

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
(Class Actions)

NO.: 500-06-000614-129

**ASSOCIATION DES RÉSIDENTS DE
MONT-TREMBLANT POUR LA
QUALITÉ DE VIE**

Plaintiff

- and -

CAMILLE BRASSEUR

Designated Member

v.

**COURSES AUTOMOBILES MONT-
TREMBLANT INC.**

-and-

CIRCUIT MONT-TREMBLANT INC.

-and-

**ÉVÉNEMENTS 2002-CIRCUIT MONT-
TREMBLANT INC.**

-and-

**CIRCUIT MONT-TREMBLANT,
SOCIÉTÉ EN COMMANDITE,
agissant par sa commanditée,
GESTION CIRCUIT MONT-
TREMBLANT INC.**

Defendants

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
(Class Actions)

NO.: 500-06-001184-221

**ASSOCIATION DES RÉSIDENTS DE
MONT-TREMBLANT POUR LA
QUALITÉ DE VIE**

Plaintiff

-and-

CAMILLE BRASSEUR

Designated Member

v.

COURSES AUTOMOBILES MONT-TREMBLANT INC.

-and-

CIRCUIT MONT-TREMBLANT INC.

-and-

ÉVÉNEMENTS 2002-CIRCUIT MONT-TREMBLANT INC.

-and-

**CIRCUIT MONT-TREMBLANT,
SOCIÉTÉ EN COMMANDITE,
agissant par sa commanditée,
GESTION CIRCUIT MONT-TREMBLANT INC.**

-and-

WFI MORTGAGE CORPORATION

-and-

13933377 CANADA INC.

-and-

13933385 CANADA INC.

Defendants

AGREEMENT

This Agreement is entered into by and among ASSOCIATION DES RÉSIDENTS DE MONT-TREMBLANT POUR LA QUALITÉ DE VIE ("**Association des résidents**"), Representative of Class 1 and proposed representative of Class 2, CAMILLE BRASSEUR ("**Brasseur**") designated member for the purposes of Class 1 and proposed designated member for the purposes of Class 2, COURSES AUTOMOBILES MONT-TREMBLANT INC. ("**Courses**"), CIRCUIT MONT-TREMBLANT INC. ("**Circuit**"), ÉVÉNEMENTS 2002-CIRCUIT MONT-TREMBLANT INC. ("**Événements**"), CIRCUIT MONT-TREMBLANT, SOCIÉTÉ EN COMMANDITE (« **SEC** »), AGISSANT PAR SA COMMANDITEE, GESTION CIRCUIT MONT-TREMBLANT INC. ("**Gestion Circuit**"), WFI MORTGAGE CORPORATION ("**WFI**"), 13933377 CANADA INC. ("**13933377**") and 13933385 CANADA INC. ("**13933385**") and settles finally and completely all disputes between them arising, directly or indirectly, from the facts alleged in the Litigation. Subject to

Court approval, as required by the *Code of Civil Procedure* and as provided herein, the Parties hereto hereby stipulate and agree that, in consideration for the undertakings and covenants set forth in this Agreement and upon the issuance by the Court of an Approval Order and the occurrence of the Effective Date, the Class Actions shall be settled and terminated upon the terms and conditions contained herein;

RECITALS:

- a) **WHEREAS** in 2012, Association des résidents, a legal person incorporated pursuant to the provisions of part III of the *Québec Companies Act*, commenced legal proceedings under the Special Rules for Class Actions Title of the *Code of Civil Procedure*, as more fully appears from Court file number 500-06-000614-129 ("**Class Action 1**"), which led to the judgment rendered by the Honourable Justice Johanne Mainville, j.s.c., on March 24, 2020 (the "**Mainville Judgment**");
- b) **WHEREAS** Brasseur is the designated member of the Association des résidents;
- c) **WHEREAS** in her judgment, Justice Johanne Mainville, j.s.c., modified the description of the class of Class Action 1 as follows:

Toutes les personnes physiques qui **résident ou ont résidé, entre le 11 mai 2009 et le 31 octobre 2018**, dans la Ville de Mont-Tremblant, à moins de trois kilomètres des limites de la piste de course située dans la Ville de Mont-Tremblant, connue et désignée comme étant le « Circuit Mont-Tremblant et qui sont exposés à un bruit horaire moyen de plus de 55 dB(A) LAeq 1h au point récepteur avec des écarts pouvant aller jusqu'à 58 dBA.

All natural persons who reside or have resided, between May 11, 2009, and October 31, 2018, in the City of Mont-Tremblant, within three kilometres of the boundaries of the racetrack located in the City of Mont-Tremblant, known and designated as "Circuit Mont-Tremblant", and who are exposed to an average hourly noise of more than 55 dB(A) LAeq 1h at the receptor point, with deviations up to 58 dBA.

- d) **WHEREAS** Justice Johanne Mainville, j.s.c., also declares in the Mainville Judgment:

“que le présent jugement s'applique à toutes les personnes physiques qui résident ou ont résidé, entre le 11 mai 2009 et le 31 octobre 2018, dans la Ville de Mont-Tremblant, à moins de trois (3) kilomètres des limites de la piste de course située dans la Ville de Mont-Tremblant, connue et désignée comme étant le « Circuit Mont-Tremblant. »”

that the present judgment applies to all natural persons who reside or have resided, between May 11, 2009, and October 31, 2018, in the City of Mont-

Tremblant, within three (3) kilometres of the boundaries of the racetrack located in the City of Mont-Tremblant, known and designated as "Circuit Mont-Tremblant." "

(the "**3 km Group**");

- e) **WHEREAS** up to April 23, 2021, Courses, Circuit, Événements, Sec and Gestion Circuit (collectively the "**CMT Group**") were either the owners or the entities mandated to operate the racetrack commonly known as Circuit Mont-Tremblant (the "**Racetrack**") which is located on lots numbers 2 802 630, 2 803 320, 2 803 170, 3 054 647, 4 651 111, 2 803 169, and 2 802 761 of the Québec Cadastre in the City of Mont-Tremblant (collectively the "**Immovables**");
- f) **WHEREAS** on September 28, 2020, CMT Group filed an appeal contesting the Mainville Judgment;
- g) **WHEREAS** on December 11, 2020, the Québec Court of Appeal ordered that CMT Group supply a suretyship in the amount of \$1,500,000.00 in order to pursue its appeal. The suretyship which was provided for the benefit of the CMT Group consists of:
 - An irrevocable bank guarantee issued by HSBC on September 9, 2021, for a maximum amount of \$1,500,000.00 and naming Trudel Johnston and Lespérance in trust for the Members of Class Action 1 as beneficiaries for the accepted claims and costs arising from the Mainville Judgment not otherwise paid by, or on behalf of, defendants CMT Group (the "**Suretyship**"), the whole as more fully described in the Suretyship;
- h) **WHEREAS** on May 20, 2022, the Québec Court of Appeal dismissed the appeal contesting the Mainville Judgment;
- i) **WHEREAS**, in Class Action 1, litigious issues were raised by Association des résidents and CMT Group following the Mainville Judgment that have not yet been resolved;
- j) **WHEREAS** on April 23, 2021, a judgment of forced surrender, in a context of an action for the taking in payment of the Immovables, was rendered in favour of WFI, a hypothecary creditor of CMT Group;
- k) **WHEREAS** on July 18, 2022, WFI sold the Immovables to 13933377;
- l) **WHEREAS** 13933385's services were retained by 13933377 to operate the Racetrack as and from July 19, 2022;
- m) **WHEREAS** Association des résidents and Brasseur, on April 27, 2022, filed an application to request authorization to institute a second class action

against CMT Group and WFI. This second class action was later modified to include 13933377 and 13933385 as additional defendants, and alleges *inter alia* that:

- The Defendants in Class Action 2 are responsible for the inconveniences caused to certain neighbouring residences as of the Racetrack's 2019 season, which inconveniences are caused by the noise generated by the racetrack's operations and activities;
- To contest the transfers of ownership of the Immovables and that such changes of ownership should be declared unopposable to Association and the members of Class Action 2.

The whole as more fully appears from the proceeding filed in court case number 500-06-001184-221 (**Class Action 2**");

- n) **WHEREAS** Association des résidents and Brasseur define the class in Class Action 2 as follows:

Toutes les personnes physiques qui résident ou ont résidé, à tout moment à compter du 20 avril 2019, à moins de trois kilomètres des limites du Circuit Mont-Tremblant et qui ont été exposées à un bruit horaire moyen généré par le Circuit de plus de 55 dB(A) LAeq 1h au point récepteur avec des écarts pouvant aller jusqu'à 58 dB(A);

All natural persons who reside or have resided, at any time on or after April 20, 2019, within three kilometres of the boundaries of Circuit Mont-Tremblant and who have been exposed to an average hourly noise generated by the Circuit of more than 55 dB(A) LAeq 1h at the receptor point, with deviations up to 58 dB(A).

- o) **WHEREAS** the Defendants in Class Action 2 contest the application for authorization to institute a class action;
- p) **WHEREAS** the Parties, to avoid the risks, uncertainties and delays involved in the pursuit of Class Action 2, have concluded that it is desirable that Class Action 2 be settled without admission, on the terms stipulated in this Agreement;
- q) **WHEREAS** Association des résidents, Brasseur and CMT Group, to avoid additional debates with regards to the litigious issues following the Mainville Judgment in Class Action 1, their associated costs, and to avoid any uncertainties as to the judgment that could be rendered therein, have concluded an agreement following the Mainville Judgment, without admission;
- r) **THEREFORE**, this agreement is entered into by and among the Parties, by and through their respective counsel and representatives, and in

consideration of their mutual undertakings, covenants and agreements contained herein and for value received, the Parties agree that upon the Effective Date, the Class Actions, all Released Claims and all disputes arising, directly or indirectly, from the facts alleged in the Litigation shall be finally and completely settled as between the Releasing Parties and the Released Parties, as detailed herein.

1. **DEFINITIONS:**

As used in this Agreement, the following terms shall have the meanings set forth below, unless this Agreement specifically provides otherwise:

- ❖ **“Administration Expenses”** means all fees, disbursements, expenses, costs, taxes, and any other amounts incurred by, payable by, or chargeable by the Claims Administrator, for the approval, implementation and operation of this Agreement including the costs of notices and claims administration but excluding Class Counsel Fees and Disbursements;
- ❖ **“Agreement”** means this Agreement, including all schedules attached hereto;
- ❖ **“Approval Hearing”** means the hearing to be conducted by the Court to determine whether an Approval Order should be issued;
- ❖ **Approval Order”** means the judgment approving the Agreement and its Settlement to be rendered by the Court and approving the conclusions set forth in paragraph 8.1 hereof;
- ❖ **“Available Compensation Amount”** means the amount remaining from the Settlement Amount, to be distributed among Eligible Class Members who filed a Valid Claim, the whole as per section 11, after deduction of Class Counsel Fees and Disbursements, Administration Expenses and the indemnity awarded to the Representative Plaintiff and/or the Designated Member pursuant to art. 593 of the *Code of civil procedure*, if applicable;
- ❖ **“Claim”** means a claim from a Class Member from Class 1 or his or her representative submitted in the Claim Form, as provided in this Agreement and in accordance with the Claim process set out in section 11 of this Agreement;
- ❖ **“Claims Deadline”** means three months after the Effective Date;
- ❖ **“Claim Form”** means the form submitted by an Eligible Class Member in order to obtain Compensation;

- ❖ **"Claims Process and Distribution Protocol"** means the process set out at section 11;
- ❖ **"Claims Administrator"** means Proactio, a division of Raymond Chabot inc.;
- ❖ **"Class 1"** means all persons designated by the declaration in the Mainville Judgment found at recital d) of this Agreement, except any person who opted out of Class Action 1;
- ❖ **"Class 2"** means all persons designated in the description provided under Recital n) of this Agreement;
- ❖ **"Class Actions"** means collectively Class Action 1 and Class Action 2;
- ❖ **"Class Action 1"** means the legal proceeding instituted under the Special Rules for Class Actions Title of the *Code of Civil Procedure*, as more fully appears from Court file number 500-06-000614-129;
- ❖ **"Class Action 2"** means the legal proceeding for the authorization to institute a class action filed under the Special Rules for Class Actions Title of the *Code of Civil Procedure*, as more fully appears from Court file number 500-06-001184-221;
- ❖ **"Class Counsel"** means Trudel Johnston & Lespérance;
- ❖ **"Class Counsel Fees and Disbursements"** means the amount payable to Class Counsel for its extrajudicial fees, including any amount to be reimbursed to the Fonds d'aide for any advances given, and is inclusive of all fees, disbursements (including all experts' costs), costs, including but not limited to legal costs, interests, and other applicable taxes or charges of Class Counsel in respect of the prosecution of the Class Actions;
- ❖ **"Class Member"** means a person who falls within the definition of a Class set out herein;
- ❖ **"Class Notice"** means the form of notice to be given to Class Members informing them that Class Action 1 and Class Action 2 have been the object of the Settlement, to inform them that Class Action 2 has been authorized for settlement purposes and to inform them of their right to opt out of Class Action 2. The proposed Class Notice is attached as **Schedule A** and will be submitted to the Court for approval;

- ❖ **"Class Period 1"** refers exclusively to Class Action 1 and means the period from May 11, 2009, up to October 31, 2018;
- ❖ **"Class Period 2"** refers exclusively to Class Action 2 and means the period from April 20, 2019, up to October 31, 2023;
- ❖ **"Compensation"** means the cash given to an Eligible Class Member who has filed a Valid Claim within the Claims Deadline, the whole in compliance with section 11 of this Agreement;
- ❖ **"Court"** means the Québec Superior Court, Judicial District of Montréal, in which both Class Actions were filed and where the Parties will seek approval of the Agreement;
- ❖ **"Defendants' Counsel"** means:
 - i) B Services Juridiques inc. for CMT Group;
 - ii) Litige Foresti inc. for CMT Group;
 - iii) Woods LLP for WFI; and
 - iv) De Grandpré Chait LLP for 13933377 and 13933385;
- ❖ **"Designated Member"** means Camille Brasseur;
- ❖ **"Effective Date"** means:
 - i) If no appeal is taken from the Approval Order, thirty-one (31) days after the issuance of the notice of judgment for the Superior Court's judgment approving the Agreement and its Settlement;
 - ii) If an appeal is taken from the Approval Order, the date on which all appeal rights have expired, have been exhausted, or have been finally disposed of in a matter that affirms the Approval Order;
- ❖ **"Eligible Addresses"** means the addresses included in the "zone rapprochée" as described in Annex 1 of the Mainville Judgment – the list of Eligible Addresses is attached as **Schedule B** to this Agreement;
- ❖ **"Eligible Class Members"** means Class Members eligible to receive compensation under this Agreement pursuant to the criteria set forth in section 11;
- ❖ **"Fonds d'aide"** means the *Fonds d'aide aux actions collectives* created pursuant to the *Act respecting the Fonds d'aide aux actions collectives* (RSQ ch F-3.2.0.1.1);

- ❖ **"Judgment on Class Notice"** means the judgment to be rendered by the Court with respect to the approval of the proposed Class Notice;
- ❖ **"Litigation"** means collectively Class Action 1 and Class Action 2 and all proceedings, exhibits and stenographic notes filed therein, referred to therein or prepared in relation thereto;
- ❖ **"Notice Date"** means the date by which the Class Notice must be sent to Class Members;
- ❖ **"Objection Deadline"** means thirty (30) days following the publication of the Class Notice;
- ❖ **"Opt-Out Deadline"** means thirty (30) days following the publication of the Class Notice;
- ❖ **"Opt-Out Form"** means the form that enables a Class Member to exclude himself or herself from Class Action 2;
- ❖ **"Parties"** means, collectively, Association des résidents, Brasseur, CMT Group, WFI, 13933377 and 13933385;
- ❖ **"Release"** means the release and waiver set forth in paragraphs 12.1 to 12.5 of this Agreement;
- ❖ **"Released Claims"** means any and all manner of actions, claims, complaints, demands, rights, suits and causes of action of whatever kind or nature that are, or could reasonably have been, or in the future might reasonably be asserted by the Representative Plaintiff or the Class Members or the Releasing Parties either in the Litigation or in any other action or proceeding in the Court or in any other court or forum against the Released Parties, including damages, costs including legal costs, expenses, interests, liabilities of any nature whatsoever, penalties, attorneys' fees, class administration costs, known and unknown, suspected or unsuspected, foreseen or unforeseen, actual or contingent, liquidated and unliquidated, in law or equity, that the Releasing Parties, or any of them, whether directly or indirectly, ever had, have, or could have arisen out of/ or relating to, directly or indirectly, the facts alleged in the Litigation;
- ❖ **"Released Parties"** means, individually and collectively, CMT Group, WFI, 13933377 and 13933385, and each of their present and past directors, officers, employees, mandataries, insurers, agents, shareholders, attorneys, advisors, consultants, representatives, partners, affiliates, associates, pairings, subsidiaries, joint ventures, independent contractors, wholesalers,

resellers, distributors, retailers, related or affiliated companies and divisions and each of their predecessors, successors, assignees, heirs and assigns;

- ❖ **"Releasing Parties"** means, individually and collectively, Association des résidents, Brasseur and each and every Class Member, including each of their respective spouses and each and every person who are part of the 3 km Group, as well as their representatives and heirs, executors, administrators, representatives, agents, partners, bankruptcy trustees, guardians, successors and assigns and all those who claim through them or who assert claims for relief on their behalf;
- ❖ **"Representative Plaintiff"** means Association des résidents de Mont-Tremblant pour la qualité de vie;
- ❖ **"Request for Exclusion"** means the written communication that must be filed with the Court and received on or before the Opt-Out Deadline by a Class Member of Class 2 who wishes to be excluded from Class Action 2;
- ❖ **"Settlement"** means the settlement terms set forth in this Agreement;
- ❖ **"Settlement Amount"** means CAD \$2,000,000.00 from which all amounts, including the Class Counsel Fees and Disbursements, the Administration Expenses and all Valid Claims, Representative Plaintiff's and/or Designated Member disbursements including all amounts that may be due to the *Fonds d'aide*, will be paid pursuant to this Agreement, the whole inclusive of all applicable taxes;
- ❖ **"Settlement Relief"** means the relief described in section 3 of this Agreement;
- ❖ **"Trust Account"** means a trust account with a Canadian financial institution under the control of the Claims Administrator;
- ❖ **"Valid Claim"** means a Claim submitted by an Eligible Class Member which complies with paragraph 11.9 of this Agreement.

2. RECITALS AND DEFINITIONS FORM PART OF THIS AGREEMENT:

- 2.1 If this Agreement is not approved by the Court and it cannot be amended in a way that satisfies the Court as set out herein, it will become null and void, with the exceptions of paragraphs 4.1 a) to c), 12.7 and 16.1 of this Agreement and will not generate any other rights or obligations either for the Parties or for the Class Members. Furthermore, any and all orders rendered in virtue of paragraph 5 as well as all motions filed in relation to

paragraphs 5 and 8 shall be deemed to have never existed and to have no authority over the Parties and if necessary, the Parties shall jointly seek to have same rescinded by the Court. The Parties will be restored to their respective positions in the Class Actions before the execution of the Agreement.

3. SETTLEMENT RELIEF:

3.1 Settlement Relief shall consist of 2 components:

- i) The Settlement Amount which includes, *inter alia*, Compensation to Eligible Class Members who have a Valid Claim pursuant to section 11; and
- ii) 13933377's and 13933385's undertaking to respect and abide by certain operating guidelines which are more fully described below;

A) DIRECT COMPENSATION

3.2 This Agreement provides for collective recovery and a Claim process for Class Members to make a Claim and seek Compensation;

3.3 CMT Group shall pay the Settlement Amount into the Trust Account in the manner provided for at paragraph 3.7 below, failing which interest of 8% on an annual basis shall be added to the Settlement Amount;

3.4 The Settlement Amount shall be distributed in the following order:

- a. Class Counsel Fees and Disbursements
- b. Administration Expenses.
- c. The indemnity awarded to the Representative Plaintiff and/or the Designated Member pursuant to art. 593 of the *Code of civil procedure*, if applicable.
- d. Compensation to be paid to class members pursuant to section 11 below from the Available Compensation Amount;

3.5 All amounts expressed in this Agreement are in Canadian Dollars (CAD);

3.6 In no event shall the CMT Group have the obligation to pay any amount other than the Settlement Amount or any interest due pursuant to section 3.3;

3.7 The Settlement Amount shall be paid by CMT Group as follows:

Within ten (10) business days of the Effective Date, the beneficiary and the applicant of the Suretyship will provide a letter to HSBC Bank Canada confirming the agreement to transfer the funds of \$1,500,000.00 guaranteed by the Suretyship, on behalf of CMT Group, to the Trust Account, with its required authorizations, it being understood that HSBC Bank Canada will be required to first irrevocably cancel and terminate the Suretyship, the Suretyship will then become void and null and its original will be remitted to HSBC Bank Canada, in order to transfer these funds. Notwithstanding this sequence, it is further understood that payment of this \$1,500,000.00 amount is a condition of cancellation of the Suretyship by HSBC Bank Canada. Prior to the signature of this Agreement, HSBC Bank Canada approved the manner in which these instructions shall be provided to them;

Within ten (10) business days of the Effective Date, the CMT Group will transfer \$500,000.00 to the Trust Account;

B) INDIRECT RELIEF

3.8 In addition to the Direct Compensation described above in section A as part of this Agreement, with regards to the Racetrack's operations and activities, 13933377 and 13933385 agree and undertake that:

- i) They undertake to respect all municipal bylaws and regulations, as they currently exist, regarding the noise emissions generated by the Racetrack's operations and activities, reserving their right to contest any contemplated modification thereto and/or future modification thereto;
- ii) They undertake that no car or motorcycle will be permitted to use the Racetrack unless it is equipped with a muffler that meets all legal requirements for use on public roads in the province of Québec;
- iii) Every year, they will select six (6) weekends, within the season during which automobile racing activities are permitted under the municipal bylaw, during which there shall be no races, and cars and motorcycles will not be allowed to conduct any tests or training on the racetrack (the "**Quiet Weekends**"). Quiet Weekends shall run from opening hour on Saturday to closing hour on Sunday, as defined in the municipal regulations;
- iv) Notwithstanding the terms of paragraph iii), it is agreed that car and motorcycle fairs and exhibitions shall be allowed during Quiet Weekends provided that cars and motorcycles shall perform no demonstration of their motors' power. The cars and motorcycles shall be allowed to ignite their motors solely to park

on the track and, during this procedure, their motors shall run at their lowest noise levels;

- v) It is agreed that three (3) of the Quiet Weekends shall take place during the period which commences on June 22 and ends on the day of the Labour Day holiday;
- vi) They will communicate to the City of Mont-Tremblant and post on the Racetrack's website the Racetrack's seasonal calendar for a current year, which calendar shall specify the dates of all six (6) Quiet Weekends. The Racetrack's seasonal calendar shall be posted on the Racetrack's website one (1) month prior to the beginning of the seasonal activities on the Racetrack.

4. NO ADMISSION OF LIABILITY:

4.1 CMT Group, WFI, 13933377 and 13933385 deny:

- a) Any wrongdoing or admission with regards to the litigious issues following the Mainville Judgment in Class Action 1;
- b) The material factual allegations and legal claims asserted in Class Action 2, including any and all charges of wrongdoing or liability arising out of any conduct, statements, acts or omissions alleged therein;
- c) Neither the Agreement, nor anything contained herein shall be interpreted as a concession or admission of wrongdoing or liability by CMT Group, WFI, 13933377 and 13933385;
- d) Nevertheless, CMT Group, WFI, 13933377 and 13933385 have concluded that further conduct of the litigious issues in Class Action 1 and that further conduct of Class Action 2 and all associated costs would be disproportionate with the amount of the claims as issued and that it is desirable that the Class Actions against them be fully and finally settled in the matter and upon the terms and conditions set forth in this Agreement.

5. CLASS NOTICE REQUIREMENTS AND JUDGMENT ON CLASS NOTICE:

A) AUTHORIZATION FOR SETTLEMENT PURPOSES OF CLASS ACTION 2

- 5.1** The parties shall jointly seek authorization for settlement purposes of Class Action 2, subject to the denials of liability found at section 4 above. Subject to judicial approval and only for the purposes of the Agreement, CMT Group, WFI, 13933377 and 13933385 shall consent to the authorization of Class Action 2 pursuant to articles 574 and 575 CCP. Such authorization shall be annulled and deemed to have never existed and have no authority over the

Parties in the event the Court should refuse to approve this Agreement in accordance with paragraph 8. If this annulment is not already stipulated in the Judgment on Class Notice, the Parties shall jointly seek to have the authorization rescinded by the Court;

B) APPLICATION FOR JUDGMENT ON CLASS NOTICE

5.2 Prior to the dissemination of the Class Notice, the proposed Class Notice and dissemination process shall be submitted to the Court for a Judgment on Class Notice;

C) CLASS NOTICE

5.3 No later than the Notice Date, Class counsel shall:

- a. Email the Class Notice to all subscribers to its distribution lists for both Class Actions;
- b. Publish the Class Notice and this Agreement on its webpages for the Class Actions and on the *Registre des actions collectives*;
- c. Send a press release to *l'Information du Nord*, *Tremblant Express* and *La Presse* announcing the Agreement, summarizing the Settlement Relief and indicating that the Class Notice can be found on Class counsel's website;

5.4 No later than ten (10) days after the Notice Date, Class counsel shall confirm in writing to Defendants' Counsel that the Class Notice was disseminated in the manner described in paragraph 5.3.

6. OBJECTIONS:

6.1 Unless otherwise authorized by the Court, any Class Member who intends to object to the fairness of the Agreement must do so in writing no later than the Objection Deadline. The written objection must be filed with the Court and sent to Class Counsel no later than the Objection Deadline. The written objection must include:

- i) A heading which refers to the Class Actions;
- ii) The objector's name, address, email address, telephone number and, if represented by counsel, the name and coordinates of his/her counsel;
- iii) A statement that the Objector is a Class Member in that he or she resides in the area described in the Classes, and indicating dates of residence;

- iv) Whether the Objector intends to appear at the Approval Hearing, either in person or through counsel;
- v) The grounds supporting the objection;
- vi) Copies of any documents upon which the objection is based; and
- vii) The Objector's signature;

6.2 Any Class Member who filed and sent a written objection, as described in the preceding paragraph, may appear at the Approval Hearing, either in person or through counsel, hired at his/her expense, to object to any aspect of the fairness, reasonableness or adequacy of this Agreement. Class counsel shall promptly communicate any objection received to Defendants' Counsel;

6.3 Unless otherwise authorized by the Court, any Class Member who fails to comply with the above provisions shall waive and forfeit any and all right he or she may have to appear separately and/or to object and shall be bound by all of the terms of this Agreement and by all the proceedings, orders and judgments ancillary thereto.

7. REQUESTS FOR EXCLUSION (OPT-OUTS) OF CLASS ACTION 2:

7.1 Any Class Member may request to be excluded from Class Action 2. A Class Member who wishes to Opt-Out of Class Action 2 must do so by sending to the clerk of the Court, at the Montréal Courthouse (not by email) and to Class Counsel (emails accepted), a written Request for Exclusion that must be received no later than the Opt-Out Deadline. The Request for Exclusion must be personally signed by the Class Member requesting exclusion, inclusive of his/her email and mailing address, and contain a clear request to be excluded from Class Action 2;

7.2 Any Class Member who does not file a timely written Request for Exclusion shall be bound by all subsequent proceedings, orders and the Approval Order in the Class Actions. Any Class Member who properly requests to be excluded from Class Action 2 shall not:

- i) Be bound by any order or judgment entered into in Class Action 2;
- ii) Be entitled to receive any Compensation in relation to the Agreement;

7.3 Class Members who have not exercised the right to opt out according to the above Opt-Out procedure by the Opt-Out Deadline, will be irrevocably deemed to have chosen to participate in this Agreement and will be bound by the terms of the Agreement following its approval by the Court in the Approval Order, and by all judgments or orders subsequently issued by the Court, if any;

7.4 Within five (5) days after the Opt-Out Deadline, Class Counsel shall inform Defendants' Counsel of any Class Member who has exercised his or her right to Opt-Out and provide them with a copy of all requests received up to the Opt-Out Deadline;

8. COURT APPROVAL OF THE AGREEMENT:

8.1 Within ten (10) days after the dissemination of the Class Notice to Class Members, as described in section 5, Class Counsel shall file a motion with the Court and shall seek to obtain the Approval Order that will:

- i) Declare that this Agreement is fair, adequate, reasonable and in the best interest of the Class Members;
- ii) Approve this Agreement and order the Parties and Class Members to comply with it;
- iii) Approve the Settlement Relief as set forth in paragraphs 3.1 to 3.8 of this Agreement;
- iv) Order that 13933377 and 13933385 abide by the operating directives set forth in the Settlement Relief section, namely paragraph 3.8 of this Agreement;
- v) Order that the Class Counsel Fees and Disbursements, as suggested in paragraph 9.1 of this Agreement, be paid out of the Settlement Amount, subject to paragraph 9.2;
- vi) Order that the Administration Expenses be paid out of Settlement Amount, subject to paragraphs 11.3 and 11.13;
- vii) Order that the disbursements due to Representative Plaintiff and/or Designated Member, if any, be paid out of the Settlement Amount, subject to paragraph 9.2;
- viii) Declare that the litigious issues relating to the Mainville Judgment rendered in Class Action 1 have been settled and that upon payment of the Settlement Amount, the Mainville Judgment shall be deemed fully executed and satisfied by CMT Group and that Class Action 2 is settled out of Court; and
- ix) Order any other measure it should deem required to facilitate the approval, implementation or administration of this Agreement;

8.2 At the Approval Hearing, Class Counsel and Defendants' Counsel shall move for the final approval of the Agreement and present their arguments in support thereof.

9. CLASS COUNSEL FEES AND DISBURSEMENTS AND REPRESENTATIVE PLAINTIFF/DESIGNATED MEMBER'S DISBURSEMENTS:

- 9.1 As part of the application for approval detailed at paragraph 8.1, Class Counsel will seek the Court's approval of Class Counsel Fees and Disbursements in the manner provided by their fee agreement with the Representative Plaintiff;
- 9.2 This Agreement is in no way conditional upon the approval of the Class Counsel Fees and Disbursements or the Representative Plaintiff/Designated Member's disbursements by the Court. Any order or proceeding relating to these or any appeal from any order relating thereto, or reversal, or amendments thereof, shall not operate to terminate or cancel the Agreement. Therefore, should the Court refuse to approve or decrease the Class Counsel Fees and Disbursements or the Representative Plaintiff/Designated Member's disbursements, such refusal shall not operate to terminate or cancel this Agreement;
- 9.3 Class Counsel shall be responsible for filing and presenting an application before the Court, at the same time as the Approval Hearing or subsequent thereto, requesting approval of the payment of the Class Counsel Fees and Disbursements. CMT Group, WFI, 13933377 and 13933385 shall take no position with regard to the Class Counsel's application;
- 9.4 Upon full payment to Class Counsel of the Class Counsel Fees and Disbursements as approved by the Court pursuant to the order to be rendered by said Court, Class Counsel irrevocably give a complete and final release in capital, interest and costs to the Released Parties and Defendants' Counsel regarding any and all claims or demands for fees, extrajudicial fees and costs, including legal costs, expenses and/or disbursements including expert fees, known or unknown, that Class Counsel ever had, could have had, or now has, whether directly or indirectly related to the Litigation or the Released Claims.

10. OTHER COSTS:

- 10.1 CMT Group, WFI, 13933377 and 13933385 will not be liable to pay any costs or fees to the Representative Plaintiff, to the Designated Member, to Class Members, to Class Counsel or any third party, other than the payment by CMT Group of the Settlement Amount as provided in this Agreement or any interest due pursuant to section 3.3.

11. CLAIMS PROCESS AND DISTRIBUTION PROTOCOL:

- 11.1 To be an Eligible Class Member (i.e. to be eligible to receive Compensation under this Agreement), Class Members must file a Valid Claim by the Claims Deadline and must:
 - a. Be a Class Member of Class 1;
 - b. Have resided, during Class Period 1, at an Eligible Address;

c. Not have filed with the City of Mont-Tremblant the declaration described at art. 23 of this City's *Règlement (2008)-107 concernant les usages conditionnels*;

11.2 The Available Compensation Amount shall be distributed on a *pro rata* basis entirely among Eligible Class Members;

11.3 Class Counsel shall give a mandate to the Claims Administrator, and ask the Court to approve the Claims Administrator's appointment and budget;

11.4 The judge of the Superior Court responsible for the management of this proceeding shall retain jurisdiction to resolve any issues relative to the implementation of this Distribution Protocol;

11.5 Each Eligible Class Member's individual entitlement to compensation shall be based upon paragraphs 562 and 578 of the Mainville Judgment -- therefore, for each year or portion of year of residence during Class Period 1, each Eligible Class Member shall be credited with the following amount of "Compensation Points", based upon their date of first arrival at an Eligible Address:

a. Before 1964: 1 Compensation Point

b. Between 1964 and June 2001: 0.9 Compensation Point

c. Between July 2001 and December 2006: 0.4 Compensation Point

d. Between January 2007 and October 31, 2018: 0.2 Compensation Point;

11.6 Each Eligible Class Member with a Valid Claim shall receive Compensation calculated according to the following formula:

$$\frac{\text{Eligible Class Member's Compensation Points}}{\text{Sum of Compensation Points of all Eligible Class Members}} \times \text{Available Compensation Amount}$$

11.7 After the Effective Date, Class Counsel shall promptly send an email to its distribution lists for both Class Actions i) informing Class Members that the Claims Period has begun; ii) listing the criteria to be an Eligible Class Member and iii) including a link to the Claims Administrator's website and indicating that all Claims must be filed via this website or by telephone;

- 11.8 Class Counsel compiled, in February 2019, the property assessment rolls for all Eligible Addresses. Class Counsel and the Claims Administrator shall endeavour to confirm whether Class Members still reside at each Eligible Address. After the Effective Date, the Claims Administrator shall promptly mail a letter to all retained addresses containing the information set out in paragraph 11.7;
- 11.9 Eligible Class Members must complete and file the Claim Form prepared by the Claims Administrator – Claim Forms may only be completed electronically on the webpage created by the Claims Administrator, or by telephone with the Claims Administrator. To be deemed a Valid Claim, Claims must be filed by the Claims Deadline and contain the following information:
- a. Name, proof of identity, mailing address, email address and telephone number.
 - b. Eligible Addresses of residence during Class Period 1, with dates of residence at each.
 - c. Date or dates of first arrival at the residences listed at paragraph b.
 - d. Proof of residence at one of the addresses listed at paragraph b (this proof does not need to indicate dates of residence).
 - e. If proof required by paragraph d) is unavailable, a sworn statement:
 - i) explaining why this proof is unavailable ii) indicating all Eligible Addresses where the Eligible Class Member resided during Class Period 1, with dates of residence for each.
 - f. A declaration that the Class Member did not file with the City of Mont-Tremblant the declaration described at art. 23 of this City's *Règlement (2008)-107 concernant les usages conditionnels*;
- 11.10 After the Claims Deadline, the Claims Administrator shall promptly calculate all Eligible Class Members' individual Compensation amounts and pay these amounts by electronic transfer or by mailing a cheque to the mailing address in their Claim Form;
- 11.11 Class Counsel may, at its sole discretion, seek any order modifying this Distribution Protocol at any moment after the Approval Order;
- 11.12 Any balance remaining after completion of this Distribution Protocol shall be distributed in the following order: i) to the *Fonds d'aide*, in accordance with the *Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives* ii) to a charitable or non-profit organization approved by the Court after hearing the Parties' observations;

11.13 Should the Court refuse to approve or decrease the Administration Expenses, such refusal shall not operate to terminate or cancel this Agreement.

12. RELEASES:

12.1 The Agreement covers the final and complete settlement of all disputes between the Parties arising, directly or indirectly, from the Released Claims, including all facts alleged in the Litigation;

12.2 The Agreement shall be the sole and exclusive remedy for any and all Released Claims of all Releasing Parties against all Released Parties;

12.3 The Releasing Parties shall be permanently barred and enjoined from initiating, asserting and/or prosecuting, either directly or indirectly, on their own behalf or on behalf of any class or any other person, any Released Claims against any Released Parties in any Court or any forum or any other person who may claim contribution or indemnity from any Released Party in respect of any Released Claim;

12.4 At the Effective Date, the Releasing Parties give each of the Released Parties and Defendants' Counsel a complete and final release in capital, interests and costs, from the Released Claims;

12.5 On the Effective Date, each of the Released Parties shall be deemed to have released and forever discharged each of the Releasing Parties and Class Counsel from all claims arising out of or relating to the institution, prosecution and resolution of both Class Actions, except to enforce the terms and conditions contained in this Agreement;

12.6 The Parties agree that the Court shall retain exclusive and continuing jurisdiction to interpret, apply and enforce the terms, conditions and obligations under this Agreement, including managing any ancillary matters that may arise from this Agreement;

12.7 Nothing in this Agreement shall constitute or shall be deemed to constitute a waiver by CMT Group, WFI, 13933377 and 13933385 of any defence with respect to any Class Member who opted out of the Agreement, or in the event that this Agreement is not presented to or not approved by the Court;

12.8 Any compensation paid or given pursuant to the Agreement is made without admission or liability. The Releasing Parties agree that the Agreement and the Approval Order rendered in respect of the Agreement shall not constitute an admission;

12.9 CMT Group, WFI, 13933377 and 13933385 and the Defendants' Counsel waive their right to claim any legal costs in the Class Actions.

13. TAXES AND INTEREST:

13.1 The Parties and their respective counsel agree that they are in no way liable for any taxes any Class Members may be required to pay as a result of receiving any Compensation under this Agreement.

14. COOPERATION AND BEST EFFORTS:

14.1 The Parties agree to cooperate to the extent reasonable and necessary to give effect to and implement all of the terms and conditions of this Agreement and to exercise best efforts to fulfil all of the terms and conditions of this Agreement.

15. NEGOTIATED AGREEMENT:

15.1 The Parties intend the Agreement to be a final and complete settlement of all disputes between them arising, directly or indirectly, from the Released Claims, including all facts alleged in the Litigation. The Parties agree that the consideration provided to Class Members and the other terms of this Agreement were negotiated at arm's length and in good faith by the Parties, and reflect a settlement that was reached voluntarily after consulting with competent legal counsel.

16. NOT ADMISSIBLE AS EVIDENCE:

16.1 Neither the Agreement, nor anything contained herein, nor any of the negotiations or proceedings connected with it, nor any related documents, nor any act performed pursuant to it or in furtherance of the Agreement, including, without limiting the generality of the foregoing, the authorization for Settlement purposes of Class Action 2, the Judgment on Class Notice and the Approval Order, shall be referred to, offered as evidence or received as evidence in any pending or future civil, criminal, penal, regulatory or administrative action or proceeding against or implicating the Released Parties;

16.2 Notwithstanding the above, the Agreement may be referred to or offered as evidence in a proceeding to approve or enforce the Agreement, to defend against the assertion of Released Claims and as otherwise required by law.

17. REPRESENTATIONS AND WARRANTIES:

17.1 Each of the Parties represents and warrants:

- i) That it has the requisite corporate power and authority to execute, deliver and perform the Agreement and to consummate the transaction contemplated hereby;

- ii) That the execution, delivery and performance of the Agreement and the consummation by them of the actions contemplated herein had been duly authorized by necessary corporate action on the part of the Parties, where required; and
- iii) That the Agreement has been duly and validly executed and delivered by the Parties and constitutes a legal, valid and binding obligation;

17.2 The Parties warrant and represent that no promise, inducement or consideration for the Agreement and its Settlement has been made, except those set forth herein. No consideration, amount or sum paid, accredited, offered or expended by the Parties in their performance of this Agreement constitutes a fine, penalty, punitive damage or any other form of assessment for any claim against them.

18. NOTICES:

18.1 Any notification, request, instruction or other document to be given by one party to the other (other than class-wide notification) shall be provided in writing, including email, to:

- i) To Class Counsel:

Mtre Jean-Marc Lacourcière | **TRUDEL JOHNSTON & LESPÉRANCE**
Email: jean-marc@tjl.quebec

- ii) To the Defendants' Counsel:

Mtre Stéphanie Bergeron Bureau | **B SERVICES JURIDIQUES INC.**
Email: sbergeronbureau@bservicesjuridiques.com

Mtre Jean-Rémi Thibault | **LITIGE FORSETI INC.**
Email: jrthibault@forsetiavocats.ca

Mtre Sylvain Rigaud | **WOODS LLP**
Email: srigaud@woods.qc.ca

Mtre Éric Lalanne | **DE GRANDPRÉ CHAIT LLP**
Email: elalanne@dgchait.com

19. MISCELLANEOUS:

19.1 **Entire Agreement:** The Agreement, including all Schedules hereto, shall constitute the entire agreement among the Parties and shall supersede any previous agreements, representations, communications and understandings among the Parties with respect to the subject matter of the

Agreement. The Agreement may not be changed, modified, or amended except in a writing signed by Class Counsel and Defendants' Counsel and, if required, approved by the Court. The Parties contemplate that the Schedules to the Agreement may be modified by the Parties' subsequent agreement or by the Court. The Parties may make non-material changes to the Schedules to the extent deemed necessary, as agreed to in writing by all Parties;

- 19.2 **Governing Law and Jurisdiction:** The Agreement shall be construed under and governed by the laws of the Province of Québec, Canada, applied without regard to conflict of laws provisions. The Parties hereby submit themselves exclusively to the Courts of the Province of Québec, District of Montréal, concerning any and all matters related to the interpretation or application of the Agreement;
- 19.3 **Execution in Counterparts:** The Agreement may be executed by the Parties in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Facsimile signatures or signatures scanned to PDF and sent by email shall be treated as original signatures and shall be binding;
- 19.4 **Good Faith:** The Parties agree that they will act in good faith and will not engage in any conduct that will or may frustrate the purpose of this Agreement. The Parties further agree, subject to Court approval as needed, to reasonable extensions of time to carry out any of the provisions of the Agreement;
- 19.5 **Binding on Successors:** The Agreement shall be binding upon, and endure to the benefit of the heirs, successors and assigns of the Released Parties;
- 19.6 **Arm's Length Negotiations:** The determination of the terms and conditions contained herein and the drafting of the provisions of this Agreement have been by mutual understanding after negotiation, with consideration by, and participation of the Parties hereto, Defendants' Counsel and Class Counsel. This Agreement shall not be construed against any Party on the basis that the Party was the drafter or participated in the drafting. Any statute or rule of construction that ambiguities are to be resolved against the drafting party shall not be employed in the implementation of this Agreement and the Parties agree that the drafting of this Agreement has been a mutual undertaking;
- 19.7 **Public Statements:** Representative Plaintiff, Designated Member and Class Counsel shall not engage in any conduct or make any statement, directly or indirectly, that the Settlement of Claims contemplated by the Agreement constitutes an admission of liability or admission of the validity or accuracy of any of the allegations in the Class Actions against

Defendants. Nothing shall limit the ability of Defendants or their successors to make public disclosures, whether directly or through their Counsel. No Party shall, with respect to conduct or facts prior to the date of the present Agreement, make any statements or representations, either directly in the form of oral or written statements or representations to any third party, that disparage any Party. Prior to the Approval Hearing, Class Counsel shall provide to Defendants' Counsel a copy of all press releases regarding the Settlement that Class Counsel, Representative Plaintiff and/or Designated Member intend to circulate to the press 48 hours prior to their release or communication to the press;

- 19.8 **Waiver:** The waiver by one Party of any provision or breach of the Agreement shall not be deemed a waiver of any other provision or breach of the Agreement;
- 19.9 **Variance:** In the event of any variance between the terms of this Agreement and any of the Schedules hereto, the terms of this Agreement shall prevail and supersede the Schedules;
- 19.10 **Schedules:** All Schedules to this Agreement are material and integral parts hereof, and are incorporated by reference as if fully rewritten herein;
- 19.11 **Integration:** This Agreement represents the entire understanding and agreement among the Parties and supersedes all prior proposals, negotiations, agreements, and understandings related to the subject matter of this Agreement;
- 19.12 **Transaction:** The present Agreement constitutes a transaction in accordance with Articles 2631 and following of the C.C.Q., and the Parties hereby waive their right to raise any errors of fact, of law and/or calculation;
- 19.13 **Recitals:** The recitals to this Agreement are true and form part of the Agreement;
- 19.14 **Authorized Signatures:** Each of the undersigned represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Agreement on behalf of the Parties identified above;
- 19.15 **Language:** The Parties shall translate this Agreement into French, it being understood the original English version shall prevail in case of inconsistency with the French translation.

[Signatures pages follow]

_____, on _____ 2024

**ASSOCIATION DES RÉSIDENTS DE
MONT-TREMBLANT POUR LA QUALITÉ
DE VIE**

By:

●

_____, on _____ 2024

CAMILLE BRASSEUR

_____, on _____ 2024

**COURSES AUTOMOBILES MONT-
TREMBLANT INC.**

By:

●

_____, on _____ 2024

CIRCUIT MONT-TREMBLANT INC.

By:

●

_____, on _____ 2024

ÉVÉNEMENTS 2002-CIRCUIT MONT-TREMBLANT INC.

By: _____
●

_____, on _____ 2024

CIRCUIT MONT-TREMBLANT, SOCIÉTÉ EN COMMANDITE, agissant par sa commanditée, GESTION CIRCUIT MONT-TREMBLANT INC.

By: _____
●

_____, on _____ 2024

WFI MORTGAGE CORPORATION

By: _____
●

_____, on _____ 2024

13933377 CANADA INC.

By: _____
●

_____, on _____ 2024

13933385 CANADA INC.

By:

●

Trudel Johnston & Lespérance

90-750 Côte de la Place d'Armes

Montreal, QC, H2Y 2X8

Telephone: 514-871-8385

Fax: 514-871-8800

info@tjl.quebec

The full text of the settlement agreement is available on Trudel Johnston & Lespérance's web page for the class actions against Circuit Mont-Tremblant:

<https://tjl.quebec/en/class-actions/circuit-mont-tremblant/>

Please note that in the event of any discrepancy between this notice and the Settlement Agreement, the Settlement Agreement shall prevail. Any term not defined in this Notice shall have the meaning ascribed to it in the