“taux de comparaison ajusté” that it was lending at in 2021) = **1.30%**. They would then multiply **1.30% x \$103,105.02** (“montant assujetti à l’indemnité”) ÷ **12 x 26.9 months** (“durée restant du terme actuel) = **\$3,004.65**. Therefore, Desjardins overcharged this member by \$2,298.35 (i.e. \$5,303.00 minus \$3,004.65);

93. Obviously, this member’s situation is not unique, and the Fédération’s response to her (Exhibit P-5.8) confirms the systemic nature of the issue;

## **B) The National Bank of Canada**

94. In addition to the allegations herein referring to the Defendants in the plural and thereby including the National Bank of Canada, the Applicant adds the following;

95. In S.C.M. file no. 500-06-000930-186 and in its appeal in C.A. file no. 500-09-028532-190 (hearing of October 4, 2021), the lawyer for the National Bank declared to the Court that the National Bank does not incorporate or use a discount to calculate the prepayment indemnity;

96. The Applicant wishes to clarify the situation and discloses herewith the prepayment indemnity calculation prepared by the National Bank for one of its customers on August 6, 2020 as **Exhibit P-26**. This document leaves no doubt that the National Bank incorporates a discount in the calculation because they refer to the “**taux affiché à la date d’engagement**” as 5.34% and the “**taux facturé en vigueur**” as 3.45%, meaning they apply a **discount of 1.89%**. This customer’s loan agreement is disclosed herewith as **Exhibit P-27**;

97. The National Bank of Canada charged this customer a prepayment indemnity of \$8,571.80. When he inquired as to how they arrived to this figure, he was sent a PDF file prepared by Rahim Abderrahim, disclosed as **Exhibit P-28**. According to his business card, Mr. Abderrahim is the “Directeur, Développement hypothécaire” at the National Bank of Canada, **Exhibit P-29**;

98. In his explanatory document (Exhibit P-28), the director of mortgage development at the National Bank of Canada mentions a “real rate” and a “posted rate” (i.e. as opposed to the discounted rate of 3.45%):

“Taux affiché à la date de l’engagement : quand vous avez contracté l’hypothèque avec nous, la banque, **le vrai taux**, le taux affiché était de 5,34% pour un terme de 60 mois. (5ans)

En d’autres mots : le jour ou on vous a accordé l’hypothèque, **le taux de 5 ans Fixe affiché était de 5,34%**”

99. There can therefore be no doubt that the discount impacts the prepayment indemnity charged by the National Bank of Canada, contrary to the representations made before the Superior Court of Quebec and the Court of Appeal;

100. The incorporation of the discount artificially shows a loss and overcompensates the National Bank;
101. The Applicant hereby calls upon the National Bank of Canada to adduce evidence explaining precisely how they calculated the prepayment charge in this case (in Exhibit P-26), including the heretofore unknown variables used, namely the discount given on the comparator mortgages listed as 3.79% (for 36 months) and 4.44% (for 48 months) in August of 2020. In other words, it is extremely unlikely that the National Bank was issuing mortgages at 3.79% or 4.44% on that date and in order to compare apples to apples we must compare discounted rates (at the time of the loan) to discounted rates (at the time of reimbursement);

**C) The Royal Bank of Canada**

102. To avoid repetition we reiterate the allegations herein as they concern the Royal Bank of Canada (“**RBC**”) as one of the Defendants;
103. Additionally, the Applicant discloses herewith as **Exhibit P-30**, a document provided to her by the RBC in the previous file titled “Mortgage Information Statement”. This document demonstrates that the RBC also does not apply the discount to the comparator mortgage and therefore their IRD is unfair and certainly not neutral (see Exhibit P-30 at page 3-PDF):

Prepayment Charge Method	INTEREST RATE DIFFERENTIAL
Balance Used To Calculate Prepayment Charge	\$47,840.33
Interest Rate (including any Discount)	2.890000%
Discount	-1.650000%
Term Remaining	022 (MONTHS)
Comparable Term (used to determine which Current Posted Rate is applicable)	2 YEARS
Current Posted Rate	3.040000%
Rate Used For Calculation (Current Posted Rate minus any Discount)	1.390000%
Prepayment Charge Calculated	\$1,118.94

104. As it appears from line 3 of a portion of RBC’s document reproduced above, the interest rate of 2.89% is “including any Discount”, however the “Current Posted Rate” on line 7 does not include the actual discount given by the RBC at the time on the 3.04% posted rate. Instead of showing the true discount given at that time, what the RBC does at line 8 titled “Rate Used for Calculation (Current Posted Rate minus any Discount)” is subtract the discount given at the time of the loan (1.65%) from the posted rate at the time of reimbursement to get a comparator rate of 1.39%;
105. By applying the same discount at the time of reimbursement, the RBC (and all of the Defendants) ignore what is the real discount, if any, that was given to a new borrower at the time of reimbursement;
106. In the case illustrated above, applying the 1.65% discount at the time of

reimbursement, when the discount given to a new borrower at that time was likely much lower (notably because the term is less), the RBC creates or inflates a loss;

107. This is simple arithmetic: the higher any discount is, the lower the rate of interest; conversely, the smaller the discount is, the higher the interest rate. Therefore, if the bank applies an artificial discount at the time of reimbursement that is higher than the real discounts, if any, then its purported interest rate at the time of reimbursement will be lower and its penalty/charge will be higher;
108. Another document provided to the Applicant by the RBC is titled "Approval of Mortgage and of Borrowing - Statement of Disclosure (Fixed Rate)", disclosed as **Exhibit P-31**, and explains the purpose of the prepayment charge, not just for the RBC but all lenders (see page 9-PDF):

#### **(7) Purpose of Prepayment Charge**

The purpose of a prepayment charge is to **compensate the lender for the economic costs it incurs** when a prepayment amount exceeds the prepayment privileges permitted under the mortgage. These costs include prepayment transaction costs, plus the fact the lender will not receive the full term amount of interest that was designed, in part, to recover the lender's costs to acquire the Mortgage.

109. As alleged above, by using a "constant discount" the prepayment indemnity charged by the RBC overcompensates it in excess of its economic costs;

#### **D) The Banque de Montréal**

110. To avoid repetition we reiterate the allegations herein as they concern the Banque de Montréal ("**BMO**") as one the Defendants;
111. The Applicant discloses herewith a document provided to her by the BMO titled "Your Mortgage Prepayment Options" in English and French as **Exhibit P-32**;
112. As it appears from the example in Exhibit P-32 (pages 9 to 11-PDF), the BMO subtracts from the interest rate provided in the contract on the date of the loan (6.50%) the same discount given at the time of the loan (i.e. 2.00%) from the posted comparator interest rate at the time of reimbursement (6.30%);
113. Here again, the use of a "constant discount" of 2.00% to calculate the prepayment indemnity overcompensates the BMO for their actual loss;

#### **E) The Bank of Nova Scotia**

114. To avoid repetition we reiterate the allegations herein as they concern the Bank of Nova Scotia ("**Scotia**") as one the Defendants;

115. A copy of a document showing how Scotia calculates the prepayment indemnity for its customers is disclosed herewith *en liasse* with corresponding mortgage agreement as **Exhibit P-33**;
116. As it appears from Exhibit P-33, Scotia subtracts the same constant discount of 1.70% given at the time of the loan when the contractual interest rate was 3.09% (on May 12, 2014) from the posted comparator rate of 3.09% when the loan was prepaid (in April 2017);
117. Of course, the Scotia was not issuing 2-year mortgages at 1.39% in April of 2017, and its posted rate at that time was 3.09% as it appears from **Exhibit P-34** (we note that in Exhibit P-33, Scotia refers to this rate as the “Taux **actuel** pour la durée de comparaison”, which is misleading because what they are actually referring to is their **posted** comparator rate). Therefore, applying the constant discount of 1.70% at the time of loan and at the time of reimbursement artificially inflates the loss;
118. The Applicant hereby calls upon Scotia to adduce evidence explaining precisely how they calculated the prepayment charge in this case (Exhibit P-33, page 1-PDF), including the heretofore unknown variables used, namely the discount given in April 2017 on the comparator mortgages listed as 3.09%;

#### **F) Laurentian Bank of Canada**

119. To avoid repetition we reiterate the allegations herein as they concern the Laurentian Bank of Canada (“**Laurentian**”) as one the Defendants;
120. In S.C.M. file no. 500-06-000930-186 and in its appeal in C.A. file no. 500-09-028532-190 (hearing of October 4, 2021), the lawyer for the Laurentian declared to the Court that the Laurentian does not factor a discount to calculate the prepayment indemnity;
121. However, the Laurentian does incorporate the discount in calculating the prepayment indemnity;
122. A document downloaded from the Laurentian’s website ([https://www.banquelaurentienne.ca/sn\\_uploads/pdf/6930F.pdf](https://www.banquelaurentienne.ca/sn_uploads/pdf/6930F.pdf)) titled “*Informations relatives à l’indemnité lors du remboursement anticipé d’un prêt hypothécaire*” is disclosed herewith as **Exhibit P-35**;
123. Exhibit P-35 (at section 8 on page 4-PDF) leaves no doubt that that the discount is absolutely incorporated into the IRD calculation:

Méthode 2 : différentiel de taux

A 90 000\$ Montant du remboursement, refinancement ou renouvellement anticipé

Étape (i)

B 0,065 Taux client, en décimales (Taux client soit 6,5 % = 0,065)

C 487,50 \$  $C = A \times B \div 12$  ( $C = 90\,000 \times 0,065 \div 12$ )

D 487,50 \$ Si C est plus petit que 500.00 \$, inscrire le montant calculé en C, sinon inscrire 500.00 \$.

Étape (ii)

E 31 Terme résiduel du prêt (ex. : 31 mois sur un terme initial de 60 mois)

F 0,07 Taux affiché, en décimales (Taux affiché soit : 7 % = 0,07)

G 0,0475 Taux de référence, en décimales, soit le taux d'intérêt annuel exigé par la Banque à la date du remboursement, refinancement ou renouvellement anticipé pour les prêts à taux fixe dont le terme se rapproche le plus du terme résiduel du prêt qui fait l'objet du remboursement, refinancement ou renouvellement anticipé (ex. : 31 mois restants, prendre la moyenne soit : (Taux de 2 ans + Taux de 3 ans)  $\div$  2) (4,5 % + 5 % = 9,5 % ensuite 9,5 %  $\div$  2 = 4,75 % ou 0,0475)

H 0,0225  $H = F - G$  (si le résultat est négatif, inscrire 0) ( $H = 0,07 - 0,0475$  soit 0,0225 ou 2,25 %)

124. The excerpt from Exhibit P-35 reproduced above shows at its line “B” that the “taux client” is **6.50%**. Line “F” shows that the “taux affiché” is **7.00%**. Line “G” shows the “taux de référence” (which is the comparator rate at the time of prepayment) as **4.75%**;

124.1 A copy of an actual example provided by a class member who was over penalized by the Laurentian Bank based on this formula is communicated herewith as Exhibit P-41;

125. The data in Exhibit P-35 (as well as Exhibit P-41) shows two things that puts the Laurentian in the same situation as the other Defendants: (1<sup>st</sup>) they factor a constant discount, which in this case is the posted rate of 7.00% (line “F”) minus the “client rate” of 6.50% (line “B”) = **constant discount of 0.50%**; and (2<sup>nd</sup>) they factor the same constant discount of 0.50% given at the time of the loan to the comparator/reference rate of 4.75% (line “G”) at the time of prepayment, even though the discount given on the comparator loan is not 0.50% in reality (it will likely be less given the shorter duration). This second point is effected at line “H” of the Laurentian’s IRD formula by providing that the comparator/reference rate of 4.75% (line “G”) is subtracted from the original posted rate of 7.00% (line “F”) as opposed to the client rate of 6.50% we see in line B;

126. The foregoing contradicts the representations made by the Laurentian before the courts, which leads to the conclusion that it did not understand the application of its own IRD formula, in which case it is incomprehensible (as is the case for all the Defendants) and should be declared null pursuant to article 1436 C.C.Q.;

**G) HSBC Bank of Canada**

127. To avoid repetition we reiterate the allegations herein as they concern the HSBC Bank of Canada (“**HSBC**”) as one the Defendants;
128. The Applicant discloses HSBC’s document titled “Mortgage Prepayment Charge Calculator” herewith as **Exhibit P-36**;
129. In Exhibit P-36, the HSBC confirms that it calculates the IRD as follows:

The interest differential amount is the amount of interest calculated on the amount of the prepayment from the date of prepayment to the date of maturity of the mortgage loan using an interest rate equal to:

- the annual interest rate on the existing mortgage less
- the bank’s Posted Rate at the time of prepayment for new fixed rate mortgages with a term that is equal to, or next longer to, the length of time between the prepayment and the maturity of the mortgage **less any discount on the existing mortgage**.

130. The HSBC applies the constant discount in the same manner as the other banks which allows them to artificially create or inflate a loss and to charge prepayment indemnities that exceed their loss;

**Recapitulation:**

131. To recapitulate, the systemic issues underpinning the present class action concerning all the Defendants are that:
- a) the Defendants artificially falsify the calculation of the IRD by introducing a concept of discounts and using them without basis on the reality of the transactions;
  - b) the effect of a) above is that the prepayment indemnity overcompensates the bank for its actual loss and becomes abusive, contrary to the Civil Code;
  - c) The Defendants are in breach of Directive CG-4 and the Civil Code and make an illegal profit from the reimbursement before term, which contradicts their representation as to the objective of the indemnity;
  - d) by incorporating the concept of “discount”, the clause providing for the mortgage prepayment indemnity is incomprehensible to a reasonable person within the meaning of article 1436 C.C.Q. and does not comply with Directive CG-4;

- e) In light of all of the above, the Court should not and cannot rewrite the disputed clause and should declare it null and void;

**H) THE CLAIMS OF THE MEMBERS OF THE CLASS RAISE IDENTICAL, SIMILAR OR RELATED ISSUES OF LAW OR FACT:**

**132. The recourses of the Class Members raise identical, similar or related questions of fact or law, namely:**

- a) Do the Defendants make a hidden profit when charging a mortgage prepayment indemnity to Class members?
- b) If so, is this practice of making a hidden profit in violation of federal Directive CG-4, the Civil Code (art. 1437), and the Defendants' respective contracts and representations?
- c) By incorporating the concept of a discount into their prepayment clauses, did the Defendants make the clause incomprehensible to a reasonable person within the meaning of article 1436 C.C.Q. and is the clause drafted in clear and simple language as required under subsection 6(4) of the *Cost of Borrowing (Banks) Regulations*, (SOR/2001-101)?
- d) If the clause incorporating or applying the concept of discount is illegal, is the appropriate remedy the cancellation of this clause, such that the only indemnity payable is 3 months of interest?
- e) Did the Defendants act in bad faith?
- f) Are class members entitled to a reimbursement and in what amount?
- g) Is the Defendant the Fédération des Caisses Desjardins du Québec solidarily liable with each of the 227 "Caisses Desjardins" Defendants named herein for the monetary condemnation pronounced against the latter?
- h) When does prescription start for Class members and was prescription suspended by the filing of the claim in S.C.M. file no. 500-06-000930-186?

133. In this case, the legal and factual questions at issue are common to all the members of the Class, namely whether the Defendants make a hidden and illegal profit from the mortgage prepayment charges and whether the incorporation of a discount makes the prepayment clause incomprehensible;

134. The claims of every member of the Class are founded on very similar facts to the Applicants' respective claims against the TD Bank and the National Bank of Canada;

135. All of the Defendants failed to comply with the federal regulations and guidelines,

and in particular did not use the language provided for in “CG-4 Information box examples for the Cost of Borrowing Regulations” (Exhibit P-1), by adding the element of “discount” in the “Prepayment Charges” section. This enabled all of the Defendants to create or inflate an IRD loss to the detriment of all Class members;

136. In calculating their prepayment charges, all of the Defendants use a method that does not produce a “neutral result”, contrary to the representations made by some of their attorneys at the authorization hearing in file no. 500-06-000930-186. The reason the result is not neutral is because in calculating the prepayment indemnity they apply the “discount” given to initial borrower’s “posted rate”, but do not apply that same “discount” to the subsequent borrower’s “posted rate” that they are comparing to at the time of prepayment in order to calculate the indemnity;
137. By reason of Defendants’ unlawful conduct, the Applicants and every Class member have suffered damages, which they may collectively claim against the Defendants;
138. Requiring a separate class action against each Defendant based on very similar questions of fact and identical questions of law would be a waste of resources and could result in conflicting judgments. Although the Applicants themselves do not have a personal cause of action against, or a legal relationship with, each of the Defendants, the Class contains enough members with personal causes of action against each Defendant;
139. The facts and legal issues of the present action support a proportional approach to class action standing that economizes judicial resources and enhances access to justice;
140. In taking the foregoing into account, all members of the Class are justified in claiming the sums which they unlawfully overpaid to Defendants;
141. All of the damages to the Class members are a direct and proximate result of the Defendants’ misconduct;
142. Individual questions, if any, pale by comparison to the common questions that are significant to the outcome of the present Application;

#### **I) THE COMPOSITION OF THE CLASS**

143. The composition of the Class makes it difficult or impracticable to apply the rules for mandates to take part in judicial proceedings on behalf of others or for consolidation of proceedings;
144. The size of the Class is conservatively estimated to include several thousands of members in the province of Quebec;
145. The names and addresses of all persons included in the Class are not known to the Applicants, however, are in the possession of the Defendants;

146. Class members are very numerous and are dispersed across the province;
147. These facts demonstrate that it would be impractical, if not impossible, to contact each and every Class Member to obtain mandates and to join them in one action;
148. In these circumstances, a class action is the only appropriate procedure for all of the members of the Class to effectively pursue their respective rights and have access to justice without overburdening the court system;

**J) THE CLASS MEMBERS REQUESTING TO BE APPOINTED AS REPRESENTATIVE PLAINTIFFS ARE IN A POSITION TO PROPERLY REPRESENT THE CLASS MEMBERS**

149. The Applicants requests that they be appointed the status of representative plaintiffs for the following main reasons:
  - a) they are members of the Class and have a personal interest in seeking the conclusions that they propose[...] herein;
  - b) they are competent, in that they have potential to be the mandatary of the action if it had proceeded under article 91 of the *Code of Civil Procedure*;
  - c) their interests are not antagonistic to those of other Class members;
150. Additionally, the Applicants respectfully add that:
  - a) they have the time, energy, will and determination to assume all the responsibilities incumbent upon them in order to diligently carry out the action;
  - b) they mandated their attorney to file the present application in order to obtain a reimbursement for themselves and all Class members for the damages that they have suffered as a consequence of Defendants' misconduct;
  - c) they cooperate[...] and will continue to fully cooperate with their attorneys;
  - d) they understand[...] the nature of the action;
  - e) On June 26, 2019 Ms. Haroch attended the authorization hearing in S.C.M. file no. 500-06-000930-186, and the Court concluded that she satisfied article 575(4);
151. As for identifying other members, the Applicants draw[...] certain inferences from the situation and realize[...] that by all accounts, there is a very important number of Class members that find themselves in an identical situation, and that it would not be any more useful for them to attempt to identify them given their number;
152. For the above reasons, the Applicants respectfully submit[...] that their interest and competence are such that the present class action could proceed fairly and in the

best interest of Class members;

## **V. DAMAGES**

153. During the Class Period, the Defendants have likely generated aggregate profits in the tens of millions of dollars (if not more) from Class members by deceitfully using the constant discount to calculate the IRD formula;
154. All of the Defendants must be held accountable for the breach of obligations imposed on them by provincial and federal legislation including:
- a) Articles 6, 7, 1436, 1437, 1458 and 2805 C.C.Q.;
  - b) Section 8(1) of the *Cost of Borrowing (Banks) Regulations*, (SOR/2001-101) and the corresponding federal instruction CG-4 "Information box examples for the Cost of Borrowing Regulations";
  - c) Section 6(4) of the *Cost of Borrowing (Banks) Regulations*, (SOR/2001-101).
155. In light of the foregoing, the following may be claimed against the Defendants:
- a) Reimbursement of any amounts paid as a prepayment indemnity in excess of 3 months of interest;

## **VI. NATURE OF THE ACTION AND CONCLUSIONS SOUGHT**

156. The action that the Applicants wish to institute on behalf of the members of the Class is an action in restitution and damages;
157. The conclusions that the Applicants wish[...] to introduce by way of an originating application are:

**GRANT** the Representative Plaintiffs' action against the Defendants on behalf of all the Class Members;

**DECLARE** null and void the clause in the Defendants' contracts of loan allowing them to claim more than 3 months of interest in the cases of mortgage prepayments for fixed-term mortgages;

**CONDEMN** the Defendants to reimburse the Representative Plaintiffs and Class Members any amounts paid as a prepayment indemnity in excess of 3 months of interest;

**ORDER** the collective recovery of all sums owed to the Class Members for the amounts overcharged;

**CONDEMN** the Defendants to pay interest and the additional indemnity on the

above sums according to law from [...] May 31, 2018;

**DECLARE** that Defendant the Fédération des Caisses Desjardins du Québec is solidarily liable with each of the 227 “Caisses Desjardins” Defendants named herein for the monetary condemnation pronounced against the latter;

**ORDER** the Defendants to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest and costs;

**ORDER** that the claims of individual Class members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;

**CONDEMN** the Defendants to bear the costs of the present action at all levels, including the cost of all exhibits, notices, the cost of management of claims and the costs of experts, if any, including the costs of experts required to establish the amount of the collective recovery orders;

## **VII. JURISDICTION**

158. The Applicant suggest that this class action be exercised before the Superior Court in the district of Montreal, since she is domiciled and resides in this district.

### **FOR THESE REASONS, MAY IT PLEASE THE COURT:**

1. **GRANT** the present application;
2. **AUTHORIZE** the bringing of a class action in the form of an originating application in restitution and damages;
3. **APPOINT** the Applicants the status of Representative Plaintiffs of the persons included in the Classes herein described as:

#### **Class:**

All persons who, since May 31, 2015: (i) paid to any of the Defendants (or to any of their affiliates) a mortgage prepayment charge in an amount that exceeds three months of interest when either entirely or partially paying off a hypothecary loan or a collateral hypothec on a property located in the province of Quebec; [...]

or any other Class to be determined by the Court;

4. **IDENTIFY** the principle questions of fact and law to be treated collectively as the following:
  - a) Do the Defendants make a hidden profit when charging a mortgage prepayment indemnity to Class members?

- b) If so, is this practice of making a hidden profit in violation of federal Directive CG-4, the Civil Code (art. 1437), and the Defendants' respective contracts and representations?
- c) By incorporating the concept of a discount into their prepayment clauses, did the Defendants make the clause incomprehensible to a reasonable person within the meaning of article 1436 C.C.Q. and is the clause drafted in clear and simple language as required under subsection 6(4) of the *Cost of Borrowing (Banks) Regulations*, (SOR/2001-101)?
- d) If the clause incorporating or applying the concept of discount is illegal, is the appropriate remedy the cancellation of this clause, such that the only indemnity payable is 3 months of interest?
- e) Did the Defendants act in bad faith?
- f) Are class members entitled to a reimbursement and in what amount?
- g) Is the Defendant the Fédération des Caisses Desjardins du Québec solidarily liable with each of the 227 "Caisses Desjardins" Defendants named herein for the monetary condemnation pronounced against the latter?
- h) When does prescription start for Class members and was prescription suspended by the filing of the claim in S.C.M. file no. 500-06-000930-186?

5. **IDENTIFY** the conclusions sought by the class action to be instituted as being the following:

- a) **GRANT** the Representative Plaintiffs' action against the Defendants on behalf of all the Class Members;
- b) **DECLARE** null and void the clause in the Defendants' contracts of loan allowing them to claim more than 3 months of interest in the cases of mortgage prepayments for fixed-term mortgages;
- c) **CONDEMN** the Defendants to reimburse the Representative Plaintiffs and Class Members any amounts paid as a prepayment indemnity in excess of 3 months of interest;
- d) **ORDER** the collective recovery of all sums owed to the Class Members for the amounts overcharged;
- e) **CONDEMN** the Defendants to pay interest and the additional indemnity on the above sums according to law from [...] May 31, 2018;
- f) **DECLARE** that Defendant the Fédération des Caisses Desjardins du Québec is solidarily liable with each of the 227 "Caisses Desjardins" Defendants named herein for the monetary condemnation pronounced against the latter;

- g) **ORDER** the Defendants to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest and costs;
  - h) **ORDER** that the claims of individual Class members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;
  - i) **CONDEMN** the Defendants to bear the costs of the present action at all levels, including the cost of all exhibits, notices, the cost of management of claims and the costs of experts, if any, including the costs of experts required to establish the amount of the collective recovery orders;
6. **ORDER** the publication of a notice to the class members in accordance with article 579 C.C.P., pursuant to a further order of the Court, and **ORDER** the Defendants to pay for said publication costs;
7. **FIX** the delay of exclusion at thirty (30) days from the date of the publication of the notice to the members, date upon which the members of the Class that have not exercised their means of exclusion will be bound by any judgement to be rendered herein;
8. **DECLARE** that all members of the Class that have not requested their exclusion, be bound by any judgement to be rendered on the class action to be instituted in the manner provided for by law;
9. **THE WHOLE** with costs, including the court stamp, bailiff fees, stenographer fees and publication fees.

Montreal, January 31, 2022

(s) LPC Avocat Inc.

**LPC AVOCAT INC.**

Mtre Joey Zukran

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