

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

KATHLEEN RYAN-BLAUFUSS,
CATHLEEN MILLS and KHEK KUAN, on
behalf of themselves and all others similarly
situated,

Plaintiffs,

vs.

TOYOTA MOTOR
CORPORATION, TOYOTA
MOTOR SALES, U.S.A., INC.,
and DOE DEFENDANTS 1-10,

Defendants.

Case No. 8:18-CV-00201-JLS-KES

STEVEN KOSAREFF and
LAURA KAKISH, on behalf of
themselves and all others similarly
situated,

Plaintiffs,

vs.

TOYOTA MOTOR
CORPORATION, TOYOTA
MOTOR SALES USA, INC., and
DOES 1-10, inclusive,

Defendants.

SETTLEMENT AGREEMENT

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WHEREAS, Plaintiffs' Amended Consolidated Master Complaint in the above-referenced actions allege that the inverters of certain Prius vehicles are defective;

WHEREAS, Class Counsel have investigated the facts and underlying events relating to the subject matter of the claims, have conducted substantial discovery, have carefully analyzed the applicable legal principles and, taking into account the substantial benefits to be received pursuant to this Settlement Agreement as well as the burden, risks, uncertainties, and costs of further prosecution of their claims, have concluded that a resolution and compromise on the terms set forth herein is fair, reasonable, adequate, and in the best interests of the Class Representatives and the Class;

WHEREAS, Toyota, for the purpose of avoiding burden, expense, risk, and uncertainty of continuing to litigate the claims, and for the purpose of putting to rest all controversies with Class Representatives, the Class, and the Action, and claims that were or could have been alleged, except as otherwise set forth herein, and without any admission of liability or wrongdoing, desires to enter into this Settlement Agreement;

WHEREAS, Class Counsel represent and warrant that they are fully authorized to enter into this Settlement Agreement on behalf of Class Representatives and the Class, and that Class Counsel have consulted with and, as demonstrated by their signatures below, all Class Representatives fully support and have no objection to this Settlement Agreement; and

WHEREAS, it is agreed that this Settlement Agreement shall not be deemed or construed to be an admission, concession, or evidence of any violation of any federal, state, or local statute, regulation, rule, or other law, or principle of common law or equity, or of any liability or wrongdoing whatsoever, by Toyota or any of the Released Parties (as defined below), or of the truth or validity of any of the claims that Class Representatives have asserted;

WHEREAS, as a result of extensive arm’s length negotiations, including numerous mediation sessions amongst the Parties before Settlement Special Master Patrick A. Juneau, Class Representatives, Class Counsel (all terms as defined below) and Toyota have entered into this Settlement Agreement;

NOW, THEREFORE, without any admission or concession by Class Representatives or Class Counsel of any lack of merit to their allegations and claims, and without any admission or concession by Toyota 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 both the preliminary and final approval by the Court, Class Counsel, Class Representatives, and Toyota agree as follows:

I. SUMMARY OF PROCEDURAL HISTORY

A. On January 31, 2018, Jevdet Rexhepi filed a class action complaint in the California Superior Court, County of Los Angeles, captioned Rexhepi v. Toyota Motor Sales, U.S.A., Inc., No. BC692528, alleging, among other things, that Toyota (as defined below) manufactured, distributed, and sold certain Prius vehicles that contained inverters with Intelligent Power Modules (“IPMs”) that allegedly caused the vehicles to decelerate or stall under certain conditions, and that Jevdet Rexhepi and others similarly situated sustained economic losses as a result of Toyota’s alleged fraudulent concealment of the alleged IPM defect, violating the California Consumers Legal Remedies Act (“CLRA”), Cal. Civ. Code §§ 1750-1784, and the Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code §§ 17200-17209, and unjust enrichment (“Rexhepi Case”).

B. On February 5, 2018, Remy McCarthy and others filed a class action complaint in McCarthy et al. v. Toyota Motor Corp. et al., No. 8:18-cv-00201-JLS-KES (C.D. Cal.) (“McCarthy Case”) making allegations similar to those alleged in the Rexhepi Case, and including claims for breaches of implied and express warranties, intentional and negligent misrepresentation, violations

of the CLRA and the UCL, and violations of the Florida Deceptive and Unfair Trade Practices Act (“FDUTPA”).

C. On April 5, 2018, the plaintiffs in the Rexhepi Case filed and served a First Amended Complaint that included causes of action based on common law fraudulent concealment, violations of the CLRA and UCL (including predicate claims of, *inter alia*, violations of the Computer Fraud and Abuse Act), breaches of warranty, trespass to chattels, and unjust enrichment.

D. On April 24, 2018, in response to the Parties’ stipulations in the McCarthy Case, the Court ordered the McCarthy plaintiffs to file and serve an amended complaint no later than May 16, 2018, and gave Toyota forty-five (45) days to respond. *See* Dkt. No. 16. Accordingly, a First Amended Complaint was filed in the McCarthy on May 16, 2018, *see* Dkt. No. 20, to which Toyota responded with a motion to dismiss and a motion to strike on July 2, 2018, *see* Dkt Nos. 22-23.

E. On July 16, 2018, the Rexhepi Case was voluntarily dismissed after the state court stayed that action pending the final resolution of the McCarthy Case, the Rexhepi case was voluntarily dismissed. The following day (on July 17, 2018), Rajdave Bhandari and Jevdet Rexhepi filed a federal class action complaint Bhandari et al. v. Toyota Motor Sales, U.S.A., Inc., No. 18-cv-6183 (C.D. Cal.), making allegations similar to those alleged in the Rexhepi Case (“Bhandari Case”).

F. On September 14, 2018, the Court issued an order denying Toyota’s motion to strike and denying the motion to dismiss as to all but three of the eight claims for relief alleged in the McCarthy Case. *See* Dkt. No. 35.

G. On October 5, 2018, Toyota announced that it was conducting Safety Recall J0V for the purpose of updating the ECU software in each of the vehicles that had been included in Safety Recalls E0E and F0R.

H. The same day (October 5, 2018), the Court adopted the Parties' stipulation to consolidate the Bhandari Case with the McCarthy Case and ordered that the Bhandari Case be administratively closed.

I. On November 20, 2018, Plaintiffs filed a Consolidated Master Complaint in the McCarthy Case. Dkt. No. 43. Toyota responded on January 11, 2019, by filing a motion to dismiss the Consolidated Master Complaint together with stipulations regarding a briefing schedule for the motion to dismiss and to continue the initial Scheduling Conference until April 26, 2019. *See* Dkt. Nos. 44-46. The Court adopted both stipulations. *See* Dkt. No. 47.

I. On March 22, 2019, the Court conducted a hearing of the motion to dismiss the Consolidated Master Complaint. Dkt. No. 58. On April 9, 2019, the Court denied the motion with respect to all claims for relief except those pertaining to express warranty and trespass to chattels. Dkt. No. 59.

J. On July 23, 2019, Plaintiffs filed an Amended Consolidated Master Complaint (which remains the operative complaint). Dkt. No. 73. Toyota responded by filing an Answer on August 22, 2019. Dkt. No. 77.

K. As a result of the pandemic, the Parties stipulated to modify the Scheduling Order to postpone Plaintiffs' motion for class certification until deposition discovery could be completed. *See, e.g.*, Dkt. Nos. 93-94, 105-106.

L. On May 22, 2020, Toyota moved to compel arbitration, *see* Dkt. Nos. 109-110, which the Court denied on October 20, 2020, *see* Dkt. No. 131.

M. On June 24, 2020, Toyota announced publicly that it would be conducting Safety Recall 20TA10 for the purpose of installing in certain 2013 to 2015 model year Prius and certain 2014 to 2017 model year Prius V vehicles the same ECU software that it deployed in the vehicles that were the subject of Safety Recall J0V.

N. In the interim, the Parties stipulated to modifying the Scheduling Order for the purpose of postponing Plaintiffs' motion for class certification, which the Court granted on August 31, 2020. Dkt. Nos. 126-127. When it became evident that the pandemic would continue to preclude deposition discovery of witnesses located in Japan, the Parties stipulated to a procedure by which Plaintiffs would use interrogatories as the principal means of obtaining the discovery they needed to proceed with a motion for class certification. *See* Dkt. Nos. 126-130. The Parties then stipulated to a proposed order appointing Patrick A. Juneau as Settlement Special Master. Dkt. No. 134, 143, 160.

O. Plaintiffs filed their motion for class certification on April 9, 2021, *see* Dkt. Nos. 161-167. Toyota filed its opposition to class certification on June 22, 2021. *See* Dkt. Nos. 192-196.

P. On July 20, 2021, the Parties entered into a stipulation to stay all proceedings, which the Court granted on July 23, 2021. *See* Dkt. Nos. 205-206.

Q. Settlement discussions began in or about June 2020, continued on a parallel track with the litigation, and culminated in this Settlement Agreement. During this period, the parties negotiated with and without the assistance of the Settlement Special Master.

R. Counsel have conducted an extensive investigation regarding the facts and the law relevant to the claims and defenses in this case. Before commencing the Class Actions and during the litigation and settlement negotiations, Class Counsel and, where relevant, their consultants conducted a thorough examination and evaluation of the facts and relevant law to assess the merits

of Plaintiffs' claims and potential claims, and to determine how best to serve the interests of the class. After litigation commenced, Class Counsel conducted extensive party discovery, and also conducted third-party discovery. Discovery included propounding multiple sets of document demands and requests for production, interrogatories, and requests for admissions, as well as the filing of multiple motions to compel. In response, Toyota produced approximately 200,000 pages of documents. Class Counsel have reviewed and analyzed documents produced by Toyota, as well as material they obtained through their own investigative efforts.

S. Plaintiffs have assessed the evidence Toyota submitted to the Court in opposition to Plaintiffs' motion for class certification and confirmatory discovery pertaining to Toyota's testing and analyses of the software installed in Subject Vehicles by way of Safety Recalls J0V and 20TA10 ("Recall Software"), by which Toyota confirmed that the Recall Software fail-safe modes ensure that the malfunction or failure of an Insulated-Gate Bipolar Transistor in a Subject Vehicle's IPM will not "result in rapid deceleration of the vehicle, a loss in the vehicle's power steering or an impact on the ability to brake normally in the vehicle [and that] the vehicle can be driven at safe speeds above approximately 60 mph while in the fail-safe mode of operation." ECF No. 193-9.

T. In addition, in Toyota's initial and supplemental responses to Cathleen Mills Interrogatory No. 7 (which response Toyota updated and supplemented in a verified response on November 4, 2021), Toyota confirmed that the Recall Software ensures that Subject Vehicles will enter fail-safe mode in the event of an IPM or Inverter malfunction or failure, and that Toyota is aware of no incident in which a Subject Vehicle equipped with the Recall Software was unable to travel ~60 miles per hour after entering fail-safe mode.

II. DEFINITIONS

A. As used in this Settlement Agreement and the attached exhibits (which are an integral part of this Settlement Agreement and are incorporated herein in their entirety by

reference), the following terms have the following meanings, unless this Settlement Agreement specifically provides otherwise:

1. “Action” means the consolidated action composed of Remy McCarthy et al., v. Toyota Motor Corp., et al., No. 8:18-CV-00201-JLS-KES (C.D. Cal.), and Bhandari et al. v. Toyota Motor Sales, U.S.A., Inc., No. 18-cv-6183 (C.D. Cal.).

2. “Agreement” or “Settlement Agreement” means this Settlement Agreement and the exhibits attached hereto or incorporated herein, as well as any and all subsequent amendments and any exhibits to such amendments.

3. “Attorneys’ Fees, Costs, and Expenses” means such funds as may be awarded by the Court to compensate any and all attorneys representing plaintiffs who have assisted in conferring the benefits upon the Class under this Settlement Agreement for their fees and expenses in connection with the Action and the Settlement Agreement, as described in Section VIII of this Agreement, which are to be paid separately by Toyota.

4. “Claim Period” means the time period in which Class Members may submit a Registration and Reimbursement Claim Form to the Settlement Notice Administrator, which shall run for a period of three months following the Final Effective Date.

5. “Claimant” means a Class Member who has submitted a Claim for reimbursement.

6. “Class” means, for settlement purposes only, all persons, entities or organizations (a) who own or lease a Subject Vehicle as of the date of the entry of the Preliminary Approval Order, or (b) who, at any time before the entry of the Preliminary Approval Order, owned or leased a Subject Vehicle. Excluded from the Class are: (a) Toyota, its officers, directors and employees; its affiliates and affiliates’ officers, directors and employees; its distributors and

distributors' officers, directors and employees; and Toyota Dealers and Toyota Dealers' officers and directors; (b) Plaintiffs' Counsel; (c) judicial officers and their immediate family members and associated court staff assigned to this case; and (d) persons or entities who or which timely and properly exclude themselves from the Class as provided in this Settlement Agreement.

7. "Class Counsel" means Jeffrey Fazio and Dina Micheletti of Fazio Micheletti LLP and Amnon Siegel of Miller Barondess LLP.

8. "Class Member" means a member of the Class.

9. "Class Notice" means the notice program described in Section IV of this Agreement.

10. "Class Representatives" means Kathleen Ryan-Blaufuss, Catherine Mills, Khek Kuan, Steven Kosareff and Laura Kakish.

11. "Court" means the United States District Court for the Central District of California.

12. "Current Warranty Enhancement Programs" means Warranty Enhancement Programs ZE3, ZF5 and/or 20TE10 related to the Subject Vehicles.

13. "Customer Confidence Program" means the program as further described in Section III.C below.

14. "Direct Mail Notice" means the notices substantially in the form as attached hereto as Exhibits 6 and 7.

15. "DTC" means Toyota's Diagnostic Trouble Codes.

16. "Escrow Account" means the custodial or investment account administered by the Escrow Agent and the Settlement Special Master in which the funds to be deposited will be held, invested, administered, and disbursed pursuant to this Agreement and an Escrow Agreement.

17. “Escrow Agent” means JPMorgan Chase & Co., the agreed-upon entity to address and hold for distribution the funds identified in this Agreement pursuant to the terms of an Escrow Agreement. Toyota shall select the Escrow Agent, which shall be agreed to by Class Counsel, whose approval shall not be unreasonably withheld.

18. “Escrow Agreement” means the agreement by and among Class Counsel, Toyota and the Escrow Agent with respect to the escrow of the funds to be deposited into the Escrow Account pursuant to this Agreement, which agreement, among other things, shall specify the manner in which the Settlement Special Master shall direct and control, in consultation with Toyota and Class Counsel, the disbursement of funds in the Qualified Settlement Fund.

19. “Fairness Hearing” means the hearing for the purposes of the Court determining whether to approve this Settlement Agreement as fair, reasonable, and adequate.

20. “Final Effective Date” means the latest date on which the Final Order and/or Final Judgment approving this Settlement Agreement becomes final. For purposes of this Settlement Agreement:

(a) if no appeal has been taken from the Final Order and/or Final Judgment, “Final Effective Date” means the date on which the time to appeal therefrom has expired; or

(b) if any appeal has been taken from the Final Order and/or Final Judgment, “Final Effective Date” means the date on which all appeals therefrom, including petitions for rehearing or reargument, petitions for rehearing en banc and petitions for certiorari or any other form of review, have been finally disposed of in a manner that affirms the Final Order or Final Judgment; or

(c) in the event of an appeal or other effort to obtain review, and subject to Court approval, if Class Counsel and Toyota agree in writing, the “Final Effective Date” can occur on a date prior to final resolution, however, there is no obligation to agree to advance the Final Effective Date.

21. “Final Judgment” means the Court’s final judgment as described in Section IX of this Settlement Agreement, which is to be substantially in the form attached hereto as Exhibit 2.

22. “Final Order” means the Court’s order approving the Settlement Agreement, as described in Section IX, which is to be substantially in the form attached hereto as Exhibit 3.

23. “First Use” means the date that the Subject Vehicle is originally sold or leased.

24. “Initial Notice Date” means the date on which the first notice is disseminated to the Class.

25. “Insert” means the Direct Mail Notice that will be in substantially the same form as attached as Exhibits 6 and 7. The Insert shall be inserted by the current owner/lessee of a Class Vehicle into the Subject Vehicles’ Warranty & Maintenance Guides. The failure to insert the Insert to the Warranty & Maintenance Guide in no way affects the right of subsequent owners of a Subject Vehicle to avail themselves of the benefits described in this Settlement Agreement, including, but not limited to, the Customer Confidence Program and/or the Loaner/Towing Program.

26. “Inverter” means an inverter with converter assembly.

27. “IPM” means Intelligent Power Module.

28. “Loaner/Towing Program” means the program as further described in Section III.B, below.

29. “Loaner Vehicle” means a vehicle of any potential make, model or year, provided pursuant to Section III.B.4.

30. “Long Form Notice” means the Long Form Notice substantially in the form attached hereto as Exhibit 4.

31. “Out-of-Pocket Claim” means a claim for Reimbursement by a Class Member or his or her or its representative submitted on a Registration and Reimbursement Claim Form, as provided in this Settlement Agreement.

32. “Out-of-Pocket Claims Process” means the process for submitting and reviewing Claims described in this Settlement Agreement.

33. “Parties” means Class Representatives and Toyota, collectively, as each of those terms is defined in this Settlement Agreement.

34. “Plaintiffs’ Counsel” means counsel for plaintiffs in the Action, Fazio Micheletti LLP, Cuneo Gilbert & LaDuca LLP, Waymaker LLP, Audet & Partners LLP, Miller Barondess LLP and Kiesel Law LLP.

35. “Preliminary Approval Order” means the order to be entered by the Court preliminarily approving the settlement as outlined in Section IX and to be substantially in the form attached hereto as Exhibit 5.

36. “Publication Notice” means the publication notice substantially in the form as attached hereto as Exhibit 8.

37. “Recall(s)” means Safety Recalls E0E, F0R, J0V, and/or 20TA10.

38. “Recall Remedy” means the repairs and/or countermeasures performed in connection with Recalls E0E, F0R, J0V, and/or 20TA10.

39. “Registration and Reimbursement Claim Form” means the document, in substantially the same form as Exhibit 1 attached to this Settlement Agreement.

40. “Reimbursement” and “Reimbursement Payment” mean to pay a Class Member for the cost of repairing or replacing an IPM or an Inverter in a Subject Vehicle before the Final Effective Date and/or towing and/or car rental expenses incurred in connection with the repair or replacement of an IPM or Inverter, as set forth in Section III.D, below.

41. “Release” means the release and waiver set forth in Section VII of this Settlement Agreement and in the Final Judgment and Final Order.

42. “Released Parties” or “Released Party” means any Toyota entity, including, but not limited to, Toyota Motor Corporation, and Toyota Motor Sales, U.S.A., Inc., and each of their past, present and future parents, predecessors, successors, spin-offs, assigns, holding companies, joint-ventures and joint-venturers, partnerships and partners, members, divisions, stockholders, bondholders, subsidiaries, related companies, affiliates, officers, directors, employees, associates, dealers, representatives, suppliers, vendors, advertisers, service providers, distributors and sub-distributors, agents, attorneys, administrators and advisors. The Parties expressly acknowledge that each of the foregoing is included as a Released Party even though not identified by name herein. Notwithstanding the definition of Released Parties, any independent claims against Toyota Dealers unrelated to the Subject Matter of this lawsuit, including but not limited to any claims for damage to a vehicle in connection with repairing or replacing an IPM or Inverter, are expressly retained by Class Members.

43. “Settlement Claims Administrators” shall mean Patrick A. Juneau and Thomas Juneau of Juneau David, APLC, agreed to by the Parties and submitted to the Court for appointment.

44. “Settlement Fund” means the payments made by Toyota, in accordance with the terms and schedule set forth in Section III.A.3, below, which are to be used pursuant to the terms of this Agreement.

45. “Settlement Notice Administrator” means the Court-appointed third-party agent or administrator agreed to by the Parties and submitted to the Court for appointment to implement the notice plan and address the Out-of-Pocket Claims Process. The Parties agree that Jeanne Finegan of Kroll Notice Media shall serve as Settlement Notice Administrator, subject to approval by the Court.

46. “Settlement Special Master” means Patrick A. Juneau, who was appointed by this Court in an Order dated February 23, 2021, to serve as Settlement Special Master to administer, coordinate and preside over all settlement-related proceedings.

47. “Subject Vehicles” means 2010 to 2015 model year Prius vehicles, and 2012 to 2017 model year Prius V vehicles that were the subject of Safety Recall E0E, F0R, J0V, and/or 20TA10.

48. “Subject Matter of the Action” means claims that Toyota engaged in common law fraud, breaches of warranty, and violations of the California Consumers Legal Remedies Act and Unfair Competition Law in connection with the sale of Subject Vehicles, without disclosing the existence of an alleged defect that causes the IPM and/or Inverters Toyota installed in those vehicles to malfunction or fail due to Thermal Stress, for which Plaintiffs sought

restitution, injunctive relief, and compensatory and punitive damages and for which Toyota issued the Recalls.

49. “Supporting Documentation” means evidence supporting an Out-of-Pocket Claim (e.g., proof of ownership of a Subject Vehicle, a receipt, invoice, credit card statement, canceled check, or a sworn statement establishing the nature and amount of an expenditure for repairing or replacing an IPM or Inverter or an associated towing or car rental expense).

50. “Thermal Event” means damage to casings and other parts of an Inverter, as Toyota has used the term in connection with its Thermal Event Protocol.

51. “Thermal Stress” means exposure of one or more Insulate-Gate Bipolar Transistors in the IPM to excessive amounts of heat and/or electrical current.

52. “Toyota” or “Defendant” means Toyota Motor Corporation and Toyota Motor Sales, U.S.A., Inc.

53. “Toyota Dealers” means authorized Toyota dealers.

54. “Toyota’s Counsel” means John P. Hooper, King & Spalding LLP, David Schrader and Morgan, Lewis & Bockius LLP.

B. Other capitalized terms used in this Settlement Agreement but not defined in this Section II shall have the meanings ascribed to them elsewhere in this Settlement Agreement.

C. The terms “he or she” and “his or her” include “it” or “its” where applicable.

III. SETTLEMENT RELIEF

In consideration for the dismissal of the Action with prejudice, as contemplated in this Settlement Agreement, and for the full and complete Release, Final Judgment and Final Order, as further specified herein, Toyota agrees to provide the relief specified in this Section. The costs and expenses associated with providing the relief and otherwise implementing the relief specified in Section III of this Settlement Agreement shall be the sole obligation of, and paid by, Toyota.

A. Qualified Settlement Fund

1. The Parties, through their respective counsel, shall establish and move the Court to establish and create a Qualified Settlement Fund (“QSF”), pursuant to Internal Revenue Code § 468B and the Regulations issued thereto, with the QSF to be held by the Escrow Agent. All payments to be made by Toyota pursuant to this Agreement shall be made by wire transfer into an Escrow Account, established and controlled consistent with and pursuant to an Escrow Agreement at JPMorgan Chase & Co., a mutually-agreed-upon bank. The Escrow Agent shall invest the payments in short-term United States Agency or Treasury Securities (or a mutual fund invested solely in such instruments), or in a United States Government fully-insured account, and shall collect and reinvest any and all interest accrued thereon, if applicable, unless interest rates are such that they would effectively preclude investment in interest-bearing instruments as defined herein. All (i) taxes on the income of the Escrow Account and (ii) expenses and costs incurred with taxes paid from the Escrow Account (including, without limitation, expenses of tax attorneys, accountants, and the Tax Administrator) (collectively, “Taxes”) shall be timely paid out of the Escrow Account without prior Order of the Court. All other expenses related to the Escrow Account and/or QSF (including but not limited to the payment of the Escrow Account officer), shall be paid for separately, by Toyota. The Parties agree that the Escrow Agent, with the assistance of the Tax Administrator, shall be responsible for filing tax returns for the QSF and paying from the Escrow Account any Taxes owed with respect to the QSF. The Parties hereto agree that the Escrow Account shall be treated as a QSF from the earliest date possible and agree to any relation-back election required to treat the Escrow Account as a QSF from the earliest date possible. The Escrow Account shall be initially comprised of one fund which shall be a single QSF. Toyota, the Settlement Special Master, Class Representatives, and Class Counsel shall have no responsibility with

respect to taxes owed by the QSF or Class Members who receive distributions from the QSF pursuant to this Settlement Agreement.

2. Toyota agrees to pay a total of \$20,000,000.00 into the QSF to fund the Settlement Fund, as provided below. If the Court does not grant final approval to the Settlement, any funds remaining in the QSF shall revert to Toyota, and any such funds paid into the QSF and not returned to Toyota will be credited towards any eventual settlement that may be approved.

3. **Settlement Fund:** Subject to the provisions of Paragraphs 1 and 2, above, Toyota shall establish a non-reversionary Settlement Fund containing a total of \$20,000,000.00, which shall be primarily used to make Reimbursement Payments, as further described in this Settlement Agreement.

(a) Class Members who receive a Reimbursement Payment shall be given a minimum of 180 days to cash those checks, and will be advised, by notice included with the Reimbursement Payment checks, that, if those checks are not cashed within this timeframe, the uncashed checks will revert to the QSF to be redistributed to persons who received and cashed checks pursuant to this Settlement (“Redistribution Checks”), at which time the Class Member shall no longer be entitled to proceeds from the Settlement. At or about the 90th day following the issuance of Reimbursement Payments in the form of checks to Class Members, the Settlement Notice Administrator shall take reasonable steps to contact those Class Members who have not yet cashed their checks to remind them that they will expire as of the date printed on the checks and advise them again of the consequences of not cashing the checks. This information shall also be set forth in the Long Form Notice. This time limit shall not apply to those Class Members who have challenged the amount of the initial check.

(b) The same time limits and procedures (including reminders) shall apply to Redistribution Checks.

(c) If there is a balance in the QSF after all valid Out-of-Pocket Claims have been paid and after all uncashed checks are redeposited pursuant to Section III.C.3(a), as determined by the Settlement Claims Administrators, the balance shall be distributed pro rata, unless it is administratively unfeasible, as Redistribution Checks to Class Members who cashed their initial Reimbursement Payment check, and to those Class Members who had their Inverter and/or IPM replaced prior to the Final Effective Date, regardless of whether those Class Members incurred reimbursable Out-of-Pocket expenses in connection with the replacement. Each eligible Class Member is entitled to one Redistribution Check, which shall be capped at \$250, unless the Parties agree to a higher cap and jointly recommend the amount to the Settlement Special Master for approval. Redistribution Checks shall be treated in the same manner as Reimbursement payments.

(d) If the Settlement Claims Administrators determine that issuing Redistribution Checks pursuant to Section III.C.3(c) is administratively unfeasible (e.g., because the cost of distributing the remaining funds would consume them), then those remaining funds in the Settlement Fund shall be distributed cy pres to Texas A&M Transportation Institute¹ with the Court's approval. If a cy pres is ultimately determined to be administratively feasible and necessary, the parties

¹ For 70 years, Texas A&M's Transportation Institute ("TTI") has addressed complex transportation challenges and opportunities with innovation, objectivity and unmatched technical expertise. With expertise in engineering, planning, economics, policy, public engagement, environmental sciences, data sciences, and social sciences, TTI researchers play a key role in educating the next generation of transportation professionals, training students both in the laboratory and in the classroom. See generally <https://tti.tamu.edu/about/>.

reserve their right to make a recommendation to the Court as to the specific program(s) at Texas A&M Transportation Institute that the remaining funds will be distributed.

4. To the extent the amount in the Settlement Fund is insufficient to pay all eligible Out-of-Pocket Claims, Toyota shall provide additional funds sufficient to pay all such eligible Out-of-Pocket Claims. The Settlement Claims Administrators shall determine the validity of all Out-of-Pocket Claims. Toyota shall deposit 100% of the Settlement Fund into the QSF, not later than thirty (30) calendar days after the Final Effective Date.

B. Loaner/Towing Program

1. Pursuant to the Loaner/Towing Program, and without cost to Class Members and/or subsequent purchasers or transferees of Subject Vehicles other than as reflected in the subparagraphs below, upon request from the Class Member, Toyota shall provide the following for the duration of the Customer Confidence Program:

(a) A complimentary Loaner Vehicle, while the repair and/or replacement of the Subject Vehicle's IPM and/or Inverter is being performed, only if the repair and/or replacement exceeds 4 hours to perform and/or the Subject Vehicle is required by the Toyota Dealer to remain at the dealership overnight. A Loaner Vehicle is available starting with the day on which the Subject Vehicle is brought to a Toyota Dealer for repair and/or replacement of the Inverter and/or IPM until the day that work is completed.

(b) A complimentary tow to a Toyota Dealer in order for the Subject Vehicle to undergo an Inverter and/or IPM repair and/or replacement pursuant to the terms of this Settlement Agreement:

- i. If a Class Member or subsequent purchaser or transferee of a Subject Vehicle is uncomfortable driving their Subject Vehicle to a Toyota Dealer, and the Subject Vehicle is not on a public roadway, they must contact a Toyota Dealer to arrange for towing. If a Class Member or subsequent purchaser or transferee of a Subject Vehicle is uncomfortable driving their Subject Vehicle to a Toyota Dealer and the Subject Vehicle is on a public roadway, they should contact a Toyota Dealer to arrange for towing and/or contact Toyota's 24/7 Roadside Assistance Hotline at 1-800-444-4195 to obtain towing to the nearest Toyota Dealer.
- ii. If a Class Member is uncomfortable driving their Subject Vehicle to a Toyota Dealer and the Class Member is unable to obtain a tow from a Toyota Dealer or Toyota's 24/7 Roadside Assistance Hotline within a reasonable amount of time, then Toyota will reimburse reasonable towing expenses to the nearest Toyota Dealer, up to a maximum of \$250 per tow. Toyota Dealers shall provide reimbursement for such towing expenses.

2. Toyota shall begin the Loaner/Towing Program on the Final Effective Date.

C. Customer Confidence Program

1. Toyota will offer the Customer Confidence Program to all Class Members, subsequent purchasers and/or transferees of a Subject Vehicle as specified in this Section C, which shall begin on the Final Effective Date. A Class Member's rights under the Customer Confidence Program are transferred with the sale or transfer of the Subject Vehicle. As of the Final Effective Date, the Customer Confidence Program will provide prospective coverage for repairs to and/or

replacement of the Inverter and/or IPM for twenty (20) years from the date of First Use of the Subject Vehicle on the following terms. This coverage shall extend to all Subject Vehicles, regardless of whether the Recall Remedy has been performed.

(a) Toyota shall extend coverage for the Subject Vehicles under the Current Warranty Enhancement Programs (which relates to DTCs P0A94, P0A1A, P324E, and P3004) to provide coverage for a total of twenty (20) years from the date of First Use of the Subject Vehicle.

(b) In addition to the coverage provided for in Section C.1(a) above, Toyota shall provide coverage for repairs and/or replacement of the Inverter if a Toyota Dealer: (i) identifies that either DTC P0A7A and/or DTC P0A78 have been triggered; (ii) confirms that the Inverter has failed; and (iii) determines that the Inverter needs to be repaired and/or replaced.

(c) Toyota shall also provide repairs and/or replacement of the Inverter, at no cost to the Class Member, if a Toyota Dealer: (i) confirms that the Inverter has failed due to a Thermal Event, regardless of what DTC is triggered; and (ii) determines that the Inverter needs to be repaired and/or replaced.

(d) Toyota shall also provide coverage for repairs and/or replacement of the IPM, regardless of which DTC is triggered (if any), if a Toyota Dealer: (i) confirms that the IPM has failed; and (ii) cannot demonstrate that the IPM failure was due to anything other than Thermal Stress.

(e) Nothing about this Settlement Agreement or the implementation of the Customer Confidence Program shall be interpreted, construed or read to diminish any pre-existing warranty coverage. All rights otherwise available to

owners and lessees under pre-existing warranties will continue to remain available to Class Members notwithstanding the implementation of the Customer Confidence Program.

(f) Nothing about this Settlement Agreement or the implementation of the Customer Confidence Program shall be interpreted, construed or read to diminish any duty to abide by Toyota's obligations under applicable law, including, but not limited to, the Motor Vehicle Traffic Safety Act, the Federal Clean Air Act, and any state equivalents, including those implemented by the California Air Resources Board.

2. Class Members and/or subsequent purchasers or transferees of a Subject Vehicle who are denied coverage or other benefits under the Customer Confidence Program and/or the Loaner/Towing Program and wish to appeal the denial shall complete and submit the Appeal Form attached hereto as Exhibit 11 and any necessary documentation within forty-five (45) days of being notified of such denial. Toyota shall instruct Toyota Dealers that they are to provide each Class Member or subsequent purchaser/transferee who is denied coverage or other benefits eligible for payment under the Customer Confidence Program and/or the Loaner/Towing Program with a repair order or work order that includes the following language: "To appeal the denial of a loaner, tow or repair related to the Inverter and/or IPM, you must submit an Appeal Form, which can be found at www.toyotapriusinvertersettlement.com. Your appeal must be submitted within 45 days from the date on this document." In the event a Toyota Dealer fails to include the required language on a work or repair order, a Class Member or subsequent purchaser/transferee shall have the right to appeal for one year from the date of the denial of such coverage. This appeal process shall also be referenced in the Direct Mail Notice, and the Appeal Form shall be made available

on the settlement website and may be submitted, along with all applicable documentation, by mail or electronically via the settlement website. The Settlement Claims Administrators shall make a final determination as to whether coverage or other benefits should be provided in accordance with the terms of this Settlement Agreement, and shall do so within forty-five (45) days of the Appeal Form's submission. In the event an appeal of a denial related to the Customer Confidence Program is decided in the favor of the Class Member or subsequent purchaser/transferee, and the Class Member and/or subsequent purchaser or transferee of a Subject Vehicle paid to replace or repair an IPM or Inverter in the Subject Vehicle during this time (whether at a Toyota Dealer or an independent mechanic) a check for the amount of the repair will be sent as soon as practicable after that decision, subject to the submission of proof of payment for that IPM/Inverter repair or replacement.

3. Toyota shall provide the Settlement Notice Administrator with the names, addresses and VIN of all owners and lessees of Subject Vehicles in its possession, custody or control, including but not limited to the names, addresses and VIN of all original owners and lessees of Subject Vehicles, and shall identify the VIN numbers for the Subject Vehicles utilizing R.L. Polk & Co. data to identify current names and addresses for Class Members. All such information shall be verified by the National Change of Address database or the equivalent.

4. Toyota shall take affirmative, reasonable steps to ensure that its customer service personnel and all Toyota dealerships are sufficiently notified of and educated about the terms of the Loaner/Towing Program and the Customer Confidence Program. This notice shall remain available in a manner that is easily accessible to Toyota dealership and Toyota customer service personnel (similar to the manner in which Toyota Dealers and Toyota customer-service representatives are informed about recalls and service campaigns) for the duration of the Customer

Confidence Program. For example, information advising Toyota Dealers and Toyota Customer Service personnel of the terms of the Loaner/Towing Program and the Customer Confidence Program shall be associated with a Subject Vehicle's identification number ("VIN") for the duration of these programs, and shall be readily available when a VIN is accessed by a Toyota Dealer or by Toyota Customer Service personnel, including Toyota's 24/7 Roadside Assistance Hotline. Toyota has advised Plaintiffs that customer service personnel are trained to request a VIN over the telephone, and that Toyota Dealers input a VIN to look for available programs when a vehicle is brought to a Toyota Dealer for repair or service.

D. Out-of-Pocket Claims Process

1. The Out-of-Pocket Claims Process shall be used to make Reimbursement Payments for enumerated expenses not previously reimbursed by Toyota.

2. The Parties agree that the following list of types of reasonable expenses incurred prior to the Final Effective Date are eligible for Reimbursement under the Out-of-Pocket Claims Process:

(a) rental car expenses incurred in connection with the repair or replacement of an IPM or an Inverter;

(b) towing charges that had been incurred in connection with the repair or replacement of an IPM or an Inverter; and

(c) the cost of repairing or replacing an IPM or an Inverter.

3. Out-of-pocket expenses that are the result of damage to an Inverter or IPM as a result of a collision, misuse/abuse, and/or other similar instances of vehicle damage will not be eligible for reimbursement under this Section III.D. Toyota bears the burden of proving any exception to coverage under this Settlement Agreement. Consistent with the terms and conditions provided for in the New Vehicle Limited Warranty and the current Warranty Enhancement

Programs, the exclusion from coverage relating to “Salvage or Total-Loss Vehicles” (*i.e.*, Subject Vehicles that have been issued a “salvage” title or similar title under any state’s law; or has ever been declared a “total loss” or equivalent by a financial institution or insurer, such as by payment for a claim in lieu of repairs because the cost of repairs exceeded the cash value of the Subject Vehicle, does not apply to or in any way affect eligibility for reimbursement under this Section III.D.

4. As part of the Out-of-Pocket Claims Process, Class Members shall be eligible for the relief in this Settlement Agreement, provided that Class Members: (a) complete and timely submit Registration and Reimbursement Claim Forms, with Supporting Documentation, to the Settlement Notice Administrator within the Claim Period; (b) have Claims that are eligible for reimbursement; and (c) do not opt out of the settlement. For those Class Members who verify that they incurred the expense of an IPM or Inverter repair or replacement at a Toyota Dealer and despite best efforts are unable to obtain proof of that repair or replacement, the Settlement Claims Administrator will request that Toyota confirm whether the repair and/or replacement was performed at a Toyota Dealer and how much the Class Member was charged. The Registration and Reimbursement Claim Form shall be available on the settlement website and can be submitted, along with all applicable documentation, in either hard-copy or entirely on-line.

5. The Settlement Notice Administrator shall receive the Claims, whether submitted electronically via the settlement website or by U.S. Mail and will perform an initial review to determine whether a Claim meets certain threshold requirements for processing (*e.g.*, whether it was submitted prior to the applicable deadline; is for a Class Vehicle; includes supporting documentation and/or is signed). If the Claim is sufficient, it will be transmitted to the Settlement Claims Administrators for substantive review. The Settlement Claims Administrators shall

administer the final review and processing of Claims and shall have the authority to determine whether Registration and Reimbursement Claim Forms submitted by Class Members are complete and timely in accordance with this Settlement Agreement.

(a) The Settlement Notice Administrator shall send all timely and completed Registration and Reimbursement Claim Forms within fifteen (15) days of receipt, to the Settlement Claims Administrators.

(b) If a Claim is deemed deficient, the Settlement Claims Administrators shall mail a notice of deficiency letter to the Class Member requesting that the Class Member complete the deficiencies and resubmit the Registration and Reimbursement Claim Form within sixty (60) days of the date of the letter from the Settlement Claims Administrators. If the Class Member fails to provide the requested documentation or information within thirty (30) days, the Class Member will be mailed a reminder. If the Class Member fails to provide the requested documentation and information within thirty (30) days of the reminder, that Claim shall be denied without further processing. The Settlement Claims Administrators shall maintain appropriate staffing at all times and use best efforts to complete their review of timely and completed Registration and Reimbursement Claim Forms within ninety (90) days of receipt of a completed Claim. If accepted for payment, the Settlement Claims Administrators shall authorize payment of the Claim of the Class Member and shall use its best efforts to ensure the payment of timely, valid and approved Claims within ninety (90) days after receipt of the Claim, or within ninety (90) days of the Final Effective Date, whichever is later. The processing of Registration and Reimbursement Claim Forms shall begin upon

receipt of the Registration and Reimbursement Claim Forms, without regard to the Final Effective Date, however, payments may be made prior to the occurrence of the Final Effective Date only at Toyota's sole discretion.

(c) If the Claim is rejected for payment, in whole or in part, the Settlement Claims Administrators shall notify Class Counsel and Toyota's Counsel of said rejection of Class Member's Claim and the reason(s) why. The decision of the Settlement Claims Administrators shall be final if consistent with the terms of the Settlement Agreement, provided, however, that Class Counsel and Toyota's Counsel may meet and confer in an attempt to resolve these denied Claims. If Class Counsel and Toyota jointly recommend payment of the Claims or payment of a reduced claim amount, then Toyota's Counsel shall inform the Settlement Claims Administrators that the Claim should be paid. If Class Counsel and Toyota's Counsel disagree, they shall notify the Settlement Claims Administrators who shall make a final determination as to whether the Claim shall be paid. If a Claim is rejected in full or in part, the Settlement Claims Administrators shall direct the Settlement Notice Administrator to mail a notice of rejection letter to the Class Member via First-Class mail, and also email notice to the Class member if an e-mail address was provided.

6. The Settlement Claims Administrators shall timely provide copies of all rejection notices to Class Counsel and to Toyota's Counsel. Any Class Member whose Claim is rejected in full shall not receive any payment for the Claim submitted and shall, in all other respects, be bound by the terms of the Settlement Agreement and by the Final Order and Final Judgment entered in the Action, unless such Class Member has submitted a timely request for exclusion pursuant to

Section V. Similarly, any Class Member whose Claim is approved in part and rejected in part shall not receive any payment for that portion of the Claim that is rejected and shall, in all other respects, be bound by the terms of the Settlement Agreement and by the Final Order and Final Judgment entered in the Action, unless such Class Member has submitted a timely request for exclusion pursuant to Section V.

7. No person shall have any claim against Toyota, the Settlement Special Master, the Settlement Claims Administrators, the Class Representatives, the Class, Plaintiffs' Counsel, Class Counsel, Toyota's Counsel, or the Settlement Notice Administrator based on any eligibility determinations made in accordance with the Settlement Agreement.

8. All costs of settlement and claims administration incurred pursuant to or related to this Settlement Agreement, including, but not limited to, expenses associated with the Settlement Claims Administrators and the provision of Class Notice, shall be paid by Toyota.

E. Duties of the Settlement Claims Administrators

1. The Settlement Claims Administrators shall carry out the terms and conditions of the Out-of-Pocket Claims Process in this Agreement, as well as the towing reimbursement claims review for the Loaner/Towing Program and the appeals process outlined above in Section III.C.2. The Settlement Claims Administrators shall be responsible for, without limitation: (a) timely and efficiently coordinating with the Settlement Notice Administrator regarding the transfer, receipt and review of Out-of-Pocket Claims from Claimants; (b) reviewing Out-of-Pocket Claims; (c) determining whether additional information is needed to process Out-of-Pocket Claims and instructing the Settlement Notice Administrator to inform the Claimants of said requests; (d) determining if Out-of-Pocket Claims are valid and entitled to relief; (e) providing a chart of relief awards, if any, for Out-of-Pocket Claims received by the Settlement Claims Administrators to the Settlement Notice Administrator; (f) providing such other information that is reasonably requested

by the Settlement Notice Administrator and/or the Parties; (g) reviewing and approving/rejecting, in whole or in part, the prospective towing charges of Class Members relating to the Loaner/Towing Program; and (h) coordinating with the Parties and the Settlement Notice Administrator to address and resolve the appeals brought by Class Members related to denials of coverage under the Customer Confidence Program.

2. If the Settlement Claims Administrators makes a material or fraudulent misrepresentation to any party, conceals requested material information, or fails to perform adequately on behalf of Toyota or the Class, the Parties may agree to remove the Settlement Claims Administrators. Disputes regarding the retention or dismissal of the Settlement Claims Administrators shall be referred to the Court for resolution.

3. The Settlement Claims Administrators shall maintain staffing sufficient to perform all duties delegated to the Settlement Claims Administrators in this Agreement.

4. In the event of a misdirected communication, the Settlement Special Master and the Parties, through their respective counsel, shall promptly, after receipt, provide copies of any correspondence to each other that should properly be delivered to the Settlement Special Master and/or counsel for the other Party.

F. Catalyst Credit for J0V and 20TA10 Recalls

1. The Parties have submitted the issue of whether this lawsuit served to catalyze Toyota's decision to implement Safety Recalls J0V and 20TA10 and the 20TE10 Warranty Enhancement Program established in connection with Safety Recall 20TA10, and whether Plaintiffs and their counsel should be given catalyst credit for same to the Settlement Special Master for his consideration and determination.

2. Attached as Exhibit 10 are the findings by the Settlement Special Master related to the catalyst credit for the J0V and 20TA10 Safety Recalls and the 20TE10 Warranty Enhancement Program.

IV. NOTICE TO THE CLASS

A. Class Notice

Class Notice will be accomplished through a combination of the Direct Mail Notice, Publication Notice, notice through the settlement website, Long Form Notice, social media notice, and other applicable notice, each of which is described below, as specified in the Preliminary Approval Order, the Declaration of the Settlement Notice Administrator (attached hereto as Exhibit 9), and this Settlement Agreement and in order to comply with all applicable laws, including but not limited to, Fed. R. Civ. P. 23, the Due Process Clause of the United States Constitution, and all other applicable statutes, laws and rules. Notice shall be provided in English. Notice shall also be provided in Spanish on the settlement website, and the Direct Mail Notice and Long Form Notice shall contain a statement “Para ver este aviso en español, visita www.toyotapriusinvertersettlement.com”. The costs of disseminating the notice and otherwise implementing the notice specified in Section IV of this Settlement Agreement shall be paid by Toyota.

B. Direct Mail Notice

1. The Settlement Notice Administrator shall send the Direct Mail Notice, substantially in the forms attached hereto as Exhibits 6 and 7, by U.S. Mail, proper postage prepaid, to the current and former registered owners of Subject Vehicles, as identified by data to be forwarded to the Settlement Notice Administrator by R.L. Polk & Co.

2. There shall be two versions of the Direct Mail Notice, as follows:

(a) The Direct Mail Notice attached hereto as Exhibit 6 shall be mailed to Class Members who are identified by Toyota as having previously had their Inverter and/or IPM replaced and who may be eligible for a potential Redistribution Check pursuant to Section III.A.3(c), above; and

(b) The Direct Mail Notice attached hereto as Exhibit 7 shall be mailed to the balance of the Class Members who have not been identified by Toyota as having previously had their Inverter and/or IPM repaired or replaced. This Direct Mail Notice shall request that Class Members complete and submit the separate Redistribution Check Self-Identification Form attached as Exhibit 11 no later than three (3) months from the Final Effective date to the extent they had their Inverter and/or IPM replaced and seek to be eligible for a potential Redistribution Check pursuant to Section III.A.3(c), above.

3. The Direct Mail Notice shall comport with Due Process and shall, *inter alia*, inform potential Class Members of their rights and obligations under this Settlement Agreement (including the right to opt-out and/or object), and how to obtain the Long Form Notice via the settlement website, via regular mail or via a toll-free telephone number, pursuant to Sections IV.E and IV.F, below. In addition, the Settlement Notice Administrator shall: (a) re-mail any notices returned by the United States Postal Service with a forwarding address no later than the deadline found in the Preliminary Approval Order; (b) by itself or using one or more address research firms, as soon as practicable following receipt of any returned notices that do not include a forwarding address, use best efforts to conduct an advanced address search using all available information to try to obtain better addresses and promptly mail copies of the applicable notice to any better addresses so found.

C. Publication Notice

The Settlement Notice Administrator shall cause the publication of the Publication Notice as described in the Declaration of the Settlement Notice Administrator, and in such additional newspapers, magazines and/or other media outlets as shall be agreed upon by the Parties. The form of the Publication Notice agreed upon by the Parties is in the form substantially similar to the one attached to the Agreement as Exhibit 8.

D. Internet Website

The Settlement Notice Administrator shall establish a dedicated settlement website that will inform Class Members of the terms of this Settlement Agreement, including but not limited to (1) instructions on how to file a claim and obtain reimbursement, (2) instructions on how to contact the Settlement Claims Administrators for assistance with their claims, (3) frequently asked questions (FAQs) and answers, and (4) other information concerning their rights, dates and deadlines and related information. The dedicated settlement website shall be subject to search-engine optimization and shall remain active for the duration of the Customer Confidence Program.

The website shall also include, in .pdf format, materials agreed upon by the Parties and/or required by the Court, including, but not limited to, the Settlement Agreement; the Long Form Notice and Direct Mail Notice; all motions filed in connection with this Settlement, including the motions for preliminary and final approval and a motion for attorney's fees and costs; all Court orders concerning this settlement; documents necessary to submit an appeal, as described in Section III.C.2., above; and any other Court documents that may be of interest to most Class Members. After the Final Effective Date, the website may delete information that is no longer necessary to ongoing issues (such as motions that have been decided), to enable Class Members and subsequent Subject Vehicle owners to easily find information relevant to the ongoing

Customer Confidence Program and the Loaner/Towing Program, including the details of those programs, and the Appeal Form. Relevant Court Orders will remain posted to the website for the duration. The QR code associated with the Direct Notice shall remain active and the link associated with the QR code shall be maintained in proper working order by the Settlement Notice Administrator for the duration of the Customer Confidence Program.

E. Long Form Notice

1. Contents of Long Form Notice.

The Long Form Notice shall be in a form substantially similar to the document attached to this Settlement Agreement as Exhibit 4, and shall advise Class Members of the following:

(a) General Terms: The Long Form Notice shall contain a plain and concise description of the nature of the Action, the history of the litigation of the claims, the preliminary certification of the Class for settlement purposes, and the Settlement Agreement, including information on the identity of Class Members, how the Settlement Agreement would provide relief to the Class and Class Members, what claims are released under the Settlement Agreement and other relevant terms and conditions.

(b) Opt-Out Rights: The Long Form Notice shall inform Class Members that they have the right to opt out of the settlement. The Long Form Notice shall provide the deadlines and procedures for exercising this right.

(c) Objection to Settlement: The Long Form Notice shall inform Class Members of their right to object to the Settlement Agreement and to appear at the

Fairness Hearing. The Long Form Notice shall provide the deadlines and procedures for exercising these rights.

(d) Fees and Expenses: The Long Form Notice shall inform Class Members about the amounts being sought by Plaintiffs' Counsel as Attorneys' Fees and Expenses and individual awards to the Class Representatives, and shall explain that Toyota will pay the fees and expenses awarded to Plaintiffs' Counsel and individual awards to the Class Representatives in addition to amounts being made available for relief to Class Members by this Settlement Agreement.

2. Registration and Reimbursement Claim Forms.

The Long Form Notice and settlement website shall include the Registration and Reimbursement Claim Form, which shall be in a form substantially similar to the document attached to this Settlement Agreement as Exhibit 1 and which shall inform the Class Member that he or she must fully complete and timely return the Registration and Reimbursement Claim Form within the Claim Period to be eligible to obtain relief pursuant to this Settlement Agreement.

3. Dissemination of Long Form Notice.

The Long Form Notice shall be available on the settlement website. The Settlement Notice Administrator shall send via first-class mail, the Long Form Notice to those persons who request it in writing or through the toll-free telephone number.

F. Toll-Free Telephone Number

The Settlement Notice Administrator shall establish a toll-free telephone number staffed by personnel who are trained to respond to questions about the settlement, answer questions about the status of submitted claims, claim payment, how to submit a claim, and other material aspects of the Settlement. Live operators shall be available Monday through Friday, from 5:00 am to 5:00

pm, PST. The phone number will also be configured to enable callers to leave a message after hours, which will be returned by the Settlement Notice Administrator the next business day. In addition, Toyota shall take reasonable steps to ensure its customer service personnel are aware of the relevant provisions of the Settlement to provide meaningful assistance to Class Members and are able to direct Class Members who contact Toyota to the Settlement Notice Administrator for additional information. The Settlement Notice Administrator and Toyota customer service personnel shall have the ability to, and will, live transfer calls between each other and to the Settlement Claims Administrators, to ensure callers obtain necessary information from the correct entity.

G. Internet Banner Notifications

The Settlement Notice Administrator shall, pursuant to the Parties' agreement, establish banner notifications on the internet that will provide settlement-related information to Class Members and shall utilize additional internet-based notice efforts as to be agreed to by the Parties, including but not limited to utilizing popular Prius forums, where possible to do so.

H. Class Action Fairness Act Notice

The Settlement Notice Administrator shall send to each appropriate State and Federal official, the materials specified in 28 U.S.C. § 1715, and shall otherwise comply with its terms. The identities of such officials and the content of the materials shall be mutually agreeable to the Parties and in all respects comport with statutory obligations.

I. Duties of the Settlement Notice Administrator

1. The Settlement Notice Administrator shall be responsible for, without limitation: (a) printing, mailing or arranging for the mailing of the Direct Mail Notice; (b) handling returned mail not delivered to Class Members; (c) attempting to obtain updated address

information for any Direct Mail Notices and all other mail (including returned checks) returned without a forwarding address; (d) making any additional mailings required under the terms of this Settlement Agreement; (e) responding to requests for Long Form Notice; (f) receiving and maintaining on behalf of the Court any Class Member correspondence regarding requests for exclusion and/or objections to the Settlement Agreement; (g) forwarding written inquiries to Class Counsel or their designee for a response, if warranted; (h) establishing a post-office box for the receipt of any correspondence; (i) responding to requests from Class Counsel and/or Toyota's Counsel; (j) establishing a website and a staffed toll-free telephone number with after-hours voice response unit with message capabilities to which Class Members may refer for information about the Action and the Settlement Agreement; (k) otherwise implementing and/or assisting with the dissemination of the notice of the Settlement Agreement; (l) receiving and processing of Claims, including for deficiencies; and (m) coordinating with the Settlement Claims Administrators regarding Claims, including the forwarding of Claims. The Settlement Notice Administrator shall also be responsible for, without limitation, implementing the terms of the Out-of-Pocket Claims Process and related administrative activities. The Settlement Notice Administrator shall be responsible for arranging for the publication of the Publication Notice, establishing internet banner notifications and for consulting on Class Notice. The Settlement Notice Administrator shall coordinate their activities to minimize costs in effectuating the terms of this Settlement Agreement.

2. If the Settlement Notice Administrator makes a material or fraudulent misrepresentation to any party, conceals requested material information, or fails to perform adequately on behalf of Toyota or the Class, the Parties may agree to remove the Settlement Notice Administrator. Disputes regarding the retention or dismissal of the Settlement Notice Administrator shall be referred to the Court for resolution.

3. The Settlement Notice Administrator shall maintain staffing sufficient to perform all duties delegated to the Settlement Notice Administrator in this Agreement.

4. Not later than twenty (20) days before the date of the Fairness Hearing, the Settlement Notice Administrator shall file with the Court a list of those persons who have opted out or excluded themselves from this settlement and the terms of this Settlement Agreement. The Settlement Notice Administrator shall file with the Court the details outlining the scope, method and results of the notice program.

5. The Settlement Notice Administrator and the Parties shall promptly after receipt provide copies of any requests for exclusion, objections and/or related correspondence to each other.

J. Self-Identification

Persons or entities who believe that they are Class Members may contact Class Counsel or the Settlement Notice Administrator or complete and file a Registration and Reimbursement Claim Form and provide necessary documentation indicating that they wish to be eligible for the relief provided in this Settlement Agreement.

V. REQUESTS FOR EXCLUSION

A. Any Class Member who wishes to be excluded from the Class must mail a written request for exclusion to the Settlement Notice Administrator at the address provided in the Long Form Notice, specifying that he or she wants to be excluded and otherwise complying with the terms stated in the Long Form Notice and Preliminary Approval Order. The written request must include:

1. The name of the Action;
2. The excluding Class Member's full name, current residential address, mailing address (if different), and telephone number;

3. the make, model year, and VIN(s) of the Subject Vehicle(s);
4. A statement clearly indicating that the Class Member wants to be excluded from the Class; and
5. The excluding Class Member's signature (an attorney's signature is not sufficient).

B. The Settlement Notice Administrator shall forward copies of any written requests for exclusion to Class Counsel and Toyota's Counsel. A list reflecting all timely, valid requests for exclusion shall be filed with the Court by the Settlement Notice Administrator in connection with the motion for final approval. If a potential Class Member files a request for exclusion, he or she may not file an objection under Section VI, below.

C. Any Class Member who does not file a timely, valid written request for exclusion as provided in this Section V shall be bound by all subsequent proceedings, orders, and judgments, including, but not limited to, the Release, Final Judgment, and Final Order in the Action. Toyota's Counsel shall provide to the Settlement Notice Administrator, within twenty (20) business days of the entry of the Preliminary Approval Order, a list of all counsel for anyone who has then-pending litigation against Toyota relating to claims involving the Subject Vehicles and/or otherwise covered by the Release.

VI. OBJECTIONS TO SETTLEMENT

A. Any Class Member who wishes to object to the Settlement Agreement must mail their objection to the Settlement Notice Administrator, who shall provide scanned copies of all objections to Class Counsel and Toyota's counsel within one business day of receipt. Plaintiffs' counsel shall file all objections with the Court in connection with Plaintiffs' motion for final approval and response to objections. For an objection to be considered by the Court, the objection must be received by the Settlement Notice Administrator on or before the deadline established by

the Court for submitting objections. For an objection to be considered by the Court, the objection must also set forth:

1. The case name and number of the Action;
2. The objector's full name, current residential address, mailing address (if different), telephone number, and e-mail address;
3. An explanation of the basis upon which the objector claims to be a Class Member, including the make, model year, and VIN(s) of the Subject Vehicle(s);
4. An explanation of the objection, including the legal and factual bases and copies of any documents supporting the objection;
5. The name and address of each lawyer (if any) who is representing the objecting Class Member, or who may seek or claim entitlement to compensation for any reason in connection with the objection;
6. The number of times the objector and the objector's counsel (if any) has objected to a class action settlement within the five years preceding the date that the objector files the objection; and the name and case number of each case in which the objector and/or the objector's attorney has made such objection. If the Class Member or the Class Member's counsel has not made any prior objection in the past five years, the Class Member and Class Member's counsel shall affirmatively so state in the written materials provided with the objection;
7. A statement as to whether the objecting Class Member intends to appear at the Final Approval Hearing either individually or through counsel;
8. The full name, telephone number and address of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement Agreement;

9. The identity of all counsel (if any) who will appear on behalf of the objecting Class Member at the Final Approval Hearing;

10. A list of all persons who will or may offer testimony in support of the objection; and

11. The objector's signature and date of signature.

B. The Parties shall request that the Court issue an order declaring that any Class Member who fails to comply with the provisions of Section VI.A., above, shall be deemed to have waived and forfeited any and all rights he or she may have to have his, her or their objection considered and/or to appear separately and object, whether by a subsequent objection, intervention, appeal, or any other process, and shall be bound by all the terms of this Settlement Agreement and by all proceedings, orders and judgments, including, but not limited to, the Release, the Final Order, and the Final Judgment in the Action and the Related Action. The exclusive means for any challenge to the Settlement Agreement shall be through the provisions of this Section VI.B. Without limiting the foregoing, any challenge to the Settlement Agreement, Final Order, or Final Judgment shall be pursuant to appeal under the Federal Rules of Appellate Procedure and not through collateral proceedings. Class Members may not both object and request exclusion (opt out).

C. The Parties will ask the Court to enter an order providing that the filing of an objection allows Class Counsel or counsel for Toyota to, at their discretion, notice the deposition of the objecting Class Member and/or to seek the production of documents and tangible things relevant to the objections on an expedited basis, so as to promote and ensure the efficient administration of justice, the timely resolution of objections and of this Settlement, and the orderly presentation of any Class Member's objection to the settlement, in accordance with the due process

rights of all Class Members. Consistent with these objectives, service of a deposition notice and/or a request to produce documents and tangible things in lieu of a formal subpoena shall be sufficient. Likewise, any such deposition may take place remotely, or at an agreed upon location at an agreed upon date and time, but, in no event more than fifteen (15) days following service of a deposition notice, a request to produce documents and other tangible things. Any objections to the scope of a deposition notice or a request to produce documents or other tangible things issued or served in connection with this provision shall be brought before this Court for resolution on an expedited basis.

D. In the event an objecting Class Member fails to appear for deposition or comply with a request to produce documents or other tangible things, may result in the Court striking the objection and denying the person the opportunity to be heard individually and/or through counsel.

E. If the Court determines the objection is frivolous or made for an improper purpose, the Court may tax the costs of any such discovery under this section to the objecting Class Member or to the objecting Class Member's counsel. Prior to doing so, however, the objector shall be given the opportunity to withdraw his/her/their objection.

F. The Parties shall promptly inform the Court of any consideration sought by any objector and the circumstances of such a request. Any objector who seeks fees, costs, or other consideration for their objection shall do so pursuant to Fed. R. Civ. P. 23(e)(5)(B).

G. Any Class Member who objects to the Settlement Agreement shall be entitled to all the benefits of the Settlement Agreement if the Settlement Agreement and the terms contained herein are approved, as long as the objecting Class Member complies with all requirements of this Settlement Agreement applicable to Class Members.

VII. RELEASE AND WAIVER

A. The Parties agree to the following release and waiver, which shall take effect upon entry of the Final Judgment and Final Order.

B. In consideration for the Settlement Agreement, Class Representatives, and each Class Member, on behalf of themselves and any other legal or natural persons who may claim by, through or under them, agree to fully, finally and forever release, relinquish, acquit, and discharge the Released Parties from any and all claims, demands, suits, petitions, liabilities, causes of action, rights, and damages of any kind and/or type regarding the Subject Matter of the Action, including, but not limited to, compensatory, exemplary, punitive, expert and/or attorneys' fees or by multipliers, whether past, present, or future, mature, or not yet mature, known or unknown, suspected or unsuspected, contingent or non-contingent, derivative or direct, asserted or unasserted, whether based on federal, state or local law, statute, ordinance, regulation, code, contract, common law, violations of any state's deceptive, unlawful, or unfair business or trade practices, false, misleading or fraudulent advertising, consumer fraud or consumer protection statutes, any breaches of express, implied or any other warranties, RICO, or the Magnuson-Moss Warranty Act, or any other source, or any claim of any kind related arising from, related to, connected with, and/or in any way involving the Subject Matter of the Action, and could have been defined, alleged or described in the Amended Consolidated Master Complaint, the Action, or any amendments of the Action. Notwithstanding the foregoing, Class Representatives and Class Members are not releasing claims for (1) personal injury, (2) death, (3) property damage arising from an accident involving a Subject Vehicle, (4) property damage to the Subject Vehicle arising from Inverter or IPM failure, other than damage to the Inverter or IPM itself, or (5) subrogation. This Release is limited to, and does not extend beyond, issues pertaining to the Subject Matter of the Action, and

does not extend to failure of or damage to the Inverter or IPM caused by anything other than Thermal Stress

C. The Final Order will reflect these terms.

D. Class Representatives and Class Members expressly agree that this Release, the Final Order, and/or the Final Judgment is, will be, and may be raised as a complete defense to, and will preclude any action or proceeding encompassed by, this Release.

E. Class Representatives and Class Members shall not now or hereafter institute, maintain, prosecute, commence, or file any suit, action, and/or proceeding, against the Released Parties, on their own behalf, on behalf of a class or on behalf of any other person or entity with respect to the claims or causes of action included in the Subject Matter of the Action and released through this Settlement Agreement. This provision does not include any action brought to enforce the terms of this Settlement Agreement and is not intended to prevent Class Members from communicating publicly or privately about the Subject Matter of the Action in a manner that is consistent with the Stipulated Protective Order and the Parties' Confidentiality Agreement.

F. In connection with the Settlement Agreement, Class Representatives and Class Members acknowledge that they and other Class Members may hereafter discover claims presently unknown or unsuspected, or facts in addition to or different from those that they now know or believe to be true concerning the subject matter of the Action and/or the Release herein. Nevertheless, it is the intention of Class Counsel and Class Representatives in executing this Settlement Agreement to fully, finally and forever settle, release, discharge, and hold harmless all such matters, and all claims relating thereto which exist, hereafter may exist, or might have existed (whether or not previously or currently asserted in any action or proceeding) with respect to the Action.

G. Class Representatives expressly understand and acknowledge that they will be deemed by the Final Judgment and Final Order to acknowledge and waive Section 1542 of the Civil Code of the State of California, which provides that:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Class Representatives expressly waive and relinquish any and all rights and benefits that they may have under, or that may be conferred upon them by, the provisions of Section 1542 of the California Civil Code, or any other law of any state or territory that is similar, comparable or equivalent to Section 1542, to the fullest extent they may lawfully waive such rights.

H. Class Representatives represent and warrant that they are the sole and exclusive owners of all claims that they personally are releasing under this Settlement Agreement. Class Representatives further acknowledge that they have not assigned, pledged, or in any manner whatsoever, sold, transferred, assigned or encumbered any right, title, interest or claim arising out of or in any way whatsoever pertaining to the claims they are personally releasing in this Action, including without limitation, any claim for benefits, proceeds or value under the Action, and that Class Representatives are not aware of anyone other than themselves claiming any interest, in whole or in part, in the claims that they are personally releasing under the Settlement Agreement or in any benefits, proceeds or values in the claims that they are personally releasing under the Settlement Agreement. Class Members submitting a Registration and Reimbursement Claim Form shall represent and warrant therein that they are authorized to submit all of the claims that they personally are releasing under the Settlement Agreement and that they have not assigned, pledged, or in any manner whatsoever, sold, transferred, assigned or encumbered any right, title, interest or

claim arising out of or in any way whatsoever pertaining to the Action, including without limitation, any claim for benefits, proceeds or value under the Action.

I. Without in any way limiting its scope, and, except to the extent otherwise specified in the Agreement, this Release covers by example and without limitation, any and all claims for attorneys' fees, costs, expert fees, or consultant fees, interest, or litigation fees, costs or any other fees, costs, and/or disbursements incurred by Class Counsel, Plaintiffs' Counsel, Class Representatives or Class Members who claim to have assisted in conferring the benefits under this Settlement Agreement upon the Class.

J. In consideration for the Settlement Agreement, all Released Parties, including but not limited to Toyota and its past or present officers, directors, employees, agents, attorneys, predecessors, successors, affiliates, subsidiaries, divisions, and assigns shall be deemed to have, and by operation of the Final Order shall have, released Plaintiffs' Counsel, Class Counsel and each current and former Class Representatives from any and all causes of action that were or could have been asserted pertaining to the conduct in filing and prosecuting the litigation or in settling the Action.

K. Class Representatives and Plaintiffs' Counsel acknowledge by their signatures below that they have conducted sufficient discovery to enter into this Settlement Agreement and, by executing this Settlement Agreement, state that they have not relied upon any statements or representations made by the Released Parties or any person or entity representing the Released Parties, other than as set forth in this Settlement Agreement.

L. Nothing in this Release shall preclude any action to enforce the terms of the Agreement, including participation in any of the processes detailed herein.

M. Class Representatives and Class Counsel hereby agree and acknowledge that the provisions of this Release together constitute an essential and material term of the Agreement and shall be included in any Final Judgment and Final Order entered by the Court.

VIII. ATTORNEYS' FEES, LITIGATION EXPENSES, AND INDIVIDUAL CLASS REPRESENTATIVE SERVICE AWARDS

A. At the conclusion of the Parties' reaching agreement on the substantive material terms of this Agreement, the Parties mediated attorneys' fees, litigation expenses, and individual Class Representative service awards with the Settlement Special Master. Following a series of discussions between the Parties over the course of several days, the Settlement Special Master proposed a mediators' number of \$19 million in fees and \$600,000 in costs, as well as individual Class Representative service awards of \$5,000 for each individual Class Representative. The Settlement Special Master is prepared to report to the Court his Recommendation Regarding Attorneys' Fees, Litigation Expenses, and Class Representative Service Awards, should the Court request.

B. The Parties subsequently agreed to accept the Special Master's mediator number.

C. The Parties have also agreed that if the Court does not award the full amount proposed by the Settlement Special Master, the difference between that amount and the amount awarded by the Court will be distributed to the Class through the Settlement Fund QSF, as set forth in Section III.A, above.

IX. PRELIMINARY APPROVAL ORDER, FINAL ORDER, FINAL JUDGMENT AND RELATED ORDERS

A. The Parties shall seek from the Court, within fourteen (14) days after the execution of this Settlement Agreement, a Preliminary Approval Order in a form substantially similar to Exhibit 5. The Preliminary Approval Order shall, among other things:

1. Certify a nationwide settlement-only Class, approve Class Representatives as Class Representatives and appoint Class Counsel as counsel for the Class, pursuant to Fed. R. Civ. P. 23;
2. Preliminarily approve the Settlement Agreement;
3. Require the dissemination of the Notice and the taking of all necessary and appropriate steps to accomplish this task;
4. Determine that Class Notice complies with all legal requirements, including, but not limited to, the Due Process Clause of the United States Constitution;
5. Schedule a date and time for a Fairness Hearing to determine whether the Settlement Agreement should be finally approved by the Court;
6. Require Class Members who wish to exclude themselves to submit an appropriate and timely written request for exclusion as directed in this Settlement Agreement and Long Form Notice and that a failure to do so shall bind those Class Members who remain in the Class;
7. Require Class Members who wish to object to this Settlement Agreement to submit an appropriate and timely written statement as directed in this Settlement Agreement and Long Form Notice;
8. Require Class Members who wish to appear to object to this Settlement Agreement to submit an appropriate and timely written statement as directed in the Settlement Agreement and Long Form Notice;
9. Require attorneys representing Class Members objecting to the Settlement Agreement, at such Class Members' expense, to file a notice of appearance as directed in this Settlement Agreement and Long Form Notice;

10. Issue a preliminary injunction and stay all other actions, pending final approval by the Court;

11. Issue a preliminary injunction enjoining potential Class Members, pending the Court's determination of whether the Settlement Agreement should be given final approval, from challenging in any action or proceeding any matter covered by this Settlement Agreement, except for proceedings in this Court to determine whether the Settlement Agreement will be given final approval;

12. Appoint the Settlement Notice Administrator and the Settlement Claims Administrators;

13. Authorize Toyota to take all necessary and appropriate steps to establish the means necessary to implement the Agreement; and

14. Issue other related orders to effectuate the preliminary approval of the Agreement.

B. After the Fairness Hearing, the Parties shall seek to obtain from the Court a Final Judgment and Final Order in the forms substantially similar to Exhibits 2 and 3, respectively.

C. Within ten (10) business days of the Final Effective Date, the Parties shall file a stipulation of dismissal with prejudice or substantial equivalent in the Related Action.

X. MODIFICATION OR TERMINATION OF THIS SETTLEMENT AGREEMENT

A. The terms and provisions of this Settlement Agreement may be amended, modified, or expanded by written agreement of the Parties and approval of the Court; provided, however, that after entry of the Final Judgment and Final Order, the Parties may by written agreement effect such amendments, modifications, or expansions of this Settlement Agreement and its implementing documents (including all exhibits hereto) by posting the information on the dedicated Settlement Website, without further approval by the Court if such changes are consistent

with the Court's Final Judgment and Final Order and do not limit the rights of Class Members under this Settlement Agreement.

B. This Settlement Agreement shall terminate at the discretion of either Toyota or the Class Representatives, through Class Counsel, if: (1) the Court, or any appellate court(s), rejects, modifies, or denies approval of any portion of the Settlement Agreement that results in a substantial modification to a material term of the proposed Settlement, including, without limitation, the amount and terms of relief, the findings, or conclusions of the Court, the provisions relating to notice, the definition of the Class, and/or the terms of the Release; or (2) the Court, or any appellate court(s), does not enter or completely affirm, or alters, narrows or expands, any portion of the Final Order and Final Judgment, or any of the Court's findings of fact or conclusions of law, that results in a substantial modification to a material term of the proposed Settlement. The terminating party must exercise the option to withdraw from and terminate this Settlement Agreement, as provided in this Section X, by a signed writing served on the other Parties no later than five (5) days after receiving notice of the event prompting the termination. The Parties will be returned to their positions status quo ante.

C. If an option to withdraw from and terminate this Settlement Agreement arises under Section X.B, above, neither Toyota nor Class Representatives are required for any reason or under any circumstance to exercise that option and any exercise of that option shall be in good faith.

D. If, but only if, this Settlement Agreement is terminated pursuant to Section X.B, above, then:

1. This Settlement Agreement shall be null and void and shall have no force or effect, and no Party to this Settlement Agreement shall be bound by any of its terms, except for the terms of Section X.D, herein;

2. The Parties will petition the Court to have any stay orders entered pursuant to this Settlement Agreement lifted;

3. All of its provisions, and all negotiations, statements, and proceedings relating to it shall be without prejudice to the rights of Toyota, Class Representatives, or any Class Member, all of whom shall be restored to their respective positions existing immediately before the execution of this Settlement Agreement, except that the Parties shall cooperate in requesting that the Court set a new scheduling order such that no Party's substantive or procedural rights are prejudiced by the settlement negotiations and proceedings;

4. Class Representatives and all other Class Members, on behalf of themselves and their heirs, assigns, executors, administrators, predecessors, and successors, expressly and affirmatively reserve and do not waive any and all motions as to, and arguments in support of, all claims, causes of actions or remedies that have been, could have been, or might later be asserted in the Action including, without limitation, any argument concerning liability, class certification, and entitlement to damages under any theory, including but not limited to, treble, punitive or exemplary damages;

5. Toyota and the other Released Parties expressly and affirmatively reserve and do not waive all motions and positions as to, and arguments in support of, all defenses to the causes of action or remedies that have been sought or might be later asserted in the Action, including without limitation, any argument or position opposing class certification, liability or damages, or any argument that the Action may not be litigated as a class action;

6. Neither this Settlement Agreement, the fact of its having been made, nor the negotiations leading to it, nor any discovery or action taken by a Party or Class Member pursuant to this Settlement Agreement shall be admissible or entered into evidence for any purpose

whatsoever, except as necessary to enforce the terms of this Settlement Agreement and then the Parties shall use best efforts to file said information under seal, *provided*, however, that in the event this Settlement Agreement is terminated, Plaintiffs shall retain the right to conduct discovery in accordance with applicable law, the Stipulated Protective Order, and the Confidentiality Agreement that the Parties executed on August 18-20, 2020;

7. Any settlement-related order(s) or judgment(s) entered in this Action after the date of execution of this Settlement Agreement shall be deemed vacated and shall be without any force or effect; and

8. All costs incurred in connection with the Settlement Agreement, including, but not limited to, notice, publication, claims administration and customer communications are the sole responsibility of Toyota and will be paid by Toyota. Neither the Class Representatives nor Class Counsel shall be responsible for any of these costs or other settlement-related costs; and

XI. GENERAL MATTERS AND RESERVATIONS

A. Toyota has denied and continues to deny each and all of the claims and contentions alleged in the Action, and has denied and continues to deny that it has committed any violation of law or engaged in any wrongful act that was alleged, or that could have been alleged, in the Action. Toyota believes that it has valid and complete defenses to the claims asserted against it in the Action and denies that it committed any violations of law, engaged in any unlawful act or conduct, or that there is any basis for liability for any of the claims that have been, are, or might have been alleged in the Action. Nonetheless, Toyota has concluded that it is desirable that the Action be fully and finally settled in the matter and upon the terms and conditions set forth in this Settlement Agreement.

B. The obligation of the Parties to conclude the Settlement Agreement is and shall be contingent upon each of the following:

1. Entry by the Court of the Final Judgment and Final Order approving the Settlement Agreement, from which the time to appeal has expired or which has remained unmodified after any appeal(s); and

2. Any other conditions stated in this Settlement Agreement.

C. The Parties and their counsel agree to keep the existence and contents of this Settlement Agreement confidential until the date on which the Motion for Preliminary Approval is filed; provided, however, that this Section shall not prevent Toyota from disclosing such information, prior to the date on which the Motion for Preliminary Approval is filed, to state and federal agencies, independent accountants, actuaries, advisors, financial analysts, insurers or attorneys. Nor shall it prevent the Parties and their counsel from disclosing such information to persons or entities (such as experts, courts, co-counsel, and/or administrators) to whom the Parties agree disclosure must be made in order to effectuate the terms and conditions of this Settlement Agreement.

D. Class Representatives and Class Counsel agree that the Stipulated Protective Order that was adopted by the Court on July 5, 2019, and the Confidentiality Agreement that the parties executed on August 18 through 20, 2020, shall remain in force and in effect, and that nothing in this Settlement Agreement shall in any way alter, modify, or revise the parties' obligations under the Stipulated Protective Order or the Confidentiality Agreement.

E. Within ninety (90) days after the Final Effective Date (unless the time is extended by agreement of the Parties), Plaintiffs' Counsel, and any expert or other consultant employed by them in such capacity or any other individual with access to documents provided by Toyota, and/or Toyota's Counsel, and/or the Settlement Special Master to Plaintiffs' Counsel shall either: (i) return to Toyota's Counsel, all such documents and materials (and all copies of such documents in

whatever form made or maintained) produced during the litigation and the settlement process by Toyota and/or Toyota's Counsel, and/or the Settlement Special Master and any and all handwritten notes summarizing, describing or referring to such documents; or (ii) certify to Toyota's Counsel that all such documents and materials (and all copies of such documents in whatever form made or maintained) produced by Toyota, and/or Toyota's Counsel, and/or the Settlement Special Master and any and all handwritten notes summarizing, describing or referring to such documents have been destroyed, provided, however, that this Section IX shall not apply to any documents made part of the record in connection with a Claim, nor to any documents made part of a Court filing, nor to Plaintiffs' Counsel's work product. Six months after the final distribution of the settlement funds to Class Members in accordance with this Settlement Agreement, including any cy pres funds, the Settlement Notice Administrator shall return or destroy all documents and materials to Toyota and/or Toyota's Counsel and/or Plaintiffs' Counsel that produced the documents and materials, except that it shall maintain and shall not destroy any and all communications with Class Members, and Registration and Reimbursement Claim Forms, including any and all information and/or documentation submitted by Class Members. Six months after the conclusion of the Customer Confidence Program, unless otherwise extended by agreement of the Parties, the Settlement Claims Administrators shall return or destroy all documents and materials to Toyota and/or Toyota's Counsel and/or Plaintiffs' Counsel that produced the documents and materials, except that it shall maintain and shall not destroy any and all communications with Class Members, and Registration and Reimbursement Claim Forms, including any and all information and/or documentation submitted by Class Members. Nothing in this Settlement Agreement shall affect any confidentiality order or protective order in the Action.

F. Class Counsel represent that: (1) they are authorized by the Class Representatives to enter into this Settlement Agreement with respect to the claims in this Action; and (2) they are seeking to protect the interests of the Class.

G. Class Counsel further represent that the Class Representatives have authorized Class Counsel to execute this Settlement Agreement on their behalf.

H. The Parties acknowledge and agree that no opinion concerning the tax consequences of the Settlement Agreement to Class Members is given or will be given by the Parties, nor are any representations or warranties in this regard made by virtue of this Settlement Agreement. Each Class Member's tax obligations, and the determination thereof, are the sole responsibility of the Class Member, and it is understood that the tax consequences may vary depending on the particular circumstances of each individual Class Member.

I. Toyota represents and warrants that the individual(s) executing this Settlement Agreement is authorized to enter into this Settlement Agreement on behalf of Toyota.

J. This Settlement Agreement, complete with its exhibits, sets forth the sole and entire agreement among the Parties with respect to its subject matter, and it may not be altered, amended, or modified except by written instrument executed by Class Counsel and Toyota's Counsel on behalf of Toyota. The Parties expressly acknowledge that no other agreements, arrangements, or understandings not expressed in this Settlement Agreement exist between them, and that in deciding to enter into this Settlement Agreement, they rely solely upon their judgment and knowledge. This Settlement Agreement supersedes any prior agreements, understandings, or undertakings (written or oral) by and between the Parties regarding the subject matter of this Settlement Agreement.

K. This Settlement Agreement and any amendments thereto shall be governed by and interpreted according to the law of the State of California notwithstanding its conflict of laws provisions.

L. Class Members will have the right to enforce this Agreement except they will not be able to challenge the Settlement Claims Administrators' final decision on eligibility and/or payment made as part of the Out-Of-Pocket Claims Process, provided eligibility was determined pursuant to the process outlined in Section III.D, herein. Any disagreement and/or action to enforce this Settlement Agreement shall be commenced and maintained only in the United States District Court for the Central District of California.

M. Whenever this Settlement Agreement requires or contemplates that one of the Parties shall or may give notice to the other, notice shall be provided by e-mail and/or next-day (excluding Saturdays, Sundays and Federal Holidays) express delivery service as follows:

1. If to Toyota, then to:

John P. Hooper
King & Spalding LLP
1185 Avenue of the Americas
New York, NY 10036
Tel.: (212) 556-2220
Fax: (212) 556-2000
E-mail: Jhooper@kslaw.com

2. If to the Class, then to:

Jeffrey L. Fazio
Dina E. Micheletti
Fazio Micheletti LLP
1111 Broadway, Suite 400
Oakland, CA 94607
Tel.: (925) 543-2555
Fax: (925) 369-0344
E-mail: jlf@fazmiclaw.com

and

Amnon Z. Siegel
Miller Barondess LLP
1999 Avenue of the Stars, Suite 1000
Los Angeles, CA 90067
Tel: (310) 552-4400
Fax: (310) 552-8400
E-mail: asiegel@millerbarondess.com

N. All time periods set forth herein shall be computed in calendar days unless otherwise expressly provided. In computing any period of time prescribed or allowed by this Settlement Agreement or by order of the Court, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a Federal Holiday, or, when the act to be done is the filing of a paper in court, a day on which weather or other conditions have made the office of the clerk of the court inaccessible, in which event the period shall run until the end of the next day that is not one of the aforementioned days. As used in this Section XI “Federal Holiday” includes New Year’s Day, Birthday of Martin Luther King, Jr., Presidents’ Day, Memorial Day, Juneteenth, Independence Day, Labor Day, Columbus Day, Veterans Day, Patriot’s Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President, the Congress of the United States or the Clerk of the United States District Court for the Central District of California.

O. The Parties reserve the right, subject to the Court’s approval, to agree to any reasonable extensions of time that might be necessary to carry out any of the provisions of this Settlement Agreement.

P. The Class, Class Representatives, Class Counsel, Toyota and/or Toyota’s Counsel shall not be deemed to be the drafter of this Settlement Agreement or of any particular provision, nor shall they argue that any particular provision should be construed against its drafter. All Parties

agree that this Settlement Agreement was drafted by counsel for the Parties during extensive arm's length negotiations. No parol or other evidence may be offered to explain, construe, contradict, or clarify its terms, the intent of the Parties or their counsel, or the circumstances under which this Settlement Agreement was made or executed.

Q. The Parties expressly acknowledge and agree that this Settlement Agreement and its exhibits, along with all related drafts, motions, pleadings, conversations, negotiations, and correspondence, constitute an offer of compromise and a compromise within the meaning of Federal Rule of Evidence 408 and any equivalent rule of evidence in any state. In no event shall this Settlement Agreement, any of its provisions or any negotiations, statements or court proceedings relating to its provisions in any way be construed as, offered as, received as, used as, or deemed to be evidence of any kind in the Action, any other action, or in any judicial, administrative, regulatory or other proceeding, except in a proceeding to enforce this Settlement Agreement or the rights of the Parties or their counsel. Without limiting the foregoing, neither this Settlement Agreement nor any related negotiations, statements, or court proceedings shall be construed as, offered as, received as, used as, or deemed to be evidence or an admission or concession of any liability of wrongdoing whatsoever on the part of any person or entity, including but not limited to, the Released Parties, Class Representatives, or the Class or as a waiver by the Released Parties, Class Representatives or the Class of any applicable privileges, claims, arguments, positions, or defenses.

R. Class Representatives expressly affirm that the allegations contained in the operative complaint and in subsequent motion practice were made in good faith, but consider it desirable for the Action to be settled and dismissed after considering the following: (1) the substantial benefits that the Settlement Agreement will provide to Class Members; (2) the attendant

difficulties, inherent risks, and uncertainty of litigation in this complex case, including certifying and maintaining a class through trial and appeal, as well as the delays inherent in such litigation; (3) the desirability of providing relief to Class Members now, as opposed to several years from now, after trial and resolution of all appeals. Class Counsel agreed to this settlement only after being satisfied that their efforts in settlement discussions, including settlement discussions with the assistance of the Settlement Special Master, had achieved a maximum recovery for the Class.

S. The Parties, their successors and assigns, and their counsel undertake to implement the terms of this Settlement Agreement in good faith, to cooperate with, *inter alia*, obtaining Final Approval, and to use good faith in resolving any disputes that may arise in the implementation of the terms of this Settlement Agreement.

T. The waiver by one Party of any breach of this Settlement Agreement by another Party shall not be deemed a waiver of any prior or subsequent breach of this Settlement Agreement.

U. If one Party to this Settlement Agreement considers another Party to be in breach of its obligations under this Settlement Agreement, that Party must provide the breaching Party with written notice of the alleged breach and provide a reasonable opportunity to cure the breach before taking any action to enforce any rights under this Settlement Agreement. Unless a longer time is agreed to in writing by the parties, thirty (30) days is deemed a “reasonable opportunity to cure.”

V. The Parties, their successors and assigns, and their counsel agree to cooperate fully with one another in seeking Court approval of this Settlement Agreement and to use their best efforts to effect the prompt consummation of the Settlement Agreement.

W. This Settlement Agreement may be signed with a facsimile signature and in counterparts, each of which shall constitute a duplicate original.

X. In the event any one or more of the provisions contained in this Settlement Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision if Toyota, on behalf of Defendant, and Class Counsel, on behalf of Class Representatives and Class Members, mutually agree in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Settlement Agreement. Any such agreement shall be reviewed and approved by the Court before it becomes effective.

Agreed to on the date indicated below.

APPROVED AND AGREED TO AS TO FORM
BY CLASS COUNSEL

BY 
JEFFREY L. FAZIO
FAZIO MICHELETTI LLP

DATE: November 11, 2021

BY _____
AMNON Z. SIEGEL
MILLER BARONDESS LLP

DATE: _____, 2021

X. In the event any one or more of the provisions contained in this Settlement Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision if Toyota, on behalf of Defendant, and Class Counsel, on behalf of Class Representatives and Class Members, mutually agree in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Settlement Agreement. Any such agreement shall be reviewed and approved by the Court before it becomes effective.

Agreed to on the date indicated below.

APPROVED AND AGREED TO AS TO FORM
BY CLASS COUNSEL

BY _____
JEFFREY L. FAZIO
FAZIO MICHELETTI LLP

DATE: _____, 2021

BY 

AMNON Z. SIEGEL
MILLER BARONDESS LLP

DATE: November 11, 2021

APPROVED AND AGREED BY CLASS REPRESENTATIVES

BY _____
KATHLEEN RYAN-BLAUFUSS

DATE: _____, 2021

BY _____
CATHLEEN MILLS

DATE: _____, 2021

BY _____
KHEK KUAN

DATE: _____, 2021




BY _____
STEVEN KOSAREFF

DATE: November 11, 2021


BY _____
LAURA NAWAYA (NEE KAKISH)

DATE: _____, 2021

APPROVED AND AGREED TO BY TOYOTA

BY 
SANDRA PHILIPS ROGERS
Group Vice President
General Counsel, Chief Legal Officer and
Chief Diversity Officer, Toyota Motor North
America, Inc.

DATE: November 11, 2021

BY 
ELIZABETH GIBSON
Deputy General Counsel, Vice President,
Product & Legal Risk Support,
Toyota Motor North America, Inc.

DATE: Nov 11, 2021

APPROVED AND AGREED TO AS TO FORM
BY TOYOTA'S COUNSEL

BY _____
JOHN P. HOOPER
KING & SPALDING LLP

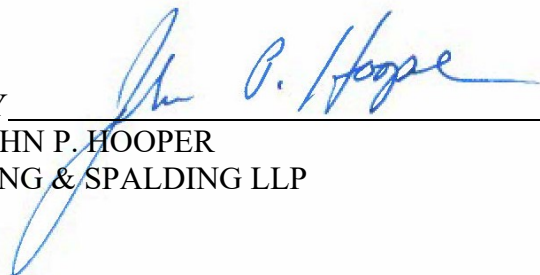
DATE: _____, 2021

APPROVED AND AGREED TO BY TOYOTA

BY _____ DATE: _____, 2021
SANDRA PHILIPS ROGERS
Group Vice President
General Counsel, Chief Legal Officer and
Chief Diversity Officer, Toyota Motor North
America, Inc.

BY _____ DATE: _____, 2021
ELIZABETH GIBSON
Deputy General Counsel, Vice President,
Product & Legal Risk Support,
Toyota Motor North America, Inc.

APPROVED AND AGREED TO AS TO FORM
BY TOYOTA'S COUNSEL

BY  _____ DATE: November 11, 2021
JOHN P. HOOPER
KING & SPALDING LLP