CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

N°: **500-06-000372-066**

Class Action
SUPERIOR COURT

OPTION CONSOMMATEURS

Plaintiff

and

WENDY LEE SIMPSON et al.

Designated Persons

v.

CANADIAN IMPERIAL BANK OF COMMERCE et al.

Defendants

N°: **500-06-000373-064**

OPTION CONSOMMATEURS

Plaintiff

and

JUSTIN CHAUVETTE et al.

Designated Persons

v.

CANADIAN IMPERIAL BANK OF COMMERCE et al.

Defendants

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF QUÉBEC

N°: **200-06-000033-038**

Class Action
SUPERIOR COURT

OPTION CONSOMMATEURS

Petitioner

and

JOËL-CHRISTIAN ST-PIERRE

Designated Person

v.

CANADIAN IMPERIAL BANK OF COMMERCE et al.

Respondents

SETTLEMENT AGREEMENT

I. PREAMBLE

WHEREAS a class action was brought by Option consommateurs and the designated persons Serge Lamoureux, Vivian Mallay, Wendy Lee Simpson, Michel Méthot, Yvon Desrosiers, Benoît Nadeau, Michelle Griffith, Justin Chauvette, Marylou Corriveau, and Jean Audet against Bank of Montreal, Royal Bank of Canada, National Bank of Canada, Canadian Imperial Bank of Commerce (hereinafter "**CIBC**"), Citibank Canada, MBNA Canada, Amex Bank of Canada and Bank of Nova Scotia in the Superior Court of Québec, District of Montreal, file number 500-06-000372-066;

WHEREAS a class action was brought by Option consommateurs and the designated persons Marylou Corriveau, Justin Chauvette, Vivian Mallay, Michelle Griffith, Pierre Cantara, Sylvain Jouvet, Jacques Gagné, Benoît Nadeau, Jean-François Tremblay and Yvon Desrosiers against Amex Bank of Canada, CIBC, National Bank of Canada, Royal Bank of Canada, Bank of Nova Scotia, Laurentian Bank, President's Choice Bank, Toronto-Dominion Bank, Bank of Montreal, Citibank Canada, Fédération des Caisses Desjardins du Québec and MBNA Canada Bank in the Superior Court of Québec, District of Montreal, file number 500-06-000373-064;

WHEREAS a Re-Amended Motion for authorisation to bring a class action was filed by Option consommateurs and the designated person Joël-Christian St-Pierre against Bank of Montréal, Toronto-Dominion Bank, HSBC Bank of Canada, National Bank of Canada, Royal Bank of Canada, Laurentian Bank, Amex Bank of Canada, MBNA Canada Bank, CIBC, Citibank Canada, and Canadian Tire Bank in the Superior Court of Québec, District of Québec, file number 200-06-000033-038;

WHEREAS CIBC denies any responsibility and denies owing any amount whatsoever to the members of the classes covered by the Class Actions (as defined below);

WHEREAS Option consommateurs and CIBC have agreed to sign a Settlement to settle the Class Actions between themselves only, without any admission whatsoever, and thus, in order to avoid additional costs and expenses related to eventual trials, the outcomes of which are uncertain;

FOR THESE REASONS, OPTION CONSOMMATEURS AND CANADIAN IMPERIAL BANK OF COMMERCE AGREE TO THE FOLLOWING:

II. DEFINITIONS

Unless the context ascribes a different meaning, the definitions that follow apply to the Settlement and its Schedules. A word or phrase expressing the singular of a value must also include the plural and vice-versa.

"Account" means an account associated to a CIBC credit Cardholder with a Quebec postal code, regardless of whether the Cardholder is a Member of one or more Groups and regardless of the number of Cardholders associated to the Account;

"Additional Compensation Criteria" with respect to Accounts means the Accounts having the following characteristics which give rise to a distribution in accordance with paragraphs 15 to 20 of the Settlement:

1. the account is open on the Date of Determination as well as on the Compensation Payment Date;

2. the Cardholder's first and last name appear on the electronic version of the account;

3. the account is associated with a valid Quebec mailing address and postal code;

4. the account is an Eligible Account;

5. the number of credit cards associated with the account is greater than zero;

6. any or all of the balance of the account has not been compromised, written off or charged off or is not 60 or more days past due;

7. is an account to which a supplementary disclosure statement is to be sent under the *Cost of Borrowing Regulations* SOR/2001-101, for the period in which the credit is to be applied;

8. is an account in respect of which one or more of the Cardholders has not exercised a right of exclusion as communicated to CIBC's Attorneys by Option consommateurs' Attorneys pursuant to the Settlement;

9. is an account for which transactional data exists in electronic format;

"Approval Judgment" means the decision of the Court approving the Settlement;

"Bank" means Canadian Imperial Bank of Commerce, sometimes referred to as **"CIBC"**, as well as its affiliated entities, successors in title, beneficiaries, employees, managers, directors, and representatives;

"Bank's Attorneys" refers to the law firm of STIKEMAN ELLIOT LLP;

"Cardholder" means a natural person who holds a CIBC credit card, used for purposes other than the operation of a business, issued in accordance with a contract extending variable credit entered into with CIBC;

"Class Actions" refers to the class actions brought by Plaintiff against the Bank among others based on the facts alleged in the Motions to Institute Proceedings filed with the Superior Court of Quebec in court docket numbers 500-06-000372-066, 500-06-000373-064 and to the Re-Amended Motion for Authorization to Bring a Class Action filed with the Superior Court of Quebec in court docket number 200-06-000033-038;

"Closing Judgment" means the decision of the Court approving the accounting;

"Compensation" means the amount that the Bank has undertaken to pay pursuant to paragraph 10 of the Settlement, i.e. $4,250,000;

"Compensation Payment Date" means the date on which Eligible Accounts will receive the Fixed Compensation, that is within sixty (60) days following the Effective Date, or within a reasonable period thereafter;

"Corriveau Class Action" refers to the class action brought by Plaintiff against the Bank among others based on the facts alleged in the Motions to Institute Proceedings filed with the Superior Court of Quebec in court docket number 500-06-000373-064;

"Court" refers to the Superior Court of Québec;

"Credit Notice" means the notice described at paragraph 20 of the Settlement (Schedules G and H);

"Date of Determination" means the date which falls before the Compensation Payment Date, but comes the closest possible to it, and on which the Eligible Accounts will be identified by the Bank in accordance with the Settlement;

"Date of Notice of Hearing to Approve the Settlement" means the date on which the Notice of Hearing to Approve the Settlement is first published or distributed in accordance with paragraph 26 of the Settlement;

"Date of Signature" means the date on which both Parties will have signed the original copy of this Settlement;

"Designated Persons" refers to the Members designated by Option consommateurs pursuant to Article 571 of the *Code of Civil Procedure* and acknowledged as such by the Court, namely Wendy Lee Simpson, Justin Chauvette and Joël-Christian St-Pierre;

"Direct Compensation" has the meaning defined at paragraph 11 of the Settlement;

"Documents" means, whatever the medium, all proceedings, affidavits, exhibits, transcripts of examinations, answers to undertakings, minutes of hearings or case management conferences and related transcripts, if appropriate, letters and emails exchanged between the Counsel for the Bank and the Counsel for Option consommateurs;

"Effective Date" means the date on which the Approval Judgment becomes final. For the purposes of this Settlement only, the Parties agree that the Approval Judgment will be final upon the expiry of the thirty (30) day delay from the date of the Approval

Judgment or, if an appeal has been filed, at the time of dismissal of this appeal in the final instance;

"Eligible Account" means the Account of a Cardholder who fulfills the Additional Compensation Criteria;

"Exclusion Deadline" means a thirty (30) day period following the publication in newspapers of the court-approved Notice of Hearing to Approve the Settlement, during which period the Members who so wish may opt out from the Groups and the Settlement. If the Exclusion Deadline ends on a Saturday or on a non-working day, this deadline is extended to midnight of the next working day thereafter;

"Exclusion Process" means the procedure to exercise the Right of Exclusion under the terms and conditions set forth in paragraphs 32 to 36 of the Settlement;

"Fixed Compensation" has the meaning defined at paragraph 11 of the Settlement;

"Fonds d'aide" means the class action assistance fund created through the application of the *Act Respecting the Class Action*, CQLR c R-2.1;

"Groups" refers to the three following groups together:

a) The groups described in the judgements authorizing the bringing of the Lamoureux and Corriveau Class Actions dated October 25, 2007 and as amended by the judgements rendered by the Court on October 27, 2010:

Lamoureux Class Action: "[TRANSLATION] All natural persons party to a contract extending variable credit (credit card) concluded in Québec with [...] Canadian Imperial Bank of Commerce [...] for purposes other than the operation of a business and who, between January 12, 2001 and September 30, 2010 inclusive, have paid over-limit fees or have the credit limit on their account increased during the same period, without having explicitly requested such an increase";

Corriveau Class Action: "[TRANSLATION] All natural persons party to a contract extending variable credit concluded in Québec with [...] Canadian Imperial Bank of Commerce [...] for purposes other than the operation of a business and who, between October 4, 2001 and September 30, 2010 inclusive, have paid cash advance fees for transactions in Canada or abroad";

b) The group for which authorization in being sought in the St-Pierre Class Action:

St-Pierre Class Action: "[TRANSLATION] All Québec consumers (as defined in the *Consumer Protection Act*) being or having been the holder of a credit card issued by one of the respondents, [...] and having been provided with a grace period of less than twenty-one (21) days between the date their monthly statement was mailed and the date on which the Respondents require and/or can require credit charges [...]";

"Hearing to Approve the Settlement" means the hearing presided by the Court in order to determine if the Settlement must be approved upon a motion brought pursuant

to Article 590 of the *Code of Civil Procedure* and in accordance with paragraphs 43 to 49 of the Settlement;

"Lamoureux Class Action" refers to the class action brought by Plaintiff against the Bank among others based on the facts alleged in the Motions to Institute Proceedings filed with the Superior Court of Quebec in court docket number 500-06-000372-066;

"Member" means a person who belongs to at least one of the three Groups;

"Motion for Authorization" refers to the Re-Amended Motion for Authorization to Bring a Class Action filed with the Superior Court of Quebec, district of Québec, in court docket number 200-06-000033-038;

"Motions to Institute Proceedings" refers to the motions to institute proceedings filed in either one of the Corriveau or Lamoureux Class Actions, as amended and/or particularized;

"Notice of Hearing to Approve the Settlement" means the notice described in paragraph 25 of the Settlement to inform the Members of the Hearing to Approve the Settlement (Schedules A and B);

"Objection" means the formulation of an objection by a Member to the Settlement or the fact that a Member presented arguments regarding the Settlement under Article 590 of the *Code of Civil Procedure*, in accordance with the terms and conditions set out at paragraphs 47 and 48 of the Settlement;

"Objection Form" means the form made available to the Members who wish to object to the Settlement. A copy of this form, the use of which is optional, is attached hereto (Schedules E and F);

"Option consommateurs' Attorneys" refers to the law firm of Sylvestre Fafard Painchaud S.E.N.C.R.L. that represents the Plaintiff and the Designated Persons in the Corriveau Class Action and the Lamoureux Class Action and the law firm of BGA-LAW Avocats S.E.N.C.R.L. that represents the Petitioner and the Designated Persons in the St-Pierre Class Action. For the purposes of this Settlement, it is understood that the attorneys do not represent the Members individually. Any mention in this Settlement of communications with or payment to Option consommateurs' Attorneys shall mean only Sylvestre Fafard Painchaud S.E.N.C.R.L., who is hereby mandated by BGA-LAW Avocats S.E.N.C.R.L. to receive any communications or payments pursuant to this Settlement on its behalf;

"Parties" means the Plaintiff and the Bank;

"Period Covered" means the period i) in the case of the Lamoureux Class Action, from January 12, 2001 up until the Date of Notice of Hearing to Approve the Settlement; ii) in the case of the Corriveau Class Action, from October 4, 2001 up until the Date of Notice of Hearing to Approve the Settlement; and iv) in the case of the St-Pierre Class Action, from July 21, 2000 up until the Date of Notice of Hearing to Approve the Settlement;

"Plaintiff" means Option consommateurs;

"Pre-Approval Judgment" means the decision of the Court authorizing the publication of the Notice of Hearing to Approve the Settlement;

"Releasing Parties" means Option consommateurs and its attorneys and all Members who have not exercised their Right of Exclusion as well as their mandataries, representatives, successors and assigns;

"Right of Exclusion" means the right of a Member to opt out from the Settlement in accordance with the terms and conditions set out at paragraphs 32 to 36 of the Settlement;

"Right of Withdrawal" has the meaning ascribed thereto at paragraphs 37 to 42 of the Settlement;

"Schedules" means all documents annexed by the Parties to the Settlement and which are identified at paragraph 65, as well as any other document that the Parties may add with the approval of the Court. However, the Parties may, without leave of the Court, amend the form and content of the Schedules upon consent insofar as these amendments are made in accordance with the provisions of the Settlement;

"Settlement" refers to this agreement, including its Schedules and subsequent amendments as well as any other subsequent agreement that the Parties may add with the authorization of the Court;

"St-Pierre Class Action" refers to the Re-Amended Motion for Authorization to Bring a Class Action filed with the Superior Court of Quebec, district of Québec, in court docket number 200-06-000033-038;

"Truncate to the Nearest Cent" or **"Truncation"** refers to the truncation of an amount to the whole portion of the one-hundredth of a Canadian dollar. For example, the truncation to the one-hundredth of $78.637 is $78.63.

III. SCOPE AND EXTENT OF THE SETTLEMENT

1. The preamble and the definitions form an integral part of the Settlement;

2. Through the Settlement, the Plaintiff and the Bank wish to settle among themselves and on behalf of the Members including the Designated Persons, all claims, allegations, complaints or causes of action of any nature whatsoever connected to the facts alleged in the Motions to Institute Proceedings and the Motion for Authorization, pursuant to the terms of the Settlement;

3. The Settlement is conditional upon its approval in its entirety by the Court, otherwise the Settlement will be deemed null and void and will not give rise to any right or obligation in favour of or against the Parties, Designated Persons, and Members of the Groups;

4. Option consommateurs and the Bank undertake to collaborate and put forth the efforts and means required to support and establish the fairness and reasonableness of the Settlement and to justify its basis so that it may be approved by the Court, and to also make joint representations before the Court

during the hearings to obtain the Pre-Approval Judgment, the Approval Judgment, and the Closing Judgement;

5. At the Hearing to Approve the Settlement, Option consommateurs and the Bank will present a motion for permission to amend in order to modify the group's cut-off date in the Corriveau and Lamoureux Class Actions so that it coincides with the Date of Notice of Hearing to Approve the Settlement;

6. Option consommateurs and Option consommateurs' Attorneys agree to present the Motion for Autorization for settlement purposes only against CIBC;

7. The obtaining of the authorization provided for in paragraph 6 above is an essential condition of the Settlement, failing which the Settlement, at the Bank's discretion, will be null and void and will not give rise to any right or obligation in favour of or against the Parties;

IV. FACTS AND CONSIDERATIONS UNDERLYING THE SETTLEMENT

8. The facts and considerations underlying the Settlement and justifying the agreement signed between the Parties as evidenced by the Settlement are as follows:

   a. The Compensation is proportional to the risks and uncertainties inherent to Class Actions, whilst taking into account the constitutional issue regarding the application of the *Consumer Protection Act*, CQLR c P-40.1 to banks and its effect;

   b. The Compensation is reasonable given not only the constitutional arguments raised, but also the risks associated with a trial and the comments regarding fees made by the Supreme Court of Canada in the *Marcotte* case and the impact of said comments on the merits of the Corriveau Class Action and Lamoureux Class Action;

   c. The potential overlap of Group Members from one case to another, including the fact that a Member of one Group is most likely a Member of one or more of the other Groups;

   d. The difficulty and expense for the Parties to evaluate the total amount of the claims of the Members in the Lamoureux Class Action for the unilateral credit limit increases and the St-Pierre Class Action, given the complexity of evaluating the number of variables to be taken into account as well as the time required to do so;

   e. The Parties cannot be certain whether this evaluation process would allow to establish with sufficient accuracy the total amount of the claims of the Members in the Lamoureux Class Action for the unilateral credit limit increases and the St-Pierre Class Action;

   f. The Bank has ceased the practice impugned in the Lamoureux Class Action (the unilateral credit limit increases) since January 1, 2010;

9. Taking these facts into consideration and acknowledging that continuing the Class Actions would generate substantial costs and further delays, including the possibility of appeals, the Parties believe that the agreement evidenced by the Settlement is fair, timely, reasonable, and appropriate given the circumstances and is in the best interest of the Members and the proper administration of justice;

V. FINANCIAL COMPENSATION BY THE BANK

10. The Bank will pay a Compensation in an amount of $4,250,000 in full settlement (capital, interest, additional indemnity, taxes, and all fees and costs of any nature whatsoever) of all claims;

11. After deduction of the fees of Option consommateurs' Attorneys, i.e. $1,221,609.36 calculated in accordance with the terms set out in paragraphs 50 to 52 of the Settlement, the balance of the Compensation payable by the Bank, i.e. $3,028,390.64, minus the publication costs for the Notice of Hearing to Approve the Settlement set out at paragraph 25 of the Settlement, will be distributed as Direct Compensation to the Eligible Accounts of the Members, in accordance with the terms set out in paragraphs 15 to 20 of the Settlement;

12. The costs associated with the implementation of the Direct Compensation to the Eligible Accounts are borne by the Bank, namely the costs related to the implementation of the mechanism for Direct Compensation of the Eligible Accounts in accordance with the terms set forth in paragraphs 15 to 20 of the Settlement;

13. Any problem related to the interpretation of the Settlement or its implementation, including technical difficulties or other, will be deferred to the Court so that it may decide the issue or give directions in this regard, as the case may be;

14. Notwithstanding the foregoing, if the Court does not approve the Settlement, or if the Bank exercises its Right of Withdrawal provided for at paragraphs 37 to 42 of the Settlement, the Bank will not assume the publication costs of the Notice of the Hearing to Approve the Settlement Hearing;

VI. COMPENSATION OF THE MEMBERS OF THE GROUPS

15. Each Eligible Account will receive an equal portion of the Direct Compensation pursuant to the following terms and procedures (the "**Fixed Compensation**");

16. The Fixed Compensation will be paid out on the Compensation Payment Date as a credit that will be applied directly to each Eligible Account;

17. The Fixed Compensation that will be credited to each Eligible Account on the Compensation Payment Date corresponds to the amount of the Direct Compensation divided by the total number of Eligible Accounts on the Date of Determination, Truncated to the Nearest Cent and distributed equally among each Eligible Account;

18. For greater certainty, the Fixed Compensation to be credited to the Eligible Accounts will be the same, regardless of whether the Cardholder is a Member of one or more Groups and only one Fixed Compensation will be credited to each Eligible Account, regardless of the number of Cardholders for this Account;

19. Members with Eligible Accounts who have not excluded themselves from the Class Actions and who have not exercised the Right of Exclusion will receive the Fixed Compensation without having to present any claim or request in that regard;

20. The Bank will publish and distribute, at its own costs, a message (Schedules G and H) on the statements of account of all Eligible Accounts on which a credit was applied;

VII. PRE-APPROVAL PROCEDURE FOR THE SETTLEMENT

21. Option consommateurs' Attorneys will file with the Court a motion for approval of the Notice of Hearing to Approve the Settlement;

22. At the hearing of the motion for approval of the Notice of Hearing to Approve the Settlement, Option consommateurs' Attorneys and the Bank's Attorneys will jointly make representations before the Court in view of obtaining the Pre-Approval Judgement, which will authorize the publication of the Notice of Hearing to Approve the Settlement;

23. The Notice of Hearing to Approve the Settlement will be the only notice given to Members with regard to the Settlement and, following the approval of the Settlement by the Court, no other notice will be published or distributed to the Members following the Approval Judgment or the Closing Judgment, notwithstanding Article 591 of the *Code of Civil Procedure*;

24. The Parties acknowledge that the Court can modify the text and terms for the publication and distribution of the Notice of Hearing to Approve the Settlement, and that this shall not serve as a ground for nullifying or terminating the Settlement, unless such modifications bring about a significant and substantial increase in costs for the publication and distribution of the Notice of Hearing to Approve the Settlement;

25. The Notice of Hearing to Approve the Settlement shall indicate, *inter alia*:

    a. The existence of the Class Actions and a description of the Members;

    b. The fact that a Settlement has been concluded and that it will be presented to the Court for approval, specifying the date, location, and time of the Hearing to Approve the Settlement;

    c. The Direct Compensation of the Members provided for in the Settlement as well as the terms and conditions related thereto;

    d. The consequences and effects of the approval of the Settlement by the Court;

e. The existence of the Right of Exclusion and the Exclusion Process;

f. The right of the Members to be heard before the Court with regard to the Settlement;

g. The fact that the Notice of Hearing to Approve the Settlement will be the only notice with respect to the Settlement that will be given to the Members of the Groups and that, once that Court has approved the Settlement, no other notice will be published or distributed to the Members of the Groups following the Approval Judgment or Closing Judgment, notwithstanding Article 591 of the *Code of Civil Procedure*;

26. The Notice of Hearing to Approve the Settlement will be distributed and published in accordance with the following terms:

a. One single publication in two French newspapers, namely *Le Journal de Montréal* and *Le Journal de Québec*, and one English newspaper, namely *The Gazette*, within thirty (30) days following the Pre-Approval Judgment. The Bank will submit the drafts prepared by these newspapers for the publication of the Notice of Hearing to Approve the Settlement in accordance with Schedules A and B to Option consommateurs' Attorneys and will do so at least three (3) days preceding these newspapers' deadline so that they may verify its wording and, if required, make the necessary corrections with the collaboration of the Bank's Attorneys. The fees for the publication of the Notice of Hearing to Approve the Settlement pursuant to this subparagraph will be deducted from the Direct Compensation;

b. The creation of a hyperlink on the French and English versions of the homepage of Option consommateurs' website (www.option-consommateurs.org) to a webpage containing an electronic version of the Settlement and Schedules A, B, D, E, and F and any press release that will have been published by Option consommateurs in accordance with the terms of the Settlement, at the expense of Option consommateurs, as of the date of publication of the Notice of Hearing to Approve the Settlement in the newspapers, until the forty-fifth (45th) day following the Compensation Payment Date;

c. The creation of a hyperlink on the French and English versions of the "Class Actions" webpage of Option consommateurs' Attorneys' website (www.sfpavocats.ca/recours-collectifs) to an electronic version of the Settlement and Schedules A, B, D, E, and F, at the expense of Option consommateurs and/or Option consommateurs' Attorneys, as of the date of publication of the Notice of Hearing to Approve the Settlement in the newspapers, until the forty-fifth (45th) day following the Effective Date;

27. Within ten (10) business days of the filing of the motion for approval of the Notice of Hearing to Approve the Settlement, Option consommateurs may publish a press release and give interviews relating exclusively to the contents of the press release and in accordance with the conditions of the Settlement that are the subject of Schedule C, and, unless otherwise agreed and subject to the following

paragraphs, no other press release or interview shall be published or given (as the case may be) by Option consommateurs or their respective Attorneys in connection with the filing of the motion for approval of the Notice of Hearing to Approve the Settlement. Option consommateurs agrees to notify the Bank's Attorneys by electronic mail at least twenty-four (24) hours prior to the publication, distribution, or communication of the press release. This notice must be given on a business day, between 8:30 a.m. and 1:00 p.m. Within ten (10) business days of the filing of the motion for approval of the Notice of Hearing to Approve the Settlement, the Bank may also publish a press release and give interviews relating to the Settlement without prior consent from other Parties;

28. Within five (5) business days of the Approval Judgment, Option consommateurs may publish the press release and may give interviews discussing the judgment, but exclusively related to the content of the press release. This press release shall substantially repeat, with necessary modifications, the content of the draft press release at Schedule C and, unless otherwise agreed, no other press release or interview will be published or given (as the case may be) by Option consommateurs or its Attorneys regarding the Settlement. Option consommateurs agrees to notify the Bank's Attorneys by electronic mail a notice of twenty-four (24) hours prior to the publication, distribution or communication of the press release. This notice will have to be given on a business day, between 8:30 a.m. and 1:00 p.m. The Parties will be authorized to give media interviews without prior consent from other Parties, as long as their comments are essentially the same as those contained in the draft press release.

29. Subject to their duty to disclosure and other legal obligations, the Parties agree to make an effort in order to preserve the confidentiality of their negotiations and the current Settlement up until the Date of Signature. It is understood that the Bank, Option consommateurs and their respective Attorneys may discuss the Settlement in question with attorneys for the other defendants in the Class Actions, subject to their undertaking not to make public the existence or the content of the negotiations or the Settlement; however, the Bank and the Bank's Attorneys may not disclose the amount of the Settlement to the attorneys for the other defendants of the Class Actions until Option consommateurs' Attorneys disclose said amount or when it is otherwise made public;

30. Notwithstanding the foregoing, if the confidentiality of this Settlement is compromised, the Parties and their respective Attorneys may answer journalists' questions while ensuring that the text of Schedules C and D is substantially respected;

31. In the event that the Court refuses to grant the motion for approval of the Notice of Hearing to Approve the Settlement or refuses to authorize the publication of the Notice of Hearing to Approve the Settlement barring significant and substantial modifications impacting the implementation and execution of the Settlement, the Settlement would be null and void and would not give rise to any right or obligation in favour of or against the Parties;

VIII. OPTING OUT OF THE SETTLEMENT

32. Members have the right to exclude themselves from the Settlement;

33. The exercise by a Member of the Right of Exclusion results in the loss of any rights under the Settlement and the loss of the quality of Member;

34. The Member who wishes to exercise his Right of Exclusion must send by registered or certified mail to the Court clerk before the expiry of the Deadline to Opt Out, a written request to opt out, duly signed by the Member and containing the following information:

a. The file number for the Class Actions in question;

b. The name and contact information of the Member exercising his Right of Exclusion;

c. The Member's account number;

d. The name of the Bank;

e. A statement to the effect that the Member has:

i. paid credit charges, between July 21, 2000 and the Date of Notice of Hearing to Approve the Settlement, without being granted the 21-day grace period provided for in the *Consumer Protection Act* (St-Pierre Class Action); or

ii. paid over-limit fees or had the credit limit on his account increased during the same period, without having explicitly requested such an increase, between January 12, 2001 and Date of Notice of Hearing to Approve the Settlement (Lamoureux Class Action); or

iii. paid cash advance fees between October 4, 2001 and the Date of Notice of Hearing to Approve the Settlement (Corriveau Class Action);

35. The request for exclusion must be sent to the following address before the expiry of the Deadline to Opt Out:

Clerk of the Superior Court of Quebec
PALAIS DE JUSTICE DE MONTRÉAL
1 Notre-Dame Street East
Suite 1.120
Montréal (Québec) H2Y 1B5

References:

St-Pierre Class Action 200-06-000003-038
Lamoureux Class Action 500-06-000372-066
Corriveau Class Action 500-06-000373-064

36. Members who do not exercise their Right of Exclusion in accordance with the Exclusion Process before the expiry of the Deadline to Opt Out will be irrevocably deemed to have chosen to participate in the Settlement and will be bound by the

Settlement following its approval by the Court and by any subsequent Court judgment or order, as the case may be;

IX. RIGHT OF WITHDRAWAL

37. On the seventh (7th) day before the Hearing to Approve the Settlement, Option consommateurs' Attorneys will provide the Bank's Attorneys with the list of Members who have exercised their Right of Exclusion, including their contact information;

38. In the event that more than five hundred (500) Members exercise their Right of Exclusion, the Bank will be entitled to end its participation and to terminate the Settlement. The exercise of the Right of Withdrawal is entirely to the discretion of the Bank, without having to give notice to, consult with or obtain the consent of Option consommateurs or Option consommateurs' Attorneys;

39. The Right of Withdrawal shall be exercised no later than two (2) days before the Hearing to Approve the Settlement;

40. The Right of Withdrawal will be exercised through service by bailiff, by the Bank's Attorneys upon Option consommateurs' Attorneys, of a notice to this effect and through the communication of this notice to the Court;

41. In the event that the Bank was to exercise the Right of Withdrawal, the Settlement would be null and void and would not give rise to any right or obligation in favour of or against the Parties;

42. In the event that the Bank was to exercise the Right of Withdrawal, the Court could order it to publish and disseminate a notice to the Members to inform them that it has exercised its Right of Withdrawal, that the Settlement is null and void, and that the Class Actions will continue. The Bank would be responsible for the costs associated with the publication and distribution of such notice.

X. PROCEDURE FOR APPROVING THE SETTLEMENT

43. Following the publication of the Notice of Hearing to Approve the Settlement, Option consommateurs' Attorneys will file with the Court a motion to approve the Settlement for the holding of the Hearing to Approve the Settlement;

44. The Fonds d'aide must be notified by Option consommateurs' Attorneys of the motion to approve the Settlement in accordance with the provisions of the *Code of Civil Procedure*, the *Act respecting Class Actions*, and the *Rules of practice in civil matters of the Superior Court* in a timely manner before the Hearing to Approve the Settlement;

45. During the Hearing to Approve the Settlement, Option consommateurs' Attorneys and the Bank's Attorneys will jointly make representations before the Court to obtain the Approval Judgment approving the Settlement;

46. The Hearing to Approve the Settlement may not be held before the expiry of a thirty (30) day delay following the publication of the Notice of Hearing to Approve the Settlement in the newspapers (Schedules A and B);

47. Members who wish to do so will be able to present an Objection during the Hearing to Approve the Settlement before the Court. In this respect, Members who wish to make an Objection are invited to inform Option consommateurs' Attorneys and the Bank's Attorneys in writing of the reasons for their Objection at least five (5) days before the Hearing to Approve the Settlement by communicating a document containing the following information:

a. The file number of the Class Actions in question;

b. The name and contact information of the Member making an Objection;

c. The account number of the Member making an Objection;

d. A statement to the effect that the Member has:

i. paid credit charges between July 21, 2000 and the Date of Notice of Hearing to Approve the Settlement, without being granted the 21-day grace period provided for in the *Consumer Protection Act* (St-Pierre Class Action); or

ii. paid over-limit fees or had the credit limit on his account increased during the same period, without having explicitly requested such an increase between January 12, 2001 and the Date of Notice of Hearing to Approve the Settlement (Lamoureux Class Action); or

iii. paid cash advance fees between October 4, 2001 and the Date of Notice of Hearing to Approve the Settlement (Corriveau Class Action);

e. A brief description of the reasons for the Objection;

48. The Objection may be submitted to Option consommateurs' Attorneys and the Bank's Attorneys to the addresses mentioned at paragraph 74 of the Settlement. The Members who wish to present an Objection may, without being obligated to do so, use the Objection Form (Schedules E and F) to formulate their Objection;

49. Should the Court refuse to grant the motion for approval of the Settlement, or refuse to approve the Settlement, the Settlement will be null and void and will not give rise to any right or obligation in favour of or against the Parties;

XI. FEES AND DISBURSEMENTS OF OPTION CONSOMMATEURS' ATTORNEYS

50. During the Hearing to Approve the Settlement, Option consommateurs' Attorneys will make their representations before the Court to the effect that the $1,062,500 amount plus GST (5%) and PST (9,975%), for a total of $1,221,609.36, as legal fees and extrajudicial costs and disbursements incurred and to be incurred until

the Closing Judgment, represents fair and reasonable remuneration, which represents 25% of the compensation and arises from the fee arrangements entered into between Option consommateurs and its attorneys, for the services rendered by Option consommateurs' Attorneys within the framework of the Class Actions and the Settlement;

51. On the Effective Date, CIBC will pay to Option consommateurs' Attorneys the amount of $1,062,500 plus GST and QST, i.e. $1,221,609.36 representing legal fees, extrajudicial costs, expert fees and disbursements that will have been approved by the Court in the Approval Judgment;

52. In consideration for the payment of these legal fees, extrajudicial costs, expert fees, and disbursements, Option consommateurs' Attorneys will not claim from the Bank or from the Members of the Groups any other fee or disbursement, of any nature or source whatsoever, directly or indirectly, and will not charge any other percentage on the Compensation;

XII. AMOUNT TO BE PAID TO THE FONDS D'AIDE

53. If, following the implementation, administration and execution of the Settlement, a balance remains (arising from, among other things, Truncation or Eligible Accounts closed between the Determination Date and the Compensation Payment Date), the Parties agree that such balance will be remitted in full to the Fonds d'aide, notwithstanding the fact that the *Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives*, CQLR c R-2.1, r 2 provides for the payment of a lesser portion;

54. The balance to be paid into the Fonds d'aide, if applicable, will be paid by the Bank, within a reasonable time following the Compensation Payment Date, by remitting to Option consommateurs' Attorneys the amount established in accordance with the terms and conditions of the previous paragraph;

XIII. ACCOUNTABILITY AND CLOSING JUDGMENT

55. The Bank will have to account for the implementation and execution of the Settlement within ninety (90) days of the Compensation Payment Date, or within a reasonable period thereafter;

56. In this regard, the Bank shall provide the following information, by the communication of one or more affidavits from one or more Bank representatives attesting to the accuracy and veracity of the facts, which shall be supported by the relevant documentation and evidence and shall be produced before the Court:

    a. The fact that the Settlement was duly implemented and executed on the Compensation Payment Date;

    b. The number of Eligible Accounts having received a Fixed Compensation on the Compensation Payment Date pursuant to the terms and conditions related to the disbursement of the Direct Compensation, provided for at paragraphs 15 to 20 of the Settlement;

c. The amount of the Fixed Compensation deposited into the Eligible Accounts on the Compensation Payment Date;

d. The fact that the Credit Notice was published and distributed on the statements of the Eligible Accounts in accordance with the terms and conditions provided for in paragraph 20 of the Settlement;

e. The remittance to Option consommateurs' Attorneys, on the Effective Date, of the amount that will have been approved by the Court for legal fees, extrajudicial costs, expert fees, and disbursements incurred and to be incurred leading to the Closing Judgment, pursuant to the terms and conditions set forth in paragraphs 50 to 52 of the Settlement;

f. The remittance to Option consommateurs' Attorneys of the amount determined in accordance with the terms and conditions of paragraphs 53 and 54 of the Settlement;

57. Within ninety (90) days following the Compensation Payment Date, or within a reasonable delay thereafter, the Bank's Attorneys will file a motion with the Court to obtain the Closing Judgment in order to approve proper implementation and execution of the Settlement, which motion will be supported by the affidavits mentioned in the previous paragraph;

58. This motion to obtain the Closing Judgment must be served upon Option consommateurs' Attorneys and the Fonds d'aide at least five (5) clear working days before the date of its presentation before the Court;

XIV. RELEASE AND COMPENSATION OF OPTION CONSOMMATEURS

59. Effective on the date of the Closing Judgment, the Releasing Parties, through the Settlement, give full, general, and final releases in favour of the Bank, the Bank's subsidiaries and the Bank's Attorneys, and each of their affiliated companies, groups or divisions, mandataries, representatives, shareholders, directors, officers, insurers, employees, professionals, agents, predecessors, successors and assigns, including any person or entity for which CIBC is responsible for in fact or in law, for any claim whatsoever, demand or cause of action, of any nature whatsoever, including expert fees, costs, legal fees and attorney fees, which Option consommateurs, the Designated Persons and the Group Members had, now have, may have or could have had, directly or indirectly, in connection with the facts alleged in the proceedings of the Class Actions, their supporting exhibits, or the Documents for the Period Covered;

60. No provision in the Settlement may constitute or may be interpreted or considered as constituting a renunciation by the Bank to any right or means of defence against any claim, demand, or cause of action by a Member who has exercised his Right of Exclusion or a renunciation by the Bank to any right or means of defence within the framework of the contestation of the Class Actions in the event that the Settlement is not approved by the Court or is otherwise rendered null and void under any of the provisions of the Settlement;

61. No provision of the Settlement may constitute or may be interpreted or considered as constituting a renunciation by Option consommateurs and the Members to any right, claim, demand, or cause of action against the Bank in the event that the Settlement is not approved by the Court or is otherwise rendered null and void under any of the provisions of the Settlement;

62. No obligations, of any nature whatsoever, assumed by the Bank and the Bank's Attorneys in the execution of the Settlement, shall constitute an admission of the Bank's liability, nor more so than the Bank's consent to the Settlement or the Pre-Approval Judgment, the Approval Judgment, or the Closing Judgment handed down by the Court;

63. Following the Closing Judgment, Option consommateurs and Options consommateurs' Attorneys will return all Documents to the Bank's Attorneys within sixty (60) days and undertake to keep the contents of said Documents confidential;

64. In the event that the Court approves the Settlement and the Bank executes all of its obligations arising from the Settlement, Option consommateurs and Option consommateurs' Attorneys will undertake not to directly or indirectly institute any suit, complaint, action or claim resulting, in whole or in part, from a cause, action, omission or any other fact or exhibit supporting the proceedings or the Documents, in connection with the facts alleged in the proceedings of the Class Actions, even for a period outside the Period Covered;

XV. SCHEDULES

65. The following schedules are an integral part of the Settlement and form part thereto as if they appear in the main body of the text:

- Schedule A: Avis d'audience d'approbation de la Settlement;
- Schedule B: Notice of Hearing to Approve the Settlement;
- Schedule C: Communiqué de presse d'Option consommateurs;
- Schedule D: Questions et Réponses;
- Schedule E: Formulaire d'objection;
- Schedule F: Objection Form;
- Schedule G: Avis de crédit;
- Schedule H: Notice of Credit ;
- Schedule I: Unofficial French Translation of Settlement

XVI. FINAL PROVISIONS

66. The Settlement and its Schedules constitute the complete and full Settlement between the Parties;

67. The Settlement and its Schedules replace any other previous written or oral agreement regarding the object of the Class Actions;

68. The Settlement constitutes a full and final settlement of all disputes between the Parties and the Members with regard to the Class Actions and constitutes a

transaction within the meaning of Articles 2631 and following of the *Civil Code of Québec*;

69. The Settlement may not be considered as an admission or acknowledgment by any of the Parties of the merits of any right, claim or means of defence;

70. The Settlement settles all Class Actions and must be considered as an inseparable and indivisible whole and any and all of its clauses are intrinsically linked and dependent on each other;

71. The Court has exclusive jurisdiction with regard to the implementation, execution, interpretation, management and application of the Settlement and its Schedules, and with regard to any dispute arising therefrom, if applicable The Settlement and its Schedules must be governed and interpreted in accordance with the laws in force in the Province of Québec and the Parties attorn to the exclusive jurisdiction of the Court in this regard;

72. Where the text of the notices to Members and the Settlement diverge, the text of the Settlement will prevail;

73. In the event of discrepancies between the English version of the Settlement and the unofficial French translation of the Settlement (Schedule I), or if a problem of interpretation were to arise, the English version of the Settlement shall prevail;

74. All costs associated with the implementation and the execution of the Settlement that were not specifically provided for in the Settlement, if applicable, will be borne by the party who incurred them and the reimbursement may not be claimed from any other party;

75. Any communication with a Party regarding the implementation and execution of the Settlement must be in writing, either by mail, fax, courier, or email (only if confirmation of receipt of the email is provided by the sender of the email and authorized by the recipient of the email) and must be addressed as follows:

To the attention of Option consommateurs or any of the Designated Persons

Mes Benoit Marion and Gilles Krief
SYLVESTRE FAFARD PAINCHAUD S.E.N.C.R.L.
740 Atwater Avenue
Montréal, QC, H4C 2G9
Telephone: 514 937-2881
Fax: 514 937-6529
Emails: b.marion@sfpavocats.ca / g.krief@sfpavocats.ca

To the Attention of the Bank

Mes Yves Martineau and Guillaume Boudreau-Simard
STIKEMAN ELLIOT LLP
1155 René-Lévesque Blvd. West
40th Floor
Montréal, QC, H3B 3V2
Telephone: 514 397-3000
Fax: 514 397-3222
Emails: ymartineau@stikeman.com

/ gboudreau-simard@stikeman.com

IN WITNESS WHEREOF, OPTION CONSOMMATEURS, THE BANK AND THEIR RESPECTIVE ATTORNEYS HAVE SIGNED:

September ____, 2016

OPTION CONSOMMATEURS
Plaintiff/ Petitioner

CANADIAN IMPERIAL BANK OF COMMERCE
Defendant / Respondent

SYLVESTRE FAFARD PAINCHAUD S.E.N.C.R.L.
Attorneys for Plaintiff

STIKEMAN ELLIOT LLP
Attorneys for Defendant / Respondent

BGA-LAW AVOCATS S.E.N.C.R.L.
Attorneys for Petitioner in the St-Pierre Class Action

To the Attention of the Bank

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Emails: ymartineau@stikeman.com

/ gboudreau-simard@stikeman.com

IN WITNESS WHEREOF, OPTION CONSOMMATEURS, THE BANK AND THEIR RESPECTIVE ATTORNEYS HAVE SIGNED:

September ____, 2016

OPTION CONSOMMATEURS
Plaintiff/ Petitioner

CANADIAN IMPERIAL BANK OF COMMERCE
Defendant / Respondent

SYLVESTRE FAFARD PAINCHAUD S.E.N.C.R.L.
Attorneys for Plaintiff

STIKEMAN ELLIOT LLP
Attorneys for Defendant / Respondent

BGA AVOCATS S.E.N.C.R.L.
Attorneys for Petitioner in the St-Pierre Class Action

To the Attention of the Bank

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Emails: ymartineau@stikeman.com

/ gboudreau-simard@stikeman.com

IN WITNESS WHEREOF, OPTION CONSOMMATEURS, THE BANK AND THEIR RESPECTIVE ATTORNEYS HAVE SIGNED:

September ____, 2016

OPTION CONSOMMATEURS
Plaintiff/ Petitioner

CANADIAN IMPERIAL BANK OF COMMERCE
Defendant / Respondent
ART MANNARN, EVP AND CHIEF ADMINISTRATIVE OFFICER, RETAIL + BUSINESS BANKING

SYLVESTRE FAFARD PAINCHAUD S.E.N.C.R.L.
Attorneys for Plaintiff

STIKEMAN ELLIOT LLP
Attorneys for Defendant / Respondent

BGA-LAW AVOCATS S.E.N.C.R.L.
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