

CANADA

SUPERIOR COURT OF QUÉBEC
(CLASS ACTION)

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SHAI MEDALSY

Petitioner

N° : 500-06-000750-154

v.

THE TORONTO-DOMINION BANK

Respondent

SETTLEMENT AGREEMENT

PREAMBLE

WHEREAS on July 17th, 2015, Shai Medalsy (the "**Petitioner**") instituted a Motion to authorize the bringing of a class action and to ascribe the status of representative (the "**Motion**" or the "**class action**") against The Toronto-Dominion Bank (the "**Respondent**") further to a notice sent in June 2015 with respect to modifications to the TD Travel Rewards Program (the "**Program**") and to the Redemption Value of TD Points for certain travel purchases made with TD Travel Cards and to be effective as of August 16, 2015 (the "**June Notice**");

WHEREAS the Motion included namely conclusions of injunctive and declaratory nature ordering the Respondent to reinstate the Redemption Value of 200 TD points equal \$1 in travel savings for said travel purchases;

WHEREAS on or about September 25, 2015, Respondent sent a notice to its Quebec TD Travel Cards customers advising that the change in the redemption value stated in the June Notice had been suspended until further notice (the "**September Notice**"). ;

WHEREAS the class action has not yet been authorized;

WHEREAS the Parties have entered into negotiations on a without prejudice basis and as a result of these negotiations, have entered into this Settlement Agreement, which embodies all of the terms and conditions of said settlement;

WHEREAS through the Settlement Agreement, the Parties wish to settle among themselves and on behalf of the Putative Class Members any and all claims, allegations or causes of action of whatever nature in relation to the facts alleged in the Motion and supporting exhibits, in accordance with the terms and conditions of the Settlement Agreement;

WHEREAS the Respondent does not admit, through the negotiations, the execution or implementation of this Settlement Agreement or otherwise, the merit of the purported class action or the allegations of the Motion or the existence of a conduct giving rise to a cause of action, whether by class action or in other way, and the Petitioner considers that his action herein is well founded;

WHEREAS the Parties have reviewed and fully understand the terms of this Settlement Agreement and, having regard to their analyses of the facts and law applicable to the Petitioner's claims, the burdens and expenses associated with prosecuting the Motion, including the risks and uncertainties associated with a trial, and having regard to the value of the settlement, have concluded that this Settlement Agreement is fair, reasonable and in the best interests of the Putative Class Members and the administration of justice;

NOW THEREFORE, in consideration of the covenants, agreements and releases set forth herein and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that the Motion as against the Respondent be definitely settled, without costs for the Respondent or the Petitioner and the Putative Class Members, subject to the approval of the Court, on the terms and conditions set out below;

THE PARTIES AGREE AS FOLLOWS:

I. DEFINITIONS

1. In addition to the definitions already provided for in the Preamble, the following definitions apply to this Settlement Agreement:

Book Any Way Travel Purchases: means, under the Program, a travel booked through any travel provider excluding Expedia for TD (also known as "Other Travel Providers");

Class Counsel Fees: means the total of all fees, disbursements, costs, interests and/or charges of the Petitioner's Class Counsel, including but not limited to any sums payable by the Petitioner's Class Counsel or by any Putative Class Members to the *Québec Fonds d'aide aux actions collectives*;

Court: refers to the Superior Court of Québec;

Date of payment: means, for the purposes of payment of Class Counsel Fees, fifteen (15) days following the Final Judgment;

Eligible Account: means an account that meets the following cumulative criteria:

- a. *Is coded as belonging to a resident of the Province of Québec according to the address appearing on the statement of account as of the date of the preparation of the Notice(s);*
- b. *Corresponds to one of the TD Travel Cards;*
- c. *Is open at the date of the preparation of the Notice(s);*

- d. Only the name and address of the primary cardholder as they appear on the electronic version of the account are considered;
- e. Closed accounts are excluded.

Eligible Period: means on-going period ending on August 31st, 2017 inclusively;

Final Judgment: means a judgment made by the Court approving this Settlement Agreement. The Parties agree that this judgment approving the Settlement Agreement will become final upon expiry of a period of thirty (30) days or if an appeal is filed, when such appeal is dismissed by the final Court of Appeal;

New Redemption Value: means the following:

TD Points Redeemed on a Book Any Way Travel Purchase	New TD Points Value
First 300,000 TD Points on a Book Any Way Travel Purchase	10,000 TD Points = \$40 in travel savings or 250 TD Points = \$1 in travel savings
Next 300,000 or more TD Points on the same Book Any Way Travel Purchase	10,000 TD Points = \$50 in travel savings or 200 TD Points = \$1 in travel savings

Notice(s): means the Notice of approval hearing, and/or the Notice of Settlement Agreement approval to be sent to the Putative Class Members after the Court approves this Settlement Agreement, as attached as Schedules "B" to "E";

Parties: means the Petitioner and the Respondent collectively;

Petitioner's Class Counsel: means the firm of Lex Group Inc.;

Putative Class Members: means a person in the Province of Québec only, who is a primary cardholder or an additional cardholder (authorized user) of a TD Travel Card;

Redemption Value: means the current TD Points Value as detailed in the following table:

TD Points Redeemed on a Book Any Way Travel Purchase	TD Points Value
Any level of TD Points redeemed on a Book Any Way Travel Purchase	10,000 TD Points = \$50 in travel savings or 200 TD Points = \$1 in travel savings

Respondent's Counsel: means the firm of Gowling WLG (Canada) LLP;

Right of Exclusion: means the right of a Putative Class Member to exclude his/her/its Eligible Account from the Settlement Agreement using the instructions provided in the Notice of approval hearing (Schedules "B" and "C"), therefore opting out of the class action and this Settlement Agreement;

Right of Withdrawal: means the Respondent's right to withdraw from the Settlement Agreement as set out in sections 20 to 23;

Right to Object: means the presentation of an argument or of an objection regarding the Settlement Agreement by a Putative Class Member, using the instructions provided in the Notice of approval hearing, Schedules "B" and "C";

September Notice: means the notice dated September 25, 2015 sent by the Respondent and advising that the New Redemption Value has been suspended;

Schedules: means all the documents that the Parties have attached to the Settlement Agreement (Schedules "A" to "E");

Settlement Agreement: means this agreement including the Preamble and the Schedules;

TD Points: means the balance of points for TD Travel Cards available for redemption by the Putative Class Members;

TD Travel Cards: means one or more of the following TD travel cards: the "TD First Class Travel Visa Infinite Card", "TD Platinum Travel Visa Card", "TD Classic Travel Visa Card", and the "TD Business Travel Visa Card";

II. SCOPE AND EXTENT OF THE SETTLEMENT AGREEMENT

2. The fulfillment of each and every one of the conditions mentioned in the present Settlement Agreement is a condition precedent to the Settlement Agreement, failing which the Settlement Agreement will be null and void and will not give rise to any right or obligation in favor of or against the Parties and the Putative Class Members;
3. The Settlement Agreement is conditional upon the Court approving it in its entirety, failing which the Settlement Agreement will be null and void and will not give rise to any right or obligation in favor of or against the Parties and the Putative Class Members;
4. Any documents or information provided by Respondent during the negotiations or in the carrying out of this Settlement Agreement on a without prejudice basis shall not be referred to or used as evidence in any future civil, criminal or administrative action or proceeding;
5. The Parties shall use their best efforts to effectuate this Settlement Agreement and obtain the approval of this Settlement Agreement by the Court, promptly, completely and finally. The Parties undertake to cooperate in that context and make and deploy the efforts and means required to support and demonstrate the fairness and reasonableness of the Settlement Agreement in order to obtain the Court's approval with respect to same;
6. In execution of this Settlement Agreement, the Petitioner's Class Counsel brought, along with the application to approve the Notice of approval hearing and for authorization of the class action for settlement purposes only, an application to amend the Motion, for

settlement purposes only, in accordance with Schedule "A" hereto, namely in order to modify the description of the Putative Class Members to only include residents of the Province of Québec, as opposed to a national class. The Parties have agreed on the content of the Amended Application for Authorization of a Class Action to be filed by the Petitioner for settlement purposes only (the "**Amended Application**" - included in Schedule "A");

7. Until the filing of the application to approve the Notice of approval hearing and for authorization of the class action for settlement purposes only, it was the Parties intention to keep confidential the fact that a settlement occurred as well as the terms and conditions of the Settlement Agreement and not to disclose them without obtaining prior written consent of both Petitioner's Class Counsel and Respondent's Counsel;

III. NATURE AND CONSIDERATION OF THE SETTLEMENT AGREEMENT

8. The Preamble forms an integral part of this Settlement Agreement;
9. For the purposes of settling this matter amicably at this stage of the proceedings and avoiding further protracted and costly litigation, and without admission, the Parties confirm that the facts and consideration justifying the Settlement Agreement include the following *inter alia*:
 - The Motion was filed on July 17, 2015;
 - Respondent, by its September Notice suspended the change described in its June Notice with respect to the application of the New Redemption Value;
 - This suspension resulted in the Putative Class Members having since, and for almost the entire past year, the on-going ability to redeem their TD Points at the Redemption Value;
 - As provided for in the September Notice, the Putative Class Members who had redeemed their TD Points at the New Redemption Value between August 16, 2015 and September 25, 2015 have already received a credit based on the Redemption Value;
 - Furthermore, before effecting the change to the New Redemption Value, Respondent will provide an additional period of time to Putative Class Members up and until the end of the Eligible Period, ultimately resulting in Putative Class Members receiving the Redemption Value for almost two (2) years since the September Notice and approximately one (1) year from the sending of the Notice of approval hearing;
 - At the end of this Eligible Period, the New Redemption Value will apply to all Putative Class Members for any remaining outstanding TD Points;
 - The Parties agree that providing time to the Putative Class Members has a value and that it is a fair and reasonable basis for which this Settlement Agreement is entered into;

- The ability of Putative Class Members to redeem their TD Points at the Redemption Value, within the Eligible Period, represents a value of approximately \$4,839,492.00, taking into consideration all the outstanding TD points and the average percentage of use of the Book Any Way Travel Purchases option;
- Putative Class Members are able at all times to terminate their cardholder agreements and Program without any cost, penalty or termination fee save and except any balance owing on the TD Travel Card;
- As per this Settlement Agreement, the Parties agree that there should not be any other award or damages either of compensatory, moral or of punitive nature;
- The Parties agree that the consideration described is proportional to the risks and uncertainties of pursuing the Motion and consider that the agreement evidenced by the Settlement Agreement represents sound administration of justice and is fair, advisable, reasonable in the circumstances and in the best interests of the Putative Class Members;

IV. IMPLEMENTATION OF THE SETTLEMENT AGREEMENT

10. At the pre-approval hearing, namely before the subsequent hearing at which the Parties will be asking the Court to approve this Settlement Agreement, the Motion will be amended in compliance with Schedule "A", for settlement purposes only, hereto as a condition precedent to this Settlement Agreement. It is also understood and agreed by the Parties that the Court will authorize the class action for settlement purposes only;
11. The following Notices will be mailed by Respondent directly to the address of any Eligible Account as set out below and at its own cost:
 - a. The Notice of approval hearing contained in Schedules "B" and "C", which provides information pertaining to the date and place where the application to approve the Settlement Agreement and Class Counsel Fees will be heard by the Court. It also includes information about the Eligible Period, the Right of Exclusion (opt out) and the Right to Object;
 - b. The Notice of Settlement Agreement approval contained in Schedules "D" and "E", which will advise that the Settlement Agreement has been approved by the Court by Final Judgment and which will provide information about the Eligible Period once again;
12. Petitioner's Class Counsel will be responsible at its own cost for posting copies of the Notices and of the Settlement Agreement on its firm website;
13. Respondent will amend its relevant website(s) at its own cost to refer to the Eligible Period;
14. The Parties agree that a specific and direct mailing to the Eligible Accounts with the Notices and the websites' references as contemplated, are an appropriate and complete

mean to properly notify and inform the Putative Class Members in accordance with the principles of proportionality;

15. Given the nature of the Settlement Agreement that is based on additional time for the Putative Class Members to redeem TD Points at the Redemption Value and the required time for Respondent to send the Notices, the Parties, subject to the entire Court's discretion and availability of course, are aiming to proceed with the pre-approval hearing on July 21st, 2016 and with the hearing for the approval of the Settlement Agreement on October 27th, 2016, with a view to obtain a Final Judgment on the Settlement Agreement and then proceed promptly with sending the Notice of Settlement Agreement approval (Schedules "D" and "E") reiterating the Eligible Period, potentially in the first few months of 2017;

V. RIGHT OF EXCLUSION (OPT OUT)

16. Putative Class Members have the right to exclude themselves (opt out) from the Settlement Agreement;
17. Exercise of the Right of Exclusion by a Putative Class Member entails the loss of the right to benefit from the Settlement Agreement and the loss of the status as a Putative Class Member, namely the loss of the benefit of the Eligible Period in order to redeem the TD Points at the Redemption Value;
18. A Putative Class Member wishing to exercise his or her Right of Exclusion must do so in accordance with the instructions and the opt out deadline provided in Schedules "B" and "C";
19. Putative Class Members who have not exercised the Right of Exclusion on or before the opt out deadline will be irrevocably deemed to have chosen to participate in the Settlement Agreement and will be bound by the Settlement Agreement following its approval by the Court and by all judgments or orders subsequently issued by the Court, if any;

VI. RIGHT OF WITHDRAWAL

20. Petitioner's Class Counsel will communicate to Respondent's Counsel, upon receipt and at the latest five (5) days after the expiration of the opt out deadline, copies of any Rights of Exclusions received and a list of the Putative Class Members who have exercised a Right of Exclusion pursuant to the Notice of approval hearing;
21. Should these Rights of Exclusions received represent one or the other of the following occurrences :
 - a. more than fifty (50) Eligible Accounts;
 - b. total value of these Eligible Accounts represents fifty million 50,000,000 TD Points or more;

then the Respondent will be entitled to terminate and put an end to the Settlement Agreement at no cost, without being bound to do so. For more certainty, the separate or combined occurrences give rise to the Right of Withdrawal by Respondent. The Right of Withdrawal will be exercised at the sole discretion of the Respondent and will not require consultation with or consent of the Petitioner or of the Petitioner's Class Counsel;

22. The Right of Withdrawal must be exercised no later than ten business (10) days after Petitioner's Class Counsel sends to Respondent's Counsel the list of the Rights of Exclusions received;
23. The Right of Withdrawal will be exercised by means of a letter (embodied in an email) sent by Respondent's Counsel to Petitioner's Class Counsel and by the communication of a copy of such letter to the Court through an email;

VII. RIGHT OF TERMINATION AND UNDERTAKINGS

24. If the Court declines to approve this Settlement Agreement in its entirety for any reason, this Settlement Agreement shall be considered terminated (except if the Parties mutually agree otherwise) and shall be null and void and have no further force or effect, shall not be binding on the Parties and shall not be used as evidence or otherwise in any litigation;
25. The Petitioner and the Petitioner's Class Counsel agree that no document, as the case may be, or information provided by the Respondent with respect to this Settlement Agreement may be shared with anyone in anyway whatsoever, or used, directly or indirectly, by the Petitioner's Class Counsel or by the Petitioner, in anyway and for any purpose, except in accordance with the present Settlement Agreement;
26. If this Settlement Agreement is terminated or if Respondent exercises its Right of Withdrawal, the terms and conditions contained in sections 4, 24, 25, 26, 31, 32, 33, 34, 39 and 41, and the definitions and schedules applicable, are maintained and continue to have effect. All the other provisions of this Settlement Agreement and all the obligations contained herein immediately cease to exist and the Parties are returned to the positions they were respectively in prior to the execution of this Settlement Agreement;

VIII. CLASS COUNSEL FEES

27. Within the application for approval of this Settlement Agreement, Petitioner's Class Counsel will be asking the Court to approve the Class Counsel Fees;
28. As part of the Settlement Agreement, Respondent agrees to pay Petitioner's Class Counsel, Class Counsel Fees of \$510,000.00 plus the applicable GST and QST, at the agreed Date of payment. If the Court approves this Settlement Agreement, and in consideration of the payment of the said Class Counsel Fees, Petitioner's Class Counsel will not, directly or indirectly, claim from the Respondent or the Putative Class Members any other fee or disbursement of any kind or based on any source;

IX. RELEASE IN FAVOR OF THE RESPONDENT

29. By this Settlement Agreement, the Petitioner, in his own name and on behalf of the Putative Class Members who have not exercised their Right of Exclusion, and on behalf of their mandataries, representatives, successors and assigns, if any, give a full, general and final release and discharge to The Toronto-Dominion Bank and the Respondent's counsels, mandataries, representatives, insurers, employees, professionals, staffs, successors and assigns for any claim, suit, complaint, cause of action, damages, including namely compensatory, moral or punitive or costs of any kind whatsoever, including namely for expert fees, disbursements, judicial fees and legal fees, that the Petitioner and the Putative Class Members had, have or may have, directly or indirectly, with respect to the facts alleged and conclusions sought in the Amended Application set out in Schedule "A" and the supporting exhibits;
30. This release will take effect as of the end of the Eligible Period;
31. No provision of the Settlement Agreement will constitute or be deemed to constitute or be construed as constituting a waiver by the Respondent of any right or defense against any claim, suit or cause of action with respect to the facts alleged in the Motion or to any future modifications to the Program or to its relationship with its customers;
32. Moreover, it should not be construed as a waiver with respect to any claim, suit or cause of action of a Putative Class Member that has exercised their Right of Exclusion or a waiver by the Respondent of any right or defense in contesting the Motion should the Settlement Agreement not be approved by the Court or otherwise become null and void owing to the application of any of the provisions of the Settlement Agreement;
33. None of the obligations, of whatever kind, assumed by the Respondent and Respondent's counsels in executing the Settlement Agreement nor the consent of the Respondent to the Settlement Agreement taking place or to the Court issuing any pre-approval or judgment approving the Settlement Agreement shall constitute in any manner an admission of the liability by the Respondent past, present or future including with respect to any modifications to the Program or to its relationship with its customers;
34. Petitioner's Class Counsel, nor anyone employed by, associated with, or a partner with the Petitioner's Class Counsel, may directly or indirectly participate or be involved in or in any way assist with respect to any claim made or action commenced by any person which relates to or arises from the facts alleged in the Motion;

X. SCHEDULES

35. The following Schedules form an integral part of the Settlement Agreement and are incorporated therein as if they were recited at length therein:

- **Schedule "A"**: "Application for Authorization to Amend the Motion to Authorize the Bringing of a Class Action and to Ascribe the Status of Representative (For Settlement Purposes Only), to Authorize the Class Action for Settlement Purposes, and for Approval of the Settlement Approval Notice to Class Members" and its proposed Amended Application;

- **Schedule “B”**: the Notice of approval hearing;
- **Schedule “C”**: *l'avis d'audition d'approbation*;
- **Schedule “D”**: the Notice of Settlement Agreement approval;
- **Schedule “E”**: *l'avis d'approbation de l'entente de règlement*;

XI. FINAL PROVISIONS

36. The division of this Settlement Agreement into headings is for convenience of reference only and shall not affect the construction or interpretation of this Settlement Agreement;
37. This Settlement Agreement shall be governed by the laws of Quebec;
38. This Settlement Agreement constitutes the entire agreement among the Parties, and supersedes all prior understandings, undertakings, representations, agreements in connection herewith. None of the Parties will be bound by any prior obligations, conditions or representations with respect to the subject matter of this Settlement Agreement, unless expressly incorporated herein;
39. The Settlement Agreement will not be considered to constitute an admission or acknowledgment by any of the Parties of the validity of any right, claim or defense;
40. In the event of a discrepancy between the wording of the notices to Putative Class Members and the Settlement Agreement, the wording of the Settlement Agreement will take precedence;
41. All costs associated with the implementation and execution of the Settlement Agreement that have not been specifically provided for by the Settlement Agreement, if any, will be borne by the party that has incurred them and their reimbursement may not be claimed from any other party;
42. This Settlement Agreement constitutes a transaction in accordance with Articles 2631 and following of the *Civil Code of Quebec*;
43. Only in case of a technical difficulty in the course of the implementation of the Settlement Agreement, Petitioner's Class Counsel is expressly authorized by the Petitioner on behalf of the Putative Class Members to enter into any modifications or amendments to this Settlement Agreement, with Respondent's approval, such modifications or amendments being of a technical nature with no impact as to the essence of the Settlement Agreement;

44. This Settlement Agreement may be signed in several copies which, together, shall be deemed to constitute one and the same agreement, and any signature transmitted by fax or electronic means in PDF format shall be deemed to constitute a signature.

AGREED AND EXECUTED:

IN Montreal

ON July 14, 2016



SHAIMEDALSY

IN Montreal

ON July 19, 2016



LEX GROUP INC.
ATTORNEYS FOR PETITIONER

IN Toronto

ON _____, 2016

THE TORONTO-DOMINION BANK
PER:

IN Montreal

ON _____, 2016

GOWLING WGL (CANADA) LLP
ATTORNEYS FOR RESPONDENT

44. This Settlement Agreement may be signed in several copies which, together, shall be deemed to constitute one and the same agreement, and any signature transmitted by fax or electronic means in PDF format shall be deemed to constitute a signature.

AGREED AND EXECUTED:

IN Montreal

ON _____, 2016

SHAI MEDALSY

IN Toronto

ON July 19th, 2016

THE TORONTO-DOMINION BANK

PER: Andrew Pilkington

IN Montreal

ON _____, 2016

LEX GROUP INC.
ATTORNEYS FOR PETITIONER

IN Montreal

ON July 20, 2016

Gowling WLG (Canada) LLP
GOWLING WGL (CANADA) LLP
ATTORNEYS FOR RESPONDENT

SCHEDULE "A"

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL
No.: 500-06-000750-154

SUPERIOR COURT OF QUÉBEC
(CLASS ACTION)

SHAI MEDALSY

Petitioner

VS.

THE TORONTO-DOMINION BANK

Respondent

APPLICATION FOR AUTHORIZATION TO AMEND THE MOTION TO
AUTHORIZE THE BRINGING OF A CLASS ACTION AND TO ASCRIBE
THE STATUS OF REPRESENTATIVE
(FOR SETTLEMENT PURPOSES ONLY), TO AUTHORIZE THE CLASS
ACTION FOR SETTLEMENT PURPOSES, AND FOR APPROVAL OF
THE SETTLEMENT APPROVAL NOTICE TO CLASS MEMBERS
(Articles 574 and following, 585 and 590 C.C.P.)

TO THE HONOURABLE JUSTICE PIERRE LABELLE OF THE SUPERIOR COURT
OF QUÉBEC, SITTING IN AND FOR THE DISTRICT OF MONTRÉAL, APPOINTED
TO PRESIDE IN THE PRESENT MATTER, THE PETITIONER STATES THE
FOLLOWING:

1. For the reasons detailed hereinbelow, and for settlement purposes only, Petitioner wishes to amend the Motion to Authorize the Bringing of a Class Action and to Ascribe the Status of Representative (the "**Original Motion**"), the whole in accordance with a copy of the "AMENDED APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION (FOR SETTLEMENT PURPOSES ONLY)", communicated herewith as **Exhibit P-1** (the "**Amended Application**");

2. The Original Motion was filed on July 17, 2015;
3. On or about September 25, 2015, the Respondent sent a notification letter to the Putative Class Members in the Province of Québec informing them that the Respondent was postponing the changes to its TD Points Redemption Value for Book Any Way Travel Purchases until further notice and crediting the accounts of any cardholder who would have redeemed the TD Points between August 16, 2015 and September 25, 2015;
4. The Parties have since then initiated settlement discussions on a without prejudice basis;
5. The Parties have reached a Settlement Agreement in the present class action as concerning residents of the Province of Quebec only, which Settlement Agreement has not yet been submitted to this Honorable Court for approval, a copy of which Settlement Agreement is communicated herewith as **Exhibit P-2**;
6. As a condition precedent of the said proposed settlement, the Petitioner has agreed to file the present application to amend the Original Motion, the whole in order to no longer seek to represent a national class as defined in the Original Motion and therefore modify the class action group definition to only persons in Quebec, as appears from the Amended Application (P-1);
7. Indeed, the parties have agreed that this amendment will be requested by Petitioner for settlement purposes only and that should this Honorable Court ultimately not approve the Settlement Agreement for any reason, that said amendment would be annulled and, *inter alia*, Petitioner will continue his proceedings seeking to represent a national class;
8. Furthermore, and as detailed in the P-2 Settlement Agreement, at the hearing of the present application, Petitioner will also ask this Honorable Court to authorize the class action as per the P-1 Amended Application, for settlement purposes only;
9. Petitioner also wishes to amend the Original Motion in order to refer to and file Respondent's notification letter dated September 25, 2015 as new Exhibit R-6;
10. In addition, Petitioner proposes to amend the Original Motion in order to incorporate the new articles and new terminology of the new Code of Civil Procedure;

11. Finally, and as detailed in the P-2 Settlement Agreement, the parties also request that this Honorable Court approve the content and dissemination method of the Notice of approval hearing to be sent to the Putative Class Members, in both English and French, copies of which are communicated herewith as **Exhibits P-3 and P-4** respectively;

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

AUTHORIZE Petitioner to amend the “Motion to Authorize the Bringing of a Class Action and to Ascribe the Status of Representative”, as set forth in the AMENDED APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION (FOR SETTLEMENT PURPOSES ONLY) Exhibit P-1;

AUTHORIZE the filing of the Amended application for authorization to institute a class action (for settlement purposes only) as per Exhibit P-1;

AUTHORIZE the bringing of a class action against the Respondent as per the Amended application for authorization to institute a class action (for settlement purposes only) (Exhibit P-1), for the purposes of settlement only;

ORDER that for the purposes of this judgment, the definitions contained in the Settlement Agreement (Exhibit P-2) shall apply and be incorporated by reference;

APPROVE the content of the Notice of approval hearing to the Putative Class Members, in English and French, Exhibits P-3 and P-4;

ORDER the notices Exhibits P-3 and P-4 shall be sent and disseminated as per the conditions and terms set out in the Settlement Agreement, Exhibit P-2, to each Putative Class Members;

APPROVE the form and content of the Right of Exclusion as set out in the notices, Exhibits P-3 and P-4;

ORDER that the hearing for the settlement approval is to be held at the date and time to be scheduled by this Court at the Montreal Courthouse, 1 Notre-Dame Street East;

ORDER that a translated version of the Settlement Agreement, Exhibit P-2, be made available for consultation purposes on Petitioner Class Counsel's website;

THE WHOLE without legal costs.

MONTREAL, JUNE ____ 2016

LEX GROUP INC.

Per: David Assor
Attorneys for Petitioner

AFFIDAVIT

I, the undersigned, **DAVID ASSOR**, attorney, practicing my profession with the firm Lex Group Inc., located at 4101 Sherbrooke St. West, in the City and District of Montreal, Province of Quebec, H3Z 1A7, solemnly declare:

1. I am one of the attorneys representing the Petitioner in the present matter;
2. All of the facts alleged in the present APPLICATION FOR AUTHORIZATION TO AMEND THE MOTION TO AUTHORIZE THE BRINGING OF A CLASS ACTION AND TO ASCRIBE THE STATUS OF REPRESENTATIVE (FOR SETTLEMENT PURPOSES ONLY), TO AUTHORIZE THE CLASS ACTION FOR SETTLEMENT PURPOSES, AND FOR APPROVAL OF THE SETTLEMENT APPROVAL NOTICE TO CLASS MEMBERS are true.

AND I HAVE SIGNED:

David Assor

SOLEMNLY DECLARED TO BEFORE ME
AT MONTREAL, ON June __ 2016

COMMISSIONER OF OATHS FOR
ALL THE DISTRICTS OF QUEBEC

NOTICE OF PRESENTATION

TO: **Me Paule Hamelin**
Gowling WLG (Canada) S.E.N.C.R.L., s.r.l.
1 Place Ville Marie, 37th Floor
Montreal, Québec, H3B 3P4

Attorneys for Respondent

TAKE NOTICE that the present APPLICATION FOR AUTHORIZATION TO AMEND THE MOTION TO AUTHORIZE THE BRINGING OF A CLASS ACTION AND TO ASCRIBE THE STATUS OF REPRESENTATIVE (FOR SETTLEMENT PURPOSES ONLY), TO AUTHORIZE THE CLASS ACTION FOR SETTLEMENT PURPOSES, AND FOR APPROVAL OF THE SETTLEMENT APPROVAL NOTICE TO CLASS MEMBERS will be presented for adjudication at a date and time to be determined by the Honourable Justice Pierre Labelle, sitting in class actions division of the Superior Court of Quebec, at the Montreal Courthouse located at 1 Notre-Dame Street East, or as soon thereafter as counsel may be heard.

DO GOVERN YOURSELVES ACCORDINGLY.

MONTREAL, JUNE __ 2016

LEX GROUP INC.

Per: David Assor
Attorneys for Petitioner

EXHIBIT P-1

CANADA
 PROVINCE OF QUÉBEC
 DISTRICT OF MONTREAL
 No.: 500-06-000750-154

SUPERIOR COURT OF QUÉBEC
 (CLASS ACTION)

SHAI MEDALSY

Petitioner

vs.

THE TORONTO-DOMINION BANK

Respondent

AMENDED APPLICATION FOR AUTHORIZATION TO INSTITUTE (...) A
CLASS ACTION (...)
(FOR SETTLEMENT PURPOSES ONLY)
(Art. (...) 574 C.C.P. and following)

TO THE HONOURABLE JUSTICE PIERRE LABELLE (...) OF THE SUPERIOR
COURT OF QUÉBEC, SITTING IN AND FOR THE DISTRICT OF MONTRÉAL,
APPOINTED TO PRESIDE IN THE PRESENT MATTER, THE PETITIONER
STATES THE FOLLOWING:

1. Petitioner wishes to institute a class action on behalf of the following Group of which Petitioner is a member:

All persons in (...) in the Province of Quebec, who (...) are a Primary Cardholder or Authorized User (Additional Cardholder) of a "TD Travel Card" ("carte de crédit Voyages TD") offering the "TD Travel Rewards Programs" ("Programme de Primes-voyages TD") (...):

- the “TD First Class Travel Visa Infinite Card” (“Carte Visa Infinite TD Class Ultime Voyages”),
- the “TD Platinum Travel Visa Card” (“Carte Visa TD Platine Voyages”),
- the “TD Classic Travel Visa Card” (“Carte Visa TD Classique Voyages”), and/or
- the “TD Business Travel Visa Card” (“Carte Visa TD Voyages Affaires”)

(hereinafter collectively the “**TD Travel Card(s)**”) (...);

(hereinafter referred to as “**Petitioner(s)**”, the “**Class Member(s)**”, the “**Class**”, the “**Group Member(s)**”, or the “**Group**”, the “**Customer(s)**”, the “**Cardholder(s)**”);

2. Respondent The Toronto-Dominion Bank (hereinafter “**Respondent**” or “**TD**”), is a bank constituted according to the Laws of Canada, operating across the country, with its principal establishment located in the District of Montreal, Province of Quebec, the whole as more fully appears from the CIDREQ report communicated herewith as **Exhibit R-1**;
3. TD offers many types of credit cards to its Customers, each credit card offering different benefits or rewards, the whole as more fully from extracts of TD’s website(s), communicated herewith as **Exhibit R-2**;
4. As appears from Exhibit R-2, TD offers a line of “TD Travel Cards” (“Cartes de Crédit Voyages TD”), namely the following without limitation:
 - a) the “TD First Class Travel Visa Infinite Card” (“Carte Visa Infinite TD Class Ultime Voyages”);

- b) the “TD Platinum Travel Visa Card” (“Carte Visa TD Platine Voyages”);
 - c) the “TD Classic Travel Visa Card” (“Carte Visa TD Classique Voyages”);
 - d) the “TD Business Travel Visa Card” (“Carte Visa TD Voyages Affaires”);
- (hereinafter collectively the “**TD Travel Card(s)**”);

5. The TD Travel Cards offer *inter alia* the “TD Travel Rewards Programs” (“Programme de Primes-voyages TD”);
6. Petitioner communicates herewith, as **Exhibit R-3**, *en liasse*, the “Cardholder Agreement and Benefit Coverages Guide” for each of the above-listed TD Travel Cards, in both English and French, as they are posted on TD’s website (hereinafter collectively the “**Agreement(s)**”);
7. The R-3 Agreements are consumer contracts (unless the Cardholder is a legal person) and are also contracts of adhesion;
8. Concerning the TD Travel Rewards Program, the R-3 Agreements start off by setting out how the Cardholder can earn TD Points, the whole as follows:

TRAVEL REWARDS PROGRAM TERMS AND CONDITIONS

In this section, the words “we”, “us” and “our” mean: (1) the Bank; and (2) the Expedia For TD online and phone channels (“Expedia For TD”) that are operated by Expedia, Inc. (“Expedia”). “Program” means the TD Travel Rewards Program associated with the Account and includes all Program privileges and travel reward benefits, including TD Points. “Travel Purchases” means all Purchases of travel and related services (including bookings) under the Program charged to the Account. All Travel Purchases made through Expedia For TD are provided by Expedia or its agents or suppliers. All Travel Purchases made under the Program, but not using Expedia For TD, are provided by third party agencies, suppliers or other travel providers, including any online sites or phone channels operated by Expedia (except for Expedia For TD) and any other online travel agencies, suppliers or providers (the “Other Travel Providers”). Applicable terms of the TD First Class Travel *Visa Infinite* Cardholder Agreement apply to the Program, as do the following additional terms and conditions, which together are referred to as this Agreement.

TD Points

TD Points are earned for Purchases charged to the Account as follows:

- 1) Three (3) TD Points are earned for each one (1) dollar in Purchases;
- 2) Nine (9) TD Points are earned for each one (1) dollar in Travel Purchases made online through Expedia For TD; and
- 3) Six (6) TD Points are earned for each one (1) dollar in Travel Purchases made by phone through Expedia For TD.

9. The R-3 Agreements then set out how the Cardholder can redeem the TD Points and the value of said TD points when redeemed;

TD Points Redemption

Every 10,000 TD Points are worth \$50 off the cost of Travel Purchases. Redemptions can only be made in 10,000 TD Point increments.

TD Points can only be redeemed for Travel Purchases under the Program through Expedia For TD, but not through Other Travel Providers. In order to redeem TD Points, the Account must be open, in good standing, and not in default under the terms and conditions of this Agreement. TD Points can only be redeemed by the Primary Cardholder or an Authorized User.

TD Points that have not been recorded in your TD Points Balance are not available to be redeemed. TD Points will not be earned on any Purchases that have not been posted to the Account, including any Travel Purchases made through Other Travel Providers. This means that until the Purchase has been posted to the Account and the TD Points earned on that Purchase have been recorded in your TD Points Balance, you cannot redeem any TD Points that you may earn on that Purchase.

You can redeem TD Points under the Program for any amount of a Travel Purchase as follows: 1) You can redeem the required number of TD Points to cover the full amount of the Travel Purchase. If the dollar value of the TD Points redeemed exceeds the full amount of any Travel Purchase, your Account will not be credited for more than the full amount of the Travel Purchase; or 2) You can redeem the required number of TD Points for any portion of the Travel Purchase. Your Account will be credited with an amount equal to the dollar value of the TD Points redeemed.

The Net Amount of any Travel Purchase will remain on the Account and the Primary Cardholder will continue to be responsible for payment of the Net Amount.

Whether a Travel Purchase is made through Expedia For TD, or through Other Travel Providers, if any TD Points are redeemed towards that Travel Purchase, TD will provide a credit for those redeemed TD Points in an amount equal to the dollar value of those TD Points.

1) Redeeming TD Points for Travel Purchases made through Expedia For TD

When you make a Travel Purchase through Expedia For TD, you can only redeem those TD Points that are recorded in your TD Points Balance at the time you are making that Travel Purchase, even if the Travel Purchase requires only a deposit at that time. As a reminder, when you redeem TD Points towards a Travel Purchase that you are making through Expedia For TD, any credit that is applied to your Travel Purchase for the TD Points you are redeeming will reduce or cancel the TD Points to be earned for that Travel Purchase. When you redeem TD Points towards only a portion of your Travel Purchase: 1) The dollar value of the TD Points you have redeemed will be applied as a credit to the full amount of that Travel Purchase charged to your Account and only the Net Amount of that Travel Purchase will be charged to your Account; and 2) You will only earn TD Points on the Net Amount of that Travel Purchase.

2) Redeeming TD Points after a Travel Purchase has been made through Other Travel Providers

For Travel Purchases made through Other Travel Providers, TD Points must be redeemed within ninety (90) days after the Travel Purchase has been posted to the Account. You cannot redeem TD Points through Other Travel Providers. To determine when a Travel Purchase has been posted to your Account, you can view your transactional history for the Account online through our EasyWeb® Internet banking or allow the Travel Purchase to appear on your next monthly statement after the transaction date of that Travel Purchase. As a reminder, when you redeem TD Points towards a Travel Purchase that you made through Other Travel Providers, any credit for the TD Points to be redeemed and applied to your Account for your original Travel Purchase amount will reduce or cancel the TD Points that were earned for that Travel Purchase. This means that when you redeem TD Points towards only a portion of your original Travel Purchase: 1) The dollar value of the TD Points you have redeemed will be applied as a credit to your Account to reduce the full amount of your original Travel Purchase; and 2) You will only earn TD Points on the Net Amount of your original Travel Purchase.

10. Accordingly, and as appears from the above, 10,000 TD Points are worth \$50 off the cost of Travel Purchases (redemptions being made only in 10,000 TD Point increments);
11. This means that \$1 equals 200 TD Points redeemed in the context of Travel Purchases;
12. Furthermore, TD attempts to entice the Customers to make their Travel Purchases through its own "Expedia for TD" travel service, by offering 2 or 3 times more TD Points for each dollar spent, as opposed to the regular 3 TD Points for each dollar spent using the TD Travel Card with third party travel providers;
13. That being said, pursuant to the R-3 Agreements, regardless of whether the Cardholder makes the Travel Purchase through TD's "Expedia for TD" or

through a so-called "Other Travel Provider" (such as travel websites like Travelocity or Orbitz, airlines like Air Canada or American Airlines, hotels, car rental companies, etc.), the redemption value of the TD Points remains the same, namely \$50 for 10,000 TD Points (i.e. \$1 for 200 TD Points);

14. Therefore, for example, if a Cardholder reserves a rental car directly from a car rental company, for a total purchase of \$50 charged on the TD Travel Card, the Cardholder can then redeem 10,000 TD Points (if accumulated) and be credited \$50 on the same TD Travel Card;
15. For larger Travel Purchases, the Cardholder can decide how many increments of 10,000 TD Points he or she wants to redeem, always at the same value of \$50 for each 10,000 TD Points increments;
16. However, TD has unilaterally decided to modify the R-3 Agreements in such a way that the Class Members' already accumulated TD Points, as at August 16, 2015, will be worth less than \$50 for each 10,000 TD Points increments (therefore less than \$1 for 200 TD Points);
17. More specifically, together with the Class Members' June or July 2015 credit card statements, TD included a so-called "updated version of the new TD Travel Rewards Program Terms and Conditions for your Card in effect as of August 16, 2015", as well as notices purporting to explain TD's unilateral modifications to the existing terms and conditions in the Exhibit R-3 Agreements, the whole as more fully appears from the various notices and updated terms and conditions for the above-listed TD Travel Cards, in both English and French, as posted on TD's website, communicated herewith as **Exhibit R-4**, *en liasse* (hereinafter collectively the "**Notice(s)**" or the "**New Terms and Conditions**");
18. The first notice included in Exhibit R-4 begins by attempting to reassure and deceive the Class Members into believing that the changes made to the TD

Travel Rewards Program are beneficial to the Cardholders;

19. In this regard, this first notice in Exhibit R-4 starts off by using the following positive sounding phrases, in the hope that Class Members would not realize what was actually happening:

- “Changes are coming soon to your TD Travel Card.
More Flexible TD Point redemptions for Book Any Way travel purchases.”;
- “Enjoy more redemption flexibility than ever before.” (underlining in the notice);
- “Starting August 16, 2015, you can now redeem in minimum \$1 increments for travel purchased through any travel providers outside of Expedia for TD® (“Book Any Way”).”

20. The next part of Exhibit R-4 includes *inter alia* the following incomprehensible and misleading information and calculations:

On August 16, 2015, the following changes to the TD Travel Rewards Program Terms and Conditions contained in your TD First Class Travel Visa Infinite Cardholder Agreement will take effect:

Travel Purchases made through Other Travel Providers

- Every 250 TD Points (up to the first 300,000 TD Points redeemed for a Travel Purchase of \$1,200 or under) are worth \$1 in travel savings for that Travel Purchase.
- After the first 300,000 TD Points are redeemed, if the Travel Purchase is for more than \$1,200, then every 200 TD Points are worth \$1 in travel savings for that Travel Purchase amount that is over \$1,200.

Redemptions can only be made in 250 or 200 TD Points, as applicable.

For example:

A. Travel Purchases of \$1,200 and Under

Cost of Travel Purchase at Other Travel Provider:	\$1,175
TD Points redeemed to cover cost in full:	293,750 TD Points <i>Calculation:</i> <i>(\$1,175 x 250 TD Points</i> <i>= 293,750 TD Points)</i>

B. Travel Purchases of \$1,201 or More

Cost of Travel Purchase at Other Travel Provider:	\$2,275
TD Points redeemed to cover cost in full:	515,000 TD Points <i>Calculation:</i> <i>(\$1,200 x 250 TD Points</i> <i>= 300,000 TD Points) +</i> <i>(\$1,075 x 200 TD Points</i> <i>= 215,000 TD Points)</i>

21. Furthermore, in the R-4 Notices, TD confirms that it has unilaterally modified the R-3 Agreements concerning the value and redemption of the TD Points, the whole as follows:

TD Points Redemption

TD Points can be immediately redeemed for Travel Purchases made through Expedia For TD at the time you make the Travel Purchase, as explained below.

For Travel Purchases made through Other Travel Providers, TD Points must be redeemed after the Travel Purchase has been made as explained in "**Redeeming TD Points after a Travel Purchase has been made through Other Travel Providers**" section 2 below.

To redeem TD Points, the Account must be open, in good standing, and not in default under the terms and conditions of this Agreement.

(...)

2) Redeeming TD Points after a Travel Purchase has been made through Other Travel Providers

For each Travel Purchase made through an Other Travel Provider, a Cardholder can redeem TD Points towards the amount of that Travel Purchase as follows:

1. For the first \$1,200 of that Travel Purchase (equal to 300,000 TD Points):
 - Every 250 TD Points redeemed equals \$1 in travel savings for that Travel Purchase amount.
2. For each \$1 over the first \$1,200 of that Travel Purchase:
 - Every 200 TD Points redeemed are worth \$1 in travel savings for that Travel Purchase amount that is over the first \$1,200.

This means that when you redeem TD Points towards a Travel Purchase made at an Other Travel Provider:

- 250 TD Points = \$1 in travel savings for up to the first 300,000 TD Points you redeem for that Travel Purchase; and
- 200 TD Points = \$1 in travel savings for any TD Points over the first 300,000 TD Points that you redeem for that Travel Purchase.

Redemptions can only be made in 250 or 200 TD Points, as applicable.

For example:

A. Travel Purchases of \$1,200 and Under

Cost of Travel Purchase at Other Travel Provider:	\$1,175
TD Points redeemed to cover cost in full:	293,750 TD Points <i>Calculation:</i> $(\$1,175 \times 250 \text{ TD Points})$ $= 293,750 \text{ TD Points}$

B. Travel Purchases of \$1,201 or More

Cost of Travel Purchase at Other Travel Provider:	\$2,275
TD Points redeemed to cover cost in full:	515,000 TD Points <i>Calculation:</i> $(\$1,200 \times 250 \text{ TD Points})$ $= 300,000 \text{ TD Points} +$ $(\$1,075 \times 200 \text{ TD Points})$ $= 215,000 \text{ TD Points}$

In summary:

- Every 250 TD Points (up to the first 300,000 TD Points redeemed for a Travel Purchase of \$1,200 or under) are worth \$1 in travel savings for that Travel Purchase.
- After the first 300,000 TD Points are redeemed for a Travel Purchase of more than \$1,200, every 200 TD Points are worth \$1 in travel savings for the amount of that Travel Purchase that is over \$1,200.

For Travel Purchases made through Other Travel Providers, TD Points must be redeemed within ninety (90) days after the Travel Purchase has been posted to the Account. You cannot redeem TD Points through Other Travel Providers. To determine when a Travel Purchase has been posted to your Account, you can view your transactional history for the Account online through our EasyWeb[®] Internet banking or allow the Travel Purchase to appear on your next monthly statement after the transaction date of that Travel Purchase. As a reminder, when you redeem TD Points towards a Travel Purchase that you made through Other Travel Providers, any credit for the TD Points redeemed and applied to your Account for your original Travel Purchase amount will reduce or cancel the TD Points that were earned for that Travel Purchase. This means that when you redeem TD Points towards only a portion of your original Travel Purchase: 1) The dollar value of the TD Points you have redeemed will be applied as a credit to your Account to reduce the full amount of your original Travel Purchase; and 2) You will only earn TD Points on the Net Amount of your original Travel Purchase.

22. The convoluted, unclear, illegible and/or incomprehensible language contained in the R-4 Notices serve one purpose, namely to reduce the value of the Class Members' already earned and accumulated TD Points as at August 16, 2015, and ensure that the Class Members are not fully aware of this value reduction;
23. In this regard, and as cited above from the R-4 Notices, TD has unilaterally modified the R-3 Agreements in such a way that after August 16, 2015, when a Class Member will make a Travel Purchase through a so-called "Other Travel Provider", the value of the first 300,000 TD Points redeemed goes down from \$1,500 to \$1,200;
24. It appears *inter alia* from the calculation and example provided by TD in the R-4 Notices, cited above, regarding a Travel Purchase at Other Travel Provider for \$2,275. Whereas a Cardholder under the R-3 Agreements would only require 455,000 TD Points to be credit the entire \$2,275 Travel Purchase, as of August 16, 2015, the Cardholder requires 515,000 TD Points;
25. Stated another way, under the so-called updated Terms and Conditions (R-4), for any redemption of \$1,200 or under, the value of the TD Points has gone down from 50\$ to 40\$ for each 10,000 TD Points increments (namely each 1\$ costing 250 TD Points as opposed to 200 TD Points);
26. TD has therefore unilaterally modified the R-3 Agreements and retroactively reduced the value of the Class Members TD Points earned and accumulated before August 16, 2015, the whole in order to earn more profit at the detriment of the Class Members;

27. That being said, TD has not reduced the value of the TD Points when the Cardholder makes the Travel Purchase through TD's own "Expedia for TD", the Exhibit R-4 updated terms and conditions stating the following:

1) Redeeming TD Points for Travel Purchases made through Expedia For TD

Every 10,000 TD Points redeemed are worth \$50 in travel savings off the cost of Travel Purchases made through Expedia For TD. Redemptions can only be made in 10,000 TD Point increments. We can decrease the required minimum TD Point redemption increment at any time.

28. This is once again an attempt by TD to earn more profit by trying to entice or force the Class Members to make Travel Purchases through TD's "Expedia for TD" service, as opposed to through a so-called Other Travel Provider such as Air Canada, Travelocity, etc.;

29. As mentioned above, before August 16, 2015, Class Member were able to make Travel Purchases through either "Expedia for TD" or any "Other Travel Provider", with the same redemption value attributed to the TD Points earned;

30. Class Members accumulated their TD Points before and up to August 16, 2015 with the understanding and agreement that the redemption value was and would be \$50 for each 10,000 TD Points increments;

31. TD has in bad faith and illicitly unilaterally decided to reduce the value of the Class Members' TD Points accumulated before August 16, 2015, the whole without the Class Members consent and to their detriment;

Facts that have occurred since the institution of the present proceedings:

31.1. On or about September 25, 2015, TD sent a notice to the Class Members in the Province of Quebec informing them that TD was postponing the above-detailed changes to its TD Points redemption value until further notice and crediting the accounts of any cardholder who would have redeemed the TD Points between August 16, 2015 and September 25, 2015, the whole as more fully appears from a copy of TD's notice dated September 25, 2015, communicated herewith, as **Exhibit R-6**;

FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY THE PETITIONER

32. Petitioner has a TD First Class Travel Visa Infinite Card;

33. Petitioner received his June 18, 2015 TD First Class Travel Visa Infinite credit card statement, a copy of which is communicated herewith, **under seal**, as **Exhibit R-5** (Petitioner reserving his right to file future credit card statements);

34. Petitioner's Exhibit R-5 June 2015 credit card statement contains notices on the first and last page referring to the enclosed R-4 Notices (Petitioner did not retain the actual copies of the R-4 Notices included with his R-5 statements);

35. As appears from the R-5 June credit card statement, Petitioner's balance of TD Points was 307,072 as of June 18, 2015;

36. On July 14, 2015, Petitioner redeemed 140,000 TD Points, at a total value of \$700 (namely 50\$ multiplied by 14 increments of 10,000 TD Points);

37. On July 16, 2015, Petitioner called TD (at 1-855-384-9341) in order to enquire about the unilateral modifications to the R-3 Agreements and the TD

Travel Rewards Programs detailed above;

38. The TD representative confirmed the following:

- a) That as of mid-August 2015, the redemption value of 10,000 TD Points will go down from the present value of \$50 to \$40;
- b) That this reduction in value will affect all TD Points earned and accumulated before August 16, 2015 since TD has "changed the rules" and Petitioner has no say in the matter;
- c) That Petitioner's TD Points balance as of July 16, 2015 was 184,192 TD Points, at a value of \$900 (the TD representative obviously calculating that 18 increments of 10,000 TD Points equals \$900);

39. It should be noted that the present total value of Petitioner's 184,192 TD Points is \$920.96 ($(184,192 \div 10,000) \times \$50 = \$920.96$);

40. After August 16, 2015, Petitioner's 184,192 TD Points will only be worth \$736.768 (namely $(184,192 \div 10,000) \times \40), for a Travel Purchase made with an "Other Travel Provider";

41. Petitioner loss of value will therefore be for a total of \$184.192 on his existing TD Points;

42. Petitioner accumulated his TD Points with the agreement and understanding (pursuant to the R-3 Agreements) that the redemption value is and will be \$50 for each 10,000 TD Points increments;

43. Petitioner did not agree nor consent to TD's unilateral decision to retroactively reduce the value of the TD Points he earned and accumulated before August 16, 2015 (nor did he agree or consent to any other modifications affecting his TD Points);

FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY EACH OF THE MEMBERS OF THE GROUP

44. Each Class Member was either a TD Travel Card Primary Cardholder or Authorized User as at August 15, 2015 with a balance of earned and accumulated but not yet redeemed TD Points as at that date;
45. The value of the Class Members' TD Points earned and accumulated as of August 16, 2015 has been unilaterally decreased by TD's unilateral modifications of the R-3 Agreements (Exhibit R-4);
46. The Class Members have suffered injury as a result of the abusive, unilateral, illegible and incomprehensible modifications by TD of the R-3 Agreements (in Exhibit R-4) and said modifications should be declared null and not opposable to the Class Members as consumers and/or the adhering party to an adhesion contract;
47. The Petitioner and the Class Members are entitled to have the value of their TD Points earned before August 16, 2015 reinstated to \$50 for each 10,000 TD Points increments and are entitled to claim compensatory damages, moral damages for trouble and inconvenience, as well as punitive damages;

CONDITIONS REQUIRED TO INSTITUTE A CLASS ACTION

48. The composition of the Group makes (...) it difficult or impracticable to apply the rules for mandates to sue on behalf of others or for consolidation of proceedings (Article 575 (3) C.C.P.) for the following reasons;
49. While the exact number of Group Members is unknown to the Petitioners at this time, TD undoubtedly has thousands of Customers across the (...) Province of Quebec who are either TD Travel Card Primary Cardholders or

Authorized Users (additional cardholders). The exact number of Class Members can be discerned from records kept by TD;

50. Class Members are numerous and are scattered across the entire province (...);
51. In addition, given the costs and risks inherent in an action before the courts, many people will hesitate to institute an individual action against the Respondent. Even if the Class Members themselves could afford such individual litigation, the court system could not as it would be overloaded. Further, individual litigation of the factual and legal issues raised by the conduct of the Respondent would increase delay and expense to all parties and to the court system;
52. Moreover, a multitude of actions instituted risks leading to contradictory judgments on questions of fact and law that are similar or related to all Class Members;
53. 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;
54. In these circumstances, a class action is the only appropriate procedure for all of the Class Members to effectively pursue their respective rights and have access to justice;
55. The damages sustained by the Class Members flow, in each instance, from a common nucleus of operative facts, namely Respondent's misconduct and unilateral and illegal modifications to the R-3 Agreements and the TD Travel Rewards Programs;

56. The (...) claims of the Class Members raise identical, similar or related (...) issues of law and fact (Article 574 (1) C.C.P.), namely:

- a) Are the Exhibit R-3 TD Travel Card Agreements consumer contracts and/or contracts of adhesion?
- b) Was Respondent legally permitted to unilaterally modify the terms and conditions of the Exhibit R-3 TD Travel Card Agreements and the TD Travel Rewards Programs, reducing the redemption value as of August 16, 2015 of the TD Points earned and accumulated by the Class Members before August 16, 2015?
- c) Should these modifications to the R-3 TD Travel Card Agreements and the TD Travel Rewards Programs be declared null?
- d) Should injunctive relief be ordered forcing Respondent to reinstate the value of \$50 per 10,000 TD Points increments (or 200 TD Points for each \$1), concerning all of the Class Members' TD Points earned and accumulated on their TD Travel Card before August 16, 2015?
- e) Is Respondent liable to pay compensatory and/or moral and/or punitive/exemplary damages to the Class Members and, if so, in what amount?

57. The majority of the issues to be dealt with are issues common to every Class Member;

58. The interests of justice favor that this motion be granted in accordance with its conclusions;

NATURE OF THE ACTION AND CONCLUSIONS SOUGHT

59. The action that the Petitioner wishes to institute for the benefit of the Class Members is an action in damages and injunctive relief;

60. The facts alleged herein appear to justify the conclusions sought by the Petitioner (Article 575 (2) C.C.P.), namely the following conclusions that the Petitioner wishes to introduce by way of an originating application (...):

GRANT the class action of the Petitioner and each of the Class Members;

DECLARE null the unilateral modifications made by Defendant to the Exhibit R-3 TD Travel Card Agreements and the TD Travel Rewards Programs which reduced the redemption value as of August 16, 2015 of the TD Points earned and accumulated by the Class Members on their TD Travel Card before August 16, 2015;

ORDER Defendant to reinstate the value of \$50 per 10,000 TD Points increments (or 200 TD Points for each \$1), concerning all of the Class Members' TD Points earned and accumulated on their TD Travel Card before August 16, 2015;

DECLARE the Defendant liable for the damages suffered by the Petitioner and each of the Class Members;

CONDEMN the Defendant to pay to each of the Class Members a sum to be determined in compensation of the damages suffered, and **ORDER** collective recovery of these sums;

CONDEMN the Defendant to pay to each of the Class Members a sum to be determined in compensation of the moral damages suffered for trouble and inconvenience caused by Respondent's modifications of the Exhibit R-3 TD Travel Card Agreements and the TD Travel Rewards Programs, and **ORDER** collective recovery of these sums;

CONDEMN the Defendant to pay to each of the Class Members a sum to be determined in punitive and/or exemplary damages, and **ORDER** collective recovery of these sums;

CONDEMN the Defendant to pay interest and additional indemnity on the above sums according to the Law from the date of service of the motion to authorize a class action;

ORDER the Defendant to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest, additional indemnity, and legal 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 Defendant to bear the costs of the present action including experts' fees and notice fees;

RENDER any other order that this Honorable Court shall determine and that is in the interest of the Class Members;

THE WHOLE with interest and additional indemnity provided for in the Civil Code of Quebec and with full legal costs and expenses including expert's fee and (...) notification fees to advise Class Members;

61. Petitioner suggests that this class action be exercised before the Superior Court in the District of Montreal for the following reasons:

- a. Many Class Members, including Petitioner, are domiciled in the District of Montreal;
- b. TD have its principal establishment in the District of Montreal;
- c. The Petitioner's legal counsel practices law in the District of Montreal;

62. Petitioner, who is requesting to (...) be appointed as Representative Plaintiff is in a position to properly represent the Class Members (Article 575 (4) C.C.P.) since Petitioner;

- a. is a Class Member, as more fully detailed above, who contacted TD in order to enquire about TD's unilateral modifications to the TD Travel Rewards Program;
- b. understands the nature of the action and has the capacity and interest to fairly and adequately protect and represent the interests of the Class Members;
- c. is available to dedicate the time necessary for the present action before the Courts of Quebec and to collaborate with Class Counsel in this regard;
- d. is ready and available to manage and direct the present action in the interest of the Class Members and is determined to lead the present file until a final resolution of the matter, the whole for the

benefit of the Class Members;

- e. does not have interests that are antagonistic to those of other Class Members;
- f. has given the mandate to the undersigned attorneys to obtain all relevant information to the present action and intends to keep informed of all developments;
- g. has given the mandate to the undersigned attorneys to post the present matter on their firm website in order to keep the Class Members informed of the progress of these proceedings and in order to more easily be contacted or consulted by said Class Members;
- h. is, with the assistance of the undersigned attorneys, ready and available to dedicate the time necessary for this action and to collaborate with other Class Members and to keep them informed;

63. The present (...) Application is well founded in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THE COURT:

GRANT the present (...) Application;

AUTHORIZE the (...) institution of a class action in the form of an originating application (...) in damages and injunctive relief;

(...) **APPOINT** the Petitioner as the Representative Plaintiff representing all (...) persons included in the Class herein described as:

All persons in (...) in the Province of Quebec, who (...) are a Primary Cardholder or Authorized User (Additional Cardholder) of a "TD Travel Card" ("carte de crédit Voyages TD") offering the "TD Travel Rewards Programs" ("Programme de Primes-voyages TD") (...):

- the "TD First Class Travel Visa Infinite Card" ("Carte Visa Infinite TD Class Ultime Voyages"),
- the "TD Platinum Travel Visa Card" ("Carte Visa TD Platine Voyages"),
- the "TD Classic Travel Visa Card" ("Carte Visa TD Classique Voyages"), and/or
- the "TD Business Travel Visa Card" ("Carte Visa TD Voyages Affaires")

(hereinafter collectively the "TD Travel Card(s)") (...);

IDENTIFY the principle (...) issues of law and fact to be treated collectively as the following:

- a) Are the Exhibit R-3 TD Travel Card Agreements consumer contracts and/or contracts of adhesion?
- b) Was Respondent legally permitted to unilaterally modify the terms and conditions of the Exhibit R-3 TD Travel Card Agreements and the TD Travel Rewards Programs, reducing the redemption value

as of August 16, 2015 of the TD Points earned and accumulated by the Class Members before August 16, 2015?

- c) Should these modifications to the R-3 TD Travel Card Agreements and the TD Travel Rewards Programs be declared null?
- d) Should injunctive relief be ordered forcing Respondent to reinstate the value of \$50 per 10,000 TD Points increments (or 200 TD Points for each \$1), concerning all of the Class Members' TD Points earned and accumulated on their TD Travel Card before August 16, 2015?
- e) Is Respondent liable to pay compensatory and/or moral and/or punitive/exemplary damages to the Class Members and, if so, in what amount?

IDENTIFY the conclusions sought by the action to be instituted as being the following:

GRANT the class action of the Petitioner and each of the Class Members;

DECLARE null the unilateral modifications made by Defendant to the Exhibit R-3 TD Travel Card Agreements and the TD Travel Rewards Programs which reduced the redemption value as of August 16, 2015 of the TD Points earned and accumulated by the Class Members on their TD Travel Card before August 16, 2015;

ORDER Defendant to reinstate the value of \$50 per 10,000 TD Points increments (or 200 TD Points for each \$1), concerning all of the Class Members' TD Points earned and accumulated on their TD Travel Card

before August 16, 2015;

DECLARE the Defendant liable for the damages suffered by the Petitioner and each of the Class Members;

CONDEMN the Defendant to pay to each of the Class Members a sum to be determined in compensation of the damages suffered, and **ORDER** collective recovery of these sums;

CONDEMN the Defendant to pay to each of the Class Members a sum to be determined in compensation of the moral damages suffered for trouble and inconvenience caused by Respondent's modifications of the Exhibit R-3 TD Travel Card Agreements and the TD Travel Rewards Programs, and **ORDER** collective recovery of these sums;

CONDEMN the Defendant to pay to each of the Class Members a sum to be determined in punitive and/or exemplary damages, and **ORDER** collective recovery of these sums;

CONDEMN the Defendant to pay interest and additional indemnity on the above sums according to the Law from the date of service of the motion to authorize a class action;

ORDER the Defendant to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest, additional indemnity, and legal 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 Defendant to bear the costs of the present action including experts' fees and notice fees;

RENDER any other order that this Honorable Court shall determine and that is in the interest of the Class Members;

THE WHOLE with interest and additional indemnity provided for in the Civil Code of Quebec and with full legal costs and expenses including expert's fee and (...) notification fees to advise Class Members;

DECLARE that all Class Members who have not requested their exclusion from the Group in the prescribed delay to be bound by any judgment to be rendered on the class action to be instituted;

FIX the (...) time limit for opting out of the class at thirty (30) days from the date of the (...) forwarding of the notice to the Class Members;

ORDER the (...) notification of a notice to the Class Members in accordance with Article (...) 579 of the C.C.P., by way of direct mail to each Class Member (...) and **ORDER** Respondents to pay for said (...) notification costs;
(...)

THE WHOLE with legal costs (...).

MONTREAL, (...) JUNE , 2016

LEX GROUP INC.

Per: David Assor

Attorneys for Petitioner

SCHEDULE "B"

NOTICE OF APPROVAL HEARING

PLEASE READ THIS NOTICE ATTENTIVELY SINCE YOUR RIGHTS AND RECOURSES MAY BE AFFECTED BY A PROPOSED CLASS ACTION SETTLEMENT

If you are a person in the Province of Québec (Canada) who is a primary cardholder or an additional cardholder of one or more of the following TD Travel Cards:

- "TD First Class Travel Visa Infinite Card"
- "TD Platinum Travel Visa Card"
- "TD Classic Travel Visa Card"
- "TD Business Travel Visa Card"

(the "Putative Class Members"), your rights could be affected by a proposed class action settlement.

The Class Action proceeding

On July 17, 2015, a class action law suit was commenced by Mr. Shai Medalsy (the "Petitioner") against The Toronto-Dominion Bank (the "Respondent") with respect to modifications to the TD Travel Rewards Program and to the Redemption Value of TD Points for certain travel purchases made with TD Travel Cards as set out in Respondent's June 2015 communication, which modifications were to be effective as of August 16, 2015. Petitioner alleged that said modifications were done in a deceptive and illegal manner (the "Motion").

Subsequently, by notification letter dated September 25, 2015, Respondent postponed said modifications to the TD Travel Rewards Program and to the Redemption Value of TD Points for certain travel purchases. Ever since this September 25, 2015 notification letter, you have been able to redeem your TD Points at the Redemption Value of 10,000 TD Points equal \$50 in travel savings (or 200 TD Points equal \$1 in travel savings).

On • the Superior Court of Québec authorized the class action for settlement purposes only concerning the Putative Class Members (the "Class Action").

THE SETTLEMENT APPROVAL HEARING

The purpose of this notice is to inform you that the Petitioner and the Respondent have reached a settlement which is subject to the approval of the Court (the "Settlement Agreement"), without any admission of liability.

The Superior Court of Québec will hold a hearing on October 27th, 2016 at • , in room • of the Montréal Courthouse located at 1 Notre-Dame Street East in Montréal, to determine whether it will approve the Settlement Agreement.

You may attend the hearing if you wish **but you have no obligation to do so.**

If you agree with the proposed settlement and wish to be bound by said settlement, you have nothing at all to do.

SETTLEMENT AGREEMENT SUMMARY

As per the Settlement Agreement, the Respondent agrees to maintain and apply the Redemption Value of 10,000 TD Points equal \$50 in travel savings (or 200 TD Points equal \$1 in travel savings) to

an Eligible Account on a Book Any Way Travel Purchase (also known as "Other Travel Providers" hereinafter "Book Any Way Travel Purchase") for an on-going period ending on August 31st, 2017 inclusively (the "Eligible Period"). Until that date, you will be able to continue to redeem any TD Points you may have accumulated at said Redemption Value. This means that you will have had almost two (2) years from the September Notice and approximately one (1) year from this notice, namely until August 31st, 2017 inclusively, to redeem your TD Points at the Redemption value. All existing terms and conditions of the TD Travel Rewards Program, detailing how and under what circumstances you may redeem TD Points, remain applicable.

At the end of this Eligible Period, namely **as of September 1st, 2017, the following New Redemption Value will apply to all Eligible Accounts for any remaining outstanding TD Points on your account, for Book Any Way Travel Purchases:**

TD Points Redeemed on a Book Any Way Travel Purchase	New Redemption Value
First 300,000 TD Points on a Book Any Way Travel Purchase	10,000 TD Points = \$40 in travel savings or 250 TD Points = \$1 in travel savings
Next 300,000 or more TD Points on the same Book Any Way Travel Purchase	10,000 TD Points = \$50 in travel savings or 200 TD Points = \$1 in travel savings

You should therefore take note of this Eligible Period in order to be able to redeem your TD Points at the Redemption Value **before September 1st, 2017 for Book Any Way Travel Purchases.** You have no obligation to redeem any TD Points before September 1st, 2017 but as mentioned, as of that date, all your accumulated TD Points will be subject to the New Redemption Value for Book Any Way Travel Purchases detailed in the table above.

The Respondent also agrees to pay Petitioner's Class Counsel the Class Counsel Fees as detailed in the Settlement Agreement. These Class Counsel Fees will not affect your account.

In consideration of the Settlement Agreement, the Respondent will receive from you and the other Putative Class Members a full release of any and all claims made in Petitioner's Amended Application for Authorization of a Class Action.

RIGHT OF EXCLUSION (Opt Out)

If you do not wish to be bound by this Class Action and Settlement Agreement, you must send, **by no later than October 6th, 2016 (the "opt out deadline")**, to the clerk of the Superior Court of Québec a duly signed request of exclusion containing all of the following information:

1. The name and Court docket number of this case, which is: Medalsy vs. The Toronto-Dominion Bank (500-06-000750-154);
2. Your name, address, phone number(s) and email address(es) (if you have one), name of the TD Travel Card issued, account number, and the total balance of TD Points in your account (if known);
3. Specific confirmation that you wish to exclude yourself (opt out) of the Class Action and the Settlement Agreement in this case.

The request for exclusion (opt out) must be sent by registered or certified mail (with a copy to the Petitioner's Class Counsel) at the following address:

TO: Greffe de la Cour supérieure du Québec PALAIS DE JUSTICE DE MONTRÉAL 1 Notre-Dame Street East Room 2.120 Montreal (Quebec) H2Y 1B5	WITH COPY TO: Mtre David Assor Lex Group Inc. 4101 Sherbrooke Street West, Westmount, Quebec, H3Z 1A7 email: davidassor@lexgroup.ca fax: (514) 875-8218
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If you opt-out from this Class Action and Settlement Agreement, you will not be eligible to receive the benefits of this Settlement Agreement and, therefore, the New Redemption Value detailed in the table above will be applicable to your account without further notice. Should you opt-out you will therefore be solely responsible for ensuring and prosecuting your own rights and recourses at your own costs and within any applicable legal delays.

You will **NOT** receive any further notice regarding your right to opt-out.

**RIGHT TO OBJECT OR TO MAKE ARGUMENTS
WITH REGARD TO THE SETTLEMENT**

The Parties' attorneys will make representations to the Court in support of the Settlement Agreement at the above mentioned settlement approval hearing.

If you wish, you can also come to Court to present your arguments or objections (Right to Object) with regard to the Settlement Agreement. You have no obligation to do so.

To exercise your Right to Object, you must submit a signed objection notice on or before October 6th, 2016 at the latest. Your notice must briefly state your name, contact information, the reasons why you object, whether your intent is to be present in Court during the settlement approval hearing on October 27th, 2016, and if you intend to be represented by independent counsel (providing the name and contact information of said counsel if known).

The objection notice must be sent by no later than October 6th, 2016, to the Petitioner's Class Counsel at:

Mtre David Assor, Lex Group Inc., 4101 Sherbrooke Street West, Westmount, Quebec, H3Z 1A7, email: davidassor@lexgroup.ca, fax: (514) 875-8218.

However, if you agree with the proposed settlement and wish to be bound by said Settlement Agreement, you have no obligation to submit any notices whatsoever and you have no obligation to be present at the hearing.

FOR MORE INFORMATION

For more information and to access a copy of the complete terms of the Settlement Agreement and the Court judgment(s), you can access the following website: www.lexgroup.ca.

In case of discrepancies between this notice and the Settlement Agreement, the Settlement Agreement shall prevail.

This notice has been approved by the Superior Court of Québec.

AVIS D'AUDITION D'APPROBATION

NOUS VOUS PRIONS DE LIRE CET AVIS ATTENTIVEMENT CONSIDÉRANT QUE VOS DROITS ET VOS RECOURS PEUVENT ÊTRE AFFECTÉS PAR LE RÈGLEMENT PROPOSÉ D'UNE ACTION COLLECTIVE

Si vous êtes une personne dans la province de Québec (Canada) qui est un détenteur principal ou un détenteur additionnel d'une ou plusieurs des Cartes de crédit TD Voyages suivantes :

- « Carte Visa Infinite TD Classe ultime Voyages »
- « Carte Visa TD Platine Voyages »
- « Carte Visa TD Classique Voyages »
- « Carte Visa TD Voyages Affaires »

(les « Membres du groupe putatif »), vos droits peuvent être affectés par le règlement proposé d'une action collective.

Les procédures dans le cadre de l'action collective

Le 17 juillet 2015, une action collective a été déposée par M. Shai Medalsy (le « Requéant ») à l'encontre de La Banque Toronto-Dominion (l'« Intimée ») en lien avec des modifications au Programme de Primes-voyages TD et à la Valeur d'échange des Points TD pour certains achats de voyages faits avec les Cartes de crédit TD Voyages, tel que décrit dans la lettre de notification du mois de juin 2015 de l'Intimée, lesquelles modifications devaient entrer en vigueur à compter du 16 août 2015. Le Requéant allègue que lesdites modifications ont été faites de façon trompeuse et illégale (la « Requête »).

Subséquentement, par le biais d'une lettre de notification datée du 25 septembre 2015, l'Intimée a reporté ces modifications au Programme de Primes-voyages TD et à la Valeur d'échange des Points TD pour certains achats de voyage. Depuis cette lettre de notification du 25 septembre 2015, vous avez été en mesure d'échanger vos Points TD à la Valeur d'échange de 10 000 Points TD valent 50 \$ en économies de voyage (ou 200 Points TD valent 1 \$ en économies de voyage).

Le ● , la Cour supérieure du Québec a autorisé l'action collective aux fins de règlement seulement concernant les Membres du groupe putatif (l'« Action collective »).

L'AUDITION SUR L'APPROBATION DU RÈGLEMENT

Le but de cet avis est de vous informer que le Requéant et l'Intimée ont conclu un règlement qui est sujet à l'approbation de la Cour (l'« Entente de règlement »), sans aucune admission de responsabilité.

La Cour supérieure du Québec tiendra une audition le 27 octobre 2016 à ● , en salle ● du Palais de justice de Montréal situé au 1, rue Notre-Dame Est à Montréal, pour déterminer si elle approuvera l'Entente de règlement.

Vous pouvez assister à l'audition si vous le souhaitez **mais vous n'avez aucune obligation de ce faire.**

Si vous êtes d'accord avec le règlement proposé et souhaitez être lié par celui-ci, vous n'avez rien à faire.

RÉSUMÉ DE L'ENTENTE DE RÈGLEMENT

Selon l'Entente de règlement, l'Intimée accepte de maintenir et d'appliquer la Valeur d'échange de 10 000 Points TD valent 50 \$ en économies de voyage (ou 200 Points TD valent 1 \$ en économies de voyage) à l'égard d'un Compte admissible sur un achat de voyage Réservez comme bon vous semble (aussi connu sous l'expression achat de voyage avec les autres fournisseurs de voyages ci-après « Réservez comme bon vous semble ») pour une période en cours se terminant le 31 août 2017 inclusivement (la « Période d'éligibilité »). Jusqu'à cette date, vous serez en mesure de continuer d'échanger les Points TD que vous avez accumulés à cette Valeur d'échange. Cela signifie que vous aurez eu en tout presque deux (2) ans de la lettre de notification de septembre et approximativement une (1) année de cet avis, soit jusqu'au 31 août 2017 inclusivement, pour échanger vos Points TD à la Valeur d'échange. Toutes les modalités du Programme de Primes-voyages TD en vigueur, détaillant comment et dans quelles circonstances vous pouvez échanger les Points TD, demeurent applicables.

À la fin de la Période d'éligibilité, soit à compter du 1^{er} septembre 2017, la Nouvelle valeur d'échange suivante s'appliquera à tous les Comptes admissibles pour le solde des Points TD inscrit à votre compte pour des achats de voyage Réservez comme bon vous semble :

Points TD échangés dans le cadre d'un achat de voyage Réservez comme bon vous semble	Nouvelle valeur d'échange
Première tranche de 300 000 Points TD dans le cadre d'un achat de voyage Réservez comme bon vous semble	10 000 Points TD = 40 \$ en économies de voyage ou 250 Points TD = 1 \$ en économies de voyage
Prochaine tranche de 300 000 Points TD ou plus dans le cadre du même achat de voyage Réservez comme bon vous semble	10 000 Points TD = 50 \$ en économies de voyage ou 200 Points TD = 1 \$ en économies de voyage

Veillez donc prendre note de la Période d'éligibilité permettant d'échanger vos Points TD à la Valeur d'échange **avant le 1^{er} septembre 2017 pour des achats de voyage Réservez comme bon vous semble**. Vous n'avez aucune obligation d'échanger vos Points TD avant le 1^{er} septembre 2017, mais tel que mentionné, à compter de cette date, tous vos Points TD accumulés seront sujets à la Nouvelle valeur d'échange **pour des achats de voyage Réservez comme bon vous semble** telle que détaillée dans le tableau ci-dessus.

L'Intimée accepte également de payer les Honoraires des Procureurs du groupe tels que détaillés dans l'Entente de règlement. Ces Honoraires des Procureurs du groupe n'affecteront pas votre compte.

En considération de l'Entente de règlement, l'Intimée recevra de votre part et de la part des autres Membres du groupe putatif une quittance complète de toutes réclamations faites dans la Demande modifiée en autorisation d'exercer une action collective du Requérant.

DROIT D'EXCLUSION

Si vous ne souhaitez pas être lié par cette Action collective et cette Entente de règlement, vous devez envoyer, **au plus tard le 6 octobre 2016 (le « délai d'exclusion »)**, au greffier de la Cour supérieure du Québec une demande d'exclusion dûment signée contenant toutes les informations suivantes :

1. Le nom et le numéro de dossier de Cour de cette affaire, lequel est : Medalsy c. La Banque Toronto-Dominion (500-06-000750-154);

2. Vos nom, adresse, numéro(s) de téléphone et adresse(s) courriel (si vous en avez une), le nom de la Carte de crédit TD Voyages émise, le numéro de compte et le solde total de Points TD dans votre compte (si connu);
3. Une confirmation spécifique que votre volonté est de vous exclure de l'Action collective et de l'Entente de règlement dans cette affaire.

La demande d'exclusion doit être envoyée par courrier recommandé ou certifié (avec une copie aux Procureurs du groupe) à l'adresse suivante :

À : Greffe de la Cour supérieure du Québec PALAIS DE JUSTICE DE MONTRÉAL 1, rue Notre-Dame Est Salle 2.120 Montréal (Québec) H2Y 1B5	AVEC COPIE À : Me David Assor Lex Group inc. 4101, rue Sherbrooke Ouest Westmount (Québec) H3Z 1A7 Courriel : davidassor@lexgroup.ca Télécopieur : (514) 875-8218
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Si vous vous excluez de l'Action collective et de l'Entente de règlement, vous ne serez pas éligible à recevoir les bénéfices de cette Entente de règlement et, par conséquent, la Nouvelle valeur d'échange détaillée dans le tableau ci-dessus sera applicable à votre compte sans autre avis. Si vous décidez de vous exclure, vous aurez l'entière responsabilité de veiller à l'exercice de vos propres droits et recours, à vos propres frais et à l'intérieur des délais légaux applicables.

Vous **NE** recevrez **PAS** d'autre avis concernant votre droit de vous exclure.

DROIT D'OBJECTION OU DROIT DE SOUMETTRE DES ARGUMENTS EN LIEN AVEC LE RÈGLEMENT

Les avocats des Parties feront les représentations à la Cour à l'appui de l'Entente de règlement à l'audition sur l'approbation du règlement mentionnée ci-dessus.

Si vous le souhaitez, vous pouvez aussi vous présenter à la Cour pour soumettre vos arguments ou vos objections (« Droit d'objection ») relativement à l'Entente de règlement. Vous n'avez aucune obligation de ce faire.

Pour exercer votre Droit d'objection, vous devez soumettre un avis d'objection signé au plus tard le ou avant le 6 octobre 2016. Votre avis doit brièvement contenir votre nom, vos coordonnées, les raisons pour lesquelles vous vous objectez, si vous entendez être présent à la Cour durant l'audition sur l'approbation du règlement le 27 octobre 2016, et si vous entendez être représenté par un avocat indépendant (fournir le nom et les coordonnées de cet avocat si connus).

L'avis d'objection doit être envoyé au plus tard le 6 octobre, 2016 aux Procureurs du groupe au :

Me David Assor, Lex Group inc., 4101, rue Sherbrooke Ouest, Westmount, Québec, H3Z 1A7, courriel : davidassor@lexgroup.ca, télécopieur : (514) 875-8218.

Toutefois, si vous êtes d'accord avec le règlement proposé et vous souhaitez être lié par ladite Entente de règlement, vous n'avez aucune obligation de soumettre quelque avis que ce soit et vous n'avez aucune obligation d'être présent à l'audition.

POUR PLUS D'INFORMATION

Pour plus d'information et pour obtenir une copie complète des termes de l'Entente de règlement et des jugements rendus par la Cour, vous pouvez accéder au site Internet suivant : www.lexgroup.ca/fr/MTL_LAW\253852416

En cas de divergence entre cet avis et l'Entente de règlement, l'Entente de règlement prévaudra.

Cet avis a été approuvé par la Cour supérieure du Québec

SCHEDULE "D"

NOTICE OF SETTLEMENT AGREEMENT APPROVAL

IMPORTANT INFORMATION ABOUT A CLASS ACTION SETTLEMENT APPROVAL

If you are a person in the Province of Québec (Canada) who is a primary cardholder or an additional cardholder of one or more of the following TD Travel Cards:

- "TD First Class Travel Visa Infinite Card"
- "TD Platinum Travel Visa Card"
- "TD Classic Travel Visa Card"
- "TD Business Travel Visa Card"

you should read the following notice carefully.

SETTLEMENT AGREEMENT APPROVAL

On July 17, 2015, a class action law suit was commenced by Mr. Shai Medalsy (the "Petitioner") against The Toronto-Dominion Bank (the "Respondent") with respect to modifications to the TD Travel Rewards Program and to the Redemption Value of TD Points for certain travel purchases made with TD Travel Cards as set out in Respondent's June 2015 communication, which modifications were to be effective as of August 16, 2015 (the "Motion").

Subsequently, by notification letter dated September 25, 2015, Respondent postponed said modifications to the TD Travel Rewards Program and to the Redemption Value of TD Points for certain travel purchases. Ever since this September 25, 2015 notification letter, you have been able to redeem your TD Points at the Redemption Value of 10,000 TD Points equal \$50 in travel savings (or 200 TD Points equal \$1 in travel savings).

On " • ", Petitioner and the Respondent reached a settlement which was subject to the approval of the Court (the "Settlement Agreement"), without any admission of liability.

On " • ", the Superior Court of Québec authorized the class action for settlement purposes only (the "Class Action").

On or about " • ", Respondent sent a Notice of approval hearing which confirmed, namely, the general terms of the Settlement Agreement and the date and time of the settlement approval hearing.

On " • ", the Superior Court of Québec approved the Settlement Agreement in the Class Action.

SETTLEMENT AGREEMENT SUMMARY

As per the Settlement Agreement, the Respondent agrees to maintain and apply the Redemption Value of 10,000 TD Points equal \$50 in travel savings (or 200 TD Points equal \$1 in travel savings) to an Eligible Account on a Book Any Way Travel Purchase (also known as "Other Travel Providers" hereinafter "Book Any Way Travel Purchase") for an on-going period ending on August 31st, 2017 inclusively (the "Eligible Period"). Until that date, you will be able to continue to redeem any TD Points you may have accumulated at said Redemption Value. All existing terms and conditions of the TD Travel Rewards Program, detailing how and under what circumstances you may redeem TD Points, remain applicable.

At the end of this Eligible Period, namely **as of September 1st, 2017, the following New Redemption Value will apply to all Eligible Accounts for any remaining outstanding TD Points on your account for Book Any Way Travel Purchases:**

TD Points Redeemed on a Book Any Way Travel Purchase	New Redemption Value
First 300,000 TD Points on a Book Any Way Travel Purchase	10,000 TD Points = \$40 in travel savings or 250 TD Points = \$1 in travel savings
Next 300,000 or more TD Points on the same Book Any Way Travel Purchase	10,000 TD Points = \$50 in travel savings or 200 TD Points = \$1 in travel savings

You should therefore take note of this Eligible Period in order to be able to redeem your TD Points at the Redemption Value **before September 1st, 2017 for Book Any Way Travel Purchases**. You have no obligation to redeem any TD Points before September 1st, 2017 but as mentioned, as of that date, all your accumulated TD Points will be subject to the New Redemption Value for Book Any Way Travel Purchases detailed in the table above.

FOR MORE INFORMATION

For more information and to access a copy of the complete terms of the Settlement Agreement and the Court judgment(s), you can access the following website: www.lexgroup.ca.

This notice has been approved by the Superior Court of Québec.

AVIS D'APPROBATION DE L'ENTENTE DE RÈGLEMENT

INFORMATION IMPORTANTE AU SUJET DE L'APPROBATION DU RÈGLEMENT D'UNE ACTION COLLECTIVE

Si vous êtes une personne dans la province de Québec (Canada) qui est un détenteur principal ou un détenteur additionnel d'une ou plusieurs des Cartes de crédit TD Voyages suivantes :

- « Carte Visa Infinite TD Classe ultime Voyages »
- « Carte Visa TD Platine Voyages »
- « Carte Visa TD Classique Voyages »
- « Carte Visa TD Voyages Affaires »

vous devriez lire l'avis qui suit attentivement.

APPROBATION DE L'ENTENTE DE RÈGLEMENT

Le 17 juillet 2015, une action collective a été déposée par M. Shai Medalsy (le « Requéran ») à l'encontre de La Banque Toronto-Dominion (l'« Intimée ») en lien avec des modifications au Programme de Primes-voyages TD et à la Valeur d'échange des Points TD pour certains achats de voyages faits avec les Cartes de crédit TD Voyages, tel que décrit dans la lettre de notification du mois de juin 2015 de l'Intimée, lesquelles modifications devaient entrer en vigueur à compter du 16 août 2015. Le Requéran allègue que lesdites modifications ont été faites de façon trompeuse et illégale (la « Requête »).

Subséquent, par le biais d'une lettre de notification datée du 25 septembre 2015, l'Intimée a suspendu ces modifications au Programme de Primes-voyages TD et à la Valeur d'échange des Points TD pour certains achats de voyage. Depuis cette lettre de notification du 25 septembre 2015, vous avez été en mesure d'échanger vos Points TD à la Valeur d'échange de 10 000 Points TD valent 50 \$ en économies de voyage (ou 200 Points TD valent 1 \$ en économies de voyage).

Le ● , le Requéran et l'Intimée ont conclu un règlement sujet à l'approbation de la Cour (l'« Entente de règlement »), sans aucune admission de responsabilité.

Le ● , la Cour supérieure du Québec a autorisé l'action collective aux fins de règlement seulement (l'« Action collective »).

Le ou vers le ● , l'Intimée a envoyé un Avis d'audition d'approbation confirmant notamment les termes généraux de l'Entente de règlement et la date et l'heure de l'audition sur l'approbation du règlement.

Le ● , la Cour supérieure du Québec a approuvé l'Entente de règlement dans le cadre de l'Action collective.

RÉSUMÉ DE L'ENTENTE DE RÈGLEMENT

Selon l'Entente de règlement, l'Intimée accepte de maintenir et d'appliquer la Valeur d'échange de 10 000 Points TD valent 50 \$ en économies de voyage (ou 200 Points TD valent 1 \$ en économies de voyage) à l'égard d'un Compte admissible sur un achat de voyage Réservez comme bon vous semble

(aussi connu sous l'expression achat de voyage avec les autres fournisseurs de voyages ci-après « Réservez comme bon vous semble ») pour une période en cours se terminant le 31 août 2017 inclusivement (la « Période d'éligibilité »). Jusqu'à cette date, vous serez en mesure de continuer d'échanger les Points TD que vous avez accumulés à cette Valeur d'échange. Toutes les modalités du Programme de Primes-voyages TD en vigueur, détaillant comment et dans quelles circonstances vous pouvez échanger les Points TD, demeurent applicables.

À la fin de la Période d'éligibilité, soit **à compter du 1^{er} septembre 2017, la Nouvelle valeur d'échange suivante s'appliquera à tous les Comptes admissibles pour le solde des Points TD inscrit à votre compte pour des achats de voyage Réservez comme bon vous semble :**

Points TD échangés dans le cadre d'un achat de voyage Réservez comme bon vous semble	Nouvelle valeur d'échange
Première tranche de 300 000 Points TD dans le cadre d'un achat de voyage Réservez comme bon vous semble	10 000 Points TD = 40 \$ en économies de voyage ou 250 Points TD = 1 \$ en économies de voyage
Prochaine tranche de 300 000 Points TD ou plus dans le cadre du même achat de voyage Réservez comme bon vous semble	10 000 Points TD = 50 \$ en économies de voyage ou 200 Points TD = 1 \$ en économies de voyage

Veuillez prendre note de la Période d'éligibilité permettant d'échanger vos Points TD à la Valeur d'échange **avant le 1^{er} septembre 2017 pour des achats de voyage Réservez comme bon vous semble**. Vous n'avez aucune obligation d'échanger vos Points TD avant le 1^{er} septembre 2017, mais tel que mentionné, à compter de cette date, tous vos Points TD accumulés seront sujets à la Nouvelle valeur d'échange **pour des achats de voyage Réservez comme bon vous semble** telle que détaillée dans le tableau ci-dessus.

POUR PLUS D'INFORMATION

Pour plus d'information et pour obtenir une copie complète des termes de l'Entente de règlement et des jugements rendus par la Cour, vous pouvez accéder au site Internet suivant : www.lexgroup.ca/fr/

Cet avis a été approuvé par la Cour supérieure du Québec