

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE
JUSTICE BELOBABA

)
)

WEDNESDAY, THE 28TH DAY
OF JANUARY, 2016

BETWEEN:



SHERIDAN CHEVROLET CADILLAC LTD.,
THE PICKERING AUTO MALL LTD., and FADY SAMAHA

Plaintiffs

- and -

CHIYODA MFG. CO., LTD., CHIYODA USA CORPORATION, and ASTI CORPORATION

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**ORDER
- Automotive Wire Harness Systems-**

THIS MOTION made by the Plaintiffs for an Order certifying this proceeding as a class proceeding for settlement purposes as against Chiyoda Mfg. Co., Ltd. and Chiyoda USA Corporation (collectively the “Settling Defendants”) and approving the settlement agreement entered into with the Settling Defendants and dismissing this action as against the Settling Defendants, was heard this day at Osgoode Hall, 130 Queen Street West, Toronto, Ontario.

ON READING the materials filed, including the settlement agreement dated November 20, 2015 attached to this Order as Schedule “A” (the “Settlement Agreement”), and on hearing the submissions of counsel for the Plaintiffs and counsel for the Settling Defendants, the Non-Settling Defendants taking no position;

AND ON BEING ADVISED that the deadline for objecting to the Settlement Agreement has passed and there have been no written objections to the Settlement Agreement;

AND ON BEING ADVISED that, pursuant to the order of this Court issued in the Original Ontario Proceeding, dated December 8, 2014, a right to opt out was provided with respect to members of the settlement class as defined in that order and three Persons validly and timely exercised the right to opt-out in accordance with that order;

AND ON BEING ADVISED that the Plaintiffs and the Settling Defendants consent to this Order:

1. **THIS COURT ORDERS** that, in addition to the definitions used elsewhere in this Order, for the purposes of this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.
2. **THIS COURT ORDERS** that in the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.
3. **THIS COURT ORDERS** that the Chiyoda Proceeding is certified as a class proceeding as against the Settling Defendants for settlement purposes only.
4. **THIS COURT ORDERS** that the "Settlement Class" is certified as follows:

All Persons in Canada, except the Excluded Persons, who, directly or indirectly, during the Settlement Class Period, (a) purchased an Automotive Wire Harness System in Canada; (b) purchased or leased a new or used Automotive Vehicle containing an Automotive Wire Harness System in Canada; or (c) purchased, for import into Canada, a new or used Automotive Vehicle containing an Automotive Wire Harness System.

5. **THIS COURT ORDERS** that Sheridan Chevrolet Cadillac Ltd., The Pickering Auto Mall Ltd., and Fady Samaha are appointed as the representative plaintiffs for the Settlement Class.

6. **THIS COURT ORDERS** that the following issue is common to the Settlement Class:

Did the Settling Defendants conspire to rig bids or fix, raise, maintain, or stabilize the prices of Automotive Wire Harness Systems sold in North America during the Settlement Class Period contrary to Part VI of the *Competition Act* and the common law? If so, what damages, if any, did Settlement Class Members suffer?

7. **THIS COURT ORDERS** that the approval of the Settlement Agreement and paragraphs 1 and 3-6 of this Order, including the certification of the Ontario Action as against the Settling Defendants for settlement purposes and the definition of Ontario Settlement Class and Common Issue, and any reasons given by the Court in connection with the approval of the Settlement Agreement (except any reasons given in connection with paragraphs 17-21) or paragraphs 1 and 3-6 of this Order are without prejudice to the rights and defences of the Non-Settling Defendants in connection with the ongoing Chiyoda Proceeding and, without restricting the generality of the foregoing, may not be relied on by any person to establish jurisdiction, the criteria for certification (including class definition) or the existence or elements of the causes of action asserted in the Chiyoda Proceeding, as against the Non-Settling Defendants.

8. **THIS COURT ORDERS** that the right to opt-out, with respect to the Original Ontario Proceeding applies also with respect to the Chiyoda Proceeding, and that there is no other right to opt-out with respect to the Chiyoda Proceeding.

9. **THIS COURT ORDERS** that any putative member of the Settlement Class who validly and timely opted out of the Original Ontario Proceeding shall be deemed to have opted out of the Chiyoda Proceeding, and that all other putative members of the Settlement Class shall be deemed to be members of the Settlement Class.
10. **THIS COURT ORDERS** that this Order, including the Settlement Agreement, is binding upon each member of the Settlement Class including those Persons who are minors or mentally incapable, and the requirements of Rules 7.04(1) and 7.08(4) of the *Rules of Civil Procedure* are dispensed with in respect of the Chiyoda Proceeding.
11. **THIS COURT ORDERS** that the Settlement Agreement is fair, reasonable and in the best interests of the Settlement Class.
12. **THIS COURT ORDERS** that the Settlement Agreement is hereby approved pursuant to section 29 of the *Class Proceedings Act, 1992* and shall be implemented and enforced in accordance with its terms.
13. **THIS COURT ORDERS** that, upon the Effective Date, each member of the Settlement Class shall consent and shall be deemed to have consented to the dismissal as against the Releasees of any Other Actions he, she or it has commenced, without costs and with prejudice.
14. **THIS COURT ORDERS** that, upon the Effective Date, each Other Action commenced in Ontario by any member of the Settlement Class shall be and is hereby dismissed against the Releasees, without costs and with prejudice.

15. **THIS COURT ORDERS** that, upon the Effective Date, subject to paragraph 17, each Releasor has released and shall be conclusively deemed to have forever and absolutely released the Releasees from the Released Claims.
16. **THIS COURT ORDERS** that, upon the Effective Date, the Releasors shall not then or thereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, any action, suit, cause of action, claim or demand against any Releasee, or any other Person who may claim contribution or indemnity or other claims over relief from any Releasee, in respect of any Released Claim except for the continuation of the Proceedings against the Non-Settling Defendants or unnamed alleged co-conspirators that are not Releasees or, if the Proceedings are not certified or authorized, the continuation of the claims asserted in the Proceedings on an individual basis or otherwise against any Non-Settling Defendant or unnamed co-conspirator that is not a Releasee.
17. **THIS COURT ORDERS** that the use of the terms “Releasors” and “Released Claims” in this Order does not constitute a release of claims by those members of the Settlement Class who are resident in any province or territory where the release of one tortfeasor is a release of all tortfeasors.
18. **THIS COURT ORDERS** that, upon the Effective Date, each member of the Settlement Class who is resident in any province or territory where the release of one tortfeasor is a release of all tortfeasors covenants and undertakes not to make any claim in any way nor to threaten, commence, participate in or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to the Released Claims.

19. **THIS COURT ORDERS** that if this Court ultimately determines that there is a right of contribution and indemnity or other claim over, whether in equity or in law, by statute or otherwise:

- (a) all claims for contribution, indemnity or other claims over, whether asserted, unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, relating to the Released Claims, which were or could have been brought in the Proceedings, by any Non-Settling Defendants, or any other Person or party, against a Releasee, or by a Releasee against any Non-Settling Defendants or any other Person or party (excepting a claim by a Person who validly opted-out of the Proceedings, or a Releasee pursuant to a policy of insurance, provided any such claim involves no right of subrogation against any Non-Settling Defendant), are barred, prohibited, enjoined, inadmissible and void in accordance with the terms of the Order;
- (b) the Settlement Class Members shall not be entitled to claim or recover from the Non-Settling Defendants that portion of any damages (including punitive damages, if any), restitutionary award, disgorgement of profits, interest and costs (including investigative costs claimed pursuant to section 36 of the *Competition Act*) that corresponds to the Proportionate Liability of the Releasees proven at trial or otherwise; and
- (c) this Court shall have full authority to determine the Proportionate Liability of the Releasees at the trial or other disposition of the Proceedings, whether or not the Releasees appear at the trial or other disposition and the Proportionate Liability of the Releasees shall be determined as if the Releasees are parties to the

Proceedings and any determination by the Court in respect of the Proportionate Liability of the Releasees shall only apply in the Proceedings and shall not be binding on the Releasees in any other proceeding.

20. **THIS COURT ORDERS** that if this Court ultimately determines that the Non-Settling Defendants would not have the right to make claims for contribution and indemnity or other claims over, whether in equity or in law, by statute or otherwise, from or against the Releasees, then nothing in this Order is intended to or shall limit, restrict or affect any arguments which the Non-Settling Defendants may make regarding the reduction of any assessment of damages, restitutionary award, disgorgement of profits or judgment against them in favour of members of the Settlement Class in the Proceedings.

21. **THIS COURT ORDERS** that a Non-Settling Defendant may, on motion to this Court determined as if the Settling Defendants remained parties to the Chiyoda Proceeding, and on at least ten (10) days' notice to Counsel for the Settling Defendants, and not to be brought unless and until the Ontario Action against the Non-Settling Defendants has been certified and all appeals or times to appeal have been exhausted, seek Orders for the following:
 - (a) documentary discovery and an affidavit of documents from a Settling Defendant(s) in accordance with the Ontario *Rules of Civil Procedure*;

 - (b) oral discovery of a representative of a Settling Defendant(s), the transcript of which may be read in at trial;

 - (c) leave to serve a request to admit on a Settling Defendant(s) in respect of factual matters; and/or

- (d) the production of a representative of a Settling Defendant(s) to testify at trial, with such witness to be subject to cross-examination by counsel for the Non-Settling Defendants.
22. **THIS COURT ORDERS** that the Settling Defendants retain all rights to oppose such motion(s) brought under paragraph 20. Moreover, nothing herein restricts a Settling Defendant from seeking a protective order to maintain confidentiality and protection of proprietary information in respect of documents to be produced and/or for information obtained from discovery in accordance with paragraph 20. Notwithstanding any provision in this Order, on any motion brought pursuant to paragraph 20, the Court may make such orders as to costs and other terms as it considers appropriate.
23. **THIS COURT ORDERS** that a Non-Settling Defendant may effect service of the motion(s) referred to in paragraph 20 above on the Settling Defendants by service on Counsel for the Settling Defendants in the Chiyoda Proceeding.
24. **THIS COURT ORDERS** that for purposes of administration and enforcement of the Settlement Agreement and this Order, this Court will retain an ongoing supervisory role and the Settling Defendants acknowledge and attorn to the jurisdiction of this Court solely for the purpose of implementing, administering and enforcing the Settlement Agreement and this Order, and subject to the terms and conditions set out in the Settlement Agreement and this Order.
25. **THIS COURT ORDERS** that, except as provided herein, this Order does not affect any claims or causes of action that any members of the Settlement Class have or may have

against the Non-Settling Defendants or named or unnamed co-conspirators who are not Releasees.

26. **THIS COURT ORDERS** that no Releasee shall have any responsibility or liability whatsoever relating to the administration of the Settlement Agreement, including administration, investment, or distribution of the Trust Account.
27. **THIS COURT ORDERS** that the Settlement Amount shall be held in the Trust Account by Siskinds LLP for the benefit of Class Members and after the Effective Date the Settlement Amount may be used to pay Class Counsel Disbursements incurred for the benefit of the Settlement Classes in the continued prosecution of the litigation against the Non-Settling Defendants. This paragraph shall not be interpreted as affecting the rights of the Plaintiffs or the Settlement Classes to claim such Disbursements in the context of a future costs award in their favour against the Non-Settling Defendants, or the rights of the Non-Settling Defendants to oppose and resist any such claim.
28. **THIS COURT ORDERS** that in the event that some of the Settlement Amount remains in the Trust Account after payment of Class Counsel Disbursements, Class Counsel Fees and Administrative Expenses, Class Counsel shall seek direction from this Court regarding the distribution of the remaining funds.
29. **THIS COURT ORDERS** that, in the event that the Settlement Agreement is terminated in accordance with its terms, this Order shall be declared null and void on subsequent motion made on notice.
30. **THIS COURT ORDERS** that the Chiyoda Proceeding is hereby dismissed as against the Settling Defendants, without costs and with prejudice.

Ede Belobaba J.

The Honourable Justice Belobaba

Feb 3/16 : This corrected version to replace
previous uncorrected version.

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Schedule "A"

**CANADIAN
AUTOMOTIVE WIRE HARNESS SYSTEMS CLASS ACTION
NATIONAL SETTLEMENT AGREEMENT**

Made as of November 20, 2015

Between

**SHERIDAN CHEVROLET CADILLAC LTD.,
THE PICKERING AUTO MALL LTD. AND FADY SAMAHA**

(the "Plaintiffs")

and

CHIYODA MFG. CO. LTD and CHIYODA USA CORPORATION

(the "Settling Defendants")

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**CANADIAN
AUTOMOTIVE WIRE HARNESS SYSTEMS CLASS ACTION
NATIONAL SETTLEMENT AGREEMENT**

RECITALS

- A. WHEREAS the Proceedings were commenced in British Columbia, Ontario and Quebec, including the Chiyoda Proceeding, which was commenced in Ontario on behalf of a proposed national class and which names the Settling Defendants as Defendants;
- B. AND WHEREAS the Proceedings allege that the Defendants participated in an unlawful conspiracy with other manufacturers of Automotive Wire Harness Systems to rig bids for, and to raise, fix, maintain or stabilize the prices of Automotive Wire Harness Systems sold in Canada and elsewhere as early as January 1, 1999 until at least March 1, 2010, contrary to Part VI of the *Competition Act*, the common law and the civil law, and the Plaintiffs claim class-wide damages allegedly caused as a result of the same;
- C. AND WHEREAS the Proceedings, other than the Chiyoda Proceeding, have been certified for settlement purposes as against certain Defendants, and putative Settlement Class Members in the Proceedings, other than the Chiyoda Proceeding, were permitted an opportunity to opt-out, and three (3) Persons validly and timely exercised the right to opt-out;
- D. AND WHEREAS the Settling Defendants vigorously deny any and all liability in respect of all claims alleged in the Proceedings, and assert that they have complete defences in respect of the merits in the Proceedings;
- E. AND WHEREAS the Settling Defendants would have actively and diligently pursued all of their defences in respect of both the certification and the merits had this settlement not occurred and had the Plaintiffs continued the Chiyoda Proceeding against them;
- F. AND WHEREAS, despite their strong belief that they are not liable in respect of any of the claims alleged in the Proceedings and that they have complete defences in respect of the merits, the Settling Defendants have entered into this Settlement Agreement solely to avoid the further considerable expense, inconvenience, and burden of this litigation and any other present or future litigation arising out of the facts that gave rise to this litigation, to achieve final

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resolutions of all claims asserted or which could have been asserted against the Releasees by the Plaintiffs on their own behalf and on behalf of the Settlement Class, and to avoid the risks inherent in uncertain, complex and protracted litigation;

G. AND WHEREAS counsel for the Settling Defendants has engaged in extensive arm's-length settlement negotiations with Class Counsel in respect of this Settlement Agreement;

H. AND WHEREAS as a result of these settlement negotiations, the Settling Defendants and the Plaintiffs have entered into this Settlement Agreement, which embodies all of the terms and conditions of the settlement of the Chiyoda Proceeding between the Settling Defendants and the Plaintiffs, both individually and on behalf of the Settlement Class, subject to approval of the Court;

I. AND WHEREAS the Plaintiffs have agreed to accept this settlement because of the value of the Settlement Amount and cooperation provided under this Settlement Agreement, as well as the attendant risks of litigation in light of the defences that would be asserted by the Settling Defendants;

J. AND WHEREAS the Settling Defendants do not admit, through the execution of this Settlement Agreement or otherwise, any allegation of unlawful conduct alleged in the Chiyoda Proceeding and have always and will continue to deny all such allegations;

K. AND WHEREAS the Plaintiffs, Class Counsel, and the Settling Defendants agree that neither this Settlement Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be an admission by or evidence against any Releasee or evidence of the truth of any of the Plaintiffs' allegations against any Releasee, which allegations are expressly denied;

L. AND WHEREAS the Plaintiffs and Class Counsel have reviewed and fully understand the terms of this Settlement Agreement and, based on their analyses of the facts and law applicable to the Plaintiffs' claims, and having regard to the burdens and expense in prosecuting the Chiyoda Proceeding, including the risks and uncertainties associated with trials and appeals, the Plaintiffs and Class Counsel have concluded that this Settlement Agreement is fair, reasonable and in the best interests of the Plaintiffs and the Settlement Class;

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M. AND WHEREAS the Settling Defendants are entering into this Settlement Agreement in order to achieve a final resolution of all claims asserted or which could have been asserted against the Releasees by the Plaintiffs and the Settlement Class, and to avoid further expense, inconvenience and the distraction of burdensome and protracted litigation;

N. AND WHEREAS the Plaintiffs and the Settlement Class Members intend to fully and completely settle and resolve all of their claims as against the Releasees on the Effective Date pursuant to this Settlement Agreement;

O. AND WHEREAS the Parties therefore wish to, and hereby do, finally resolve, without admission of liability, the Chiyoda Proceeding as against all of the Releasees;

P. AND WHEREAS for the purposes of settlement only and contingent on approval by the Court as provided for in this Settlement Agreement, the Parties have consented to certification of the Chiyoda Proceeding as a class proceeding as against the Settling Defendants and have consented to a Settlement Class and a Common Issue in the Chiyoda Proceeding;

Q. AND WHEREAS for the purposes of settlement only and contingent on approval by the Court as provided for in this Settlement Agreement, the Plaintiffs have consented to a dismissal of the Chiyoda Proceeding as against the Settling Defendants;

R. AND WHEREAS the Plaintiffs assert that they are adequate class representatives for the Settlement Class and will seek to be appointed representative plaintiffs in the Chiyoda Proceeding;

NOW THEREFORE, in consideration of the covenants, agreements and releases set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that the Chiyoda Proceeding be settled and dismissed with prejudice as to the Settling Defendants, without costs as to the Plaintiffs, the Settlement Class, or the Releasees, subject to the approval of the Court, on the following terms and conditions:

SECTION 1 – DEFINITIONS

For the purpose of this Settlement Agreement only, including the Recitals hereto:

- (1) *Administration Expenses* means all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable by the Plaintiffs, Class Counsel or otherwise for the approval, implementation and operation of the Settlement Agreement, including the costs of notices but excluding Class Counsel Fees.
- (2) *Alleged Conduct* means the allegation that the Defendants conspired to rig bids and fix, raise, maintain and stabilize the price of Automotive Wire Harness Systems sold in North America during the Settlement Class Period.
- (3) *Automotive Vehicle* means passenger cars, SUVs, vans and light trucks (up to 10,000 lbs.).
- (4) *Automotive Wire Harness Systems* means electrical distribution systems used to direct and control electronic components, wiring and circuit boards in an Automotive Vehicle and includes wire harnesses, automotive electrical wiring, lead wire assemblies, cable bond, automotive wiring connectors, automotive wiring terminals, high voltage wiring, electrical boxes, electronic control units, fuse boxes, relay boxes, junction blocks, speed sensor wire assemblies and power distributors.
- (5) *BC Court* means the British Columbia Supreme Court.
- (6) *BC Proceeding* means the action commenced in the British Columbia Supreme Court in Court File No. S-132353 (Vancouver Registry).
- (7) *Chiyoda Proceeding* means the action commenced in the Ontario Superior Court of Justice in Toronto, Court File No. CV-15-519208-00CP.
- (8) *Class Counsel* means Siskinds LLP, Sotos LLP and Camp Fiorante Matthews Mogerman.
- (9) *Class Counsel Fees* means the fees, disbursements, costs, interest, and other applicable taxes or charges of Class Counsel, including any applicable taxes.

- (10) **Common Issue** in the Chiyoda Proceeding means: Did the Settling Defendants conspire to rig bids or fix, raise, maintain or stabilize the prices of Automotive Wire Harness Systems sold in North America during the Settlement Class Period contrary to Part VI of the *Competition Act* and the common law? If so, what damages, if any, did Settlement Class Members suffer?
- (11) **Court** means the Ontario Superior Court of Justice.
- (12) **Defendants** means the Persons names as defendants in the Proceedings, and any Persons added as defendants in the Proceedings in the future, and includes the Settling Defendants.
- (13) **Document** has the meaning given to that term in rule 30.01(1)(a) of the *Ontario Rules of Civil Procedure*.
- (14) **Effective Date** means the date the Final Order is received from the Court approving the Settlement Agreement.
- (15) **Excluded Person** means (i) each Defendant, the directors and officers of each Defendant, the subsidiaries or affiliates of each Defendant, the entities in which each Defendant or any of that Defendant's subsidiaries or affiliates has a controlling interest and the legal representatives, heirs, successors and assigns of each of the foregoing, (ii) if the Court orders that any Person who opted-out of the Ontario, BC, or Quebec Proceeding shall be deemed to have opted-out of the Chiyoda Proceeding, those Persons who opted-out of the Ontario, BC, or Quebec Proceeding and, (iii) if a further opportunity to opt-out is provided, Persons who validly and timely opt-out at that time.
- (16) **Final Order** means a final order made by the Court in respect of the approval of the Settlement Agreement once the time to appeal such order has expired without any appeal being taken, if an appeal lies, or once there has been affirmation of the approval of the Settlement Agreement upon a final disposition of all appeals.
- (17) **Non-Settling Defendants** means any Defendant that is not a Settling Defendant, Settled Defendant, or that has not entered into a settlement with the Plaintiffs in the Proceedings whether or not such settlement agreement is in existence when this Settlement Agreement was executed, and includes any Defendant that terminates its own settlement agreement in accordance with its

terms or whose settlement otherwise fails to take effect for any reason, whether or not such settlement agreement is in existence when this Settlement Agreement was executed.

(18) **Ontario Proceedings** means the Chiyoda Proceeding and the Original Ontario Proceeding.

(19) **Original Ontario Proceeding** means the action commenced in the Ontario Superior Court of Justice in Court File No. CV-12-446737-00CP.

(20) **Other Actions** mean actions or proceedings, other than the Chiyoda Proceeding, relating to the Released Claims commenced anywhere by a Settlement Class Member either before or after the Effective Date.

(21) **Parties** mean the Plaintiffs, Settlement Class Members, and the Settling Defendants.

(22) **Person** means an individual, corporation, partnership, limited partnership, limited liability company, association, joint stock company, estate, legal representative, trust, trustee, executor, beneficiary, unincorporated association, government or any political subdivision or agency thereof, and any other business or legal entity and their heirs, predecessors, successors, representatives, or assignees.

(23) **Plaintiffs** means Sheridan Chevrolet Cadillac Ltd., The Pickering Auto Mall Ltd. and Fady Samaha.

(24) **Proceedings** means the BC, Ontario and Quebec Proceedings.

(25) **Proportionate Liability** means the proportion of any judgment that, had the Settling Defendants not settled, the Court would have apportioned to the Releasees.

(26) **Quebec Counsel** means Siskinds Desmeules s.e.n.c.r.l.

(27) **Quebec Court** means the Superior Court of Quebec.

(28) **Quebec Proceedings** means the proceedings commenced in the Superior Court of Quebec (district of Quebec) in Court File Nos. 200-06-000147-127 and 500-06-000606-125.

(29) **Released Claims** mean any and all manner of claims, demands, actions, suits, causes of action, whether class, individual or otherwise in nature, whether personal or subrogated, damages of any kind whenever incurred, including compensatory, punitive or other damages, liabilities of any nature whatsoever, including interest, costs, expenses, class administration expenses (including Administration Expenses), penalties, and lawyers' fees (including Class Counsel Fees), known or unknown, suspected or unsuspected, foreseen or unforeseen, actual or contingent, and liquidated or unliquidated, in law, under statute, or in equity that Releasors, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have, arising from (a) the purchase of Automotive Wire Harness Systems in Canada; and/or (b) the purchase or lease of new Automotive Vehicles containing Automotive Wire Harness Systems in Canada; and/or (c) the purchase, for import into Canada, of new Automotive Vehicles containing Automotive Wire Harness Systems, relating in any way to (i) any anti-competitive conduct from January 1, 1999 to the date hereof in relation to Automotive Wire Harness Systems; or (ii) any anti-competitive conduct in relation to the purchase, sale, pricing, bidding, discounting, offering, marketing or distributing of Automotive Wire Harness Systems from January 1, 1999 to the date hereof; or (iii) any conduct alleged (or which was previously or could have been alleged) in the Proceedings including, without limitation, any claims for consequential, subsequent or follow-on harm that arises after the date hereof in respect of any agreement, combination or conduct that occurred between January 1, 1999 to the date hereof, or in respect of any such claims which have been asserted, would have been asserted, or could have been asserted, directly or indirectly, whether in Canada or elsewhere, in respect of any agreement or conduct that occurred between January 1, 1999 to the date hereof. However, nothing herein shall be construed to release: (a) any claims involving any negligence, personal injury, breach of contract, bailment, failure to deliver lost goods, damaged or delayed goods, product defect, securities, or other similar claim relating to Automotive Wire Harness Systems; (b) claims concerning any automotive part other than Automotive Wire Harness Systems; and (c) claims brought (whether before or after the date hereof) outside of Canada relating to purchases of Automotive Wire Harness Systems and/or new Automotive Vehicles containing Automotive Wire Harness Systems outside of Canada.

(30) **Releasees** means, jointly and severally, individually and collectively, the Settling Defendants, and all of their respective present and former, direct and indirect, parents,

subsidiaries, divisions, affiliates, partners, franchisees, dealers, insurers, and all other Persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and all of their respective past, present and future officers, directors, employees, agents, shareholders, attorneys, trustees, servants and representatives, and the predecessors, successors, purchasers, heirs, executors, administrators and assigns of each of the foregoing (excluding always the Non-Settling Defendants).

(31) **Releasors** means, jointly and severally, individually and collectively, the Plaintiffs and the Settlement Class Members and their respective parents, subsidiaries, predecessors, successors, heirs, executors, administrators, insurers, and assigns, and any other Person claiming by or through them.

(32) **Settled Defendants** means Lear Corporation and Kyungshin-Lear Sales and Engineering, LLC.

(33) **Settlement Agreement** means this agreement, including the recitals.

(34) **Settlement Amount** means the sum of CAD\$75,000.00.

(35) **Settlement Class** means all Persons in Canada, except the Excluded Persons, who, directly or indirectly, during the Settlement Class Period, (a) purchased an Automotive Wire Harness System in Canada, (b) purchased or leased a new or used Automotive Vehicle containing an Automotive Wire Harness System in Canada or (c) purchased, for import into Canada, a new or used Automotive Vehicle containing an Automotive Wire Harness System.

(36) **Settlement Class Member** means a Person who is a member of the Settlement Class.

(37) **Settlement Class Period** means January 1, 1999 to December 4, 2014.

(38) **Settling Defendants** means Chiyoda Mfg. Co. Ltd. and Chiyoda USA Corporation.

(39) **Trust Account** means an interest-bearing trust account at a Canadian Schedule I bank in Ontario under the control of Siskinds LLP for the benefit of Settlement Class Members.

(40) *US Litigation* means the consolidated class action proceedings, in which the Settling Defendants are named as parties, currently pending in the United States District Court for the Eastern District of Michigan, Southern Division, including the actions under the captions *In re Automotive Parts Antitrust Litigation, Wire Harness Cases*, Case No. 12-cv-00101 (MOB), *In re Automotive Parts Antitrust Litigation, Wire Harness Cases*, Case No. 12-cv-00102 (MOB), *In re Automotive Parts Antitrust Litigation, Wire Harness Cases*, Case No. 12-cv-00103 (MOB), and includes all class actions transferred by the Judicial Panel for Multidistrict Litigation for coordination, all class actions pending such transfer, all class actions that may be transferred in the future and all class proceedings alleging price-fixing of automotive wire harnesses, to the extent that the Settling Defendants are named as parties.

(41) *US Settlement Agreements* includes any settlement reached with the Settling Defendants in the US Litigation.

SECTION 2 – SETTLEMENT APPROVAL

2.1 Best Efforts

(1) The Parties shall use their best efforts to effectuate this settlement and to secure the prompt, complete and final dismissal with prejudice of the Chiyoda Proceeding as against the Settling Defendants.

2.2 Motions for Approval

(1) After this Settlement Agreement is executed, the Plaintiffs shall bring a motion before the Court for an order:

- (a) certifying the Chiyoda Proceeding as a class proceeding as against the Settling Defendants for settlement purposes;
- (b) determining that no further opt-out period shall be established in the Chiyoda Proceeding and that any Person who opted out of the Ontario, BC, or Quebec Proceedings shall be deemed to have opted out of the Chiyoda Proceeding;
- (c) approving the form of notice required pursuant to section 8.1(1); and

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(d) approving a plan of dissemination for this notice.

(2) As soon as practical after the order referred to in section 2.2(1) is granted, and after the expiry of the opt-out period defined in the notice referred to in section 2.2(1) (if a further opt-out period is required), the Plaintiffs shall bring a motion before the Court for an order approving the Settlement Agreement.

(3) The Plaintiffs may, at their sole discretion, indefinitely defer bringing the motion referred to in section 2.2(1) for the sole purpose of aggregating proposed settlements and achieving procedural and cost efficiencies. Nevertheless, if the Plaintiffs have not brought this motion within nine (9) months following the execution of this Settlement Agreement, the Settling Defendants by notice in writing may require the Plaintiffs to promptly bring the motion referred to in section 2.2(1) and take the subsequent steps described in this Settlement Agreement.

(4) It is a fundamental term of this Settlement Agreement that the Plaintiffs and the Settling Defendants must agree on the form and content of the orders to be sought pursuant to sections 2.2(1) and 2.2(2) and every order must be consistent with the terms of the Settlement Agreement. If agreement on the form and content of the orders is not reached within a reasonable period of time, the Settling Defendants and the Plaintiffs shall have a right of termination pursuant to section 11.1.

(5) The form and content of the orders agreed upon pursuant to section 2.2(4) shall be considered a material term of the Settlement Agreement and the failure of the Court to approve the form and content of the orders agreed upon shall give rise to a right of termination pursuant to section 11.1.

(6) This Settlement Agreement shall only become final on the Effective Date.

SECTION 3 – SETTLEMENT BENEFITS

3.1 Payment of Settlement Amount

(1) Within thirty (30) days of execution of the Settlement Agreement, the Settling Defendants shall pay the Settlement Amount to Siskinds LLP for deposit into the Trust Account to be held for the benefit of Settlement Class Members.

(2) The payment of the Settlement Amount shall be in full satisfaction of all settlement payment obligations under the Settlement Agreement and in full satisfaction of the Released Claims against the Releasees.

(3) The Settling Defendants have no obligation to pay any amount other than the Settlement Amount, for any reason, pursuant to or in furtherance of the Settlement Agreement.

(4) Class Counsel shall maintain the Trust Account as provided for in the Settlement Agreement. Class Counsel shall not pay out any part of the monies in the Trust Account, except in accordance with the Settlement Agreement or in accordance with an order of the Court obtained on notice to the Settling Defendants.

(5) The Settling Defendants shall not have any responsibility, financial obligations or liability whatsoever with respect to the investment, distribution or administration of monies in the Trust Account including, but not limited to, Administration Expenses and Class Counsel Fees.

3.2 Taxes and Interest

(1) Except as hereinafter provided, all interest earned on the Settlement Amount shall accrue to the benefit of the Settlement Class and shall become and remain part of the Trust Account.

(2) Subject to section 3.2(3), all taxes payable on any interest which accrues on the Settlement Amount in the Trust Account or otherwise in relation to the Settlement Amount shall be the responsibility of the Settlement Class. Class Counsel shall be solely responsible to fulfill all tax reporting and payment requirements arising from the Settlement Amount in the Trust Account, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned on the Settlement Amount shall be paid from the Trust Account.

(3) The Settling Defendants shall have no responsibility to make any filings relating to the Trust Account and will have no responsibility to pay tax on any income earned by the Settlement Amount or pay any taxes on the monies in the Trust Account, unless this Settlement Agreement is terminated, in which case the interest earned on the Settlement Amount in the Trust Account

or otherwise shall be paid to the Settling Defendants which, in such case, shall be responsible for the payment of all taxes on such interest not previously paid by Class Counsel.

3.3 Cooperation

- (1) The cooperation to be provided by the Settling Defendants under this section 3.3 shall be limited to the Alleged Conduct.
- (2) All Documents and other information provided by the Settling Defendants or their counsel to the Plaintiffs and Class Counsel under this Settlement Agreement are confidential. Except as authorized by this Settlement Agreement, such Documents and other information may not be disclosed to any Person in any manner, directly or indirectly, by Class Counsel or any other Person in any way for any reason, without the express prior written permission of the Settling Defendant, except that Class Counsel is permitted to disclose such Documents and information for the purposes of the litigation, and is permitted to provide such Documents and information, but only for the purposes of the Proceedings, to Quebec Counsel, the Plaintiffs, the Plaintiffs' experts in the Proceedings, third-party service providers, and as otherwise required by law. It is agreed that Class Counsel will take appropriate steps and precautions to ensure and maintain the confidentiality of such Documents, information and any work product of Class Counsel and Plaintiffs' experts, and that no disclosure shall be made to any Person pursuant to this provision unless and until the recipient undertakes in writing to be bound by the confidentiality provisions of this Settlement Agreement and any order approving or issued pursuant to this Settlement Agreement.
- (3) All Documents and other information provided by the Settling Defendants or its counsel to the Plaintiffs and Class Counsel under this Settlement Agreement may be used by Class Counsel, the Plaintiffs and their experts only in connection with the prosecution of the Proceedings, and shall not be used directly or indirectly for any other purpose, including the prosecution of any claim against any one or more of the Releasees.
- (4) In the event that a Person applies for an order requiring the Plaintiffs or Settlement Class Members to disclose or produce any Documents or other information provided by the Settling Defendants as cooperation under this Settlement Agreement, Class Counsel shall notify the Settling Defendants of such application promptly upon becoming aware of it in order that the

Settling Defendants may intervene to oppose such disclosure or production. In no circumstances shall the Plaintiffs, Settlement Class Members or Class Counsel apply for or consent to such an application for disclosure or production.

(5) Subject to section 3.3(11), the Settling Defendants shall only be required to provide cooperation pursuant to this section, if this Settlement Agreement is approved by the Court. The Settling Defendants' cooperation shall be provided within ninety (90) days following the Effective Date.

(6) The Settling Defendants shall produce to Class Counsel the following information currently in the Settling Defendant's possession, to the extent reasonably available and on the following basis:

- (a) Documents produced by the Settling Defendants to any regulatory or investigative body in the United States or in the US Litigation, including pursuant to any US Settlement Agreement and any pre-existing translations; and
- (b) Information, by way of an interview or evidentiary proffer, by or on behalf of the Settling Defendants, if, and to the extent, such cooperation is provided by the Settling Defendants in the US Litigation as a term US Settlement Agreement. To the extent possible, the Settling Defendants shall provide the Plaintiffs with thirty (30) days' advance notice of the date, time, and location of the interviews or evidentiary proffers.

(7) Subject to the rules of evidence, any court order with respect to confidentiality, and the other provisions of this Settlement Agreement, the Settling Defendants agree to provide affidavit evidence by a qualified representative to establish for admission into evidence any of the Settling Defendants' Documents and/or information provided as cooperation pursuant to this Settlement Agreement. In the event that any party challenges such an affidavit and/or the BC Court, Quebec Court or Ontario Court finds the affidavit insufficient to establish authenticity, the Settling Defendants shall make available a representative of the Settling Defendants to testify regarding the authenticity of such Documents and/or information. Class Counsel shall reimburse the Settling Defendants for the reasonable travel expenses incurred by any such Person in connection

with fulfilling the Settling Defendant's cooperation obligations. In no event shall Class Counsel be responsible for reimbursing such Persons for time or services rendered.

(8) The obligation to provide Documents and information pursuant to section 3.3(6) shall be a continuing obligation to the extent documents are identified by the Settling Defendants following the initial productions pursuant to this Settlement Agreement.

(9) Nothing in this Settlement Agreement shall require, or shall be construed to require, the Settling Defendants (or any of their former or current officers, directors or employees) to perform any act which would violate any provincial, federal or foreign law, to disclose or produce any Documents or information prepared by or for counsel for the Settling Defendants, or to disclose or produce any Documents or information in breach of or inconsistent with any order, regulatory directive, rule or provincial, federal or foreign law, or subject to solicitor-client privilege, litigation privilege, or any other privilege, whether under Canadian or foreign law, or to disclose or produce any information or Documents they obtained on a privileged or co-operative basis from any Person, including any party to any action or proceeding who is not a Releasee.

(10) If any Documents protected by any privilege and/or any privacy law or other rule or law of this or any applicable jurisdiction are accidentally or inadvertently produced, such Documents shall be promptly destroyed and the Documents and the information contained therein shall not be disclosed or used directly or indirectly, except with the express written permission of the Settling Defendants, and the production of such Documents shall in no way be construed to have waived in any manner any privilege or protection attached to such Documents.

(11) The Settling Defendants' obligation to cooperate as particularized in this section 3.3 shall not be affected by the release provisions contained in this Settlement Agreement. Unless this Settlement Agreement is not approved or is terminated (at which time the Settling Defendants' obligation to cooperate ceases), the Settling Defendants' obligations to cooperate shall cease at the date of final judgment in the Proceedings against all Defendants. In the event that either party materially breaches this section 3.3, the other party may move before the Court to enforce the terms of this Settlement Agreement or seek such other remedy that is available at law.

(12) The provisions set forth in this section 3.3 are the exclusive means by which the Plaintiffs, Class Counsel and Settlement Class Members may obtain discovery or disclosure of Documents or information relevant to the Alleged Conduct from the Settling Defendants or their current or former officers, directors or employees. The Plaintiffs, Class Counsel and Settlement Class Members agree that they shall not pursue any other means of discovery or disclosure against the Settling Defendants or their current or former officers, directors, employees, agents or attorneys.

(13) A material factor influencing the Settling Defendants' decision to execute this Settlement Agreement is their desire to limit the burden and expense of the Chiyoda Proceeding. Accordingly, Class Counsel agree to exercise good faith in seeking cooperation from the Settling Defendants, and to avoid seeking Documents or information that are unnecessary, cumulative or duplicative of Documents and information which Class Counsel did obtain or could have obtained elsewhere using reasonable efforts, and agree otherwise to avoid imposing undue or unreasonable burden or expense on the Settling Defendants.

(14) Notwithstanding any other provision of this Settlement Agreement, the Settling Defendants (and any of their former or current officers, directors or employees) are not required to produce any Documents or information where such production would be contrary to the rules, laws or policies of a competition authority or would interfere with an ongoing investigation by a competition authority.

(15) In the event that the Settling Defendants seek a protective order in a similar form to other protective orders issued in the Proceedings, the Plaintiffs shall not oppose a motion brought by the Settling Defendants for such an order.

(16) Any protective order proposed by the Settling Defendants will provide that information filed under seal in British Columbia shall be filed in the manner provided for in the Supreme Court of British Columbia's Practice Direction 35 – Sealing Order in Civil and Family Proceedings.

3.4 Intervention in the U.S. Litigation

(1) The Settling Defendants and other Releasees shall not oppose any application that may be brought by or on behalf of the Plaintiffs to intervene in the U.S. Litigation in order to gain access to discovery documents and other documents and information subject to a protective order that are relevant to the Proceedings and is not otherwise inconsistent with the terms of this Settlement Agreement. However it is understood and agreed that neither the Settling Defendants nor the other Releasees have any obligation to bring or otherwise participate in such an application.

SECTION 4 – RELEASES AND DISMISSALS

4.1 Release of Releasees

(1) Upon the Effective Date, and subject to section 4.2, and in consideration of payment of the Settlement Amount and for other valuable consideration set forth in the Settlement Agreement, the Releasers forever and absolutely release the Releasees from the Released Claims and agree that they will not commence, pursue or maintain any claim against the Releasees or any of them based on the Released Claims.

(2) The Plaintiffs and Settlement Class Members acknowledge that they may hereafter discover facts in addition to, or different from, those facts which they know or believe to be true regarding the subject matter of the Settlement Agreement, and it is their intention to release fully, finally and forever all Released Claims and, in furtherance of such intention, this release shall be and remain in effect notwithstanding the discovery or existence of any such additional or different facts.

4.2 Covenant Not To Sue

(1) Upon the Effective Date, notwithstanding section 4.1(1), for any Settlement Class Members resident in any province or territory where the release of one tortfeasor is a release of all other tortfeasors, the Releasers do not release the Releasees but instead covenant and undertake not to make any claim in any way or to threaten, commence, participate in, or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to the Released Claims.

4.3 No Further Claims

(1) Upon the Effective Date, the Releasors shall not now or hereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, any action, suit, cause of action, claim or demand against any Releasee or against any other Person who may claim contribution or indemnity, or other claims over relief, from any Releasee in respect of any Released Claim, except for the continuation of the Proceedings against the Non-Settling Defendants and/or any unnamed co-conspirator that is not a Releasee or, if the Proceedings are not certified, the continuation of the claims asserted in the Proceedings on an individual basis or otherwise against any Non-Settling Defendants and/or any unnamed co-conspirator that is not a Releasee.

4.4 Dismissal of the Chiyoda Proceeding

(1) Upon the Effective Date, the Chiyoda Proceeding shall be dismissed with prejudice and without costs as against the Settling Defendants.

4.5 Dismissal of Other Actions

(1) Upon the Effective Date, any Other Actions that were commenced in Ontario by any Settlement Class Member shall be dismissed against any and all Releasees who are named as defendants, without costs and with prejudice.

(2) Upon the Effective Date, each member of the Settlement Class shall be deemed to irrevocably consent to the dismissal, without costs and with prejudice, of his, her or its Other Actions as against the Releasees.

4.6 Claims Against Other Entities Reserved

(1) Except as provided herein, this Settlement Agreement does not settle, compromise, release or limit in any way whatsoever any claim by the Releasors against any Person other than the Releasees.

4.7 Releases

(1) The releases and reservation of rights contemplated in this section shall be considered a material term of the Settlement Agreement and the failure of the Court to approve the releases

and reservation of rights contemplated herein shall give rise to a right of termination pursuant to section 11.1 of the Settlement Agreement.

SECTION 5 – BAR ORDER

5.1 Form of Bar Order

(1) The Plaintiffs shall seek a bar order from the Court providing for the following:

- (a) If the Court ultimately determines that there is a right of contribution and indemnity or other claim over, whether in equity or in law, by statute or otherwise:
 - (i) All claims for contribution, indemnity or other claims over, whether asserted, unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, relating to the Released Claims which were or could have been brought in the Proceedings, by any Non-Settling Defendants, or any other Person or party, against a Releasee, or by a Releasee against any Non-Settling Defendants or any other Person or party (excepting a claim by a Person who validly opted-out of the Proceedings, or a Releasee pursuant to a policy of insurance, provided any such claim involves no right of subrogation against any Non-Settling Defendant), are barred, prohibited, enjoined, inadmissible and void in accordance with the terms of the order.
 - (ii) the Settlement Class Members shall not be entitled to claim or recover from the Non-Settling Defendants that portion of any damages (including punitive damages, if any), restitutionary award, disgorgement of profits, interest and costs (including investigative costs claimed pursuant to section 36 of the *Competition Act*) that corresponds to the Proportionate Liability of the Releasees proven at trial or otherwise; and,

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- (iii) the Court shall have full authority to determine the Proportionate Liability of the Releasees at the trial or other disposition of the Proceedings, whether or not the Releasees appear at the trial or other disposition and the Proportionate Liability of the Releasees shall be determined as if the Releasees are parties to the Proceedings and any determination by the Court in respect of the Proportionate Liability of the Releasees shall only apply in the Proceedings and shall not be binding on the Releasees in any other proceedings.
- (b) A Non-Settling Defendant may, on motion to the Court brought on at least ten (10) days' notice and to be determined as if the Settling Defendants are parties to the Proceedings, not to be brought until the Proceedings against the Non-Settling Defendants have been certified and all appeals or times to appeal from such certification have been exhausted, seek orders for the following:
- (i) documentary discovery and an affidavit of documents from the Settling Defendants;
 - (ii) oral discovery of a representative of the Settling Defendants, the transcript of which may be read in at trial;
 - (iii) leave to serve a request to admit on the Settling Defendants in respect of factual matters; and/or
 - (iv) the production of a representative of the Settling Defendants to testify at trial, with such witness to be subject to cross-examination by counsel for the Non-Settling Defendants.
- (2) The Settling Defendants retain all rights to oppose such motion(s) brought under section 5.1(1)(b).

(3) A Non-Settling Defendants may serve the motion(s) referred to in section 5.1(1)(b) on the Settling Defendants by service on counsel of record for the Settling Defendants in the Chiyoda Proceeding.

(4) To the extent that an order is granted pursuant to section 5.1(1)(b) and discovery is provided by the Settling Defendants to a Non-Settling Defendant, a copy of all discovery provided, whether oral or documentary in nature, shall be provided by the Settling Defendants to Class Counsel, at the Plaintiffs' expense, within thirty (30) days of such discovery being provided to a Non-Settling Defendant.

5.2 Material Term

(1) The form and content of the bar order contemplated in section 5.1 shall be considered a material term of the Settlement Agreement and the failure of the Court to approve the bar order contemplated herein shall give rise to a right of termination pursuant to section 11.1 of the Settlement Agreement.

SECTION 6 – EFFECT OF SETTLEMENT

6.1 No Admission of Liability

(1) The Plaintiffs and the Releasees expressly reserve all of their rights if the Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason. Further, whether or not the Settlement Agreement is finally approved, is terminated, or otherwise fails to take effect for any reason, the Settlement Agreement and anything contained herein, and any and all negotiations, Documents, discussions and proceedings associated with the Settlement Agreement, and any action taken to carry out the Settlement Agreement, shall not be deemed, construed or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by any Releasee, or of the truth of any of the claims or allegations contained in the Proceedings, the Other Actions, or any other pleading filed by the Plaintiffs or any other Settlement Class Member.

6.2 Settlement Agreement Not Evidence

(1) Whether or not it is terminated, the Settlement Agreement and anything contained herein, and any and all negotiations, Documents, discussions and proceedings associated with the

Settlement Agreement, and any action taken to carry out the Settlement Agreement, shall not be referred to, offered as evidence or received in evidence in any present, pending or future civil, criminal or administrative action or proceeding, except: (a) by the Parties in a proceeding to approve or enforce the Settlement Agreement; (b) by a Releasee to defend against the assertion of a Released Claim; (c) by a Releasee in any insurance-related proceeding; (d) as otherwise required by law; or (e) as provided in this Settlement Agreement.

6.3 No Further Litigation

(1) Except as provided in section 6.3(2) of this Settlement Agreement, no Class Counsel, no Plaintiffs, nor anyone currently or hereafter employed by or a partner with Class Counsel, may directly or indirectly participate or be involved in or in any way assist with respect to any claim made or action commenced by any Person which relates to, or arises from the Released Claims.

(2) Section 6.3(1) does not apply to the involvement of any Person in the continued prosecution of the Proceedings against any Non-Settling Defendants and/or any unnamed co-conspirator that is not a Releasee or, if the Proceedings are not certified, the continuation of the claims asserted in the Proceedings on an individual basis or otherwise against any Non-Settling Defendants and/or any unnamed co-conspirator that is not a Releasee.

(3) No Class Counsel, no Plaintiff, nor anyone currently or hereafter employed by or a partner with Class Counsel may divulge to anyone for any purpose, or use for any purpose, any information obtained in the course of the negotiation and preparation of this Settlement Agreement, except to BC Counsel, Quebec Counsel, and to the extent that such information is otherwise publicly available or unless ordered to do so by a court.

SECTION 7– CERTIFICATION FOR SETTLEMENT ONLY

7.1 Settlement Class and Common Issue

(1) The Parties agree that the Chiyoda Proceeding shall be certified as a class proceeding as against the Settling Defendants solely for purposes of settlement of the Chiyoda Proceeding and the approval of the Settlement Agreement by the Court.

(2) The Plaintiffs agree that, in the motion for certification of the Chiyoda Proceeding as a class proceeding and for the approval of the Settlement Agreement, the only common issue that

they will seek to define is the Common Issue and the only class that will be asserted is the Settlement Class. The Plaintiffs acknowledge that the Settling Defendants agree to the definition of the Settlement Class and the Common Issue for purposes of settlement only.

SECTION 8 – NOTICE TO SETTLEMENT CLASS

8.1 Notice Required

(1) The Settlement Class shall receive notices that include the following information (i) a summary of the main provisions of the Settlement Agreement; (ii) the certification of the Chiyoda Proceeding as a class proceeding for settlement purposes; (iii) the absence or presence of a process and deadline for opting out of the Chiyoda Proceeding; (iv) the date of the hearing to approve the Settlement Agreement; (v) the process for objecting to the Settlement Agreement; and (vi) the fact of approval of the Settlement Agreement, if granted.

8.2 Form and Distribution of Notice

(1) The form of the notices referred to in section 8.1 and the manner and extent of their publication and distribution shall be as agreed to by the Plaintiffs and the Settling Defendants and approved by the Court. Any disagreement between the Plaintiffs and Settling Defendants on the form of notices or manner and extent of their publication and distribution shall be resolved by the Court.

SECTION 9 – ADMINISTRATION AND IMPLEMENTATION

9.1 Mechanics of Administration

(1) Except to the extent provided for in the Settlement Agreement, the mechanics of the implementation and administration of the Settlement Agreement shall be determined by the Court on motions brought by Class Counsel.

SECTION 10 – CLASS COUNSEL FEES AND ADMINISTRATION EXPENSES

(1) Class Counsel shall pay the costs of the notices required by section 8.1 from the Trust Account as they become due.

- (2) Class Counsel may seek the Court's approval to pay Class Counsel Fees and Administration Expenses contemporaneously with seeking approval of the Settlement Agreement, or at such other time as they shall determine in their sole discretion.
- (3) Except as provided in section 10(1), Class Counsel Fees and Administration Expenses may only be paid out of the Trust Account after the Effective Date.
- (4) The Releasees shall not be liable for any fees, disbursements or taxes, including but not limited to any fees, disbursements or taxes of Class Counsel's, the Plaintiffs' or any Settlement Class Member's respective lawyers, experts, advisors, agents, or representatives.

SECTION 11 – TERMINATION OF SETTLEMENT AGREEMENT

11.1 Right of Termination

- (1) The Settling Defendants or the Plaintiffs may terminate this Settlement Agreement in the event that,
- (a) the Parties do not reach agreement on the form and content of any order pursuant to section 2.2(4);
 - (b) the form and content of any of the Final Orders approved by the Court departs from the form and content of the orders agreed upon by the Plaintiffs and the Settling Defendants under section 2.2(4);
 - (c) the Court declines to approve the Settlement Agreement or any material term or part hereof;
 - (d) the Court approves the Settlement Agreement in a materially modified form;
 - (e) the order approving the Settlement Agreement made by the Court does not become a Final Order; or
 - (f) in the Settling Defendants' sole and absolute discretion, the Settling Defendants determine that the number or identity of any Class Members who validly exercise

any right to opt out of the Chiyoda Proceeding renders this Settlement Agreement untenable.

(2) To exercise a right of termination under section 11.1(1), a terminating party shall deliver a written notice of termination pursuant to section 12.15 of the Settlement Agreement. Upon delivery of such a written notice, the Settlement Agreement shall be terminated and, except as provided for in section 11.4, it shall be null and void and have no further force or effect, shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation.

(3) Any order, ruling or determination made by the Court that is not substantially in the form and content of the Final Order, as agreed upon by the Plaintiffs and the Settling Defendants in accordance with section 2.2(4), shall be deemed to be a material modification of the Settlement Agreement and shall provide a basis for the termination of the Settlement Agreement, provided however that the Settling Defendants may agree to waive this provision.

(4) Any order, ruling or determination made by the Court with respect to Class Counsel Fees or confidentiality shall not be deemed to be a material modification of all, or a part, of the Settlement Agreement and shall not provide any basis for the termination of the Settlement Agreement.

11.2 If Settlement Agreement is Terminated

(1) In the event the Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason, the Parties agree that:

- (a) no motion to certify the Chiyoda Proceeding as a class proceeding on the basis of the Settlement Agreement or to approve the Settlement Agreement, which has not been decided, shall proceed;
- (b) any order certifying the Chiyoda Proceeding as a class proceeding on the basis of the Settlement Agreement or approving the Settlement Agreement shall be set aside and declared null and void and of no force and effect, and anyone shall be estopped from asserting otherwise;

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- (c) any prior certification of the Chiyoda Proceeding as a class proceeding, including the definitions of the Settlement Class and the Common Issue, shall be without prejudice to any position that any of the Parties or Releasees may later take on any issue in the Proceedings, the Other Actions or any other litigation;
- (d) the Parties shall negotiate in good faith to determine a new timetable, if the Chiyoda Proceeding is to continue against the Settling Defendant;
- (e) within ten (10) days of the date of written notice of termination, Class Counsel shall destroy all Documents or other information provided by the Settling Defendants under this Settlement Agreement, or containing or reflecting information derived from such Documents or other information and, to the extent Class Counsel has disclosed any Documents or information provided by the Settling Defendants to any other Person, shall recover and destroy such Documents or information, and shall certify in writing to the Settling Defendants that the destruction required by this section has taken place; with the exception that Class Counsel are not required to destroy any of their work product, it being understood and agreed that such work product may not be disclosed to any Person in any manner or used, directly or indirectly, by Class Counsel in any way for any reason, without the express prior written permission of the Settling Defendants. Class Counsel shall take appropriate steps and precautions to ensure and maintain the confidentiality of their work product; and
- (f) Class Counsel shall forthwith deliver consents in writing to counsel for the Settling Defendants authorizing the Settling Defendants to obtain orders declaring the Settlement Agreement to be null and void and of no force and effect (except for the provisions set out in section 11.4(1)), setting aside any order certifying the Chiyoda Proceeding as a class proceeding on the basis of the Settlement Agreement and directing Class Counsel to pay the balance in the Trust Account in accordance with section 11.3(1).

11.3 Allocation of Monies in the Trust Account Following Termination

(1) If the Settlement Agreement is terminated, Class Counsel shall pay to the Settling Defendants the Settlement Amount plus all accrued interest thereon, less the costs of the notices required by section 8.1 which are intended to be paid out of the Trust Account and not yet paid, within thirty (30) business days of the written notice advising that the Settlement Agreement has been terminated in accordance with its terms.

11.4 Survival of Provisions After Termination

(1) If this Settlement Agreement is terminated or otherwise fails to take effect for any reason, the provisions of sections 3.2(3), 6.1, 6.2, 11.2, 11.3, and 11.4(2) shall survive the termination and continue in full force and effect. The definitions shall survive only for the limited purpose of the interpretation of these surviving sections within the meaning of the Settlement Agreement, but for no other purposes. All other provisions of the Settlement Agreement and all other obligations pursuant to the Settlement Agreement shall cease immediately.

(2) The Releasees and the Releasors expressly reserve all of their respective rights if the Settlement Agreement is terminated.

SECTION 12 – MISCELLANEOUS

12.1 Releasees Have No Liability for Administration

(1) The Releasees have no responsibility for and no liability whatsoever with respect to the administration of the Settlement Agreement.

12.2 Motions for Directions

(1) The Settling Defendants or the Plaintiffs may apply to the Court for directions in respect of the interpretation, implementation and administration of the Settlement Agreement.

(2) All motions contemplated by or referred to in this Settlement Agreement shall be on notice to the Plaintiffs and the Settling Defendants.

12.3 Headings, etc.

(1) In the Settlement Agreement:

- (a) the division of the Settlement Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of the Settlement Agreement; and
- (b) the terms “the Settlement Agreement”, “hereof”, “hereunder”, “herein” and similar expressions refer to the Settlement Agreement and not to any particular section or other portion of the Settlement Agreement.

12.4 Computation of Time

(1) In the computation of time in the Settlement Agreement, except where a contrary intention appears,

- (a) where there is a reference to a number of days between two events, the number of days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and
- (b) only in the case where the time for doing an act expires on a holiday (as that term is defined in the *Interpretation Act*, RSC 1985, c. I-21), the act may be done on the next day that is not a holiday.

12.5 Ongoing Jurisdiction

(1) The Court shall exercise jurisdiction with respect to the implementation, administration, interpretation, and enforcement of the terms of this Settlement Agreement, and the Plaintiffs, Settlement Class Members and Settling Defendants attorn to the jurisdiction of the Court for such purposes.

12.6 Governing Law

(1) The Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario.

12.7 Entire Agreement

(1) The Settlement Agreement constitutes the entire agreement among the Parties and supersedes all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle and memoranda of understanding in connection herewith. None of the Parties will be bound by any prior obligations, conditions or representations with respect to the subject matter of the Settlement Agreement, unless expressly incorporated herein.

12.8 Amendments

(1) The Settlement Agreement may not be modified or amended except in writing and on consent of all Parties hereto. The Court must approve any such modification or amendment.

12.9 Binding Effect

(1) The Settlement Agreement shall be binding upon, and enure to the benefit of, the Plaintiffs, Class Counsel, the Settling Defendants, the Settlement Class Members, the Releasors, the Releasees, and all of their successors and assigns. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by the Plaintiffs shall be binding upon all Releasors and each and every covenant and agreement made herein by the Settling Defendants shall be binding upon all of the Releasees.

12.10 Counterparts

(1) The Settlement Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and a facsimile or PDF signature shall be deemed an original signature for purposes of executing the Settlement Agreement.

12.11 Interpretation

(1) The Settlement Agreement has been the subject of negotiations and discussions among the undersigned, each of which has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of the Settlement Agreement shall have no force and effect. The Parties further agree that the language contained in or not contained in previous drafts

of the Settlement Agreement, or any agreement in principle, all have no bearing upon the proper interpretation of the Settlement Agreement.

12.12 Language

(1) The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais. Nevertheless, the Settling Defendants shall prepare a French translation of the Settlement Agreement if required by the Court. The Parties agree that such translation is for convenience only. In the event of any dispute as to the interpretation or application of this Settlement Agreement, only the English version shall be considered.

12.13 Transaction

(1) The present Settlement Agreement constitutes a transaction in accordance with Articles 2631 and following of the *Civil Code of Quebec*, and the Parties are hereby renouncing to any errors of fact, of law and/or of calculation.

12.14 Recitals

(1) The recitals to the Settlement Agreement are true and form part of the Settlement Agreement.

12.15 Notice

(1) Any and all notices, requests, directives, or communications required by the Settlement Agreement shall be in writing and shall, unless otherwise expressly provided herein, be given personally, by express courier, by postage prepaid mail, by facsimile transmission, or by email PDF files, and shall be addressed as follows:

For the Plaintiffs and for Class Counsel in the Proceedings:

Charles M. Wright and Linda Visser
SISKINDS LLP
Barristers and Solicitors
680 Waterloo Street
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Tel: 519.672.2121
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David Sterns and Jean Marc Leclerc
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jleclerc@sotosllp.com

For the Settling Defendants:

David Kent

MCMILLAN LLP
181 Bay Street
Toronto, ON
M5J 2T3

Tel: 416-307-7143
Fax: 416-865-7048

Email: david.kent@mcmillan.ca

12.16 Acknowledgements

- (1) Each of the Parties hereby affirms and acknowledges that:
 - (a) he, she or a representative of the Party with the authority to bind the Party with respect to the matters set forth herein has read and understood the Settlement Agreement;

- (b) the terms of the Settlement Agreement and the effects thereof have been fully explained to him, her or the Party's representative by his, her or its counsel;
- (c) he, she or the Party's representative fully understands each term of the Settlement Agreement and its effect; and
- (d) no Party has relied upon any statement, representation or inducement (whether material, false, negligently made or otherwise) of any other Party, beyond the terms of the Settlement Agreement, with respect to the first Party's decision to execute the Settlement Agreement.

12.17 Authorized Signatures

(1) Each of the undersigned represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, the Settlement Agreement on behalf of the Parties identified below their respective signatures.

12.18 Date of Execution

(1) The Parties have executed this Settlement Agreement in counterparts as of the date on the cover page.

FADY SAMAHA on his own behalf and on behalf of the Settlement Class, by his counsel

Name of Authorized Signatory:

Linda Visser


Signature of Authorized Signatory:

[Handwritten Signature]

Siskinds LLP
Class Counsel

SHERIDAN CHEVROLET CADILLAC LTD. and THE PICKERING AUTO MALL LTD., on their own behalf and on behalf of the Settlement Class, by their counsel

Name of Authorized Signatory: DAVID STERNS

Signature of Authorized Signatory: 
Sotos LLP
Class Counsel

CHIYODA MFG. CO. LTD. and CHIYODA USA CORPORATION, by their counsel

Name of Authorized Signatory: _____

Signature of Authorized Signatory: _____
McMillan LLP

SHERIDAN CHEVROLET CADILLAC LTD. and THE PICKERING AUTO MALL LTD., on their own behalf and on behalf of the Settlement Class, by their counsel

Name of Authorized Signatory: _____

Signature of Authorized Signatory: _____

Sotos LLP
Class Counsel

CHIYODA MFG. CO. LTD. and CHIYODA USA CORPORATION, by their counsel

Name of Authorized Signatory: DAVID KENT

Signature of Authorized Signatory: David Kent
for McMillan LLP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act, 1992*

**ORDER
- Automotive Wire Harness Systems -**

Sotos LLP

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