

**Schedule “A”**

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**HONDA CANADIAN TAKATA AIRBAG INFLATOR CLASS ACTION**  
**SETTLEMENT AGREEMENT**

**Made at Toronto as of the 14th day of January, 2019**

**As Amended the 3<sup>rd</sup> day of May, 2019**

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**A. TABLE OF SCHEDULES**

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## **B. RECITALS**

A. WHEREAS the Plaintiffs (**all terms defined below**) have commenced Actions in the Courts of Ontario, Quebec, Saskatchewan and British Columbia against Honda, in relation to alleged defects in Takata PSAN Inflators that were installed in Subject Vehicles;

B. WHEREAS the Plaintiffs assert that components of Takata PSAN Inflators may deteriorate over time, creating excessive internal pressure which may cause airbags to rupture and expel metal fragments through the airbag cushion, injuring vehicle occupants;

C. WHEREAS the Plaintiffs further assert that injuries have in fact resulted from Takata PSAN Inflators, that Takata PSAN Inflators that have not ruptured contain a dangerous defect and continue to present a risk of rupture, and that this risk has allegedly caused the Class to suffer emotional distress, mental anguish, inconvenience, diminished value of their vehicles, and associated out-of-pocket expenses;

D. WHEREAS the Plaintiffs have asserted various statutory and common law liability claims in the Actions against Honda because of the alleged dangerous defect in Takata PSAN Inflators, including claims alleging negligence, misrepresentation, the tort of fraud by concealment, breach of warranty, and breach of consumer protection legislation;

E. WHEREAS Honda has undertaken Recalls of Subject Vehicles, and has implemented and will implement Recall Remedies, and whereas the Plaintiffs allege that Class Members have incurred or will incur out of pocket expenses arising either from obtaining the Recall Remedy or from refraining from driving a recalled Subject Vehicle owing to fear of operating it pending obtaining the Recall Remedy.

F. WHEREAS Honda denies the allegations in the Actions, including each and every claim and allegation of wrongdoing, and all allegations that the Plaintiffs or the Class have suffered damage or are entitled to any relief as a result of any conduct on the part of Honda;

G. WHEREAS Honda, for the purpose of avoiding the burden, expense, risk, and uncertainty of continuing to litigate these Actions, and for the purpose of fully and finally resolving, on a national basis, all Released Claims that were or could have been asserted by Plaintiffs and the Class, for good and valuable consideration, and without any admission of liability or wrongdoing, desires to enter into this Agreement;

H. WHEREAS Class Counsel represent and warrant that they are fully authorized to enter into this Agreement on behalf of the Plaintiffs and the Class, and that Class Counsel have consulted with and confirmed that the Plaintiffs support and have no objection to this Agreement;

I. WHEREAS the Plaintiffs assert they are adequate class representatives for the present Agreement;

J. WHEREAS the Parties have investigated the facts and underlying events relating to the subject matter of the Actions, have carefully analyzed the applicable legal principles, and have concluded, based upon their investigation, and taking into account the risks, uncertainties, burdens and costs of further prosecution of their claims, and taking into account the substantial benefits to

be received pursuant to this Agreement as set forth below, that a resolution and compromise on the terms set forth herein is fair, reasonable, adequate, and in the best interests of the Plaintiffs and the Class;

K. WHEREAS as a result of arm's-length negotiations, the Parties have entered into this Agreement, providing for a national class-wide settlement of the Actions and a release of the Released Claims by Settlement Class Members, which will resolve all Released Claims against Honda and the Releasees that were or could have been alleged in the Actions;

L. WHEREAS this Agreement was amended by the Parties on May 3, 2019 to provide for minor adjustments to the Settlement, all other terms of the Agreement continuing to apply without amendment;

M. WHEREAS it is agreed that this Agreement shall not be deemed or construed to be an admission, concession, or evidence of any violation of any federal, provincial, or local statute, regulation, rule, or other law, or principle of common law or equity, or of any liability or wrongdoing whatsoever, by Honda or any of the Releasees, or of the truth or legal or factual validity or viability of any of the Released Claims or the claims Plaintiffs have or could have asserted in the Actions;

N. NOW THEREFORE, without any admission or concession by the Plaintiffs or Class Counsel of any lack of merit to their allegations and claims, and without any admission or concession by Honda of any liability or wrongdoing or lack of merit in its defenses, in consideration of the mutual covenants and terms contained herein, and subject to the final approval of the Courts, Plaintiffs, Class Counsel and Honda agree as follows:

## **SECTION 1 – DEFINITIONS**

1.1 “**Actions**” means the following putative class proceedings:

- a) Court File No. CV-16-543767-00CP (formerly Windsor court file no. CV-14-21482) commenced in the Ontario Superior Court of Justice in Toronto by Rick A. Des-Rosiers and Stephen Kominar against: Takata Corporation; TK Holdings Inc.; Honda Motor Co. Ltd.; Honda of America Manufacturing, Inc.; and Honda Canada;
- b) Court File No. 500-06-000723-144 commenced in the Province of Quebec, District of Montreal by Eleni Vitoratos and Andrea Frey against: Takata Corporation; TK Holdings, Inc.; Highland Industries, Inc.; Honda Canada Inc.; Honda Motor Co., Ltd.; Toyota Canada Inc.; Toyota Motor Corporation; Toyota Motor Engineering & Manufacturing North America, Inc.; Subaru Canada, Inc.; Fuji Heavy Industries, Ltd.; BMW Canada Inc./BMW Group Canada; BMW of North America, LLC; BMW Manufacturing Co. LLC; BMW AG; Nissan Canada Inc.; Nissan North America, Inc.; Nissan Motor Co., Ltd.; Mazda Canada Inc.; Mazda Motor Corporation; Ford Motor Company of Canada, Limited; Ford Motor Company; General Motors of Canada Limited; General Motors Corporation; Chrysler Canada Inc.; FCA US LLC; Mitsubishi Canada Limited; and Mitsubishi International Corporation;
- c) Court File No. QBG 1284 of 2015 commenced in the Court of Queen's Bench for

Saskatchewan, Judicial Centre of Regina, by Dale Hall against: Takata Corporation; TK Holdings, Inc.; Highland Industries, Inc.; Honda Motor Co., Ltd.; Honda of America Manufacturing, Inc.; Honda Canada Inc.; Toyota Motor Corporation; Toyota Motor Manufacturing, Indiana, Inc.; Toyota Motor Manufacturing Canada Inc.; Toyota Canada Inc.; Nissan Motor Co., Ltd.; Nissan North America, Inc.; Nissan Canada Inc.; BMW AG; BMW Manufacturing Co., LLC; BMW North America, LLC; BMW Group Canada; BMW Canada Inc.; Ford Motor Company; Ford Motor Company of Canada, Limited; General Motors Company; General Motors of Canada Limited; Mazda Motor Corporation; Mazda North American Operations; Mazda Canada Inc.; Fuji Heavy Industries, Ltd.; Subaru Canada, Inc.; Fiat Chrysler Automobiles; FCA US LLC; FCA Canada Inc.; Mitsubishi Group; Mitsubishi Motors North America, Inc.; and Mitsubishi Motor Sales of Canada, Inc.;

- d) Court File No. S-148694 commenced in the Supreme Court of British Columbia, Vancouver Registry, by Reena Rai against Takata Corporation; TK Holdings, Inc.; Highland Industries, Inc.; Honda Motor Company, Ltd.; American Honda Motor Company, Inc.; and Honda Canada Inc.

1.2 “**Agreement**” means this Honda Canadian Takata Airbag Inflator Class Action Settlement Agreement and the Recitals and Schedules hereto, including any subsequent amendments and any Schedules to such amendments.

1.3 “**ALPHA Inflators**” means certain Takata PSDIs installed as original equipment in the Subject Vehicles listed in Schedule “B”, and never replaced.

1.4 “**Automotive Recyclers**” means persons or entities in Canada engaged in the business of salvaging motor vehicles or motor vehicle components for the purpose of resale or recycling automotive parts and who: (a) purchased, for resale, a Subject Vehicle with an un-deployed driver’s-side or front passenger’s-side airbag module with a Takata PSAN Inflator; or (b) were otherwise in possession of an un-deployed driver’s-side or front passenger’s-side airbag module from a Subject Vehicle with a Takata PSAN Inflator.

1.5 “**Automotive Recycler Program**” means the program discussed in Section 14 of this Agreement.

1.6 “**BETA Inflators**” means any Takata PSAN Inflators in the Subject Vehicles that are not ALPHA Inflators.

1.7 “**Cash Reimbursement Payments**” means a payment by Honda to an Eligible Claimant made under the Customer Out-of-Pocket Expense Program, pursuant to this Agreement.

1.8 “**Claim Form**” means a form substantially identical in all material respects to the Claim Form attached hereto as Schedule “G”, or an electronic equivalent that is formatted for ease of completion on the Website, which shall be used by Settlement Class Members for submitting a Settlement Claim under the Customer Out-of-Pocket Expense Program pursuant to Section 11 of this Agreement.

1.9 “**Claims Period**” means the period between the Final Approval Date and:

- a) in respect of Settlement Class Members who owned or leased a Subject Vehicle at the time of a Recall notification, but who no longer own or lease a Subject Vehicle as of the Final Approval Date, the later of: (i) one year from the date of NOD submission to Transport Canada; or (ii) one year from the Final Approval Date; or
- b) in respect of Settlement Class Members who owned or leased, on the Final Approval Date, a Subject Vehicle that is subject to a Recall notification, the later of: (i) one year from the date of NOD submission to Transport Canada; or (ii) one year from the Final Approval Date.

1.10 “**Claims Process**” means the process that Settlement Class Members must follow to seek Cash Reimbursement Payments under the Customer Out-of-Pocket Expense Program in accordance with Section 11 of the Agreement.

1.11 “**Class**” means all persons resident in Canada, including Automotive Recyclers, who: (a) owned or leased a Subject Vehicle on the Final Approval Date; or (b) formerly owned or leased a Subject Vehicle, but after being notified of a Recall and before the Final Approval Date, ceased to do so.

1.12 “**Class Counsel**” means the law firms of Strosberg Sasso Sutts LLP, McKenzie Lake Lawyers LLP, Rochon Genova LLP, Kim Spencer McPhee Barristers P.C., Merchant Law Group LLP, Consumer Law Group P.C., and Garcha & Company.

1.13 “**Class Counsel Fee**” means the total fixed sum, if any, approved by the Ontario and Quebec Courts in an amount no greater than that agreed to by the Parties in a separate Class Counsel fee agreement, to be paid to Class Counsel in full satisfaction and final payment of all of Honda’s obligations in respect of fees, disbursements and taxes in connection with the Actions, including, without limitation, any fees or levies by the Law Society of Ontario or the Fonds d'aide aux actions collectives (Quebec) or any future fees or costs of any kind to be incurred in connection with administering or monitoring the Settlement during the Settlement administration process provided for in this Agreement.

1.14 “**Class Member**” means, except as otherwise provided in this Agreement in s. 12.1, an individual member of the Class.

1.15 “**Common Issue**” means the issue of whether some or all of the Subject Vehicles contain a Takata PSAN Inflator that is the subject of a Recall.

1.16 “**Court**” means the Ontario Superior Court of Justice, the Supreme Court of British Columbia, the Court of Queen’s Bench for Saskatchewan, or the Superior Court of Quebec, as the case may be.

1.17 “**Customer Out-of-Pocket Expense Program**” means the program discussed in Section 11 of this Agreement.

1.18 “**Customer Support Program**” means the program discussed in Section 13 of this Agreement.

1.19 “**Day**” means a calendar day, unless otherwise expressly noted.

1.20 “**Defence Counsel**” means the law firm of McMillan LLP.

1.21 “**Denied as Ineligible**” means that all or part of the Settlement Claim has been denied or otherwise does not satisfy the eligibility criteria of this Agreement.

1.22 “**Denied for Incomplete Information**” means that the Honda Administrator is unable to evaluate all or part of a Settlement Claim because the additional information or Supporting Documentation identified on the Notice of Claim Determination is required.

1.23 “**Direct Notice**” means notice in the form set out in Schedule “E.1” to be disseminated in accordance with the Notice Plan.

1.24 “**Eligible Claimant**” means a Settlement Class Member who:

- a) owns or owned, or leases or leased, a Subject Vehicle;
- b) timely signs and submits, during the Claims Period, a properly completed Settlement Claim under the Customer Out-of-Pocket Expense Program;
- c) meets all of the relevant criteria set forth in the Agreement; and
- d) is determined by the Honda Administrator to be entitled to a Cash Reimbursement Payment.

1.25 “**Epiq**” means Epiq Class Action Services Canada, Inc.

1.26 “**Final Approval Date**” means the date Settlement Approval Orders have been issued by each of the Courts of Ontario and Quebec, without material amendment, and Recognition Orders have been issued by each of the Courts of British Columbia and Saskatchewan, and where the times to appeal these Orders have expired without any appeal being taken, or where there has been a final disposition of all appeals without any reversal or amendment of these Orders.

1.27 “**Honda**” means Honda Motor Co., Ltd., Honda Canada Inc., Honda of America Manufacturing, Inc., and American Honda Motor Co., Inc.

1.28 “**Honda Administrator**” means a third-party person or organization retained and directed by Honda, and/or the group of Honda employees designated by Honda, to be responsible for administering the Settlement under this Agreement, including implementing the Notice Plan, determining Eligible Claimants under the Customer Out-of-Pocket Expense Program, and administering the Outreach Program.

1.29 “**Long Form Notice**” means notice in the form set out in Schedule “E” to be published in accordance with the Notice Plan.

1.30 “**NHTSA**” means the National Highway Traffic Safety Administration.

1.31 “**NOD**” means a notice of defect in respect of the Takata PSAN Inflators that have the potential to rupture and deploy abnormally, or replacements therefor installed pursuant to a Recall Remedy, delivered by Honda to Transport Canada pursuant to the *Motor Vehicle Safety Act* (Canada).

1.32 “**Notice**” means the Long Form Notice and Direct Notice in the forms set out in Schedule “E” and “E.1” to be disseminated and/or published in accordance with the Notice Plan.



1.33 “**Notice and Certification Date**” means the date Notice and Certification Orders have been issued by each of the Courts of Ontario and Quebec, without material amendment, and where the time to appeal the Notice and Certification Orders has expired without any appeal being taken, or where there has been a final disposition of all appeals without any reversal or amendment of the Notice and Certification Orders.

1.34 “**Notice and Certification Order**” means an order substantially in the form attached hereto as Schedule “K” (i) approving the Notice, (ii) approving the Notice Plan, and (iii) certifying an Action for settlement purposes. For greater certainty, a Notice and Certification Order must be issued by the Court in each of Quebec, for residents of Quebec, and Ontario, for all other residents of Canada.

1.35 “**Notice of Claim Determination**” means the form attached hereto as Schedule “H”.

1.36 “**Notice Date**” means the date that dissemination of the Direct Notice to the Class, in accordance with the Notice Plan, is completed.

1.37 “**Notice of Dispute**” means a notice in the form attached hereto as Schedule “I”.

1.38 “**Notice Plan**” means the plan for providing class-wide notice of the Settlement, attached hereto as Schedule “F”.

1.39 “**Opt Out Deadline**” means the date that is SIXTY (60) Days after the Notice Date.

1.40 “**Opt Out Form**” means the document in the form attached hereto as Schedule “J”.

1.41 “**Outreach Program**” means the program discussed in Section 11 of this Agreement.

1.42 “**Opt Out Threshold**” means FIVE THOUSAND (5,000) timely and valid opt outs by potential Class Members made in accordance with Section 6.

1.43 “**Parties**” means Honda and the Plaintiffs.

1.44 “**Plaintiffs**” means Rick A. Des-Rosiers, Stephen Kominar, Dale Hall, Eleni Vitoratos, Andrea Frey, and Reena Rai.

1.45 “**PSAN**” means Phase-Stabilized Ammonium Nitrate.

1.46 “**PSDI**” means Programmable Smokeless Driver Inflator.

1.47 “**Recall**” means all past, present and future recalls related to Takata PSAN Inflators, desiccated or non-desiccated, in the driver’s-side or passenger’s-side front airbag in the Subject Vehicles, or replacements therefor installed pursuant to a Recall Remedy, and in respect of which an NOD is submitted to Transport Canada.

1.48 “**Recall Remedy**” means the replacement of parts and/or other countermeasures performed to address a Recall on the Subject Vehicles.

1.49 “**Recognition Hearing**” means a hearing by a Court to consider granting a Recognition Order.

1.50 “**Recognition Order**” means an order recognizing the Settlement Approval Order issued by the Ontario Court as applicable within the jurisdiction of the Court granting the Recognition Order.

1.51 “**Released Claims**” means any and all past, present, future or potential claims, demands, losses, suits, proceedings, payment of obligations, adjustments, executions, offsets, actions, causes of action, costs, defenses, debts, sums of money, assertions of rights, accounts, reckonings, bills, bonds, covenants, contracts, controversies, agreements, promises, requests for relief of any kind, damages, whenever incurred, or liabilities of any nature whatsoever, whether personal, derivative or subrogated, known or unknown, anticipated or unanticipated, fixed or contingent, suspected or unsuspected, matured or un-matured, accrued or un-accrued, personal or representative, direct or indirect, individual, class, or otherwise in nature, and including interest, costs, disbursements, expenses, administration expenses, penalties and lawyers' fees (including Class Counsel's fees, costs, taxes, disbursements and expenses), statutory or regulatory obligations, or judgments, whether in law, under statute, civil or criminal, whether sounding in tort, contract, equity, nuisance, negligence or strict liability, and which have been, could have been, or may be asserted by or on behalf of any person, including but not limited to claims for alleged negligent design, testing, manufacture, installation, handling of materials, investigation, inspection, non-disclosure, recall, and alleged failure to warn, to maintain records, to maintain adequate accident-related protocols and procedures, to report, or to provide replacement vehicles, some or all of which allegedly resulted in property damage, diminished vehicle value, lower vehicle resale value, loss of use of vehicles, expenditures for rental vehicles or other alternative transportation, repair costs, trouble and inconvenience, emotional distress, pain and suffering, mental anguish, and consequent loss, that Releasors, or any one of them, in any capacity whatsoever, now have, ever had or may have in the future, relating in any way whatsoever, directly or indirectly, to any and all Recalls and any and all allegations in the Actions, including, without any limitation whatsoever, any and all common issues at any time pled or alleged by any of the Plaintiffs, but excluding any claim for or relating to bodily injury and its sequelae arising from the deployment of an inflator in a Subject Vehicle that is subject to a Recall. Nothing in this Agreement shall be interpreted to modify or diminish the manufacturer's limited, written warranty with respect to the Subject Vehicles.

1.52 “**Releasees**” means jointly, severally, solidarily, and collectively, Honda and its respective parents, subsidiaries, and affiliates, and their respective past, present and future parents, predecessors, successors, spin-offs, assigns, holding companies, joint-ventures and joint-venturers, partnerships and partners, members, managers, divisions, stockholders, bondholders, subsidiaries, related companies, affiliates, officers, directors, employees, associates, dealers, representatives, suppliers, vendors, advertisers, marketers, service providers, distributors and sub-distributors, repairers, agents, attorneys, insurers, administrators and advisors. The Parties expressly acknowledge that each of the foregoing is included as a Releasee even though not identified by name herein.

1.53 “**Releasors**” means, jointly, severally, solidarily and collectively, any Settlement Class Members, any person who may be entitled to make any personal, subrogated, derivative or other claim pursuant to any contract, law, statute or in equity based upon any relationship with a

Settlement Class Member, any person or organization deemed to be a Releasor by operation of this Agreement, and the respective parents, subsidiaries, officers, administrators, managers, employees, servants, affiliates, predecessors, successors, heirs, beneficiaries, executors, administrators, insurers and assigns of any of the foregoing.

1.54 “**Settlement**” means the settlement provided for in this Agreement.

1.55 “**Settlement Approval Hearing**” means a hearing by a Court to determine whether this Settlement is fair and reasonable, and to approve the Class Counsel Fee.

1.56 “**Settlement Approval Hearing Date**” means the dates for the Settlement Approval Hearings.

1.57 “**Settlement Approval Order**” means an order substantially in the form attached as Schedule “L”, approving the Settlement and approving the Class Counsel Fee, by the Courts in Quebec, for residents of Quebec, and Ontario, for all other residents of Canada

1.58 “**Settlement Claim**” means a Claim Form together with any Supporting Documentation submitted to the Honda Administrator by a Settlement Class Member.

1.59 “**Settlement Class Members**” means, except as otherwise provided in this Agreement in s. 11.2, all members of the Class who do not validly opt out of this Settlement in accordance with the terms of this Agreement.

1.60 “**Subject Vehicles**” means those Honda vehicles (including Goldwing Motorcycles) with applicable model years listed in Schedule “A” manufactured by Honda and distributed by Honda Canada Inc. for sale or lease in Canada that contain or contained Takata PSAN Inflators in their driver’s-side or passenger’s-side front airbag, or rider airbag in respect of Goldwing Motorcycles, that: (i) have been the subject of a Recall; and (ii) may be subject to a future Recall as referenced in an NOD submitted to Transport Canada. For greater certainty, no vehicle distributed for sale or lease in the United States with an American VIN is a Subject Vehicle for the purpose of this Agreement.

1.61 “**Subsequent Notice of Claim Determination**” means a Notice of Claim Determination that is delivered to a Settlement Class Member in respect of any additional information or Supporting Documentation that is sent to the Honda Administrator after all or part of a Settlement Claim has been Denied for Incomplete Information.

1.62 “**Substantial Completion**” means, for each Subject Vehicle model year, the date upon which the Recall Remedy has been performed for the percentage of Subject Vehicles identified in Schedule “C”.

1.63 “**Supporting Documentation**” means evidence demonstrating actual out-of-pocket costs incurred by Settlement Class Members submitted in support of a Settlement Claim, including but not limited to receipts, invoices, bank or credit card statements, other financial records, pay stubs, and certified true copies thereof.

1.64 “**Takata**” means Takata Corporation, TK Holdings, Inc., Takata AG, and their affiliates

and related entities involved in the design, testing, manufacture, sale and distribution of Takata PSAN Inflators and inflator modules.

1.65 “**Takata PSAN Inflators**” means all airbag inflators for driver’s-side or passenger’s-side front airbags and motorcycle rider airbags, manufactured and sold by Takata containing propellant with PSAN, including 2004 and 2004L propellant, whether desiccated or non-desiccated, and includes PSDIs.

1.66 “**VIN**” means vehicle identification number.

1.67 “**Website**” means the dedicated website created and maintained by the Honda Administrator, which shall contain relevant documents and information about the Settlement as provided in this Agreement.

## **SECTION 2 – PURPOSE OF THIS AGREEMENT**

2.1 The purpose of this Agreement is to memorialize the payments, terms and conditions of the Settlement through and by which the Parties wish to finally and conclusively resolve the matters at issue in the Actions, including, without limitation, any and all Released Claims. With Honda’s performance as prescribed herein, Honda shall have fully and finally addressed the Released Claims. The purpose of the Outreach Program is to eliminate alleged continuing damage to Class Members’ property and to ameliorate emotional distress and mental anguish as alleged in the Actions.

2.2 The Parties are entering into this Agreement for the purpose of compromising and settling disputed claims.

2.3 Neither the execution of this Agreement, nor any of its provisions or attachments, nor any action taken pursuant to its terms shall, in the Actions or in any other action or proceeding, be construed or considered as evidence of an admission by Honda of the validity of any of the Released Claims that have or could have been made by the Plaintiffs, the Class, or any Class Member. This Agreement, however, may be admitted as evidence in any action to enforce its terms.

2.4 Nothing in this Agreement or in the documents relating to this Agreement shall be construed, deemed or offered as an admission by any of the Parties, or by any Class Member, for any purpose in any judicial or administrative action or proceeding, whether in law or in equity, regardless of whether this Agreement ultimately becomes effective.

2.5 This Agreement and the Settlement provided for herein, and any proceedings taken pursuant thereto, are not, and should not in any event be, offered, received, or construed as evidence of, a presumption of, concession of, or an admission by any of the Parties in respect of any of the following:

- a) the liability or non-liability of any person, including without limitation any of the Releasees or any of the Parties;
- b) the suitability or unsuitability for certification of any litigation class whatsoever;

- c) the extent to which any claim against the Releasees could satisfy the requirements for certification of a litigation class if certification were contested; or
- d) the making of any alleged misrepresentation or omission in any statement or written document approved or made by any Releasee or Party.

2.6 Notwithstanding Sections 2.4 and 2.5, reference may be made to this Agreement and the Settlement provided for herein in such proceedings as may be necessary to give effect to the provisions of this Agreement, as further set forth in this Agreement. In addition, and for greater certainty, nothing in this Agreement precludes the use or admission into evidence of this Agreement in a proceeding between Honda and its insurers.

### **SECTION 3 – CERTIFICATION FOR SETTLEMENT PURPOSES**

3.1 For the purposes of implementing this Agreement, and for no other purpose, Honda consents to the certification and authorization of the Class, as set forth in the Notice and Certification Orders, on the terms and conditions of this Agreement.

3.2 The Plaintiffs agree that, in the motions seeking the Notice and Certification Orders, the only common issue that they will seek to certify or authorize is the Common Issue, and the only class that they will seek to certify and authorize is the class composed exclusively of Class Members.

3.3 Neither the certification of a Class pursuant to the terms of this Agreement nor the statement of the Common Issue shall constitute, or be construed as, an admission on the part of Honda that any Action, or any other proposed class action, is appropriate for certification as a litigation class under any applicable law, or that the Common Issue or any other common issue is appropriate for certification on a contested basis in the Actions or on any basis in any other proceeding.

### **SECTION 4 – BEST EFFORTS AND AGREEMENT TO COOPERATE**

4.1 The Parties, Class Counsel and Defence Counsel shall use their best efforts to cooperate and take all reasonable actions to give effect to the Settlement and the terms and conditions of this Agreement. If a Court fails to grant a Notice and Certification Order, Settlement Approval Order or Recognition Order, then the Plaintiffs, Class Counsel, and Honda will use all reasonable efforts that are consistent with this Agreement to cure any defect identified by the Court. If, despite such efforts, a Court does not grant a Notice and Certification Order and a Settlement Approval Order or Recognition Order, then this Agreement will be terminated in accordance with Section 7.

### **SECTION 5 – REQUIRED EVENTS**

5.1 Promptly after the execution of this Agreement, or as soon as possible depending on the availability of the Courts, the Parties will seek a Notice and Certification Order from each of the Quebec and Ontario Courts, which shall (i) certify/authorize the Class for settlement purposes only, (ii) approve the text of the Notice, and (iii) approve the Notice Plan.

5.2 After one Court has issued the first Notice and Certification Order, the Parties will seek a Notice and Certification Order from the other Court as soon as possible depending on the availability of the Court.

5.3 The Honda Administrator will arrange for the publication of the Long Form Notice on the Website and the dissemination of the Direct Notice in accordance with the Notice Plan as soon as practicable after the Notice and Certification Date. Class Counsel shall also publish the Long Form Notice on their websites.

5.4 Honda will ensure that this Agreement as well as the Schedules and relevant notices are translated into French prior to the Notice Date. In the event of any conflict between the French and English versions of this Agreement or any Schedule, however, the English version shall prevail.

5.5 The Parties agree that the Notice and the Notice Plan to be implemented pursuant to this Agreement are reasonable, constitute the best notice practicable under the circumstances, and constitute due and sufficient notice of the Settlement and the other matters set forth in the Notice to all persons entitled to receive notice, and fully satisfy the requirements of class action legislation in Ontario, British Columbia, Saskatchewan, and Quebec, and Canadian natural justice.

5.6 Forthwith after the Notice and Certification Date, Class Counsel shall schedule (i) the Settlement Approval Hearings in Quebec and Ontario, to be heard on dates to be decided by those Courts, to obtain the Settlement Approval Orders, and (ii) the Recognition Hearings in British Columbia and Saskatchewan, to be heard on dates to be decided by those Courts, to obtain the Recognition Orders. The Settlement Approval Hearing Dates shall be at least THIRTY (30) Days after the Opt Out Deadline, as soon thereafter as can be arranged with the Courts, and the Recognitions Hearings shall be scheduled after the Settlement Approval Hearing Dates.

5.7 Promptly after the Final Approval Date, the Actions shall be dismissed with prejudice as against Honda. The Parties agree to request the Courts to dismiss the Actions with prejudice as against Honda in the Settlement Approval Orders and Recognition Orders.

5.8 Should the Ontario or Quebec Courts refuse to approve this Agreement in substantially the same terms during the Settlement Approval Hearings, or should the British Columbia or Saskatchewan Courts fail to grant Recognition Orders, this Agreement will terminate in accordance with Section 7.

## **SECTION 6 – OBJECTIONS AND OPTING OUT**

### **Opting Out**

6.1 Any Class Member who desires to be excluded from the Settlement must submit a properly completed Opt Out Form to the Honda Administrator.

6.2 To exercise the opt out right set forth in this Section 6, the Class Member or his or her designate must deliver an Opt Out Form strictly in accordance with this Agreement. The Opt Out Form must:

- a) contain the Class Member's full name and current address;

- b) identify the name and address of the Class Member's counsel, if any;
- c) declare that the Class Member owns or owned or leases or leased a Subject Vehicle, and be willing to provide verification if requested;
- d) declare that the Class Member wants to be excluded from the Settlement; and
- e) be signed by the Class Member.

6.3 An Opt Out Form will not be effective unless it is sent by regular mail, addressed to the Honda Administrator, and postmarked on or before the Opt Out Deadline.

6.4 Any Class Member who does not submit a properly completed Opt Out Form to the Honda Administrator before the Opt Out Deadline shall be deemed to be a Settlement Class Member upon the expiry of the Opt Out Deadline.

6.5 Any Class Member who has delivered an Opt Out Form may retract his or her Opt Out Form, and re-elect in writing to become a Settlement Class Members, if his or her written retraction is received by the Honda Administrator on or before the Opt-Out Deadline.

6.6 Any Class Member who properly and timely submits an Opt Out Form and who does not retract it in writing before the Opt Out Deadline: (1) is not a Settlement Class Member; (2) may not receive any benefits under this Agreement; and (3) may bring his/her lawsuit, as the case may be, at his/her own expense.

6.7 The Honda Administrator shall, SEVEN (7) Days after the Opt Out Deadline, deliver to Defence Counsel and Class Counsel an affidavit reporting on the number of timely and valid Opt Out Forms that have been received and not retracted, and advising whether or not the Opt Out Threshold has been reached. This affidavit shall be filed with the Courts at the Settlement Approval Hearings.

## **Objections**

6.8 Each Class Member who wishes to object to the fairness, reasonableness or adequacy of this Agreement or to the Class Counsel Fee must serve on Class Counsel no later than THIRTY (30) Days after the Notice Date, a statement of the objection signed by the Class Member containing all of the following information: (1) the objector's full name, address, and telephone number; (2) the model year and VIN of the Class Member's Subject Vehicle; (3) a written statement of all factual and legal grounds for the objection accompanied by any legal support for such objection; (4) copies of any papers, briefs or other documents upon which the objection is based; (5) a statement of whether the objector intends to appear at a Settlement Approval Hearing; and (6) if the objector intends to appear at a Settlement Approval Hearing through counsel, the objection must also identify any counsel representing the objector who will appear at the Settlement Approval Hearing.

6.9 Upon the expiry of the deadline for serving statements of objection as provided in Section 6.8 above, Class Counsel shall deliver copies of each such statement to Defence Counsel and shall file them with the Courts that are to hear the settlement approval motions.

6.10 Any Class Member who does not file a timely written objection to the Agreement and a notice of his or her intent to appear at a Settlement Approval Hearing, or who fails to otherwise comply with the requirements of the above subsection, or who delivers an effective Opt Out Form prior to the Settlement Approval Hearing, shall be precluded, subject to Court order, from seeking any adjudication or review of this Settlement by appeal or otherwise.

## SECTION 7 – TERMINATION

7.1 Subject only to Section 4, unless the Plaintiffs and Honda shall agree otherwise in writing, this Agreement shall be automatically terminated and shall become null and void, and no obligation on the part of any of the Parties will accrue, if a Court declines to issue a Notice and Certification Order on substantially the same terms as Schedule “K” attached hereto, if a Court declines to issue a Settlement Approval Order on substantially the same terms as Schedule “L” attached hereto, or if an appeal of a Settlement Approval Order results in no Final Approval Date.

7.2 For greater certainty, neither a Court’s approval of Class Counsel Fees in an amount less than that agreed to by the Parties in a separate Class Counsel fee agreement, nor a Court’s refusal to approve Class Counsel Fees at all, shall constitute a refusal to issue a Settlement Approval Order on substantially the same terms as Schedule “L” attached hereto or any other basis for the termination of this Agreement.

7.3 Honda, in its sole and absolute discretion, may terminate this Agreement in accordance with this Section 7, if the Opt Out Threshold is exceeded or if a Court fails or refuses to issue a Recognition Order, or if a Recognition Order, once issued, is overturned on appeal.

7.4 If Honda elects to exercise its right to terminate this Agreement under Section 7.3, then Honda shall deliver written notice of its intention to terminate the Agreement to Class Counsel no later than TWENTY (20) Days after receiving the affidavit from the Honda Administrator reporting the number of Opt Out Forms referred to in Section 6.7.

7.5 Class Counsel will have TWENTY (20) Days from the date Honda delivers a notice of termination under Section 7.4 to address the concerns of any potential Class Members who have timely delivered, but not retracted, an Opt Out Form. If the number of potential Class Members who have delivered and not retracted an Opt Out Form exceeds the Opt Out Threshold after these TWENTY (20) Days, Honda, in its sole and absolute discretion, may terminate this Agreement.

7.6 If Honda does not deliver a notice of termination, this Agreement shall become fully effective and irrevocable on the Final Approval Date.

7.7 If the Settlement is terminated automatically under Section 7.1 or by Honda pursuant to Section 7.3, Honda shall bring a motion on consent before the Courts for orders:

- a) declaring the Agreement to be null and void and of no force or effect; and
- b) setting aside any Notice and Certification Orders, Settlement Approval Orders or Recognition Orders on the basis of the termination of the Agreement.

7.8 The following terms shall apply in the event that this Agreement is automatically



terminated pursuant to Section 7.1 or by Honda pursuant to Section 7.3:

- a) No person or party shall be deemed to have waived any rights, claims or defences whatsoever by virtue of this Agreement and, without limiting the generality of the foregoing, the Releasees shall be deemed to have expressly reserved their right to oppose the certification of the Actions and to argue that there are no common issues.
- b) This Agreement and all negotiations, proceedings, documents prepared and statements made in connection herewith will be without prejudice to Honda, the Plaintiffs and Class Members, and will not be deemed or construed to be an admission or confession in any way by the Parties of any fact, matter or proposition of law.
- c) Any prior certification of the Actions as class proceedings, including the definition of the Class and the statement of the Common Issue, shall be without prejudice to any position that any person or any of the Parties may later take on any issue in the Actions or any other litigation.
- d) With the exception of this Section 7.8(d), this Agreement shall have no further force and effect, shall not be binding on any person or any of the Parties, and shall not be used as evidence or otherwise in any litigation or other proceeding for any purpose, and the legal position of each of the Parties shall be the same as it was immediately prior to the execution of this Agreement, and each of the Parties may exercise its legal rights to the same extent as if this Agreement had never been executed.
- e) Without limiting the generality of the foregoing, the releases of the Released Claims and the bar of claims provided for in Section 8 and Section 15 shall be null and void and of no force and effect whatsoever.
- f) Notice of the termination shall be published on the Website within 72 hours of the termination.

## **SECTION 8 – CLAIMS BAR**

8.1 The dismissals of the Actions shall be a defence to any subsequent action against any of the Releasees based on, relating to or arising out of the Released Claims.

8.2 None of the Releasers, and no legally authorized representative of any of the Releasers, may file, commence, prosecute, intervene in, or participate as a plaintiff, claimant, or class member in any other lawsuit or administrative, regulatory, arbitration, or other proceeding in any jurisdiction based on, relating to, or arising out of the Released Claims.

8.3 None of the Releasers, and no legally authorized representative of any of the Releasers, may file, commence, or prosecute any lawsuit or administrative, regulatory, arbitration, or other proceeding as a class action on behalf of any other person (including by seeking to amend a pending complaint or action to include class allegations or seeking class certification in a pending action), based on, relating to, or arising out of the Released Claims.

8.4 None of the Releasers, and no legally authorized representative of any of the Releasers,

may attempt to effect an opt out of a class of individuals in any lawsuit or administrative, regulatory, arbitration, or other proceeding based on, relating to or arising out of the Released Claims.

8.5 None of the Releasers may now or hereafter institute, continue, maintain or assert, either directly or indirectly, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim or demand against any person who may claim contribution or indemnity, or any other claim over for relief from any of the Releasees in respect of any Released Claim or any matter related thereto.

8.6 Any proceeding against any of the Releasees related to the Released Claims shall be immediately dismissed and the Parties shall request any court in which such claim is or has been commenced to order the immediate dismissal of the same.

## **SECTION 9 – PAYMENTS TO CLASS COUNSEL**

9.1 Subject to Court approval, within THIRTY (30) Days after the Final Approval Date, Honda will pay to Class Counsel the all-inclusive Class Counsel Fee.

9.2 In no event and under no circumstances whatsoever under this Agreement will Honda be required to pay Class Counsel any other amount or any amount greater than the Class Counsel Fee.

## **SECTION 10 – ADMINISTRATION OF THE SETTLEMENT BY THE HONDA ADMINISTRATOR**

10.1 Honda will bear all costs and expenses of the Honda Administrator, including all costs incurred in connection with the Notice Plan and dissemination of the Direct Notice, the handling and processing of Settlement Claims, distribution of Cash Reimbursement Payments, and general administration of the Settlement. Honda will also be responsible for issuing, as soon as practicable after the Notice and Certification Date, and in accordance with the Notice Plan, a Press Release consistent with the Notice regarding the Settlement, in English and French, and releasing it over the Canadian English and French language news wires.

10.2 The Honda Administrator's duties and obligations with respect to administering the Settlement will include, without limitation:

- a) creating and maintaining the Website in accordance with this Agreement;
- b) maintaining the toll-free telephone number that Class Members may contact for information about the Settlement;
- c) receiving and responding to communications from Class Members;
- d) mailing, e-mailing or otherwise arranging for dissemination of the Direct Notice in accordance with the Notice Plan;
- e) managing returned mail, including maintaining documentation of the names of Class Members for whom mail has been returned;

- f) processing Settlement Claims submitted during the Claims Period;
- g) determining eligibility for and quantum of the Cash Reimbursement Payments to be received by Eligible Claimants under the Customer Out-of-Pocket Expense Program; and
- h) issuing Cash Reimbursement Payments to Eligible Claimants in respect of the Customer Out-of-Pocket Expense Program.

### **The Website**

10.3 The Honda Administrator shall establish the Website after the first Notice and Certification Order is issued by a Court. The Website and all documents to be posted on the Website shall be published in English and French. The Honda Administrator shall maintain the Website for the duration of the Claims Period.

10.4 Promptly after the Notice and Certification Date, the Honda Administrator shall: (a) publish on the Website: the Agreement, the Notice and Certification Orders, the Long Form Notice, the Claim Form, and the Opt Out Form; and (b) publish on the Website the necessary content to permit electronic access to Claim Forms and online submission of Settlement Claims.

10.5 Promptly after the Notice Date, the Honda Administrator shall publish on the Website the Opt Out Deadline.

10.6 The Honda Administrator shall publish the Settlement Approval Orders and Recognition Orders on the Website promptly after the Final Approval Date.

### **The Telephone Number**

10.7 After the first Notice and Certification Order is issued by a Court, and throughout the Claims Period, the Honda Administrator shall staff and maintain a toll-free telephone number that Class Members can call to request information regarding the Settlement.

10.8 The Honda Administrator shall return calls as soon as is practicable, and to respond to inquiries by Class Members regarding the Settlement or the Agreement.

10.9 The toll-free services shall be provided in English and French.

### **Records and Reporting Obligations**

10.10 After the Final Approval Date, the Honda Administrator will maintain the following information during and for a reasonable period after the Claims Period ends:

- a) the identities of Settlement Class Members who have filed Settlement Claims;
- b) the disposition of all Settlement Claims submitted and processed by the Honda Administrator; and
- c) copies of all Notices of Claim Determination issued.

10.11 No later than SIXTY (60) days after the end of the Claims Period, the Honda Administrator will report the following to Class Counsel:

- a) the number of Settlement Class Members who have filed Settlement Claims;
- b) the disposition of Settlement Claims submitted and processed by the Honda Administrator on an anonymized basis;
- c) the number of Notices of Claim Determination issued in which a Settlement Claim was approved; and
- d) the number of Notices of Claim Determination issued in which a Settlement Claim was Denied as Ineligible.

## **SECTION 11 – CUSTOMER OUT-OF-POCKET EXPENSE PROGRAM**

11.1 Settlement Class Members who own or owned or lease or leased Subject Vehicles and otherwise meet the requirements of this Agreement are entitled to submit a Settlement Claim during the Claims Period seeking a Cash Reimbursement Payment for reimbursement by Honda of reasonable out-of-pocket expenses.

11.2 For the purpose of the Customer Out-of-Pocket Expense Program outlined in this Section 11, “Settlement Class Members” does not include Automotive Recyclers. For greater certainty, the Customer Out-of-Pocket Expense Program is not available for and does not apply to Automotive Recyclers.

11.3 The purpose of the Customer Out-of-Pocket Expense Program is to compensate Settlement Class Members who, fearful of driving a Subject Vehicle: (1) incurred or incur actual costs while the Recall Remedy is being performed on their allegedly failed Takata PSAN Inflator, as more particularly described in Section 11.11; or (2) prior to the time the Recall Remedy could or can be performed, incurred or incur actual costs such as alternative transportation and storage expenses, as more particularly described in Section 11.11.

11.4 A Claim Form may be submitted by a legally authorized guardian or representative of an incapacitated, deceased or minor Settlement Class Member in respect of a Settlement Claim, provided, however, that documentation sufficient to confirm the legal status of the guardian or representative is also provided.

11.5 To be eligible for any Cash Reimbursement Payment, a Settlement Class Member must:

- a) truthfully, accurately and fully complete and submit the Claim Form;
- b) submit original or certified true copies of Supporting Documentation issued by a valid third-party issuer; and
- c) mail or submit through the Website the Settlement Claim to the Honda Administrator during the Claims Period.

11.6 A Settlement Claim for reimbursement under the Customer Out-of-Pocket Expense Program is available only for amounts that have not yet been reimbursed to the Settlement Class Member.

11.7 To be eligible for any Cash Reimbursement Payment, the VIN identified in the Claim Form must match a VIN identified as a Subject Vehicle in Honda's records. There shall be no recovery for any VIN that is not identified as a Subject Vehicle.

11.8 A Settlement Class Member shall make only one Settlement Claim for each Recall Remedy on a Subject Vehicle owned or leased by the Settlement Class Member. Multiple Recall Remedies available to be implemented for a single Subject Vehicle at the same time shall be treated as a single Recall Remedy for these purposes. For greater certainty, Settlement Class Members shall not be entitled to duplicate claims in the event a Recall Remedy is required, and available at the same time, for both the driver's-side and passenger's-side front airbags of the Subject Vehicle.

11.9 Settlement Claims received before the Final Approval Date will not be processed by the Honda Administrator until after the Final Approval Date. Beginning after the Final Approval Date and continuing through the Claims Period, the Honda Administrator shall evaluate all Settlement Claims sent by Settlement Class Members to determine eligibility for, and quantum of, Cash Reimbursement Payments. No Settlement Claim received by the Honda Administrator after the expiration of the Claims Period will be processed under this Agreement.

11.10 Upon evaluating a Settlement Claim, the Honda Administrator shall send the Settlement Class Member a Notice of Claim Determination, in which the Honda Administrator will indicate that the Settlement Claim is:

- a) approved in full;
- b) approved in part;
- c) Denied for Incomplete Information, in full or in part, and the Honda Administrator shall identify the additional information or Supporting Documentation that the Honda Administrator must receive within THIRTY (30) Days to complete its determination; and/or
- d) Denied as Ineligible, in full or in part, for the reason or reasons identified therein.

11.11 For the purposes of administering the Customer Out-of-Pocket Expense Program and evaluating Settlement Claims for eligibility for, and quantum of, Cash Reimbursement Payments, the Honda Administrator shall consider the following out-of-pocket expenses to be reasonable:

- a) For Settlement Class Members who were notified of alleged defects in and/or damage to the Takata PSAN Inflators, for whom replacement parts necessary for completion of the Recall Remedy were not available for a period of time and who, fearful of driving the affected Subject Vehicle pending the Recall Remedy, refrained from doing so:
  - i. costs incurred to obtain alternate transportation during the period that replacement parts were unavailable; and
  - ii. costs incurred to store the Subject Vehicle, while alternative transportation was being exploited.

- b) For Settlement Class Members who were notified of alleged defects in and/or damage to the Takata PSAN Inflators where replacement parts were available, who requested the Recall Remedy from an authorized Honda or Acura dealership but who, fearful of driving the affected Subject Vehicle pending the Recall Remedy, refrained from doing so:
- i. costs incurred by the Settlement Class Member to obtain alternate transportation while awaiting performance of the requested Recall Remedy, after having requested service from an authorized Honda or Acura dealership, up to a maximum of SEVEN (7) days;
  - ii. costs incurred by the Settlement Class Member to store the Subject Vehicle while utilizing alternative transportation when awaiting performance of the requested Recall Remedy after having requested service from an authorized Honda or Acura dealership, up to a maximum of SEVEN (7) days; and
  - iii. costs incurred by the Settlement Class Member to tow or otherwise deliver the Subject Vehicle to an authorized Honda or Acura dealership to obtain the Recall Remedy.
- c) For Settlement Class Members, other actual costs incurred arising from the alleged damage to, the Subject Vehicle while obtaining the Recall Remedy, including:
- i. reasonable child care expenses incurred by the Settlement Class Member: (a) in the course of delivering the Subject Vehicle to the authorized Honda or Acura dealership to obtain the Recall Remedy; or (b) in the course of picking up the Subject Vehicle from the authorized Honda or Acura dealership upon completion of the Recall Remedy;
  - ii. lost wages incurred by the Settlement Class Member as a result of having to drop off or pick up the Subject Vehicle at an authorized Honda or Acura dealership to obtain the Recall Remedy; or
  - iii. alternate transportation or associated costs where the Subject Vehicle was delivered to an authorized Honda or Acura dealership to obtain the Recall Remedy, and where the Settlement Class Member requested alternate transportation:
    - a. while the Recall Remedy work was underway; and/or
    - b. in the event of any delays in completion of the Recall Remedy.

11.12 The Honda Administrator may determine, in its sole and absolute discretion, the reasonableness of the mode of alternative transportation selected by the Settlement Class Member in the scenarios referenced in Section 11.11 above. If the Honda Administrator disputes such reasonableness, the Honda Administrator will deliver a Notice of Claim Determination indicating that the out-of-pocket expenses claimed for the mode of alternative transportation are Denied as Ineligible.

11.13 The specific categories of reasonable out-of-pocket expenses described in Section 11.11 above are non-exhaustive for Settlement Class Members. Settlement Class Members may make a Settlement Claim seeking reimbursement of other actual incurred costs arising from having not driven the Subject Vehicle owing to fear of driving it while awaiting a Recall Remedy, or from alleged damage to the Subject Vehicle. However, the reasonableness of such costs, and entitlement to reimbursement of same in whole or in part, shall be determined by the Honda Administrator in its sole and absolute discretion. If the Honda Administrator disputes such reasonableness or entitlement, the Honda Administrator will deliver a Notice of Claim Determination indicating that the out-of-pocket expenses claimed are Denied as Ineligible.

11.14 Settlement Claims received before the Final Approval Date will not be processed by the Honda Administrator until after the Final Approval Date.

11.15 For Settlement Class Members whose Settlement Claims meet the terms of this Agreement, the Honda Administrator will send a Notice of Claim Determination indicating that all or part of the Settlement Claim has been approved and identifying the quantum of the approved Settlement Claim. The Honda Administrator will, at the same time or thereafter, send a Cash Reimbursement Payment in the approved amount.

11.16 Claims of Quebec Class Members under this section that lead to individual cash payments shall be subject to article 1.(3) of the *Regulation respecting the percentage withheld by the Fonds d'Aide aux recours collectifs*.

11.17 Cash Reimbursement Payments issued by cheque will become void, and will not be re-issued or repaid, if not cashed within ONE HUNDRED EIGHTY (180) Days of the date of issuance.

11.18 The Honda Administrator may request any additional documentation which, in its sole discretion, it reasonably believes is required to evaluate all or part of a Settlement Claim. If the Honda Administrator determines that additional information or Supporting Documentation is required to evaluate a Settlement Claim and determine eligibility for, or the quantum of, a Cash Reimbursement Payment, the Honda Administrator will send the Settlement Class Member a Notice of Claim Determination indicating that all or part of the Settlement Claim has been Denied for Incomplete Information. The Notice of Claim Determination will identify what additional information or Supporting Documentation is required, and request that the Settlement Class Member deliver such additional information or Supporting Documentation.

11.19 If the Honda Administrator receives the additional information or Supporting Documentation requested, within THIRTY (30) Days of the Notice of Claim Determination, the Honda Administrator shall consider such documentation in evaluating the portions of the Settlement Claim which had been Denied for Incomplete Information. After such consideration, the Honda Administrator shall issue a Subsequent Notice of Claim Determination, either approving the Settlement Claim, in whole or in part, or indicating all or part of the Settlement Claim has been Denied as Ineligible.

11.20 If the Honda Administrator has not received all of the additional information or Supporting Documentation identified in the Denied for Incomplete Information section of the Notice of Claim

Determination within THIRTY (30) Days of the date of the Notice of Claim Determination, the Settlement Claim will be Denied as Ineligible for failure to supply the additional information or Supporting Documentation. For greater certainty, the date that is THIRTY (30) Days from the date of the Notice of Claim Determination shall be the date upon which the Settlement Claim is deemed to be Denied as Ineligible for failure to supply all of additional information or Supporting Documentation. No further Notice of Claim Determination shall be issued in connection with a Settlement Claim that is Denied as Ineligible for failure to supply the requested additional information or Supporting Documentation.

11.21 A Settlement Class Member whose Settlement Claim, in whole or in part, is Denied as Ineligible may dispute the decision of the Honda Administrator by submitting, or having his or her counsel submit, to Epiq and Honda a Notice of Dispute. Any Notice of Dispute must be received by Epiq and Honda (i) within THIRTY (30) Days of the date of the Notice of Claim Determination; (ii) within THIRTY (30) Days of the date of a Subsequent Notice of Claim Determination issued pursuant to Section 11.19; or (iii) if a Settlement Claim is deemed to be Denied as Ineligible under Section 11.20, within SIXTY (60) Days from the date of the Notice of Claim Determination.

11.22 Within SIXTY (60) Days of receiving a Notice of Dispute, Epiq shall determine the matters in dispute and issue a Notice of Claim Determination. If Epiq approves all or part of the Settlement Claim, the Honda Administrator will thereafter send payment in the approved amount of the Cash Reimbursement Payment to the applicable Settlement Class Member. The decision of Epiq shall be final and binding, and no appeal shall lie therefrom.

11.23 Settlement Class Members who submit a Settlement Claim, but whose Settlement Claims are Denied as Ineligible and are not subsequently approved by Epiq, in whole or in part, will not recover Cash Reimbursement Payments under this Settlement in respect of the portion of the Settlement Claim that is Denied as Ineligible and not subsequently approved.

## **SECTION 12 – OUTREACH PROGRAM**

12.1 For the purposes of the Outreach Program outlined in this Section 12, “Class Member” does not include Automotive Recyclers. For greater certainty, the Outreach Program is not available for and does not apply to Automotive Recyclers.

12.2 The purpose of the Outreach Program is to eliminate alleged continuing damage to Class Members’ property, ameliorate alleged emotional distress and alleged mental anguish, and maximize Recall Remedy completion rates for Takata PSAN Inflator Recalls via traditional and non-traditional outreach efforts, including by expanding those currently being used by Honda.

12.3 Honda shall oversee and bear all costs of the Outreach Program, which shall be administered by the Honda Administrator.

12.4 The Honda Administrator shall oversee and administer the Outreach Program with the goal of maximizing, to the extent reasonably practicable, completion of the Recall Remedy in Subject Vehicles for the Takata PSAN Inflator Recalls.

12.5 The Outreach Program applies to Takata PSAN Inflator Recalls that are covered by NODs that have already been submitted to Transport Canada. The Outreach Program shall also apply to



any additional Takata PSAN Inflator Recalls covered by an NOD that is submitted to Transport Canada in the future.

12.6 Honda shall have no duty to offer the Recall Remedy or the Outreach Program other than in respect of the Takata PSAN Inflator Recalls referenced in Section 12.5 above.

12.7 Honda shall provide notifications under the Outreach Program as follows:

- A. For Class Members with Subject Vehicles containing ALPHA Inflators:
  - i. continued monthly notification to the Class Member via posted letter to uncompleted active registrations using updated CCMTA vehicle registration contact information;
  - ii. monthly posted letter notification will continue until the earlier of: (1) December 31, 2019; or (2) Substantial Completion;
  - iii. additional notifications will be delivered to Class Members via social media, e-mail, and/or by postings on a Honda website through December 31, 2019 or Substantial Completion, whichever comes first.
- B. For Class Members with Subject Vehicles containing BETA Inflators (including Goldwing Motorcycles):
  - i. following the delivery of an initial NOD to vehicle registrants, re-notification approximately every SIX (6) months for any ongoing Recall via posted letter and/or electronic (e-mail) letter to uncompleted active registrations using the best possible contact information available to Honda until the earlier of (1) FOUR (4) years post-NOD submission date; or (2) Substantial Completion;
  - ii. additional notifications will be delivered to Class Members via social media, e-mail, and/or by postings on a Honda website for FOUR (4) years post-NOD submission date for uncompleted active registrations.
- C. For owners or lessees of Subject Vehicles who currently reside in the U.S., where NHTSA makes available to Honda owner and lessee contact information for Subject Vehicles in the U.S., Honda will make efforts to notify owners and lessees whose Subject Vehicles have an outstanding Recall, by mail or other reasonable means of contact.

12.8 The Honda Administrator will periodically report to the Courts and the Parties (through their respective counsel), the results of the implementation of the Outreach Program. The reports shall be provided every SIX (6) months after the Final Approval Date to the extent of any ongoing outreach contemplated by this Agreement, including a final report at the end of the Outreach Program.

## **SECTION 13 – CUSTOMER SUPPORT PROGRAM**

13.1 As part of the consideration Honda is paying in exchange for the releases herein, Honda shall provide a Customer Support Program in accordance with this Agreement.

13.2 The Customer Support Program provides Class Members prospective coverage for repairs and adjustments (including parts and labour) needed to correct defective and/or damaged materials and/or defective workmanship in:

- a) original Takata PSAN Inflators in Subject Vehicles (including Takata PSAN Inflators in Goldwing Motorcycles); and
- b) replacement driver's-side or passenger's-side front airbag inflators installed pursuant to a Recall.

13.3 This benefit will terminate for an individual Class Member upon the deployment of an inflator to which it applies.

13.4 Upon sale or lease of the Subject Vehicle, this benefit shall transfer with the Subject Vehicle.

13.5 For Subject Vehicles that are set out in Schedule "D" and that have received the Recall Remedy, the Customer Support Program shall remain in effect for SEVEN (7) years from the date of submission to Transport Canada of the NOD for the Recall of the Takata PSAN Inflator that applies to the particular Subject Vehicle.

13.6 For Subject Vehicles not identified in Section 13.5, that are otherwise the subject of a Recall, or are the subject of a Recall in the future, and that receive the Recall Remedy, the Customer Support Program shall remain in effect for TEN (10) years from the date of submission to Transport Canada of the NOD for the Recall of the Takata PSAN Inflator that applies to the particular Subject Vehicle.

13.7 For greater certainty, the Customer Support Program end date may be different for Takata PSAN Inflators in the driver's-side and front passenger's-side of the same Subject Vehicle if the Takata PSAN Inflators were the subject of different NODs submitted at different times to Transport Canada.

13.8 For vehicles with original desiccated Takata PSAN Inflator(s) that are never recalled, the Customer Support Program will end on the latest of the end dates set out in Sections 13.5 and 13.6 above.

#### **SECTION 14 – AUTOMOTIVE RECYCLER PROGRAM**

14.1 The purpose of the Automotive Recycler Program is to eliminate alleged continuing damage to Auto Recyclers' property, ameliorate alleged emotional distress and alleged mental anguish associated with the handling of scrap Takata PSAN Inflators in Subject Vehicles, and maximize Honda's recovery of scrap Takata PSAN Inflators from Automotive Recyclers. Notwithstanding any other provision of this Agreement, this section sets out the entirety of Settlement benefits available to Automotive Recyclers under this Agreement.

14.2 The Automotive Recycler Program shall continue until at least December 31, 2019.

14.3 Honda will, at its cost, continue to engage an external vendor to manage the scrap Takata PSAN Inflator return program. The duties of the external vendor include promotion of the Automotive Recycler Program, return and destruction of Takata PSAN Inflators, and payments to Automotive Recyclers.

14.4 In accordance with terms and pricing set by Honda from time to time, Honda shall pay to each Automotive Recycler a reasonable fee necessary to accomplish the purposes of the Automotive Recycler Program.

## **SECTION 15 – RELEASES**

15.1 The Plaintiffs and each and every Releasor, regardless of whether any Releasor executes and delivers a written release, fully and forever release, remise, acquit and discharge the Releasees from the Released Claims. By executing this Agreement, the Parties acknowledge that the Actions shall be dismissed pursuant to the terms of the Settlement Approval Orders and Recognition Orders, and all Released Claims shall thereby be conclusively settled, compromised, satisfied, and released as to the Releasees. The Settlement Approval Orders shall provide for and effect the full and final release, by the Plaintiffs and all Releasors, of all Released Claims.

15.2 The Settlement Class Members hereby acknowledge that they are aware that they or their legal counsel may hereafter discover claims or facts in addition to or different from those which they now know or believe to exist with respect to the Released Claims, but that it is still their intention that the Releasors hereby fully, finally, and forever settle, release, extinguish and waive all of the Released Claims, known or unknown, suspected or unsuspected, that they had, now have or, absent this Agreement, may in the future have had against Releasees. In furtherance of such intention, the release herein given by the Releasors to the Releasees shall be, and remain in effect as, a full and complete general release of the Released Claims notwithstanding any discovery of the existence of any such additional or different claims or facts.

15.3 No Settlement Class Member shall, now or hereafter, institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim or demand against any Releasee or any other person who may claim contribution or indemnity from any Releasee in respect of any Released Claim or any matter related directly or indirectly thereto.

15.4 If any Settlement Class Member brings an action or asserts a claim against any Releasee contrary to the terms of this Agreement, the counsel of record for such Settlement Class Member shall be provided with a copy of this Agreement. If the Settlement Class Member does not within TWENTY (20) Days thereafter dismiss his or her action and the action or claim is subsequently dismissed or decided in favor of the Releasee, the Settlement Class Member who brought such action or claim shall pay the Releasee's reasonable counsel fees and disbursements incurred by the Releasee in the defence of such action or claim.

15.5 Except as otherwise provided, nothing in this Agreement shall be construed in any way to prejudice or impair the right of Honda or Honda's insurers to pursue such rights and remedies as they may have against any person under or in connection with any insurance policies.

## **SECTION 16 – ENFORCEMENT OF THIS AGREEMENT**

16.1 The Courts shall retain jurisdiction over the Parties and the Agreement and with respect to the future performance of the terms of the Agreement, and to ensure that all payments and other actions required of any of the Parties by the Settlement and this Agreement are properly made or taken. In the event that Honda, the Plaintiffs, Class Counsel, or any Settlement Class Member fails to perform its or their obligations under this Agreement, counsel for the aggrieved party shall give counsel for the other party written notice of the breach. If the alleged breach is not cured to the satisfaction of the aggrieved party within THIRTY (30) Days, the other party may apply to a Court for relief.

## **SECTION 17 – COVENANT NOT TO SUE**

17.1 The Plaintiffs, on behalf of themselves and the Settlement Class Members, hereby covenant and agree that neither the Plaintiffs nor any of the Settlement Class Members, nor any person authorized to act on behalf of any of them, will commence, authorize, or accept any benefit from any judicial or administrative action or proceeding, other than as expressly provided for in this Agreement, against Releasees in either their personal or corporate capacity, with respect to any claim, matter, or issue that in any way arises from, is based on, or relates to any alleged loss, harm, or damages allegedly caused by Releasees in connection with the Released Claims. The Plaintiffs, on behalf of themselves and the Settlement Class Members, hereby waive and disclaim any right to any form of recovery, compensation, or other remedy in any such action or proceeding brought by or on behalf of any of them, and agree that this Agreement shall be a complete bar to any such action.

17.2 No Class Counsel, nor anyone currently or hereafter employed by, associated with, or a partner with Class Counsel, may directly or indirectly participate or be involved in or in any way assist with any claim made or action commenced by any person which, directly or indirectly, relates to, is substantially similar to or arises from the Actions the Released Claims, except in relation to the continued prosecution of the Actions, should this Agreement be terminated.

## **SECTION 18 – REPRESENTATIONS AND WARRANTIES**

18.1 Each of the Parties hereby irrevocably affirms, agrees, represents and warrants that:

- a) The Party has carefully read, and knows and understands, the full contents of this Agreement and is voluntarily entering into this Agreement after having had the opportunity to consult with, and having in fact consulted with, independent counsel.
- b) The Party has had an opportunity to receive, and has received, legal advice from counsel regarding the advisability of making the Settlement, the advisability of executing this Agreement, and the legal and any applicable income-tax consequences of this Agreement, and fully understands and accepts the terms of this Agreement.
- c) The Party has not relied upon any statement, representation, omission, inducement, or promise of any other Party (or any officer, agent, employee, representative, or counsel for any other Party), whether material, false, negligently made or otherwise, in deciding to execute this Agreement, or in making the Settlement provided for herein, except as

expressly stated in this Agreement.

- d) The Party has investigated the facts pertaining to the Settlement and this Agreement, and all matters pertaining thereto, to the full extent deemed necessary by that Party and that Party's counsel.
- e) No portion of the Released Claims that the Plaintiffs, the Class, and/or any of the Settlement Class Members ever had, now have, or may later claim to have at any time in the future against the Releasees, whether known or unknown, arising out of or in any way relating to the Takata PSAN Inflators, and no portion of any recovery or settlement to which they may be entitled, has been assigned, transferred, or conveyed by or for Settlement Class Members in any manner, and no person other than Settlement Class Members shall have any legal or equitable interest in the Released Claims referred to in this Agreement but the Settlement Class Members themselves.

## **SECTION 19 – MISCELLANEOUS TERMS**

19.1 The headings of the sections of this Agreement are included for convenience only and shall not be deemed to constitute part of this Agreement or to affect its construction or interpretation.

19.2 Class Counsel and Defence Counsel have negotiated this Agreement at arm's length. If a dispute should later arise regarding any of its terms, none of the Parties shall be deemed to be the drafter of any particular provision of this Agreement.

19.3 The Plaintiffs and Class Counsel hereby irrevocably acknowledge and agree that any and all information obtained from Honda in the course of the discussions between the Parties has been provided on a privileged and without prejudice basis.

19.4 Any and all information obtained by Class Counsel from Honda, including any and all documentation transmitted to Class Counsel in the course of the negotiation of this Agreement, will be returned to Honda with no copies being made and all other documents destroyed by Class Counsel following any and all disclosure process.

19.5 Except as otherwise provided in this Agreement, any filing, submission, notice or written communication shall be deemed filed, delivered, submitted, or effective as of the date of its postmark when mailed by regular or registered mail, postage prepaid, properly addressed to the recipient, or when delivered to any commercial one-or-two-day courier delivery service properly addressed to the recipient, or when actually received by the recipient, whichever occurs first.

19.6 In the event that any date or deadline set forth in this Agreement falls on a weekend or holiday, such a date or deadline shall be on the first business day thereafter.

19.7 In no event shall Honda, Defence Counsel, the Plaintiffs, any Settlement Class Member, or Class Counsel have any liability for claims of wrongful or negligent conduct by any third party with respect to the implementation of any term of this Agreement.

19.8 The Parties and their respective counsel agree to prepare and execute any additional documents that may reasonably be necessary to give effect to the terms of this Agreement.

19.9 The terms and conditions, as well as the fact of, this Agreement, will be kept confidential by the Plaintiffs, Class Counsel and Class Members until such time as the Notice and Certification Orders are sought from the Courts.

19.10 All the information exchanged between the Parties during their exchanges and negotiations leading to the preparation and the execution of this Agreement will be kept confidential by the Parties and shall not be disclosed to any third party whatsoever, except that Honda may share such information with its insurers, and except to the extent such information subsequently becomes publicly available or unless ordered to do so by a Court.

19.11 This Agreement shall be construed under and governed by the laws of the Province of Ontario and the laws of Canada applicable therein.

19.12 This Agreement, including all attached Schedules, constitutes and represents the entire agreement between the Parties, and supersedes any previous or contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle, or memorandum of understanding in connection thereto. None of the Parties will be bound by any prior obligations, conditions or representations with respect to the subject matter of this Agreement, unless expressly incorporated herein.

19.13 The Agreement may not be changed, modified, or amended except in writing signed by Class Counsel and Defence Counsel and subject to Court approval.

19.14 This Agreement, if approved by the Courts, shall be binding upon and enure to the benefit of the Settlement Class Members, Honda, Class Counsel, and their representatives, officers, employees, insurers, heirs and assigns.

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

19.16 The Parties expressly acknowledge that they have requested that this Agreement be drafted in the English language \ Les Parties reconnaissent avoir expressement demande que La presente entente de reglement soit redigee en langue anglaise.

19.17 The Parties acknowledge that this Agreement represents a transaction in accordance with articles 2631 and following of the Civil Code of Quebec.

19.18 Each of the undersigned hereby represents and guarantees that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Agreement.

19.19 Where this Agreement requires a Party to provide notice or any other communication or document to another, such notice, communication or document shall be provided by email, facsimile or letter by overnight delivery to the representatives of the Party to whom notice is being provided, as identified below:

**FOR HONDA:**

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**FOR CLASS COUNSEL AND PLAINTIFFS:**

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Garcha & Company, Barristers & Solicitors  
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Tel: (604) 435-4444  
Fax: (604)-435-4944

19.21 The Parties have executed this Agreement as of January 14, 2019, and as amended on May 3rd, 2019. The signatures are on the next page.



**RICK A. DES-ROSIERS, STEPHEN KOMINAR, DALE HALL,  
ELENI VITORATOS, ANDREA FREY, AND REENA RAI, by their  
counsel**

By: Harvey T Strosberg  
Harvey T Strosberg  
**Strosberg Sasso Sutts LLP**

Class Counsel, and Counsel for the Plaintiffs  
Rick A. Des-Rosiers and Stephen Kominar

By: Michael Peerless  
Michael Peerless  
**McKenzie Lake Lawyers LLP**

Class Counsel, and Counsel for the Plaintiffs  
Rick A. Des-Rosiers and Stephen Kominar

By: Joel Rochon  
Joel Rochon  
**Rochon Genova LLP**

Class Counsel, and Counsel for the Plaintiffs  
Rick A. Des-Rosiers and Stephen Kominar

By: Won J. Kim  
Won J. Kim  
**Kim Spencer McPhee Barristers P.C.**

Class Counsel, and Counsel for the Plaintiffs  
Rick A. Des-Rosiers and Stephen Kominar

[signatures continue on next page]

By: 


Anthony Merchant  
Merchant Law Group LLP

Class Counsel, and Counsel to the Plaintiffs  
Dale Hall, Rick A. Des-Rosiers and Stephen  
Kominar

By: 

Jeff Orenstein  
Consumer Law Group P.C.

Class Counsel, and Counsel to the Plaintiffs  
Eleni Vitoratos, Andrea Frey, Rick A.  
Des-Rosiers and Stephen Kominar


By: 

K.S. Garcha  
Garcha & Company

Class Counsel, and Counsel to the Plaintiff  
Reena Rai

*[signatures continue on next page]*

**HONDA MOTOR CO., LTD., HONDA CANADA INC., HONDA OF AMERICA MANUFACTURING, INC., AND AMERICAN HONDA MOTOR CO., INC., by their counsel**

By:   
Teresa Dufort  
**McMillan LLP**

Defence Counsel for Honda

By:   
David Kent  
**McMillan LLP**

Defence Counsel for Honda