

**(Class Actions Division)**  
**SUPERIOR COURT**

CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

No: 500-06-000930-186  
(Nos. C.A. : 500-09-028532-190 – 500-09-028543-197)

**AVRAHAM BROOK**

Representative Plaintiff

v.

**CANADIAN IMPERIAL BANK OF COMMERCE**

-and-

**CIBC MORTGAGES INC.**

Defendants

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**SETTLEMENT AGREEMENT**

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## RECITALS

**WHEREAS** on October 17, 2011 Diane Lamarre commenced the Lamarre Action on behalf of individuals residing in Quebec for the alleged unlawful collection, or miscalculation, of Prepayment Charges paid to CIBC Mortgages Inc. since October 17, 2005;

**AND WHEREAS** the Lamarre Action alleged, *inter alia*, that CIBC Mortgages Inc.'s Prepayment Charges were void and unenforceable due to their discretionary nature, as well as breaches of the *Trust and Loan Companies Act*, S.C. 1991, c. 45, the *Cost of Borrowing (Trust and Loan Companies) Regulations*, SOR/2001-104, the *Mortgage Brokerages, Lenders and Administrators Act*, 2006, SO 2006, c. 29, CIBC Mortgages Inc.'s "Plain Language Promise", CIBC Mortgages Inc.'s fiduciary duties, and public policy, and in the alternative, that CIBC Mortgages Inc. had miscalculated Prepayment Charges by failing to reduce them to their net present value and to calculate them with reference to a notional comparator mortgage with the same amortization period as the individual's mortgage. The Lamarre Action also alleged that CIBC Mortgages Inc.'s Prepayment Charges constituted an unjust enrichment;

**AND WHEREAS** on May 31, 2018 Avraham Brook commenced, as a co-applicant, the Brook Action on behalf of individuals who paid Prepayment Charges to the CIBC Defendants and/or to the Co-Defendants since May 31, 2015, in relation to property situated in Quebec for, *inter alia*, collective recovery for the alleged abusive, lesionary and incomprehensible nature of the CIBC Defendants and/or of the Co-Defendants' contractual provisions providing for Prepayment Charges in excess of three months of interest;

**AND WHEREAS** on December 6, 2018 the Honourable Justice Jacques Blanchard of the Quebec Superior Court ordered that Avraham Brook be substituted to Diane Lamarre as a purported class representative in the Lamarre Action;

**AND WHEREAS** on January 31, 2019 the Brook Action was amended to add a proposed class against the CIBC Defendants to include the individuals that would otherwise have been class members of the Lamarre Action;

**AND WHEREAS** on April 23, 2019 the Brook Action was amended to incorporate the allegations of the Lamarre Action regarding the SCRAP Issue;

**AND WHEREAS** on July 5, 2019 the Lamarre Action was discontinued against CIBC Mortgages Inc., with the approval of the Honourable Justice Chantal Corriveau of the Quebec Superior Court;

**AND WHEREAS** on July 19, 2019 Justice Corriveau authorized the Brook Action solely against the CIBC Defendants and solely regarding the SCRAP Issue, and dismissed all other causes of action alleged against both the CIBC Defendants and the Co-Defendants;

**AND WHEREAS** on August 23, 2019 Avraham Brook and his co-applicant filed a Notice of Appeal of the Corriveau Decision concerning the causes of action that were dismissed by Justice Corriveau;

**AND WHEREAS** on August 27, 2019 the CIBC Defendants filed an Application for Leave to Appeal of the Corriveau Decision concerning the SCRAP Issue, which was granted by the Quebec Court of Appeal on January 27, 2020;

**AND WHEREAS** on September 9 and 10, 2020, the Parties entered into a private mediation with Joel Weisenfeld, which was unsuccessful with respect to the claims concerning mortgages for properties situated in the province of Quebec;

**AND WHEREAS** on September 14, 2020 Avraham Brook and his co-applicant sought leave to amend the Brook Action to add a cause of action concerning the alleged abusive, unconscionable and incomprehensible nature of the use of discounts by the CIBC Defendants and the Co-Defendants in calculating Prepayment Charges;

**AND WHEREAS** on October 3, 2021 the Parties reached an agreement in principle to settle the Brook Action solely against the CIBC Defendants;

**AND WHEREAS** on October 4, 2021 the Court of Appeal dismissed Avraham Brook and his co-applicant's leave to amend the Brook Action and their appeal of the Corriveau Decision;

**AND WHEREAS** the Parties have contemplated in this Settlement Agreement the full and final resolution of all claims of all CIBC Class Members and a full and final release of the CIBC Defendants in the form described herein;

**AND WHEREAS** the CIBC Defendants deny any liability and do not admit, by the execution of this Settlement Agreement or otherwise, any allegation of unlawful or otherwise wrongful conduct and assert that they have complete defences in respect of the Action;

**AND WHEREAS** the Parties, through their counsel, have engaged in arm's length settlement negotiations with a view to resolving the Action;

**AND WHEREAS** every Party has performed appropriate due diligence to satisfy itself of the veracity and accuracy of the facts upon which it is relying in executing this Settlement Agreement;

**AND WHEREAS** the Parties have entered into this Settlement Agreement, which embodies all of the terms and conditions of the Settlement between the CIBC Defendants and the Plaintiff, both individually and on behalf of the CIBC Class Members, subject to the approval of the Court;

**AND WHEREAS** the CIBC Defendants are entering into this Settlement Agreement in order to achieve a final resolution of all claims asserted or which could have been asserted by the Plaintiff and the CIBC Class Members in the Action, and to avoid further expense, inconvenience, reputational damage, and the distraction of burdensome and protracted litigation;

**AND WHEREAS** Class Counsel have reviewed and fully understand the terms of this Settlement Agreement and, based on their analyses of the facts and law applicable to the Plaintiff's claims, having regard to the burdens and expense in prosecuting the Brook Action, including the time, risks and uncertainties associated with trials and appeals, and having regard to the value of the Settlement Agreement, have concluded at this stage that this Settlement Agreement is fair, reasonable and in the best interests of the CIBC Class Members;

**AND WHEREAS** the Parties have intended and acknowledge that the Settlement provides compensation to eligible CIBC Class Members through a simplified, convenient and proportionate procedure;

**AND WHEREAS** the Parties wish to and hereby finally resolve the Action as against the CIBC Defendants, without admission of liability, and without any admission by the CIBC Defendants that the CIBC Class Members are entitled, at law or otherwise, to compensation or payment for any of the losses and damages alleged in the Action;

**AND WHEREAS** the Parties acknowledge that the Settlement is contingent on approval by the Quebec Superior Court as provided for in this Settlement Agreement, and entered into with the express understanding that this Settlement shall not derogate from the respective rights of the Parties relating to the Action in the event that this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason;

**AND WHEREAS** the Plaintiff and the CIBC Defendants agree that neither this Settlement Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be an admission by the CIBC Defendants, evidence against the CIBC Defendants, or evidence of the truth of any of the Plaintiff's allegations, which allegations are expressly denied by the CIBC Defendants;

**AND WHEREAS** the Plaintiff, the CIBC Defendants and their respective attorneys agree that neither this Settlement Agreement nor any statement made in the negotiation thereof, including any formulas used or compensation offered herein, shall be deemed or construed to be an admission by the Plaintiff, Class Counsel or the CIBC Defendants, and shall not be referred to, offered as evidence or received in evidence in any pending or future civil cases or proceedings in any jurisdiction, in particular SCM file no. 500-06-001166-210;

**NOW THEREFORE**, in consideration of the covenants, agreements and releases set forth in this Settlement Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that the Action shall be settled, subject to the approval of the Court, on the following terms and conditions:

## SECTION 1 – DEFINITIONS

For the purposes of this Settlement Agreement, including the Recitals hereto:

- (1) **“Action”** means together the Brook Action and the CIBC Appeal;
- (2) **“Brook Action”** means the *Haroch and Brook v. Canadian Imperial Bank of Commerce and al.* action commenced by Avraham Brook and Ms. Haroch in the Quebec Superior Court in Montreal, bearing Court file number 500-06-000930-186, including the Lamarre Action (whose proposed class members and allegations were incorporated into the Brook Action), as well as their appeal commenced before the Quebec Court of Appeal bearing file number 500-09-028532-190;
- (3) **“CIBC Appeal”** means the *Canadian Imperial Bank of Commerce v. Brook* appeal filed by CIBC before the Quebec Court of Appeal bearing file number 500-09-028543-197;
- (4) **“CIBC Class”** and **“CIBC Class Member(s)”** means all natural persons who, from October 17, 2008 to June 30, 2022, paid to the CIBC Defendants (or to any of their affiliates) a mortgage Prepayment Charge in an amount that exceeds three months of interest when either entirely or partially paying off a hypothecary loan or a collateral hypothec relating to a fixed-rate loan of a duration of five years or less on a property located in the province of Quebec;
- (5) **“CIBC Defendants”** means collectively Canadian Imperial Bank of Commerce, CIBC Mortgages Inc. and any of their affiliates;
- (6) **“Claims Administrator”** means Paiements Velvet Payments Inc.;
- (7) **“Class Counsel”** means LPC Avocat Inc.;
- (8) **“Class Counsel Fees”** means the amounts representing the fees payable to Class Counsel, inclusive of applicable taxes, in accordance with section 7.3(1) of this Settlement Agreement;

- (9) “**Class Counsel Fees and Other Costs**” means the amounts representing the professional fees payable to Class Counsel, as well as other costs and expenses, in accordance with section 7.3 of this Settlement Agreement;
- (10) “**Class Representative**” or “**Plaintiff**” means Avraham Brook;
- (11) “**Co-Defendants**” means all defendants to the Action other than the CIBC Defendants;
- (12) “**Corriveau Decision**” means the decision of July 19, 2019 by the Honourable Justice Chantal Corriveau of the Quebec Superior Court authorizing the Brook Action solely against the CIBC Defendants and solely regarding the SCRAP Issue, and dismissing all other causes of action alleged against both the CIBC Defendants and the Co-Defendants;
- (13) “**Court**” means the Quebec Superior Court;
- (14) “**CPA**” means the *Consumer Protection Act*, RLRQ c P-40.1;
- (15) “**Discount**” means, for the purposes of this Settlement Agreement only, any discount to the posted rate of interest for a term of 5 years or less, that a CIBC Class Member received when taking a mortgage loan from the CIBC Defendants;
- (16) “**Distribution Protocol**” means the protocol for the distribution of the Net Settlement Funds approved by the Court. The Parties’ proposed form of Distribution Protocol is attached hereto as Schedule “1”;
- (17) “**Effective Date**” means the date upon which the order of the Court approving the Settlement Agreement becomes a Final Order;
- (18) “**Execution Date**” means the date on which the last of the Parties signs this Settlement Agreement;
- (19) “**FAAC**” means the *Fonds d’aide aux actions collectives*;
- (20) “**Fee and Disbursement Approval Date**” means the date when the Court’s order approving the Class Counsel Fees and Other Costs becomes a Final Order;

(21) “**Final Order**” means the date upon which the Court grants an order approving this Settlement Agreement and the time to appeal the order has expired without any appeal being taken, or if an appeal is taken, all appeals and any time period for a further appeal have concluded;

(22) “**IRD**” means the interest rate differential method used to calculate Prepayment Charges;

(23) “**Lamarre Action**” means *Lamarre v. CIBC Mortgages Inc. (Brook v. CIBC Mortgages Inc.* following the substitution of Diane Lamarre by the Plaintiff) commenced in the Quebec Superior Court in the district of Quebec, bearing Court file number 200-06-000139-116 (before it was transferred to the district of Montreal and assigned filed number 500-06-000970-190), and discontinued on July 5, 2019;

(24) “**Net Settlement Funds**” means the Settlement Amount less Class Counsel Fees and Other Costs and less Settlement Administration Expenses;

(25) “**Notice of Pre-Approval**” means the forms of notice to be approved by the Court, which inform the CIBC Class Members of:

- (a) the Court’s authorization of the Brook Action against the CIBC Defendants regarding the SCRAP Issue only, and the district in which it was authorized;
- (b) the description of the CIBC Class;
- (c) the description of the principal issues raised in the Brook Action;
- (d) the name of the Class Representative, of Class Counsel and the contact information for Class Counsel;
- (e) the principal elements of the Settlement, including the nature of the Settlement, the mode of recovery chosen and the procedure to be followed by CIBC Class Members to make their claim;

- (f) the consequences and effects of the approval of the Settlement by the Court with respect to the release and discharge of the CIBC Defendants from all Class Members;
- (g) the date and location of the hearing of the Settlement Approval Application;
- (h) the Opt-Out Procedure and Opt-Out Deadline;
- (i) the Class Counsel Fees and Other Costs to be requested by Class Counsel;
- (j) the right of CIBC Class Members to object to the Settlement and the process for objecting to same; and
- (k) that CIBC Class Members have the right to seek intervenor status in the class action and that no Class Member other than the Plaintiff or an intervenor may be required to pay legal cost arising from the Action;

The Parties' proposed short form Notice of Pre-Approval and long form Notice of Pre-Approval are attached hereto as Appendix "A" and Appendix "B" respectively, and are subject to approval by the Court;

(26) **"Notice of Pre-Approval Application"** means the application for an order of the Superior Court of Quebec:

- (a) approving the form, content and manner of publication of the Notice of Pre-Approval;
- (b) setting out the Opt-Out Procedure and fixing the Opt-Out Deadline;
- (c) setting out the objection procedure and fixing the objection deadline; and
- (d) such other relief as the Parties may request;

(27) **"Notice Plan"** means the manner in which the Parties are to disseminate the Notice of Pre-Approval and the Settlement Approval Notice. The Parties' proposed Notice Plan is attached hereto as Appendix "C". The costs of the Notice Plan will be paid as Settlement Administration Expenses;

(28) “**Opt-Out Deadline**” means the opt-out deadline in accordance with section 4.1 of this Settlement Agreement;

(29) “**Opt-Out Procedure**” means the opt-out procedure in accordance with section 4.1 of this Settlement Agreement;

(30) “**Opt-Out Threshold**” means more than five-hundred (500) CIBC Class Members opt out of the Action in accordance with the Opt-Out Procedure;

(31) “**Other Costs**” means the amounts representing Class Counsel’s costs and expenses in accordance with section 7.3(2) of this Settlement Agreement;

(32) “**Parties**” means the Plaintiff, Avraham Brook, on behalf of each and every CIBC Class Member that has not opted out of the Action in accordance with the Opt-Out Procedure, and the CIBC Defendants, each being a party to this Settlement Agreement;

(33) “**Prepayment Charge**” means any amount assessed, levied, or collected by any of the Releasees on account of the prepayment of a mortgage loan before maturity;

(34) “**Released Claims**” means any and all manner of claims, demands, actions, suits, causes of action, whether class, individual, representative or otherwise in nature, whether personal or subrogated, damages of any kind including compensatory, punitive or other damages, whenever incurred, liabilities of any nature whatsoever, including interest, costs, expenses, class administration expenses, penalties, and lawyers’ fees (including Class Counsel Fees and Other Costs), known or unknown, suspected or unsuspected, foreseen or unforeseen, actual or contingent, and liquidated or unliquidated, in law, under statute or at 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 or fact occurring anywhere, on or prior to June 30, 2022, alleged or which could have been alleged in the Action and in the Lamarre Action or in either of them, including, without limitation, any similar claims arising out of or resulting from the payment of any Prepayment Charge, with the exceptions of any obligations under this Settlement Agreement and any wholly unrelated claims. For the

sake of greater certainty, and without diminishing the generality of the foregoing, the Released Claims include:

- (a) any claim that the Releasees were not entitled to calculate a Prepayment Charge with reference to the Discount, including any comparison between posted rates of interest and between discounted rates of interest. For the sake of greater certainty, this includes any claim that the Releasees were not entitled to calculate a Prepayment Charge by applying the Discount to the posted rate of interest payable on a notional comparator mortgage loan for a term comparable to the remaining term of the CIBC Class Member's mortgage loan, or that the Releasees were not entitled to calculate a Prepayment Charge by adding the Discount to the rate of interest payable on the CIBC Class Member's mortgage loan, or that the use of the Discount was in any way illegal or inappropriate;
- (b) any claim that the Releasees were obliged to calculate a Prepayment Charge with reference to a notional comparator mortgage loan with the same amortization period as the individual's mortgage loan, or could not calculate Prepayment Charge by using SCRAP;
- (c) any claim that the Releasees' disclosure regarding the Prepayment Charge breached any statute, regulation, contractual term, common law or equitable obligation, "Plain Language Promise", or public policy;
- (d) any claim that the Releasees were not entitled to charge a Prepayment Charge;
- (e) any claim that the Releasees were not entitled to use IRD to charge a Prepayment Charge;
- (f) any claim that the Releasees miscalculated a Prepayment Charge or charged an excessive Prepayment Charge;
- (g) any claim that the Releasees were obliged to reduce a Prepayment Charge to its net present value; and

- (h) any claim that the Releasees were not entitled to use the posted interest rate to calculate the three months' interest.

For further avoidance of doubt, the terms of this Settlement, including the Released Claims, shall not be taken to be an admission by the Plaintiff or Class Counsel of the appropriateness of the methods used by the CIBC Defendants or any other financial institution to calculate Prepayment Charges. It is further understood that Class Counsel will contest the appropriateness or legality of some of these methods used by financial institutions other than the CIBC Defendants, in particular in SCM file no. 500-06-001166-210, and that no term of this Settlement shall be tendered as evidence in any litigation involving those financial institutions.

(35) “**Releasees**” means, jointly and severally, individually and collectively, the CIBC Defendants and their respective present and former, direct and indirect, parents, subsidiaries, divisions, affiliates, partners, principals, insurers, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and all of their respective past, present and future officers, directors, employees, stockholders, shareholders, agents, employed or retained lawyers, trustees, servants and representatives; and the predecessors, successors, purchasers, heirs, executors, administrators and assigns of each of the foregoing;

(36) “**Releasors**” means, jointly and severally, individually and collectively, the Plaintiff and the CIBC Class Members and their respective successors, heirs, executors, administrators, trustees and assigns;

(37) “**Remainder**” means any portion of the Net Settlement Funds that is not distributed to the CIBC Class Members in accordance with the Distribution Protocol, and that is not spent on Settlement Administration Expenses when the Settlement has been fully administered but for the distribution of the Remainder;

(38) “**SCRAP**” or “**SCRAP Issue**” means the only cause of action authorized against the CIBC Defendants by the Corriveau Decision concerning the use of a shortened amortization period for the notional comparator mortgage loan compared to the

borrower's contractual mortgage loan for the purposes of calculating Prepayment Charges;

(39) “**Settlement**” means the settlement provided for in this Settlement Agreement;

(40) “**Settlement Administration Expenses**” means all fees, disbursements, expenses, costs, applicable taxes and any other amounts incurred or payable for the approval, implementation and operation of this Settlement Agreement, including the costs of giving Notice of Pre-Approval and Settlement Approval Notice, but excluding Class Counsel Fees and Other Costs;

(41) “**Settlement Agreement**” means this agreement, including the Recitals hereto, which Recitals the Parties represent to be true, and which are incorporated into the Settlement Agreement;

(42) “**Settlement Amount**” means three million dollars (\$3,000,000) all-inclusive and final in capital, interest and disbursements, which amount is the entirety of the CIBC Defendants' liability under this Settlement Agreement and in connection with the Settlement. For the sake of greater clarity, the Settlement Amount will include any indemnity payable to any class members, counsel's fees, disbursements, costs, expenses, including the costs for notices to class members as well as for settlement administration, applicable taxes, and any amount payable to the FAAC, as the case may be, the whole in capital, interest and costs. No other amount will be payable by CIBC for any reason whatsoever;

(43) “**Settlement Approval Application**” means the application for an order of the Court:

- (a) approving the Settlement and giving effect to the Settlement Agreement;
- (b) approving the distribution of the Net Settlement Funds in accordance with the Distribution Protocol;
- (c) approving Class Counsel Fees and Other Costs; and
- (d) such other relief as the Parties may request;

(44) **“Settlement Approval Notice”** means the notice advising that the Settlement has been approved and describing how the CIBC Class Members can participate in the distribution of the Settlement Benefits. The Parties’ proposed short form Settlement Approval Notice and long form Settlement Approval Notice are attached hereto as Appendix “D” and Appendix “E”, respectively;

(45) **“Settlement Benefits”** means the share of the Net Settlement Funds available to a CIBC Class Member in accordance with the Distribution Protocol, referenced therein as the “Claim Value”;

(46) **“Trust Account”** means the interest-bearing account in trust at a recognized Canadian banking institution managed by the Claims Administrator to administer the Settlement Amount;

## **SECTION 2 – PAYMENT AND ADMINISTRATION**

### **2.1 The Settlement Amount**

(1) Within ten (10) days of the Execution Date, the CIBC Defendants will transfer the entire Settlement Amount to their counsel, McCarthy Tétrault LLP *in Trust*, who will hold the Settlement Amount in their interest-bearing trust account at a recognized Canadian banking institution. Within ten (10) days of the Effective Date, McCarthy Tétrault LLP will instruct its bank to transfer directly to Class Counsel the Class Counsel Fees and Other Costs, with interest accrued on the Class Counsel Fees and Other Costs in the above-mentioned interest-bearing trust account. Within thirty (30) days following the Claims Bar Deadline as defined in the Distribution Protocol and after receiving a written request from Class Counsel to that effect, McCarthy Tétrault LLP will instruct its bank to transfer the remaining Settlement Amount together with interest accrued in the above-mentioned interest-bearing trust account, less any advance already paid to the Claims Administrator, to the Claims Administrator who shall be responsible for distributing the payments to the Eligible Claimants. For sake of clarity, McCarthy Tétrault LLP has no role and no responsibility whatsoever with respect to the distribution of the Settlement Amount to Eligible Claimants nor to the payment of the Remainder. In the event this Settlement Agreement is not approved by the Court, McCarthy Tétrault LLP will be immediately authorized, without further notice or formality, to instruct its bank to return the deposited

Settlement Amount and any interest accrued in the above-mentioned interest-bearing trust account to the CIBC Defendants (less any amounts advanced to the Claims Administrator).

(2) Subject to and following the Final Order approving the Settlement, the Settlement Amount shall be distributed in accordance with this Settlement Agreement.

## **2.2 Claims Administration**

(1) The Notice of Pre-Approval Application shall seek the appointment of the Claims Administrator.

(2) Within fourteen (14) business days of the Court having approved the Settlement further to the Settlement Approval Application, the Claims Administrator shall establish a Trust Account, in the name of the Claims Administrator as trustee.

(3) Upon receiving in its Trust Account the Settlement Amount, less Counsel Fees and Other Costs and any advances paid to the Claims Administrator in accordance with section 2.1 above, the Claims Administrator shall keep these funds in its Trust Account at all times until they are fully paid out in accordance with the Distribution Protocol and provide Class Counsel with confirmation thereof.

(4) CIBC and the Claims Administrator shall not pay out all or any part of the monies in the Trust Account except in accordance with this Settlement Agreement, or in accordance with an order of the Court obtained on notice to Class Counsel and CIBC.

## **2.3 Settlement Administration Expenses**

(1) The Claims Administrator may use the Settlement Amount deposited in the Trust Account to fund the Settlement Administration Expenses in relation to this Settlement Agreement.

(2) All Settlement Administration Expenses, including costs of disseminating the Notice of Pre-Approval in accordance with s. 5.1, shall be deducted from the Settlement Amount.

(3) Upon conclusion of the administration, the Claims Administrator shall provide an accounting to the Court for all payments made from the Trust Account.

## **2.4 No Further Payments**

(1) The Settlement Amount shall be paid by the CIBC Defendants in full satisfaction of the Released Claims against the Releasees.

(2) Subject to the CIBC Defendants' obligations in furtherance of the approval and implementation of this Settlement Agreement, as set out herein, the Releasees shall have no obligation to pay any amount in addition to the Settlement Amount, for any reason, pursuant to or in furtherance of this Settlement Agreement.

(3) The Plaintiff, the CIBC Class Members and Class Counsel, including their heirs, executors, predecessors, successors, assigns and agents, have no personal obligation to pay anything to the CIBC Defendants or any of the Releasees in relation to the Action.

## **SECTION 3 – NOTICE OF PRE-APPROVAL APPLICATION**

### **3.1 Order of Notice of Pre-Approval Application**

(1) As soon as reasonably practicable after the Execution Date, Class Counsel shall bring the Notice of Pre-Approval Application.

### **3.2 Consent Required**

(1) Upon agreement by the Parties to the terms of a draft order to be proposed to the Court, the CIBC Defendants shall consent to the Notice of Pre-Approval Application solely for the purposes of implementing the Settlement, and the CIBC Defendants' consent shall not be taken to be an admission of the appropriateness of the notice, nor shall the CIBC Defendants' consent be taken to be an admission of liability or legal responsibility for the pleaded damages and losses, the Settlement Amount, or any other amount.

(2) If this Settlement is not approved by the Court or is terminated in accordance with its terms, the Parties shall consent to an order of the Court vacating and setting aside any relief granted by the Court in connection with the Notice of Pre-Approval Application.

### **3.3 Costs**

- (1) Each Party shall bear its own costs of the Notice of Pre-Approval Application.
- (2) Within ten (10) days of the judgment approving the Notice of Pre-Approval Application, the CIBC Defendants shall advance from the Settlement Amount held in their counsel's McCarthy Tétrault LLP's interest-bearing trust account \$30,000.00 plus applicable taxes to the Claims Administrator to cover the costs of notice publication and establishing the settlement website. If this Settlement is not approved, the Plaintiff and Class Counsel have no obligation to reimburse this amount to the CIBC Defendants and the Claims Administrator will reimburse the unused portion, if any, to the CIBC Defendants.

### **3.4 Pre-Application Confidentiality**

- (1) Until the Notice of Pre-Approval Application is brought, the Parties shall keep all of the terms of the Settlement Agreement confidential and shall not disclose them without the prior written consent of the Parties, except as required for the purposes of financial reporting, communications with insurers and auditors, the preparation of financial records (including tax returns and financial statements), negotiations in any parallel or related legal proceedings, and/or as necessary to give effect to the terms of the Settlement or as otherwise required by law.

## **SECTION 4 – OPT-OUT PROCEDURE AND DEADLINE**

### **4.1 Court Approval of Opt-Out Process and Deadline**

- (1) As part of the Notice of Pre-Approval Application, Class Counsel shall seek the Court's approval of the following as the Opt-Out Procedure:
  - (a) CIBC Class Members seeking to opt out of the Action must do so within thirty (30) days from the last date of newspaper publication of the Notice of Pre-Approval, by sending a complete and validly executed written election to opt out to the Claims Administrator at an email address to be identified in the Notice of Pre-Approval, received on or before the Opt-Out Deadline. The written election to opt out must be sent by the CIBC Class Member or

the CIBC Class Member's designee and must include the following information:

- (i) the CIBC Class Member's full name, current address, email address and telephone number; and
  - (ii) a statement to the effect that the CIBC Class Member wishes to be excluded from the Brook Action.
- (b) CIBC Class Members who opt out of the Brook Action shall no longer be CIBC Class Members, and shall have no further right to participate in the Brook Action or to receive Settlement Benefits;
- (c) Within ten (10) days of the Opt-Out Deadline, the Claims Administrator shall provide a report to the Parties containing the names of each person who has validly and timely opted out of the Brook Action; and
- (d) No person shall be required to pay Settlement Benefits in respect of any CIBC Class Member who validly opts out of the Brook Action.

#### **4.2 Opt-Out Threshold**

(1) If the number of valid opt-outs reported by the Claims Administrator pursuant to s. 4.1(1)(c) exceeds the Opt-Out Threshold, the CIBC Defendants will have the option, but not the obligation, to terminate this Settlement Agreement by providing written notice to Class Counsel prior to the hearing of the Settlement Approval Application.

#### **4.3 Reservations of Legal Rights**

(1) The CIBC Defendants reserve all of their legal rights and defences with respect to any CIBC Class Member who validly opts out from the Action, and no term of this Settlement Agreement shall be tendered as evidence in any subsequent litigation by any such person against the CIBC Defendants.

## **SECTION 5 – NOTICE OF PRE-APPROVAL**

### **5.1 Form and Distribution of Notice**

- (1) The Parties shall seek approval from the Court of the short form Notice of Pre-Approval and long form Notice of Pre-Approval, attached hereto as Appendix “A” and Appendix “B” respectively.
- (2) Class Counsel and the Claims Administrator shall disseminate the Notice of Pre-Approval in accordance with the Notice Plan attached hereto as Appendix “C”.

## **SECTION 6– SETTLEMENT APPROVAL**

### **6.1 The Settlement Approval Application**

- (1) As soon as reasonably practicable, Class Counsel shall bring the Settlement Approval Application.

### **6.2 Where Consent Required**

- (1) Upon agreement by the Parties to the terms of a draft order to be proposed to the Court, the CIBC Defendants shall consent to the Settlement Approval Application concerning the Court’s approval of the Settlement and the distribution of the Net Settlement Funds, and the CIBC Defendants’ consent shall not be taken to be an admission of liability or legal responsibility for the pleaded damages and losses or the Settlement Amount, or any amount.
- (2) The CIBC Defendants’ consent referenced in s. 6.2(1) does not extend to any aspect of the Settlement Approval Application that concerns Class Counsel Fees and Other Costs, on which the CIBC Defendants shall take no position, other than they have agreed to pay these amounts as part of this negotiated Settlement Agreement.

### **6.3 Form of Order Approving Settlement Agreement**

- (1) The order approving this Settlement Agreement shall be as agreed to by the Parties and approved by the Court.

### **6.4 Date Upon Which Settlement Is Final**

- (1) This Settlement shall become final on the Effective Date.

## **6.5 Costs**

(1) Each Party shall bear its own costs of the Settlement Approval Application and any other application, if necessary, contemplated in this section.

## **SECTION 7– DISTRIBUTION OF SETTLEMENT FUNDS**

### **7.1 Settlement Approval Notice**

(1) The Parties shall seek the Court’s approval of the short form Settlement Approval Notice and the long form Settlement Approval Notice, attached hereto as Appendix “D” and Appendix “E”, respectively, contemporaneously with or as soon as reasonably practicable following the Settlement Approval Application.

(2) Following the Court’s approval of the Settlement and the Settlement Approval Notice, Class Counsel and the Claims Administrator shall disseminate the Settlement Approval Notice in accordance with the Notice Plan attached hereto as Appendix “C”.

### **7.2 Distribution of Settlement Funds**

(1) CIBC Class Members shall be eligible for the relief provided in this Settlement Agreement in accordance with the Distribution Protocol (Schedule 1).

(2) The Parties acknowledge that the allocation of compensation pursuant to the Settlement is without any admission of liability by the CIBC Defendants, and without any admission by the CIBC Defendants that the CIBC Class Members, including those who experienced Special Circumstances, are entitled, at law or otherwise, to compensation or payment for any losses or damages.

(3) The Parties agree that this Settlement Agreement provides for collective recovery.

### **7.3 Class Counsel Fees and Other Costs**

(1) The CIBC Defendants agree to pay Class Counsel Fees in the amount of nine hundred thousand dollars (\$900,000.00), plus applicable taxes, which is an amount representing 30% of the Settlement Amount and is inclusive of any fees related to the Action or the Lamarre Action, or such other amount as may be approved by the Court. Class Counsel Fees are to be paid out of the Settlement Amount.

(2) The CIBC Defendants agree to reimburse Class Counsel for its Other Costs the amount of one hundred thousand dollars (\$100,000.00), plus applicable taxes, as compensation for their disbursements, expenses and professional fees, including any amount that must be reimbursed to the FAAC by Class Counsel in relation to the Action or the Lamarre Action, or such other amount as may be approved by the Court. Class Counsel's Other Costs are to be paid to Class Counsel out of the Settlement Amount. The Plaintiff's disbursements applied for and approved by the Court shall also be paid from the amount provided for in this section.

(3) Class Counsel shall bring an application for approval of Class Counsel Fees and Other Costs contemporaneously with or as soon as reasonably practicable following the Settlement Approval Application. Class Counsel shall seek the Court's approval of Class Counsel Fees and Other Costs to be paid as a first charge on the Settlement Amount.

(4) Unless this Settlement Agreement is terminated in accordance with its terms, all amounts awarded on account of Class Counsel Fees shall be paid from the Settlement Amount, in accordance with s. 2.2(4).

(5) The Parties agree and acknowledge that the Class Counsel Fees and Other Costs including all FAAC fees are subject to Court approval and to be paid from the Settlement Amount, but that the CIBC Defendants will not take any position or make submissions to the Court concerning these amounts, other than that they have agreed to pay them as part of this negotiated Settlement Agreement. Furthermore, the allowance or disallowance by the Court of any requests for Class Counsel Fees and Other Costs are to be considered by the Court separately from its consideration of the fairness, reasonableness and adequacy of the Settlement provided for herein.

(6) Any order in respect of Class Counsel Fees and Other Costs, or any appeal from any order relating thereto or any modification thereof, shall not operate to terminate or cancel the Settlement Agreement or affect or delay the Settlement of the Action as provided herein.

## **7.4 Final Calculation and Cy-Près Distribution**

(1) Settlement cheques or Interac e-transfers issued by the Claims Administrator that are not deliverable to or retrieved by a CIBC Class Member, or which are not cashed or deposited by a CIBC Class Member, within six (6) months of issuance in the case of cheques and thirty (30) days in the case of Interac e-transfers, will become stale-dated or expire, ineligible for redemption, and shall not be reissued.

(2) Forthwith after the date on which all or substantially all uncashed settlement cheques or Interac e-transfers have become stale-dated or expired and ineligible for redemption, the Claims Administrator shall advise the Parties of the total dollar value of cheques and Interac e-transfers cashed from the Net Settlement Funds.

(3) If the total value of cheques and Interac e-transfers cashed from the Net Settlement Funds is less than 100% of the Net Settlement Funds, the Claims Administrator shall distribute the Remainder with all accrued interest thereof by making payment from the Trust Account:

- (a) to the FAAC, of the applicable percentage of the Remainder as determined by the *Regulation respecting the Percentage withheld by the Fonds d'aide aux actions collectives*, CQLR c F-3.2.0.1.1, r.2;
- (b) to the *Fondation du Barreau du Québec*, of the balance of the Remainder.

## **SECTION 8– STEPS TO EFFECTUATE SETTLEMENT AGREEMENT**

### **8.1 Reasonable Efforts**

(1) The Parties shall take all reasonable steps to effectuate this Settlement Agreement and to secure its approval, including cooperating with the Plaintiff's efforts to obtain the approvals and orders required from the Court and the implementation of this Settlement Agreement.

(2) Each Party shall bear its own costs in relation to any steps contemplated in or taken in accordance with this section.

## **8.2 Mechanics of Administration**

(1) Except to the extent provided for in this Settlement Agreement, the mechanics of the implementation and administration of this Settlement Agreement shall be determined by agreement between the Parties, each acting reasonably, or by the Court on motions brought by any Party, where necessary.

## **8.3 Action in Abeyance**

(1) Until the Parties have obtained the Final Order or this Settlement Agreement is terminated in accordance with its terms, whichever occurs first, the Parties agree to hold in abeyance all other steps in the Action other than the Notice of Pre-Approval Application and the Settlement Approval Application contemplated by this Settlement Agreement and such other matters required to implement the terms of this Settlement Agreement, unless otherwise agreed to in writing by the Parties.

## **SECTION 9 – RELEASES AND DISMISSALS**

### **9.1 Release of the Releasees**

(1) Upon the Effective Date, and in consideration of payment of the Settlement Benefits and for other valuable consideration set forth in this Settlement Agreement, the Releasers forever and absolutely release, relinquish and forever discharge the Releasees from the Released Claims that any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have, excepting the obligations created by this Settlement Agreement.

(2) The Plaintiff and the CIBC Class Members acknowledge that they may hereafter discover facts in addition to, or different from, those facts which they know or believe to be true regarding the subject matter of the Settlement Agreement, and it is their intention to release fully, finally and forever all Released Claims and, in furtherance of such intention, this release shall be and remain in effect notwithstanding the discovery or existence of new or different facts.

(3) Except as provided herein, this Settlement Agreement does not settle, compromise, release, or limit in any way whatsoever any claim by the CIBC Class Members against any person other than the Releasees.

## **9.2 No Further Claims**

(1) Upon the Effective Date, the Releasors and Class Counsel shall not now or hereafter institute, continue, maintain, intervene in or assert, either directly or indirectly, whether in Quebec or elsewhere, on their own behalf or on behalf of any class or any other person, any proceeding, cause of action, claim or demand against the Releasees, or any other person who may claim contribution or indemnity, or other claims over, relief from the Releasees, whether pursuant to statute or at law or equity in respect of any Released Claims.

(2) Upon the Effective Date, each CIBC Class Member who has not opted out shall be deemed to irrevocably consent to the dismissal, without costs, with prejudice and without reservation, of his or her action against the Releasees.

(3) Except as provided for in s. 9.1(1), this Settlement Agreement does not settle, compromise, release or limit in any way whatsoever any claim by the CIBC Class Members against any person other than the Releasees.

(4) In keeping with the above release, unless this Settlement Agreement is terminated, Class Counsel and Plaintiff agree not to use any document pertaining exclusively to the CIBC Defendants in any action concerning prepayment charges.

## **9.3 Material Term**

(1) Without in any way limiting the ability of the Parties to assert that other terms in this Settlement Agreement are material terms, the releases and reservation of rights contemplated in this section shall be considered a material term of this Settlement Agreement and the failure of the Court to approve the releases and/or reservation of rights contemplated herein shall give rise to a right of termination pursuant to s. 11 of this Settlement Agreement.

## **SECTION 10 – EFFECT OF SETTLEMENT**

### **10.1 No Admission of Liability or Concessions**

- (1) The Plaintiff and the CIBC Defendants expressly reserve all of their rights if the Settlement is not approved, is terminated, or otherwise fails to take effect for any reason.
- (2) This Settlement Agreement, whether or not it is implemented, anything contained in it, any and all negotiations, discussions, documents, and communications associated with this Settlement Agreement, and any action taken to implement this Settlement Agreement, shall not be deemed, construed, or interpreted to be:
  - (a) an admission or concession by the CIBC Defendants or any other Releasee of any fact, fault, omission, wrongdoing or liability, or of the truth of any of the claims or allegations made or which could have been made against it in the Action, or of the application of any of the pleaded statutes to any of the claims made in the Action, or of the entitlement of any CIBC Class Member to compensation or payment for any of the losses and damages alleged in the Action; or
  - (b) an admission or concession by the Plaintiff, Class Counsel or the CIBC Class Members of any weakness in the claims of the Plaintiff and the CIBC Class, or that the consideration provided for herein represents the amount that could or would have been recovered from the CIBC Defendants after the trial of the Action.

### **10.2 Agreement Not Evidence or Presumption**

- (1) This Settlement Agreement, whether or not it is implemented, and anything contained herein, and any and all negotiations, discussions, documents, communications, and proceedings associated with this Settlement Agreement, shall not be referred to, offered as evidence or received in evidence in any pending or future civil, quasi-criminal, criminal or administrative action or disciplinary investigation or proceeding in any jurisdiction:

- (a) against the CIBC Defendants, as evidence, or a presumption of a concession or admission of anything set out in s. 10.1(2)(a); or
  - (b) against the Plaintiff, Class Counsel, or the CIBC Class Members, as evidence, or a presumption, of a concession or admission of anything whatsoever; or
  - (c) against parties to any other proceedings, whether class action or otherwise.
- (2) Notwithstanding s. 10.2(1) this Settlement Agreement may be referred to or offered as evidence in order to obtain the orders or directions from the Court contemplated by this Settlement Agreement, in a proceeding to enforce this Settlement Agreement, to defend against the assertion of Released Claims, or to seek approval of a settlement in parallel or related legal proceedings, as may be necessary, or as otherwise required by law.

## **SECTION 11– TERMINATION**

### **11.1 Right of Termination**

- (1) In the event that:
- (a) the Court declines to approve this Settlement Agreement or any material part hereof;
  - (b) the Court issues an order approving this Settlement Agreement that is materially inconsistent with the terms of the Settlement Agreement; or
  - (c) an order approving this Settlement Agreement is reversed on appeal and the reversal becomes a Final Order;

and if the Parties, within thirty (30) days thereafter, using best efforts and acting in good faith, are not able to agree on such modified terms as may be required to obtain the Court's approval, then the Plaintiff and the CIBC Defendants shall each have the option, but not the obligation, to terminate this Settlement Agreement by delivering a written notice to all Parties and the Court.

(2) Any order, ruling or determination made or rejected by the Court with respect to Class Counsel Fees or Other Costs shall not be deemed to be a material modification of all, or a part, of this Settlement Agreement and shall not provide a basis for the termination of this Settlement Agreement.

(3) If any of the Plaintiff or the CIBC Defendants validly exercise the right to terminate the Settlement Agreement, then the Settlement Agreement shall be null and void and have no further force or effect, and shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation or in any other way for any reason.

### **11.2 Effect of Termination**

(1) In the event this Settlement Agreement is terminated in accordance with its terms:

- (a) the Parties will be restored to their respective positions prior to the execution of this Settlement Agreement, except as expressly provided for herein;
- (b) the Claims Administrator shall, within thirty (30) days of receiving written notice of termination pursuant to s. 11.1(1), return to the CIBC Defendants any unused portion of the Settlement Amount, subject to an order of the Court;
- (c) this Settlement Agreement will have no further force or effect and no effect on the rights of the Parties except as specifically provided for herein; and
- (d) this Settlement Agreement will not be introduced into evidence or otherwise referred to in any litigation against the CIBC Defendants.

(2) Notwithstanding the provisions of s. 11.2, if this Settlement Agreement is terminated, the provisions of ss. 3.3(1), 6.5, 10.1, 10.2, 11.1, 11.2, 11.3, 11.4, 12.1, 12.3, 12.4, 12.5, 12.6, 12.8, 12.9, 12.10, 12.12, 12.13, 12.14, 12.15, 12.16, and the definitions applicable thereto (but only for the limited purpose of the interpretation of those sections), shall survive termination and shall continue in full force and effect. All other provisions of this Settlement Agreement and all other obligations pursuant to this Settlement Agreement shall cease immediately.

### **11.3 Disputes Relating to Termination**

(1) If there is a dispute about the termination of this Settlement Agreement, the Parties agree that the Court shall determine the dispute on an application made by a Party on notice to the other Party or Parties.

### **11.4 Handling of Confidential Information in the Event of Termination**

(1) In the event of a valid termination in accordance with the terms of the Settlement Agreement, it is understood and agreed that all documents and information exchanged by the Parties during the settlement process are subject to settlement privilege, except to the extent that the documents or information were, are, or become publicly available.

(2) In the event of termination, within thirty (30) days of such termination having occurred, Class Counsel shall destroy all documents or other materials provided by the CIBC Defendants or containing or reflecting information derived from such documents for the purposes of implementing this Settlement. Upon request, Class Counsel shall provide counsel for the CIBC Defendants with a written certification by Class Counsel of such destruction. Nothing contained in this section shall be construed as requiring Class Counsel to destroy any of their work product. However, any documents or information provided by the CIBC Defendants in connection with the negotiation, administration and termination of this Settlement Agreement, including without limitation the mediation conducted on September 9-10, 2020, may not be disclosed to any person in any manner, or used, directly or indirectly, by Class Counsel or any other person in any way for any reason, including the prosecution of the Brook Action, without the express prior written permission of the CIBC Defendants. Class Counsel shall take reasonable steps and precautions to ensure and maintain the confidentiality of such documents, information and any work product of Class Counsel that discloses such documents and information.

## **SECTION 12 – MISCELLANEOUS**

### **12.1 Applications for Directions**

(1) Any of the Parties may apply to the Court for directions in respect of the interpretation, implementation and administration of this Settlement Agreement.

(2) All applications contemplated by this Settlement Agreement shall be on notice to the Parties.

## **12.2 Headings, etc.**

(1) In this Settlement Agreement:

- (a) the division of the Settlement Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Settlement Agreement;
- (b) the terms “this Settlement Agreement,” “hereof,” “hereunder,” “herein,” “hereto,” and similar expressions refer to this Settlement Agreement and not to any particular section or other portion of this Settlement Agreement; and
- (c) “person” means any legal entity including, but not limited to, individuals, corporations, sole proprietorships, general or limited partnerships, limited liability partnerships or limited liability companies.

## **12.3 Computation of Time**

(1) In the computation of time in this Settlement Agreement, except where a contrary intention appears:

- (a) where there is a reference to a number of days between two events, the number of days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and
- (b) only in the case where the time for doing an act expires on a Saturday or a holiday as defined in the *Quebec Code of Civil Procedure*, the act may be done on the next day that is a working day.

## **12.4 Ongoing Jurisdiction**

(1) The Court shall exercise jurisdiction with respect to implementation, administration, interpretation and enforcement of the terms of this Settlement Agreement.

## **12.5 Governing Law**

(1) This Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Quebec.

## **12.6 Severability**

(1) Any provision hereof that is held to be inoperative, unenforceable or invalid in any jurisdiction shall be severable from the remaining provisions which shall continue to be valid and enforceable to the fullest extent permitted by law.

## **12.7 Entire Agreement**

(1) This Settlement Agreement constitutes the entire agreement among the Parties, and supersedes all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle and memoranda of understanding 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.

## **12.8 Amendments**

(1) This Settlement Agreement may not be modified or amended except in writing and on consent of all Parties hereto, and any such modification or amendment after settlement approval must be approved by the Court.

## **12.9 Binding Effect**

(1) If the Settlement is approved by the Court and becomes final, this Settlement Agreement shall be binding upon, and enure to the benefit of, the Plaintiff, the CIBC Class Members, the CIBC Defendants, the Releasees and the Releasors or any of them, and all of their respective heirs, executors, predecessors, successors and assigns. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by the Plaintiff shall be binding upon all Releasors and each and every covenant and agreement made herein by the CIBC Defendants shall be binding upon all of the Releasees.

### **12.10 Counterparts**

(1) This Settlement Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and a facsimile or electronic signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

### **12.11 Survival**

(1) The representations and warranties contained in this Settlement Agreement shall survive its execution and implementation.

### **12.12 Negotiated Agreement**

(1) This Settlement Agreement and the underlying Settlement have been the subject of arm's-length negotiations and discussions among the undersigned and counsel. Each of the Parties has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement shall have no force and effect. The Parties further agree that the language contained in or not contained in previous drafts of this Settlement Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Settlement Agreement.

### **12.13 Language**

(1) The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; *les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais*. Nevertheless, a French translation of this Settlement Agreement (including its Appendices), the Distribution Protocol and the notices shall be prepared.

(2) The CIBC Defendants shall assume all translation costs.

### **12.14 Recitals**

(1) The recitals to this Settlement Agreement are true, constitute material and integral parts hereof and are fully incorporated into, and form part of, this Settlement Agreement.

### **12.15 Acknowledgements**

- (1) Each Party hereby affirms and acknowledges that:
  - (a) they or a representative of the Party with the authority to bind the Party with respect to the matters set forth herein has reviewed this Settlement Agreement;
  - (b) the terms of this Settlement Agreement and the effects thereof have been fully explained to them or the Party's representative by their counsel;
  - (c) they or the Party's representative fully understands each term of the Settlement Agreement and its effect; and
  - (d) no Party has relied upon any statement, representation or inducement (whether material, false, negligently made or otherwise) of any other Party, beyond the terms of the Settlement Agreement, with respect to the first Party's decision to execute this Settlement Agreement.

### **12.16 Authorized Signatures**

- (1) Each of the undersigned represents that they are fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement on behalf of the Parties identified above their respective signatures and their law firms.

### **12.17 Notice**

- (1) Any notice, instruction, motion for court approval or motion for directions or court orders sought in connection with this Settlement Agreement or any other report or document to be given by any Party to any other Party shall be in writing and delivered by email, facsimile or letter by overnight delivery to:

**For the Plaintiff, the CIBC Class Members and Class Counsel in the Proceeding:**

**LPC Avocat Inc.**

275, Saint-Jacques St., #801  
Montreal, QC H2Y 1N3

Mtre Joey Zukran  
Tel: (514) 379-1572  
Fax: (514) 221-4441  
Email: [jzukran@lpclex.com](mailto:jzukran@lpclex.com)

**For the CIBC Defendants:**

**McCarthy Tétrault LLP**

1000, De la Gauchetière W St., #2500  
Montreal, QC H3B 0A2

Mtre François Giroux / Mtre Jean-  
Philippe Mathieu  
Tel: (514) 397-5638 / (514) 397-5475  
Fax: (514) 875-6246  
Emails: [fgiroux@mccarthy.ca](mailto:fgiroux@mccarthy.ca)  
[jpmathieu@mccarthy.ca](mailto:jpmathieu@mccarthy.ca)

**IN WITNESS OF WHICH** the Parties have executed this Settlement Agreement.

**Avraham Brook, on his own behalf and on the behalf of the CIBC Class Members,**

  
\_\_\_\_\_  
Avraham Brook

Nov 8 2020

**Class Counsel,**

Name of Authorized Signatory:

  
\_\_\_\_\_  
Mtre Joey Zukran, LPC Avocat Inc.

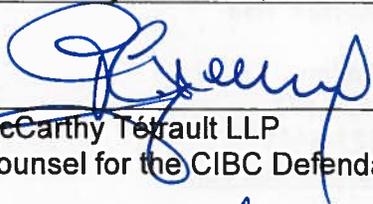
Signature of Authorized Signatory:

  
\_\_\_\_\_  
LPC Avocat Inc.  
Class Counsel

Nov 9, 2020

**Canadian Imperial Bank of Commerce Inc. and CIBC Mortgages Inc., by their  
counsel**

Name of Authorized Signatory: Mtre François Giroux, McCarthy Tétrault

Signature of Authorized Signatory:   
McCarthy Tétrault LLP  
Counsel for the CIBC Defendants

*December 2nd, 2022*

**SCHEDULE "1"**  
**DISTRIBUTION PROTOCOL**

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**DEFINITIONS**

1. The definitions set out in the Settlement Agreement apply to this Distribution Protocol and are incorporated herein.
  
2. For the purposes of this Distribution Protocol:
  - (a) **Claims Bar Deadline** means one hundred and eighty (180) days from the commencement of the claims process, or such other date set by the Court;
  
  - (b) **Claims Process Period** means one hundred and eighty (180) days from the last date upon which the Settlement Approval Notice is published in the newspapers, or such other date set by the Court;

- (c) **Class Period** means the period from October 17, 2008 to June 30, 2022, during which the CIBC Class Members paid an eligible Prepayment Charge to the CIBC Defendants;
- (d) **Claim Value** means the amount to be paid to each Eligible Claimant;
- (e) **Eligible Claimant** means a CIBC Class Member who the Claims Administrator has identified as being entitled to receive settlement benefits, as described in this Distribution Protocol;
- (f) **Special Circumstances** means:
  - (i) The death of a co-borrower, as documented by a certificate of death;
  - (ii) The divorce of the borrower from a co-borrower, as documented by a certificate of divorce; and/or
  - (iii) An incapacitating illness limiting the earning capacity of the borrower or co-borrower, as documented by a medical certificate or a certificate issued by an employer, an insurer or a governmental organization;occurring between the date of signature of the mortgage loan for which eligible Prepayment Charges were paid and within 36 months prior to the date of prepayment of that same mortgage loan.

## **OBJECTIVE**

3. The objective of this Distribution Protocol is to distribute the Net Settlement Funds among Eligible Claimants in a simplified manner.

## CLAIMS DISTRIBUTION PROCESS

### Determining Eligibility

4. Eligible Claimants will be determined by the Claims Administrator based on a chart, detailed at paragraph 8 (the “**Chart**”) that was developed with the assistance of an expert hired by Class Counsel, who reviewed a sample of the CIBC Defendants’ relevant mortgage files.
5. The Chart is derived from a formula, described in Appendix “1”, hereto, which identifies the periods of time when CIBC Class Members were most likely to have paid a Prepayment Charge calculated with reference to an IRD during the Class Period.
6. The creation and use of the Chart is without prejudice and for the purposes of this Settlement only, in order to allow the Claims Administrator to avoid complex individual determinations of CIBC Class Member’s eligibility, which would be costly and which would require documentation that may no longer be available.
7. The Claims Administrator, with the assistance of Class Counsel, has prepared a simple claims form that will be used to obtain certain attestations and information to verify that Class Members are Eligible Claimants and, if applicable, whether they can demonstrate Special Circumstances (the “**Claims Form**”; attached hereto as Appendix F). The Claims Administrator will determine if a CIBC Class Member is an Eligible Claimant by reviewing these attestations and information. CIBC Class Members will also be asked to furnish documentation that highlights their eligibility

to make claim on a voluntary basis, supporting the above-mentioned attestations and information.

If applicable, the Claims Administrator will also determine if a CIBC Class Member can demonstrate one or more of the Special Circumstances by requesting from the CIBC Class Member a death certificate, a divorce certificate, a medical certificate or a certificate issued by an employer, an insurer or a governmental organization, as the case may be.

### **Processing Claims**

8. The Claims Administrator will then determine if a Class Member is an Eligible Claimant by reference to the Chart, set out below, which details the periods of time during which a Class Member was most likely to have paid a Prepayment Charge calculated with reference to an IRD:



- (a) For a claimant claiming as a CIBC Class Member, the Claims Administrator shall be satisfied that the claimant is an Eligible Claimant and, if applicable, whether they can demonstrate Special Circumstances;
  - (b) For a claimant claiming on behalf of a CIBC Class Member or a CIBC Class Member's estate, the Claims Administrator shall be satisfied that:
    - (i) the claimant has authority to act on behalf of the CIBC Class Member or the CIBC Class Member's estate in respect of financial affairs;
    - (ii) the person or estate on whose behalf the claim was submitted was a CIBC Class Member;
    - (iii) the claimant has provided the above-mentioned information, in addition to up-to-date contact information for the CIBC Class Member or a representative of the CIBC Class Member's estate; and
    - (iv) if applicable, whether they can demonstrate Special Circumstances.
11. The Claims Administrator shall ensure that all claims for compensation are made only in respect of mortgage loans made by one of the Releasees. In addition, the Claims Administrator may consult the *Registre foncier du Québec* for any members who attest to having experienced Special Circumstances to validate the information provided in the Claims Form.
12. The Claims Administrator should exercise flexibility in its assessment of the information and supporting documents provided by claimants and should generally conduct that assessment in favour of claimants.

## **Deadline for Claims**

13. Any person who wishes to claim compensation shall deliver to or otherwise provide the Claims Administrator a claims form by the Claims Bar Deadline, or such other date set by the Court. If the Claims Administrator does not receive a substantially complete claims form from a claimant by the Claims Bar Deadline, then the claimant shall not be eligible for any compensation from the Net Settlement Funds or otherwise.

## **DISTRIBUTION OF NET SETTLEMENT FUNDS**

14. After the Claims Bar Deadline, the Claims Administrator shall calculate the total amount of eligible Prepayment Charges that were paid by all the Eligible Claimants as approved in accordance with paragraph 10 above and shall divide that total amount by the amount of the Net Settlement Funds to calculate the ratio between the two amounts (the “**Ratio**”).
15. The Claims Administrator shall then apply the Ratio to the Prepayment Charges that were paid by each Eligible Claimant as approved in accordance with paragraph 10 above in order to determine the Claim Value of each Eligible Claimant, but notwithstanding any of the foregoing and regardless of how many mortgage loans each Eligible Claimant prepaid during the Class Period, each Claim Value will not exceed \$3,000.00 (the “**Limit**”).
16. In the case of Eligible Claimants who demonstrate Special Circumstances to the Claims Administrator’s satisfaction, the Limit will not apply and the Claims

Administrator will be entitled to increase their Claim Value up to the total amount of the Prepayment Charges that were paid by the Eligible Claimant.

17. Notwithstanding any other provision in this Distribution Protocol, the total amount to be paid to all the Eligible Claimants who demonstrate Special Circumstances cannot be more than 50% of the Net Settlement Funds. Should the total amount to be paid to all the Eligible Claimants who demonstrate Special Circumstances correspond to more than 50% of the Net Settlement Funds, the Claims Administrator will reduce that total amount to 50% of the Net Settlement Funds on a pro rata basis. The Claims Administrator will then allocate the difference to the other Eligible Claimants who cannot demonstrate Special Circumstances on a pro rata basis based on the amount of eligible Prepayment Charges these other Eligible Claimants paid, up to the Limit.
18. Notwithstanding any other provision in this Distribution Protocol, if the distribution set out above would result in an unjust distribution of the Net Settlement Funds, Class Counsel will seek further directions from the Court with respect to the distribution of the Net Settlement Funds.
19. The Claims Administrator shall process all claims in a cost-effective and timely manner, and in accordance with the terms of the Settlement Agreement, this Distribution Protocol, and orders of the Court.

## **Payment of Funds**

20. The Claims Administrator shall make arrangements to pay claims from the Net Settlement Funds as expeditiously as possible.
21. All payments will be calculated in Canadian currency and payments will be paid by cheque or Interac e-transfer (at the choice of the claimant) in Canadian currency.
22. The Claims Administrator shall keep clear records, such that any amounts remaining after the payment to Eligible Claimants can be identified as resulting from uncashed cheques, undeliverable cheques, non-deposited Interac e-transfers, the limit on the Claim Value, or otherwise, so that any such funds can be dealt with in accordance with the Settlement Agreement.
23. In the event that the distribution of cheques and Interac e-transfers for the Claim Value to Eligible Claimants does not result in the distribution of the entirety of the Net Settlement Funds, the Claims Administrator will distribute any balance in accordance with Section 7.4(3) of the Settlement Agreement.
24. If directions from the Court are sought in respect of the distribution of the Net Settlement Funds, to the extent that any amounts in issue would not affect the amounts payable in respect of all other claims, the Claims Administrator may proceed with payment of those other claims before the Court provide directions.

## **MISCELLANEOUS**

### **Reporting to Counsel**

25. The Claims Administrator shall provide regular reports to Class Counsel and counsel for the CIBC Defendants, regarding the administration of the Settlement.

### **Communication with Class Members**

26. All written communications from the Claims Administrator to a CIBC Class Member shall be transmitted via regular mail to the last address provided by the CIBC Class Member to the Claims Administrator or by email. For greater certainty, the Claims Administrator shall have no obligation to determine mail or email addresses for CIBC Class Members.
27. The Claims Administrator shall not reissue payments to Eligible Claimants returned as undeliverable, or that become stale-dated six (6) months after they are issued, or, in the case of electronic payments, any Interac e-transfers after they have expired.

### **Preservation and Disposition of Claim Submissions**

28. The Claims Administrator shall preserve, in hard copy or electronic form, as the Claims Administrator deems appropriate, records relating to each claim, until the termination of one (1) year after the last claim has been paid out and at such time

shall dispose of the submissions, by shredding or such other means as will render the materials permanently illegible.

## **Confidentiality**

29. All information received in respect of the CIBC Class Members collected, used and retained by the Claims Administrator for the purposes of administering the Settlement Agreement, including evaluating the CIBC Class Member's eligibility status under the Settlement Agreement is protected under the *Personal Information Protection and Electronic Documents Act*, SC 2000 c 5 (PIPEDA). The information provided by the CIBC Class Members is strictly private and confidential and will not be disclosed without the prior express written consent of the CIBC Class Member, except to Class Counsel or counsel for the CIBC Defendants, or in accordance with the Settlement Agreement, orders of the Court, and/or this Distribution Protocol.

### **Appendix "1" – Description of Formula Underpinning the Chart (the “Formula”)**

In the relevant mortgage contracts, CIBC calculates the Prepayment Charges as the greater of an IRD and three months' interest.

Based on this concept, the Chart, on a without prejudice basis and for this Settlement Agreement purposes only, considers the change in the CIBC Defendants' posted interest rates for mortgage loans between the date that the mortgage loan was made and the date that it was prepaid to estimate whether a Prepayment Charge was likely calculated with reference to the IRD or three months' interest.

For the purpose of the Chart, both the IRD and three months' interest are calculated as a percentage of the principal outstanding on the mortgage loan and they are calculated as follows:

The IRD is equal to the difference between (i) the posted interest rate when the mortgage loan was made or last renewed; and (ii) the posted interest rate for the remaining term at the time of prepayment, multiplied by the time in the remaining term. For example:

- 5-year mortgage loan made when the CIBC Defendants' posted rate of interest was 5% per annum.
- Mortgage is prepaid after 2 years, when posted rate of interest for a 3-year mortgage loan was 4% per annum.
- IRD (as a percent of principal) would be determined as (initial posted rate minus posted rate at prepayment date) x outstanding term, or  $(5\% - 4\%) \times 3$  years remaining = 3% of principal at the time of prepayment.

Three months' interest is equal to (i) the posted rate of interest at the time the mortgage loan was made or last renewed; multiplied by (ii) 3/12; multiplied by (iii) the principal at the time of prepayment. For example:

5-year mortgage loan made when posted mortgage rate of interest was 5% per annum.

Three months' interest would be determined as  $5\% \times 3/12 = 1.25\%$  of principal at the time of prepayment.

In the example above, the Prepayment Charge would have been calculated with reference to the IRD because 3% of principal is higher than 1.25% of principal.

For the sake of simplicity, the Chart assumes that the posted mortgage rate in each quarter is the posted mortgage rate on the last business day of each quarter. Further, the Chart assumes that originations, renewals and prepayments of mortgage loans occurred on the last business day of each quarter.

The Parties hereby expressly acknowledge that this Settlement Agreement, including the Formula, is made entirely without prejudice or admission of any kind by any of the Parties

or of their respective counsel as to the legality or reasonableness of the prepayment charge and was reached as a compromise for purposes of settlement of this file only. Nothing in this Settlement Agreement or this Formula can be construed as an admission or acquiescence by the Parties or by their respective counsel.

**CIBC MORTGAGES PREPAYMENT CHARGE (IRD) CLASS ACTION  
(S.C.M. NO 500-06-000930-186)**

**NOTICE OF AUTHORIZATION OF A CLASS ACTION AND OF A SETTLEMENT APPROVAL HEARING**

This notice is directed to all natural persons who, from October 17, 2008 to June 30, 2022, paid to Defendants CIBC or CIBC Mortgages Inc. (or to any of their affiliates) (collectively, “**CIBC**”) a mortgage prepayment charge in an amount that exceeds three months of interest when either entirely or partially paying off a hypothecary loan or a collateral hypothec relating to a fixed-rate loan of a duration of five years or less on a property located in the province of Quebec (the “**Class Members**”).

The Settlement Approval Hearing will take place on [●] at [●] in room [●] of the Montreal courthouse and by videoconference. The courthouse is located at 1 Notre-Dame St. East, Montréal, Quebec.

<b>WHAT IS THIS CLASS ACTION ABOUT?</b>	An action was brought by a Quebec resident against CIBC in connection with the calculation based on an Interest Rate Differential (“ <b>IRD</b> ”) of certain prepayment charges on mortgages on properties located in the province of Quebec, in S.C.M. file no. 500-06-000930-186, district of Montreal (the “ <b>Class Action</b> ”). The Court authorized the Class Action on July 19, 2019, and the parties have since agreed to settle the case.
<b>WHO IS AFFECTED BY THIS CLASS ACTION?</b>	This Class Action affects the rights of all Class Members.  If you are a Class Member, you are automatically included in the Class Action and do not need to take any further steps right now to participate. If you are eligible to receive compensation, you will be required to submit a claims form if and after the Court approves the Settlement described below.
<b>WHAT SETTLEMENT HAS BEEN REACHED?</b>	CIBC has agreed to pay the total amount of \$3 million in settlement of the Class Action (the “ <b>Settlement</b> ”). The Settlement provides for pro rata cash payments to each eligible claimant up to a limit of \$3,000, depending on when they borrowed money and prepaid their mortgage loan, the amount of their prepayment charges, as well as on the total number of eligible claimants who will file a claim. The \$3,000 limit is a maximum and the settlement payments could be less depending on, amongst other things, the number of claimants.  The Settlement also provides that Class Members who prepaid their mortgage due to special circumstances, namely the death of a co-borrower, the divorce from a co-borrower or an incapacitating illness within 36 months prior to the prepayment will not be subject to the \$3,000 limit.  Please read the detailed notice and the Settlement Agreement for more information.  At the Settlement approval hearing, Class Counsel will ask the court to approve their legal fees of \$900,000 plus taxes, plus their disbursements and other expenses of up to \$100,000 plus taxes. If approved, Class Counsel's fees and disbursements will be paid from the Settlement amount.  The Settlement is a compromise of disputed claims and is not an admission of liability or wrongdoing by CIBC. In return for the payment of the Settlement, the Settlement provides that the claims of all Class Members asserted or which could have been

	<p>asserted in the Class Action will be fully and finally released. The Settlement is subject to approval of the court, and Class Members have a right to object to the Settlement.</p>
<p><b>HOW DOES THIS AFFECT ME AND WHAT ARE MY OPTIONS?</b></p>	<p><b>If you wish to remain a member of the Class Action and benefit from this Settlement, you have no steps to take.</b> However, if you do not wish to be bound by the Class Action and this Settlement for any reason whatsoever (including taking legal action on your own at your expense), you must take steps to exclude yourself (opt-out) from the Class Action, which will result in your exclusion from the Settlement.</p> <p>To exclude yourself, you must send a completed opt-out form (“<b>Opt-Out Form</b>”) containing your name and contact information by:</p> <p>(i) mail addressed to the clerk of the Superior Court of Quebec, at 1, Notre-Dame Street East, Montreal, QC, H2Y 1B6, duly signed by yourself and containing the Court docket number of the Class Action (500-06-000930-186); or</p> <p>(ii) email to Class Counsel at <a href="mailto:jzukran@lpclex.com">jzukran@lpclex.com</a>.</p> <p>The Opt-Out Form must, in all cases, be received before [Date of the expiry of the Exclusion Period] <b>NTD: specify date thirty (30) days after the latest publication of the notice in the newspapers</b>].</p> <p>A Class Member who opts out will not be entitled to participate in the Class Action. However, his or her right to pursue a claim in a separate proceeding will not be affected. Once a Class Member opts out, the limitation period applicable to their claim will begin to run again.</p> <p>If a Class Member does not timely and properly opt out of the Class Action, or does not timely and properly file a claims form with the Claims Administrator, he or she will be forever barred from receiving any benefits under the Settlement, and from commencing or continuing any action against CIBC relating to the conduct and facts alleged in the Class Action, including, without limitation, any similar claims arising out of or resulting from the payment of the prepayment charge as alleged in the Class Action.</p> <p>If you would like to object to the Settlement, you can set out your objection in writing to the Court or to Class Counsel, or you can attend the hearing for the approval of Settlement.</p> <p>As a Class Member, you have the right to intervene in the present Class Action in the manner provided by law. No Class Member other than the Plaintiff or an intervenor may be required to pay legal cost arising from the Class Action.</p>
<p><b>WHERE CAN I GET MORE INFORMATION?</b></p>	<p>For more information about your rights and how to exercise them, please see the long-form notice and the Settlement online at <a href="https://www.lpclex.com/CIBCIRDSETTLEMENT">https://www.lpclex.com/CIBCIRDSETTLEMENT</a></p>
<p><b>WHO IS CLASS COUNSEL?</b></p>	<p>The law firm of LPC Avocat Inc. represents the Class Members. You may contact Class Counsel listed below. Your name and any information provided will be kept confidential.</p> <p>Mtre Joey Zukran  Telephone: (514) 379-1572  Email: <a href="mailto:jzukran@lpclex.com">jzukran@lpclex.com</a>  276, Saint-Jacques Street, Suite 801, Montreal, QC, H2Y 1N3</p>

This notice is only a summary of the detailed notice, which you can view at <https://www.lpclex.com/CIBCIRDSETTLEMENT>. In case of discrepancies between this notice and the Settlement, the latter shall prevail.

**This notice was authorized by the Superior Court of Quebec.**

**CIBC MORTGAGES PREPAYMENT CHARGE (IRD) CLASS ACTION**  
**(S.C.M. NO: 500-06-000930-186)**  
**NOTICE OF AUTHORIZATION OF A CLASS ACTION AND OF A SETTLEMENT**  
**APPROVAL HEARING**

**READ THIS DETAILED NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS.**  
**YOU MAY NEED TO TAKE PROMPT ACTION.**

**This notice is directed to:**

This notice is directed to all natural persons who, from October 17, 2008 to June 30, 2022, paid to Defendants CIBC or CIBC Mortgages Inc. (or to any of their affiliates) (collectively, “**CIBC**”) a mortgage prepayment charge in an amount that exceeds three months of interest when either entirely or partially paying off a hypothecary loan or a collateral hypothec relating to a fixed-rate loan of a duration of five years or less on a property located in the province of Quebec (the “**Class Members**”).

A hearing to approve the settlement has been set for [●]. This notice provides more information about the lawsuit, your rights and how to exercise them. Additional related documents are available online at [www.lpclex.com/CIBCIRDSETTLEMENT](http://www.lpclex.com/CIBCIRDSETTLEMENT)

**Purpose of this Notice**

The purpose of this Notice is to advise Class Members of the authorization and subsequent settlement of the class action styled as *Brook v. CIBC* (the “**Class Action**”) brought on behalf of the Class Members against CIBC before the Superior Court of Quebec in the district of Montreal (S.C.M. no 500-06-000930-186) by Mr. Brook.

This Notice provides Class Members with information about how to opt out of or object to the settlement. **Class Members who wish to opt out or object must do so by ● NTD: specify date thirty (30) days after the latest publication of the notice in the newspapers]. If you are a Class Member and wish to participate in the settlement of the Class Action, no further action is required on your part at this time.**

Unless indicated otherwise, the terms in capital below are defined in the Settlement Agreement.

**Authorization of the Class Action**

In May 2018, the Class Action proceeding was commenced against CIBC before the Superior Court of Quebec in the district of Montreal (S.C.M. no 500-06-000930-186) by Mr. Brook, represented by LPC Avocat Inc. (“**Class Counsel**”).

The Class Action challenged the validity of CIBC’s method for calculating prepayment charges, and in particular, the interest rate differential (“**IRD**”) formula. Prepayment charges can arise when borrowers pay off more of their mortgage than they are entitled to under their mortgage agreement. The IRD formula, which CIBC uses to calculate prepayment charges, compares its posted interest rates at the time of borrowing and the time of prepayment.

In December 2018, a class action proceeding commenced in October 2011 against CIBC before the Superior Court of Quebec in the district of Quebec (S.C.M. no 200-06-000139-116) by Ms. Lamarre was merged with the Class Action.

On July 19, 2019, the Superior Court of Quebec authorized the Class Action against CIBC

regarding the SCRAP Issue only and dismissed all Plaintiff's other causes of action.

On January 27, 2020, the Quebec Court of Appeal authorized CIBC to appeal from the Superior Court of Quebec's decision. Prior to the hearing on the merits before the Court of Appeal, the parties entered into an agreement in principle to settle the Class Action out of court.

### **The Settlement**

CIBC has agreed to pay the total amount of CAD \$3 million in settlement of the Class Action (the "**Settlement**"). In return for the payment of the Settlement, the Settlement provides that the claims of all Class Members asserted or which could have been asserted in the Class Action will be fully and finally released. The Settlement is a compromise of disputed claims and is not an admission of liability or wrongdoing by CIBC. The Settlement is subject to approval of the Superior Court of Quebec, and Class Members have a right to opt out of or object to the Settlement.

After deduction of Class Counsel Fees and Other Costs and the Settlement Administration Expenses, the balance of the Settlement Amount (the "**Net Settlement Funds**") will be distributed to Class Members in accordance with the Distribution Protocol. The mode of recovery shall be collective recovery.

The Distribution Protocol provides for pro rata cash payments to each Eligible Claimant up to a limit of \$3,000, depending on when they borrowed money and prepaid their mortgage loan, the amount of their Prepayment Charges, as well as the total number of Eligible Claimants who will file a claim. The \$3,000 limit is a maximum and the settlement payments could be less depending on, amongst other things, the number of claimants.

The Settlement also provides that Class Members who prepaid their mortgage due to Special Circumstances, namely the death of a co-borrower, the divorce from a co-borrower or an incapacitating illness within 36 months prior to the prepayment, and who can provide the necessary documentation in support thereof, will not be subject to the \$3,000 limit.

In particular, the Claims Administrator will determine if a Class Member is an Eligible Claimant by asking the claimants to provide certain information via the filing of a Claims Form and by reference to a Chart, set out in the Settlement Agreement and prepared by Plaintiff's expert who reviewed a sample of CIBC's relevant mortgage files, which details the periods of time during which a Class Member was most likely to have paid a Prepayment Charge calculated with reference to an IRD.

After the Claims Bar Deadline, the Claims Administrator shall calculate the total amount of eligible Prepayment Charges that were paid by all the Eligible Claimants as approved in accordance with the Distribution Protocol and shall divide that total amount by the amount that represents the Net Settlement Funds to calculate the ratio between the two amounts (the "**Ratio**").

The Claims Administrator shall then apply the Ratio to the Prepayment Charges that were paid by each Eligible Claimant as approved in order to determine the Claim Value of each Eligible Claimant, but notwithstanding any of the foregoing and regardless of how many mortgage loans each Eligible Claimant prepaid during the Class Period, each Claim Value will not exceed \$3,000 (the "**Limit**").

In the case of Eligible Claimants who demonstrate Special Circumstances to the Claims Administrator's satisfaction, the Limit will not apply and the Claims Administrator will be entitled to increase their Claim Value up to the Prepayment Charges they paid.

Notwithstanding any other provision in the Distribution Protocol, the total amount to be paid to all the Eligible Claimants who demonstrate Special Circumstances cannot be more than 50% of the Net Settlement Funds. Should the total amount to be paid to all the Eligible Claimants who demonstrate Special Circumstances correspond to more than 50% of the Net Settlement Funds, the Claims Administrator will reduce that total amount to 50% of the Net Settlement Funds on a pro rata basis. The Claims Administrator will then allocate the difference to the other Eligible Claimants who cannot demonstrate Special Circumstances on a pro rata basis based on the amount of eligible Prepayment Charges these other Eligible Claimants paid, up to the Limit.

In the event that any amounts remain undistributed after the distribution of the Net Settlement Funds (including without limitation as a result of a failure to locate claimants, the failure of any Class Member to make a valid claim, or as a result of any refunds or any distributed cheques or Interac e-transfers having become stale-dated, expired or ineligible for redemption), those amounts will be allocated as a *cy-près* to the *Fonds d'aide aux actions collectives* and to the *Fondation du Barreau du Québec*.

At the Settlement approval hearing, Class Counsel will ask the court to approve their legal fees of \$900,000 plus taxes, plus their disbursements and other expenses of up to \$100,000 plus taxes. If approved, Class Counsel's fees and disbursements will be paid from the Settlement Amount.

### **What are your options?**

#### **Do Nothing and Stay in this Class Action**

If the Settlement is approved by the Superior Court of Quebec, all Class Members will be bound by its terms unless they have already opted out of the Class Action. You do not have to do anything to stay in this Class Action. If the Settlement is approved and any benefits, including any settlement funds, become available for distribution to the Class Members, notices will be published informing Class Members how to make a claim. You will be legally bound by all orders and judgments of the Court, and you will not be able to sue CIBC about the legal claims in these cases.

#### **Stay in this Class Action and Object to the Settlement**

If you want to object to the proposed Settlement with CIBC you must do so by setting out your objection in writing addressed to the Court or to Class Counsel at the address below, or you can attend the hearing for the approval of Settlement. An objection form is available on the Settlement website but not mandatory.

As a Class Member, you have the right to intervene in the present Class Action in the manner provided by law. No Class Member other than the Plaintiff or an intervenor may be required to pay legal cost arising from the Class Action.

#### **Opt Out of this Class Action**

Any Class Member who does not wish to participate in the Settlement must opt out of the class proceeding by sending a completed opt-out form to Class Counsel (email address below) and to the Superior Court of Quebec at the address below by no later than 5:00 pm Eastern Standard Time on ● **[NTD: date thirty (30) days after last publication date of notice in one of the newspapers]**, 2022 (the "Opt-Out Deadline"):

Greffier de la Cour supérieure du Québec

File no: 500-06-000930-186 (*Brook v. CIBC*)  
1 Notre-Dame Street East, room 1.120  
Montréal, Québec H2Y 1B6.

In order for your opt-out to be valid, your complete and signed Opt-Out Form must be postmarked or received by Class Counsel and the Superior Court of Quebec by no later than the Opt-Out Deadline. Those who opt-out will not be bound by the release in favour of CIBC. The Opt-Out Form is available on Class Counsel's website listed below. No Class Members will be permitted to opt-out of the Class Action after the Opt-Out Deadline.

If you opt out from this Class Action, you keep your right to sue CIBC at your own expense over the claims in this case. If you exclude yourself, you cannot get any money or other benefits from this lawsuit and you will not be represented by Class Counsel.

If you opt out of the Class Action and you wish to bring or maintain your own lawsuit against CIBC, you will take full responsibility for initiating or continuing your lawsuit, and for the legal steps necessary to protect your claims. If the Settlement is approved by the Court and you have not opted out, you will not be able to bring or maintain any other claim or legal proceeding against CIBC in relation to any of the facts alleged in the Class Action.

### **Copies of Settlement Documents**

Copies of the Settlement Agreement, Distribution Protocol, sample calculations demonstrating how the Distribution Protocol works, the Claims Form and the orders of the Court may be found on the Claims Administrator's website: [WWW.CIBCIRDSETTLEMENT.COM](http://WWW.CIBCIRDSETTLEMENT.COM)

### **Class Counsel**

Questions relating to the proposed Settlement may be directed to Class Counsel whose contact information is below. Your name and information will be kept confidential. Please do not contact the Court with inquiries – all inquiries should be directed to Class Counsel or the Claims Administrator:

#### **Mtre Joey Zukran**

276, Saint-Jacques Street, Suite 801  
Montreal, QC, H2Y 1N3  
Telephone: (514) 379-1572  
Email: [jzukran@ipclex.com](mailto:jzukran@ipclex.com)

### **Claims Administrator**

Velvet Payments Inc.  
5900 Andover Ave. Suite 1  
Montreal, QC, H4T 1H5  
Settlement Website: <http://www.cibcirdsettlement.com/>  
Email: [info@velvetpayments.com](mailto:info@velvetpayments.com)  
Telephone: 1-888-770-6892

**Interpretation**

If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

**PUBLICATION OF THIS NOTICE HAS BEEN AUTHORIZED BY THE SUPERIOR COURT OF  
QUEBEC**

## NOTICE PLAN

Capitalized terms used in this Notice Plan have the meanings ascribed to them in the Settlement Agreement.

*Notices provided for as contemplated in the Settlement Agreement will be disseminated as follows:*

### **PART 1 – NOTICE OF PRE-APPROVAL**

**The Short Form Notice of Pre-Approval will be disseminated as follows:**

#### Newspaper Publication

Print publication of the Short Form Notice of Pre-Approval will be at least a 1/6 page in size and will occur as soon as practicable following the issuance of the order granting the Notice of Pre-Approval Application. Print and publication will be made in Quebec, in the French language, in weekday editions of *La Presse*, *Le Journal de Montréal* and *le Journal de Québec*, and in English in the *Montreal Gazette*.

#### NewsWire Publication

The Short Form Notice of Pre-Approval will also be issued, in the Quebec and English languages, across *Canadian NewsWire*.

#### Internet Publication

Electronic publication of the Short Form Notice of Pre-Approval will occur in the French and English languages on Class Counsel's website dedicated to the Settlement (<https://www.lpclex.com/CIBCIRDSETTLEMENT>), and on a dedicated website maintained by the Claims Administrator.

The Short Form Notice will be published on the Quebec Class Action Registry.

**The Long Form Notice of Pre-Approval will be disseminated as follows:**

#### Internet Publication

Electronic publication of the Long Form Notice of Pre-Approval will occur in the French and English languages on Class Counsel's website dedicated to the Settlement (<https://www.lpclex.com/CIBCIRDSETTLEMENT>), and on a dedicated website maintained by the Claims Administrator.

#### Email by Class Counsel

Class counsel will send an email to all class members who previously signed up on its website up until the date of the judgment approving the pre-approval notices informing them of the settlement and containing a hyperlink to the Long Form Notice of Pre-Approval.

The Long Form Notice will be published on the Quebec Class Action Registry.

In addition, the Claims Administrator shall make a toll-free number and email address available to the public to obtain more information about the Settlement.

## **PART 2 –SETTLEMENT APPROVAL NOTICE**

### **The Short Form of the Settlement Approval Notice will be disseminated as follows:**

#### Internet Publication

Electronic publication of the Short Form of the Settlement Approval Notice will occur in the French and English languages on Class Counsel's website dedicated to the Settlement (<https://www.lpclex.com/CIBCIRDSETTLEMENT>), and on a dedicated website maintained by the Claims Administrator.

The Short Form Notice will be published on the Quebec Class Action Registry.

#### Newspaper Publication

Print publication of the Short Form of the Settlement Approval Notice will be at least a 1/6 page in size and will occur as soon as practicable following the issuance of the order approving the Settlement. Print and publication will be made in Quebec, in the French language, in weekday editions of *La Presse*, *Le Journal de Montréal* and *le Journal de Québec*, and in English in the *Montreal Gazette*.

#### NewsWire Publication

The Short Form of the Settlement Approval Notice will also be issued, in the English language, across *Canadian NewsWire*.

### **The Long Form of the Settlement Approval Notice will be disseminated as follows:**

#### Internet Publication

Electronic publication of the Long Form of the Settlement Approval Notice will occur in the French and English languages on Class Counsel's website dedicated to the Settlement (<https://www.lpclex.com/CIBCIRDSETTLEMENT>), and on a dedicated website maintained by the Claims Administrator.

The Long Form Notice will be published on the Quebec Class Action Registry.

#### Email by Class Counsel

Within thirty (30) days of the date of the order approving the Settlement becoming a Final Order, Class Counsel shall send an email containing a hyperlink to the Long Form Notice of the Settlement Approval Notice and the Claims Form to those persons who have previously contacted Class Counsel for the purposes of receiving notice of developments in the Action up until the date of the judgment approving the Pre-Approval Notices.

Within the same period, the Claims Administrator shall send the Long Form of the Settlement Approval Notice and the Claims Form to those persons that have contacted it by email as of the publication date regarding the Action and have provided it with their contact information. The Claims Administrator shall make a toll-free number and email address available to the public that

will enable Class Members to obtain more information about the Settlement, the claims process, and to request that a copy of the Settlement Agreement, the Long Form of the Settlement Approval Notice and the Claims Form be sent to them directly.

Class Counsel and the Claims Administrator will also post the Settlement Agreement and the Long-Form of the Settlement Approval Notice on their dedicated websites.

**CIBC MORTGAGES PREPAYMENT CHARGE (IRD) CLASS ACTION**  
**(S.C.M. file no. 500-06-000930-186)**

**SETTLEMENT APPROVAL NOTICE**

This notice is directed to all natural persons who, from October 17, 2008 to June 30, 2022, paid to Defendants CIBC or CIBC Mortgages Inc. (or to any of their affiliates) (collectively, “**CIBC**”) a mortgage prepayment charge in an amount that exceeds three months of interest when either entirely or partially paying off a hypothecary loan or a collateral hypothec relating to a fixed-rate loan of a duration of five years or less on a property located in the province of Quebec (the “**Class Members**”).

The settlement agreement (the “**Settlement**”) between Mr. Brook and CIBC in the context of a class action (the “**Class Action**”) has been approved by the Superior Court of Quebec (the “**Court**”) on [date of judgment]. The approval of the Settlement puts an end to the Class Action, which concerned the calculation of certain prepayment charges on mortgages on properties located in Quebec.

**Act now!** Class Members have until [date] to file a claims form in order to obtain compensation under the terms of the Settlement. The claims form is available on the Claims Administrator’s website: [www.CIBCIRDSETTLEMENT.com](http://www.CIBCIRDSETTLEMENT.com)

Below is a summary of the Class Action and other important information.

<b>WHAT IS THIS CLASS ACTION ABOUT?</b>	An action was brought by a Quebec resident against CIBC in connection with the calculation of certain prepayment charges based on an Interest Rate Differential (“ <b>IRD</b> ”) on mortgages on properties located in the province of Quebec in S.C.M. file no. 500-06-000930-186 (the “ <b>Class Action</b> ”).
<b>WHO IS AFFECTED BY THE CLASS ACTION?</b>	This Class Action affects the rights of all Class Members. If you are a Class Member, you are automatically included in the Class Action. <b>In order to receive compensation, you must submit the claims form available here: <a href="http://www.CIBCIRDSETTLEMENT.com">www.CIBCIRDSETTLEMENT.com</a> by [date].</b>
<b>WHAT SETTLEMENT HAS BEEN REACHED?</b>	CIBC has agreed to pay the total amount of \$3 million in settlement of the Class Action (the “ <b>Settlement</b> ”). In return for the payment of the Settlement, the Settlement provides that the claims of all Class Members asserted or which could have been asserted in the Class Action will be fully and finally released. The Settlement is a compromise of disputed claims and is not an admission of liability or wrongdoing by CIBC. The Settlement was approved by the Superior Court of Quebec on ●.
<b>WHO CAN SUBMIT A CLAIM?</b>	Class Members who borrowed and prepaid on certain dates are eligible for compensation. Class Members who experienced Special Circumstances (namely, the death of a co-borrower, the divorce from a co-borrower or an incapacitating illness) in the thirty-six (36) months before prepayment might be eligible to higher compensation. To claim compensation, Class Members must submit a completed claims form by no later than ● (the “ <b>Claims Bar Deadline</b> ”). If you do not file a claims form by the Claims Bar Deadline, you will not be able to claim money from the Settlement, and your claim will be extinguished.

<b>WHERE CAN I GET MORE INFORMATION?</b>	For more information about your rights and how to exercise them, please visit the Settlement website: <a href="http://www.CIBCIRDSETTLEMENT.com">www.CIBCIRDSETTLEMENT.com</a>
<b>WHO IS CLASS COUNSEL?</b>	<p>The law firm of LPC Avocat Inc. represents the Class Members. You may contact Class Counsel listed below. Your name and any information provided will be kept confidential.</p> <p>Mtre Joey Zukran Telephone: (514) 379-1572 Email: <a href="mailto:jzukran@lpclex.com">jzukran@lpclex.com</a> 276, Saint-Jacques Street, Suite 801, Montreal, QC, H2Y 1N3</p>

***This notice was authorized by the Superior Court of Quebec***

**CIBC MORTGAGE PREPAYMENT CHARGE (IRD) CLASS ACTION**  
**(S.C.M. file no. 500-06-000930-186)**

**SETTLEMENT APPROVAL NOTICE**

**READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS. YOU MAY  
NEED TO TAKE PROMPT ACTION.**

**This notice is directed to:**

All natural persons who, from October 17, 2008 to June 30, 2022, paid to Defendants CIBC or CIBC Mortgages Inc. (or to any of their affiliates) (collectively, “**CIBC**”) a mortgage prepayment charge in an amount that exceeds three months of interest when either entirely or partially paying off a hypothecary loan or a collateral hypothec relating to a fixed-rate loan of a duration of five years or less on a property located in the province of Quebec (the “**Class Members**”).

**Claims Bar Deadline** (to file a claim for compensation): ●

**Claims Form URL:** [www.CIBCIRDSETTLEMENT.com](http://www.CIBCIRDSETTLEMENT.com)

***Claims Form will not be accepted after the Claims Bar Deadline. As a result, it is necessary that you act without delay.***

**Purpose of this Notice**

The purpose of this Notice is to advise Class Members that on [date] the Court approved the Settlement of the class action styled as *Brook v. CIBC* (the “**Class Action**”) brought by Mr. Brook on behalf of the Class Members against CIBC before the Superior Court of Quebec in the district of Montreal (S.C.M. no 500-06-000930-186).

The Notice provides Class Members with information about how and by when to file their claims.

Unless indicated otherwise, the terms in capital below are defined in the Settlement Agreement.

**What this Case Was about**

In May 2018, the Class Action proceeding was commenced against CIBC before the Superior Court of Quebec in the district of Montreal (S.C.M. no 500-06-000930-186) by Mr. Brook, represented by LPC Avocat Inc. (“**Class Counsel**”). The Class Action challenged the validity of CIBC’s method for calculating prepayment charges, and in particular, the interest rate differential (“**IRD**”) formula. Prepayment charges can arise when borrowers pay off more of their mortgage than they are entitled to under their mortgage agreement. The IRD formula, which can be used to calculate prepayment charges, compares the prevailing interest rates at the time of borrowing and the time of prepayment.

In December 2018, a class action proceeding commenced in October 2011 against CIBC before the Superior Court of Quebec in the district of Quebec (S.C.M. no 200-06-000139-116) by Ms. Lamarre was merged with the Class Action. On July 19, 2019, the Superior Court of Quebec authorized the Class Action against CIBC regarding the SCRAP Issue only and dismissed Plaintiff’s all other causes of action. On January 27, 2020, the Quebec Court of Appeal authorized CIBC to appeal from the Superior Court of Quebec’s decision. Prior to the hearing on the merits

before the Court of Appeal, the parties entered into an agreement in principle to settle the Class Action out of court.

### **Court Approval of the Settlement**

On ●, following lengthy settlement negotiations, the Plaintiff and CIBC executed a Settlement Agreement providing for the settlement of the Class Action (the “**Settlement**”). The Settlement provides for the payment of \$3 million (the “**Settlement Amount**”) in consideration of the full and final settlement of the claims of Class Members. The Settlement Amount includes all legal fees, disbursements, costs, taxes and administration expenses.

In return for the payment of the Settlement Amount, the Settlement provides that the claims of all Class Members asserted or which could have been asserted in the Class Action will be fully and finally released. The Settlement is not an admission of liability, wrongdoing, or fault on the part of CIBC, which denies the allegations against it.

On ●, the Superior Court of Quebec approved the Settlement and ordered that it be implemented in accordance with its terms.

Expenses incurred or payable relating to the approval, notification, implementation and administration of the Settlement (“**Administration Expenses**”) will also be paid from the Settlement Amount before they are distributed to Class Members.

### **Class Members’ Entitlement to Compensation**

Pursuant to the court order approving the Settlement, the claims of Class Members which were or could have been asserted in the Class Action are now released. Class Members may not pursue individual or class actions for those claims, regardless of whether or not they file a claim for compensation from the Settlement. **The Settlement therefore represents the only means of compensation available to Class Members in respect of the claims raised in the Class Action.**

Class Members will be eligible for compensation pursuant to the Settlement if they submit a completed Claims Form to the Claims Administrator, and their claim satisfies the criteria set out in the Distribution Protocol.

To be eligible for compensation under the Settlement, Class Members must submit their Claims Form and supplementary documentation **no later than** ● ET on ● (the “**Claims Bar Deadline**”). Only Class Members are permitted to recover from the Settlement.

After deduction of Class Counsel Fees, and Other Costs, and Settlement Administration Expenses, the balance of the Settlement Amount (the “**Net Settlement Funds**”) will be distributed to Class Members in accordance with the Distribution Protocol.

The Distribution Protocol provides for pro rata cash payments to each Eligible Claimants up to a limit of \$3,000, depending on when they borrowed money and prepaid their mortgage loan, the amount of their Prepayment Charges, as well as on the total number of all Eligible Claimants who will file a claim. The \$3,000 limit is a maximum and the settlement payments could be less depending on, amongst other things, the number of claimants.

The Settlement also provides that Class Members who prepaid their mortgage due to Special Circumstances, namely the death of a co-borrower, the divorce from a co-borrower or an

incapacitating illness within 36 months prior to the prepayment, and who can provide the necessary documentation in support thereof, will not be subject to the \$3,000 limit.

In particular, the Claims Administrator will determine if a Class Member is an Eligible Claimant by asking the claimants to provide certain information via the filing of a Claims Form and by reference to a Chart, set out in the Settlement Agreement and prepared by Class Counsel's expert who reviewed a sample of CIBC's relevant mortgage files, which details the periods of time during which a Class Member was most likely to have paid a Prepayment Charge calculated with reference to an IRD.

After the Claims Bar Deadline, the Claims Administrator shall calculate the total amount of eligible Prepayment Charges that were paid by all the Eligible Claimants as approved in accordance with the Distribution Protocol and shall divide that total amount by the amount that represents the Net Settlement Funds to calculate the ratio between the two amounts (the "**Ratio**").

The Claims Administrator shall then apply the Ratio to the Prepayment Charges that were paid by each Eligible Claimant as approved in order to determine the Claim Value of each Eligible Claimant, but notwithstanding any of the foregoing and regardless of how many mortgage loans each Eligible Claimant prepaid during the Class Period, each Claim Value will not exceed \$3,000 (the "**Limit**").

In the case of Eligible Claimants who demonstrate Special Circumstances to the Claims Administrator's satisfaction, the Limit will not apply and the Claims Administrator will be entitled to increase their Claim Value up to the Prepayment Charges they paid.

Notwithstanding any other provision in the Distribution Protocol, the total amount to be paid to all the Eligible Claimants who demonstrate Special Circumstances cannot be more than 50% of the Net Settlement Funds. Should the total amount to be paid to all the Eligible Claimants who demonstrate Special Circumstances correspond to more than 50% of the Net Settlement Funds, the Claims Administrator will reduce that total amount to 50% of the Net Settlement Funds on a pro rata basis. The Claims Administrator will then allocate the difference to the other Eligible Claimants who cannot demonstrate Special Circumstances on a pro rata basis based on the amount of eligible Prepayment Charges these other Eligible Claimants paid, up to the Limit.

In the event that any amounts remain undistributed after the distribution of the Net Settlement Funds (including without limitation as a result of a failure to locate claimants, the failure of any Class Member to make a valid claim, or as a result of any refunds or any distributed cheques or Interac e-transfers having become stale-dated, expired or ineligible for redemption), those amounts will be allocated as a *cy-près* to the *Fonds d'aide aux actions collectives* and to the *Fondation du Barreau du Québec*.

### **Claims Administrator**

The Court has appointed Velvet Payments Inc. as the Claims Administrator of the Settlement. The Claims Administrator will, among other things: (i) receive and process the Claims Forms; (ii) determine Class Members' eligibility for and entitlement to compensation pursuant to the Distribution Protocol; (iii) communicate with Class Members regarding claims for compensation; and (iv) manage and distribute the Settlement Amount in accordance with the Settlement Agreement and the orders of the Court. The Claims Administrator can be contacted at:

Velvet Payments Inc.  
5900 Andover Ave. Suite 1  
Montreal, QC, H4T 1H5  
Settlement Website: <http://www.cibcirdsettlement.com/>  
Email: [info@velvetpayments.com](mailto:info@velvetpayments.com)  
Telephone: 1-888-770-6892

### **Filing a Claim**

All claims for compensation from the Settlement must be received by the Claims Administrator no later than ●.

The most efficient way to file a claim is to visit the Claims Administrator's website at [www.CIBCIRDSETTLEMENT.com](http://www.CIBCIRDSETTLEMENT.com). The website provides step-by-step instructions on how to file a claim. In order to verify claims, the Claims Administrator will require certain information from the Class Members. **Accordingly, Class Members should visit the Administrator's website as soon as possible so that they have time to obtain and submit the required information prior to the Claims Bar Deadline.**

The Claims Administrator will also accept Claims Forms filed by mail or courier postmarked by no later than the Claims Bar Deadline. To obtain a copy of the Claims Form, Class Members may print one from the Claims Administrator's website or contact the Claims Administrator to have one sent by regular mail or email. Forms sent by mail or courier should be sent to:

CIBC Mortgage Prepayment Charge Class Actions Settlement Claims Administrator  
**[NTD: Insert address]**

Class Members with questions about how to complete or file a Claims Form, or the documentation required to support a claim, should contact the Claims Administrator.

### **Copies of Settlement Documents**

Copies of the Settlement Agreement, Distribution Protocol, sample calculations demonstrating how the Distribution Protocol works, the Claims Form and the orders of the Court approving the Settlement and the Distribution Protocol, may be found on the Claims Administrator's website above, or by contacting Class Counsel via the contact information provided below.

### **Class Counsel**

You may contact Class Counsel listed below. Your name and any information provided will be kept confidential. PLEASE DO NOT CONTACT THE COURTS WITH INQUIRIES ABOUT THE CLASS ACTION. All inquiries should be directed to the Claims Administrator or Class Counsel.

**Mtre Joey Zukran**  
LPC Avocat Inc.  
276, Saint-Jacques Street, Suite 801  
Montreal, QC, H2Y 1N3  
Telephone: (514) 379-1572  
Email: [jzukran@lpclex.com](mailto:jzukran@lpclex.com)

**Interpretation**

If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

**PUBLICATION OF THIS NOTICE HAS BEEN AUTHORIZED BY THE SUPERIOR COURT OF QUEBEC.**

**CIBC Mortgage Prepayment – Quebec Class Action Settlement**

Superior Court of Quebec  
Court File No. 500-06-000930-186

**Must be postmarked or emailed no later than Month XX, 2022**

**CLAIMS FORM**

**CLAIMANT CONTACT INFORMATION**

--	--

First Name

Last Name

--

Primary Address

--	--	--

City

Province

Postal Code

--

Email Address

--

Telephone Number

This form and any supporting documents must be completed and submitted to the Claims Administrator by email or mail postmarked no later than (DATE) at the following address:

CIBC Mortgage Prepayment Settlement  
**c/o Velvet Payments Inc.**  
5900 Andover Ave. Suite 1  
Montréal, Québec  
H4T 1H5  
cibcsettlement@velvetpayments.com

We recommend filing a claim online at the Settlement Website:

[www.cibcmortgageprepaymentssettlement.com](http://www.cibcmortgageprepaymentssettlement.com)

**Please read the Notice (available at [cibcmortgageprepaymentssettlement.com](http://cibcmortgageprepaymentssettlement.com)) regarding the Settlement carefully before filling out this form. Terms in this Claims Form are defined in the Notice and the Settlement Agreement, both of which are available on the Settlement Website. We understand your mortgage loan information may not be easily available and, if that is the case, we ask you to complete the form to the best of your ability.**

**Privacy Statement**

All information provided as part of this Claims Form is collected, used, disclosed and retained by the Claims Administrator for the purposes of administering the settlement of the above class proceeding, including evaluating eligibility status under the settlement.

**1. MORTGAGE LOAN INFORMATION**

1.1. Who provided your mortgage loan? (**select one**)

CIBC     Firstline Mortgages     President's Choice Financial     Other

1.2. Mortgage Start Date or most recently renewed (**mm/yyyy**)

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Do not leave blank. If the exact date is unknown, input approximate date.

1.3. What was your mortgage loan number (**if available**)?

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1.4. Was your mortgage for a fixed-term of 5 years or less at a fixed rate of interest?

Yes                       No

1.5. Did you pay a prepayment charge?

Yes                       No

1.6. What was the amount of your prepayment charge? Do not leave blank. If the exact amount is unknown, input approximate amount.

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1.7. What was the interest rate applicable to your mortgage? Do not leave blank. If the exact rate is unknown, input approximate rate.

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1.8. Date the mortgage loan was prepaid (**mm/yyyy**)

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Do not leave blank. If the exact date is unknown, input approximate date.

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**2. SPECIAL CIRCUMSTANCES (if applicable)**

Have you prepaid your mortgage due to Special Circumstances as defined in the Settlement, namely due to (check off the appropriate box, if any)?

- 2.1.  The death of a co-borrower, as documented by a certificate of death;
- 2.2.  The divorce of the borrower from a co-borrower, as documented by a certificate of divorce; and/or
- 2.3.  An incapacitating illness limiting the earning capacity of the borrower or co-borrower, as documented by a medical certificate or a certificate issued by an employer, an insurer or a governmental organization.

Where any of the above Special Circumstances occurred between the date of signature of your mortgage loan for which eligible Prepayment Charges were paid and **within 36 months** prior to the date of prepayment of that same mortgage loan. **If you want to qualify as having experienced Special Circumstances, you must provide the above-mentioned certificate with this Claims Form.**

**3. SUPPORTING DOCUMENTATION (including discharge statement) (Optional, except in the case of Special Circumstances)**

I have included documentation that confirms the information in Section I or II.

- Yes                       No

Document(s) Attached: \_\_\_\_\_

**4. CLAIM CERTIFICATION & RELEASE**

To obtain compensation under the Settlement, you must attest to the following certification:

- 1. I am a member of the Class or the authorized representative of a Class Member or Class Member's estate that is a member of the Class.
- 2. I confirm that all of the information in this Claims Form is true and correct.
- 3. I understand that by submitting this claim, I am authorizing the Claims Administrator to contact me or my representative as the Claims Administrator deems appropriate for more information and/or to audit my claim.
- 4. If Special Circumstances apply: I confirm that I had to prepay my mortgage due to one of the Special Circumstances mentioned above.

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Signature

Print Name

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Date (dd/mm/yyyy)

**Privacy Statement**

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