

CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL  
No.: 500-06-000476-099

SUPERIOR COURT  
(Class action)

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**NOELLA NEALE,**

Plaintiff

v.

**GROUPE AEROPLAN INC.,**

**-and-**

**AEROPLAN**

**CANADA**

**INC.**

Defendants

---

-AND-

COURT FILE NUMBER            QBG 2235 OF 2016

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE            REGINA

PLAINTIFF                    THOMAS DOUGLAS

DEFENDANTS                GROUPE AEROPLAN INC., and AEROPLAN CANADA INC.

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**TRANSACTION AND SETTLEMENT AGREEMENT**

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## I. PREAMBLE

**WHEREAS** the Plaintiff Noella Neale ("**Neale**") has instituted a class action against the defendants GROUPE AEROPLAN INC. and AEROPLAN CANADA INC. before the Quebec Superior Court, Judicial District of Montreal, in the court docket bearing the number 500-06-000476-099 (the "**Neale Class Action**");

**WHEREAS** the Plaintiff Thomas Douglas ("**Douglas**") has instituted a proposed class action against the defendants GROUPE AEROPLAN INC., and AEROPLAN CANADA INC. before the Court Of Queen's Bench for Saskatchewan, Judicial Centre of Regina, bearing the court file number QBG 2235 Of 2016 (the "**Douglas Class Action**");

**WHEREAS** the Defendants GROUPE AEROPLAN INC. and AEROPLAN CANADA INC. deny the allegations made in the pleadings in the Neale Class Action and the Douglas Class Action (collectively the "**Class Actions**"), have not conceded or admitted, shall not be deemed to have conceded or admitted and expressly deny any liability, including any liability for monetary compensation or compensation in kind to the members of the group covered by the Neale Class Action or as proposed in the Douglas Class Action;

**WHEREAS** on March 6, 2012, Justice Catherine Mandeville of the Quebec Superior Court authorized the Neale Class Action;

**WHEREAS** Neale individually and in her capacity as the representative plaintiff in the Neale Class Action and Douglas individually and in his capacity as the representative plaintiff in the Douglas Class Action (to be discontinued by consent) and the defendants GROUPE AEROPLAN INC. and AEROPLAN CANADA INC., have decided to enter into a Settlement to settle and fully and finally resolve the claims of class members in the Neale Class Action and the Douglas Class Action without any admission whatsoever, for the purpose of avoiding further cost, expense and inconvenience of protracted litigation; and

**WHEREAS** the parties to the present transaction and settlement are of the view that it is in their mutual interest to settle the Class Actions as set forth below for the purpose of avoiding further cost, expense and inconvenience of protracted litigation.

**NOW THEREFORE IN CONSIDERATION OF THE FOREGOING, NOELLA NEALE ON HER OWN BEHALF AND ON BEHALF OF CLASS MEMBERS IN THE NEALE CLASS ACTION AS DEFINED BELOW, THOMAS DOUGLAS, GROUPE AEROPLAN INC. AND AEROPLAN CANADA INC. AGREE AS FOLLOWS:**

## II. DEFINITIONS

Unless a different meaning is indicated by the context, the following definitions shall apply to the Settlement as outlined in this settlement agreement and its schedules (the "**Settlement Agreement**"). Words or phrases importing a number shall be construed such that the singular includes the plural and vice-versa. Similarly, words or phrases importing the masculine gender shall be construed as including the feminine gender and vice-versa, where appropriate.

**"Account"** means an AEROPLAN account of a living Member which has not been closed at the Member's request or by Aeroplan (deceased members or fraudulent activity);

**"Additional Indemnification Criteria"** in respect of an Account means an Account meeting all of the criteria below thereby entitling the Member who holds the Account on the Compensation Date to compensation in accordance with paragraphs 5 to 7 of the Settlement Agreement:

1. the Account was opened before October 16 2006;
2. the Account's Aeroplan miles expired between July 1, 2007 and October 15, 2007 due to lack of activity in the account in the 12 months preceding the expiry;
3. The Member holding the Account has not exercised a Right to Opt Out as communicated to Counsel for Aeroplan by Class Counsel pursuant to the Settlement;

**"Aeroplan"** means collectively the Defendants GROUPE AEROPLAN INC. (now known as Aimia Inc.) and AEROPLAN CANADA INC. (now known as Aimia Canada Inc.) together with their respective predecessors, affiliates, successors in title, assigns and any present or former representatives, employees, officers, directors and shareholders;

**"Class Actions"** means the Neale Class Action and the proposed Douglas Class Action collectively;

**"Class Counsel"** means Merchant Law Group LLP;

**"Compensation"** means the total amount of miles that Aeroplan has undertaken to reinstate in all Eligible Accounts at the Compensation Date;

**"Compensation Date"** means thirty days (30) days following the Effective Date.

**"Counsel for Aeroplan"** means Norton Rose Fulbright Canada LLP;

**"Court"** means the Quebec Superior Court sitting in the District of Montreal, presided over by the Honourable Catherine Mandeville, J.S.C. or her replacement;

**"Day(s)"** means calendar days;

**"Documents"** means, irrespective of the medium, all pleadings, proceedings, affidavits, exhibits, transcripts of examinations, replies to undertakings, hearing or case management conference call minutes and related transcripts, if any, letters and emails exchanged between Counsel for Aeroplan and Class Counsel or between the latter and the Court;

**"Douglas Class Action"** means the proposed class action that Douglas has instituted against Aeroplan, based on the facts alleged in the Statement of Claim filed with the Court Of Queen's Bench for Saskatchewan, Judicial Centre of Regina, in the court file number QBG 2235 OF 2016;

**"Effective Date"** means the date on which Judgment Approving the Settlement, and any appeals from that Judgment, are no longer subject to the possibility of any further appeal and is therefore final;

**"Eligible Account"** means the Account of a Member who satisfies the Additional Indemnification Criteria, as identified by Aeroplan using their best efforts, provided that the Member has not opted out of the Neale Class Action;

**"Opting Out Period"** means a period of thirty (30) Days following publication of the Pre-Approval Notice (as defined at paragraph 9 b) authorized by the Court, during which time the Group Members who so desire may exclude themselves from the Group and the Settlement. If the Opting Out Period ends on a Saturday or a non-judicial Day, such period may be extended until midnight of the next following judicial Day;

**"Opting Out Procedure"** means the procedure for exercising the Right to Opt Out in accordance with the terms and conditions set out in section VIII of the Settlement;

**“Fonds d’aide”** means the Fonds d’aide aux actions collectives created pursuant to the *Act respecting the Fonds d’aide aux actions collectives* (R.S.Q. F-3.2.0.1.1.);

**“Group Member”** or **“Member”** means any person included in the definition of the Group that did not exclude himself or herself in accordance with the Right to Opt Out pursuant to the Settlement and article 580 of the Code of Civil Procedure;

**“Group”** means the group for which authorization will be sought in the Neale Class Action for the purposes of this Settlement, namely: “All physical persons in Canada who are members of the Aeroplan program run by the Respondents [Aeroplan], including Aeroplan members enrolled by Aeroplan when they resided outside of Canada and Aeroplan members enrolled when they resided in Canada, who then moved outside of Canada, and were subject to the changes made by the Respondents to the Aeroplan program concerning accumulation and expiry of Aeroplan Miles, as announced by the Respondents on October 16, 2006.”;

**“Hearing to Approve the Settlement”** means the hearing to be presided over by the Quebec Superior Court for the purpose of determining whether the Motion for Approval of the Settlement made in the Neale Class Action pursuant to Article 590 CCP and the Settlement approved;

**“Introductory Motions”** means the Introductory Motion filed with the Quebec Superior Court in the Neale Class Action and the Statement of Claim filed with the Court Of Queen's Bench for Saskatchewan in the Douglas Class Action together with all amendments thereto;

**“Judgment Approving the Settlement”** means the Quebec Superior Court’s judgments approving the Settlement;

**“Miles”** means miles earned by accountholders in the Aeroplan program through the purchase of products and services from Aeroplan's partners and that can be redeemed for a variety of travel, merchandise, gift cards, and other rewards.

**“Miles Expired”** or **“Expired Miles”** means those Miles in a Member’s Eligible Account on October 16, 2006 and that expired between July 1, 2007 and October 15, 2007;

**“Neale Class Action”** means the class action that the Plaintiff, Noella Neale, has instituted against Aeroplan, based on the facts alleged in the Introductory Motion filed with the Quebec Superior Court in the court docket bearing the number 500-06-000476-099;

**“Objection”** means an objection to the Settlement made in the manner and within the time frame specified by the Court;

**“Objection Form”** means the form made available to Members who wish to object to the Settlement. A copy of the form, whose use is optional, is attached hereto (Schedules “G” and “H”);

**“Parties to the Settlement”** or **“Parties”** means Neale, in her personal capacity and as class representative in the Neale Class Action, Douglas, Class Counsel, Aeroplan and Counsel for Aeroplan;

**“Period Covered”** means the period from October 16, 2006 to the date of the Judgment Approving the Settlement;

**“Plaintiffs”** means Noella Neale, in her personal capacity and as class representative in the Neale Class Action, and Thomas Douglas;

**“Respondents”** means Aeroplan and was the term that was used to refer to them in the class

definition found in the judgment dated March 6, 2012, authorizing the Neale Class Action;

**“Right to Opt Out”** means the right of a Member to exclude himself or herself from the Settlement in accordance with the terms and conditions set out in paragraphs 24 to 27 of the Transaction;

**“Schedules”** means all of the documents that the Parties have attached to the Settlement Agreement and that are identified in paragraph 42 together with any other document that the Parties may attach hereto with the Court’s approval. However, the Parties may, without the Court’s authorization, make amendments to the form and content of the Schedules, provided such amendments comply with the provisions of the Settlement;

**“Settlement”** means the transaction and agreement set out herein and subsequent amendments thereto, together with any other subsequent agreement that the Parties may see fit to add hereto subject to the Court’s approval, which is intended to resolve all claims and all liabilities of the Defendants to the Group relating to the matters pleaded in the pleadings filed in the Neale Class Action and the Douglas Class Action which settlement shall be considered a transaction and settlement under the Quebec Civil Code.

### **III. SCOPE AND EXTENT OF THE SETTLEMENT**

1. The preamble forms an integral part of this Settlement Agreement.
2. Through the Settlement, Neale (individually and in her capacity as the representative plaintiff of the Group in the Neale Class Action), Douglas (as the Plaintiff in the Douglas Class Action and as Member of the Group in the Neale Class Action) and Aeroplan wish to settle amongst themselves and on behalf of the Group Members any and all claims, allegations or causes of action of whatsoever nature arising directly or indirectly out of the facts alleged in the pleadings or proceedings delivered in the Class Actions, the supporting exhibits or the Documents, in accordance with the terms and conditions of the Settlement.
3. The Settlement is conditional upon a final Judgment Approving the Settlement, including approving the terms of this Settlement Agreement in its entirety, with the exception of paragraphs 13, 28, 29, 30 and 32 of the Settlement Agreement, and the Court Of Queen’s Bench for Saskatchewan being apprised of the terms of the discontinuance of the Douglas Class Action and the discontinuance of the Douglas Class Action being implemented by Class Counsel, failing which the Settlement will be null and void and will not give rise to any right or obligation in favour of or against the Parties and the Group Members unless all Parties, acting in their sole discretion and self-interest, agree to waive any variation of the Settlement that might be imposed by the Court.
4. The Plaintiffs and Aeroplan undertake to cooperate and make and deploy all efforts and means necessary or useful to justify the Settlement and to support and demonstrate its fairness and reasonableness with a view to obtaining Court approval of the Settlement and to make joint representations to the Court in the hearings for the purposes of obtaining the Pre-approval Judgment or the Judgment Approving the Settlement and to implement the Settlement.

### **IV. COMPENSATION OF GROUP MEMBERS**

5. Each of the Eligible Accounts will have a portion of the original Expired Miles reinstated in an aggregate total for all Members of two billion (2,000,000,000) miles prorated amongst Eligible Accounts in accordance with the following process, calculations, terms and conditions.

6. Each Eligible Account's proportionate share of the reinstated miles will be deposited on the Compensation Date by Aeroplan into each Eligible Account.
7. Each Eligible Account's prorated share of Miles to be so deposited will be a number of Miles calculated as follows:

$$\text{Eligible Account's share} = \frac{\text{Miles Expired in the Eligible Account}}{\text{The sum of the Miles Expired in all Eligible Accounts}} \times 2,000,000,000$$

#### V. NO REMAINING BALANCE AFTER EXECUTION

8. After the Settlement has been implemented and executed, there shall be no surplus Miles remaining for remittance to any Group Members or third party and Aeroplan will have no obligations under this Settlement other than the re-instatement of the Miles so deposited and the payment of Class Counsel Fees in accordance with the Settlement.

#### VI. PROCEDURE FOR PRE-APPROVAL OF THE SETTLEMENT

9. Class Counsel shall file:
  - a) a letter with the Case Management Judge, Justice Keene (or his successor), in the Douglas Class Action confirming that they intend to discontinue the Douglas Class Action on consent following the approval of this Settlement, providing a copy of this Settlement Agreement and indicating that the discontinuance is on the understanding that the Group in the Neale Class Action will be amended so that the Group which is entitled to benefit from the Settlement as defined above includes Members who were proposed to be included in the class in the Douglas Class Action and seeking any direction from the Case Management Judge regarding the discontinuance;
  - b) a motion before the Court in the Neale Class Action seeking: (1) to modify the definition of the Group as previously authorized, on consent, such that authorization will be sought for the purposes of settlement and on behalf of the Group in the Neale Class Action outlined in this Settlement Agreement; (2) Approval of the Notice of the Hearing to Approve this Settlement (the "**Pre-Approval Notice**") which is set out in Schedules "A and B" (the "**Pre-Approval Motion**").
10. The Parties will make best efforts to have the Pre-Approval Motion heard as quickly as possible once the Settlement Agreement is fully executed.
11. At the hearing of Pre-Approval Motion, Class Counsel and Counsel for Aeroplan will make joint representations to the Court with a view to obtaining the pre-approval Judgment and Order authorizing publication of the Pre-Approval Notice.
12. The Pre-Approval Notice will be the only notice the Group Members will receive in regard to the Settlement, and once the Settlement has been approved by the Court, no notice will be published or disseminated to the Group Members further to the Judgment Approving the Settlement (the whole notwithstanding Article 591 of the *Code of Civil Procedure*) or in relation to the discontinuance of the Douglas Class Action.

13. The Parties acknowledge that the Court may amend the wording and the terms for the dissemination and publication of the Pre-Approval Notice, which will not be grounds for nullity or termination of the Settlement, unless such amendments entail a substantive change to the terms and conditions of the Settlement or a substantial increase in the costs of dissemination and publication of the Pre-Approval Notice.
14. The Pre-Approval Notice will indicate, in particular, the following:
- a) The existence of the Class Actions, the relief claimed and the definition of the Group;
  - b) The name and address of the Class Counsel to permit inquiries about the Class Actions;
  - c) The agreement between the parties as to Class Counsel fees;
  - d) The fact that this Settlement has been reached and will be submitted to the Court for approval, specifying the date, time and place of the Hearing to Approve the Settlement;
  - e) The fact that the Douglas Class Action will be discontinued as part of the Settlement;
  - f) The nature of this Settlement, the method of execution chosen and the procedure to be followed by Members in order for their Accounts to be eligible for Compensation;
  - g) The right of the Group Members to be heard before the Court in regard to the Settlement and that they may make representations before the Court regarding the Settlement;
  - h) The existence of the Right to Opt Out and the Opting Out Period; and
  - i) The fact that the Pre-Approval Notice will be the only notice that the Group Members will receive in regard to the Settlement and that once the Settlement has been approved by the Court, no other notice will be published or disseminated to the Group Members further to the Judgment Approving the Settlement, the whole notwithstanding Article 591 of the *Code of Civil Procedure*.
15. The Pre-Approval Notice will be published and disseminated in the following manner:
- a) A press release in the form found at Schedules "C" and "D";
  - b) Publication once in the following newspapers:

Province of Quebec	Journal de Montreal and The Gazette
Province of Ontario	Toronto Star
Province of British Columbia	The Vancouver Sun

Province of Alberta	The Calgary Herald
Provinces of Newfoundland & Labrador, Prince Edward Island, Nova Scotia, Manitoba, Saskatchewan, the Territories of Yukon Northwest Territories and Nunavut	The Globe & Mail

within thirty (30) days following the Pre-Approval Judgment.

Aeroplan will forward the proofs prepared by the daily newspapers for publication of the Pre-Approval Notices based on Schedules "A" and "B" to Class Counsel at least three (3) days prior to the deadlines of the daily newspapers so that they can verify the wording thereof and make any necessary changes, with the cooperation of Counsel for Aeroplan. The costs of publication of the Notice of Hearing to Approve the Settlement in accordance with this subparagraph will be borne by Aeroplan;

- c) A hyperlink containing the information found in the press release in the form found at Schedules "C" and "D" will be added as part of Aeroplan's next monthly newsletter that is published after the Pre-Approval Judgment. The hyperlink will be in the form of the one included in the newsletter that was authorized by the Court on January 17, 2013 as part of the Judgment on the motion to publish notices of Class action authorization.
  - d) Creation of a hyperlink on Class Counsel's website leading to a webpage (<http://www.merchantlaw.com/classactions/aeroplan.php>) containing an electronic version of the Settlement Agreement, which will include only Schedules "A" and "B" and any press releases published by Class Counsel in accordance with the conditions of the Settlement, the whole at the expense of Class Counsel, which website shall be live from the date on which the Pre-Approval Notice appears in the newspapers until forty-five (45) days after the Execution Date;
16. Within five (5) days following the filing of the Pre-Approval Motions, the Plaintiffs or Class Counsel may publish a press release and grant interviews in accordance with the conditions of the Settlement as provided for in Schedules "C", "D", "E" and "F" respectively and, unless agreed to the contrary and subject to the following paragraphs, no further press releases will be published or interviews granted thereafter by the Plaintiffs or Class Counsel in connection with the filing of the Pre-Approval Motion. Should Aeroplan decide to publish a press release, they shall give Class Counsel three (3) hours' notice. The Plaintiffs and Class Counsel undertake to give Aeroplan, in accordance with section 52 of the Settlement Agreement, three (3) hours' notice in advance of the publication, dissemination or communication of the press release. Notice must be given between 8:30 a.m. and 1:00 p.m. on a business day;
17. Within five (5) days following the Pre-Approval Judgment, the Plaintiffs and Class Counsel may publish its press release and grant interviews announcing the judgment. The press release will substantially repeat, *mutatis mutandis*, the content of the draft press release and the Questions and Answers in Schedules "C", "D", "E" and "F" respectively and, unless agreed to the contrary, no further press releases will be published or interviews granted thereafter by the Plaintiffs and Class Counsel in connection with the Settlement. The Plaintiffs and Class Counsel undertake to give Aeroplan, in accordance with section 52 of this Settlement Agreement, three (3) hours' notice in advance of the publication, dissemination or communication of these press releases. Notice must be given between



8:30 a.m. and 1:00 p.m. on a business day. The Parties will be allowed to give subsequent unsolicited interviews or to participate in media interventions, without obtaining the prior consent of the other Parties, as long as their comments are substantially the same as those contained in the draft press releases and the Questions and Answers in Schedules "C", "D", "E" and "F" with the necessary adaptations.

18. Should the Court refuse to grant the Pre-Approval Motion or refuse to authorize the publication of the Pre-Approval Notice, or if substantive changes to the terms and conditions of the Settlement are made or changes to the Pre-Approval Notice that substantially increase its cost are made or any other changes that have an impact on the implementation and execution of the Settlement, the Settlement will be null and void at the option of any of the Parties and will not give rise to any right or obligation in favour of or against the Parties.

## **VII. PROCEDURE FOR APPROVAL OF THE SETTLEMENT**

19. After publication of the Pre-Approval Notice, Class Counsel will file with the Court in Quebec a Motion for Approval of the Settlement with a view to the Hearing to Approve the Settlement and the terms of this Settlement Agreement.
20. The Motion for Approval of the Settlement will be served by Class Counsel on the Fonds d'aide in accordance with the provisions of the *Code of Civil Procedure*, the *Act respecting the Fonds d'aide aux actions collectives* and the *Regulation of the Superior Court of Québec in civil matters* in sufficient time before the Hearing to Approve the Settlement.
21. At the Hearing to Approve the Settlement, Class Counsel and Counsel for Aeroplan will make joint representations before the Court to obtain the Judgment Approving the Settlement, whose purpose is to approve the Settlement.
22. Group Members may raise an Objection before the Court at the Hearing to Approve the Settlement. In this regard, Group Members who wish to raise an Objection will be invited in the Pre-Approval Notice to inform Class Counsel and Counsel for Aeroplan in writing of the reasons for their Objection at least five (5) days before the Hearing to Approve the Settlement, by communicating a document containing the following information:
  - a) The name and contact information of the Group Member who is raising an Objection;
  - b) The Group Member's Account number;
  - c) A declaration that the Group Member's Miles Expired between July 1st, 2007 and October 15, 2007 due to lack of activity in the account in the 12 months preceding July 1, 2007; and
  - d) A brief description of the reasons for the Group Member's Objection.
23. Group Members who wish to raise an Objection may use the Objection Form (Schedule "G" – Formulaire d'objection and Schedule "H" – Objection Form) to formulate their Objection, but are not bound to do so.

## **VIII. OPTING OUT FROM THE SETTLEMENT**

24. Group Members have the right to exclude themselves from the Settlement.
25. Exercise of the Right to Opt Out by a Member of the Group entails the loss of the right to

benefit from the Settlement and the loss of the status of Group Member.

26. A Group Member wishing to exercise his or her Right to Opt Out must, before the expiry of the Opting Out Period, send, by registered or certified mail addressed to the clerk of the Superior Court of Quebec a written Request for Opting Out duly signed by the Group Member containing the following information:
- (a) The Court and Court docket number of the Class Action;
  - (b) The name and contact information of the Group Member who is exercising his or her Right to Opt Out ;
  - (c) The Group Member's Account number, mail and/or email address associated with their Account;
  - (d) The Request for Opting Out must be conveyed before the expiry of the Opting Out Period to the following address:

Greffes de la Cour supérieure du Québec  
**PALAIS DE JUSTICE DE MONTRÉAL**  
1 Notre-Dame Street East  
Room 1.120  
Montreal, Quebec H2Y 1B5

**Reference:**

***Neale v. Aeroplan et al. Class Action – 500-06-000476-099***

With a copy to Class Counsel:

Mtre Anthony Merchant  
**MERCHANT LAW GROUP LLP**  
2401 Saskatchewan Drive  
Regina, Saskatchewan S4P 4H8  
Telephone: 306 359-7777 / Fax: 306 522-3299  
Email: [lcovill@merchantlaw.com](mailto:lcovill@merchantlaw.com)

27. Group Members who have not exercised the Right to Opt Out according to the Opting Out Procedure before the expiry of the Opting Out Period will be irrevocably deemed to have chosen to participate in the Settlement and will be bound by the terms of the Settlement following its approval by the Court and by all judgments or orders subsequently issued by the Court, if any.

#### **IX. FEES AND DISBURSEMENTS OF CLASS COUNSEL**

28. At the Hearing to Approve the Settlement, Class Counsel will make their representations before the Court to the effect that the amount of \$2,056,375, all inclusive of fees, disbursements and any applicable taxes, as well as judicial and extra-judicial fees and disbursements incurred and to be incurred until the completion of the Settlement represents fair and reasonable remuneration, and Aeroplan will not oppose such representations.
29. If approved, the fees and disbursements of Class Counsel will be paid by Aeroplan to Class Counsel in three instalments:

- 1- \$ 770,000;
- 2- \$ 770,000;
- 3- \$ 516,375.

30. These instalments will be paid on specific dates and only on those specific dates following the Effective Date (February 15 and August 15). For greater certainty should the Effective Date occur before February 15, 2019, then the three instalments will be paid: Instalment 1 (\$770,000): February 15, 2019; instalment 2 (\$770,000): August 15, 2019; and instalment 3 (\$ 516,375): February 15, 2020. Should the Effective Date occur after February 15, 2019, but before August 15, 2019, then the three instalments will be paid: Instalment 1 (\$770,000): August 15, 2019; instalment 2 (\$770,000): February 15, 2020; and instalment 3 (\$ 516,375): August 15, 2020.
31. These instalments represent Class Counsel's judicial and extra-judicial fees, expert fees and disbursements expenses, interest, GST, PST, HST and other applicable taxes or charges in relation to both the Douglas Class Action and the Neale Class Action for which approval by the Court in the Judgment Approving the Settlement will be sought.
32. In consideration of payment of class counsel fees, Class Counsel will not, directly or indirectly, claim from Aeroplan or the Group Members any other fee or disbursement of any kind or based on any source, and will not deduct any other percentage from the Compensation, nor participate directly or indirectly in any class action arising in whole or in part from any of the facts alleged in the Class Actions or the Documents.

#### **X. RENDERING OF ACCOUNT**

33. Aeroplan will provide a report of the implementation and execution of the Settlement within sixty (60) days following the Compensation Date or payment of all Class Counsel Fees, whichever is later.
34. In this regard, Aeroplan will provide the following information to Class Counsel :
  - a) The fact that the Settlement has been duly implemented and executed on the Compensation Date;
  - b) The number of Eligible Accounts that received the Compensation at the Compensation Date in accordance with the terms and conditions of the Settlement;
  - c) The total amount of Miles representing the Compensation remitted to the Eligible Accounts on the Compensation Date;
  - d) The date of the remittance of the fees and disbursements of Class Counsel in accordance with the terms and conditions set out in paragraphs 28 to 32 of the Settlement.

#### **XI. RELEASE AND DISCHARGE AND CONSIDERATION OF THE PLAINTIFFS**

35. Upon the Effective Date, Class Counsel, Neale and Douglas, and all Group Members who have not otherwise exercised the Right to Opt Out, on their own behalf and on behalf of their agents, representatives, heirs, successors and assigns (collectively the "**Releasors**"), forever and absolutely fully and finally release, remise and discharge Aeroplan and Counsel for Aeroplan, their respective mandataries, shareholders, agents, directors, officers, representatives, partners, insurers, employees, professionals, staff, successors and assigns, from any and all manner of claims, demands, actions, suits, causes of action, whether class, individual or otherwise in nature, whether personal or subrogated, damages whenever incurred, liabilities of any nature whatsoever, including interest, costs, expenses,

penalties, and lawyers' fees, whether known or unknown, suspected or unsuspected, in law, under statute or in equity, that the Releasers, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have, relating in any way to any conduct anywhere, from the beginning of time to the date hereof, in respect of the facts alleged in the proceedings relating to the Class Actions, the supporting exhibits or the Documents.

36. No provision of the Settlement will constitute or be deemed to constitute or be construed as constituting a waiver by Aeroplan of any right or defence against any claim, suit or cause of action of a Group Member who has exercised the Right to Opt Out or a waiver by Aeroplan of any right or defence in contesting the Class Actions should the Settlement not be approved by the Court or otherwise become null and void owing to the application of any of the provisions of the Settlement.
37. No provision of the Settlement will constitute or be deemed to constitute or be construed as constituting a waiver by Neale, Douglas and the Group Members of any right, claim, suit or cause of action against Aeroplan should the Settlement not be approved by the Court or otherwise become null and void owing to the application of any of the provisions of the Settlement.
38. None of the obligations, of whatever kind, assumed by Aeroplan and Counsel for Aeroplan in executing the Settlement nor the consent of Aeroplan to the Settlement taking place or to the Court issuing the Pre-Approval Judgment or the Judgment Approving the Settlement, shall constitute in any manner an admission of liability by Aeroplan.
39. Neale, Douglas and Class Counsel agree not to institute, directly or indirectly, any suit, complaint, action or claim, arising, in whole or in part, directly or indirectly, from any cause, action, omission or any other fact found or alleged in the proceedings or the Documents related to the Class Actions as released herein.

## **XII. TERMINATION**

40. In the event that:
  - (e) the Court declines to approve this Settlement or any material part hereof or approves this Settlement in a materially modified form;
  - (f) the Judgment Approving the Settlement is appealed from;
  - (g) the number of Members who exercise their Rights of Exclusion exceeds 50;
  - (h) any orders approving this Settlement made by the Court do not become final orders;
  - (i) a claim by a third party for recognition of a remaining balance is filed into the court record; or
  - (j) a court recognizes the existence of a remaining balance;

this Transaction shall be terminated and, except as provided for in paragraph 41, it 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.

41. If this Settlement is terminated, the Parties shall return to their state prior to the execution

of this Settlement Agreement;

### **XIII. SCHEDULES**

42. The following Schedules form an integral part of the Settlement and are incorporated therein as if they were recited at length therein:
- a) Schedule "A": *Avis d'audience d'approbation du règlement;*
  - b) Schedule "B": *Notice of Hearing to Approve the Settlement;*
  - c) Schedule "C": *Communiqué de presse des Demandeurs;*
  - d) Schedule "D": *Press Release of the Plaintiffs;*
  - e) Schedule "E": *Questions et Réponses des Demandeurs;*
  - f) Schedule "F": *Questions and Answers of the Plaintiffs;*
  - g) Schedule "G": *Formulaire d'Objection;*
  - h) Schedule "H": *Objection Form;*

### **XIV. FINAL PROVISIONS**

43. The Settlement and the Schedules hereto constitute the full and entire Settlement between the Parties.
44. The Settlement and the Schedules hereto supersede any other prior oral or written agreement concerning the matters raised in the Class Actions.
45. The Settlement constitutes the full and final settlement of any dispute between the Parties and the Group Members who have not opted out concerning the Class Actions, including the common issues determined by the judgment authorizing the institution of the Neale Class Action dated March 6, 2012 and constitutes a transaction within the meaning of Articles 2631 and following of the *Civil Code of Québec*.
46. The Settlement will not be considered to constitute an admission or acknowledgment by any of the Parties of the validity of any right, claim or defence.
47. The purpose of the Settlement is to settle the allegations made in the Class Actions and to resolve the Class Actions and must be considered as an inseparable and indivisible whole, and each and every one of its provisions is intrinsically related to and dependent on the others.
48. The settlement outlined in this Settlement Agreement is without prejudice to the rights of each of the Parties to:
- i. seek or oppose the certification or authorization of any of the Settlement Proceedings as class proceedings should the Settlement Agreement not be finally approved or implemented for any reason; and
  - ii. use the certification or authorization of the Settlement Proceedings to oppose

certification or authorization of any other proposed or existing class proceeding arising out of the Released Claims.

49. The Court in Quebec shall have exclusive jurisdiction regarding the implementation, execution, interpretation, management and application of the Settlement and any litigation that may arise therefrom. The Settlement Agreement as it concerns members of the Group will be governed and construed in accordance with the laws in force in the Province of Quebec and the Parties submit to the exclusive jurisdiction of the Superior Court of Quebec.
50. In the event of a discrepancy between the wording of the notices to Members and the Settlement Agreement, the wording of the Settlement Agreement will take precedence.
51. 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.
52. Any communication to a party with respect to the implementation and execution of the Settlement will be in writing, by mail, fax, messenger or email (provided a confirmation of delivery of the email is requested by the sender and authorized by the recipient) and will be addressed as follows:

To the attention of the Plaintiffs, the Groups or Class Counsel:

Mtre Anthony Merchant  
**MERCHANT LAW GROUP LLP**  
2401 Saskatchewan Drive  
Regina, Saskatchewan S4P 4H8  
Telephone: 306 359-7777 / Fax: 306 522-3299  
Email: lcovill@merchantlaw.com

To the attention of Aeroplan or Counsel for Aeroplan :

Mtre François-David Paré  
**NORTON ROSE FULBRIGHT CANADA LLP**  
1 Place Ville-Marie  
25th floor  
Montreal, Quebec H3B 1R1  
Telephone: 514 847-4948 / Fax: 514 286-5474  
Email: francois-david.pare@nortonrosefulbright.com

**IN WITNESS WHEREOF, THE PLAINTIFFS, NOELLA NEALE AND THOMAS DOUGLAS AND AEROPLAN AND THEIR RESPECTIVE COUNSEL HAVE SIGNED:**

Signed this July\_\_\_\_, 2018

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**GROUPE AEROPLAN INC.** (now known as  
Aimia Inc.) **AND**  
**AEROPLAN CANADA INC.** (now known as  
Aimia Canada Inc.)  
By:

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**THOMAS DOUGLAS**

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**NOELLA NEALE**

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**MERCHANT LAW GROUP LLP**  
Counsel for the Plaintiffs

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**NORTON ROSE FULBRIGHT CANADA LLP**  
Counsel for AEROPLAN