

OLD DOMINION FREIGHT LINE INC/VA  
Form SC 13G/A  
February 11, 2003

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
**Washington, D.C. 20549**

**SCHEDULE 13G**

**Under the Securities Exchange Act of 1934**  
**(Amendment No. 11)\***

OLD DOMINION FREIGHT LINE, INC.

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(Name of Issuer)

Common Stock (par value \$.10 per share)

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(Title of Class of Securities)

679580100

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(CUSIP Number)

(Date of Event Which Requires Filing of this Statement)

Check the appropriate box to designate the rule pursuant to which this Schedule is filed:

Rule 13d-1(b)

Rule 13d-1(c)

Rule 13d-1(d)

\* The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter the disclosures provided in a prior cover page.

The information required in the remainder of this cover page shall not be deemed to be filed for the purpose of Section 18 of the Securities Exchange Act of 1934 ( Act ) or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

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CUSIP No. 679580100

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1. Names of Reporting Persons.

I.R.S. Identification Nos. of above persons (entities only).

John R. Congdon, Jr., Custodian

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2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a)

(b)

---

3. SEC Use Only

---

4. Citizenship or Place of Organization

USA

---

5. Sole Voting Power

NUMBER OF 11,004 (See Item 4)

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SHARES 6. Shared Voting Power

BENEFICIALLY

OWNED BY -0- (See Item 4)

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EACH 7. Sole Dispositive Power

REPORTING

PERSON 11,004 (See Item 4)

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WITH 8. Shared Dispositive Power

-0- (See Item 4)

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9. Aggregate Amount Beneficially Owned by Each Reporting Person

11,004

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10. Check if the Aggregate Amount in Row (9) Excludes Certain Shares (See Instructions)

..

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11. Percent of Class Represented by Amount in Row (9)

0.1%

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12. Type of Reporting Person (See Instructions)

IN (See Item 4)

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CUSIP No. 679580100

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1. Names of Reporting Persons.

I.R.S. Identification Nos. of above persons (entities only).

John R. Congdon, Jr. Revocable Trust

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2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a)

(b)

---

3. SEC Use Only

---

4. Citizenship or Place of Organization

Virginia

---

5. Sole Voting Power

NUMBER OF 294,648 (See Item 4)

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SHARES 6. Shared Voting Power

BENEFICIALLY

OWNED BY -0- (See Item 4)

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EACH 7. Sole Dispositive Power

REPORTING

PERSON 294,648 (See Item 4)

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WITH 8. Shared Dispositive Power

-0- (See Item 4)

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9. Aggregate Amount Beneficially Owned by Each Reporting Person

294,648

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10. Check if the Aggregate Amount in Row (9) Excludes Certain Shares (See Instructions)

..

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11. Percent of Class Represented by Amount in Row (9)

2.8%

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12. Type of Reporting Person (See Instructions)

OO (See Item 4)

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CUSIP No. 679580100

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1. Names of Reporting Persons.

I.R.S. Identification Nos. of above persons (entities only).

John R. Congdon Trust for Michael Davis Congdon

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2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a)

(b)

---

3. SEC Use Only

---

4. Citizenship or Place of Organization

Virginia

---

5. Sole Voting Power

NUMBER OF 61,810 (See Item 4)

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SHARES 6. Shared Voting Power

BENEFICIALLY

OWNED BY -0- (See Item 4)

---

EACH 7. Sole Dispositive Power

REPORTING

PERSON 61,810 (See Item 4)

---

WITH 8. Shared Dispositive Power

-0- (See Item 4)

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9. Aggregate Amount Beneficially Owned by Each Reporting Person

61,810

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10. Check if the Aggregate Amount in Row (9) Excludes Certain Shares (See Instructions)

..

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11. Percent of Class Represented by Amount in Row (9)

0.6%

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12. Type of Reporting Person (See Instructions)

OO (See Item 4)

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CUSIP No. 679580100

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1. Names of Reporting Persons.

I.R.S. Identification Nos. of above persons (entities only).

John R. Congdon Trust for Peter Whitefield Congdon

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2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a)

(b)

---

3. SEC Use Only

---

4. Citizenship or Place of Organization

Virginia

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5. Sole Voting Power

NUMBER OF 53,920 (See Item 4)

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SHARES 6. Shared Voting Power

BENEFICIALLY

OWNED BY -0- (See Item 4)

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EACH 7. Sole Dispositive Power

REPORTING

PERSON 53,920 (See Item 4)

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WITH 8. Shared Dispositive Power

-0- (See Item 4)

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9. Aggregate Amount Beneficially Owned by Each Reporting Person

53,920

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10. Check if the Aggregate Amount in Row (9) Excludes Certain Shares (See Instructions)

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11. Percent of Class Represented by Amount in Row (9)

0.5%

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12. Type of Reporting Person (See Instructions)

OO (See Item 4)

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CUSIP No. 679580100

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1. Names of Reporting Persons.

I.R.S. Identification Nos. of above persons (entities only).

John R. Congdon Trust for Mary Evelyn Congdon

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2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a)

(b)

---

3. SEC Use Only

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4. Citizenship or Place of Organization

Virginia

---

5. Sole Voting Power

NUMBER OF 63,367 (See Item 4)

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SHARES 6. Shared Voting Power

BENEFICIALLY

OWNED BY -0- (See Item 4)

---

EACH 7. Sole Dispositive Power

REPORTING

PERSON 63,367 (See Item 4)

---

WITH 8. Shared Dispositive Power

-0- (See Item 4)

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9. Aggregate Amount Beneficially Owned by Each Reporting Person

63,367

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10. Check if the Aggregate Amount in Row (9) Excludes Certain Shares (See Instructions)

..

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11. Percent of Class Represented by Amount in Row (9)

0.6%

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12. Type of Reporting Person (See Instructions)

OO (See Item 4)

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Item 1.

(a) Name of Issuer:

Old Dominion Freight Line, Inc.

(b) Address of Issuer's Principal Executive Offices:

500 Old Dominion Way

Thomasville, NC 27360

Item 2.

(a) Names of Persons Filing:

- (i) John R. Congdon, Jr., Custodian
- (ii) John R. Congdon, Jr. Revocable Trust
- (iii) John R. Congdon Trust for Michael Davis Congdon
- (iv) John R. Congdon Trust for Peter Whitefield Congdon
- (v) John R. Congdon Trust for Mary Evelyn Congdon

(b) Address of Principal Business Office:

As to (i) through (v): 7511 Whitepine Road

Richmond, VA 23237

(c) Place of Organization or Citizenship:

(i) USA

(ii) (v) Virginia

(d) Title of Class of Securities:

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Common Stock (\$.10 par value)

(e) CUSIP Number:

679580100

Item 3. If this Statement Is Filed Pursuant to Rule 13d-1(b) or 13d-2(b), Check Whether the Person Filing Is a

Not Applicable. This is a joint filing by the persons identified in Item 2, above, pursuant to Rules 13d-1(c) and Rule 13d-1(f), but not a group filing.

Item 4. Ownership.

The securities reported herein are beneficially owned by John R. Congdon, Jr., as Custodian for his children, the John R. Congdon, Jr. Revocable Trust, the John R. Congdon Trust for Michael Davis Congdon, the John R. Congdon Trust for Peter Whitefield Congdon and the John R. Congdon Trust for Mary Evelyn Congdon. The total securities reported is 484,749

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shares of the Issuer's Common Stock, which constitutes 4.6% of such shares as of December 31, 2002.

As of December 31, 2002, John R. Congdon, Jr., as Custodian for his children, owns directly 11,004 shares (0.1%) of the Issuer's Common Stock.

As of December 31, 2002, the John R. Congdon, Jr. Revocable Trust owns directly 294,648 shares (2.8%) of the Issuer's Common Stock. John R. Congdon, Jr., as Trustee, has sole voting and sole dispositive power over those shares.

As of December 31, 2002, the John R. Congdon Trust for Michael Davis Congdon owns directly 61,810 shares (0.6%) of the Issuer's Common Stock. John R. Congdon, Jr., as Trustee, has sole voting and sole dispositive power over those shares.

As of December 31, 2002, the John R. Congdon Trust for Peter Whitefield Congdon owns directly 53,920 shares (0.5%) of the Issuer's Common Stock. John R. Congdon, Jr., as Trustee, has sole voting and sole dispositive power over those shares.

As of December 31, 2002, John R. Congdon Trust for Mary Evelyn Congdon owns directly 63,367 shares (0.6%) of the Issuer's Common Stock. John R. Congdon, Jr., as Trustee, has sole voting and sole dispositive power over those shares.

(a) Amount beneficially owned:

(i)	11,004
(ii)	294,648
(iii)	61,810
(iv)	53,920
(v)	63,367

(b) Percent of Class:

(i)	0.1%
(ii)	2.8%
(iii)	0.6%
(iv)	0.5%
(v)	0.6%

(c) Number of Shares as to which such person has:

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(i) Sole power to vote or to direct the vote

- (i) 11,004
- (ii) 294,648
- (iii) 61,810
- (iv) 53,920
- (v) 63,367

(ii) Shared power to vote or to direct the vote

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(i) (v) -0-

(iii) Sole power to dispose or to direct the disposition of

(i) 11,004  
(ii) 294,648  
(iii) 61,810  
(iv) 53,920  
(v) 63,367

(iv) Shared power to dispose or to direct the disposition of

(i) (v) -0-

Item 5. Ownership of Five Percent or Less of a Class

If this statement is being filed to report the fact that as of the date hereof the reporting person has ceased to be the beneficial owner of more than five percent of the class of securities, check the following: x

Item 6. Ownership of More Than Five Percent on Behalf of Another Person

See information in Item 4, above.

Item 7. Identification and Classification of the Subsidiary Which Acquired the Security Being Reported on By the Parent Holding Company

Not Applicable

Item 8. Identification and Classification of Members of the Group

See Item 3 and Item 4, above.

Item 9. Notice of Dissolution of Group

Not Applicable

Item 10. Certification.

By signing below, we certify that, to the best of our knowledge and belief, the securities referred to above were acquired in the ordinary course of business and were not acquired for the purpose of and do not have the effect of changing or influencing the control of the issuer of such securities and were not acquired in connection with or as a participant in any transaction having such purposes or effect.

This report shall not be construed as an admission by the persons filing the report that they are the beneficial owner of any securities covered by this report.

After reasonable inquiry and to the best of our knowledge and belief, we certify that the information set forth in this statement is true, complete and correct.

February 10, 2003.

JOHN R. CONGDON, JR., Custodian

*/s/ John R. Congdon, Jr.*

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John R. Congdon, Jr., Custodian for

Peter Whitefield Congdon and

Michael D. Congdon

JOHN R. CONGDON, JR.  
REVOCABLE TRUST

By: */s/ John R. Congdon,  
Jr.*

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John R. Congdon,  
Jr., Trustee

JOHN R. CONGDON TRUST FOR MICHAEL DAVIS CONGDON

By: */s/ John R. Congdon, Jr.*

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John R. Congdon, Jr.,  
Trustee

JOHN R. CONGDON TRUST FOR PETER WHITEFIELD CONGDON

By: */s/ John R. Congdon, Jr.*

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John R. Congdon, Jr.,  
Trustee

JOHN R. CONGDON TRUST FOR MARY EVELYN CONGDON

By:

*/s/ John R. Congdon, Jr.*

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John R. Congdon, Jr.,  
Trustee

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JOINT FILING AGREEMENT

In accordance with Rule 13d-1(f)(1) under the Securities Exchange Act of 1934, as amended, the undersigned hereby agrees to the joint filing with each other of the attached statement on Schedule 13G and to all amendments to such statement and that such statement and all amendments to such statement is made on behalf of each of them.

IN WITNESS WHEREOF, the undersigned hereby execute this agreement on February 10, 2003.

JOHN R. CONGDON, JR., Custodian

*/s/ John R. Congdon, Jr.*

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John R. Congdon, Jr., Custodian for

Peter Whitefield Congdon and

Michael D. Congdon

JOHN R. CONGDON, JR.  
REVOCABLE TRUST

By: */s/ John R. Congdon,  
Jr.*

---

John R. Congdon,  
Jr., Trustee

JOHN R. CONGDON TRUST FOR MICHAEL DAVIS CONGDON

By: */s/ John R. Congdon, Jr.*

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John R. Congdon, Jr.,  
Trustee

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JOHN R. CONGDON TRUST FOR PETER WHITEFIELD CONGDON

By:                   /s/ John R. Congdon, Jr.  
John R. Congdon, Jr.,  
Trustee

JOHN R. CONGDON TRUST FOR MARY EVELYN CONGDON

By:                   /s/ John R. Congdon, Jr.  
John R. Congdon, Jr.,  
Trustee

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:-3.0pt;">® 100 Index

100.00

140.00

140.00%

23.00

32.20

TOPIX

100.00

140.00

140.00%

23.00

32.20

Swiss Market Index

100.00

140.00

140.00%

9.00

12.60

S&P/ASX 200 Index

100.00

140.00

140.00%

8.00

11.20

Final Basket Level:

140.00

Basket Return:

40.00%

In this example, all of the hypothetical final levels for the basket underliers are greater than the applicable hypothetical initial levels, which results in the hypothetical final basket level being greater than the initial basket level of 100.00. Since the hypothetical final basket level was determined to be 140.00, the hypothetical cash settlement amount that we would deliver on your notes at maturity would be capped at the maximum settlement amount of \$1,570.00 for each \$1,000 face amount of your notes (i.e. 157.000% of each \$1,000 face amount of your notes).

**Example 2: The final basket level is greater than the initial basket level but less than the cap level.**

	Column A	Column B	Column C	Column D	Column E
	Hypothetical	Hypothetical	Column B /	Initial	Column C x
Basket Underlier	Initial Level	Final Level	Column A	Weighted	Column D
EURO STOXX 50® Index	100.00	101.00	101.00%	37.00	37.37
FTSE® 100 Index	100.00	102.00	102.00%	23.00	23.46
TOPIX	100.00	103.00	103.00%	23.00	23.69
Swiss Market Index	100.00	108.00	108.00%	9.00	9.72
S&P/ASX 200 Index	100.00	120.00	120.00%	8.00	9.60
				Final Basket Level:	103.84
				Basket Return:	3.84%

In this example, all of the hypothetical final levels for the basket underliers are greater than the applicable hypothetical initial levels, which results in the hypothetical final basket level being greater than the initial basket level of 100.00. Since the hypothetical final



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basket level was determined to be 103.84, the hypothetical cash settlement amount for each \$1,000 face amount of your notes will equal:

$$\text{Cash settlement amount} = \$1,000 + (\$1,000 \times 300\% \times 3.84\%) = \$1,115.20$$

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## Capped Leveraged Basket-Linked Notes due September 27, 2019

**Example 3: The final basket level is less than the initial basket level. The cash settlement amount is less than the \$1,000 face amount.**

	Column A	Column B	Column C	Column D	Column E
	Hypothetical	Hypothetical	Column B /	Initial	Column C x
Basket Underlier	Initial Level	Final Level	Column A	Weighted	Column D
EURO STOXX 50® Index	100.00	40.00	40.00%	Value	14.80
FTSE® 100 Index	100.00	100.00	100.00%	37.00	23.00
TOPIX	100.00	100.00	100.00%	23.00	23.00
Swiss Market Index	100.00	135.00	135.00%	9.00	12.15
S&P/ASX 200 Index	100.00	135.00	135.00%	8.00	10.80
				Final Basket Level:	83.75
				Basket Return:	-16.25%

In this example, the hypothetical final level of the EURO STOXX 50® Index is less than its hypothetical initial level, while the hypothetical final levels of the FTSE® 100 Index and TOPIX are equal to their applicable hypothetical initial levels and the hypothetical final levels of the Swiss Market Index and S&P/ASX 200 Index are greater than their applicable initial levels.

Because the basket is unequally weighted, increases in the lower weighted basket underliers will be offset by decreases in the more heavily weighted basket underliers. In this example, the large decline in the EURO STOXX 50® Index results in the hypothetical final basket level being less than the initial basket level even though the FTSE® 100 Index and TOPIX remained flat and the Swiss Market Index and the S&P/ASX 200 Index increased.

Since the hypothetical final basket level of 83.75 is less than the initial basket level, the hypothetical cash settlement amount for each \$1,000 face amount of your notes will equal:

$$\text{Cash settlement amount} = \$1,000 + (\$1,000 \times -16.25\%) = \$837.50$$

**Example 4: The final basket level is less than the initial basket level. The cash settlement amount is less than the \$1,000 face amount**

Column A	Column B	Column C	Column D	Column E
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	Hypothetical		Column B /	Initial	Column C x
Basket Underlier	Initial Level	Final Level	Column A	Weighted Value	Column D
EURO STOXX 50® Index	100.00	50.00	50.00%	37.00	18.50
FTSE® 100 Index	100.00	60.00	60.00%	23.00	13.80
TOPIX	100.00	60.00	60.00%	23.00	13.80
Swiss Market Index	100.00	65.00	65.00%	9.00	5.85
S&P/ASX 200 Index	100.00	55.00	55.00%	8.00	4.40
				Final Basket Level:	56.35
				Basket Return:	-43.65%

In this example, the hypothetical final levels for all of the basket underliers are less than the applicable hypothetical initial levels, which results in the hypothetical final basket level being less than the initial basket level of 100.00. Since the hypothetical final basket level of 56.35 is less than the initial basket level, the hypothetical cash settlement amount for each \$1,000 face amount of your notes will equal:

$$\text{Cash settlement amount} = \$1,000 + (\$1,000 \times -43.65\%) = \$563.50$$

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## Capped Leveraged Basket-Linked Notes due September 27, 2019

The cash settlement amounts shown above are entirely hypothetical; they are based on levels of the basket underliers that may not be achieved on the determination date and on assumptions that may prove to be erroneous. The actual market value of your notes on the stated maturity date or at any other time, including any time you may wish to sell your notes, may bear little relation to the hypothetical cash settlement amounts shown above, and these amounts should not be viewed as an indication of the financial return on an investment in the offered notes. The hypothetical cash settlement amounts on notes held to the stated maturity date in the examples above assume you purchased your notes at their face amount and have not been adjusted to reflect the actual issue price you pay for your notes. The return on your investment (whether positive or negative) in your notes will be affected by the amount you pay for your notes. If you purchase your notes for a price other than the face amount, the return on your investment will differ from, and may be significantly lower than, the hypothetical returns suggested by the above examples. Please read **Additional Risk Factors Specific to the Underlier-Linked Notes – The Market Value of Your Notes May Be Influenced by Many Unpredictable Factors** in the accompanying Product Supplement No. 6.

Payments on the notes are economically equivalent to the amounts that would be paid on a combination of other instruments. For example, payments on the notes are economically equivalent to a combination of an interest-bearing bond bought by the holder and one or more options entered into between the holder and us (with one or more implicit option premiums paid over time). The discussion in this paragraph does not modify or affect the terms of the notes or the U.S. federal income tax treatment of the notes, as described elsewhere in this Pricing Supplement.

*We cannot predict the actual final basket level on the determination date, nor can we predict the relationship between the level of each basket underlier and the market value of your notes at any time prior to the stated maturity date. The actual amount that a holder of the offered notes will receive, if any, on the stated maturity date and the rate of return on the offered notes will depend on the actual basket return determined by the calculation agent as described above. Moreover, the assumptions on which the hypothetical returns are based may turn out to be inaccurate. Consequently, the amount of cash to be paid in respect of your notes, if any, on the stated maturity date may be very different from the hypothetical cash settlement amounts shown in the tables, examples and charts above.*

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## Capped Leveraged Basket-Linked Notes due September 27, 2019

### ADDITIONAL RISK FACTORS SPECIFIC TO YOUR NOTES

*An investment in your notes is subject to the risks described below, as well as the risks and considerations described under Risk Factors in the accompanying Prospectus, under Risk Factors in the accompanying Prospectus Supplement, under Additional Risk Factors Specific to the Notes in the accompanying General Terms Supplement, and under Additional Risk Factors Specific to the Underlier-Linked Notes in the accompanying Product Supplement No. 6. You should carefully review these risks and considerations as well as the terms of the notes described herein and in the accompanying Prospectus, the accompanying Prospectus Supplement, the accompanying General Terms Supplement and the accompanying Product Supplement No. 6. Your notes are a riskier investment than ordinary debt securities. Also, your notes are not equivalent to investing directly in the underlier stocks, i.e., with respect to a basket underlier to which your notes are linked, the stocks comprising such basket underlier. You should carefully consider whether the offered notes are suited to your particular circumstances.*

### The Notes Are Subject to the Credit Risk of the Bank

Although the return on the notes will be based on the performance of the basket underliers, the payment of any amount due on the notes is subject to the credit risk of the Bank, as issuer of the notes. The notes are our unsecured obligations. As further described in the accompanying Prospectus and Prospectus Supplement, the notes will rank on par with all of the other unsecured and unsubordinated debt obligations of the Bank, except such obligations as may be preferred by operation of law. Investors are dependent on our ability to pay all amounts due on the notes, and therefore investors are subject to our credit risk and to changes in the market's view of our creditworthiness. See Description of Senior Debt Securities Ranking on page 2 of the accompanying Prospectus.

### The Amount Payable on Your Notes Is Not Linked to the Level of Each Basket Underlier at Any Time Other than the Determination Date

The final basket level will be based on the closing levels of the basket underliers on the determination date (subject to adjustment as described elsewhere in this Pricing Supplement). Therefore, if the closing levels of the basket underliers dropped precipitously on the determination date, the cash settlement amount for your notes may be significantly less than it would have been had the cash settlement amount been linked to the closing levels of the basket underliers prior to such drop in the levels of the basket underliers. Although the actual levels of the basket underliers on the stated maturity date or at other times during the life of your notes may be higher than the closing levels of the basket underliers on the determination date, you will not benefit from the closing levels of the basket underliers at any time other than on the determination date.

### You May Lose Your Entire Investment in the Notes

You may lose your entire investment in the notes. The cash payment on your notes, if any, on the stated maturity date will be based on the performance of a weighted basket comprised of the EURO STOXX 50® Index, the FTSE® 100 Index, the TOPIX, the Swiss Market Index and the S&P/ASX 200 Index as measured from the initial basket level of 100 to the final basket level on the determination date. If the final basket level for your notes is less than the initial basket level, you will lose, for each \$1,000 of the face amount of your notes, an amount equal to the *product* of (i) the basket return *times* (ii) \$1,000. Thus, you may lose your entire investment in the notes, which would include any premium to face amount you paid when you purchased the notes.

Also, the market price of your notes prior to the stated maturity date may be significantly lower than the purchase price you pay for your notes. Consequently, if you sell your notes before the stated maturity date, you may receive significantly less than the amount of your investment in the notes.

#### **Your Notes Do Not Bear Interest**

You will not receive any interest payments on your notes. As a result, even if the cash settlement amount payable for your notes on the stated maturity date exceeds the face amount of your notes, the overall return you earn on your notes may be less than you would have earned by investing in a non-index-linked debt security of

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## **Capped Leveraged Basket-Linked Notes due September 27, 2019**

comparable maturity that bears interest at a prevailing market rate.

### **The Potential for the Value of Your Notes to Increase Will Be Limited by the Maximum Settlement Amount**

Your ability to participate in any change in the value of the basket over the life of your notes will be limited because of the cap level. The maximum settlement amount will limit the cash settlement amount you may receive for each of your notes at maturity, no matter how much the level of the basket may rise beyond the cap level over the life of your notes. Accordingly, the amount payable for each of your notes may be significantly less than it would have been had you invested directly in the basket or any of the basket underliers.

### **The Lower Performance of One Basket Underlier May Offset an Increase in the Other Basket Underliers**

Declines in the level of one basket underlier may offset increases in the levels of the other basket underliers. As a result, any return on the basket and thus on your notes may be reduced or eliminated, which will have the effect of reducing the amount payable in respect of your notes at maturity. In addition, because the basket underliers are not equally weighted, increases in the lower weighted basket underliers may be offset by even small decreases in the more heavily weighted basket underliers.

### **The Notes Will Not Be Listed on Any Securities Exchange and We Do Not Expect A Trading Market For the Notes to Develop**

The notes will not be listed or displayed on any securities exchange or any automated quotation system. Although CIBCWM and/or its affiliates may purchase the notes from holders, they are not obligated to do so and are not required to make a market for the notes. There can be no assurance that a secondary market will develop for the notes. Because we do not expect that any market makers will participate in a secondary market for the notes, the price at which you may be able to sell your notes is likely to depend on the price, if any, at which CIBCWM and/or its affiliates are willing to buy your notes.

If a secondary market does exist, it may be limited. Accordingly, there may be a limited number of buyers if you decide to sell your notes prior to the stated maturity date. This may affect the price you receive upon such sale. Consequently, you should be willing to hold the notes to the stated maturity date.

### **The Historical Performance of the Basket Underliers Should Not Be Taken as an Indication of their Future Performance**

The final level of the basket underliers will determine the amount to be paid on the notes at maturity. The historical performance of the basket underliers do not necessarily give an indication of their future performance. As a result, it is impossible to predict whether the level of the basket underliers will rise or fall during the term of the notes. The level of each basket underlier will be influenced by complex and interrelated political, economic, financial and other factors.

**You Have No Shareholder Rights or Rights to Receive Any Basket Underlier Stock**

Investing in the notes will not make you a holder of any of the basket underlier stocks. Neither you nor any other holder or owner of the notes will have any rights with respect to the basket underlier stocks, including any voting rights, any right to receive dividends or other distributions, any rights to make a claim against the basket underlier stocks or any other rights of a holder of the basket underlier stocks. Your notes will be paid in cash and you will have no right to receive delivery of any basket underlier stocks.

**We May Sell an Additional Aggregate Face Amount of the Notes at a Different Issue Price**

At our sole option, we may decide to sell an additional aggregate face amount of the notes subsequent to the date of this Pricing Supplement. The issue price of the notes in the subsequent sale may differ substantially (higher or lower) from the original issue price you paid as provided on the cover of this Pricing Supplement.

**If You Purchase Your Notes at a Premium to Face Amount, the Return on Your Investment Will Be Lower Than the Return on Notes Purchased at Face Amount and the Impact of Certain Key Terms of the Notes Will Be Negatively Affected**

The cash settlement amount will not be adjusted based on the issue price you pay for the notes. If you purchase



## **Capped Leveraged Basket-Linked Notes due September 27, 2019**

notes at a price that differs from the face amount of the notes, then the return on your investment in such notes held to the stated maturity date will differ from, and may be substantially less than, the return on notes purchased at face amount. If you purchase your notes at a premium to face amount and hold them to the stated maturity date, the return on your investment in the notes will be lower than it would have been had you purchased the notes at face amount or a discount to face amount. In addition, the impact of the cap level on the return on your investment will depend upon the price you pay for your notes relative to face amount. For example, if you purchase your notes at a premium to face amount, the cap level will only permit a lower positive return on your investment in the notes than would have been the case for notes purchased at face amount or a discount to face amount.

### **An Investment in the Offered Notes Is Subject to Risks Associated with Foreign Securities**

The value of your notes is linked to basket underliers that are comprised of stocks from one or more foreign securities markets. Investments linked to the value of foreign equity securities involve particular risks. Any foreign securities market may be less liquid, more volatile and affected by global or domestic market developments in a different way than are the U.S. securities market or other foreign securities markets. Both government intervention in a foreign securities market, either directly or indirectly, and cross-shareholdings in foreign companies, may affect trading prices and volumes in that market. Also, there is generally less publicly available information about foreign companies than about those U.S. companies that are subject to the reporting requirements of the SEC. Further, foreign companies are subject to accounting, auditing and financial reporting standards and requirements that differ from those applicable to U.S. reporting companies.

The prices of securities in a foreign country are subject to political, economic, financial and social factors that are unique to such foreign country's geographical region. These factors include: recent changes, or the possibility of future changes, in the applicable foreign government's economic and fiscal policies; the possible implementation of, or changes in, currency exchange laws or other laws or restrictions applicable to foreign companies or investments in foreign equity securities; fluctuations, or the possibility of fluctuations, in currency exchange rates; and the possibility of outbreaks of hostility, political instability, natural disaster or adverse public health developments. The United Kingdom has voted to leave the European Union (popularly known as Brexit). The effect of Brexit is uncertain, and Brexit has and may continue to contribute to volatility in the prices of securities of companies located in Europe and currency exchange rates, including the valuation of the euro and British pound in particular. Any one of these factors, or the combination of more than one of these factors, could negatively affect such foreign securities market and the price of securities therein. Further, geographical regions may react to global factors in different ways, which may cause the prices of securities in a foreign securities market to fluctuate in a way that differs from those of securities in the U.S. securities market or other foreign securities markets. Foreign economies may also differ from the U.S. economy in important respects, including growth of gross national product, rate of inflation, capital reinvestment, resources and self-sufficiency, which may have a positive or negative effect on foreign securities prices.

### **There Are Potential Conflicts of Interest Between You and the Calculation Agent**

The calculation agent will, among other things, determine the cash settlement amount payable at maturity of the notes. We will serve as the calculation agent. We may appoint a different calculation agent without your consent and without notifying you. The calculation agent will exercise its judgment when performing its functions. For example, the calculation agent may have to determine whether a market disruption event affecting a basket underlier has occurred. This determination may, in turn, depend on the calculation agent's judgment as to whether the event has materially interfered with our ability or the ability of one of our affiliates or a similarly situated party to unwind our hedge positions. Since this determination by the calculation agent will affect the

payment at maturity on the notes, the calculation agent may have a conflict of interest if it needs to make a determination of this kind. See General Terms of the Underlier-Linked Notes Role of Calculation Agent in the accompanying Product Supplement No. 6.

**The Inclusion of Dealer Spread and Projected Profit from Hedging in the Original Issue Price Is Likely to Adversely Affect Secondary Market Prices**

Assuming no change in market conditions or any other relevant factors, the price, if any, at which CIBCWM or any other party is willing to purchase the notes at any time in secondary market transactions will likely be significantly

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## **Capped Leveraged Basket-Linked Notes due September 27, 2019**

lower than the original issue price, since secondary market prices are likely to exclude underwriting commissions paid with respect to the notes and the cost of hedging our obligations under the notes that are included in the original issue price. The cost of hedging includes the projected profit that we, our affiliates or any third-party who may conduct hedging activities related to the notes, including any dealer in the notes, may realize in consideration for assuming the risks inherent in managing the hedging transactions. These secondary market prices are also likely to be reduced by the costs of unwinding the related hedging transactions. In addition, any secondary market prices may differ from values determined by pricing models used by CIBCWM as a result of dealer discounts, mark-ups or other transaction costs. Furthermore, if the dealer from which you purchase notes is to conduct trading and hedging activities for us in connection with the notes, that dealer may profit in connection with such trading and hedging activities and such profit, if any, will be in addition to the compensation that the dealer receives for the sale of the notes to you. You should be aware that the potential to earn a profit in connection with hedging activities may create a further incentive for the dealer to sell the notes to you, in addition to the compensation they would receive for the sale of the notes.

### **The Bank's Estimated Value of the Notes Is Lower than the Original Issue Price (Price to Public) of the Notes**

The Bank's estimated value is only an estimate using several factors. The original issue price of the notes exceeds the Bank's estimated value because costs associated with selling and structuring the notes, as well as hedging the notes, are included in the original issue price of the notes. See "The Bank's Estimated Value of the Notes" in this Pricing Supplement.

### **The Bank's Estimated Value Does Not Represent Future Values of the Notes and May Differ from Others' Estimates**

The Bank's estimated value of the notes was determined by reference to the Bank's internal pricing models when the terms of the notes were set. This estimated value was based on market conditions and other relevant factors existing at that time and the Bank's assumptions about market parameters, which can include volatility, dividend rates, interest rates and other factors. Different pricing models and assumptions could provide valuations for the notes that are greater than or less than the Bank's estimated value. In addition, market conditions and other relevant factors in the future may change, and any assumptions may prove to be incorrect. On future dates, the value of the notes could change significantly based on, among other things, changes in market conditions, our creditworthiness, interest rate movements and other relevant factors, which may impact the price, if any, at which CIBCWM or any other person would be willing to buy notes from you in secondary market transactions. See "The Bank's Estimated Value of the Notes" in this Pricing Supplement.

### **The Bank's Estimated Value Was Not Determined by Reference to Credit Spreads for Our Conventional Fixed-Rate Debt**

The internal funding rate used in the determination of the Bank's estimated value generally represents a discount from the credit spreads for our conventional fixed-rate debt. If the Bank were to have used the interest rate implied by our conventional fixed-rate credit spreads, we would expect the economic terms of the notes to be more favorable to you. Consequently, our use of an internal funding rate had an adverse effect on the terms of the notes and could have an adverse effect on any secondary market prices of the notes. See "The Bank's Estimated Value of the Notes" in this Pricing Supplement.

**We Cannot Control Actions By Any of the Unaffiliated Companies Whose Securities Are Included in the Basket Underliers**

Actions by any company whose securities are included in any of the basket underliers may have an adverse effect on the price of its security, the final basket level and the value of the notes. These companies will not be involved in the offering of the notes and will have no obligations with respect to the notes, including any obligation to take our or your interests into consideration for any reason. These companies will not receive any of the proceeds of the offering of the notes and will not be responsible for, and will not have participated in, the determination of the timing of, prices for, or quantities of, the notes to be issued. These companies will not be involved with the administration, marketing or trading of the notes and will have no obligations with respect to the cash settlement amount to be paid to you at maturity.

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### **We and Our Respective Affiliates Have No Affiliation with the Sponsor of any of the Basket Underliers and Have Not Independently Verified Its Public Disclosure of Information**

We and our respective affiliates are not affiliated in any way with the sponsor of any of the basket underliers and have no ability to control or predict their actions, including any errors in or discontinuation of disclosure regarding the methods or policies relating to the calculation of the respective basket underliers. We have derived the information about the sponsor of each of the basket underliers and each of the basket underliers contained herein from publicly available information, without independent verification. You, as an investor in the notes, should make your own investigation into the basket underliers and the sponsors of the basket underliers. None of the sponsors of the basket underliers is involved in the offering of the notes made hereby in any way or has any obligation to consider your interest as an owner of notes in taking any actions that might affect the value of the notes.

### **The U.S. Federal Tax Consequences of An Investment in the Notes Are Unclear**

There is no direct legal authority regarding the proper U.S. federal tax treatment of the notes, and we do not plan to request a ruling from the U.S. Internal Revenue Service (the IRS). Consequently, significant aspects of the tax treatment of the notes are uncertain, and the IRS or a court might not agree with the treatment of the notes as prepaid cash-settled derivative contracts. If the IRS were successful in asserting an alternative treatment of the notes, the tax consequences of the ownership and disposition of the notes might be materially and adversely affected. The U.S. Treasury Department and the IRS released a notice requesting comments on various issues regarding the U.S. federal income tax treatment of prepaid forward contracts and similar instruments. See Supplemental Discussion of U.S. Federal Income Tax Consequences in the accompanying Product Supplement No. 6. Any Treasury regulations or other guidance promulgated after consideration of these issues could materially and adversely affect the tax consequences of an investment in the notes, including the character and timing of income or loss and the degree, if any, to which income realized by non-U.S. persons should be subject to withholding tax, possibly with retroactive effect. Both U.S. and non-U.S. persons considering an investment in the notes should review carefully the section of the accompanying Product Supplement No. 6 entitled Supplemental Discussion of U.S. Federal Income Tax Consequences and consult their tax advisers regarding the U.S. federal tax consequences of an investment in the notes (including possible alternative treatments and the issues presented by the notice), as well as tax consequences arising under the laws of any state, local or non-U.S. taxing jurisdiction.

### **There Can Be No Assurance that the Canadian Federal Income Tax Consequences of an Investment in the Notes Will Not Change in the Future**

There can be no assurance that Canadian federal income tax laws, the judicial interpretation thereof, or the administrative policies and assessing practices of the Canada Revenue Agency will not be changed in a manner that adversely affects investors. For a discussion of the Canadian federal income tax consequences of investing in the notes, please read the section of this Pricing Supplement entitled Certain Canadian Federal Income Tax Considerations as well as the section entitled Material Income Tax Consequences Canadian Taxation in the accompanying Prospectus. You should consult your tax advisor with respect to your own particular situation.

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## Capped Leveraged Basket-Linked Notes due September 27, 2019

### THE BASKET AND THE BASKET UNDERLIERS

#### The Basket

The basket is comprised of five basket underliers with the following initial weights within the basket: the EURO STOXX 50® Index (37.00% weighting), the FTSE® 100 Index (23.00% weighting), the TOPIX (23.00% weighting), the Swiss Market Index (9.00% weighting) and the S&P/ASX 200 Index (8.00% weighting).

#### The EURO STOXX 50® Index

The EURO STOXX 50® Index is a free-float market capitalization-weighted index of 50 European blue-chip stocks and was created by and is sponsored and maintained by STOXX Limited. Publication of the EURO STOXX 50® Index began on February 26, 1998, based on an initial index value of 1,000 at December 31, 1991. The 50 stocks included in the EURO STOXX 50® Index trade in Euros, and are allocated, based on their country of incorporation, primary listing and largest trading volume, to one of the following countries: Austria, Belgium, Finland, France, Germany, Ireland, Italy, Luxembourg, the Netherlands, Portugal and Spain, which we refer to collectively as the Eurozone. The level of the EURO STOXX 50® Index is disseminated on the STOXX website. STOXX is under no obligation to continue to publish the index and may discontinue publication of it at any time. Additional information regarding the EURO STOXX 50® Index may be obtained from the STOXX website: [stox.com](http://stox.com). We are not incorporating by reference the website or any material it includes in this Pricing Supplement.

The top ten constituent stocks of the EURO STOXX 50® Index as of December 29, 2017, by weight, are: Total SA (4.87%), Siemens AG (4.13%), SAP SE (3.91%), Banco Santander SA (3.70%), Bayer AG (3.60%), Allianz SE (3.58%), BASF SE (3.53%), Sanofi SA (3.44%), Unilever NV (3.09%), and BNP Paribas (3.00%); constituent weights may be found at [stox.com/index-details?symbol=sx5e](http://stox.com/index-details?symbol=sx5e) under Data Factsheet Information and are updated periodically.

As of December 29, 2017, the top ten industry sectors comprising the EURO STOXX 50® Index are: Banks (15.6%), Industrial Goods & Services (10.7%), Health Care (10.5%), Personal & Household Goods (9.0%), Technology (7.2%), Insurance (6.9%), Oil & Gas (6.3%), Chemicals (5.4%), Automobiles & Parts (5.4%), and Utilities (5.2%); industry weightings may be found at [stox.com/index-details?symbol=sx5e](http://stox.com/index-details?symbol=sx5e) under Data Factsheet Information and are updated periodically. Sector designations are determined by the underlier sponsor using criteria it has selected or developed. Index sponsors may use very different

standards for determining sector designations. In addition, many companies operate in a number of sectors, but are listed in only one sector and the basis on which that sector is selected may also differ. As a result, sector comparisons between indices with different index sponsors may reflect differences in methodology as well as actual differences in the sector composition of the indices.

As of December 29, 2017, the eight countries which comprise the EURO STOXX 50® Index represent the following weights in the index: France (36.6%), Germany (33.4%), Spain (10.2%), Netherlands (10.1%), Italy (4.8%), Belgium (2.9%), Ireland (1.1%), and Finland (1.0%); country weightings may be found at [stxx.com/index-details?symbol=sx5e](http://stxx.com/index-details?symbol=sx5e) under Data Factsheet Information and are updated periodically. Percentages may not sum to 100% due to rounding.

The above information supplements the description of the EURO STOXX 50® Index found in the accompanying General Terms Supplement. This information was derived from information prepared by the basket underlier sponsor, however, the percentages we have listed above are approximate and may not match the information available on the basket underlier sponsor's website due to subsequent corporation actions or other activity relating to a particular stock. For more details about the EURO STOXX 50® Index, the basket underlier sponsor and license agreement between the basket underlier sponsor and the issuer, see The Underliers EURO STOXX 50® Index in the accompanying General Terms Supplement.

We have entered into an agreement with STOXX providing us and certain of our affiliates or subsidiaries identified in that agreement with a non-exclusive license and, for a fee, with the right to use the EURO STOXX 50®, which is owned and published by STOXX, in connection with certain securities, including the notes.



## Capped Leveraged Basket-Linked Notes due September 27, 2019

The EURO STOXX 50® Index is the intellectual property (including registered trademarks) of STOXX Limited, Zurich, Switzerland ( STOXX ), Deutsche Börse Group or their licensors, which is used under license. The notes are neither sponsored nor promoted, distributed or in any other manner supported by STOXX, Deutsche Börse Group or their licensors, research partners or data providers and STOXX, Deutsche Börse Group and their licensors, research partners or data providers do not give any warranty, and exclude any liability (whether in negligence or otherwise) with respect thereto generally or specifically in relation to any errors, omissions or interruptions in the EURO STOXX 50® Index or its data.

### The FTSE® 100 Index

The FTSE® 100 Index is a market capitalization-weighted index of the 100 most highly capitalized U.K.-listed blue chip companies traded on the London Stock Exchange. The index was developed with a base level of 1,000 as of December 30, 1983. The FTSE® 100 Index is calculated, published and disseminated by FTSE Russell, the trade name of FTSE International Limited and Frank Russell Company, both owned by the London Stock Exchange Group plc (the Exchange ). Additional information on the FTSE® 100 Index is available from the following website: [ftse.com/products/indices/uk](http://ftse.com/products/indices/uk). We are not incorporating by reference the website or any material it includes in this Pricing Supplement. FTSE Russell is under no obligation to continue to publish the FTSE® 100 Index and may discontinue publication of the FTSE® 100 Index at any time.

### FTSE® 100 Index

#### Index Stock Weighting by Sector as of December 29, 2017

Sector:*	Percentage (%)**
Oil & Gas	15.50
Chemicals	0.58
Basic Resources	8.03
Construction & Materials	1.12
Industrial Goods & Services	6.67
Automobiles & Parts	0.28
Food & Beverage	4.12
Personal & Household Goods	13.61
Health Care	9.05
Retail	2.47
Media	3.19
Travel & Leisure	3.96
Telecommunications	4.30
Utilities	3.10

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Banks	13.45
Insurance	5.99
Real Estate	1.22
Financial Services	2.38
Technology	0.98

\* Sector designations are determined by the basket underlier sponsor using criteria it has selected or developed (FTSE Russell classifies index stock weighting by supersectors under the Industry Classification Benchmark). Index sponsors may use very different standards for determining sector designations. In addition, many companies operate in a number of sectors, but are listed in only one sector and the basis on which that sector is selected may also differ. As a result, sector comparisons between indices with different index sponsors may reflect differences in methodology as well as actual differences in the sector composition of the indices.

\*\* The sector classification weightings are derived from information prepared by the basket underlier sponsor. Percentages may not sum to 100% due to rounding.

The top five constituent stocks of the FTSE® 100 Index as of December 29, 2017, by weight, are: HSBC Holdings PLC (7.75%); British American Tobacco PLC (5.78%); Royal Dutch Shell PLC Class A (5.68%); BP PLC (5.07%); and Royal Dutch Shell PLC Class B (4.74%).

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## Capped Leveraged Basket-Linked Notes due September 27, 2019

In addition to the eligibility criteria discussed under "The Underliers FTSE® 100 Index" in the accompanying General Terms Supplement, in order to be included in the FTSE® 100 Index, a company is required to have greater than 5% of its voting rights (aggregated across all of its equity securities, including, where identifiable, those that are not listed or trading) in the hands of unrestricted shareholders. Current constituents of the FTSE® 100 Index who do not meet this requirement will have until the September 2022 review to meet the requirement or they will be removed from the FTSE® 100 Index.

The above information supplements the description of the basket underlier found in the accompanying General Terms Supplement. This information was derived from information prepared by the basket underlier sponsor, however, the percentages we have listed above are approximate and may not match the information available on the underlier sponsor's website due to subsequent corporation actions or other activity relating to a particular stock. For more details about the basket underlier, the basket underlier sponsor and license agreement between the underlier sponsor and the issuer, see "The Underliers FTSE® 100 Index" in the accompanying General Terms Supplement.

CIBC will enter into an agreement with FTSE Russell or its affiliates as necessary to provide us and certain of our affiliates or subsidiaries, in exchange for a fee, a non-exclusive license to use the FTSE® 100 in connection with certain securities, including the notes.

*All rights in the FTSE® 100 Index vest in FTSE Russell ( FTSE ). FTSE® is a trade mark of the London Stock Exchange Group companies and is used by FTSE under license. The notes have been developed solely by CIBC. The FTSE® 100 Index is calculated by FTSE or its agent. FTSE and its licensors are not connected to and do not sponsor, advise, recommend, endorse or promote the notes and do not accept any liability whatsoever to any person arising out of (a) the use of, reliance on or any error in the FTSE® 100 Index or (b) investment in or operation of the notes. FTSE makes no claim, prediction, warranty or representation either as to the results to be obtained from the notes or the suitability of the FTSE® 100 Index for the purpose to which it is being put by CIBC.*

### TOPIX

TOPIX, also known as the Tokyo Price Index, is a capitalization weighted index of all the domestic common stocks listed on the First Section of the Tokyo Stock Exchange, Inc., which we refer to as the TSE. Domestic stocks admitted to the TSE are assigned either to the TSE First Section Index, the TSE Second Section Index or the TSE Mothers Index. Stocks listed in the First Section, which number approximately 1,700, are among the most actively traded stocks on the TSE. TOPIX is supplemented by the sub-basket components of the 33 industry sectors and was developed with a base index value of 100 as of January 4, 1968. TOPIX is calculated and published by TSE. Additional information about TOPIX is available on the following website: [jpx.co.jp/english/markets/indices/topix](http://jpx.co.jp/english/markets/indices/topix). We are not incorporating by reference the website or any material it includes in this Pricing Supplement.

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**Capped Leveraged Basket-Linked Notes due September 27, 2019****TOPIX****Basket Underlier Stock Weighting by Sector as of November 30, 2017**

Sector:*	Percentage (%)**
Electric Appliances	13.94%
Transportation Equipment	8.76%
Information & Communication	7.79%
Banks	7.29%
Chemicals	7.28%
Machinery	5.48%
Retail Trade	4.68%
Wholesale Trade	4.47%
Foods	4.49%
Pharmaceutical	4.38%
Land Transportation	3.96%
Services	4.21%
Construction	3.32%
Others	19.96%

\* Sector designations are determined by the basket underlier sponsor using criteria it has selected or developed. Index sponsors may use very different standards for determining sector designations. In addition, many companies operate in a number of sectors, but are listed in only one sector and the basis on which that sector is selected may also differ. As a result, sector comparisons between indices with different index sponsors may reflect differences in methodology as well as actual differences in the sector composition of the indices.

\*\* Information provided by TSE. Percentages may not sum to 100% due to rounding.

The above information supplements the description of TOPIX found in the accompanying General Terms Supplement. For more details about TOPIX, the basket underlier sponsor and the license agreement between the basket underlier sponsor and the issuer, see The Underliers TOPIX in the accompanying General Terms Supplement.

CIBC will enter into an agreement with TSE or its affiliates as necessary to provide us and certain of our affiliates or subsidiaries, in exchange for a fee, a non-exclusive license to use TOPIX, which is sponsored, calculated and published by TSE, in connection with certain securities, including the notes.

TOPIX Value and TOPIX Marks are subject to the proprietary rights owned by TSE and TSE owns all rights and know-how relating to the TOPIX such as calculation, publication and use of TOPIX Value and relating to TOPIX Marks. TSE shall reserve the rights to change the methods of calculation or publication, to cease the calculation or publication of TOPIX Value or to change TOPIX Marks or cease the use thereof. TSE makes no warranty or representation whatsoever, either as to the results stemmed from the use of TOPIX Value and TOPIX Marks or as to the figure at which TOPIX Value stands on any particular day. TSE gives no assurance regarding accuracy or completeness of TOPIX Value and data contained therein. Further, TSE shall not be liable for the miscalculation, incorrect publication, delayed or interrupted publication of TOPIX Value. No securities are in any way sponsored, endorsed or promoted by the TSE. TSE shall not bear any obligation to give an explanation of the notes or an advice on investments to any purchaser of the notes or to the public. TSE neither selects specific stocks or groups thereof nor takes into account any needs of the issuing company or any purchaser of the notes, for calculation of TOPIX Value. Including but not limited to the foregoing, the TSE shall not be responsible for any damage resulting from the issue and sale of the notes.

### **Swiss Market Index (SMI®)**

The SMI®, which we also refer to in this description as the index :

- was first launched with a base level of 1,500 as of June 30, 1988; and
- is sponsored, calculated, published and disseminated by SIX Group Ltd., certain of its subsidiaries, and the Management Committee of the SIX Swiss Exchange.

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## Capped Leveraged Basket-Linked Notes due September 27, 2019

The index is a price return float-adjusted market capitalization-weighted index of the 20 largest stocks traded on the Swiss Stock Exchange. The SIX Swiss Exchange has outsourced certain aspects of the benchmark determination process, essentially the development and maintenance of its indices as described below, to STOXX Limited in Zurich, Switzerland. All matters regarding the index that require a decision, including regarding processes outsourced to STOXX, are submitted to the Management Committee. The Management Committee of the SIX Swiss Exchange is supported by an Index Commission in all index-related matters, notably in connection with changes to the index rules and adjustments, additions and exclusions outside of the established review and acceptance period. The Index Commission meets at least twice annually.

As of December 30, 2016, the top ten constituents of the index (and their respective weightings in the index) were: Nestle SA (22.72%); Novartis AG (19.45%); Roche Holding AG (16.33%); UBS AG (5.75%); Zurich Insurance Group (4.22%); ABB Ltd (4.00%); Syngenta AG (3.72%); Richemont SA (3.52%); Swiss Re AG (3.11%); and Credit Suisse Group AG (2.89%).

As of December 30, 2016, the ICB industry sectors in the index (and their respective weights) were: Basic Materials (5.2%), Consumer Goods (27.2%), Financials (17.9%), Health Care (38.2%), Industrials (10.4%) and Telecommunications (1.2%) (may not sum to 100% due to rounding). Sector designations are determined by the index sponsor using criteria it has selected or developed. Index sponsors may use very different standards for determining sector designations. In addition, many companies operate in a number of sectors, but are listed in only one sector and the basis on which that sector is selected may also differ. As a result, sector comparisons between indices with different index sponsors may reflect differences in methodology as well as actual differences in the sector composition of the indices.

### *SM<sup>®</sup> Composition and Selection Criteria*

The index is comprised of the 20 highest ranked stocks traded on the Swiss Stock Exchange that have a free float of 20% or more and that are not investment companies. The equity universe is largely Swiss domestic companies, although in some cases foreign issuers with a primary listing on the Swiss Stock Exchange that submit to certain reporting requirements or investment companies that do not hold any shares of any other eligible company and that have a primary listing on the Swiss Stock Exchange may be included.

The ranking of each security is determined by a combination of the following criteria:

- average free-float market capitalization over the last 12 months (compared to the capitalization of the entire Swiss Stock Exchange index family), and
- cumulative on order book turnover over the last 12 months (compared to the total turnover of the Swiss Stock Exchange index family).

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Each of these two factors is assigned a 50% weighting in ranking the stocks eligible for the index.

The index is reconstituted annually after prior notice of at least two months on the third Friday in September after the close of trading. For companies that were listed during the last 12 months, the cumulated on order book turnover generally excludes the first 5 trading days in the calculation. The ordinary index reconstitution is based on data from the previous July 1 through June 30. Provisional interim selection (ranking) lists based on the average free-float market capitalization and cumulative on order book turnover over the last 12 months are also published at the cut off dates March 31, September 30 and December 31.

In order to reduce turnover, an index constituent will not be replaced unless it is ranked below 23 or, if it is ranked 21 or 22, if another share ranks 18 or higher. If a company has primary listings on several exchanges and less than 50% of that company's total turnover is generated on the Swiss Stock Exchange, it will not be included in the index unless it ranks at least 18 or better on the selection list solely on the basis of its turnover on those exchanges on which it has a primary listing (i.e., without considering its free float).

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## Capped Leveraged Basket-Linked Notes due September 27, 2019

### *Maintenance of the Index*

Constituent Changes. In the case of major market changes as a result of capital events such as mergers or new listings, the Management Committee of the SIX Swiss Exchange can decide at the request of the Index Commission that a security should be admitted to the index outside the annual review period as long as it clearly fulfills the criteria for inclusion. For the same reasons, a security can also be excluded if the requirements for admission to the index are no longer fulfilled. As a general rule, extraordinary acceptances into the index take place after a three-month period on a quarterly basis after the close of trading on the third Friday of March, June, September and December (for example, a security listed on or before the 5<sup>th</sup> trading day prior to the end of November cannot be included until the following March). If a delisting has been confirmed, it will be removed from the index at the next upcoming ordinary quarterly adjustment date (March, June, September and December) with a notice period of at least five days. An announced insolvency is deemed to be an extraordinary event and the security will be removed from the index five trading days prior notice if the circumstances permit such notice.

Capped Weightings and Intra-Quarter Breaches. The weight of any index constituent that exceeds a weight of 18% within the index is reduced to that value at each ordinary quarterly adjustment date by applying a capping factor to the calculation of such constituent's free float market capitalization. A constituent's number of shares and free float figure are used to determine its capping factor. The excess weight (the difference of the original weight minus the capped weight) is distributed proportionally across the other index constituents. The constituents are also capped to 18% as soon as two index constituents exceed a weight of 20% (an intra-quarter breach). If an intra-quarter breach is observed after the close of the markets, a new calculation of the capping factors is executed immediately and communicated to the market in order to ensure that the maximum weight per constituent is capped at 18% for the opening on the next day. In order to achieve a capped weighting while attempting to not cause market distortion, a stepwise reduction is conducted based on the ordinary quarterly index adjustment reviews to ensure that no change in the weight (as a result of capping) from one review to the next exceeds 3%. The transition period is in effect until no component has a weight larger than 18%. In the case of an intraquarter breach, the weights are limited to the last defined weights as of the prior review.

Number of Shares and Free Float. The securities included in the index are weighted according to their free float. This means that shares deemed to be in firm hands are subtracted from the total market capitalization of that company. The free float is calculated on the basis of outstanding shares. Issued and outstanding equity capital is, as a rule, the total amount of equity capital that has been fully subscribed and wholly or partially paid in and documented in the Commercial Register. Not counting as issued and outstanding equity capital are the approved capital and the conditional capital of a company. The free float is calculated on the basis of listed shares only. If a company offers several different categories of listed participation rights, each is treated separately for the purposes of index calculation.

Fundamentally deemed to be shares held in firm hands are shareholdings that have been acquired by one person or a group of persons in companies domiciled in Switzerland and which, upon exceeding 5%, have been reported to the SIX Swiss Exchange. Shares of persons and groups of persons who are subject to a shareholder agreement which is binding for more than 5% of the listed shares or who, according to publicly known facts, have a long-term interest in a company are also deemed to be in firm hands.

For the calculation of the number of shares in firm hands, the SIX Swiss Exchange may also use other sources than the reports submitted to it. In particular, the SIX Swiss Exchange may use data gained from issuer surveys that it conducts itself.

In general, shares held by custodian nominees, trustee companies, investment funds, pension funds and investment companies are deemed free-floating regardless of whether a report has been made to the SIX Swiss Exchange. The SIX Swiss Exchange classifies at its own discretion persons and groups of persons who, because of their area of activity or the absence of important information, cannot be clearly assigned.

The free-float rule applies only to bearer shares and registered shares. Capital issued in the form of participation certificates ( Partizipationsscheine ) and bonus certificates ( Genussscheine ) is taken into full account in calculating the index because it does not confer voting rights.

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The number of securities in the index and the free-float factors are adjusted after the close of trading on four adjustment dates per year, the third Friday of March, June, September and December. Such changes are provisionally pre-announced at least one month before the adjustment date, although the index sponsor reserves the right to take account of recent changes up to five trading days before the adjustment date in the actual adjustment.

In order to avoid frequent slight changes to the weighting and to maintain the stability of the index, any extraordinary change of the total number of outstanding securities or the free float will only result in an extraordinary adjustment if it exceeds 10% and 5% respectively, occurs from one trading to the next and is in conjunction with a corporate action.

After a takeover, the index sponsor may, in exceptional cases, adjust the free float of the company in question upon publication of the end results after a five-day notification period or may exclude the security from the relevant index family. When an insolvency has been announced, an extraordinary adjustment will be made and the affected security will be removed from the index after five trading days notice, and a replacement will be determined based on the current selection list.

The index sponsor reserves the right to make an extraordinary adjustment, in exceptional cases, without observing the notification period.

### *Calculation of the Index*

The index sponsor calculates the index using the Laspeyres formula, with a weighted arithmetic mean of a defined number of securities issues. The formula for calculating the index value can be expressed as follows:

$$\text{Swiss Market Index} = \frac{\text{Free Float Market Capitalization of the SMI}^{\circledast}}{\text{Divisor}}$$

The free float market capitalization of the SMI<sup>Ⓢ</sup> is equal to the sum of the product of the last-paid price, the number of shares, the free float factor, the capping factor and, if a foreign stock is included, the current CHF exchange rate as of the time the index value is being calculated. (As of December 9, 2016 all stocks in the index are denominated in Swiss Francs, known as CHF). The index value is calculated in real time and is updated whenever a trade is made in a component stock. Where any index component stock price is unavailable on any trading day, the index sponsor will use the last reported price for such component stock. Only prices from the SIX Swiss Exchange's electronic order book are used in calculating the index.

### *Divisor Value and Adjustments*

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The divisor is a technical number used to calculate the index and is adjusted to reflect changes in market capitalization due to corporate events.

Below are common corporate events and their impact on the divisor of the index:

Event	Divisor Change?
Regular cash dividend	No
Repayments of capital through reduction of a share's par value	No
Special dividends, anniversary bonds and other extraordinary payments that, contrary to the company's usual dividend policy, are paid out or declared extraordinary.	Yes
Share dividends (company's own shares)	No
Share dividend (shares of another company)	Yes

The index sponsor reserves the right to respond to any other corporate events with divisor adjustments or, in extraordinary circumstances, to depart from the provisions set forth above.

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### *License Agreement between SIX Swiss Exchange and CIBC*

CIBC will enter into an agreement with SIX Swiss Exchange AG or its affiliates as necessary to provide us and certain of our affiliates or subsidiaries, in exchange for a fee, a non-exclusive license to use the SMI®, which is owned and published by the SIX Swiss Exchange, in connection with certain securities, including the notes.

The SIX Swiss Exchange and its licensors (the Licensors ) have no relationship to us, other than the licensing of the SMI® and the related trademarks for use in connection with the notes.

The SIX Swiss Exchange and its Licensors do not sponsor, endorse, sell or promote the notes; recommend that any person invest in the notes; have any responsibility or liability for or make any decisions about the timing, amount or pricing of the notes; have any responsibility or liability for the administration, management or marketing of the notes; or consider the needs of the notes or the owners of the notes in determining, composing or calculating the SMI® or have any obligation to do so.

The SIX Swiss Exchange and its Licensors will not have any liability in connection with the notes. Specifically, the SIX Swiss Exchange and its Licensors do not make any warranty, express or implied and disclaim any and all warranty about: the results to be obtained by the notes, the owners of the notes or any other person in connection with the use of the SMI® and the data included in the SMI®; the accuracy or completeness of the SMI® and its data; and the merchantability and the fitness for a particular purpose or use of the SMI® and its data. The SIX Swiss Exchange and its Licensors will have no liability for any errors, omissions or interruptions in the SMI® or its data. Under no circumstances will the SIX Swiss Exchange or its Licensors be liable for any lost profits or indirect, punitive, special or consequential damages or losses, even if the SIX Swiss Exchange or its Licensors knows that they might occur. The licensing agreement between us and the SIX Swiss Exchange will be solely for our benefit and the benefit the SIX Swiss Exchange and not for the benefit of the owners of the notes or any other third parties.

### **S&P/ASX 200**

The S&P/ASX 200, which we also refer to in this description as the index :

- is sponsored, calculated, published and disseminated by S&P Dow Jones Indices LLC, a part of McGraw Hill Financial ( S&P );
- was acquired and re-launched by its current index sponsor on April 3, 2000; and
- is the responsibility of the S&P/ASX Index Committee ( Index Committee ), comprised of five voting members representing S&P and the Australian Securities Exchange.

The index includes 200 companies and covers approximately 80% of the Australian equity market by float-adjusted market capitalization. As discussed below, the S&P/ASX 200 is not limited solely to companies having their primary operations or headquarters in Australia or to companies having their primary listing on the Australian Securities Exchange, which we refer to as the ASX. All ordinary and preferred shares (if such preferred shares are not of a fixed income nature) listed on the ASX, including secondary listings, are eligible for the index. Hybrid stocks such as convertible stocks, bonds, warrants, preferred stock that provides a guaranteed fixed return and listed investment companies are not eligible for inclusion. Stocks currently under consideration for merger or acquisition are not eligible for inclusion or promotion to the index.

As of December 29, 2017, the top 10 index stocks by weight were the following: Commonwealth Bank Australia, Westpac Banking Corp., BHP Billiton Ltd., ANZ Banking Group, National Australia Bank Ltd., CSL Ltd., Wesfarmers Ltd., Telstra Corp Ltd., Woolworths Ltd., and Macquarie Group Ltd.

As of December 29, 2017, the 11 GICS industry sectors represented by stocks in the index include: Financials (35.6%), Materials (17.9%), Real Estate (8.0%), Consumer Staples (7.4%), Industrials (7.2%), Health Care (7.1%), Energy (5.2%), Consumer Discretionary (4.7%), Telecommunication Services (3.1%), Utilities (2.1%), and Information Technology (1.9%). Sector designations are determined by the index sponsor using criteria it has

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selected or developed. Index sponsors may use very different standards for determining sector designations. In addition, many companies operate in a number of sectors, but are listed in only one sector and the basis on which that sector is selected may also differ. As a result, sector comparisons between indices with different index sponsors may reflect differences in methodology as well as actual differences in the sector composition of the indices. S&P and MSCI, Inc. have announced that the Global Industry Classification Sector structure is expected to be updated after the close of business on September 28, 2018. Among other things, the update is expected to broaden the current Telecommunication Services sector and rename it the Communication Services sector. The renamed sector is expected to include the existing telecommunication companies, as well as companies selected from the Consumer Discretionary sector currently classified under the Media industry group and the Internet & Direct Marketing Retail sub-industry, along with select companies currently classified in the Information Technology sector. Further, companies that operate online marketplaces for consumer products and services are expected to be included under the Internet & Direct Marketing sub-industry of the Consumer Discretionary sector, regardless of whether they hold inventory.

As of December 29, 2017, the countries of domicile included in the index and their relative weights were: Australia (98.3%), United States (0.7%), New Zealand (0.7%), and the United Kingdom (0.2%).

The S&P/ASX 200 Index is intended to provide exposure to the largest 200 eligible securities that are listed on the ASX by float-adjusted market capitalization. Constituent companies for the S&P/ASX 200 Index are chosen based on market capitalization, public float and liquidity. All index-eligible securities that have their primary or secondary listing on the ASX are included in the initial selection of stocks from which the 200 index stocks may be selected.

The float-adjusted market capitalization of companies is determined based on the daily average market capitalization over the last six months. The security's price history over the last six months, the latest available shares on issue and the investable weight factor, which we refer to as the IWF, are the factors relevant to the calculation of daily average market capitalization. The IWF is a variable that is primarily used to determine the available float of a security for ASX listed securities.

### *Number of Shares*

When considering the index eligibility of securities for inclusion or promotion into S&P/ASX indices, the number of index securities under consideration is based upon the latest available ASX quoted securities. For domestic securities (companies incorporated in Australia and traded on the ASX, companies incorporated overseas but exclusively listed on the ASX and companies incorporated overseas and traded on other markets but most of its trading activity is on the ASX), this figure is purely based upon the latest available data from the ASX.

Foreign-domiciled securities may quote the total number of securities on the ASX that is representative of their global equity capital; whereas other foreign-domiciled securities may quote securities on the ASX on a partial basis that represents their Australian equity capital. In order to overcome this inconsistency, S&P will quote the number of index securities that are represented by CHESS Depositary Interests (CDIs) for a foreign entity. When CDIs are not issued, S&P will use the total securities held on the Australian register (CHESS and, where supplied, the issuer sponsored register). This quoted number for a foreign entity is representative of the Australian equity capital, thereby allowing the index to be reflective of the Australian market.

The number of CDIs or shares of a foreign entity quoted on the ASX can experience more volatility than is typically the case for ordinary shares on issue. Therefore, an average number on issue will be applied over a six-month period.

Where CDI information is not supplied to the ASX by the company or the company's share register, estimates for Australian equity capital will be drawn from CHES data and, ultimately, registry-sourced data.

*IWF*

The IWF represents the float-adjusted portion of a stock's equity capital. Therefore, any strategic holdings that are classified as either corporate, private or government holdings reduce the IWF which, in turn, results in a reduction

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in the float-adjusted market capital. Shares owned by founders, directors of the company, trusts, venture capitalists and other companies are also excluded. These are also deemed strategic holders, and are considered long-term holders of a stock's equity. Any strategic shareholdings that are greater than 5% of total issued shares are excluded from the relevant float.

The IWF ranges between 0 and 1, is calculated as  $1 - \text{Sum of the \% held by strategic shareholders who possess 5\% or more of issued shares}$ , and is an adjustment factor that accounts for the publicly available shares of a company. A company must have a minimum IWF of 0.3 to be eligible for index inclusion.

S&P identifies the following shareholders whose holdings are considered to be control blocks and are subject to float adjustment:

- Government and government agencies;
- Controlling and strategic shareholders/partners;
- Any other entities or individuals which hold more than 5%; excluding insurance companies, securities companies and investment funds;
- Other restricted portions such as treasury stocks.

### *Liquidity Test*

Only stocks that are regularly traded are eligible for inclusion. Eligible stocks are considered for index inclusion based on their stock median liquidity (median daily value traded divided by its average float-adjusted market capitalization for the last six months) relative to the market capitalization weighted average of the stock median liquidities of the 500 constituents of the All Ordinaries index, another member of the S&P/ASX index family.

### *Index Maintenance*

S&P rebalances the index constituents quarterly to ensure adequate market capitalization and liquidity based on the previous six months' worth of data. Quarterly review changes take effect after the market close on the third Friday of March, June, September and December. Eligible stocks are considered for index inclusion based on their float-adjusted market capitalization rank relative to the stated quota of 200 securities. For example, a stock that is currently in the S&P/ASX 300 and is ranked at 175, based on float-adjusted market capitalization, within the universe of eligible securities may be considered for inclusion into the index, provided that liquidity hurdles are met.

In order to limit the level of index turnover, eligible securities will only be considered for index inclusion once another stock is excluded due to a sufficiently low rank and/or liquidity, based on the float-adjusted market capitalization. Potential index inclusions and exclusions need to satisfy buffer requirements in terms of the rank of the stock relative to a given index. In order to be added to the index, a stock must be ranked 179th or higher, and in order to be deleted from the index, a stock must be ranked 221st or lower. The buffers are established to limit the level of index turnover that may take place at each quarterly rebalancing. The buffers serve as guidelines for arriving at any potential constituent changes to the index, however, these rules can be by-passed when circumstances warrant.

Between rebalancing dates, an index addition is generally made only if a vacancy is created by an index deletion. Index additions are made according to float-adjusted market capitalization and liquidity. An initial public offering is added to the index only when an appropriate vacancy occurs and is subject to proven liquidity for at least two months. An exception may be made for extraordinary large offerings where sizeable trading volumes justify index inclusion.

Deletions can occur between index rebalancing dates due to acquisitions, mergers and spin-offs or due to suspension or bankruptcies. The decision to remove a stock from the index will be made once there is sufficient evidence that the transaction will be completed. Stocks that are removed due to mergers & acquisitions activity are removed from the index at the cash offer price for cash-only offers. Otherwise the best available price in the market is used.

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Share numbers for all index constituents are updated quarterly and are rounded to the nearest thousand. The update to the number of issued shares will be considered if the change is at least 5% of the float adjusted shares or A\$100 million in value.

Share updates for foreign-domiciled securities will take place annually at the March rebalancing. The update to the number of index shares will only take place when the 6-month average of CDIs or the total securities held in the Australian branch of the issuer sponsored register (where supplied) and in CHESS, as of the March rebalancing, differs from the current index shares by either 5% or a market-cap dollar amount greater than A\$ 100 million. Where CDI information is not supplied to the ASX by the company or the company's share register, estimates for Australian equity capital will be drawn from CHESS data and, ultimately, registry-sourced data.

Intra quarter share changes are implemented at the effective date or as soon as reliable information is available; however, they will only take place in the following circumstances:

- Changes in a company's float-adjusted shares of 5% or more due to market-wide shares issuance;
- Rights issues, bonus issues and other major corporate actions; and
- Share issues resulting from index companies merging and major off-market buy-backs.

Share changes due to mergers or acquisitions are implemented when the transaction occurs, even if both of the companies are not in the same index and regardless of the size of the change.

IWFs are reviewed annually as part of the September quarterly review. However, any event that alters the float of a security in excess of 5% will be implemented as soon as practicable by an adjustment to the IWF.

The function of the IWF is also to manage the index weight of foreign-domiciled securities that quote shares on the basis of CDIs. Due to the volatility that is displayed by CDIs, unusually large changes in the number of CDIs on issue could result. Where this is the case, the IWF may be used to limit the effect of unusually large changes in the average number of CDIs (and, thereby, limit the potential to manipulate this figure). Where the Index Committee sees fit to apply the IWF in this manner, the rationale for the decision will be announced to the market. This will be reviewed annually at the March-quarter index rebalancing date.

### *Index Calculation*

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The index is calculated using a base-weighted aggregate methodology. The value of the index on any day for which an index value is published is determined by a fraction, the numerator of which is the *sum* for all index stocks of the products of the price of each stock in the index *times* the number of shares of such stock included in the index *times* that stock's IWF, and the denominator of which is the divisor, which is described more fully below.

In order to prevent the value of the index from changing due to corporate actions, all corporate actions may require S&P to make an index or divisor adjustment. This helps maintain the value of the index and ensures that the movement of the index does not reflect the corporate actions of the individual companies that comprise the index.

The table below summarizes the types of index adjustments and indicates whether the corporate action will require a divisor adjustment:

Type of Corporate Action	Index Treatment	Divisor Adjustment Required
Cash dividend	None	No
Special Cash Dividend	Price adjustment needed	Yes
Stock dividend and/or split	Shares are multiplied by and price is divided by the split factor	No
Stock dividend from class A shares into existing class B shares, both of which are	Adjustment for price of A; adjustment for shares in B	Yes

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included in the index		
Stock dividend of different class, same company and is not included in the index	Price adjustment	Yes
Reverse Split	Adjustment for price and shares	No
Rights Offering	Adjustment for price and shares	Yes
Rights offering for a new line	Adjustment for price	Yes
New share issuance	Adjustment for shares	Yes
Reduction of capital	Share adjustment	Yes
New addition to index	Share adjustment	Yes
Deletion from index	Share adjustment	Yes
Merger (acquisition by index company for stock)	Share increase	Yes

A company that is spun-off from an index constituent will be added to the index at a zero price on the ex-date. If the spun-off company is not eligible to be included in the index based on its float adjusted market capitalization then it will be removed from the index after at least one day of regular way trading.

In situations where an exchange is forced to close early due to unforeseen events, such as computer or electric power failures, weather conditions or other events, S&P will calculate the closing price of the indices based on (1) the closing prices published by the exchange, or (2) if no closing price is available, the last regular trade reported for each security before the exchange closed. If the exchange fails to open due to unforeseen circumstances, S&P treats this closure as a standard market holiday. The index will use the prior day's closing prices and shifts any corporate actions to the following business day. If all exchanges fail to open or in other extreme circumstances, S&P may determine not to publish the index for that day.

S&P reserves the right to recalculate the index under certain limited circumstances. S&P may choose to recalculate and republish an index if it is found to be incorrect or inconsistent within two trading days of the publication of the index level in question for one of the following reasons:

- Incorrect or revised closing price
- Missed corporate event
- Late announcement of a corporate event
- Incorrect application of corporate action or index methodology

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Any other restatement or recalculation of an index is only done under extraordinary circumstances to reduce or avoid possible market impact or disruption as solely determined by the Index Committee.

### *License Agreement between S&P Dow Jones Indices LLC and CIBC*

We and S&P have entered into a non-transferable, non-exclusive license agreement providing for the sublicense to us, in exchange for a fee, of the right to use the S&P/ASX 200 in connection with the issuance of the notes.

The license agreement between us and S&P provides that the following language must be stated in this document:

The S&P/ASX 200 is a product of S&P, and has been licensed for use by us. Standard & Poor's® and S&P® are registered trademarks of Standard & Poor's Financial Services LLC; and these trademarks have been licensed for use by S&P and sublicensed for certain purposes by us. The notes are not sponsored, endorsed, sold or promoted by S&P, Standard & Poor's Financial Services LLC, any of their respective affiliates (collectively, S&P Dow Jones Indices). S&P Dow Jones Indices make no representation or warranty, express or implied, to the holders of the notes or any member of the public regarding the advisability of investing in securities generally or in the notes particularly or the ability of the S&P/ASX 200 to track general market performance. S&P Dow Jones Indices' only relationship to us with respect to the S&P/ASX 200 is the licensing of the S&P/ASX 200 and certain trademarks,

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## **Capped Leveraged Basket-Linked Notes due September 27, 2019**

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S&P DOW JONES INDICES DO NOT GUARANTEE THE ADEQUACY, ACCURACY, TIMELINESS AND/OR THE COMPLETENESS OF THE S&P/ASX 200 OR ANY DATA RELATED THERETO OR ANY COMMUNICATION, INCLUDING BUT NOT LIMITED TO, ORAL OR WRITTEN COMMUNICATION (INCLUDING ELECTRONIC COMMUNICATIONS) WITH RESPECT THERETO. S&P DOW JONES INDICES SHALL NOT BE SUBJECT TO ANY DAMAGES OR LIABILITY FOR ANY ERRORS, OMISSIONS, OR DELAYS THEREIN. S&P DOW JONES INDICES MAKE NO EXPRESS OR IMPLIED WARRANTIES, AND EXPRESSLY DISCLAIMS ALL WARRANTIES, OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE OR AS TO RESULTS TO BE OBTAINED BY US, HOLDERS OF THE NOTES, OR ANY OTHER PERSON OR ENTITY FROM THE USE OF THE S&P/ASX 200 OR WITH RESPECT TO ANY DATA RELATED THERETO. WITHOUT LIMITING ANY OF THE FOREGOING, IN NO EVENT WHATSOEVER SHALL S&P DOW JONES INDICES BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS, TRADING LOSSES, LOST TIME OR GOODWILL, EVEN IF THEY HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE. THERE ARE NO THIRD PARTY BENEFICIARIES OF ANY AGREEMENTS OR ARRANGEMENTS BETWEEN S&P DOW JONES INDICES AND US, OTHER THAN THE LICENSORS OF S&P DOW JONES INDICES.

## Capped Leveraged Basket-Linked Notes due September 27, 2019

### Historical Closing Levels of the Basket Underliers

The respective closing level of the basket underliers have fluctuated in the past and may, in the future, experience significant fluctuations. Any historical upward or downward trend in the level of any of the basket underliers during the period shown below is not an indication that the basket underliers are more or less likely to increase or decrease at any time during the life of your notes.

**You should not take the historical levels of the basket or the basket underliers as an indication of the future performances of the basket underliers.** Before investing in the offered notes, you should consult publicly available information to determine the level of the basket underliers between the date of this Pricing Supplement and the date of your purchase of the offered notes. We cannot give you any assurance that the future performance of the basket, basket underliers or the basket underlier stocks will result in your receiving an amount greater than the outstanding face amount of your notes on the stated maturity date.

Neither we nor any of our affiliates make any representation to you as to the performance of the basket or the basket underliers. Before investing in the offered notes, you should consult publicly available information to determine the levels of the underlier between the date of this Pricing Supplement and the date of your purchase of the offered notes. The actual performance of the basket and the basket underliers over the life of the offered notes, as well as the cash settlement amount at maturity, may bear little relation to the historical levels shown below.

The graphs below show the daily historical closing levels of the EURO STOXX 50® Index, the FTSE® 100 Index, the TOPIX, the Swiss Market Index and the S&P/ASX 200 Index from January 24, 2008 through January 24, 2018. The graphs are for illustrative purposes only. We obtained the closing levels in the graphs below from Bloomberg Financial Services, without independent verification.



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### **Historical Basket Levels**

The following graph is based on the basket closing level for the period from January 24, 2008 through January 24, 2018 assuming that the basket closing level was 100 on January 24, 2008. We derived the basket closing levels based on the method to calculate the basket closing level as described in this Pricing Supplement and on actual closing levels of the relevant basket underliers on the relevant date. The basket closing level has been normalized such that its hypothetical level on January 24, 2008 was 100. As noted in this Pricing Supplement, the initial basket level was set at 100 on the trade date. The basket closing level can increase or decrease due to changes in the levels of the basket underliers.

### **Basket Performance**

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## Capped Leveraged Basket-Linked Notes due September 27, 2019

### THE BANK'S ESTIMATED VALUE OF THE NOTES

The Bank's estimated value of the notes set forth on the cover of this Pricing Supplement is equal to the sum of the values of the following hypothetical components: (1) a fixed-income debt component with the same maturity as the notes, valued using our internal funding rate for structured debt described below, and (2) the derivative or derivatives underlying the economic terms of the notes. The Bank's estimated value does not represent a minimum price at which CIBCWM or any other person would be willing to buy your notes in any secondary market (if any exists) at any time. The internal funding rate used in the determination of the Bank's estimated value generally represents a discount from the credit spreads for our conventional fixed-rate debt. The discount is based on, among other things, our view of the funding value of the notes as well as the higher issuance, operational and ongoing liability management costs of the notes in comparison to those costs for our conventional fixed-rate debt. For additional information, see *Additional Risk Factors Specific to Your Notes – The Bank's Estimated Value Was Not Determined by Reference to Credit Spreads for Our Conventional Fixed-Rate Debt* in this Pricing Supplement. The value of the derivative or derivatives underlying the economic terms of the notes is derived from the Bank's or a third party hedge provider's internal pricing models. These models are dependent on inputs such as the traded market prices of comparable derivative instruments and on various other inputs, some of which are market-observable, and which can include volatility, dividend rates, interest rates and other factors, as well as assumptions about future market events and/or environments. Accordingly, the Bank's estimated value of the notes was determined when the terms of the notes were set based on market conditions and other relevant factors and assumptions existing at that time. See *Additional Risk Factors Specific to Your Notes – The Bank's Estimated Value Does Not Represent Future Values of the Notes and May Differ from Others' Estimates* in this Pricing Supplement.

The Bank's estimated value of the notes is lower than the original issue price of the notes because costs associated with selling, structuring and hedging the notes are included in the original issue price of the notes. These costs include the selling commissions paid to the Bank and other affiliated or unaffiliated dealers, the projected profits that our hedge counterparties, which may include our affiliates, expect to realize for assuming risks inherent in hedging our obligations under the notes and the estimated cost of hedging our obligations under the notes. Because hedging our obligations entails risk and may be influenced by market forces beyond our control, this hedging may result in a profit that is more or less than expected, or it may result in a loss. We or one or more of our affiliates will retain any profits realized in hedging our obligations under the notes. See *Additional Risk Factors Specific to Your Notes – The Bank's Estimated Value of the Notes Is Lower Than the Original Issue Price (Price to Public) of the Notes* in this Pricing Supplement.

## Capped Leveraged Basket-Linked Notes due September 27, 2019

### SUPPLEMENTAL PLAN OF DISTRIBUTION (CONFLICTS OF INTEREST)

Pursuant to the terms of a distribution agreement, the Bank will sell to CIBCWM, and CIBCWM will purchase from the Bank, the aggregate face amount of the offered notes specified on the front cover of this Pricing Supplement. CIBCWM proposes initially to offer the notes to the public at the price to public set forth on the cover page of this Pricing Supplement and to certain unaffiliated securities dealers at such price.

The Bank owns, directly or indirectly, all of the outstanding equity securities of CIBCWM. In accordance with FINRA Rule 5121, CIBCWM may not make sales in this offering to any of its discretionary accounts without the prior written approval of the customer.

We will deliver the notes against payment therefor in New York, New York on January 31, 2018, which is the fifth scheduled business day following the date of this Pricing Supplement and of the pricing of the notes. Under Rule 15c6-1 of the Securities Exchange Act of 1934, trades in the secondary market generally are required to settle in two business days, unless the parties to any such trade expressly agree otherwise. Accordingly, purchasers who wish to trade notes on any date prior to two business days before delivery will be required, by virtue of the fact that the notes will settle in five business days (T + 5), to specify alternative settlement arrangements to prevent a failed settlement.

The Bank may use this Pricing Supplement in the initial sale of the notes. In addition, CIBCWM or another of the Bank's affiliates may use this Pricing Supplement in market-making transactions in any notes after their initial sale. Unless CIBCWM or we inform you otherwise in the confirmation of sale, this Pricing Supplement is being used by CIBCWM in a market-making transaction.

While CIBCWM may make markets in the notes, it is under no obligation to do so and may discontinue any market-making activities at any time without notice. The price that it makes available from time to time after the issue date at which it would be willing to repurchase the notes will generally reflect its estimate of their value. That estimated value will be based upon a variety of factors, including then prevailing market conditions, our creditworthiness and transaction costs. However, for a period of approximately three months after the trade date, the price at which CIBCWM may repurchase the notes is expected to be higher than their estimated value at that time. This is because, at the beginning of this period, that price will not include certain costs that were included in the original issue price, particularly our hedging costs and profits. As the period continues, these costs are expected to be gradually included in the price that CIBCWM would be willing to pay, and the difference between that price and CIBCWM's estimate of the value of the notes will decrease over time until the end of this period. After this period, if CIBCWM continues to make a market in the notes, the prices that it would pay for them are expected to reflect its estimated value, as well as customary bid-ask spreads for similar trades. In addition, the value of the notes shown on your account statement may not be identical to the price at which CIBCWM would be willing to purchase the notes at that time, and could be lower than CIBCWM's price. See the section titled "Supplemental Plan of Distribution - Conflicts of Interest" in the accompanying Prospectus Supplement.

The price at which you purchase the notes includes costs that the Bank or its affiliates expect to incur and profits that the Bank or its affiliates expect to realize in connection with hedging activities related to the notes, as set forth above. These costs and profits will likely reduce the secondary market price, if any secondary market develops, for the notes.

Any notes which are the subject of the offering contemplated by this Pricing Supplement, the accompanying Product Supplement No. 7, accompanying General Terms Supplement No. 1, accompanying Prospectus Supplement and accompanying Prospectus may not be offered, sold or otherwise made available to any retail investor in the European Economic Area. Consequently no key information document required by Regulation (EU) No 1286/2014 (the PRIIPs Regulation ) for offering or selling the notes or otherwise making them available to retail investors in the EEA has been prepared and therefore offering or selling the notes or otherwise making them available to any retail investor in the EEA may be unlawful under the PRIIPs Regulation. For the purposes of this provision:

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## **Capped Leveraged Basket-Linked Notes due September 27, 2019**

- (a) the expression **retail investor** means a person who is one (or more) of the following:
- (i) a retail client as defined in point (11) of Article 4(1) of Directive 2014/65/EU (as amended, MiFID II ); or
  - (ii) a customer within the meaning of Directive 2002/92/EC, where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II; or
  - (iii) not a qualified investor as defined in Directive 2003/71/EC; and
- (b) the expression **an offer** includes the communication in any form and by any means of sufficient information on the terms of the offer and the notes to be offered so as to enable an investor to decide to purchase or subscribe for the notes.

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## Capped Leveraged Basket-Linked Notes due September 27, 2019

### CERTAIN UNITED STATES FEDERAL INCOME TAX CONSIDERATIONS

The following discussion is a brief summary of the material U.S. federal income tax considerations relating to an investment in the notes. The following summary is not complete and is both qualified and supplemented by the discussion entitled "Supplemental Discussion of U.S. Federal Income Tax Consequences" in the accompanying Product Supplement No. 6, which you should carefully review prior to investing in the notes.

The U.S. federal income tax considerations of your investment in the notes are uncertain. No statutory, judicial or administrative authority directly discusses how the notes should be treated for U.S. federal income tax purposes. In the opinion of our tax counsel, Mayer Brown LLP, it would generally be reasonable to treat the notes as prepaid cash-settled derivative contracts. Pursuant to the terms of the notes, you agree to treat the notes in this manner for all U.S. federal income tax purposes. If this treatment is respected, you should generally recognize capital gain or loss upon the sale, exchange or payment upon maturity in an amount equal to the difference between the amount you receive in such transaction and the amount that you paid for your notes. Such gain or loss should generally be treated as long-term capital gain or loss if you have held your notes for more than one year.

The expected characterization of the notes is not binding on the IRS or the courts. It is possible that the IRS would seek to characterize the notes in a manner that results in tax consequences to you that are different from those described above or in the accompanying Product Supplement No. 6. Such alternate treatments could include a requirement that a holder accrue ordinary income over the life of the notes or treat all gain or loss at maturity as ordinary gain or loss. For a more detailed discussion of certain alternative characterizations with respect to the notes and certain other considerations with respect to an investment in the notes, you should consider the discussion set forth in "Supplemental Discussion of U.S. Federal Income Tax Consequences" of Product Supplement No. 6. We are not responsible for any adverse consequences that you may experience as a result of any alternative characterization of the notes for U.S. federal income tax or other tax purposes.

U.S. tax rules treat certain financial products issued to non-U.S. holders in 2017 or thereafter as giving rise to withholdable dividend equivalent payments when the financial product provides a payment or credit in respect of dividend payments on certain U.S. underliers. These rules do not apply if the financial product references a qualified index and does not contain short positions on more than 5 percent of the components within the index. Additionally, Treasury Regulations exclude financial products issued prior to 2019 that are not "delta-one" with respect to underlying securities that could pay withholdable dividend equivalent payments. In the opinion of Mayer Brown LLP, these rules should not apply to the notes.

## Capped Leveraged Basket-Linked Notes due September 27, 2019

### CERTAIN CANADIAN FEDERAL INCOME TAX CONSIDERATIONS

In the opinion of Blake, Cassels & Graydon LLP, our Canadian tax counsel, the following summary describes the principal Canadian federal income tax considerations under the *Income Tax Act* (Canada) (the "Canadian Tax Act") generally applicable at the date hereof to a purchaser who acquires beneficial ownership of a note pursuant to this Pricing Supplement and who for the purposes of the Canadian Tax Act and the regulations thereto and at all relevant times: (a) is neither resident nor deemed to be resident in Canada; (b) deals at arm's length with CIBC and any transferee resident (or deemed to be resident) in Canada to whom the purchaser disposes of the note; (c) does not use or hold and is not deemed to use or hold the note in, or in the course of, carrying on a business in Canada; (d) is entitled to receive all payments (including any interest and principal) made on the note, and (e) is not a, and deals at arm's length with any, specified shareholder of CIBC for purposes of the thin capitalization rules in the Canadian Tax Act (a "Non-Resident Holder"). A specified shareholder for these purposes generally includes a person who (either alone or together with persons with whom that person is not dealing at arm's length for the purposes of the Canadian Tax Act) owns or has the right to acquire or control or is otherwise deemed to own 25% or more of CIBC's shares determined on a votes or fair market value basis. Special rules which apply to non-resident insurers carrying on business in Canada and elsewhere are not discussed in this summary.

This summary is supplemental to and should be read together with the description of material Canadian federal income tax considerations relevant to a Non-Resident Holder owning notes under "Material Income Tax Consequences - Canadian Taxation" in the accompanying Prospectus and a Non-Resident Holder should carefully read that description as well.

**This summary is of a general nature only and is not intended to be, nor should it be construed to be, legal or tax advice to any particular Non-Resident Holder. Non-Resident Holders are advised to consult with their own tax advisors with respect to their particular circumstances.**

Based on Canadian tax counsel's understanding of the Canada Revenue Agency's administrative policies and having regard to the terms of the notes, interest payable on the notes should not be considered to be "participating debt interest" as defined in the Canadian Tax Act and accordingly, a Non-Resident Holder should not be subject to Canadian non-resident withholding tax in respect of amounts paid or credited or deemed to have been paid or credited by CIBC on a note as, on account of or in lieu of payment of, or in satisfaction of, interest.

Non-Resident Holders should consult their own tax advisors regarding the consequences to them of a disposition of the notes to a person with whom they are not dealing at arm's length for purposes of the Canadian Tax Act.

## Capped Leveraged Basket-Linked Notes due September 27, 2019

### VALIDITY OF THE NOTES

In the opinion of Blake, Cassels & Graydon LLP, as Canadian counsel to the Bank, the issue and sale of the notes has been duly authorized by all necessary corporate action of the Bank in conformity with the indenture, and when the notes have been duly executed, authenticated and issued in accordance with the indenture, the notes will be validly issued and, to the extent validity of the notes is a matter governed by the laws of the Province of Ontario or the federal laws of Canada applicable therein, will be valid obligations of the Bank, subject to applicable bankruptcy, insolvency and other laws of general application affecting creditors rights, equitable principles, and subject to limitations as to the currency in which judgments in Canada may be rendered, as prescribed by the *Currency Act* (Canada), and subject to any bail-in conversion requirements under the *Canada Deposit Insurance Corporation Act* (Canada). This opinion is given as of the date hereof and is limited to the laws of the Province of Ontario and the federal laws of Canada applicable therein. In addition, this opinion is subject to customary assumptions about the trustee's authorization, execution and delivery of the indenture and the genuineness of signature, and to such counsel's reliance on the Bank and other sources as to certain factual matters, all as stated in the opinion letter of such counsel dated February 27, 2017, which has been filed as Exhibit 5.2 to the Bank's Registration Statement on Form F-3 filed with the SEC on February 27, 2017.

In the opinion of Mayer Brown LLP, when the notes have been duly completed in accordance with the indenture and issued and sold as contemplated by the Prospectus Supplement and the Prospectus, the notes will constitute valid and binding obligations of the Bank, entitled to the benefits of the indenture, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles. This opinion is given as of the date hereof and is limited to the laws of the State of New York. This opinion is subject to customary assumptions about the trustee's authorization, execution and delivery of the indenture and such counsel's reliance on the Bank and other sources as to certain factual matters, all as stated in the legal opinion dated February 27, 2017, which has been filed as Exhibit 5.1 to the Bank's Registration Statement on Form F-3 filed with the SEC on February 27, 2017.

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## Capped Leveraged Basket-Linked Notes due September 27, 2019

We have not authorized anyone to provide any information or to make any representations other than those contained or incorporated by reference in this Pricing Supplement, the accompanying Product Supplement No.6, the accompanying General Terms Supplement, the accompanying Prospectus Supplement or the accompanying Prospectus. We take no responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. This Pricing Supplement, the accompanying Product Supplement No. 6, the accompanying General Terms Supplement, the accompanying Prospectus Supplement and the accompanying Prospectus is an offer to sell only the notes offered hereby, but only under circumstances and in jurisdictions where it is lawful to do so. The information contained in this Pricing Supplement, the accompanying Product Supplement No. 6, the accompanying General Terms Supplement, the accompanying Prospectus Supplement and the accompanying Prospectus is current only as of the respective dates of such documents.

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Prospectus dated March 28, 2017

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**\$3,394,000**

**Canadian Imperial Bank of Commerce**  
Senior Global Medium-Term Notes (Structured Notes)

**Capped Leveraged Basket-Linked Notes due  
September 27, 2019**

## CIBC World Markets

align: top; text-align: left">(2)Mr. Weintraub resigned from his position as chief financial officer of our Company effective June 30, 2015 and remained employed by Macquarie through December 31, 2015. Compensation information above reflects all compensation received through December 31, 2015.

- (3) Salary amounts reflect salary earned from the period of January 1<sup>st</sup> to December 31<sup>st</sup> of each year. For Mr. Weintraub, the 2015 salary amount includes payment for accrued and unused vacation totaling \$16,995. Amounts represent profit share earned during the Macquarie Group's fiscal years ended March 31, 2015, 2014 and 2013 and therefore reflect performance metrics and incentives through those dates and do not reflect subsequent performance. Bonus amounts for 2015, 2014 and 2013 reflect the cash portion of profit share allocations. For Mr. (4)Hooke, bonus amounts for 2015 include \$1,200,000 that was notionally invested in the DPS Plan in Macquarie managed funds. Mr. Hooke's bonus amounts for 2014 and 2013 include \$750,001 and \$680,762, respectively, that was notionally invested in the DPS Plan in cash, which effectively cash-collateralizes a loan to Mr. Hooke to acquire shares of MIC.

For Mr. Hooke, the 2015 bonus amount also includes a deferred compensation payment of \$2,500,000 awarded in 2015 and to be paid as profit share for Macquarie's fiscal year ended March 31, 2017 in recognition of his past contributions and also as an incentive towards continued employment with Macquarie. The payment is conditional on Mr. Hooke's abiding by the material terms and conditions of his employment and Macquarie's determination that there have been no risk or compliance breaches by Mr. Hooke. When paid in 2017 as profit share, the amount will be subject to Macquarie's retention arrangements in place at that time.

For Mr. Weintraub, the bonus amount for 2013 included \$69,933 that was notionally invested in the NI Plan.

Bonus amounts for 2015, 2014 and 2013 do not include a portion of profit share that was retained and subsequently delivered in the form of Macquarie restricted share units through the MEREP.

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Represents the grant date fair value of restricted share unit awards pursuant to the MEREP, computed in accordance with FASB ASC Topic 718, based on the closing price of Macquarie Group Limited shares (ASX:MQG) on the date of grant. The 2015, 2014 and 2013 MEREP awards were granted on July 6, 2015, June 25, 2014 and June 25, 2013, respectively, at a closing price of Macquarie Group Limited shares of AUD \$81.70, (5) AUD \$59.80 and AUD \$40.22, respectively. The 2015, 2014 and 2013 grant date value have been converted from Australian dollars to U.S. dollars using the Federal Reserve Bank noon buying rate effective on December 31, 2015 of \$0.7286 to AUD \$1.00, December 31, 2014 of \$0.8173 to AUD \$1.00 and December 31, 2013 of \$0.8929 to AUD \$1.00.

For Mr. Hooke, \$1,200,000, \$750,000 and \$680,762 of his profit share was retained and invested in Macquarie restricted share units through the MEREP for 2015, 2014 and 2013, respectively. This equated to 17,560, 13,785 and 14,946 restricted share units for 2015, 2014 and 2013, respectively, with a grant date fair value of \$1,045,287, \$673,736 and \$536,747, respectively.

For Mr. Stewart, \$112,472 of his profit share was retained and invested in Macquarie restricted share units through the MEREP for 2015. This equated to 1,645 restricted share units for 2015 with a grant date fair value of \$97,921.

For Mr. Weintraub, \$151,298, \$110,313 and \$69,932 of his profit share was retained and invested in Macquarie restricted share units through the MEREP for 2015, 2014 and 2013, respectively. This equated to 2,214, 2,027 and 1,535 restricted share units for 2015, 2014 and 2013, respectively, with a grant date fair value of \$131,792, \$99,069 and \$55,126, respectively.

These amounts represent profit share earned during the Macquarie fiscal years ended March 31, 2015, 2014 and 2013 and therefore reflect performance metrics and incentives through those dates and do not reflect subsequent performance. For further discussions on retained profit share and MEREP awards, see Grants of Macquarie Restricted Share Units below.

All other compensation represents dividends and distributions paid on the MEREP awards and the total value of employer-provided 401(k) contributions for the years ended December 31, 2015, 2014 and 2013. For 2015, 2014 and 2013, Mr. Hooke received ordinary dividends on Macquarie restricted shares through the MEREP of \$131,895, (6) \$100,158 and \$63,577, respectively. For 2015, Mr. Stewart received ordinary dividends on Macquarie restricted share units through the MEREP of \$3,098. For 2015, 2014 and 2013, Mr. Weintraub received ordinary dividends on Macquarie restricted share units through the MEREP of \$16,646, \$16,795 and \$15,247, respectively.

For Mr. Weintraub, all other compensation includes a separation payment in the amount of \$69,962. All other compensation also includes the unvested portion of his MEREP awards, totaling 6,084 shares or \$366,903, that became vested on December 31, 2015 at a share price of AUD \$82.77.

During 2014, Messrs. Hooke and Weintraub, as MEREP participants, also received distributions of \$130,453 and \$24,928, respectively. These amounts represent the proceeds of the sale of certain securities that were distributed to all Macquarie Group shareholders.

Employer-provided 401(k) contributions for both Mr. Hooke and Mr. Weintraub were \$10,600, \$10,400 and \$10,200 for 2015, 2014 and 2013, respectively. Employer-provided 401(k) contributions for Mr. Stewart were \$9,844 for 2015.



TABLE OF CONTENTS**Grants of Plan Based Awards in Fiscal Year 2015**

The following table presents information on plan-based awards granted in fiscal year 2015 to the named executive officers in the Summary Compensation Table.

Name	Grant Date	Approval Date	All Other Stock Awards: Number of Shares of Stock or Units	Grant Date Fair Value of Stock Awards (\$) <sup>(1)</sup>
James Hooke	July 6, 2015	May 7, 2015	17,560	1,045,287
Liam Stewart	July 6, 2015	May 7, 2015	1,645	97,921
Todd Weintraub	July 6, 2015	May 7, 2015	2,214	131,792

Amounts reflect 2015 profit share retained and granted in 2015 as MEREP awards in the form of restricted share (1) units (converted from Australian dollars to U.S. dollars using the Federal Reserve Bank noon buying rate effective on December 31, 2015 of 0.7286 to AUD \$1.00).

**Grants of Macquarie Restricted Share Units**

As discussed above, for fiscal years 2015, 2014 and 2013, amounts shown in the Summary Compensation Table include a portion of profit share that was retained and was subsequently delivered in the form of Macquarie restricted share units through the MEREP. Restricted share units representing the 2015, 2014 and 2013 retained profit share were granted on July 6, 2015, June 25, 2014 and June 25, 2013, respectively, for our named executive officers at a closing price per Macquarie share of AUD \$81.70, AUD \$59.80 and AUD \$40.22, respectively. Upon vesting (as described below), the holding restriction will be removed and the employee will be able to withdraw these share units.

For Mr. Hooke, \$1,200,000, \$750,000 and \$680,762 was retained in 2015, 2014 and 2013, respectively, and converted into Macquarie restricted share units through the MEREP. For 2015, this equated to 17,560 restricted share units awarded under the MEREP calculated using the average purchase price of MEREP awards purchased over the period from May 18, 2015 up to and including July 6, 2015 of AUD \$80.68. These restricted share units vest, in accordance with the executive director vesting schedule, in three equal installments on the first day within a Macquarie staff trading window after July 1<sup>st</sup> of each year from 2018 to 2020. For 2014, this equated to 13,785 restricted share units awarded under the MEREP calculated using the average purchase price of MEREP awards purchased over the period from May 14, 2014 up to and including June 25, 2014 of AUD \$59.56. These restricted share units vest in three equal installments on the first day within a Macquarie staff trading window after July 1<sup>st</sup> of each year from 2017 to 2019.

For 2013, this equated to 14,946 restricted share units awarded under the MEREP calculated using the average purchase price of MEREP awards purchased over the period from May 13, 2013 up to and including June 25, 2013 of AUD \$43.56. These restricted share units vest in three equal installments on the first day within a Macquarie staff trading window after July 1<sup>st</sup> of each year from 2016 to 2018.

For Mr. Stewart, \$112,472 was retained in 2015 and converted into Macquarie restricted share units through the MEREP. For 2015, this equated to 1,645 restricted share units awarded under the MEREP calculated using the average purchase price of MEREP awards purchased over the period from May 18, 2015 up to and including July 6, 2015 of AUD \$80.68. These restricted share units vest, in accordance with the associate director vesting schedule, in three equal installments on the first day within a Macquarie staff trading window after July 1<sup>st</sup> of each year from 2017

to 2019.

For Mr. Weintraub, \$151,298, \$110,313 and \$69,932 was retained in 2015, 2014 and 2013, respectively, and converted into Macquarie restricted share units through the MEREP. For 2015, this equated to 2,214 restricted share units awarded under the MEREP calculated using the average purchase price of MEREP awards purchased over the period from May 18, 2015 up to and including July 6, 2015 of AUD \$80.68. For 2014, this equated to 2,027 restricted share units awarded under the MEREP calculated using the average purchase price of MEREP awards purchased over the period from May 14, 2014 up to and including June 25, 2014 of AUD \$59.56. For 2013, this equated to 1,535 restricted share units awarded under the MEREP calculated using the average purchase price of MEREP awards purchased over the period from May 13, 2013 up to and including June 25, 2013 of AUD \$43.56. For Mr. Weintraub, the unvested portion of his MEREP awards, totaling 6,084 shares, became vested on December 31, 2015 at a share price of AUD \$82.77.

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## Retained Cash Portion of Profit Share

See Nonqualified Deferred Compensation in Fiscal Year 2015 below for further information regarding the retained cash portion of the profit share for both Mr. Hooke and Mr. Weintraub as of December 31, 2015.

## Employment Agreements

*Employment Agreement with James Hooke.* On May 20, 2015, Mr. Hooke executed his employment agreement with Macquarie Corporate Holdings Limited. The employment agreement provides that he holds the position of executive director. Mr. Hooke is assigned to Macquarie Holdings (USA) Inc. and is currently seconded to Macquarie Infrastructure Corporation as chief executive. Mr. Hooke's annual base salary remained at \$400,000 in 2015. The agreement also provides that Mr. Hooke is eligible to participate in Macquarie's profit share arrangements, Macquarie's 401(k) plan, and health and welfare plans, and will be eligible for four-weeks of vacation and sick and personal time as provided to other employees at his level. Mr. Hooke is also entitled to accrue long service leave, a benefit provided under the Australian regulatory regime providing for additional vacation based on length of service. In addition, Mr. Hooke is eligible to be reimbursed for reasonable and necessary out-of-pocket expenses incurred by him in connection with the performance of his duties and in accordance with Macquarie Holdings (USA) Inc.'s expense policy.

*Employment Agreement with Liam Stewart.* Macquarie Holdings (USA) Inc. entered into an employment agreement with Mr. Stewart, which was accepted by Mr. Stewart on May 19, 2015. The employment agreement provides that he holds the position of associate director. Mr. Stewart is currently seconded to Macquarie Infrastructure Corporation as chief financial officer. Mr. Stewart's annual base salary increased to \$245,000 in 2015. The agreement also provides that Mr. Stewart is eligible to participate in Macquarie's profit share arrangements, Macquarie's 401(k) plan, and health and welfare plans, and will be eligible for four-weeks of vacation and holidays, sick and personal time as provided to other employees at his level. In addition, Mr. Stewart is eligible to be reimbursed for reasonable and necessary out-of-pocket expenses incurred by him in connection with the performance of his duties and in accordance with Macquarie Holdings (USA) Inc.'s expense policy.

See Potential Payments on Termination or Change in Control for further information regarding these employment agreements.

## Outstanding Equity Awards at 2015 Fiscal Year-End

The following table sets forth a summary of all outstanding equity awards, consisting of Macquarie Group Limited shares, held by each of our named executive officers as of December 31, 2015.

In February 2014, Messrs. Hooke and Weintraub, as MEREP participants, received distributions of \$130,453 and \$24,928, respectively. These amounts represent the proceeds of the sale of certain securities that were distributed to all Macquarie Group shareholders. As part of this transaction, Macquarie Group shareholders approved a reduction of capital through a conversion of one Macquarie Group ordinary share into 0.9438 Macquarie Group ordinary shares.

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The number of Macquarie Group ordinary shares presented below reflects such adjustment with respect to outstanding shares under the MEREP.

Name	Grant Date	Stock Awards	
		Number of Shares or Units of Stock That Have Not Vested <sup>(1)</sup>	Market Value of Shares or Units of Stock That Have Not Vested at December 31, 2015 (\$) <sup>(2)</sup>
James Hooke	Jun. 20, 2011	2,824	170,305
	Jun. 7, 2012	6,999	422,083
	Jun. 25, 2013	14,105	850,619
	Jun. 25, 2014	13,785	831,321
	Jul. 6, 2015	17,560	1,058,977
Liam Stewart	May 15, 2014	437	26,354
	Jul. 6, 2015	1,645	99,204

(1) The restricted share units that relate to the profit share vest on the first staff trading window after July 1<sup>st</sup> on the second, third and fourth anniversaries of the date of the initial profit share allocation for Mr. Stewart and on the third, fourth and fifth anniversaries of the date of the initial profit share allocations for Mr. Hooke. The restricted share units granted on June 25, 2013 relate to the 2013 profit share and vest in three equal installments on the first day within a Macquarie staff trading window after July 1<sup>st</sup> of 2016, 2017 and 2018 for Mr. Hooke. The restricted share units granted on May 15, 2014 relate to new director hire awards and vest in three equal installments on the first day within a Macquarie staff trading window after May 15<sup>th</sup> of 2016, 2017 and 2018 for Mr. Stewart. The restricted share units granted on June 25, 2014 relate to the 2014 profit share and vest in three equal installments on the first day within a Macquarie staff trading window after July 1<sup>st</sup> of 2017, 2018 and 2019 for Mr. Hooke. The restricted share units granted on June 6, 2015 relate to the 2015 profit share and vest in three equal installments on the first day within a Macquarie staff trading window after July 1<sup>st</sup> of 2017, 2018 and 2019 for Mr. Stewart and after July 1<sup>st</sup> of 2018, 2019 and 2020 for Mr. Hooke.

(2) Market values of unvested restricted share units are based on a closing price of Macquarie Group Limited (ASX:MQG) of AUD \$82.77 on December 31, 2015. Market values of unvested restricted share units have been converted from Australian dollars to U.S. dollars using the Federal Reserve Bank noon buying rate effective on December 31, 2015 of \$0.7286 to AUD \$1.00.

In 2015, Mr. Hooke, Mr. Stewart and Mr. Weintraub received ordinary dividends on Macquarie shares through the MEREP of AUD \$2.00 (Final Dividend) for shares held on the Record Date of May 20, 2015 and AUD \$1.60 (Interim Dividend) for shares held on the Record Date of November 11, 2015. This equated to \$131,895, \$3,098 and \$16,646 for Mr. Hooke, Mr. Stewart and Mr. Weintraub, respectively.

## Stock Vested in Fiscal Year 2015

The following table sets forth a summary of MEREP stock awards that vested in 2015 for Mr. Hooke and Mr. Weintraub.

### Stock Awards

Name	Number of Shares Acquired on Vesting	Value Realized on Vesting (\$) <sup>(1)</sup>
James Hooke	6,321	375,347
Todd Weintraub <sup>(2)</sup>	8,451	507,458

On the vesting date, the share price of MEREP awards was AUD \$81.50. The value of stock vested in the above (1) table has been converted from Australian dollars to U.S. dollars using the Federal Reserve Bank noon buying rate effective on December 31, 2015 of \$0.7286 to AUD \$1.00.

(2) For Mr. Weintraub, of the 8,451 shares vested, 6,084 became fully vested on December 31, 2015 at a share price of AUD \$82.77.

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The following table sets forth a summary of the profit share retained under the DPS Plan for Mr. Hooke and the NI Plan for Mr. Weintraub as of December 31, 2015.

Name	Plan	Registrant Contributions in 2015 (\$) <sup>(1)</sup>	Aggregate Earnings in 2015 (\$) <sup>(2)</sup>	Aggregate Withdrawals/ Distributions (\$) <sup>(3)</sup>	Aggregate Balance at December 31, 2015 (\$) <sup>(4)</sup>
James Hooke	DPS Plan	1,200,000	109,079	203,275	2,322,626
Todd Weintraub	NI Plan		885	51,199	

(1) Consists of the portion of the amount reported in the bonus column of the Summary Compensation Table for the 2015 fiscal year that is deferred under the DPS Plan for Mr. Hooke.

(2) With respect to the DPS Plan and NI Plan, amount represents notional earnings (losses) from January 1, 2015 to December 31, 2015 and the foreign exchange adjustment at December 31, 2015. The amounts have been converted from Australian dollars to U.S. dollars using the Federal Reserve Bank noon buying rate effective on December 31, 2014 of \$0.7286 to AUD \$1.00.

(3) Mr. Weintraub's unvested awards under the NI Plan were vested in the amount of \$32,488 on December 31, 2015.

(4) With respect to the DPS Plan and NI Plan, the amount has been converted from Australian dollars to U.S. dollars using the Federal Reserve Bank noon buying rate effective on December 31, 2015 of \$0.7286 to AUD \$1.00.

The compensation reported in the nonqualified deferred compensation table was deferred by Mr. Hooke and Mr. Weintraub pursuant to Macquarie's profit share arrangements. Under the DPS Plan and the NI Plan, the value of the retained profit share for the period from the preceding July 1<sup>st</sup> to June 30<sup>th</sup> is determined based on total shareholder returns of the notional portfolio of Macquarie-managed funds selected by Macquarie assuming reinvestment of distributions and, therefore, takes into account both capital appreciation and distributions to shareholders. Notional earnings (losses) for the July 1<sup>st</sup> to June 30<sup>th</sup> period are measured quarterly. The participant has no input into decisions regarding the notional portfolio selected. Any increases in value of the notional portfolio may be paid out in August each year at the discretion of Macquarie's Executive Committee, or the BRC. If the notional investment of the amount retained under the DPS Plan and/or the NI Plan results in a notional loss, Macquarie will not make any payment or compensation in respect of the loss. This notional loss will be offset against notional income in the first instance and then against any future notional income until the loss is completely offset. Any notional loss may also be deducted from amounts retained under the DPS Plan and NI Plan at the discretion of the Macquarie Executive Committee or the BRC.

Profit share retained under the DPS Plan vests and is paid out in three equal installments: three, four and five years from the retention date. Profit share retained under the NI Plan vests and is paid out in three equal installments: two, three and four years from the retention date.

**Potential Payments on Termination or Change in Control**

For each of the named executive officers, there are no contracts, agreements, plans or arrangements that provide for payments upon a change of control of our Company.

## **Termination Provisions Under Employment Agreements**

Under the terms of Mr. Hooke's employment agreement with Macquarie Corporate Holdings Limited, executed on May 20, 2015, Mr. Hooke will provide Macquarie with four weeks' notice if he voluntarily resigns. Macquarie will provide Mr. Hooke four weeks' notice of any termination (although the employer may make payments to him in lieu of such notice), subject to certain exclusions including misconduct, dishonesty, harm to reputation of the employer or Macquarie, inappropriate workplace behavior, inability to comply with conditions of employment and/or any other reason justifying termination without notice. The period between such notice and termination of employment is referred to as the notice period. During the notice period, Mr. Hooke will be entitled to continue to receive his salary and contributions to the group medical, dental,

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vision, life and disability plans. Upon termination, Mr. Hooke will be entitled to payment of any accrued but unpaid vacation time. During the notice period, Macquarie has the discretion to direct Mr. Hooke not to do any work or contact any customers or clients for a period up to the date of his termination or resignation. During this notice period, Mr. Hooke will continue to be employed by Macquarie and must not engage or prepare to engage in any business activity that is the same or similar to the business he was undertaking with his employer. Mr. Hooke is also entitled to severance under Macquarie's severance plan discussed below.

Under the terms of Mr. Stewart's employment agreement with Macquarie Holdings (USA) Inc., accepted on May 19, 2015, Mr. Stewart will provide Macquarie with two weeks' notice if he voluntarily resigns and Macquarie will provide Mr. Stewart two weeks' notice of any termination for any reason other than for cause, as defined in the agreement. The period between such notice and termination of employment is referred to as the notice period. During the notice period, Mr. Stewart will be entitled to continue to receive his salary and contributions to the group medical, dental, vision, life and disability plans. Upon termination, Mr. Stewart will be entitled to payment of any accrued but unpaid vacation time. Macquarie may, in its discretion, alter Mr. Stewart's duties or place him on paid leave of absence during the notice period. In addition, Mr. Stewart may not engage in any other business activity during his employment or the notice period. Mr. Stewart is also entitled to severance under Macquarie's severance plan discussed below.

The employment agreements provide that both Mr. Hooke and Mr. Stewart are subject to a confidentiality restrictive covenant for an unlimited duration. The employment agreements also provide that Mr. Hooke and Mr. Stewart are subject to a non-solicitation restrictive covenant of employees and clients during their employment and for a six-month period thereafter. In addition, the employment agreements provide that Mr. Hooke and Mr. Stewart are subject to a non-competition restrictive covenant during their employment and for a three-month period thereafter should Macquarie elect to enforce such period. In the event that Macquarie elects to enforce the three-month period post-termination against Mr. Hooke, Macquarie would pay an amount equal to the base salary, less any applicable deductions, he would have received had he been employed during such period. In the event that Macquarie elects to enforce the three-month period post termination against Mr. Stewart, Macquarie would pay an amount equal to the base salary and the value of medical benefits elected at the time of notice that he would have received, less any applicable deductions, he would have received had he been employed during such period.

### **Macquarie's Severance Plan**

Under Macquarie's severance plans applicable to Mr. Hooke and Mr. Stewart, if an employee is terminated by Macquarie for reasons other than for cause, retirement and voluntary resignation, including job abandonment, death or disability (as defined in the plan), the employee would be entitled to severance payments equal to four weeks' base salary for the first year of employment plus three weeks' base salary for each year thereafter, and pro rata payments for each complete month within any portion of a year.

### **Profit Share Arrangement**

The DPS Plan and the MEREP rules give Macquarie the discretion to fully vest retention on termination. The BRC or the Executive Committee under delegation from the board may consider exercising this discretion where, for example, a staff member's employment ends on the grounds of redundancy, disability, serious ill-health or in other limited exceptional circumstances, such as the business efficacy reasons. In all other cases, retention is forfeited on leaving Macquarie.



## **Payments Upon Resignation or Termination**

If, as of December 31, 2015, Mr. Hooke and Mr. Stewart's employment had been terminated without cause, they would have been entitled to a severance payment of \$198,077 and \$28,269, respectively, under the Macquarie severance plan described above, in addition to accrued and unpaid vacation time, including any applicable long service leave benefit for Mr. Hooke. They may also receive unvested retained profit share amounts, subject to the discretions. Mr. Hooke and Mr. Stewart would not be entitled to any severance in the event of death or serious incapacitation, subject to discretions being exercised in relation to their retained profit share amounts. No amounts would have been payable in the event of their resignation or termination for cause.

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Mr. Weintraub resigned his position as chief financial officer of our Company effective June 30, 2015 and remained employed by Macquarie through December 31, 2015. In exchange for and following the execution of his separation agreement, Mr. Weintraub received (i) a separation payment in the amount of \$69,962; (ii) acceleration of vesting of the amount held in the NI Plan totaling \$32,488; and (iii) acceleration of vesting of the unvested portion of his MEREP awards totaling 6,084 shares, or \$366,903, at a share price of AUD \$82.77. Currently, Mr. Weintraub serves as a member of the board of directors of our IMTT and Atlantic Aviation subsidiaries, and receives \$25,000 per year for his service on each such board.

Prior to his separation, Mr. Weintraub's employment agreement with Macquarie Holdings (USA) Inc., executed on May 26, 2010 set forth that he would provide Macquarie with two weeks' notice if he voluntarily resigns and Macquarie would provide Mr. Weintraub two weeks' notice of any termination for any reason other than for cause, as defined in the agreement. The period between such notice and termination of employment was referred to as the notice period. During the notice period, Mr. Weintraub was entitled to continue to receive his salary and contributions to the group medical, dental, vision, life and disability plans. Upon termination, Mr. Weintraub was entitled to payment of any accrued but unpaid vacation time. Macquarie could, in its discretion, alter Mr. Weintraub's duties or place him on paid leave of absence during the notice period. In addition, Mr. Weintraub could not engage in any other business activity during his employment or the notice period.

Under Macquarie's severance plan applicable to U.S.-based staff; if Mr. Weintraub was terminated by Macquarie for reasons other than for cause, retirement and voluntary resignation, including job abandonment, death or disability (as defined in the plan), he was entitled to severance payments equal to four weeks' base salary for the first year of employment plus three weeks' base salary for each year thereafter, and pro rata payments for each complete month within any portion of a year.

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# SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth information regarding the beneficial ownership of common stock by each person who is known to us to be the beneficial owner of more than five percent of the outstanding shares at April 1, 2016, and each of our directors and named executive officers and our directors and named executive officers as a group as of April 1, 2016, based on 80,257,596 shares of common stock issued and outstanding. All holders of common stock are entitled to one vote per share on all matters submitted to a vote of holders of shares of common stock. The voting rights attached to shares held by our directors, named executive officers or major shareholders do not differ from those that attach to shares held by any other holder. Under Rule 13d-3 of the Exchange Act, beneficial ownership includes shares for which the individual, directly or indirectly, has voting power, meaning the power to control voting decisions, or investment power, meaning the power to cause the sale of the shares, whether or not the shares are held for the individual's benefit.

Name and Address of Beneficial Owner	Amount and Nature of Beneficial Ownership (Number of Shares)			Percent of Shares Outstanding
	Shares of Common Stock	Right to Acquire Shares Within 60 Days	Total	
<b>5% Beneficial Owners</b>				
Macquarie Infrastructure Management (USA) Inc. <sup>(1)</sup>	5,742,002		5,742,002	7.2 %
The Vanguard Group <sup>(2)</sup>	4,790,230		4,790,230	6.0 %
MSDC Management, L.P. <sup>(3)</sup>	4,104,007		4,104,007	5.1 %
Morgan Stanley <sup>(4)</sup> Directors <sup>(5)</sup>	4,056,540		4,056,540	5.1 %
Martin Stanley <sup>(6)</sup>	5,743,552		5,743,552	7.2 %
Norman H. Brown, Jr.	49,338	1,732 <sup>(7)</sup>	51,070	*
George W. Carmany, III	40,357	1,732 <sup>(7)</sup>	42,089	*
H.E. (Jack) Lentz	19,848	1,732 <sup>(7)</sup>	21,580	*
Ouma Sananikone	5,982	1,732 <sup>(7)</sup>	7,714	*
William H. Webb	94,617	1,732 <sup>(7)</sup>	96,349	*
<b>Named Executive Officers<sup>(5)</sup></b>				
James Hooke	58,576		58,576	*
Liam Stewart	281		281	*
All Directors and Executive Officers as a Group	6,012,551	8,660	6,021,211	7.5 %

\*

Less than 1%.

(1) The address of our Manager is 125 West 55<sup>th</sup> Street, New York, NY 10019. Based on a report on Schedule 13D/A filed on June 9, 2015, as updated by subsequent Form 4s filed on June 17, 2015, July 17, 2015, August 31, 2015, September 21, 2015, October 30, 2015, November 24, 2015, December 18, 2015, January 28, 2016, February 24, 2016 and March 21, 2016, respectively, Macquarie Infrastructure Management (USA) Inc. has shared dispositive power with respect to 5,739,552 shares with Macquarie Group Limited. Macquarie Group Limited also holds

shared dispositive power with respect to 2,450 shares reflected in the column entitled Shares Representing Shared Voting and Investment Power. These shares are held through its subsidiary Macquarie Group Services Australia Pty Limited to hedge potential payments under its DPS Plan and over which Macquarie Group Services Australia Pty Limited has shared dispositive power with Macquarie.

(2) Based on a report on Schedule 13G filed on February 10, 2016, The Vanguard Group has shared voting power with respect to 3,700 shares, shared dispositive power with respect to 51,602 shares, sole voting power with respect to 52,402 shares and sole dispositive power with respect to 4,738,628 shares. The address of The Vanguard Group is 100 Vanguard Blvd., Malvern, Pennsylvania 19355.

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Based on a report on Schedule 13G/A filed on February 17, 2015, MSDC Management, L.P., the investment manager of MSD Torchlight Partners, L.P. and MSD Energy Partners, L.P., has shared voting and dispositive power with respect to 4,104,007 shares and sole voting and dispositive power over no shares. MSD Torchlight Partners, L.P. has shared voting and dispositive power with respect to 3,094,964 shares and sole voting and (3) dispositive power over no shares. MSD Energy Partners, L.P. has shared voting and dispositive power with respect to 1,009,043 shares and sole voting and dispositive power over no shares. Each of MSD Torchlight Partners, L.P. and MSD Energy Partners, L.P. is the direct owner of the underlying securities. The address of MSDC Management, L.P., MSD Torchlight Partners, L.P. and MSD Energy Partners, L.P. is 645 Fifth Avenue, 21<sup>st</sup> Floor, New York, New York 10022.

Based on a report on Schedule 13G filed on January 29, 2016, Morgan Stanley has shared voting power with (4) respect to 311,466 shares, shared dispositive power with respect to 4,056,540 shares, sole voting power with respect to 3,731,361 shares and sole dispositive power over no shares. The address of Morgan Stanley is 1585 Broadway, New York, New York 10036.

(5) The address of each director and named executive officer is c/o Macquarie Infrastructure Corporation, 125 West 55<sup>th</sup> Street, New York, New York 10019.

Includes 5,739,552 shares held by the Manager as to which Mr. Stanley disclaims beneficial ownership. Mr. (6) Stanley serves as Chairman of the Macquarie Group's Macquarie Infrastructure and Real Assets division, of which the Manager constitutes a part.

(7) Consists of shares which the independent directors have a right, as of May 17, 2016, to acquire through the 2014 Independent Directors' Equity Plan.

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## **AUDIT COMMITTEE REPORT**

Our audit committee is composed of five independent directors, all of whom are financially literate. In addition, the board has determined that each of Mr. Brown, an independent director and the chairman of the audit committee, and Mr. Carmany, an independent director, qualify as audit committee financial experts as defined by the SEC. The audit committee operates under a written charter, which reflects NYSE listing standards and Sarbanes-Oxley Act requirements regarding audit committees. A copy of the charter is available on the Company's website at [www.macquarie.com/mic](http://www.macquarie.com/mic) under Investor Center/Governance.

The audit committee's primary role is to assist the board in fulfilling its responsibility for oversight of (1) the quality and integrity of the consolidated financial statements and related disclosures, (2) compliance with legal and regulatory requirements, (3) the independent auditors' qualifications, independence and performance and (4) the performance of our internal audit and control functions.

Management is responsible for the preparation of the financial statements, the financial reporting process and the system of internal controls. The independent auditors are responsible for performing an audit of the financial statements in accordance with auditing standards generally accepted in the United States, and issuing an opinion as to the conformity of those audited financial statements to U.S. generally accepted accounting principles. The audit committee monitors and oversees these processes.

The audit committee has adopted a policy designed to ensure proper oversight of our independent auditor. Under the policy, the audit committee is directly responsible for the appointment, compensation, retention and oversight of the work of any registered public accounting firm engaged for the purpose of preparing or issuing an audit report or performing any other audit review (including resolution of disagreements among management, the Manager, and the auditor regarding financial reporting), or attestation services. In addition, the audit committee is responsible for pre-approving any non-audit services provided by the Company's independent auditors. The audit committee's charter also ensures that the independent auditor discusses with the audit committee important issues such as internal controls, critical accounting policies, any instances of fraud and the consistency and appropriateness of our accounting policies and practices.

The audit committee has reviewed and discussed with management and KPMG LLP, the independent auditor, the audited financial statements as of and for the year ended December 31, 2015. The audit committee has also discussed with KPMG LLP the matters required to be discussed by the Statement on Auditing Standards No. 16 (Communications with Audit Committees) adopted by the Public Company Accounting Oversight Board (PCAOB). In addition, the audit committee has received from the independent auditor the written disclosures and letter required by the applicable requirements of the PCAOB regarding the independent auditors' communications with the audit committee concerning independence, and the audit committee has discussed with the independent auditor its independence from the Company and management. The audit committee also considered whether the non-audit services provided by KPMG LLP to us during 2015 were compatible with its independence as auditor.

Based on these reviews and discussions, the audit committee has recommended to the board, and the board has approved, the inclusion of the audited financial statements in the Company's annual report on Form 10-K for the year ended December 31, 2015.

### **Members of the Audit Committee**

Norman H. Brown, Jr., Chairman

George W. Carmany, III  
H.E. (Jack) Lentz  
William H. Webb  
Ouma Sananikone

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# **CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS**

## **Related Party Transactions Policies**

Our board recognizes that related party transactions present a heightened risk of conflicts of interest and therefore has adopted internal policies and protocols to be followed in connection with related party transactions.

The Company's audit committee is required to approve all related party transactions, including those involving Macquarie Group entities and vehicles managed by the Macquarie Group, regardless of the dollar amount of the transaction. The protocol applies to all transactions involving the Company or any of its subsidiaries in which a Macquarie Group entity may receive a financial benefit.

In approving related party transactions, the audit committee determines whether each such transaction referred to the committee is on arm's-length terms or better. The audit committee is authorized to request and review any factual information to enable them to determine whether a related party transaction is on arm's-length terms. This information may take the form of benchmarks comparing the terms of the proposed transaction to similar transactions involving unrelated parties or external fairness opinions.

Under the guidance of the audit committee, the Company's chief executive officer and chief financial officer are responsible for managing any benchmarking or review process conducted in accordance with the protocol, in consultation with the Company's general counsel. The Company's general counsel is responsible for ensuring overall compliance with the protocol, including ensuring that related party transactions covered by the protocol are referred to the audit committee for approval, and for reporting such transactions at regular meetings of the Company's board of directors. The Company's risk and compliance manager is responsible for monitoring compliance with the protocol and educating all Company employees, including those seconded by our Manager, about the protocol.

Our board has also adopted a written policy pursuant to which it has pre-approved certain types of transactions with related parties assuming certain conditions are met. The pre-approval policy permits foreign exchange, interest rate hedge and other routine financial transactions (such as the establishment of bank, brokerage and custodial accounts) for which the terms provided by the related party are equal or more favorable to us than those quoted by unaffiliated counterparties. All pre-approved transactions are included as a standing item in reports to the Company's board at regular meetings of the board.

## **Our Relationship With the Macquarie Group**

Prior to our initial public offering, we were a member of the Macquarie Group of companies. Macquarie Infrastructure Management (USA) Inc., our Manager, is a part of the Macquarie Group. From time to time, we have entered into, and in the future we may enter into, transactions and relationships involving the Macquarie Group, including those with Macquarie Group Limited, its affiliates, or vehicles managed by the Macquarie Group. As discussed above, our audit committee is required to approve all related party transactions, including those involving the Macquarie Group, except for those pre-approved by our board. Our chairman and chief executive officer also serve as directors without compensation for affiliates of our Manager within the Macquarie Group.



## **Contractual Arrangements With Our Manager**

### **Our Manager's Investment in the Company and Registration Rights**

At March 31, 2016 and December 31, 2015, the Manager held 5,739,552 shares and 5,506,369 shares, respectively, of the common stock of the Company. Pursuant to the terms of the management services agreement, or Management Agreement, the Manager may sell these shares, at any time. Under the Management Agreement, our Manager, at its option, may reinvest performance fees and base management fees in shares of our Company.

We entered into a registration rights agreement with our Manager under which we agreed to file a shelf registration statement under the Securities Act relating to the resale of shares owned by our Manager. In addition, our Manager may also require us to include its shares in future registered offerings that we conduct, subject to cutback at the option of the underwriters of any such offering.

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Since 2014, we had paid our Manager cash dividends on shares held for the following periods:

Declared	Period Covered	\$ per Share	Record Date	Payable Date	Cash Paid to Manager (in thousands)
February 18, 2016	Fourth quarter 2015	\$ 1.15	March 3, 2016	March 8, 2016	\$ 6,510
October 29, 2015	Third quarter 2015	\$ 1.13	November 13, 2015	November 18, 2015	\$ 6,052
July 30, 2015	Second quarter 2015	\$ 1.11	August 13, 2015	August 18, 2015	\$ 5,693
April 30, 2015	First quarter 2015	\$ 1.07	May 14, 2015	May 19, 2015	\$ 7,281
February 17, 2015	Fourth quarter 2014	\$ 1.02	March 2, 2015	March 5, 2015	\$ 4,905
October 27, 2014	Third quarter 2014	\$ 0.98	November 10, 2014	November 13, 2014	\$ 4,438
July 3, 2014	Second quarter 2014	\$ 0.95	August 11, 2014	August 14, 2014	\$ 3,402
April 28, 2014	First quarter 2014	\$ 0.9375	May 12, 2014	May 15, 2014	\$ 3,180
February 18, 2014	Fourth quarter 2013	\$ 0.9125	March 3, 2014	March 6, 2014	\$ 2,945

### Management Services Agreement

*Management and Fees.* At the closing of our initial public offering, we entered into a management services agreement, or Management Agreement, pursuant to which our Manager manages the day-to-day operations and oversees the management teams of our operating businesses. In addition, our Manager, as sole holder of our special stock, has the right to elect the chairman of our board, subject to minimum equity ownership, and to assign, or second, to us, two of its employees to serve as chief executive officer and chief financial officer and seconds or makes other personnel available as required. The board member elected by the Manager does not receive any compensation (other than out-of-pocket expenses) and does not have any special voting rights.

In accordance with the Management Agreement, our Manager is entitled to a base management fee based primarily on our Company's market capitalization, and potentially a performance fee, based on the performance of our Company's stock relative to a U.S. utilities index. For the quarter ended March 31, 2016 and year ended December 31, 2015, we incurred base management fees of \$14.8 million and \$70.6 million, respectively. For the year ended December 31, 2015, we incurred performance fees of \$284.4 million. For the quarter ended March 31, 2016, we did not incur any performance fees.

The unpaid portion of the base management fees and performance fees, if any, at the end of each reporting period is included in due to Manager-related party in the consolidated balance sheets. The following table shows the Manager's election to reinvest its base management fees and performance fees, if any, in additional shares during 2015, except as noted:

Period	Base Management Fee Amount (\$ in thousands)	Performance Fee Amount (\$ in thousands)	Shares Issued
Fourth quarter 2015	\$ 17,009	\$	227,733
Third quarter 2015	18,118		226,914
Second quarter 2015	18,918	135,641	223,827 <sup>(1)</sup>
First quarter 2015	16,545	148,728	2,068,038

- (1) In July 2015, our Board requested, and our Manager agreed, that \$67.8 million of the performance fee for the quarter ended June 30, 2015 be settled in cash in July 2015 to minimize dilution. The remaining \$67.8 million obligation was deferred until July 2016. At July 2016, our Board will consider whether the remaining obligation may be settled in cash or shares, or a combination thereof.

Our Manager is not entitled to any other compensation and all costs incurred by our Manager, including compensation of seconded staff, are paid by our Manager out of its base management fee. However, we are responsible for other direct costs including, but not limited to, expenses incurred in the administration or management of our businesses, income taxes, audit and legal fees, acquisitions and dispositions and its compliance with applicable laws and regulations. During the quarter ended March 31, 2016 and year ended December 31, 2015, our Manager charged us \$71,000 and \$533,000, respectively, for reimbursement of

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out-of-pocket expenses. The unpaid portion of the out-of-pocket expenses at the end of the reporting period is included in due to Manager-related party in our consolidated balance sheet.

On May 21, 2015, to give effect to the Conversion, we entered into a Third Amended and Restated Management Services Agreement (the Third Amended Agreement), among our Company, MIC Ohana Corporation and our Manager. Concurrently with the Conversion, our Manager was issued 100 shares of a new series of special stock of our Company in order to induce our Manager to enter into the Third Amended Agreement. The sole purpose for the issuance of shares of special stock to our Manager was to preserve our Manager's existing right to appoint one director who served as the chairman of the board of directors of MIC pursuant to the terms of MIC's operating agreement, which right would otherwise have been lost upon consummation of the Conversion. Following the Conversion and the issuance of special stock, our Manager's right to elect one director who serves as chairman remains the same as was in effect prior to the Conversion. We did not grant any additional rights to our Manager through the special stock issuance. On May 21, 2015, we entered into an amended and restated registration rights agreement with our Manager to give effect to the Conversion.

*Acquisition Opportunities.* Under the terms of the Management Agreement, our Manager has exclusive responsibility for reviewing and making recommendations to the board with respect to acquisition opportunities and dispositions. In the event that an opportunity is not originated by our Manager, our board must seek a recommendation from our Manager prior to making a decision concerning any acquisition or disposition. Our Manager and its affiliates refer to our board of directors any acquisition opportunities in accordance with the U.S. acquisition priorities below that are made available to the Macquarie Infrastructure and Real Assets division of the Macquarie Group unless our chief executive officer determines that such opportunity does not meet our acquisition criteria adopted by our board of directors. To the extent Macquarie Group entities outside the Macquarie Infrastructure and Real Assets division develop or become aware of acquisition opportunities, they are not obligated to offer us these opportunities.

Pursuant to our Management Agreement, we have first priority ahead of all current and future entities managed by our Manager or by members of the Macquarie Group within the Macquarie Infrastructure and Real Assets division in each of the following acquisition opportunities that are within the United States:

airport fixed base operations;  
airport parking;  
district energy; and

user pays, contracted and regulated assets (as defined below) that represent an investment of greater than AUD \$40.0 million.

User pays assets mean businesses that are transportation-related and derive a majority of their revenues from a per use fee or charge.

Contracted assets mean businesses that derive a majority of their revenues from long-term contracts with other businesses or governments.

Regulated assets mean businesses that are the sole or predominant providers of at least one essential service in their service areas and where the level of revenue earned or charges imposed are regulated by government entities.

We have first priority ahead of all current and future entities managed by our Manager or any Manager affiliate in all investment opportunities originated by a party other than our Manager or any Manager affiliate where such party offers the opportunity exclusively to us and not to any other entity managed by our Manager or any Manager affiliate within the Macquarie Infrastructure and Real Assets division.

*Preferred Financial Advisor.* Affiliates of the Macquarie Group, including Macquarie Capital (USA) Inc., or MCUSA, have preferred provider status in respect of any financial advisory services to be contracted for by us. If we contract with MCUSA for such services, such contracts will be based on market terms and subject to approval by our audit committee. Any fees payable to MCUSA for such financial advisory services

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are in addition to fees paid under the Management Agreement. The use of MCUSA does not preclude our use of similar services provided by any third party vendors, and we have used other advisors from time to time.

## **Other Services from the Macquarie Group**

We utilize the resources of the Macquarie Group with respect to a range of advisory, procurement, insurance, hedging, lending and other services. Engagements involving members of the Macquarie Group are reviewed and approved by the Audit Committee of our Board of Directors. Macquarie Group affiliates are engaged on an arm's length basis and frequently as a member of syndicate of providers whose other members establish the terms of the interaction.

### **Advisory Services**

The Macquarie Group, and wholly-owned subsidiaries within the Macquarie Group, including Macquarie Bank Limited (MBL) and Macquarie Capital (USA) Inc. (MCUSA) have provided various advisory and other services and incurred expenses in connection with the Company's equity raising activities, acquisitions and debt structuring for our

Company and our businesses. Underwriting fees are recorded in stockholders' equity as a direct cost of equity offerings. Advisory fees and out-of-pocket expenses relating to acquisitions are expensed as incurred. Debt arranging fees are deferred and amortized over the term of the credit facility.

On June 24, 2015, we commenced an At-the-Market (ATM) program where we may offer and sell shares of our common stock, par value \$0.001 per share, from time to time having an aggregate gross offering price of up to \$400.0 million. These sales, if any, will be made pursuant to the terms of an equity distribution agreement entered into between us and the sales agents, with MCUSA being one of the sales agents. Under the terms of the equity distribution agreement, we may also sell shares to any sales agent as principal for its own account at a price agreed upon at the time of the sale. For the quarter ended March 31, 2016 and year ended December 31, 2015, we did not engage MCUSA for such activities.

In March 2015, we completed an underwritten public offering of 6,109,375 shares. In this offering, MCUSA served as a joint book-running manager and an underwriter and received \$2.3 million from us for such services.

### **Long-Term Debt and Derivatives**

On April 1, 2015, in conjunction with the acquisition of Bayonne Energy Center (BEC), we assumed the existing revolving credit facility, of which \$7.5 million was committed by MIHI LLC, an entity within the Macquarie Group.

We also assumed interest rate swap contracts of which MBL was one of its counterparties. During the year ended December 31, 2015, we incurred and paid \$8,000 in commitment fees to MIHI LLC for its portion of the revolving credit facility and paid \$396,000 to MBL for interest in connection with the interest rate swap settlements. In connection with the repayment of the outstanding balance on BEC's debt facilities, we paid \$4.8 million in interest rate swap breakage fees associated with the termination of out-of-the money interest rate swap contracts to MBL.

Atlantic Aviation's \$70.0 million revolving credit facility is provided by various financial institutions, including MBL which provides \$15.7 million. At March 31, 2016 and December 31, 2015, the revolving credit facility remained undrawn. For the quarter ended March 31, 2016 and year ended December 31, 2015, Atlantic Aviation incurred \$29,000 and \$114,000, respectively, in commitment fees related to MBL's portion of the revolving credit facility.

In July 2014, we entered into a credit agreement at the holding company that provides a five-year, \$250.0 million senior secured first lien revolving credit facility, of which \$50.0 million is committed by MIHI LLC. We increased the

aggregate commitments under our revolving credit facility from \$250.0 million to \$410.0 million with all terms remaining the same during the year ended December 31, 2015. MIHI LLC's commitment of \$50.0 million remained unchanged.

During the quarter ended March 31, 2016 and year ended December 31, 2015, we paid \$6,000 and \$113,000, respectively, in interest related to MIHI LLC's portion of the amounts drawn on the MIC revolving credit facility. For the quarter ended March 31, 2016 and year ended December 31, 2015, we incurred \$34,000 and \$123,000, respectively, in commitment fees related to MIHI LLC's portion of the revolving credit facility. We had \$35,000 payable in accrued interest at March 31, 2016 and December 31, 2015 in the consolidated

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balance sheets. During the year ended December 31, 2015, we also incurred and paid \$1,000 in LIBOR break fees to MIHI LLC for early repayment of the revolving credit facility.

### **Other Transactions**

Macquarie, through the Macquarie Insurance Facility (MIF), has an aggregated insurance buying program. By combining the insurance premiums of Macquarie owned and managed funds, MIF has been able to deliver very competitive terms to businesses that participate in the facility. MIF earns a commission from the insurers. No payments were made to MIF during the quarter ended March 31, 2016 and year ended December 31, 2015. During the quarter ended March 31, 2016, we renewed our Directors and Officers liability insurance utilizing several of the MIF insurers.

IMTT, Atlantic Aviation, Contracted Power and Energy and Hawaii Gas, our subsidiaries, purchase and renew property and casualty insurance coverage on an ongoing basis from insurance underwriters who then pay commissions to MIF. For the quarter ended March 31, 2016 and year ended December 31, 2015, no payments were made directly to MIF for property and casualty insurance.

During 2015, Hawaii Gas appointed an independent director who is the chief executive officer of one of its syndicate of lenders on its \$80.0 million term loan debt facility and its \$60.0 million revolving credit facility, which were both refinanced in February 2016. Of the \$80.0 million term loan debt facility, the portion committed by this lender changed from the original \$11.4 million to \$8.6 million. For the quarter ended March 31, 2016 and since the director appointment through December 31, 2015, the business incurred \$60,000 and \$146,000, respectively, of interest expense on the term loan debt facility.

Of the \$60.0 million revolving credit facility, the portion committed by this lender changed from the original \$8.6 million to \$6.4 million. For the quarter ended March 31, 2016 and since the director appointment through December 31, 2015, the business incurred \$4,000 and \$10,000, respectively, of commitment fees on the revolving credit facility. As part of the refinancing, Hawaii Gas paid \$32,000 in deferred financing fees to this lender during the quarter ended March 31, 2016. The business had \$11,000 and \$6,000 payable to this lender for accrued interest at March 31, 2016 and December 31, 2015, respectively. In addition, at March 31, 2016 and December 31, 2015, the business held \$100,000 in cash with this bank.

Macquarie Energy North America Trading, Inc., an indirect subsidiary of Macquarie Group Limited, entered into contracts with IMTT to lease a total of 154,000 barrels of capacity during the quarter ended June 30, 2015, of which the contract for 56,000 barrels expired within the same quarter. During the quarter ended March 31, 2016, MENAT entered into additional contracts with IMTT to lease an additional 823,000 barrels of capacity. At March 31, 2016, a total capacity of 921,000 barrels were leased to MENAT. The revenue recognized pursuant to these agreements during the quarter ended March 31, 2016 and year ended December 31, 2015 was approximately \$1.2 million and \$565,000, respectively. At March 31, 2016, IMTT had approximately \$45,000 recorded in accounts receivable in the consolidated balance sheet.

During the quarter ended March 31, 2015, Macquarie Capital Markets Canada Ltd, an indirect subsidiary of Macquarie Group Limited, used Atlantic Aviation's charter jet business and incurred \$18,000 for this service. This amount was subsequently collected by Atlantic Aviation.

Atlantic Aviation entered into a copiers lease agreement with Macquarie Equipment Finance (MEF), an indirect subsidiary of Macquarie Group Limited. For the year ended December 31, 2015, Atlantic Aviation incurred \$2,000 in lease expense on these copiers. As of March 31, 2015, the contract with MEF expired and there were no amounts due



to MEF.

Hawaii Gas entered into licensing agreements with Utility Service Partners, Inc. and America's Water Heater Rentals, LLC, both indirect subsidiaries of Macquarie Group Limited, to enable these entities to offer products and services to Hawaii Gas's customer base. No payments were made under these arrangements during the quarter ended March 31, 2016 and year ended December 31, 2015.

In addition, we and several of our subsidiaries have entered into a licensing agreement with the Macquarie Group related to the use of the Macquarie name and trademark. The Macquarie Group does not charge us any fees for this license.

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## **SECTION 16(a) BENEFICIAL OWNERSHIP REPORTING COMPLIANCE**

Section 16(a) of the Exchange Act requires our Manager and our directors and officers, and persons who beneficially own more than ten percent of our shares, to file initial reports of ownership and reports of changes in ownership of our shares and our other equity securities with the Securities and Exchange Commission. Based solely on our review of copies of such reports and on written representations from such reporting persons, we believe that in 2015 all such reporting persons filed the required reports on a timely basis, except for one late Form 4 filing for Macquarie Infrastructure Management (USA), Inc. (reporting one transaction).

## **SHAREHOLDER PROPOSALS FOR THE 2017 ANNUAL MEETING OF SHAREHOLDERS**

To be considered for inclusion in our proxy statement for the 2017 Annual Meeting of Shareholders, shareholder proposals must be received by the Company no later than November 29, 2016. In order to be included in Company sponsored proxy materials, shareholder proposals will need to comply with the requirements of Rule 14a-8 promulgated under the Exchange Act. If you do not comply with Rule 14a-8, we will not be required to include the proposal in the proxy statement and the proxy card we will mail to shareholders.

Pursuant to the bylaws and applicable SEC rules and regulations, no shareholder proposals (other than proposals included in our proxy statement in accordance with Rule 14a-8) may be presented for action at the 2017 Annual Meeting of Shareholders unless a shareholder has given timely notice of the proposal in writing to the Secretary. To be timely, a shareholder's notice is required to be delivered to the Secretary not earlier than December 19, 2016 (150 days prior to May 18, 2017, the one year anniversary of the 2016 Annual Meeting) or later than January 18, 2017 (120 days prior to May 18, 2017). The notice must contain the information required by the bylaws. The foregoing provisions of the bylaws do not affect a shareholder's ability to request inclusion of a proposal in our proxy statement in accordance with Rule 14a-8 and referred to above. A proxy may confer discretionary authority to vote on any proposal at a meeting if we do not receive notice of the proposal within the foregoing time frames. Shareholder proposals should be sent to:

Macquarie Infrastructure Corporation  
125 West 55<sup>th</sup> Street  
New York, New York 10019  
United States of America  
Attention: General Counsel and Secretary

## **UNITED STATES SECURITIES AND EXCHANGE COMMISSION REPORTS**

**Copies of this proxy statement and our annual report on Form 10-K for the fiscal year ended December 31, 2015, as filed with the SEC, are available to shareholders free of charge on our website at [www.macquarie.com/mic](http://www.macquarie.com/mic) under *Investor Center/Reports and Presentations* or by writing to us at 125 West 55<sup>th</sup> Street, New York, New York 10019, United States of America, Attention: Investor Relations.**



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## **OTHER MATTERS**

We know of no other business that will be brought before the 2016 Annual Meeting. If any other matter or any proposal should be properly presented and should properly come before the meeting for action, the persons named in the accompanying proxy will vote upon such proposal at their discretion and in accordance with their best judgment.

By order of the board of directors,

Michael Kernan  
General Counsel and Secretary

April 1, 2016

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**Annex A**

**MACQUARIE INFRASTRUCTURE CORPORATION**  
**2016 OMNIBUS EMPLOYEE INCENTIVE PLAN**

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# MACQUARIE INFRASTRUCTURE CORPORATION 2016 OMNIBUS EMPLOYEE INCENTIVE PLAN

## ARTICLE I GENERAL

### 1.1 Purpose

The purpose of the Macquarie Infrastructure Corporation 2016 Omnibus Employee Incentive Plan is to attract, retain and motivate employees (including prospective employees), consultants and others who may perform services for the Company or its Subsidiaries (each as hereinafter defined), to compensate them for their contributions to the long-term growth and profits of the Company and to encourage them to acquire a proprietary interest in the success of the Company.

### 1.2 Definitions of Certain Terms

For purposes of this 2016 Omnibus Employee Incentive Plan, the following terms have the meanings set forth below:

1.2.1 **Affiliate** means, with respect to an entity, an entity that directly or indirectly controls, is controlled by, or is under common control with such entity.

1.2.2 **Award** means an award made pursuant to the Plan.

1.2.3 **Award Agreement** means the written document by which each Award is evidenced, and which may, but need not be (as determined by the Committee) executed or acknowledged by a Grantee as a condition to receiving an Award or the benefits under an Award, and which sets forth the terms and provisions applicable to Awards granted under the Plan to such Grantee. Any reference herein to an agreement in writing will be deemed to include an electronic writing to the extent permitted by applicable law.

1.2.4 **Board** means the Board of Directors of the Company.

1.2.5 **Cash-Based Award** means an Award, whose value is determined by the Committee, granted to an individual, as described in Section 2.8.

1.2.6 **Certificate** means a stock certificate (or other appropriate document or evidence of ownership) representing Shares.

1.2.7 **Cause** means, unless otherwise provided in an Award Agreement or employment agreement:

- (a) Grantee is convicted of, pleads guilty or *nolo contendere* to, or confesses or otherwise admits to any felony involving intentional conduct or any act of fraud, misappropriation or embezzlement;
- (b) any act or omission by Grantee involving malfeasance or gross negligence in the performance of Grantee's duties and responsibilities to the material detriment of the Company; or

(c) Grantee breaches in any material respect any of the provisions of any applicable employment agreement or Award Agreement or violates any provision of any generally applicable code of conduct which is distributed in writing to the Company's Employees.

1.2.8 **Change in Control** means the happening of any of the following:

(a) Any individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Exchange Act) becomes the beneficial owner (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of 50% or more of either (A) the then-outstanding common stock of the Company (the **Outstanding Common Stock**) or (B) the combined voting power of the then-outstanding voting securities of the Company entitled to vote generally in the election of directors (the **Outstanding Company Voting Securities**); provided, however, that, for purposes of paragraph (i), the following acquisitions shall not constitute a Change in Control: (1) any acquisition directly from the Company, (2) any acquisition by the Company, (3) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Company or any Affiliate or (4) any acquisition by any corporation pursuant to a transaction that complies with paragraphs (c)(A), (c)(B) and (c)(C);

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(b) Any time at which individuals who, as of the Effective Date, constitute the Board (the **Incumbent Board**) cease for any reason to constitute at least a majority of the Board; provided, however, that any individual becoming a director subsequent to the Effective Date whose election, or nomination for election by the Company's shareholders, was approved by a vote of at least a majority of the directors then comprising the Incumbent Board shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a person other than the Board;

(c) Consummation of a reorganization, merger, statutory share exchange or consolidation or similar transaction involving the Company, a sale or other disposition of all or substantially all of the assets of the Company, or the acquisition of assets or stock of another entity by the Company (each, a **Business Combination**), in each case unless, following such Business Combination, (A) the individuals and entities that were the beneficial owners of the Outstanding Common Stock and the Outstanding Company Voting Securities immediately prior to such Business Combination beneficially own, directly or indirectly, more than 50% of the then-outstanding shares of common stock (or, for a non-corporate entity, equivalent securities) and the combined voting power of the then-outstanding voting securities entitled to vote generally in the election of directors (or, for a non-corporate entity, equivalent governing body), as the case may be, of the entity resulting from such Business Combination (including, without limitation, an entity that, as a result of such transaction, owns the Company or all or substantially all of the Company's assets either directly or through one or more subsidiaries) in substantially the same proportions as their ownership immediately prior to such Business Combination of the Outstanding Common Stock and the Outstanding Company Voting Securities, as the case may be, (B) no person (excluding any corporation resulting from such Business Combination or any employee benefit plan (or related trust) of the Company or such corporation resulting from such Business Combination) beneficially owns, directly or indirectly, 25% or more of, respectively, the then-outstanding shares of common stock of the corporation (or, for a non-corporate entity, equivalent securities) resulting from such Business Combination or the combined voting power of the then-outstanding voting securities of such corporation, except to the extent that such ownership existed prior to the Business Combination, and (C) at least a majority of the members of the board of directors (or, for a non-corporate entity, equivalent governing body) of the entity resulting from such Business Combination were members of the Incumbent Board at the time of the execution of the initial agreement or of the action of the Board providing for such Business Combination; or

(d) Approval by the shareholders of the Company of a complete liquidation or dissolution of the Company.

1.2.9 **Code** means the Internal Revenue Code of 1986, as amended from time to time, or any successor thereto, and the applicable rulings and regulations thereunder.

1.2.10 **Committee** has the meaning set forth in Section 1.3.1.

1.2.11 **Company** means Macquarie Infrastructure Corporation, a Delaware corporation, or any successor thereto.

1.2.12 **Consent** has the meaning set forth in Section 3.3.2.

1.2.13 **Consultant** means any individual or any entity that is permitted to be issued securities under a registration statement on Form S-8 that provides bona fide consulting or advisory services to the Company or its Subsidiaries pursuant to a written agreement, but will in no event include: (i) any Seconded Personnel or (ii) Macquarie Infrastructure Management (USA) Inc. or its Affiliates.

1.2.14 **Covered Person** has the meaning set forth in Section 1.3.4.

1.2.15 **Effective Date** means May 18, 2016 or such other date when the Plan is approved by the shareholders of the Company.

1.2.16 **Employee** means a regular, active employee and a prospective employee of the Company or any Subsidiary, but in no event will include any Seconded Personnel.

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1.2.17 **Employment** means a Grantee's performance of services as an Employee or Consultant for the Company or any Subsidiary, as determined by the Committee. The terms "employ" and "employed" will have their correlative meanings.

The Committee in its sole discretion may determine (a) whether and when a Grantee's leave of absence results in a termination of Employment, (b) whether and when a change in a Grantee's association with the Company or an Subsidiary results in a termination of Employment and (c) the impact, if any, of any such leave of absence or change in association on outstanding Awards. Unless expressly provided otherwise, any references in the Plan or any Award Agreement to a Grantee's Employment being terminated will include both voluntary and involuntary terminations.

Notwithstanding the foregoing, with respect to any Award subject to Section 409A of the Code (and not exempt therefrom), a termination of Employment occurs when a Grantee experiences a separation from service (as such term is defined under Section 409A of the Code).

1.2.18 **Exchange Act** means the Securities Exchange Act of 1934, as amended from time to time, or any successor thereto, and the applicable rules and regulations thereunder.

1.2.19 **Fair Market Value** means, with respect to a Share, the closing price reported for the Shares on the applicable date as reported on the New York Stock Exchange or, if not so reported, as determined in accordance with a valuation methodology approved by the Committee, unless determined as otherwise specified herein. For purposes of the grant of any Award, the applicable date will be the trading day on which the Award is granted or, if the date the Award is granted is not a trading day, the trading day immediately prior to the date the Award is granted. For purposes of the exercise of any Award, the applicable date is the date a notice of exercise is received by the Company or, if such date is not a trading day, the trading day immediately following the date a notice of exercise is received by the Company.

1.2.20 **Grantee** means an Employee or Consultant who receives an Award.

1.2.21 **Incentive Stock Option** means an option to purchase Shares that is intended to be an incentive stock option within the meaning of Sections 421 and 422 of the Code, as now constituted or subsequently amended, or pursuant to a successor provision of the Code, and which is designated as an Incentive Stock Option in the applicable Award Agreement.

1.2.22 **Performance Goals** means the goals determined by the Committee, in its discretion, to be applicable to a Grantee with respect to an Award. As determined by the Committee, the Performance Goals applicable to an Award may provide for a targeted level or levels of achievement using certain Company or individual performance measures.

The Performance Goals may differ from Grantee to Grantee and from Award to Award. Any criteria used may be measured in absolute terms or relative to comparative companies. Such Performance Goals may include, but are not limited to, earnings; earnings per share; earnings before or after deduction for all or any portion of interest, taxes, depreciation and amortization; revenue; profits; profit growth; profit-related return ratios; return on capital, assets, equity, or investment; cost management; dividend payout ratios; market share; economic value added; cash flow; free cash flow; operating cash flow; stock price; total shareholder return; book value per share; net interest margin;

working capital; expense targets; operating efficiency; asset quality; enterprise value; employee retention; asset growth; dividend yield; or other measures of performance that include one or more variations of the foregoing that are selected by the Committee. Any Performance Goals that are financial metrics, may be determined in accordance with United States Generally Accepted Accounting Principles (GAAP), or may be adjusted when established to include or exclude any items otherwise includable or excludable under GAAP. The Committee shall have the authority to make adjustments to the Performance Goals in recognition of unusual or non-recurring events affecting the Company or the financial statements of the Company, or in response to changes in applicable laws, or to account for items of gain, loss or expense determined to be extraordinary or unusual in nature or infrequent in occurrence or related to the disposal of a segment of a business or related to a change in accounting principles. The Committee may make adjustments to the

Performance Goals for the following non-exhaustive reasons: restructurings, discontinued operations, asset

write-downs, significant litigation or claim judgments or settlements, acquisitions, divestitures, a reorganization or change in the corporate structure of the Company, foreign exchange gains and losses, a change in the fiscal years of the Company, business interruption events, unbudgeted capital expenditures, unrealized investment gains and losses and impairments. The Performance Goals may be applied either individually, alternatively or in any combination to the Company or a Subsidiary,

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on a consolidated or individual company basis, or on a division, entity, line of business, project or geographical basis, either individually, alternatively or in any combination, as determined by the Committee, in its discretion.

1.2.23 **Plan** means this 2016 Omnibus Employee Incentive Plan, as amended from time to time.

1.2.24 **Plan Action** has the meaning set forth in Section 3.3.1.

1.2.25 **Seconded Personnel** means an individual seconded from Macquarie Infrastructure Management (USA) Inc. or its Affiliates, or successor manager of the Company that performs services for the Company or any Subsidiary.

1.2.26 **Securities Act** means the Securities Act of 1933, as amended from time to time, or any successor thereto, and the applicable rules and regulations thereunder.

1.2.27 **Share** means a share of common stock, par value \$0.001, of the Company.

1.2.28 **Subsidiary** means an entity (whether or not a corporation) that is wholly or majority owned or controlled, directly or indirectly, by the Company.

1.2.29 **Substitute Awards** means Awards granted or Shares issued by the Company in assumption of, or in substitution or exchange for, awards previously granted, in each case by a company acquired by the Company or any Subsidiary or with which the Company or any Subsidiary combines.

1.2.30 **Ten Percent Shareholder** means a person owning Shares possessing more than 10% of the total combined voting power of all classes of equity of the Company and of any subsidiary corporation of the Company.

1.3

Administration

1.3.1 The Compensation Committee of the Board (as constituted from time to time, and including any successor committee, the **Committee** ) will administer the Plan. In particular, the Committee will have the authority in its sole discretion to:

(a) exercise all of the powers granted to it under the Plan;

(b) construe, interpret and implement the Plan and all Award Agreements;

(c) prescribe, amend and rescind rules and regulations relating to the Plan, including rules governing the Committee's own operations;

(d) make all determinations necessary or advisable in administering the Plan;

(e) correct any defect, supply any omission and reconcile any inconsistency in the Plan;

(f) amend the Plan to reflect changes in applicable law but, subject to Section 1.6.3 or as otherwise specifically provided herein, no such amendment shall materially adversely impair the rights of the Grantee of any outstanding Award without the holder's consent;

(g) grant Awards and determine who will receive Awards, when such Awards will be granted and the terms of such Awards, including setting forth provisions with regard to the effect of a termination of Employment on such Awards;



(h) amend any outstanding Award Agreement in any respect, including, without limitation, to (1) accelerate the time or times at which the Award becomes vested, unrestricted or may be exercised (and, in connection with such acceleration, the Committee may provide that any Shares acquired pursuant to such Award will be restricted stock, which are subject to vesting, transfer, forfeiture or repayment provisions similar to those in the Grantee's underlying Award), (2) accelerate the time or times at which Shares are delivered under the Award (and, without limitation on the Committee's rights, in connection with such acceleration, the Committee may provide that any Shares delivered pursuant to such Award will be restricted stock, which are subject to vesting, transfer, forfeiture or repayment provisions similar to those in the Grantee's underlying Award), (3) waive or amend any goals, restrictions or conditions set forth in such Award Agreement, or impose new goals, restrictions and conditions or (4) reflect a change

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in the Grantee's circumstances (e.g., a change to part-time employment status or a change in position, duties or responsibilities), *provided that*, subject to Section 1.6.3 or as otherwise specifically provided herein, no such amendment shall materially adversely impair the rights of the Grantee of any outstanding Award without the holder's consent; and

(i) determine at any time whether, to what extent and under what circumstances and method or methods (1) Awards may be (A) settled in cash, Shares, other securities, other Awards or other property (in which event, the Committee may specify what other effects such settlement will have on the Grantee's Award, including the effect on any repayment provisions under the Plan or Award Agreement), (B) exercised or (C) canceled, forfeited or suspended, (2) Shares, other securities, other Awards or other property and other amounts payable with respect to an Award may be deferred either automatically or at the election of the Grantee thereof or of the Committee and (3) Awards may be settled by the Company, any of its Affiliates or any of its or their designees.

1.3.2 Actions of the Committee may be taken by the vote of a majority of its members present at a meeting (which may be held telephonically). Any action may be taken by a written instrument signed by all of the Committee members, and action so taken will be fully as effective as if it had been taken by a vote at a meeting. The determination of the Committee on all matters relating to the Plan or any Award Agreement will be final, binding and conclusive.

The Committee may allocate among its members and delegate to any person who is not a member of the Committee or to any administrative group within the Company, any of its powers, responsibilities or duties as allowed under Delaware law. In delegating its authority, the Committee will consider the extent to which any delegation may cause Awards to fail to be deductible under Section 162(m) of the Code or to fail to meet the requirements of Rule 16(b)-3(d)(1) or Rule 16(b)-3(e) under the Exchange Act.

1.3.3 Notwithstanding anything to the contrary contained herein, the Board may, in its sole discretion, at any time and from time to time, grant Awards or administer the Plan. In any such case, the Board will have all of the authority and responsibility granted to the Committee herein.

1.3.4 No member of the Board or any Employee or Seconded Personnel acting under appropriate delegation (each such person, a **Covered Person**) will have any liability to any person (including any Grantee) for any action taken or omitted to be taken or any determination made in good faith with respect to the Plan or any Award. Each Covered Person will be indemnified and held harmless by the Company against and from (a) any loss, cost, liability or expense (including attorneys' fees) that may be imposed upon or incurred by such Covered Person in connection with or resulting from any action, suit or proceeding to which such Covered Person may be a party or in which such Covered Person may be involved by reason of any action taken or omitted to be taken under the Plan or any Award Agreement, in each case, in good faith and (b) any and all amounts paid by such Covered Person, with the Company's approval, in settlement thereof, or paid by such Covered Person in satisfaction of any judgment in any such action, suit or proceeding against such Covered Person, *provided that* the Company will have the right, at its own expense, to assume and defend any such action, suit or proceeding and, once the Company gives notice of its intent to assume the defense, the Company will have sole control over such defense with counsel of the Company's choice. The foregoing right of indemnification will not be available to a Covered Person to the extent that a court of competent jurisdiction in a final judgment or other final adjudication, in either case, not subject to further appeal, determines that the acts or omissions of such Covered Person giving rise to the indemnification claim resulted from such Covered Person's bad faith, fraud or willful misconduct. The foregoing right of indemnification will not be exclusive of any other rights of indemnification to which Covered Persons may be entitled under the Company's Certificate of Incorporation or Amended and Restated Bylaws, as a matter of law, or otherwise, or any other power that the Company may have to indemnify such persons or hold them harmless.



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### 1.4 Persons Eligible for Awards

Awards under the Plan may be made to Employees and Consultants but not to (i) Seconded Personnel, (ii) any member of the Board, or (iii) Macquarie Infrastructure Management (USA) Inc. or its Affiliates.

### 1.5 Types of Awards under Plan

Awards may be made under the Plan in the form of any of the following, in each case in respect of Shares: (a) options, (b) stock appreciation rights, (c) restricted stock, (d) restricted stock units, (e) dividend equivalent rights, (f) cash-based awards and (g) other stock-based or stock-related Awards (including performance awards) that the Committee determines to be consistent with the purposes of the Plan and the interests of the Company.

### 1.6 Shares Available for Awards

1.6.1 **Shares Subject to the Plan.** Subject to the other provisions of this Section 1.6, the total number of Shares that may be granted under the Plan is 500,000 (the Share Reserve ). Such Shares may, in the discretion of the Committee, be either authorized but unissued Shares or Shares previously issued and reacquired by the Company. Shares issued in connection with Substitute Awards will not count against the number of Shares that may be issued under the Plan. The Share Reserve shall not be reduced to the extent that a distribution pursuant to an Award is made in cash.

1.6.2 **Replacement of Shares.** If any Award is forfeited, expires, terminates or otherwise lapses, in whole or in part, without the delivery of Shares, then the Shares covered by such forfeited, expired, terminated or lapsed award will again be available for grant under the Plan. For the avoidance of doubt, the following will not again become available for issuance under the Plan: (A) any Shares withheld in respect of taxes, (B) any Shares tendered or withheld to pay the exercise price of options, (C) any Shares repurchased by the Company from the optionee with the proceeds from the exercise of options and (D) any Shares subject to stock appreciation rights but not issued on exercise as a result of the operation of Section 2.4.4.

1.6.3 **Adjustments.** The Committee will adjust the number of Shares authorized pursuant to Section 1.6.1, adjust the individual Grantee limitations set forth in Sections 2.3.1 and 2.4.1 and 2.10 and adjust the terms of any outstanding Awards (including, without limitation, the number of Shares covered by each outstanding Award, the type of property to which the Award relates and the exercise or strike price of any Award), in such manner as it deems appropriate (including, without limitation, by payment of cash) to prevent the enlargement or dilution of rights, or otherwise as it deems appropriate, for any increase or decrease in the number of issued Shares (or issuance of shares of stock other than Shares) resulting from a recapitalization, stock split, reverse stock split, stock dividend, spinoff, splitup, combination, reclassification or exchange of Shares, merger, consolidation, rights offering, separation, reorganization or liquidation, or any other change in the corporate structure or Shares, including any extraordinary dividend or extraordinary distribution. After any adjustment made pursuant to this Section 1.6.3, the number of Shares subject to each outstanding Award will be rounded down to the nearest whole number.

1.6.4 **Minimum Vesting Conditions.** Grantees who are granted stock options and stock appreciation rights, will be required to continue to provide services to the Company (or a Subsidiary) for not less than one-year following the date of grant in order for any such stock options and stock appreciation rights to fully or partially vest or be exercisable (other than in case of death, disability or a Change in Control). Notwithstanding the foregoing, up to five (5) percent of the available Shares authorized for issuance under the Plan pursuant to Section 1.6.1 may provide for vesting of stock options and stock appreciation rights, partially or in full, in less than one-year.

## ARTICLE II AWARDS UNDER THE PLAN

2.1

Agreements Evidencing Awards

Each Award granted under the Plan will be evidenced by an Award Agreement that will contain such provisions and conditions as the Committee deems appropriate. Unless otherwise provided herein, the Committee may grant Awards in tandem with or in substitution for any other Award or Awards granted under

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the Plan or any award granted under any other plan of the Company. By accepting an Award pursuant to the Plan, a Grantee thereby agrees that the Award will be subject to all of the terms and provisions of the Plan and the applicable Award Agreement.

2.2 No Rights as a Shareholder

No Grantee (or other person having rights pursuant to an Award) will have any of the rights of a shareholder of the Company with respect to Shares subject to an Award until the delivery of such Shares. Except as otherwise provided in Section 1.6.3, no adjustments will be made for dividends, distributions or other rights (whether ordinary or extraordinary, and whether in cash, Shares, other securities or other property) for which the record date is before the date the Certificates for the Shares are delivered.

2.3 Options

2.3.1 **Grant.** Stock options may be granted to eligible recipients in such number and at such times during the term of the Plan as the Committee may determine; *provided, however*, that the maximum number of Shares as to which options may be granted under the Plan to any one individual in any one fiscal year may not exceed 50,000 Shares (as adjusted pursuant to the provisions of Section 1.6.3).

2.3.2 **Incentive Stock Options.** At the time of grant, the Committee will determine (a) whether all or any part of an option granted to an eligible Employee will be an Incentive Stock Option and (b) the number of Shares subject to such Incentive Stock Option; *provided, however*, that (1) the aggregate Fair Market Value (determined as of the time the option is granted) of the Shares with respect to which Incentive Stock Options are exercisable for the first time by an eligible Employee during any calendar year (under all such plans of the Company and of any subsidiary corporation of the Company) will not exceed \$100,000 and (2) no Incentive Stock Option (other than an Incentive Stock Option that may be assumed or issued by the Company in connection with a transaction to which Section 424(a) of the Code applies) may be granted to a person who is not eligible to receive an Incentive Stock Option under the Code. The form of any option which is entirely or in part an Incentive Stock Option will clearly indicate that such option is an Incentive Stock Option or, if applicable, the number of Shares subject to the Incentive Stock Option. If an option fails to qualify as an Incentive Stock Option, it shall be treated as a non-qualified stock option.

2.3.3 **Exercise Price.** The exercise price per share with respect to each option will be determined by the Committee but will not be less than the Fair Market Value of the Shares (or, in the case of an Incentive Stock Option granted to a Ten Percent Shareholder, 110% of the Fair Market Value). Notwithstanding the foregoing, Substitute Awards that are options may be granted at less than Fair Market Value.

2.3.4 **Term of Option.** In no event will any option be exercisable after the expiration of ten years (or, in the case of an Incentive Stock Option granted to a Ten Percent Shareholder, five years) from the date on which the option is granted. Options, other than Incentive Stock Options, may automatically be exercisable beyond ten years of the date of grant if the option would expire when trading in Company stock is prohibited by law or the Company's insider trading policy. Such extension may run until the 30<sup>th</sup> day after expiration of the prohibition.

2.3.5 **Exercise of Option and Payment for Shares.** An option may be exercised at such time or times and subject to such terms and conditions as will be determined by the Committee at the time the option is granted and set forth in the Award Agreement. Subject to any limitations in the applicable Award Agreement, any Shares not acquired pursuant to the exercise of an option on the applicable vesting date may be acquired thereafter at any time before the final expiration of the option. To exercise an option, the Grantee must give written notice to the Company specifying the number of Shares to be acquired and accompanied by payment of the full purchase price therefor in cash or by certified or official bank check or in another form as determined by the Company, including: (a) personal check, (b) Shares, based on the Fair Market Value as of the exercise date, of the same class as those to be granted by exercise of

the option, (c) any other form of consideration approved by the Company and permitted by applicable law and (d) any combination of the foregoing. In addition, if permitted by the Committee, the full purchase price can be paid by net exercise pursuant to which the Grantee instructs the Company to withhold a number of Shares otherwise deliverable to the Grantee upon such exercise of the option having an aggregate Fair Market Value on the date of exercise equal to the product of the exercise price multiplied by the number of Shares in respect of which the option

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shall have been exercised. Any person exercising an option will make such representations and agreements and furnish such information as the Committee may in its discretion deem necessary or desirable to assure compliance by the Company, on terms acceptable to the Company, with the provisions of the Securities Act and any other applicable legal requirements. If a Grantee so requests, Shares acquired pursuant to the exercise of an option may be issued in the name of the Grantee and another jointly with the right of survivorship.

2.3.6 **Repricing.** Except as otherwise permitted by Section 1.6.3, the Committee shall not without the approval of the Company's shareholders (a) lower the exercise price per Share of an option after it is granted, (b) cancel an option when the exercise price per Share exceeds the Fair Market Value of one Share in exchange for cash or another Award (other than in connection with a Change in Control), or (c) take any other action with respect to an option that would be treated as a repricing under the rules and regulations of the principal U.S. national securities exchange on which the Shares are listed.

2.4

Stock Appreciation Rights

2.4.1 **Grant.** Stock appreciation rights may be granted to eligible recipients in such number and at such times during the term of the Plan as the Committee may determine; *provided, however*, that the maximum number of Shares as to which stock appreciation rights may be granted under the Plan to any one individual in any one fiscal year may not exceed 50,000 Shares (as adjusted pursuant to the provisions of Section 1.6.3).

2.4.2 **Exercise Price.** The exercise price per share with respect to each stock appreciation right will be determined by the Committee but will not be less than the Fair Market Value of the Shares. Notwithstanding the foregoing, Substitute Awards that are stock appreciation rights may be granted at less than Fair Market Value.

2.4.3 **Term of Stock Appreciation Right.** In no event will any stock appreciation right be exercisable after the expiration of ten years from the date on which the stock appreciation right is granted. Stock appreciation rights may automatically be exercisable beyond ten years of the date of grant if the stock appreciation right would expire when trading in Company stock is prohibited by law or the Company's insider trading policy. Such extension may run until the 30<sup>th</sup> day after expiration of the prohibition.

2.4.4 **Exercise of Stock Appreciation Right and Delivery of Shares.** Each stock appreciation right may be exercised in such installments as may be determined in the Award Agreement at the time the stock appreciation right is granted. Subject to any limitations in the applicable Award Agreement, any stock appreciation rights not exercised on the applicable installment date may be exercised thereafter at any time before the final expiration of the stock appreciation right. To exercise a stock appreciation right, the Grantee must give written notice to the Company specifying the number of stock appreciation rights to be exercised. Upon exercise of stock appreciation rights, Shares with a Fair Market Value equal to (a) the excess of (1) the Fair Market Value of the Shares on the date of exercise over (2) the exercise price of such stock appreciation right multiplied by (b) the number of stock appreciation rights exercised will be delivered to the Grantee. Any person exercising a stock appreciation right will make such representations and agreements and furnish such information as the Committee may in its discretion deem necessary or desirable to assure compliance by the Company, on terms acceptable to the Company, with the provisions of the Securities Act and any other applicable legal requirements. If a Grantee so requests, Shares purchased may be issued in the name of the Grantee and another jointly with the right of survivorship.

2.4.5 **Repricing.** Except as otherwise permitted by Section 1.6.3, the Committee shall not without the approval of the Company's shareholders (a) lower the exercise price per Share of a stock appreciation right after it is granted, (b) cancel a stock appreciation right when the exercise price per Share exceeds the Fair Market Value of one Share in exchange for cash or another Award (other than in connection with a Change in Control), or (c) take any other action with respect to a stock appreciation right that would be treated as a repricing under the rules and regulations of the



principal U.S. national securities exchange on which the Shares are listed.

2.5

Restricted Stock

2.5.1 Subject to Section 2.10, the Committee may grant or offer for sale restricted stock in such amounts and subject to such terms and conditions as the Committee may determine. The terms and conditions set forth by the Committee in the applicable Award Agreement may relate to vesting and nontransferability restrictions

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that will lapse upon the achievement of one or more goals related to the completion of service by the Grantee or the achievement of Performance Goals, as determined by the Committee at the time of grant. Upon the delivery of such

Shares, the Grantee will have the rights of a shareholder with respect to the restricted stock, subject to any other restrictions and terms and conditions as the Committee may include in the applicable Award Agreement. In the event that a Certificate is issued in respect of restricted stock, such Certificate may be registered in the name of the Grantee but will be held by the Company or its designated agent until the time the restrictions lapse.

**2.5.2 Right to Vote and Receive Dividends on Restricted Stock.** Each Grantee of an Award of restricted stock will, during the period of restriction, be the beneficial and record owner of such restricted stock and will have full voting rights with respect thereto. Unless the Committee determines otherwise in an Award Agreement, during the period of restriction, all dividends (whether ordinary or extraordinary and whether paid in cash, additional Shares or other property) or other distributions paid upon any restricted stock will be retained by the Company for the account of the relevant Grantee. Such dividends or other distributions will revert back to the Company if for any reason the restricted stock upon which such dividends or other distributions were paid reverts back to the Company. Upon the expiration of the period of restriction, all such dividends or other distributions made on such restricted stock and retained by the Company will be paid, without interest, to the relevant Grantee. Notwithstanding the foregoing, in no event will dividend with respect to any Award subject to satisfaction of performance goals be payable prior to satisfaction of such performance goals.

### 2.6

#### Restricted Stock Units

Subject to Section 2.10, the Committee may grant Awards of restricted stock units in such amounts and subject to such terms and conditions as the Committee may determine. A Grantee of a restricted stock unit will have only the rights of a general unsecured creditor of the Company until delivery of Shares, cash or other securities or property is made as specified in the applicable Award Agreement. The terms and conditions set forth by the Committee in the applicable Award Agreement may relate to vesting and nontransferability restrictions that will lapse upon the achievement of one or more goals related to the completion of service by the Grantee or the achievement of Performance Goals, as determined by the Committee at the time of grant. On the delivery date specified in the Award Agreement, the Grantee of each restricted stock unit not previously forfeited or terminated will receive one Share, cash or other securities or property equal in value to a Share or a combination thereof, as specified by the Committee.

### 2.7

#### Dividend Equivalent Rights

The Committee may include in the Award Agreement with respect to any Award (other than an option or stock appreciation right) a dividend equivalent right entitling the Grantee to receive amounts equal to all or any portion of the regular cash dividends that would be paid on the Shares covered by such Award if such Shares had been delivered pursuant to such Award. The Grantee of a dividend equivalent right will have only the rights of a general unsecured creditor of the Company until payment of such amounts is made as specified in the applicable Award Agreement. In the event such a provision is included in an Award Agreement, the Committee will determine whether such payments will be made in cash, in Shares or in another form, whether they will be conditioned upon the exercise of the Award to which they relate, the time or times at which they will be made, and such other terms and conditions as the Committee will deem appropriate. Notwithstanding the foregoing, in no event will dividend equivalent rights with respect to any Award subject to satisfaction of performance goals be payable prior to satisfaction of such performance goals.

### 2.8

#### Cash-Based Awards

Subject to Section 2.10, the Committee may grant cash-based awards that provide the Grantee with the opportunity to earn cash payments based upon the achievement of one or more performance goals in such amounts and subject to such terms and conditions as the Committee may determine. The terms and conditions set forth by the Committee in the applicable Award Agreement may relate to vesting restrictions that will lapse upon the achievement of one or more goals related to the completion of service by the Grantee or the achievement of Performance Goals, as

determined by the Committee at the time of grant.

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### 2.9 Other Stock-Based Awards

Subject to Section 2.10, the Committee may grant other types of stock-based or stock-related Awards (including the grant or offer for sale of unrestricted Shares and the grant of performance based awards) in such amounts and subject to such terms and conditions as the Committee may determine. The terms and conditions set forth by the Committee in the applicable Award Agreement may relate to vesting and nontransferability restrictions that will lapse upon the achievement of one or more goals related to the completion of service by the Grantee or the achievement of Performance Goals, as determined by the Committee at the time of grant. Such Awards may entail the transfer of actual Shares to Award recipients and may include Awards designed to comply with or take advantage of the applicable local laws of jurisdictions other than the United States.

### 2.10 Individual Limitation on Awards

The maximum number of Shares as to which restricted stock, restricted stock units, dividend equivalent rights and other types of stock-based or stock-related Awards, that are, in each case, subject to the achievement of Performance Goals and intended to be qualified performance-based compensation under Section 162(m) of the Code, may be granted under the Plan to any one individual in any one fiscal year may not exceed 50,000 Shares (as adjusted pursuant to the provisions of Section 1.6.3). The maximum dollar limit for cash-based Awards that may be granted under the Plan to any one individual in any one fiscal year may not exceed \$2,000,000.

### 2.11 Repayment if Conditions Not Met

If the Committee determines that all terms and conditions of the Plan and a Grantee's Award Agreement were not satisfied, and that Grantee failed to satisfy such terms, then the Grantee will be obligated to pay the Company immediately upon demand therefor, (a) with respect to an option and a stock appreciation right, an amount equal to the excess of the Fair Market Value (determined at the time of exercise) of the Shares that were delivered in respect of such exercised option or stock appreciation right, as applicable, over the exercise price paid therefor, (b) with respect to restricted stock, an amount equal to the Fair Market Value (determined at the time such Shares became vested) of such restricted stock, (c) with respect to restricted stock units or other stock-based awards, an amount equal to the Fair Market Value (determined at the time of delivery) of the Shares delivered with respect to the applicable delivery date and (d) with respect to cash-based awards, the amount of cash paid in settlement of the award, in each case with respect to clauses (a), (b), (c) and (d) of this Section 2.11, without reduction for any amount applied to satisfy withholding tax or other obligations in respect of such Award.

## **ARTICLE III MISCELLANEOUS**

### 3.1 Amendment of the Plan

3.1.1 Unless otherwise provided in the Plan or in an Award Agreement, the Board may from time to time suspend, discontinue, revise or amend the Plan in any respect whatsoever but, subject to Section 1.6.3 or as otherwise specifically provided herein, no such amendment shall materially adversely impair the rights of the Grantee of any outstanding Award without the Grantee's consent.

3.1.2 Unless otherwise determined by the Board, shareholder approval of any suspension, discontinuance, revision or amendment will be obtained only to the extent necessary to comply with any applicable laws, regulations or rules of a securities exchange or self-regulatory agency; *provided, however*, if and to the extent the Board determines that it is appropriate for Awards granted under the Plan to constitute performance-based compensation within the meaning of Section 162(m)(4)(C) of the Code, no amendment that would require shareholder approval in order for amounts paid pursuant to the Plan to constitute performance-based compensation within the meaning of Section 162(m)(4)(C) of the

Code will be effective without the approval of the shareholders of the Company as required by Section 162(m) of the Code and, if and to the extent the Board determines it is appropriate for the Plan to comply with the provisions of Section 422 of the Code, no amendment that would require shareholder approval under Section 422 of the Code will be effective without the approval of the shareholders of the Company. No amendment or alteration of the repricing provisions of Sections 2.3.6 and 2.4.5 will be effective without the approval of the shareholders of the Company.

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3.2 Tax Withholding

Grantees shall be solely responsible for any applicable taxes (including, without limitation, income and excise taxes) and penalties, and any interest that accrues thereon, that they incur in connection with the receipt, vesting or exercise of any Award. As a condition to the delivery of any Shares, cash or other securities or property pursuant to any Award or the lifting or lapse of restrictions on any Award, or in connection with any other event that gives rise to a federal or other governmental tax withholding obligation on the part of the Company or its Subsidiaries relating to an Award (including, without limitation, FICA tax), (a) the Company or its Subsidiaries may deduct or withhold (or cause to be deducted or withheld) from any payment or distribution to a Grantee whether or not pursuant to the Plan (including Shares otherwise deliverable), (b) the Committee will be entitled to require that the Grantee remit cash to the Company or its Subsidiaries (through payroll deduction or otherwise) or (c) the Company or its Subsidiaries may enter into any other suitable arrangements to withhold, in each case in an amount sufficient in the opinion of the Company to satisfy such withholding obligation.

3.3 Required Consents and Legends

3.3.1 If the Committee at any time determines that any Consent (as hereinafter defined) is necessary or desirable as a condition of, or in connection with, the granting of any Award, the delivery of Shares or the delivery of any cash, securities or other property under the Plan, or the taking of any other action thereunder (each such action, a **Plan Action** ), then such Plan Action will not be taken, in whole or in part, unless and until such Consent will have been effected or obtained to the full satisfaction of the Committee. The Committee may direct that any Certificate evidencing Shares delivered pursuant to the Plan will bear a legend setting forth such restrictions on transferability as the Committee may determine to be necessary or desirable, and may advise the transfer agent to place a stop transfer order against any legended Shares.

3.3.2 The term **Consent** as used in this Article III with respect to any Plan Action includes (a) any and all listings, registrations or qualifications in respect thereof upon any securities exchange or under any federal, state, or local law, or law, rule or regulation of a jurisdiction outside the United States, (b) any and all written agreements and representations by the Grantee with respect to the disposition of Shares, or with respect to any other matter, which the Committee may deem necessary or desirable in order to comply with the terms of any such listing, registration or qualification or to obtain an exemption from the requirement that any such listing, qualification or registration be made, (c) any and all other consents, clearances and approvals in respect of a Plan Action by any governmental or other regulatory body or any stock exchange or self-regulatory agency, (d) any and all consents by the Grantee to (i) the Company's supplying to any third party recordkeeper of the Plan such personal information as the Committee deems advisable to administer the Plan, (ii) the Company's deducting amounts from the Grantee's wages, or another arrangement satisfactory to the Committee, to reimburse the Company for advances made on the Grantee's behalf to satisfy certain withholding and other tax obligations in connection with an Award and (iii) the Company's imposing sales and transfer procedures and restrictions and hedging restrictions on Shares delivered under the Plan and (e) any and all consents or authorizations required to comply with, or required to be obtained under, applicable local law or otherwise required by the Committee. Nothing herein will require the Company to list, register or qualify the Shares on any securities exchange.

3.4 Right of Offset

The Company will have the right to offset against its obligation to deliver Shares (or other property or cash) under the Plan or any Award Agreement any outstanding amounts (including, without limitation, travel and entertainment or advance account balances, loans, repayment obligations under any Awards, or amounts repayable to the Company or its Subsidiaries pursuant to tax equalization, housing, automobile or other employee programs) that the Grantee then owes to the Company and any amounts the Committee otherwise deems appropriate pursuant to any tax equalization policy or agreement. Notwithstanding the foregoing, if an Award provides for the deferral of compensation within the meaning of Section 409A of the Code, the Committee will have no right to offset against its obligation to deliver

Shares (or other property or cash) under the Plan or any Award Agreement if such offset could subject the Grantee to the additional tax imposed under Section 409A in respect of an outstanding Award.

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3.5 Nonassignability; No Hedging

No Award (or any rights and obligations thereunder) granted to any person under the Plan may be sold, exchanged, transferred, assigned, pledged, hypothecated or otherwise disposed of or hedged, in any manner (including through the use of any cash-settled instrument), whether voluntarily or involuntarily and whether by operation of law or otherwise, other than by will or by the laws of descent and distribution, and all such Awards (and any rights thereunder) will be exercisable during the life of the Grantee only by the Grantee or the Grantee's legal representative. Notwithstanding the foregoing, the Committee may permit in an Award Agreement that is not an Incentive Stock Option, under such terms and conditions that it deems appropriate in its sole discretion, a Grantee to transfer an Award to any person or entity that the Committee so determines; provided, however, no Award may be transferred for value. Any sale, exchange, transfer, assignment, pledge, hypothecation, or other disposition in violation of the provisions of this Section 3.5 will be null and void and any Award which is hedged in any manner will immediately be forfeited. All of the terms and conditions of the Plan and the Award Agreements will be binding upon any permitted successors and assigns.

3.6 Change in Control

3.6.1 Unless otherwise determined by the Committee (or unless otherwise set forth in an employment agreement or an Award Agreement), if a Grantee's Employment is terminated by the Company or its Subsidiaries, or any successor entity thereto, without Cause within two years after a Change in Control, each Award granted to such Grantee prior to such Change in Control shall become fully vested (including the lapsing of all restrictions and conditions) and, as applicable, exercisable as of the date of such termination of Employment, and any Shares deliverable pursuant to restricted stock units shall be delivered promptly (but no later than 15 days) following such Grantee's termination of Employment; *provided that*, all performance-based awards shall be (x) considered to be earned and payable based on achievement of performance goals or based on target performance (either in full or pro rata based on the portion of performance period completed as of the date of the Change in Control), and any limitations or other restrictions shall lapse and such performance-based Awards shall be immediately settled or distributed or (y) converted into restricted stock or restricted stock unit awards based on achievement of performance goals or based on target performance (either in full or pro rata based on the portion of performance period completed as of the date of the Change in Control). This provision will not restrict the treatment of any Award in connection with a Change in Control as set forth in Section 3.6.2 below.

3.6.2 In the event of a Change in Control, a Grantee's Award shall be treated, to the extent determined by the Committee to be permitted under Section 409A of the Code, in accordance with one of the following methods as determined by the Committee in its sole discretion and without regard to Section 3.6.1 above: (i) cancel such awards for fair value (as determined in the sole discretion of the Committee) which, in the case of options and stock appreciation rights, may equal the excess, if any, of the value of the consideration to be paid in the Change in Control transaction to holders of the same number of Shares subject to such options or stock appreciation rights over the aggregate exercise price of such options or stock appreciation rights, as the case may be; (ii) provide for the issuance of substitute awards that will substantially preserve the otherwise applicable terms of any affected Awards previously granted under the Plan, as determined by the Committee in its sole discretion; or (iii) provide that for a period of at least 20 days prior to the Change in Control, any options or stock appreciation rights will be exercisable as to all Shares subject thereto (but any such exercise will be contingent upon and subject to the occurrence of the Change in Control and if the Change in Control does not take place within a specified period after giving such notice for any reason whatsoever, the exercise will be null and void) and that any options or stock appreciation rights not exercised prior to the consummation of the Change in Control will terminate and be of no further force and effect as of the consummation of the Change in Control. In the discretion of the Committee, any cash or substitute consideration payable upon cancellation of an Award may be subjected to (A) vesting terms substantially identical to those that applied to the cancelled Award immediately prior to the Change in Control, or (B) earn-out, escrow, holdback or similar arrangements, to the extent such arrangements are applicable to any consideration paid in connection with the



Company. For the avoidance of doubt, in the event of a Change in Control, the Committee may, in its sole discretion, terminate any option or stock appreciation right for which the exercise price is equal to or exceeds the per share value of the consideration to be paid in the Change in Control transaction without payment of consideration therefor.

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3.7 Right of Discharge Reserved

Neither the grant of an Award nor any provision in the Plan or in any Award Agreement will confer upon any Grantee the right to continued Employment or other service by the Company or any Subsidiary or affect any right which the Company or any Subsidiary may have to terminate or alter the terms and conditions of such Employment or other service.

3.8 Nature of Payments

3.8.1 Any and all grants of Awards and deliveries of Shares, cash, securities or other property under the Plan will be in consideration of services performed or to be performed for the Company or a Subsidiary by the Grantee. Awards under the Plan may, in the discretion of the Committee, be made in substitution in whole or in part for cash or other compensation otherwise payable to a Grantee. Only whole Shares will be delivered under the Plan. Awards will, to the extent reasonably practicable, be aggregated in order to eliminate any fractional Shares. Fractional Shares may, in the discretion of the Committee, be forfeited or be settled in cash or otherwise as the Committee may determine.

3.8.2 All such grants and deliveries of Shares, cash, securities or other property under the Plan will constitute a special discretionary incentive payment to the Grantee and will not be required to be taken into account in computing the amount of salary or compensation of the Grantee for the purpose of determining any contributions to or any benefits under any pension, retirement, profit-sharing, bonus, life insurance, severance or other benefit plan of the Company or any Subsidiary or under any agreement with the Grantee, unless the Company specifically provides otherwise.

3.9 Non-Uniform Determinations

3.9.1 The Committee's determinations under the Plan and Award Agreements need not be uniform and any such determinations may be made by it selectively among persons who receive, or are eligible to receive, Awards under the Plan (whether or not such persons are similarly situated). Without limiting the generality of the foregoing, the Committee will be entitled, among other things, to make non-uniform and selective determinations under Award Agreements, and to enter into non-uniform and selective Award Agreements, as to (a) the persons to receive Awards, (b) the terms and provisions of Awards and (c) whether a Grantee's Employment has been terminated for purposes of the Plan.

3.9.2 To the extent the Committee deems it necessary, appropriate or desirable to comply with foreign law or practices and to further the purposes of the Plan, the Committee may, without amending the Plan, establish special rules applicable to Awards to Grantees who are foreign nationals, are employed outside the United States, or both, and grant Awards (or amend existing Awards) in accordance with those rules.

3.10 Other Payments or Awards

Nothing contained in the Plan will be deemed in any way to limit or restrict the Company or Affiliate from making any award or payment to any person under any other plan, arrangement or understanding, whether now existing or hereafter in effect.

3.11 Plan Headings

The headings in the Plan are for the purpose of convenience only and are not intended to define or limit the construction of the provisions hereof.

3.12 Termination of Plan

The Board reserves the right to terminate the Plan at any time; *provided, however*, that in any case, the Plan will terminate May 17, 2026, and *provided further*, that all Awards made under the Plan before its termination will remain in effect until such Awards have been satisfied or terminated in accordance with the terms and provisions of the Plan and the applicable Award Agreements and *provided further* that no Awards (other than an option or stock appreciation

right) that are intended to be performance-based under Section 162(m) of the Code shall be granted on or after the five-year anniversary of the shareholder approval of the Plan unless the Performance Goals are reapproved (or other designated performance goals are approved) by the shareholders no later than the first shareholder meeting that occurs in the fifth year following the year in which shareholders previously approved the Performance Goals.

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3.13 Section 409A

It is the intention of the Company that no Award shall be nonqualified deferred compensation subject to Section 409A of the Code, unless and to the extent that the Committee specifically determines otherwise, and the Plan and the terms and conditions of all Awards shall be interpreted, construed and administered in accordance with this intent, so as to avoid the imposition of taxes and penalties on Grantees pursuant to Section 409A. The Company shall have no liability to any Grantee or otherwise if the Plan or any Award, vesting, exercise or payment of any Award hereunder is subject to the additional tax and penalties under Section 409A of the Code. Notwithstanding any other provision of the Plan to the contrary, with respect to any Award that is subject to Section 409A of the Code, if a Grantee is a specified employee (as such term is defined in Section 409A of the Code and as determined by the Company) as of the Grantee's termination of Employment, any payments (whether in cash, Shares or other property) to be made with respect to the Award upon the Grantee's termination of service will be accumulated and paid (without interest) on the earlier of (i) first business day of the seventh month following the Grantee's separation from service (as such term is defined and used in Section 409A of the Code) or (ii) the date of the Grantee's death.

3.14 Clawback/Recoupment

Awards under this Plan may be subject to recoupment or clawback as may be required by applicable law, or the Company's recoupment, or clawback policy as it may be amended from time to time.

3.15 Governing Law

THE PLAN WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE, WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS.

3.16 Choice of Forum

3.16.1 The Company and each Grantee, as a condition to such Grantee's participation in the Plan, hereby irrevocably submit to the exclusive jurisdiction of any state or federal court located in New York, New York over any suit, action or proceeding arising out of or relating to or concerning the Plan. The Company and each Grantee, as a condition to such Grantee's participation in the Plan, acknowledge that the forum designated by this Section 3.16.1 has a reasonable relationship to the Plan and to the relationship between such Grantee and the Company. Notwithstanding the foregoing, nothing herein will preclude the Company from bringing any action or proceeding in any other court for the purpose of enforcing the provisions of Section 3.16.1.

3.16.2 The agreement by the Company and each Grantee as to forum is independent of the law that may be applied in the action, and the Company and each Grantee, as a condition to such Grantee's participation in the Plan, (i) agree to such forum even if the forum may under applicable law choose to apply non-forum law, (ii) hereby waive, to the fullest extent permitted by applicable law, any objection which the Company or such Grantee now or hereafter may have to personal jurisdiction or to the laying of venue of any such suit, action or proceeding in any court referred to in Section 3.16.1, (iii) undertake not to commence any action arising out of or relating to or concerning the Plan in any forum other than the forum described in this Section 3.16 and (iv) agree that, to the fullest extent permitted by applicable law, a final and non-appealable judgment in any such suit, action or proceeding in any such court will be conclusive and binding upon the Company and each Grantee.

3.16.3 Each Grantee, as a condition to such Grantee's participation in the Plan, hereby irrevocably appoints the General Counsel of the Company as such Grantee's agent for service of process in connection with any action, suit or proceeding arising out of or relating to or concerning the Plan, who will promptly advise such Grantee of any such service of process.

3.16.4 Each Grantee, as a condition to such Grantee's participation in the Plan, agrees to keep confidential the existence of, and any information concerning, a dispute, controversy or claim described in Section 3.16, except that a

Grantee may disclose information concerning such dispute, controversy or claim to the court that is considering such dispute, controversy or claim or to such Grantee's legal counsel (*provided* that such counsel agrees not to disclose any such information other than as necessary to the prosecution or defense of the dispute, controversy or claim).

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3.17 Severability; Entire Agreement

If any of the provisions of the Plan or any Award Agreement is finally held to be invalid, illegal or unenforceable (whether in whole or in part), such provision will be deemed modified to the extent, but only to the extent, of such invalidity, illegality or unenforceability and the remaining provisions will not be affected thereby; *provided* that if any of such provisions is finally held to be invalid, illegal, or unenforceable because it exceeds the maximum scope determined to be acceptable to permit such provision to be enforceable, such provision will be deemed to be modified to the minimum extent necessary to modify such scope in order to make such provision enforceable hereunder. The Plan and any Award Agreements contain the entire agreement of the parties with respect to the subject matter thereof and supersede all prior agreements, promises, covenants, arrangements, communications, representations and warranties between them, whether written or oral with respect to the subject matter thereof.

3.18 Waiver of Claims

Each Grantee of an Award recognizes and agrees that before being selected by the Committee to receive an Award he or she has no right to any benefits under such Award. Accordingly, in consideration of the Grantee's receipt of any Award hereunder, he or she expressly waives any right to contest the amount of any Award, the terms of any Award Agreement, any determination, action or omission hereunder or under any Award Agreement by the Committee, the Company or the Board, or any amendment to the Plan or any Award Agreement (other than an amendment to the Plan or an Award Agreement to which his or her consent is expressly required by the express terms of an Award Agreement).

3.19 No Third Party Beneficiaries

Except as expressly provided in an Award Agreement, neither the Plan nor any Award Agreement will confer on any person other than the Company and the Grantee of any Award any rights or remedies thereunder. The exculpation and indemnification provisions of Section 1.3.4 will inure to the benefit of a Covered Person's estate and beneficiaries and legatees.

3.20 Successors and Assigns of the Company

The terms of the Plan will be binding upon and inure to the benefit of the Company and any successor entity contemplated by Section 3.6.

3.21 Waiver of Jury Trial

EACH GRANTEE WAIVES ANY RIGHT IT MAY HAVE TO TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THE PLAN.

3.22 Date of Adoption, Approval of Shareholders and Effective Date

The Plan was adopted on March 31, 2016 by the Board, subject to the approval by the shareholders of the Company at the 2016 Annual Meeting of Shareholders on May 18, 2016. The Plan will only be effective if it is approved by the shareholders of the Company at the 2016 Annual Meeting. If the Plan is not so approved by the shareholders of the Company, then the Plan will be null and void in its entirety.

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