Court File No. CV-14-506649-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE	)	FRIDAY, THE 21ST DAY
JUSTICE BELOBABA	)	OF SEPTEMBER, 2018

BETWEEN:

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

Plaintiffs

- and -

HITACHI, LTD., HITACHI AUTOMOTIVE SYSTEMS, LTD., HITACHI AUTOMOTIVE SYSTEMS AMERICAS, INC., DENSO CORPORATION, DENSO INTERNATIONAL AMERICA INC., DENSO MANUFACTURING CANADA, INC., DENSO SALES CANADA, INC., MITSUBA CORPORATION, AMERICAN MITSUBA CORPORATION, MITSUBISHI ELECTRIC CORPORATION, MITSUBISHI ELECTRIC AUTOMOTIVE AMERICA, INC., MITSUBISHI ELECTRIC SALES CANADA INC., AISAN INDUSTRY CO. LTD, FRANKLIN PRECISION INDUSTRY, INC., and AISAN CORPORATION OF AMERICA

Defendants

Proceeding under the *Class Proceedings Act, 1992*, S.O. 1992, c. 6

ORDER
- Electronic Throttle Bodies -
- Mitsubishi Electric Settlement Approval -

THIS MOTION made by the Plaintiffs for an Order approving the settlement agreement entered into with Mitsubishi Electric Corporation, Mitsubishi Electric Automotive America, Inc. and Mitsubishi Electric Sales Canada Inc. (collectively, 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.

AND ON READING the materials filed, including the settlement agreement dated March 2, 2018, 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 WHEREAS a parallel class proceeding relating to the pricing of Electronic Throttle Bodies was commenced under Court File No. CV-17-582448-00CP (the "Second Ontario Action") and is being case managed with the Ontario Action.

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 the deadline for opting out of the Ontario Action has passed, and three Persons validly exercised the right to opt out;

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 this Order, including the Settlement Agreement, is binding upon each member of the Ontario 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 Ontario Action.

4. **THIS COURT ORDERS** that the Settlement Agreement is fair, reasonable and in the best interests of the Ontario Settlement Class.

5. **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.

6. **THIS COURT ORDERS** that, upon the Effective Date, each member of the Ontario Settlement Class 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.

7. **THIS COURT ORDERS** that, upon the Effective Date, each Other Action commenced in Ontario by any member of the Ontario Settlement Class shall be and is hereby dismissed against the Releasees, without costs and with prejudice.

8. **THIS COURT ORDERS** that, upon the Effective Date, subject to paragraph 10, each Releasor has released and shall be conclusively deemed to have forever and absolutely released the Releasees from the Released Claims.

9. **THIS COURT ORDERS** that, upon the Effective Date, each Releasor shall not now or hereafter institute, continue, maintain, intervene in 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 proceeding, 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, whether pursuant to the *Negligence Act*, RSO 1990, c. N. 1 or other legislation or at common law or equity in respect of any Released Claim, except for the continuation of the Proceedings and the Second Ontario Action against the Non-Settling Defendants or named or unnamed co-conspirators that are not Releasees or, if the Proceedings or the Second Ontario Action are not certified with respect to the Non-Settling Defendants, the continuation of the claims asserted in the Proceedings or the Second Ontario Action on an individual basis or otherwise against any Non-Settling Defendant or named or unnamed co-conspirator that is not a Releasee.

10. **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 Ontario Settlement Class who are resident in any province or territory where the release of one tortfeasor is a release of all tortfeasors.

11. **THIS COURT ORDERS** that, upon the Effective Date, each member of the Ontario 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.

12. **THIS COURT ORDERS** that 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, the Second Ontario Action, or any Other Actions, or otherwise, by any Non-Settling Defendant, any named or unnamed co-conspirator that is not a Releasee, any Settled Defendant or any other Person or party against a Releasee, or by a Releasee against

any Non-Settling Defendant, any named or unnamed co-conspirator that is not a Releasee, any Settled Defendant or any other Person or party, are barred, prohibited and enjoined in accordance with the terms of this Order (unless such claim is made in respect of a claim by a Person who has validly opted out of the Proceedings).

13. **THIS COURT ORDERS** that if this Court ultimately determines that a claim for contribution and indemnity or other claim over, whether in equity or in law, by statute or otherwise is a legally recognized claim:

(a) the Ontario Plaintiffs and the Ontario Settlement Class Members shall not be entitled to claim or recover from the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee 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;

(b) the Ontario Plaintiffs and the Ontario Settlement Class Members shall limit their claims against the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee to include only, and shall only seek to recover from the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee, those claims for 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*) attributable to the aggregate of the several liability of the Non-Settling Defendants and/or named or unnamed

co-conspirators and/or any other Person or party that is not a Releasee to the Ontario Plaintiffs and Ontario Settlement Class Members, if any, and, for greater certainty, the Ontario Settlement Class Members shall be entitled to claim and seek to recover on a joint and several basis as between the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee, if permitted by law; and

(c) this Court shall have full authority to determine the Proportionate Liability of the Releasees at the trial or other disposition of the Ontario Action, whether or not the Releasees remain in the Ontario Action or 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 Ontario Action and any determination by this Court in respect of the Proportionate Liability of the Releasees shall only apply in the Ontario Action and shall not be binding on the Releasees in any other proceeding.

14. **THIS COURT ORDERS** that 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 (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*) or judgment against them in favour of Ontario Settlement Class Members in the Ontario Action or the rights of the Ontario Plaintiffs and the Ontario Settlement Class Members to oppose or resist any such arguments, except as provided for in this Order.

15. **THIS COURT ORDERS** that a Non-Settling Defendant may, on motion to this Court determined as if the Settling Defendants remained parties to the Ontario Action, and on at

least twenty (20) 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 affidavit(s) of documents from Settling Defendant(s) in accordance with the *Rules of Civil Procedure*, RRO 1990, Reg. 194;

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

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

(d) the production of representative(s) of Settling Defendant(s) to testify at trial, with such witness(es) to be subject to cross-examination by counsel for the Non-Settling Defendants.

16. **THIS COURT ORDERS** that the Settling Defendants retain all rights to oppose such motion(s) brought under paragraph 15. Moreover, nothing herein restricts the Settling Defendants 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 15. Notwithstanding any provision in this Order, on any motion brought pursuant to paragraph 15, the Court may make such orders as to costs and other terms as it considers appropriate.

17. **THIS COURT ORDERS** that a Non-Settling Defendant may effect service of the motion(s) referred to in paragraph 15 above by service on Counsel for the Settling Defendants.

18. **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 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.

19. **THIS COURT ORDERS** that, except as provided herein, this Order does not affect any claims or causes of action that any members of the Ontario Settlement Class has or may have in the Ontario Action or the Second Ontario Action against the Non-Settling Defendants or named or unnamed co-conspirators who are not Releasees.

20. **THIS COURT ORDERS** that no Releasee shall have any responsibility or liability whatsoever relating to the administration of the Settlement Agreement; to administration, investment, or distribution of the Trust Account; or to the Distribution Protocol.

21. **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 Proceedings or the Second Ontario Action 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.

22. **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.

23. **THIS COURT ORDERS** that the approval of the Settlement Agreement is contingent upon approval by the Quebec Court, and the terms of this Order shall not be effective unless and until the Settlement Agreement is approved by the Quebec Court, and the Quebec Action has been declared settled out of court with prejudice and without costs as against the Settling Defendants by the Quebec Court. If such an order is not secured in Quebec, this Order shall be null and void and without prejudice to the rights of the Parties to proceed with the Ontario Action and any agreement between the Parties incorporated in this Order shall be deemed in any subsequent proceedings to have been made without prejudice.

24. **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.

25. **THIS COURT ORDERS** that the Ontario Action be and is hereby dismissed against the Settling Defendants, without costs and with prejudice.

26. **THIS COURT ORDERS** that this Order and any reasons given by the Court in relation thereto, except as to paragraphs 12-17 of this Order, are without prejudice to the rights and defences of the Non-Settling Defendants in connection with the ongoing Ontario Action and the Second Ontario Action 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 Ontario Action or the Second Ontario Action as against the Non-Settling Defendants

The Honourable Justice Belobaba

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

SEP 27 2018

PER / PAR:

SCHEDULE "A"

CANADIAN ELECTRONIC THROTTLE BODIES CLASS ACTIONS NATIONAL SETTLEMENT AGREEMENT

Made as of March 2, 2018

Between

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

(the "**Plaintiffs**")

and

MITSUBISHI ELECTRIC CORPORATION, MITSUBISHI ELECTRIC AUTOMOTIVE AMERICA, INC. and MITSUBISHI SALES CANADA, INC.

(the "**Settling Defendants**")

CANADIAN ELECTRONIC THROTTLE BODIES CLASS ACTIONS
NATIONAL SETTLEMENT AGREEMENT

TABLE OF CONTENTS

RECITALS **1**

SECTION 1 – DEFINITIONS **3**

SECTION 2 – SETTLEMENT APPROVAL **9**

2.1 Best Efforts 9

2.2 Motions Seeking Approval of Notice and Certification or Authorization 9

2.3 Motions Seeking Approval of the Settlement 10

2.4 Pre-Motion Confidentiality 11

SECTION 3 – SETTLEMENT BENEFITS **11**

3.1 Payment of Settlement Amount 11

3.2 Taxes and Interest 12

3.3 Intervention in the U.S. Litigation 12

SECTION 4 – COOPERATION **13**

4.1 Extent of Cooperation 13

4.2 Limits on Use of Documents and Information 20

SECTION 5 – TERMINATION OF SETTLEMENT AGREEMENT **23**

5.1 Right of Termination 23

5.2 If Settlement Agreement is Terminated 24

5.3 Allocation of Settlement Amount Following Termination 26

5.4 Survival of Provisions After Termination 26

SECTION 6 – RELEASES AND DISMISSALS **26**

6.1 Release of Releasees 26

6.2 Release by Releasees 27

6.3 Covenant Not to Sue 27

6.4 No Further Claims 27

6.5 Dismissal of the Proceedings 28

6.6 Dismissal of Other Actions 28

6.7 Material Term 28

SECTION 7 – BAR ORDER, WAIVER OF SOLIDARITY ORDER AND OTHER CLAIMS **28**

7.1 Ontario Bar Order 28

7.2 Quebec Waiver or Renunciation of Solidarity Order 32

7.3 Claims Against Other Entities Reserved 32
7.4 Material Term 32
SECTION 8 – EFFECT OF SETTLEMENT 33
8.1 No Admission of Liability 33
8.2 Agreement Not Evidence 33
8.3 No Further Litigation 33
SECTION 9 – CERTIFICATION AND AUTHORIZATION FOR SETTLEMENT ONLY 34
SECTION 10 – NOTICE TO SETTLEMENT CLASSES 34
10.1 Notices Required 34
10.2 Form and Distribution of Notices 35
SECTION 11 – ADMINISTRATION AND IMPLEMENTATION 35
11.1 Mechanics of Administration 35
11.2 Information and Assistance 35
SECTION 12 – DISTRIBUTION OF THE SETTLEMENT AMOUNT AND ACCRUED INTEREST 37
12.1 Distribution Protocol 37
12.2 No Responsibility for Administration or Fees 37
SECTION 13 – CLASS COUNSEL FEES, DISBURSEMENTS AND ADMINISTRATION EXPENSES 37
13.1 Responsibility for Fees, Disbursements and Taxes 37
13.2 Responsibility for Costs of Notices and Translation 38
13.3 Court Approval for Class Counsel Fees and Disbursements 38
SECTION 14 – MISCELLANEOUS 38
14.1 Motions for Directions 38
14.2 Headings, etc. 38
14.3 Computation of Time 39
14.4 Ongoing Jurisdiction 39
14.5 Governing Law 40
14.6 Entire Agreement 40
14.7 Amendments 40
14.8 Binding Effect 40
14.9 Counterparts 41
14.10 Negotiated Agreement 41
14.11 Language 41

14.12 Transaction....41
14.13 Recitals....41
14.14 Schedules....42
14.15 Acknowledgements....42
14.16 Authorized Signatures....42
14.17 Notice....42
14.18 Date of Execution....43

CANADIAN ELECTRONIC THROTTLE BODIES CLASS ACTIONS
NATIONAL SETTLEMENT AGREEMENT

RECITALS

A. WHEREAS the Proceedings were commenced by the Quebec Plaintiff in Quebec and the Ontario Plaintiffs in Ontario and the Plaintiffs claim class-wide damages allegedly caused as a result of the conduct alleged therein;

B. WHEREAS the Proceedings allege that some or all of the Releasees participated in an unlawful conspiracy with other manufacturers of Electronic Throttle Bodies to rig bids for, and to raise, fix, maintain or stabilize the prices of Electronic Throttle Bodies sold in Canada and elsewhere as early as January 1, 2000 until at least March 1, 2010, contrary to Part VI of the *Competition Act*, RSC 1985, c C-34 and the common law and/or the civil law;

C. WHEREAS the Settlement Class Members were permitted an opportunity to opt out, the deadline to opt out of the Proceedings has passed, and three Persons validly and timely exercised the right to opt out;

D. WHEREAS the Settling Defendants and Releasees do not admit, through the execution of this Settlement Agreement or otherwise, any allegation of unlawful conduct alleged in the Proceedings, or in any Other Actions, and otherwise deny all liability and assert that they have complete defences in respect of the merits of the Proceedings and any Other Actions or otherwise;

E. 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 the Releasees or evidence of the truth of any of the Plaintiffs' allegations against the Releasees, which allegations are expressly denied by the Settling Defendants;

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

G. WHEREAS the Settling Defendants do not hereby attorn to the jurisdiction of the Courts or any other court or tribunal in respect of any civil, criminal or administrative process except to the extent they have previously done so in the Proceedings and as is expressly provided in this Settlement Agreement with respect to the Proceedings;

H. WHEREAS Counsel for the Settling Defendants and Class Counsel have engaged in arm's-length settlement discussions and negotiations, resulting in this Settlement Agreement relating to Canada;

I. WHEREAS as a result of these settlement discussions and negotiations, the Settling Defendants and the Plaintiffs have entered into this Settlement Agreement, which embodies all of the terms and conditions of the settlement between the Settling Defendants and the Plaintiffs, both individually and on behalf of the classes the Plaintiffs seek to represent, subject to approval of the Courts;

J. WHEREAS Class Counsel, on their own behalf and on behalf of the Plaintiffs and the proposed Settlement Classes, 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, having regard to the burdens and expense in prosecuting the Proceedings, including the risks and uncertainties associated with trials and appeals, and having regard to the value of the Settlement Agreement, have concluded that this Settlement Agreement is fair, reasonable and in the best interests of the Plaintiffs and the classes they seek to represent;

K. WHEREAS the Parties therefore wish to and hereby finally resolve on a national basis, without admission of liability, all of the Proceedings and any Other Actions as against the Releasees;

L. WHEREAS the Parties consent to certification or authorization of the Proceedings as class proceedings and to the Settlement Classes and a Common Issue in respect of each of the Proceedings solely for the purposes of implementing this Settlement Agreement in a coordinated and consistent manner across Canada and contingent on approvals by the Courts as provided for in this Settlement Agreement, on the express understanding that such certification or authorization shall not derogate from the respective rights of the Parties in the event that this

Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason;

M. WHEREAS the Plaintiffs assert that they are adequate class representatives for the classes they seek to represent and will seek to be appointed representative plaintiffs in their respective Proceedings; and

N. WHEREAS the Parties intend to pursue the approval of this Settlement Agreement first through the Ontario Court;

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 Ontario Action be settled and dismissed with prejudice as to the Settling Defendants only, and the Quebec Action be declared settled out of court with prejudice against the Settling Defendants, all without costs as to the Plaintiffs, the classes they seek to represent, or the Settling Defendants, subject to the approval of the Courts, on the following terms and conditions:

SECTION 1 – DEFINITIONS

For the purposes of this Settlement Agreement only, including the recitals and schedules 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 this Settlement Agreement, including the costs of notices, but excluding Class Counsel Fees and Class Counsel Disbursements.

(2) ***Automotive Vehicle*** means all automobiles, passenger cars, sport utility vehicles, vans, trucks, buses and, without limitation, any other type of vehicle containing Electronic Throttle Bodies.

(3) ***Certification Date*** means the later of the date on which an order granting certification or authorization of a Proceeding against one or more Non-Settling Defendants is issued by a Court and the time to appeal such certification or authorization has expired without any appeal being taken, or if an appeal is taken the date of the final disposition of such appeal.

(4) ***Claims Administrator*** means the firm proposed by Class Counsel and appointed by the Courts to administer the Settlement Amount in accordance with the provisions of this Settlement Agreement and the Distribution Protocol, and any employees of such firm.

(5) ***Class Counsel*** means Ontario Counsel and Quebec Counsel.

(6) ***Class Counsel Disbursements*** include the disbursements and applicable taxes incurred by Class Counsel in the prosecution of the Proceedings or the Second Ontario Action, as well as any adverse costs awards issued against the Plaintiffs in any of the Proceedings or the Second Ontario Action.

(7) ***Class Counsel Fees*** means the fees of Class Counsel, and any applicable taxes or charges thereon, including any amounts payable as a result of the Settlement Agreement by Class Counsel or the Settlement Class Members to any other body or Person, including the Fonds d'aide aux actions collectives in Quebec.

(8) ***Class Period*** means January 1, 2000 to March 20, 2017.

(9) ***Common Issue*** means: Did the Settling Defendants conspire to fix, raise, maintain, or stabilize the prices of Electronic Throttle Bodies in Canada and elsewhere during the Class Period? If so, what damages, if any, did Settlement Class Members suffer?

(10) ***Counsel for the Settling Defendants*** means Torys LLP.

(11) ***Courts*** means the Ontario Court and the Quebec Court.

(12) ***Date of Execution*** means the date on the cover page as of which the Parties have executed this Settlement Agreement.

(13) ***Defendants*** means the entities named as defendants in any of the Proceedings or the Second Ontario Action as set out in Schedule A, and any Persons added as defendants in the Proceedings or the Second Ontario Action in the future. For greater certainty, Defendants includes the Settling Defendants and the Settled Defendants.

(14) ***Distribution Protocol*** means the plan for distributing the Settlement Amount and accrued interest, in whole or in part, as approved by the Courts.

(15) ***Effective Date*** means the date when Final Orders have been received from all Courts approving this Settlement Agreement.

(16) ***Electronic Throttle Bodies*** means a component of an electronic throttle control system in an Automotive Vehicle that controls the volume of air flowing into the engine according to a signal from the engine control unit.

(17) ***Excluded Person*** means 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 have a controlling interest and the legal representatives, heirs, successors and assigns of each of the foregoing, and those Persons who validly and timely opted out of the Proceedings in accordance with the orders of the applicable Court.

(18) ***Final Order*** means a final order, judgment or equivalent decree entered by a Court approving this Settlement Agreement in accordance with its terms, once the time to appeal such order has expired without any appeal being taken, if an appeal lies, or if the order is appealed, once there has been affirmation of the order upon a final disposition of all appeals.

(19) ***Non-Settling Defendant*** means any Defendant that is not a Settling Defendant or a Settled Defendant.

(20) ***Ontario Action*** means the Ontario Action as defined in Schedule A and includes any action subsequently consolidated into the Ontario Action, including the Second Ontario Action.

(21) ***Ontario Counsel*** means Siskinds LLP and Sotos LLP.

(22) ***Ontario Court*** means the Ontario Superior Court of Justice.

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

(24) ***Ontario Settlement Class*** means the settlement class in respect of the Ontario Action as defined in Schedule A.

(25) ***Other Actions*** means actions or proceedings, excluding the Proceedings and the Second Ontario Action, relating to Released Claims commenced by a Settlement Class Member either before or after the Effective Date.

(26) ***Party and Parties*** means the Settling Defendants, the Plaintiffs, and, where necessary, the Settlement Class Members.

(27) ***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.

(28) ***Plaintiffs*** means the Persons named as plaintiffs in the Proceedings as set out in Schedule A.

(29) ***Proceedings*** means the Quebec Action and the Ontario Action as defined in Schedule A.

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

(31) ***Quebec Action*** means the Quebec Action as defined in Schedule A.

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

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

(34) ***Quebec Plaintiff*** means Serge Asselin.

(35) ***Quebec Settlement Class*** means the settlement class in respect of the Quebec Action as defined in Schedule A.

(36) ***Released Claims*** means 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 (including compensatory, punitive or other damages) whenever incurred, liabilities of any nature whatsoever, including interest, costs, expenses, class administration expenses (including Administration Expenses), penalties, and lawyers' fees (including Class Counsel Fees

and Class Counsel Disbursements), known or unknown, suspected or unsuspected, actual or contingent, and liquidated or unliquidated, in law, under statute or in equity, that any of the Releasors ever had, now have or hereafter can, shall or may have, relating in any way to any conduct related to, arising from, or described in the Proceedings or the Second Ontario Action prior to the date hereof on account of, arising out of, resulting from, or related to in any respect the purchase, sale, pricing, discounting, manufacturing, marketing, offering, or distributing of Electronic Throttle Bodies or relating to any conduct alleged (or which was previously or could have been alleged) in the Proceedings or the Second Ontario Action including, without limitation, any such claims which have been asserted or could have been asserted, directly or indirectly, whether in Canada or elsewhere, in respect of the purchase, sale, pricing, discounting, manufacturing, marketing, offering or distributing of Electronic Throttle Bodies or the purchase or lease of new Automotive Vehicles, 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 prior to the date hereof. However, the Released Claims do not include: (i) claims based on negligence, personal injury, bailment, failure to deliver lost goods, damaged or delayed goods, product defects, or breach of product warranty, or breach of contract claims or similar claims between the Parties that relate to Electronic Throttle Bodies but do not relate to alleged anti-competitive conduct; (ii) claims brought (whether before or after the Effective Date) outside of Canada relating to purchases of Electronic Throttle Bodies outside of Canada; (iii) claims brought (whether before or after the Effective Date) under laws other than those of Canada relating to purchases of Electronic Throttle Bodies outside of Canada; or (iv) claims concerning any automotive part other than Electronic Throttle Bodies, where such claims do not concern Electronic Throttle Bodies.

(37) ***Releasees*** means, jointly and severally, individually and collectively, the Settling Defendants and all of their present and former direct and indirect parents, owners, subsidiaries, divisions, affiliates, associates (as defined in the *Canada Business Corporations Act*, RSC 1985, c C-44), partners, joint ventures, 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, mandataries, shareholders, attorneys, trustees, servants and representatives, members, managers and the predecessors, successors, purchasers, heirs, executors, administrators and assigns of each of the

foregoing, excluding always the Non-Settling Defendants and the Non-Settling Defendants' related entities.

(38) ***Releasors*** means, jointly and severally, individually and collectively, the Plaintiffs and the Settlement Class Members and all of their present and former direct and indirect parents, owners, subsidiaries, divisions, affiliates, associates (as defined in the *Canada Business Corporations Act*, RSC 1985, c C-44), partners, 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, shareholders, attorneys, trustees, servants and representatives, members, managers and the predecessors, successors, purchasers, heirs, executors, administrators and assigns of each of the foregoing.

(39) ***Second Ontario Action*** means the Second Ontario Action as defined in Schedule A.

(40) ***Settled Defendants*** means:

(a) Hitachi, Ltd., Hitachi Automotive Systems, Ltd. and Hitachi Automotive Systems Americas, Inc.; and

(b) any Defendant that has entered into a settlement agreement with the Plaintiffs in the Proceedings or the Second Ontario Action and whose settlement agreement becomes effective in accordance with its terms, whether or not such settlement agreement is in existence at the Date of Execution.

(41) ***Settlement Agreement*** means this agreement, including the recitals and schedules.

(42) ***Settlement Amount*** means CDN$50,000.

(43) ***Settlement Class*** means, in respect of each Proceeding, the settlement class defined in Schedule A.

(44) ***Settlement Class Member*** means a member of a Settlement Class.

(45) ***Settling Defendants*** means Mitsubishi Electric Corporation, Mitsubishi Electric Automotive America, Inc. and Mitsubishi Electric Sales Canada Inc.

(46) ***Trust Account*** means a guaranteed investment vehicle, liquid money market account or equivalent security with a rating equivalent to or better than that of a Canadian Schedule I bank (a bank listed in Schedule I of the *Bank Act*, S.C. 1991, c. 46) held at a Canadian financial institution under the control of Siskinds LLP or the Claims Administrator, once appointed, for the benefit of the Settlement Class Members or the Settling Defendants, as provided for in this Settlement Agreement.

(47) ***U.S. Litigation*** means the consolidated class action proceedings, in which a plaintiff alleges that certain auto parts manufacturers rigged bids for and/or conspired to raise, fix, maintain or stabilize the prices of Electronic Throttle Bodies, 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*, Fuel Injection Systems Cases, Case No. 2:13-cv-02201 (MOB), *In re Automotive Parts Antitrust Litigation*, Fuel Injection Systems Cases, Case No. 2:13-cv-02202 (MOB), *In re Automotive Parts Antitrust Litigation*, Fuel Injection Systems Cases, Case No. 2:13-cv-02203 (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 Electronic Throttle Bodies, to the extent that the Settling Defendants are named as parties.

(48) ***U.S. Settlement Agreements*** includes any settlement reached with the Settling Defendants in the U.S. Litigation.

SECTION 2 – SETTLEMENT APPROVAL

2.1 Best Efforts

(1) The Parties shall use their best efforts to implement this settlement and to secure the prompt, complete and final dismissal with prejudice of the Ontario Action as against the Settling Defendants and a declaration of settlement out of court of the Quebec Action as against the Settling Defendants.

2.2 Motions Seeking Approval of Notice and Certification or Authorization

(1) The Plaintiffs shall file motions before the Courts, as soon as practicable after the Date of Execution, for orders approving the notices described in Section 10.1(1) and certifying or

authorizing each of the Proceedings commenced in their respective jurisdictions as a class proceeding as against the Settling Defendants (for settlement purposes only). The Plaintiffs will make best efforts to file the aforementioned motion before the Quebec Court no later than thirty (30) days after the Ontario Court has granted an order approving the notices described in Section 10.1(1) and certifying the Ontario Action as a class proceeding as against the Settling Defendants (for settlement purposes only).

(2) The Ontario order approving the notices described in Section 10.1(1) and certifying the Ontario Action for settlement purposes shall be substantially in the form attached as Schedule B. The Quebec order approving the notices described in Section 10.1(1) and authorizing the Quebec Action for settlement purposes shall be agreed upon by the Parties and shall, where possible, mirror the substance and form of the Ontario order.

2.3 Motions Seeking Approval of the Settlement

(1) The Plaintiffs shall make best efforts to file motions before the Courts for orders approving this Settlement Agreement as soon as practicable after:

(a) the orders referred to in Section 2.2(1) have been granted; and

(b) the notices described in Section 10.1(1) have been published.

(2) The Ontario order approving this Settlement Agreement shall be substantially in the form attached as Schedule C. The Quebec order approving this Settlement Agreement shall be agreed upon by the Parties and shall, where possible, mirror the substance and form of the Ontario order.

(3) The Plaintiffs can elect to request that the Courts hold joint hearings seeking approval of this Settlement Agreement pursuant to the Canadian Bar Association's Canadian Judicial Protocol for the Management of Multijurisdictional Class Actions. The Settling Defendants will not oppose any such request.

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

2.4 Pre-Motion Confidentiality

(1) Until the first of the motions required by Section 2.2 is brought, the Parties shall keep all of the terms of the Settlement Agreement confidential and shall not disclose them without the prior consent of Counsel for the Settling Defendants and Class Counsel, as the case may be, except as required for the purposes of financial reporting, the preparation of financial records (including tax returns and financial statements), as necessary to give effect to its terms, or as otherwise required by law.

SECTION 3 – SETTLEMENT BENEFITS

3.1 Payment of Settlement Amount

(1) Within thirty (30) days of the Date of Execution, the Settling Defendants shall pay the Settlement Amount to Siskinds LLP, for deposit into the Trust Account.

(2) Payment of the Settlement Amount shall be made by wire transfer. At least thirty (30) days prior to the Settlement Amount becoming due, Siskinds LLP will provide, in writing, the following information necessary to complete the wire transfers: name of bank, address of bank, ABA number, SWIFT number, name of beneficiary, beneficiary's bank account number, beneficiary's address, and bank contact details.

(3) The Settlement Amount and other consideration to be provided in accordance with the terms of this Settlement Agreement shall be provided in full satisfaction of the Released Claims against the Releasees.

(4) The Settlement Amount shall be all-inclusive of all amounts, including, without limitation, interest, costs, Class Counsel Fees and Class Counsel Disbursements.

(5) The Releasees shall have no obligation to pay any amount in addition to the Settlement Amount, for any reason, pursuant to or in furtherance of this Settlement Agreement, the Proceedings, the Second Ontario Action, or any Other Actions.

(6) Once a Claims Administrator has been appointed, Siskinds LLP shall transfer control of the Trust Account to the Claims Administrator.

(7) Siskinds LLP and the Claims Administrator shall maintain the Trust Account as provided for in this Settlement Agreement.

(8) Siskinds LLP and the Claims Administrator shall not pay out all or any part of the monies in the Trust Account, except in accordance with this Settlement Agreement, or in accordance with an order of the Courts obtained after notice to the Parties.

3.2 Taxes and Interest

(1) Except as hereinafter provided, all interest earned on the Settlement Amount in the Trust Account shall accrue to the benefit of the Settlement Classes 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 paid from the Trust Account. Siskinds LLP or the Claims Administrator, as appropriate, 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 by 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 on the Settlement Amount or pay any taxes on the monies in the Trust Account, unless this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason, in which case the interest earned on the Settlement Amount in the Trust Account or otherwise shall be paid to the Settling Defendants who, in such case, shall be responsible for the payment of all taxes on such interest not previously paid by Siskinds LLP or the Claims Administrator.

3.3 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, including Section 4.1(14). 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 – COOPERATION

4.1 Extent of Cooperation

(1) Prior to December 31, 2017, Counsel for the Settling Defendants met with Class Counsel in Canada or the United States, to provide an oral evidentiary proffer which included information originating with the Settling Defendants that was not covered by privilege relating to the allegations in the Proceedings and the Second Ontario Action. Notwithstanding any other provision of this Settlement Agreement, and for greater certainty, it is agreed that all statements made and information provided by Counsel for the Settling Defendants are privileged, will be kept strictly confidential, may not be directly or indirectly disclosed to any other Person, unless disclosure is ordered by a Court. Further, absent a Court order, Class Counsel will not attribute any factual information obtained from the proffer to the Settling Defendants and/or Counsel for the Settling Defendants. Notwithstanding the foregoing, Class Counsel may: (i) use information obtained from the proffer in the prosecution of the Proceedings and the Second Ontario Action, including for the purpose of developing an allocation plan relating to any settlement or judgment proceeds, except the prosecution of any claims against Releasees; and (ii) may rely on such information to certify that, to the best of Class Counsel's knowledge, information and belief, such information has evidentiary support or will likely have evidentiary support after reasonable opportunity for further investigation or discovery, but, absent a Court Order, the Plaintiffs shall not introduce any information from a proffer into the record or subpoena any Counsel for the Settling Defendants related to a proffer.

(2) After the Effective Date, at the request of Class Counsel, the Settling Defendants shall provide to Class Counsel, within ninety (90) days of receiving the request, or at a time mutually agreed upon by the Parties, the following:

(a) transactional sales data produced by the Settling Defendants pursuant to the U.S. Settlement Agreements. The transactional sales data shall be delivered in Microsoft Excel or such other format as may be agreed upon by Counsel for the Settling Defendants and Class Counsel, and shall be delivered as a separate production from the documents to be delivered pursuant to Sections 4.1(2)(c)-(e)

or identified by bates number as part of the production of documents to be delivered pursuant to Section 4.1(2);

(b) reasonable assistance to Class Counsel in understanding the transactional sales data produced by the Settling Defendants, through Counsel for the Settling Defendants, including a reasonable number of written and/or telephonic communications with Class Counsel and/or the Plaintiffs' experts and between technical personnel;

(c) electronic copies of any documents (as defined in Rule 30.01 of the Ontario *Rules of Civil Procedure*) regarding Electronic Throttle Bodies produced by the Settling Defendants in the U.S. Litigation, including any documents produced or made available by the Settling Defendants pursuant to the U.S. Settlement Agreements, including at any future date, and any pre-existing translations of those documents and any pre-existing and non-privileged electronic coding. In addition, where the documents previously produced in the U.S. Litigation contain bates stamps on their face, a field will be produced containing the corresponding bates stamps of the first page of each document;

(d) electronic copies of transcripts and video recordings of all depositions or other testimony of current or former employees, officers or directors of the Releasees, including all exhibits thereto and any pre-existing translations of those transcripts, taken in the U.S. Litigation, within ten (10) business days of said transcripts becoming available, but only to the extent permitted under the U.S. Protective Order (as defined in Section 4.2(4) below); and

(e) electronic copies of any documents (as defined in Rule 30.01 of the Ontario *Rules of Civil Procedure*), including any pre-existing translations of those documents, produced by the Settling Defendants to the Canadian Competition Bureau and the United States Department of Justice, to the extent such productions are not duplicative.

(3) After the Certification Date, at the request of Class Counsel acting in good faith and as reasonably necessary for the ongoing prosecution of the Proceedings or the Second Ontario

Action, the Settling Defendants shall make reasonable efforts to provide to Class Counsel, within ninety (90) days of receiving the request, or at a time mutually agreed upon by the Parties, the following:

(a) transactional cost data for the global production and sale of Electronic Throttle Bodies between January 1, 1998 and, at least, December 31, 2013, to the extent such data relates to Electronic Throttle Bodies known or expected to be included in Automotive Vehicles that were sold in Canada. Class Counsel may request, and the Settling Defendants shall make reasonable efforts to provide, additional transactional cost data for the period between January 1, 2014 and March 20, 2017, if Class Counsel determine that such information is reasonably necessary for the ongoing prosecution of the Proceedings and/or the Second Ontario Action. The transactional cost data shall be delivered in Microsoft Excel or such other format as may be agreed upon by Counsel for the Settling Defendants and Class Counsel, and shall be delivered as a separate production from the documents to be delivered pursuant to Section 4.1(3)(d) or identified by bates number as part of the production of documents to be delivered pursuant to Section 4.1(3);

(b) to the extent not previously produced pursuant to Section 4.1(2)(a), transactional sales data relating to the Settling Defendants' global sales of Electronic Throttle Bodies, to the extent such data relates to Electronic Throttle Bodies known or expected to be included in Automotive Vehicles that were sold in Canada. The transactional sales data shall be delivered in Microsoft Excel or such other format as may be agreed upon by Counsel for the Settling Defendants and Class Counsel;

(c) reasonable assistance to Class Counsel in understanding the transactional cost and/or sales data produced by the Settling Defendants, through Counsel for the Settling Defendants, including a reasonable number of written and/or telephonic communications with Class Counsel and/or the Plaintiffs' experts and between technical personnel; and

(d) to the extent not already produced, any documents (as defined in Rule 30.01 of the Ontario *Rules of Civil Procedure*), including any pre-existing translations of

those documents, that are relevant to the allegations in the Proceedings or the Second Ontario Action.

(4) The obligation to produce documents pursuant to Sections 4.1(2) and (3) shall be a continuing obligation to the extent additional documents are identified by the Settling Defendants following the initial productions pursuant to this Settlement Agreement or are produced in the U.S. Litigation.

(5) The Settling Defendants shall not object to the Plaintiffs' participation in any evidentiary proffers and/or interviews of the Settling Defendants' representatives that occur in the U.S. Litigation pursuant to the U.S. Settlement Agreements. The Settling Defendants shall, where possible, provide notice to Class Counsel thirty (30) days before any evidentiary proffer or interview of representatives of the Settling Defendants that occurs in the U.S. Litigation pursuant to the U.S. Settlement Agreements.

(6) It is understood that the evidentiary proffer described in Section 4.1(1) and the evidentiary proffers and/or interviews of witnesses described in Section 4.1(5) might take place before the Effective Date. In such event:

(a) any documents or information provided in the course of those evidentiary proffers and/or interviews shall be subject to the terms and protections of this Settlement Agreement; and

(b) in the event that this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason, the documents and information provided during the evidentiary proffers and/or interviews shall not be used by the Plaintiffs or Class Counsel, whether directly or indirectly, in any way for any reason, including, without limitation, against the Settling Defendants as an admission or evidence of any violation of any statute or law, or of any liability or wrongdoing by the Settling Defendants or of the truth of any claims or allegations in the Proceedings or the Second Ontario Action, and such information shall not be discoverable by any Person or treated as evidence of any kind, unless otherwise ordered by a Court. In order to give effect to this agreement, Class Counsel agrees to return all copies of any documents received during, and destroy

all copies of any notes taken during (or subsequent reports provided about), these evidentiary proffers and/or interviews and to provide written confirmation to the Settling Defendants of having done so.

(7) In the event that any employee interviews provided for in the U.S. Settlement Agreements: (i) have already occurred; (ii) occur within six (6) months of the Effective Date, but Class Counsel is unable to attend or is not given reasonable advance notice of the time and location of the interviews; or (iii) do not occur within six (6) months of the Effective Date, the Settling Defendants shall, at the request of Class Counsel, upon at least sixty (60) days' notice, and subject to any legal restrictions, make reasonable efforts to make available at a mutually convenient time, up to five (5) current or former officers, directors or employees of the Settling Defendants who have knowledge about the allegations in the Proceedings and the Second Ontario Action to provide information regarding the allegations raised in the Proceedings and the Second Ontario Action in a personal interview with Class Counsel and/or experts retained by Class Counsel. Class Counsel shall use reasonable efforts to limit this requirement to a single current employee. Such personal interviews shall take place in a North American location and shall not exceed one (1) business day or seven (7) hours for each individual. Costs incurred by, and the expenses of, the employees of the Settling Defendants in relation to such interviews and costs of an interpreter or otherwise related to foreign language translation in connection with interviews shall be the responsibility of the Settling Defendants. If an employee refuses to provide information, or otherwise cooperate, the Settling Defendants shall use all reasonable efforts to make him/her available for an interview with Class Counsel and/or experts retained by Class Counsel. The failure of a current or former employee to agree to make him or herself available, or to otherwise cooperate with the Plaintiffs, shall not constitute a violation of this Settlement Agreement.

(8) 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 use reasonable efforts to produce at trial or otherwise in the Proceedings or Second Ontario Action (including through affidavit evidence): (i) a current representative qualified to establish for admission into evidence the Settling Defendants' transactional sales data and cost information provided pursuant to Sections 4.1(2)(a) and (3)(a); (ii) a representative qualified to establish for admission into evidence any of the Settling Defendants' documents provided as cooperation pursuant to

Section 4.1(2) and (3) of this Settlement Agreement that is reasonable and necessary for the prosecution of the Proceedings and the Second Ontario Action (with Class Counsel using its best efforts to authenticate documents for use at trial or otherwise without use of a live witness); and (iii) representatives qualified to establish for admission into evidence information provided in cooperation pursuant to Section 4 of this Settlement Agreement, provided that Class Counsel shall use all reasonable efforts to limit this requirement to a single witness. To the extent reasonably possible, a single witness will be used both to authenticate documents and provide the information at trial or otherwise contemplated by this Section. The failure of a specific officer, director or employee to agree to make him or herself available, or to otherwise cooperate with the Plaintiffs, shall not constitute a violation of this Settlement Agreement. The Settling Defendants shall be responsible for all associated costs incurred by such representatives in connection with fulfilling the Settling Defendants' obligations under this Section.

(9) It is understood that the Settling Defendants are likely unable to make available for interviews, examinations or trial testimony, or any other court proceedings, the five (5) individuals referenced in Attachment A (filed under seal) of the plea agreement between Mitsubishi Electric Corporation and the United States of America (Case No. 2:13-cr-20710-PJK, E.D. Mich., ECF No. 9) who were not granted immunity from prosecution by the United States under that plea agreement, and may be unable to make available for interviews, examinations or trial testimony, or any other court proceedings any individual who is no longer an officer, director, or employee of the Settling Defendants, and that this shall not constitute a violation of this Settlement Agreement.

(10) Nothing in this Settlement Agreement shall be construed to require the Settling Defendants to perform any act, including the transmittal or disclosure of any information, which would violate the law of this or any jurisdiction.

(11) Nothing in this Settlement Agreement shall require, or shall be construed to require, the Settling Defendants or any representative or employee of the Settling Defendants to disclose or produce any documents or information prepared by or for Counsel for the Settling Defendants, or that is not within the possession, custody or control of the Settling Defendants, or to disclose or produce any documents or information in breach of any order, regulatory directive, rule or law of this or any jurisdiction, or subject to solicitor-client privilege, litigation privilege, joint defence

privilege or any other privilege, doctrine, or law, or to disclose or produce any information or documents they obtained on a privileged or co-operative basis from any party to any action or proceeding who is not a Releasee. The Settling Defendants are not required to create a privilege log. However, if a relevant privilege log was created in the context of the U.S. Litigation, Counsel for the Settling Defendants have created a relevant privilege log, or there is some other pre-existing document containing identifying information regarding the withheld documents, the Settling Defendants will provide Class Counsel with a copy of such log or document.

(12) 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 disclosed or produced, such documents shall be promptly returned to the Settling Defendants 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, doctrine, law, or protection attached to such documents.

(13) The Settling Defendants' obligations to cooperate as particularized in this Section shall not be affected by the release provisions contained in Section 6 of this Settlement Agreement. Unless this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason, the Settling Defendants' obligations to cooperate shall cease at the date of final judgment in the Proceedings and the Second Ontario Action against all Defendants.

(14) Subject to Sections 4.1(15) and (16), the provisions set forth in this Section 4.1 are the exclusive means by which the Plaintiffs, Class Counsel and Settlement Class Members may obtain discovery or information or documents from the Releasees. The Plaintiffs, Class Counsel and Settlement Class Members agree that they shall not pursue any other means of discovery against, or seek to compel the evidence of, the Releasees, whether in Canada or elsewhere and whether under the rules or laws of this or any other Canadian or foreign jurisdiction.

(15) The Plaintiffs may exercise any rights they have to seek to obtain discovery in the Proceedings and the Second Ontario Action as against an officer, director and/or employee of the Settling Defendants put forward to participate in employee interviews, or provide testimony at trial or otherwise pursuant to Sections 4.1(7) or (8), if the current or former officer, director or employee of the Settling Defendants fails to cooperate in accordance with those Sections and the

provisions of this Settlement Agreement, and/or any individuals who the Settling Defendants are unable to make available for interviews, examinations or trial testimony, or any other court proceedings, pursuant to Section 4.1(9).

(16) In the event that the Settling Defendants materially breach this Section 4.1, the Plaintiffs may move before the Courts to enforce the terms of this Settlement Agreement, seek an order setting aside Section 4.1(14) and allowing the Plaintiffs to obtain discovery or information from the Settling Defendants as if the Settling Defendants remained parties to the applicable Proceeding, or seek such other remedy that is available at law.

(17) A material factor influencing the Settling Defendants' decision to execute this Settlement Agreement is their desire to limit the burden and expense of this litigation. Accordingly, Class Counsel agree to exercise good faith in seeking cooperation from the Settling Defendants, agree not to seek information that is unnecessary, cumulative or duplicative and agree otherwise to avoid imposing undue or unreasonable burdens or expense on the Settling Defendants.

(18) The scope of the Settling Defendants' cooperation under this Settlement Agreement shall be limited to the allegations asserted in the Proceedings and the Second Ontario Action as presently filed.

(19) The Settling Defendants make no representation regarding and shall bear no liability with respect to the accuracy of any of the documents or information described in this Section 4.1, or that they have, can or will produce a complete set of any of the documents or information described in this Section 4.1, and the failure to do so shall not constitute a breach or violation of this Settlement Agreement.

4.2 Limits on Use of Documents and Information

(1) It is understood and agreed that all documents and information made available or provided by the Settling Defendants and/or Counsel for the Settling Defendants to the Plaintiffs and Class Counsel under this Settlement Agreement shall be used only in connection with the prosecution of the claims in the Proceedings and the Second Ontario Action, and shall not be used directly or indirectly for any other purpose, except to the extent that the documents or information are or become publicly available. The Plaintiffs and Class Counsel agree they will not disclose the documents and information provided by the Settling Defendants and/or Counsel

for the Settling Defendants beyond what is reasonably necessary for the prosecution of the Proceedings and the Second Ontario Action or as otherwise required by law, except to the extent that the documents or information are or become publicly available. Subject to the foregoing, Class Counsel shall take reasonable precautions to ensure and maintain the confidentiality of such documents and information, and of any work product of Class Counsel that discloses such documents and information. Notwithstanding the foregoing, Class Counsel may disclose such information and documents to Camp Fiorante Matthews Mogerman LLP, to the extent that Camp Fiorante Matthews Mogerman LLP is assisting Class Counsel in the prosecution of the Proceedings and the Second Ontario Action and they agree to keep such information confidential and only use it for the purpose of providing such assistance.

(2) If the Plaintiffs intend to produce or file with any Court any documents or other information provided by the Settling Defendants and/or Counsel for the Settling Defendants as cooperation under the Settlement Agreement (and such disclosure is not otherwise prohibited by the Settlement Agreement) which, at the time of being provided, were marked or designated by the Settling Defendants as "Confidential — Subject to Procedure Under Section 4.2(2) of the Settlement Agreement," and there is not already a confidentiality order issued in the Proceedings or the Second Ontario Action that applies to the documents and information provided as cooperation by the Settling Defendants, Class Counsel shall provide the Settling Defendants with an advance description of the documents or other information sought to be produced or filed at least thirty (30) days in advance of the proposed production or filing, in order that the Settling Defendants may move to obtain a sealing or confidentiality order or similar relief. If, within that thirty (30) day period, a Settling Defendant so moves, the Plaintiffs and Class Counsel shall not produce or file the confidential information or documents until the earlier of: (i) one-hundred and ninety (190) days after being advised of such intention; or (ii) the Settling Defendants' motion has been decided and all applicable appeal periods have expired. Notwithstanding the foregoing, the Plaintiffs and Class Counsel may, so as not to delay prosecution of the Proceedings or the Second Ontario Action, (i) file or seek to file such documents or information with the relevant Court in sealed envelopes or other appropriate containers, segregated from the public record, endorsed with the title of the action and the following statement: "This envelope/box/container containing documents which are filed by [name of Party] and subject to a pending confidentiality motion is not to be opened nor the contents thereof to be displayed or revealed to any non-Court

personnel except by order of the Court" and such records shall not form part of the public record in the relevant Proceeding or the Second Ontario Action except upon order of the Court or by agreement of all Parties and/or the Settling Defendant whose confidential information is contained therein; and (ii) provide, on an interim basis, documents or information to counsel for the Non-Settling Defendants provided that counsel for the Non-Settling Defendants agree and give assurances that the documents or information will remain with external counsel and will only be disclosed to independent expert(s) retained by a Party for the purposes of the Proceedings or the Second Ontario Action, as well as secretarial, clerical or other support personnel of such expert(s) to whom disclosure is reasonably necessary. An independent expert may not be an employee of a Plaintiff or Defendant in the Proceedings or the Second Ontario Action, or a competitor of the Settling Defendants. In addition, if a Settling Defendant intervenes for this purpose, the Plaintiffs and Class Counsel shall not oppose a motion to intervene made by the Settling Defendants for this purpose, provided that the form and content of the requested order is similar in substance to the order issued by the Ontario Court in Ontario Superior Court of Justice Court File No. CV-12-44673700CP, dated July 15, 2015.

(3) In the event that a Person requests disclosure of documents or information provided by the Settling Defendants and/or Counsel for the Settling Defendants as cooperation under this Settlement Agreement which, at the time of being provided, were marked or designated by the Settling Defendants as "Confidential — Subject to Procedure Under Section 4.2(2) of the Settlement Agreement", whether or not the Person applies for an order requiring the Plaintiffs to disclose or produce any documents or other information, and there is not already a confidentiality order issued in the Proceedings or the Second Ontario Action that applies to the documents and information provided as cooperation by the Settling Defendants, Class Counsel shall provide notice to the Settling Defendants 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 or Class Counsel apply for or consent to such an application for disclosure or production. The Plaintiffs and Class Counsel shall not disclose the confidential information or documents until the Settling Defendants' motion has been decided and all applicable appeal periods have expired, except: (i) to the extent such information or documents are or become otherwise publicly available; (ii) as ordered to do so by a Court; and (iii) in the event that the Person making the request is a Non-Settling Defendant, so as not to delay

prosecution of the Proceedings or the Second Ontario Action, Class Counsel may provide, on an interim basis, documents or information to counsel for the Non-Settling Defendant provided that counsel for the Non-Settling Defendant agree and give assurances that the documents or information will remain with external counsel and will only be disclosed to independent expert(s) retained by a Party for the purposes of the Proceedings or the Second Ontario Action, as well as secretarial, clerical or other support personnel of such expert(s) to whom disclosure is reasonably necessary. An independent expert may not be an employee of a Plaintiff or Defendant in the Proceedings and the Second Ontario Action or a competitor of the Settling Defendants.

(4) In addition, until such a time as a confidentiality order is in place in the Proceedings or the Second Ontario Action that applies to the documents and information provided as cooperation by the Settling Defendants, Class Counsel shall treat any documents received from the Settling Defendants and designated as Confidential or Highly Confidential in accordance with the provisions of the "Stipulation and Protective Order Governing the Production and Exchange of Confidential Information" issued in the U.S. Litigation on July 10, 2012 (the "U.S. Protective Order"). Once a confidentiality or protective order(s) is issued in the Proceedings or the Second Ontario Action, that order(s) shall govern any documents and information received from the Settling Defendants.

SECTION 5 – TERMINATION OF SETTLEMENT AGREEMENT

5.1 Right of Termination

(1) In the event that:

(a) any Court declines to certify or authorize the relevant Proceedings for the purposes of the Settlement Agreement;

(b) the Ontario Court declines to dismiss the Ontario Action against the Settling Defendants or the Quebec Court declines to declare settled out of court the Proceedings against the Settling Defendants;

(c) any Court declines to approve this Settlement Agreement or any material part hereof;

(d) any Court approves this Settlement Agreement in a materially modified form;

(e) any Court issues a settlement approval order that is materially inconsistent with the terms of the Settlement Agreement or not substantially in the form attached to this Settlement Agreement as Schedule C; or

(f) any orders approving this Settlement Agreement made by the Courts do not become Final Orders;

the Plaintiffs and the Settling Defendants shall each have the right to terminate this Settlement Agreement by delivering a written notice pursuant to Section 14.17, within thirty (30) days following an event described above.

(2) In addition, if the Settlement Amount is not paid in accordance with Section 3.1(1), the Plaintiffs shall have the right to terminate this Settlement Agreement by delivering a written notice pursuant to Section 14.17.

(3) Except as provided for in Section 5.4, if the Settlement Agreement is terminated, the Settlement Agreement shall be null and void and have no further force or effect, and shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation or in any other way for any reason.

(4) Any order, ruling or determination made or rejected by any Court with respect to:

(a) Class Counsel Fees or Class Counsel Disbursements; or

(b) the Distribution Protocol

shall not be deemed to be a material modification of all, or a part, of this Settlement Agreement and shall not provide any basis for the termination of this Settlement Agreement.

5.2 If Settlement Agreement is Terminated

(1) If this Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason:

(a) no motion to certify or authorize any of the Proceedings as a class proceeding on the basis of this Settlement Agreement, or to approve this Settlement Agreement, which has not been decided, shall proceed;

(b) the Parties will cooperate in seeking to have any issued order certifying or authorizing the Proceedings as a class proceeding on the basis of the Settlement Agreement or approving this Settlement Agreement set aside and declared null and void and of no force or effect, and any Party shall be estopped from asserting otherwise;

(c) any prior certification or authorization of a Proceeding as a class proceeding on the basis of this Settlement Agreement, including the definitions of the Settlement Class and the Common Issue pursuant to this Settlement Agreement, shall be without prejudice to any position that any of the Parties or Releasees may later take on any issue in the Proceedings, the Second Ontario Action, or any Other Actions or other litigation; and

(d) within ten (10) days of such termination having occurred, Class Counsel shall destroy all documents or other materials provided by the Settling Defendants and/or Counsel for the Settling Defendants under this Settlement Agreement or containing or reflecting information derived from such documents or other materials received from the Settling Defendants and/or Counsel for the Settling Defendants and, to the extent Class Counsel has disclosed any documents or information provided by the Settling Defendants and/or Counsel for the Settling Defendants to any other Person, shall recover and destroy such documents or information. Class Counsel shall provide Counsel for the Settling Defendants with a written certification by Class Counsel of such destruction. Nothing contained in this Section 5.2 shall be construed to require Class Counsel to destroy any of their work product. However, any documents or information provided by the Settling Defendants and/or Counsel for the Settling Defendants, or received from the Settling Defendants and/or Counsel for the Settling Defendants in connection with this Settlement Agreement, may not be disclosed to any Person in any manner or used, directly or indirectly, by Class Counsel or any other Person in any way for any reason, without the express prior written permission of the relevant Settling Defendants. Class Counsel shall take appropriate steps and precautions to ensure and maintain the confidentiality of such documents, information and any work product of Class Counsel derived from such documents or information.

5.3 Allocation of Settlement Amount Following Termination

(1) If the Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason, Siskinds LLP shall, within thirty (30) days of the written notice pursuant to Section 5.1(1), return to the Settling Defendants the amount they have paid to Siskinds LLP, plus all accrued interest thereon, but less the Settling Defendants' proportional share of the costs of notices required by Section 10.1(1) and any translations required by Section 14.11.

5.4 Survival of Provisions After Termination

(1) If this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason, the provisions of Sections 3.1(8), 3.2(3), 4.1(6)(b), 5.1(3), 5.2, 5.3, 5.4, 8.1, 8.2, 10.1(2) and 11.2(4), and the definitions and Schedules applicable thereto shall survive the termination and continue in full force and effect. The definitions and Schedules shall survive only for the limited purpose of the interpretation of Sections 3.1(8), 3.2(3), 4.1(6)(b), 5.1(3), 5.2, 5.3, 5.4, 8.1, 8.2, 10.1(2) and 11.2(4), within the meaning of this Settlement Agreement, but for no other purposes. All other provisions of this Settlement Agreement and all other obligations pursuant to this Settlement Agreement shall cease immediately.

SECTION 6 – RELEASES AND DISMISSALS

6.1 Release of Releasees

(1) Upon the Effective Date, subject to Section 6.3, and in consideration of payment of the Settlement Amount and for other valuable consideration set forth in the Settlement Agreement, the Releasors forever and absolutely release and forever discharge the Releasees from the Released Claims that any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have.

(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 different facts.

(3) Notwithstanding any of the foregoing, the releases granted pursuant to the present Section shall be deemed partial for the purposes of article 1687 and following of the *Civil Code*

of Quebec, shall enure only to the benefit of the Releasees and shall not preclude, foreclose or otherwise limit the rights of the Quebec Plaintiff and of the Quebec Settlement Class Members against the Non-Settling Defendants or unnamed alleged co-conspirators that are not Releasees.

6.2 Release by Releasees

(1) Upon the Effective Date, each Releasee forever and absolutely releases each of the other Releasees from any and all claims for contribution or indemnity with respect to the Released Claims.

6.3 Covenant Not to Sue

(1) Upon the Effective Date, and notwithstanding Section 6.1, 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 Releasors do not release the Releasees but instead the Releasors 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. For greater certainty, Section 6.1(3) continues to apply to residents of Quebec.

6.4 No Further Claims

(1) Upon the Effective Date, each Releasor shall not now or hereafter institute, continue, maintain, intervene in 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 proceeding, 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, whether pursuant to the *Negligence Act*, RSO 1990, c. N. 1 or other legislation or at common law or equity in respect of any Released Claim, except for the continuation of the Proceedings and the Second Ontario Action against the Non-Settling Defendants or named or unnamed co-conspirators that are not Releasees or, if the Proceedings or the Second Ontario Action are not certified or authorized with respect to the Non-Settling Defendants, the continuation of the claims asserted in the Proceedings or Second Ontario Action on an individual basis or otherwise against any Non-Settling Defendant or named or unnamed co-conspirator that is not a Releasee. For greater certainty and without limiting the generality of the foregoing, the Releasors shall not assert or pursue a Released Claim, against any Releasee under the laws of any foreign jurisdiction.

6.5 Dismissal of the Proceedings

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

(2) Upon the Effective Date, the Quebec Action shall be declared settled out of court with prejudice and without costs as against the Settling Defendants.

6.6 Dismissal of Other Actions

(1) Upon the Effective Date, each member of the Settlement Class shall be deemed to irrevocably consent to the dismissal, without costs, with prejudice and without reservation, of his, her or its Other Actions against the Releasees, to the extent such Other Actions relate to Electronic Throttle Bodies.

(2) Upon the Effective Date, all Other Actions commenced by any Settlement Class Member, to the extent such Other Actions relate to Electronic Throttle Bodies, shall be dismissed as against the Releasees, without costs, with prejudice and without reservation.

6.7 Material Term

(1) The releases, covenants, dismissals, and granting of consent contemplated in this Section shall be considered a material term of the Settlement Agreement and the failure of any Court to approve the releases, covenants, dismissals, and granting of consent contemplated herein shall give rise to a right of termination pursuant to Section 5.1 of the Settlement Agreement.

SECTION 7 – BAR ORDER, WAIVER OF SOLIDARITY ORDER AND OTHER CLAIMS

7.1 Ontario Bar Order

(1) Class Counsel shall seek a bar order from the Ontario Court providing for the following:

(a) to the extent such claims are recognized at law, 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 Ontario Action or any Other Actions, or otherwise, by any Non-Settling Defendant, any named or unnamed co-conspirator that is not a Releasee, any Settled Defendant or any other

Person or party against a Releasee, or by a Releasee against any Non-Settling Defendant, any named or unnamed co-conspirator that is not a Releasee, any Settled Defendant, or any other Person or party, are barred, prohibited and enjoined in accordance with the terms of this Section (unless such claim is made in respect of a claim by a Person who has validly opted out of the Ontario Action);

(b) if the Ontario Court ultimately determines that a claim for contribution and indemnity or other claim over, whether in equity or in law, by statute or otherwise is a legally recognized claim:

(i) the Ontario Plaintiffs and the Settlement Class Members shall not be entitled to claim or recover from the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee 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;

(ii) the Ontario Plaintiffs and the Settlement Class Members shall limit their claims against the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee to include only, and shall only seek to recover from the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee, those claims for 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*) attributable to the aggregate of the several liability of the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a

Releasee to the Ontario Plaintiffs and Settlement Class Members, if any, and, for greater certainty, the Ontario Settlement Class Members shall be entitled to claim and seek to recover on a joint and several basis as between the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee, if permitted by law; and

(iii) the Ontario Court shall have full authority to determine the Proportionate Liability of the Releasees at the trial or other disposition of the Ontario Action, whether or not the Releasees remain in the Ontario Action or 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 Ontario Action and any determination by the Court in respect of the Proportionate Liability of the Releasees shall only apply in the Ontario Action and shall not be binding on the Releasees in any other proceeding;

(c) after the Ontario Action against the Non-Settling Defendants has been certified and all appeals or times to appeal have been exhausted and on at least twenty (20) days' notice to Counsel for the Settling Defendants, a Non-Settling Defendant may, on motion to the Ontario Court, seek an Order for the following, which order shall be determined as if the Settling Defendants remained parties to the Ontario Action:

(i) documentary discovery and affidavit(s) of documents from Settling Defendant(s) in accordance with the Ontario *Rules of Civil Procedure*;

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

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

(iv) the production of a representative(s) of Settling Defendant(s) to testify at trial, with such witness to be subject to cross-examination by counsel for the Non-Settling Defendants.

(d) the Settling Defendants retain all rights to oppose any motion brought pursuant to Section 7.1(1)(c), including any such motion brought at trial seeking an order requiring the Settling Defendants to produce a representative to testify at trial. Moreover, nothing herein restricts the Settling Defendants 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 Section 7.1(1)(c);

(e) on any motion brought pursuant to Section 7.1(1)(c), the Ontario Court may make such orders as to costs and other terms as it considers appropriate;

(f) to the extent that such an order is granted and discovery is provided 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 the Plaintiffs and Class Counsel within ten (10) days of such discovery being provided to a Non-Settling Defendant;

(g) the Ontario Court will retain an ongoing supervisory role over the discovery process and the Settling Defendants will attorn to the jurisdiction of the Ontario Court for these purposes; and

(h) a Non-Settling Defendant may effect service of the motion(s) referred to in Section 7.1(1)(c) on a Settling Defendant by service on Counsel for the Settling Defendants.

7.2 Quebec Waiver or Renunciation of Solidarity Order

(1) Quebec Counsel shall seek a waiver or renunciation of solidarity by the Quebec Court providing for the following:

(a) the Quebec Plaintiff and the Quebec Settlement Class Members expressly waive and renounce the benefit of solidarity against the Non-Settling Defendants with respect to the facts, deeds or other conduct of the Releasees;

(b) the Quebec Plaintiff and the Quebec Settlement Class Members shall henceforth only be able to claim and recover damages, including punitive damages, interest and costs (including without limitation, judicial fees pursuant to the *Code of Civil Procedure*, and investigative costs claimed pursuant to section 36 of the *Competition Act*) attributable to the conduct of the Non-Settling Defendants, the sales by the Non-Settling Defendants, and/or other applicable measure of proportionate liability of the Non-Settling Defendants;

(c) any claims in warranty or any other claim or joinder of parties to obtain any contribution or indemnity from the Releasees or relating to the Released Claims shall be inadmissible and void in the context of the Quebec Action or any Other Action commenced in Quebec; and

(d) the ability of Non-Settling Defendants to seek discovery from the Settling Defendants shall be determined according to the provisions of the *Code of Civil Procedure*, and the Settling Defendants shall retain and reserve all of their rights to oppose such discovery under the *Code of Civil Procedure*.

7.3 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.

7.4 Material Term

(1) The Parties acknowledge that the bar orders, waivers, renunciations of solidarity and reservations of rights contemplated in this Section shall be considered a material term of the

Settlement Agreement and the failure of any Court to approve the bar orders, waivers, renunciations of solidarity and reservations of rights contemplated herein shall give rise to a right of termination pursuant to Section 5.1 of the Settlement Agreement.

SECTION 8 – EFFECT OF SETTLEMENT

8.1 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, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this 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 the Releasees, or of the truth of any of the claims or allegations contained in the Proceedings, the Second Ontario Action, or any Other Actions, or any other pleading filed by the Plaintiffs.

8.2 Agreement Not Evidence

(1) The Parties agree that, whether or not it is finally approved, is terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence or received in evidence in any pending or future civil, criminal or administrative action or proceeding, except in a proceeding to approve and/or enforce this Settlement Agreement, to defend against the assertion of Released Claims, as necessary in any insurance-related proceeding, or as otherwise required by law.

8.3 No Further Litigation

(1) No Class Counsel, 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 against the Settling Defendants which relates to or arises from the Released Claims, except in relation to the continued prosecution of

the Proceedings and Second Ontario Action against any Non-Settling Defendants or unnamed co-conspirators that are not Releasees or, if the Proceedings or the Second Ontario Action are not certified or authorized, the continuation of the claims asserted in the Proceedings or the Second Ontario Action on an individual basis or otherwise against any Non-Settling Defendant or unnamed co-conspirator that is not a Releasee. Moreover, these Persons may not divulge to anyone for any purpose any information obtained in the course of the Proceedings or the negotiation and preparation of this Settlement Agreement, except to the extent such information is or becomes otherwise publicly available or unless ordered to do so by a court, and subject to Section 4.2 of this Settlement Agreement, except that such information can be disclosed to Camp Fiorante Matthews Mogerman LLP, to the extent that Camp Fiorante Matthews Mogerman LLP is assisting Class Counsel in the prosecution of the Proceedings and they agree to keep such information confidential and only use it for the purpose of providing such assistance.

SECTION 9 – CERTIFICATION AND AUTHORIZATION FOR SETTLEMENT ONLY

(1) The Parties agree that the Proceedings shall be certified or authorized as class proceedings as against the Settling Defendants solely for purposes of settlement of the Proceedings and the approval of this Settlement Agreement by the Courts.

(2) The Plaintiffs agree that, in the motions for certification or authorization of the Proceedings as class proceedings for settlement purposes and for the approval of this Settlement Agreement, the only common issue that they will seek to define is the Common Issue and the only classes that they will assert are the Settlement Classes.

(3) The Parties agree that the certification or authorization of the Proceedings as against the Settling Defendants for the purpose of implementing this Settlement Agreement, shall not derogate in any way from the rights of the Plaintiffs as against the Non-Settling Defendants, except as expressly set out in this Settlement Agreement.

SECTION 10 – NOTICE TO SETTLEMENT CLASSES

10.1 Notices Required

(1) The proposed Settlement Classes shall be given a single notice of: (i) the certification or authorization of the Proceedings as class proceedings as against the Settling Defendants for settlement purposes; (ii) the hearings at which the Courts will be asked to approve the Settlement

Agreement; and (iii) if they are brought with the hearings to approve the Settlement Agreement, the hearings to approve Class Counsel Fees and Class Counsel Disbursements.

(2) If this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect, the proposed Settlement Classes shall be given notice of such event.

10.2 Form and Distribution of Notices

(1) The notices shall be in a form agreed upon by the Parties and approved by the Courts or, if the Parties cannot agree on the form of the notices, the notices shall be in a form ordered by the Courts.

(2) The notices shall be disseminated by a method agreed upon by the Parties and approved by the Courts or, if the Parties cannot agree on a method for disseminating the notices, the notices shall be disseminated by a method ordered by the Courts.

SECTION 11 – ADMINISTRATION AND IMPLEMENTATION

11.1 Mechanics of Administration

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

11.2 Information and Assistance

(1) The Settling Defendants will make best efforts to provide to Class Counsel a list of the names and addresses (including any relevant email addresses) of those Persons in Canada who received delivery of Electronic Throttle Bodies from the Settling Defendants during the Class Period. The information shall be delivered in Microsoft Excel or such other format as may be agreed upon by Counsel for the Settling Defendants and Class Counsel.

(2) The information required by Section 11.2(1) shall be delivered to Class Counsel within thirty (30) days of the Date of Execution or at a time mutually agreed upon by the Parties.

(3) Class Counsel may use the information provided under Section 11.2(1):

(a) to facilitate the dissemination of the notices required in Section 10.1;

(b) to advise Persons in Canada who purchased Electronic Throttle Bodies from the Settling Defendants during the Class Period of any subsequent settlement agreement reached in the Proceedings or the Second Ontario Action, any related approval hearings, and any other major steps in the Proceedings or the Second Ontario Action;

(c) to facilitate the claims administration process with respect to this Settlement Agreement and any other settlement agreement(s) achieved or court awards issued in the Proceedings or the Second Ontario Action; and

(d) as otherwise authorized in Section 4.

(4) All information provided by the Settling Defendants pursuant to Section 11.2(1) shall be dealt with in accordance with Section 4, except that Class Counsel may disclose all information provided by the Settling Defendants pursuant to Section 11.2(1) to any Court-appointed notice provider and/or the Claims Administrator, to the extent reasonably necessary for the purposes enumerated in Section 11.2(3). Any Court-appointed notice provider and/or the Claims Administrator shall be bound by the same confidentiality obligations set out in Section 4. If this Settlement Agreement is terminated, all information provided by the Settling Defendants pursuant to Section 11.2(1) shall be dealt with in accordance with Section 5.2(1)(d) and no record of the information so provided shall be retained by Class Counsel in any form whatsoever.

(5) The Settling Defendants will make themselves reasonably available to respond to questions respecting the information provided pursuant to Section 11.2(1) from Class Counsel or any Court-appointed notice provider and/or the Claims Administrator. The Settling Defendants' obligations to make themselves reasonably available to respond to questions as particularized in this Section shall not be affected by the release provisions contained in Section 6 of this Settlement Agreement. Unless this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason, the Settling Defendants' obligations to cooperate pursuant to this Section 11.2 shall cease when the Proceedings and the Second Ontario Action are resolved as against all Defendants and all settlement funds or court awards have been distributed.

(6) The Settling Defendants shall bear no liability with respect to the completeness or accuracy of the information provided pursuant to this Section 11.2.

SECTION 12 – DISTRIBUTION OF THE SETTLEMENT AMOUNT AND ACCRUED INTEREST

12.1 Distribution Protocol

(1) At a time wholly within the discretion of Class Counsel, but on notice to the Settling Defendants, Class Counsel will bring motions seeking orders from the Courts approving the Distribution Protocol. The motions can be brought before the Effective Date, but the orders approving the Distribution Protocol shall be conditional on the Effective Date occurring.

(2) The Distribution Protocol shall require Settlement Class Members seeking compensation to give credit for any compensation received through other proceedings or in private out-of-class settlements, unless by such proceedings or private out-of-class settlements the Settlement Class Member's claim was released in its entirety, in which case the Settlement Class Member shall be deemed ineligible for any further compensation.

12.2 No Responsibility for Administration or Fees

(1) Except as otherwise provided for in this Settlement Agreement, the Settling Defendants shall not have any responsibility, financial obligations or liability whatsoever with respect to the administration of the Settlement Agreement or the investment, distribution or administration of monies in the Trust Account including, but not limited to Administration Expenses.

SECTION 13 – CLASS COUNSEL FEES, DISBURSEMENTS AND ADMINISTRATION EXPENSES

13.1 Responsibility for Fees, Disbursements and Taxes

(1) The Settling Defendants shall not be liable for any Class Counsel Fees, Class Counsel Disbursements, or taxes of any of the lawyers, experts, advisors, agents, or representatives retained by Class Counsel, the Plaintiffs or the Settlement Class Members, any amounts to which the Fonds d'aide aux actions collectives in Quebec may be entitled, or any lien of any Person on any payment to any Settlement Class Member from the Settlement Amount.

13.2 Responsibility for Costs of Notices and Translation

(1) Siskinds LLP shall pay the costs of the notices required by Section 10 and any costs of translation required by Section 14.11 from the Trust Account, as they become due. Subject to Section 5.3, the Releasees shall not have any responsibility for the costs of the notices or translation.

13.3 Court Approval for Class Counsel Fees and Disbursements

(1) Class Counsel may seek the Courts' approval to pay Class Counsel Disbursements and Class Counsel Fees contemporaneous with seeking approval of this Settlement Agreement. Class Counsel Disbursements and Class Counsel Fees shall be reimbursed and paid solely out of the Trust Account after the Effective Date. Except as provided herein, Administration Expenses may only be paid out of the Trust Account after the Effective Date. No other Class Counsel Disbursements or Class Counsel Fees shall be paid from the Trust Account prior to the Effective Date.

SECTION 14 – MISCELLANEOUS

14.1 Motions for Directions

(1) Class Counsel or the Settling Defendants may apply to the Courts as may be required for directions in respect of the interpretation, implementation and administration of this Settlement Agreement. Unless the Courts order otherwise, motions for directions that do not relate specifically to matters affecting the Quebec Action shall be determined by the Ontario Court.

(2) All motions contemplated by this Settlement Agreement shall be on notice to the Parties, except for those applications concerned solely with the implementation and administration of the Distribution Protocol.

14.2 Headings, etc.

(1) In this 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 this Settlement Agreement; and

(b) the terms "this Settlement Agreement," "hereof," "hereunder," "herein," and similar expressions refer to this Settlement Agreement and not to any particular section or other portion of this Settlement Agreement.

14.3 Computation of Time

(1) In the computation of time in this 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 "holiday" is defined in the *Rules of Civil Procedure*, RRO 1990, Reg 194, the act may be done on the next day that is not a holiday.

14.4 Ongoing Jurisdiction

(1) Each of the Courts shall retain exclusive jurisdiction over the Proceeding commenced in its jurisdiction, and the Parties and the Class Counsel Fees in that proceeding.

(2) No Party shall ask a Court to make any order or give any direction in respect of any matter of shared jurisdiction unless that order or direction is conditional upon a complementary order or direction being made or given by the other Court with which it shares jurisdiction over that matter.

(3) Notwithstanding Section 14.4(1) and 14.4(2), the Ontario Court shall exercise jurisdiction with respect to 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 Ontario Court for such purposes. Issues related to the administration of this Settlement Agreement, the Trust Account, and other matters not specifically related to the Quebec Action shall be determined by the Ontario Court.

14.5 Governing Law

(1) Subject to Section 14.5(2), this Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

(2) Notwithstanding Section 14.5(1), for matters relating specifically to the Quebec Action, the Quebec Court shall apply the law of its own jurisdiction and the laws of Canada applicable therein.

14.6 Entire Agreement

(1) This 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 this Settlement Agreement, unless expressly incorporated herein.

14.7 Amendments

(1) This Settlement Agreement may not be modified or amended except in writing and on consent of all Parties hereto, and any such modification or amendment must be approved by the Courts with jurisdiction over the matter to which the amendment relates.

14.8 Binding Effect

(1) This Settlement Agreement shall be binding upon, and enure to the benefit of, the Plaintiffs, the Settlement Class Members, the Settling Defendants, 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.

14.9 Counterparts

(1) This 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 electronic signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

14.10 Negotiated Agreement

(1) This 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 this Settlement Agreement shall have no force and effect. The Parties further agree that the language contained in or not contained in previous drafts of this Settlement Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Settlement Agreement.

14.11 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, if required to by the Courts, Class Counsel and/or a translation firm selected by Class Counsel shall prepare a French translation of the Settlement Agreement, the cost of which shall be paid from the Settlement Amount. In the event of any dispute as to the interpretation or application of this Settlement Agreement, only the English version shall govern.

14.12 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 any errors of fact, of law and/or of calculation.

14.13 Recitals

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

14.14 Schedules

(1) The schedules annexed hereto form part of this Settlement Agreement.

14.15 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 this 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 this Settlement Agreement.

14.16 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, this Settlement Agreement on behalf of the Parties identified above their respective signatures and their law firms.

14.17 Notice

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

For the Plaintiffs and for Class Counsel in the Proceedings:

Charles M. Wright and Linda Visser
SISKINDS LLP
Barristers and Solicitors
680 Waterloo Street
London, ON N6A 3V8
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Fax: 519.672.6065
Email: charles.wright@siskinds.com
linda.visser@siskinds.com

David Sterns and Jean Marc Leclerc
SOTOS LLP
Barristers and Solicitors
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For the Settling Defendants:

Linda Plumpton and James Gotowiec
Torys LLP
79 Wellington Street West, 30th Floor
Box 270, TD Centre
Toronto, ON M5K 1N2
Tel: 416.865.0040
Fax: 416.865.7380
Email: lplumpton@torys.com
jgotowiec@torys.com

14.18 Date of Execution

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

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

Name of Authorized Signatory: Kerry McGladdery Dent

Signature of Authorized Signatory: per KMcGladdery Dent

Siskinds LLP
Ontario Counsel

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

Name of Authorized Signatory: David Sterns

Signature of Authorized Signatory: per

Sotos LLP
Ontario Counsel

SERGE ASSELIN on his own behalf and on behalf of the Quebec Settlement Class, by his counsel

Name of Authorized Signatory: Karim Diallo

Signature of Authorized Signatory: per

Siskinds Desmeules s.e.n.c.r.l.
Quebec Counsel

MITSUBISHI ELECTRIC CORPORATION, MITSUBISHI ELECTRIC AUTOMOTIVE AMERICA, INC. and MITSUBISHI ELECTRIC SALES CANADA INC., by their counsel

Name of Authorized Signatory: Linda Plumpton

Signature of Authorized Signatory:

Torys LLP
Counsel for the Settling Defendants

SCHEDULE "A"
Proceedings

Court and File No.	Plaintiffs' Counsel	Plaintiff	Defendants	Settlement Class
Ontario Action				
Ontario Superior Court of Justice Court File No. CV-14-506649-00CP	Siskinds LLP and Sotos LLP	Sheridan Chevrolet Cadillac Ltd., Pickering Auto Mall Ltd., and Fady Samaha	Hitachi, Ltd., Hitachi Automotive Systems, Ltd., Hitachi Automotive Systems Americas, Inc., Denso Corporation, Denso International America Inc., Denso Manufacturing Canada, Inc., Denso Sales Canada, Inc., Mitsuba Corporation, American Mitsuba Corporation, Mitsubishi Electric Corporation, Mitsubishi Electric Automotive America, Inc., Mitsubishi Electric Sales Canada Inc., Aisan Industry Co. Ltd., Franklin Precision Industry, Inc., and Aisan Corporation of America.	All Persons in Canada who, during the Class Period, (a) purchased, directly or indirectly, Electronic Throttle Bodies; and/or (b) purchased or leased, directly or indirectly, a new or used Automotive Vehicle; and/or (c) purchased for import into Canada, a new or used Automotive Vehicle. Excluded Persons and Persons who are included in the Quebec Settlement Class are excluded from the Ontario Settlement Class.
Second Ontario Action				
Ontario Superior Court of Justice Court File No. CV-17-582448-00CP	Siskinds LLP and Sotos LLP	Sheridan Chevrolet Cadillac Ltd., The Pickering Auto Mall Ltd., and Fady Samaha	Keihin Corporation and Keihin North America, Inc.	Not Applicable.
Quebec Action				
Superior Court of Quebec (district of Québec), File No. 200-06-000199-169	Siskinds Desmeules s.e.n.c.r.l.	Serge Asselin	Hitachi, Ltd., Hitachi Automotive Systems, Ltd., Hitachi Automotive Systems Americas, Inc., Denso Corporation, Denso International America, Inc., Denso Manufacturing Canada, Inc., Denso Sales Canada, Inc., Mitsubishi Electric Corporation, Mitsubishi Electric Automotive America, Inc., Mitsubishi Electric Sales Canada Inc., Aisan Industry Co. Ltd., Franklin Precision Industry, Inc., Aisan Corporation of America, Mitsuba Corporation and American Mitsuba Corporation.	All Persons in Quebec who, during the Class Period, (a) purchased, directly or indirectly, Electronic Throttle Bodies; and/or (b) purchased or leased, directly or indirectly, a new or used Automotive Vehicle; and/or (c) purchased for import into Canada, a new or used Automotive Vehicle. Excluded Persons are excluded from the Quebec Settlement Class.

SCHEDULE "B"

Court File No. CV-14-506649-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE	)	, THE	DAY
JUSTICE BELOBABA	)	OF	, 2018

BETWEEN:

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

Plaintiffs

- and -

HITACHI, LTD., HITACHI AUTOMOTIVE SYSTEMS, LTD., HITACHI AUTOMOTIVE SYSTEMS AMERICAS, INC., DENSO CORPORATION, DENSO INTERNATIONAL AMERICA INC., DENSO MANUFACTURING CANADA, INC., DENSO SALES CANADA, INC., MITSUBA CORPORATION, AMERICAN MITSUBA CORPORATION, MITSUBISHI ELECTRIC CORPORATION, MITSUBISHI ELECTRIC AUTOMOTIVE AMERICA, INC., MITSUBISHI ELECTRIC SALES CANADA INC., AISAN INDUSTRY CO. LTD, FRANKLIN PRECISION INDUSTRY, INC., and AISAN CORPORATION OF AMERICA

Defendants

Proceeding under the *Class Proceedings Act, 1992*, S.O. 1992, c. 6

ORDER
- Electronic Throttle Bodies -
- Mitsubishi Electric Notice Approval and Consent Certification -

THIS MOTION made by the Plaintiffs for an Order approving the abbreviated, publication and long-form notices of settlement approval hearings and the method of dissemination of said notices, and certifying this proceeding as a class proceeding for settlement purposes as against Mitsubishi Electric Corporation, Mitsubishi Electric Automotive America, Inc. and Mitsubishi Electric Sales Canada Inc. (collectively, the "Settling Defendants") was read this day at Osgoode Hall, 130 Queen Street West, Toronto, Ontario.

ON READING the materials filed, including the settlement agreement with the Settling Defendants dated as of ●, 2018 attached to this Order as Schedule "A" (the "Settlement Agreement"), and on reading 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 Plaintiffs and the Settling Defendants consent to this Order;

1. **THIS COURT ORDERS** that for the purposes of this Order, except to the extent that they are modified in this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.

2. **THIS COURT ORDERS** that the abbreviated, publication and long-form notices of settlement approval hearing are hereby approved substantially in the forms attached respectively hereto as Schedules "B" to "D".

3. **THIS COURT ORDERS** that the plan of dissemination for the abbreviated, publication and long-form notices of settlement approval hearing (the "Plan of Dissemination") is hereby approved in the form attached hereto as Schedule "E" and that the notices of settlement approval hearing shall be disseminated in accordance with the Plan of Dissemination.

4. **THIS COURT ORDERS** that the Ontario Action is certified as a class proceeding as against the Settling Defendants for settlement purposes only.

5. **THIS COURT ORDERS** that the "Ontario Settlement Class" is certified as follows:

> All Persons in Canada who, during the Class Period, (a) purchased, directly or indirectly, Electronic Throttle Bodies; and/or (b)

> purchased or leased, directly or indirectly, a new or used Automotive Vehicle; and/or (c) purchased for import into Canada, a new or used Automotive Vehicle. Excluded Persons and Persons who are included in the Quebec Settlement Class are excluded from the Ontario Settlement Class.

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

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

> Did the Settling Defendants conspire to fix, raise, maintain, or stabilize the prices of Electronic Throttle Bodies in Canada and elsewhere during the Class Period? If so, what damages, if any, did Settlement Class Members suffer?

8. **THIS COURT ORDERS** that paragraphs 1 and 4-7 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 paragraphs 1 and 4-7 of this Order, are without prejudice to the rights and defences of the Non-Settling Defendants in connection with the ongoing Ontario Action or the Second Ontario Action 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 Ontario Action or the Second Ontario Action, as against the Non-Settling Defendants.

9. **THIS COURT ORDERS** that paragraphs 2-7 of this Order are contingent upon a parallel order being made by the Quebec Court, and the terms of this Order shall not be effective unless and until such an order is made by the Quebec Court.

The Honourable Justice Belobaba

SCHEDULE "C"

Court File No. CV-14-506649-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE	)	, THE	DAY
JUSTICE BELOBABA	)	OF	, 2018

BETWEEN:

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

Plaintiffs

- and -

HITACHI, LTD., HITACHI AUTOMOTIVE SYSTEMS, LTD., HITACHI AUTOMOTIVE SYSTEMS AMERICAS, INC., DENSO CORPORATION, DENSO INTERNATIONAL AMERICA INC., DENSO MANUFACTURING CANADA, INC., DENSO SALES CANADA, INC., MITSUBA CORPORATION, AMERICAN MITSUBA CORPORATION, MITSUBISHI ELECTRIC CORPORATION, MITSUBISHI ELECTRIC AUTOMOTIVE AMERICA, INC., MITSUBISHI ELECTRIC SALES CANADA INC., AISAN INDUSTRY CO. LTD, FRANKLIN PRECISION INDUSTRY, INC., and AISAN CORPORATION OF AMERICA

Defendants

Proceeding under the *Class Proceedings Act, 1992*, S.O. 1992, c. 6

ORDER
- Electronic Throttle Bodies -
- Mitsubishi Electric Settlement Approval -

THIS MOTION made by the Plaintiffs for an Order approving the settlement agreement entered into with Mitsubishi Electric Corporation, Mitsubishi Electric Automotive America, Inc. and Mitsubishi Electric Sales Canada Inc. (collectively, 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.

AND ON READING the materials filed, including the settlement agreement dated ●, 2018, 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 WHEREAS a parallel class proceeding relating to the pricing of Electronic Throttle Bodies was commenced under Court File No. CV-17-582448-00CP (the "Second Ontario Action") and is being case managed with the Ontario Action.

AND ON BEING ADVISED that the deadline for objecting to the Settlement Agreement has passed and there have been ● written objections to the Settlement Agreement;

AND ON BEING ADVISED that the deadline for opting out of the Ontario Action has passed, and three Persons validly exercised the right to opt out;

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 this Order, including the Settlement Agreement, is binding upon each member of the Ontario 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 Ontario Action.

4. **THIS COURT ORDERS** that the Settlement Agreement is fair, reasonable and in the best interests of the Ontario Settlement Class.

5. **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.

6. **THIS COURT ORDERS** that, upon the Effective Date, each member of the Ontario Settlement Class 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.

7. **THIS COURT ORDERS** that, upon the Effective Date, each Other Action commenced in Ontario by any member of the Ontario Settlement Class shall be and is hereby dismissed against the Releasees, without costs and with prejudice.

8. **THIS COURT ORDERS** that, upon the Effective Date, subject to paragraph 10, each Releasor has released and shall be conclusively deemed to have forever and absolutely released the Releasees from the Released Claims.

9. **THIS COURT ORDERS** that, upon the Effective Date, each Releasor shall not now or hereafter institute, continue, maintain, intervene in 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 proceeding, 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, whether pursuant to the *Negligence Act*, RSO 1990, c. N. 1 or other legislation or at common law or equity in respect of any Released Claim, except for the continuation of the Proceedings and the Second Ontario Action against the Non-Settling Defendants or named or unnamed co-conspirators that are not Releasees or, if the Proceedings or the Second Ontario Action are not certified with respect to the Non-Settling Defendants, the continuation of the claims asserted in the Proceedings or the Second Ontario Action on an individual basis or otherwise against any Non-Settling Defendant or named or unnamed co-conspirator that is not a Releasee.

10. **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 Ontario Settlement Class who are resident in any province or territory where the release of one tortfeasor is a release of all tortfeasors.

11. **THIS COURT ORDERS** that, upon the Effective Date, each member of the Ontario 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.

12. **THIS COURT ORDERS** that 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, the Second Ontario Action, or any Other Actions, or otherwise, by any Non-Settling Defendant, any named or unnamed co-conspirator that is not a Releasee, any Settled Defendant or any other Person or party against a Releasee, or

by a Releasee against any Non-Settling Defendant, any named or unnamed co-conspirator that is not a Releasee, any Settled Defendant or any other Person or party, are barred, prohibited and enjoined in accordance with the terms of this Order (unless such claim is made in respect of a claim by a Person who has validly opted out of the Proceedings).

13. **THIS COURT ORDERS** that if this Court ultimately determines that a claim for contribution and indemnity or other claim over, whether in equity or in law, by statute or otherwise is a legally recognized claim:

(a) the Ontario Plaintiffs and the Ontario Settlement Class Members shall not be entitled to claim or recover from the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee 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;

(b) the Ontario Plaintiffs and the Ontario Settlement Class Members shall limit their claims against the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee to include only, and shall only seek to recover from the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee, those claims for 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*) attributable to the aggregate of the several liability of the Non-Settling Defendants

and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee to the Ontario Plaintiffs and Ontario Settlement Class Members, if any, and, for greater certainty, the Ontario Settlement Class Members shall be entitled to claim and seek to recover on a joint and several basis as between the Non-Settling Defendants and/or named or unnamed co-conspirators and/or any other Person or party that is not a Releasee, if permitted by law; and

(c) this Court shall have full authority to determine the Proportionate Liability of the Releasees at the trial or other disposition of the Ontario Action, whether or not the Releasees remain in the Ontario Action or 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 Ontario Action and any determination by this Court in respect of the Proportionate Liability of the Releasees shall only apply in the Ontario Action and shall not be binding on the Releasees in any other proceeding.

14. **THIS COURT ORDERS** that 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 (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*) or judgment against them in favour of Ontario Settlement Class Members in the Ontario Action or the rights of the Ontario Plaintiffs and the Ontario Settlement Class Members to oppose or resist any such arguments, except as provided for in this Order.

15. **THIS COURT ORDERS** that a Non-Settling Defendant may, on motion to this Court determined as if the Settling Defendants remained parties to the Ontario Action, and on at

least twenty (20) 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 affidavit(s) of documents from Settling Defendant(s) in accordance with the *Rules of Civil Procedure*, RRO 1990, Reg. 194;

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

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

(d) the production of representative(s) of Settling Defendant(s) to testify at trial, with such witness(es) to be subject to cross-examination by counsel for the Non-Settling Defendants.

16. **THIS COURT ORDERS** that the Settling Defendants retain all rights to oppose such motion(s) brought under paragraph 15. Moreover, nothing herein restricts the Settling Defendants 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 15. Notwithstanding any provision in this Order, on any motion brought pursuant to paragraph 15, the Court may make such orders as to costs and other terms as it considers appropriate.

17. **THIS COURT ORDERS** that a Non-Settling Defendant may effect service of the motion(s) referred to in paragraph 15 above by service on Counsel for the Settling Defendants.

18. **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 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.

19. **THIS COURT ORDERS** that, except as provided herein, this Order does not affect any claims or causes of action that any members of the Ontario Settlement Class has or may have in the Ontario Action or the Second Ontario Action against the Non-Settling Defendants or named or unnamed co-conspirators who are not Releasees.

20. **THIS COURT ORDERS** that no Releasee shall have any responsibility or liability whatsoever relating to the administration of the Settlement Agreement; to administration, investment, or distribution of the Trust Account; or to the Distribution Protocol.

21. **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 Proceedings or the Second Ontario Action 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.

22. **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.

23. **THIS COURT ORDERS** that the approval of the Settlement Agreement is contingent upon approval by the Quebec Court, and the terms of this Order shall not be effective unless and until the Settlement Agreement is approved by the Quebec Court, and the Quebec Action has been declared settled out of court with prejudice and without costs as against the Settling Defendants by the Quebec Court. If such an order is not secured in Quebec, this Order shall be null and void and without prejudice to the rights of the Parties to proceed with the Ontario Action and any agreement between the Parties incorporated in this Order shall be deemed in any subsequent proceedings to have been made without prejudice.

24. **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.

25. **THIS COURT ORDERS** that the Ontario Action be and is hereby dismissed against the Settling Defendants, without costs and with prejudice.

26. **THIS COURT ORDERS** that the approval of the Settlement Agreement and any reasons given by the Court in relation thereto, except any reasons given in connection with paragraphs 12-17 of this Order, are without prejudice to the rights and defences of the Non-Settling Defendants in connection with the ongoing Ontario Action and the Second Ontario Action 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 Ontario Action or the Second Ontario Action as against the Non-Settling Defendants.

The Honourable Justice Belobaba

SHERIDAN CHEVROLET et al v. HITACHI, LTD et al

Court File No: CV-14-506649-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act, 1992*

ORDER
- Electronic Throttle Bodies -
- Mitsubishi Electric Settlement Approval -

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