

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

**BRIAN WARNER, KENNETH
MACLEOD; MICHAEL MEADE,
MICHAEL WATSON, JAMES
FULLER, and DALE FRANQUET,
individually and on behalf of all
others similarly situated,
Plaintiffs,**

v.

**TOYOTA MOTOR SALES, U.S.A.,
INC., a California corporation,
Defendant.**

Case No. 2:15-cv-02171-FMO-(FFMx)

SETTLEMENT AGREEMENT

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WHEREAS, Plaintiffs' Second Amended Complaint in the above-referenced action alleges frame rust perforation of certain Tacoma, Sequoia, and Tundra vehicles;

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

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

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

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

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

NOW, THEREFORE, without any admission or concession by Class Representatives or Class Counsel of any lack of merit to their allegations and claims, and without any admission or concession by Toyota of any liability or wrongdoing or lack of merit in its defenses, in consideration of the mutual covenants and terms contained herein, and subject to both the preliminary and final approval by the Court, Class Counsel, Class Representatives, and Toyota agree as follows:

I. PROCEDURAL HISTORY

A. On October 3, 2014, Ryan Burns filed a class action complaint in Burns v. Toyota Motor Sales, U.S.A., Inc., No. 2:14-cv-02208 (W.D. Ark.) alleging, among other things, that Toyota (as defined below) designed, manufactured, distributed, advertised and sold certain Tacoma vehicles that allegedly lacked adequate rust protection on the vehicles' frames that would allegedly result in premature rust corrosion and that Ryan Burns and others similarly situated sustained economic losses as a result thereof.

B. On March 24, 2015, Brian Warner and others filed a class action complaint in Brian Warner et al v. Toyota Motor Sales, U.S.A., Inc., No. 2:15-cv-02171 (C.D. Cal.) alleging, among other things, that Toyota (as defined below) designed, manufactured, distributed, advertised and sold certain Tacoma vehicles that allegedly lacked adequate rust protection on the

vehicles' frames that would allegedly result in premature rust corrosion and that the plaintiffs and others similarly situated sustained economic losses as a result thereof.

C. On April 23, 2015, the United States District Court for the Western District of Arkansas issued an Order granting in part and denying in part Toyota's motion to dismiss plaintiff Ryan Burns' complaint. Pursuant to the United States District Court for the Western District of Arkansas' Order, plaintiff Ryan Burns' claims for breach of express and implied warranties were dismissed, while the order upheld his claims under the Arkansas Deceptive Trade Practices Act, for unjust enrichment and for declaratory relief..

D. On June 5, 2015, the United States District Court for the Central District of California issued an order granting Toyota's motion to dismiss the complaint filed by plaintiff Brian Warner and others without prejudice.

E. On June 19, 2015, plaintiff Brian Warner and others filed a First Amended Complaint.

F. On January 12, 2016, the United States District Court for the Western District of Arkansas issued an Order granting in part and denying in part, Toyota's motion for summary judgment on plaintiff Ryan Burns' claims. Pursuant to the United States District Court for the Western District of Arkansas' Order, Toyota's motion for summary judgment was denied on all grounds except that plaintiff's claim for injunctive relief was dismissed. In addition, according to this court's order, Toyota's motion to deny class certification was denied without prejudice. This court found it premature to make a ruling regarding whether class certification for any of Burns's three proposed classes should be denied based upon the pleadings alone.

G. On March 8, 2016, the United States District Court for the Central District of California granted in part and denied in part Toyota's motion to dismiss the First Amended

Complaint filed by plaintiff Brian Warner and others, such that plaintiffs' claims under the consumer protection laws of California, Florida, Ohio, and Louisiana were dismissed with prejudice; and plaintiffs' claims under Maryland, New York, and North Carolina law were dismissed to the extent they contained allegations based on Toyota's alleged misrepresentations, but plaintiffs could pursue said claims based on Defendant's alleged omissions.

H. Plaintiff Brian Warner and others filed a Second Amended Complaint, adding Ryan Burns as one of the plaintiffs. The Second Amended Complaint expanded the allegations to also include certain Tundra and Sequoia vehicles. The Second Amended Complaint also added counts for the alleged violations of the Arkansas consumer protection laws, breach of implied warranty of merchantability and breach of express warranty.

II. DEFINITIONS

A. As used in this Settlement Agreement and the attached exhibits (which are an integral part of this Settlement Agreement and are incorporated herein in their entirety by reference), the following terms have the following meanings, unless this Settlement Agreement specifically provides otherwise:

1. "Action" means Brian Warner et al., v. Toyota Motor Sales, U.S.A., Inc., No. 2:15-cv-02171 (C.D. Cal.).

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

3. "Attorneys' Fees, Costs, and Expenses" means such funds as may be awarded by the Court to compensate any and all attorneys representing plaintiffs who have assisted in conferring the benefits upon the Class under this Settlement Agreement for their fees and

expenses in connection with the Action and the Related Action and the Settlement Agreement, as described in Section VIII of this Settlement Agreement.

4. “Claim” means the claim of a Class Member or his or her or its representative submitted on a Frame Replacement Reimbursement Claim Form as provided in this Settlement Agreement.

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

6. “Claim Period” means the time period in which Class Members may submit a Frame Replacement Reimbursement Claim Form to the Settlement Notice Administrator, which shall run from the date of the Initial Notice Date up to and including sixty (60) days after the Court’s issuance of the Final Order and Final Judgment.

7. “Claim Process” means the process for submitting and reviewing Claims described in this Settlement Agreement.

8. “Class” means, for settlement purposes only, all persons, entities or organizations who, at any time as of the entry of the Preliminary Approval Order, own or owned, purchase(d) or lease(d) Subject Vehicles distributed for sale or lease in any of the fifty States, the District of Columbia, Puerto Rico and all other United States territories and/or possessions. Excluded from the Class are: (a) Toyota, its officers, directors and employees; its affiliates and affiliates’ officers, directors and employees; its distributors and distributors’ officers, directors and employees; and Toyota Dealers and Toyota Dealers’ officers and directors; (b) Plaintiffs’ Counsel; (c) judicial officers and their immediate family members and associated court staff assigned to this case; and (d) persons or entities who or which timely and properly exclude themselves from the Class as provided in this Settlement Agreement.

9. “Class Counsel” means Timothy G. Blood of Blood Hurst and O’Reardon, LLP and Ben Barnow of Barnow and Associates, P.C.

10. “Class Member” means a member of the Class.

11. “Class Notice” means the notice program described in Section IV.

12. “Class Representatives” means Brian Warner, Ryan Burns, Kenneth Macleod, Michael Meade, Michael Watson, James Fuller, James M. Good, and Dale Franquet.

13. “Court” means the United States District Court for the Central District of California.

14. “Direct Mail Notice” means the notice substantially in the form as attached hereto as Exhibit 6.

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

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

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

b. if any appeal has been taken from the Final Order and/or Final Judgment, “Final Effective Date” means the date on which all appeals therefrom, including petitions for rehearing or reargument, petitions for rehearing en banc and petitions for certiorari or any other form of review,

have been finally disposed of in a manner that affirms the Final Order or Final Judgment; or

c. subject to Court approval, if Class Counsel and Toyota agree in writing, the “Final Effective Date” can occur on any other agreed date.

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

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

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

20. “Frame Inspection and Replacement Program” means the inspection program as further described in Section III below.

21. “Frame Replacement Reimbursement Claim Form” means the document, in substantially the same form as Exhibit 1 attached to this Settlement Agreement.

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

23. “Inspection Protocol” means the procedures, as further discussed in Exhibit 11, for review and inspection by Toyota Dealers of the Subject Vehicles for the Rust Perforation Standard, pursuant to the terms of this Settlement Agreement.

24. “Loaner Vehicle” means a vehicle of any potential make, model or year, provided pursuant to the Frame Inspection and Replacement Program.

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

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

27. “Plaintiffs’ Counsel” means counsel for plaintiffs in the Action, Blood Hurst and O’Reardon, LLP, Barnow and Associates P.C., Milligan Law Offices, Montelone & McCrory LLP, and Roberts Law Firm PA.

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

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

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

31. “Related Action” means Ryan Burns v. Toyota Motor Sales, U.S.A., Inc., No. 2:14-cv-02208-PKH (W.D. Ark.).

32. “Released Parties” or “Released Party” means any Toyota entity, including, but not limited to, Toyota Motor Corporation, Toyota Motor Sales, U.S.A., Inc., Toyota Motor North America, Inc., Toyota Motor Engineering and Manufacturing North America, Inc., New United Motor Manufacturing, Inc., Toyota Motor Manufacturing, Texas, Inc., Toyota Motor Manufacturing Indiana, Toyota Motor Manufacturing Baja California, Toyota Auto Body California and each of their past, present and future parents, predecessors, successors, spin-offs, assigns, holding companies, joint-ventures and joint-venturers, partnerships and partners,

members, divisions, stockholders, bondholders, subsidiaries, related companies, affiliates, officers, directors, employees, associates, dealers, representatives, suppliers, vendors, advertisers, service providers, distributors and sub-distributors, agents, attorneys, administrators and advisors. The Parties expressly acknowledge that each of the foregoing is included as a Released Party even though not identified by name herein.

33. “Rust Perforation Standard” means a 10 millimeter or larger perforation on the Subject Vehicle as described in Exhibit 11.

34. “Salvaged” means the title, at any point, was transferred to a salvage yard, junkyard, wreckage facility or similar entity.

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

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

37. “Settlement Special Master” means Patrick A. Juneau, who was appointed by this Court in an Order dated June 29, 2016, to serve as Special Master to administer, coordinate and preside over settlement-related proceedings.

38. “Subject Vehicles” means those Toyota vehicles that are listed in Exhibit 7.

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

40. “Toyota Dealers” means authorized Toyota dealers.

41. “Toyota’s Counsel” means John P. Hooper and Reed Smith LLP.

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

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

III. SETTLEMENT RELIEF

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

After the issuance of the Preliminary Approval Order signed by the Court, Toyota, at its sole discretion, may, after consultation with Class Counsel, implement the Frame Inspection and Replacement Program in advance of the occurrence of the Final Effective Date.

A. Frame Inspection and Replacement Program

1. Toyota will offer a Frame Inspection and Replacement Program to all Class Members. The Frame Inspection and Replacement Program will provide prospective coverage for replacement of frames on Subject Vehicles in accordance with the Rust Perforation Standard and the Inspection Protocol. The duration of prospective coverage will begin following the date of Final Order and Final Judgment and will be calculated by the longer of 12 years from the date of First Use of the Subject Vehicle or, if the Class Member has owned or leased the vehicle beyond 12 years from date of First Use, 1 year from the date of entry of the Final Order and

Final Judgment. Salvaged Vehicles and vehicles with titles marked flood-damaged are not eligible for this benefit.

2. Without cost to Class Members and upon request from the Class Member, Toyota shall arrange a complimentary Loaner Vehicle (upon proof of adequate insurance) if the vehicle is required by the Toyota dealer to remain at the dealership at least overnight pursuant to the Frame Inspection and Replacement Program, for up to seven (7) days, absent exceptional circumstances, to eligible Class Members whose Subject Vehicles are undergoing frame replacement pursuant to the terms of this Settlement Agreement. In appropriate circumstances where the Class Member has a demonstrated need for a vehicle similar to the Subject Vehicles, Toyota, through its dealers, shall use good faith efforts to satisfy that request.

3. Class Members may bring in their Subject Vehicles to authorized Toyota Dealers for a frame inspection and, when appropriate, application of the Corrosion-Resistant Compounds (“CRC”), in the CRC States,¹ pursuant to the Frame Inspection and Replacement Program and the Inspection Protocol. Toyota, at its sole discretion, may periodically mail reminder notices of this benefit to Class Members after the issuance of the Final Order and Final Judgment. The reminder notices shall notify the Class Members of the timing of this Frame Inspection and Replacement Program and will encourage Class Members to bring in their Subject Vehicles for an inspection, pursuant to the terms of this Settlement Agreement. Toyota shall provide a draft reminder notice to Class Counsel for review and comment.

¹ The CRC States, which have high road salt use, are defined as Connecticut, Delaware, the District of Columbia, Illinois, Indiana, Kentucky, Massachusetts, Maryland, Maine, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Vermont, Wisconsin and West Virginia.

4. If the Class Member disputes the findings of the Toyota Dealer conducted pursuant to this Frame Inspection and Replacement Program, the Class Member may take the Subject Vehicle to a second Toyota Dealer for another frame inspection.

5. Toyota shall identify the VIN numbers for the Subject Vehicles utilizing R.L. Polk & Co. data to identify current names and addresses for Class Members. In addition, the Direct Mail Notice attached hereto as Exhibit 6 will summarize the Frame Inspection and Replacement Program, which shall also be available on the settlement website.

6. Toyota shall replace the frames and associated parts, as required, on the Subject Vehicles that satisfy the Rust Perforation Standard that are presented to a Toyota Dealer during the Frame Inspection and Replacement Program.

B. Frame Replacement Reimbursement Claim Form Submission, Review, Processing and Payment

1. Eligible Class Members, during the Claim Period, may submit Claims for previously paid out-of-pocket expenses for frame replacement incurred to address a condition that satisfies the Rust Perforation Standard on the Subject Vehicles that were not otherwise reimbursed and that were incurred prior to the Initial Notice Date.

2. As part of the Claim Process, Class Members shall be eligible for the relief in this Settlement Agreement, provided that Class Members: (a) complete and timely submit Frame Replacement Reimbursement Claim Forms, with supporting documentation, to the Settlement Notice Administrator within the Claim Period; (b) have Claims that are eligible for reimbursement; and (c) do not opt out of the settlement. The Frame Replacement Reimbursement Claim Form shall be available on the settlement website and can be submitted in

either hard-copy or on-line. In no event shall a Class Member be entitled to more than one payment per Subject Vehicle for the claims at issue. Sufficient proof shall include, but not be limited to, proof of ownership and documentation of cost, condition, and remedy.

3. The Settlement Notice Administrator shall receive the Claims, whether submitted electronically via the settlement website or by U.S. Mail, and the Settlement Claims Administrator shall administer the review and processing of Claims. The Settlement Claims Administrator shall have the authority to determine whether Claim Forms submitted by Class Members are complete and timely.

4. The Settlement Notice Administrator shall send timely and completed Frame Replacement Reimbursement Claim Forms as soon as practicable after receipt to the Settlement Claims Administrator. If a Claim is deficient, the Settlement Claims Administrator shall mail a notice deficiency letter to the Class Member requesting that the Class Member complete the deficiencies and resubmit the Frame Replacement Reimbursement Claim Form within forty-five (45) days of the date of the letter from the Settlement Notice Administrator. If the Class Member fails to provide the requested documentation or information, that Claim shall be denied without further processing. The Settlement Claims Administrator shall use their best efforts to complete their review of timely and completed Claim Forms within ninety (90) days of receipt. The Settlement Claims Administrator's review period for submitted Claims shall not be required to commence any earlier than sixty (60) days after the occurrence of the Final Effective Date.

(a) If accepted for payment, the Settlement Claims Administrator shall pay the Claim of the Class Member and shall use its best efforts to pay timely, valid and approved Claims within ninety (90) days after receipt of the Claim, provided, however, that this date occurs after the issuance of the Final Order and

Final Judgment approving the settlement, which, at Toyota's discretion, can occur prior to the occurrence of the Final Effective Date. The Settlement Claims Administrator shall periodically request funds from Toyota to pay the approved Claims in advance of the date mentioned in this Section and with sufficient time to allow Toyota to obtain and provide the funds to the Settlement Claims Administrator.

(b) If the Claim is rejected for payment, in whole or in part, the Settlement Claims Administrator shall notify Class Counsel and Toyota's Counsel of said rejection of Class Member's Claim and the reason(s) why. The decision of the Settlement Claims Administrator shall be final, provided however, that Class Counsel and Toyota's Counsel may meet and confer in an attempt to resolve these denied Claims. If Class Counsel and Toyota jointly recommend payment of the Claims or payment of a reduced claim amount, then Toyota's Counsel shall inform the Settlement Claims Administrator, who shall instruct Toyota to pay said Claims. If Class Counsel and Toyota's Counsel disagree, they shall notify the Settlement Claims Administrator who shall make a final determination as to whether the Claim shall be paid.

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

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

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

IV. NOTICE TO THE CLASS

A. Class Notice

Class Notice will be accomplished through a combination of the Direct Mail Notice, Publication Notice, notice through the settlement website, Long Form Notice, social media notice, and other applicable notice, each of which is described below, as specified in the Preliminary Approval Order, the Declaration of the Settlement Notice Administrator (attached hereto as Exhibit 9), and this Settlement Agreement and in order to comply with all applicable laws, including but not limited to, Fed. R. Civ. P. 23, the Due Process Clause of the United States Constitution, and all other applicable statutes, laws and rules. The costs of disseminating the notice and otherwise implementing the notice specified in Section IV of this Settlement Agreement shall be paid by Toyota. The estimated amount for the cost of notice is between \$1.75 million to \$2.5 million, subject, in part, to the number of addresses received from R.L. Polk & Co., and which is being paid by Toyota and is subject to revision as notice dissemination is actually undertaken.

B. Direct Mail Notice

Beginning not later than December 2, 2016, the Settlement Notice Administrator shall send the Direct Mail Notice, substantially in the form attached hereto as Exhibit 6, by U.S. Mail, proper postage prepaid, to the current and former registered owners of Subject Vehicles, as identified by data to be forwarded to the Settlement Notice Administrator by R.L. Polk & Co. The Direct Mail Notice shall inform potential Class Members on how to obtain the Long Form Notice via the settlement website, via regular mail or via a toll-free telephone number, pursuant to Sections IV(E) and (F), below. In addition, the Settlement Notice Administrator shall: (a) re-mail any notices returned by the United States Postal Service with a forwarding address no later than the deadline found in the Preliminary Approval Order; (b) by itself or using one or more address research firms, as soon as practicable following receipt of any returned notices that do not include a forwarding address, research such returned mail for better addresses and promptly mail copies of the applicable notice to any better addresses so found.

C. Publication Notice

Beginning approximately December 16, 2016, the Settlement Notice Administrator shall cause the publication of the Publication Notice as described in the Declaration of the Settlement Notice Administrator, and in such additional newspapers, magazines and/or other media outlets as shall be agreed upon by the Parties. The form of the Publication Notice agreed upon by the Parties is in the form substantially similar to the one attached to the Agreement as Exhibit 8.

D. Internet Website

The Settlement Notice Administrator shall establish a settlement website that will inform Class Members of the terms of this Settlement Agreement, their rights, dates and deadlines and related information. The website shall include, in .pdf format, materials agreed upon by the Parties and/or required by the Court, including, but not limited to, the Settlement Agreement, the

Publication Notice, Frequently Asked Questions and Answers, and Court documents that may be of interest to most Class Members.

E. Long Form Notice

1. Contents of Long Form Notice.

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

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

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

c. Objection to Settlement: The Long Form Notice shall inform Class Members of their right to object to the Settlement Agreement and to appear at the Fairness Hearing. The Long Form Notice shall provide the deadlines and procedures for exercising these rights.

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

2. Frame Replacement Reimbursement Claim Forms.

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

3. Dissemination of Long Form Notice.

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

F. Toll-Free Telephone Number

The Settlement Notice Administrator shall establish a toll-free telephone number that will provide Settlement-related information to Class Members.

G. Internet Banner Notifications

The Settlement Notice Administrator shall, pursuant to the Parties' agreement, establish banner notifications on the internet that will provide settlement-related information to Class Members and shall utilize additional internet-based notice efforts as to be agreed to by the Parties.

H. Class Action Fairness Act Notice

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

J. Duties of the Settlement Notice Administrator

1. The Settlement Notice Administrator shall be responsible for, without limitation:

- (a) printing, mailing or arranging for the mailing of the Direct Mail Notice;
- (b) handling returned mail not delivered to Class Members;
- (c) attempting to obtain updated address information for any Direct Mail Notices returned without a forwarding address;
- (d) making any additional mailings required under the terms of this Settlement Agreement;
- (e) responding to requests for Long Form Notice;
- (f) receiving and maintaining on behalf of the Court any Class Member correspondence regarding requests for exclusion and/or objections to the Settlement Agreement;
- (g) forwarding written inquiries to Class Counsel or their designee for a response, if warranted;
- (h) establishing a post-office box for the receipt of any correspondence;
- (i) responding to requests from Class Counsel and/or Toyota's Counsel;
- (j) establishing a website and toll-free voice response unit with message capabilities to which Class Members may refer for information about the Action and the Related Action and the Settlement Agreement;
- (k) otherwise implementing and/or assisting with the dissemination of the notice of the Settlement Agreement;
- and (l) coordinating with the Settlement Claims Administrator regarding the forwarding of

Claims. The Settlement Notice Administrator shall also be responsible for, without limitation, implementing the terms of the Claim Process and related administrative activities. The Settlement Notice Administrator shall be responsible for arranging for the publication of the Publication Notice, establishing internet banner notifications and for consulting on Class Notice. The Settlement Notice Administrator shall coordinate their activities to minimize costs in effectuating the terms of this Settlement Agreement.

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

3. The Settlement Notice Administrator may retain one or more persons to assist in the completion of his or her responsibilities.

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

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

K. Self-Identification

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

V. REQUESTS FOR EXCLUSION

A. Any Class Member who wishes to be excluded from the Class must mail a written request for exclusion, using Exhibit 10, which shall be available on the settlement website and attached to the Long Form Notice, to the Settlement Notice Administrator at the address provided in the Long Form Notice, postmarked on a date ordered by the Court specifying that he or she wants to be excluded and otherwise complying with the terms stated in the Long Form Notice and Preliminary Approval Order. The Settlement Notice Administrator shall forward copies of any written requests for exclusion to Class Counsel and Toyota's Counsel. A list reflecting all requests for exclusion shall be filed with the Court by the Settlement Notice Administrator no later than 20 days before the Fairness Hearing. If a potential Class Member files a request for exclusion, he or she may not file an objection under Section VI.

B. Any Class Member who does not file a timely written request for exclusion as provided in Section V(A) shall be bound by all subsequent proceedings, orders and judgments, including, but not limited to, the Release, Final Judgment and Final Order in the Action, even if he, she or it has litigation pending or subsequently initiates litigation against Toyota relating to the claims and transactions released in the Action and the Related Action. Toyota's Counsel shall provide to the Settlement Notice Administrator, within 20 business days of the entry of the Preliminary Approval Order, a list of all counsel for anyone who has then-pending litigation

against Toyota relating to claims involving the Subject Vehicles and/or otherwise covered by the Release.

VI. OBJECTIONS TO SETTLEMENT

A. Any Class Member who has not filed a timely written request for exclusion and who wishes to object to the fairness, reasonableness, or adequacy of this Settlement Agreement, the requested award of Attorneys' Fees, Costs, and Expenses, or the requested incentive awards to the Class Representatives, must file with the Court on a date ordered by the Court a written statement of his or her objections. The written objection of any Class Member must include: (a) a heading which refers to the Action, Brian Warner et al v. Toyota Motor Sales, U.S.A., Inc., No. 2:15-cv-02171 (C.D. Cal.); (b) the objector's full name, telephone number, and address (the objector's actual residential address must be included); (c) if represented by counsel, the full name, telephone number, and address of all counsel; (d) all of the reasons for his or her objection; (e) whether the objector intends to appear at the Fairness Hearing on his or her own behalf or through counsel; (f) a statement that the objector is a Class Member, including the make, model, year and VIN(s) of the Subject Vehicle(s); and (g) the objector's dated, handwritten signature (an electronic signature or attorney's signature are not sufficient). Any documents supporting the objection must also be attached to the objection. If any testimony is proposed to be given in support of the objection, the names of all persons who will testify must be set forth in the objection. Class Members may do so either on their own or through an attorney retained at their own expense. The objection must include proof that he or she falls within the definition of the Class.

B. Any Class Member who files and serves a written objection, as described in the preceding Section VI(A), may appear at the Fairness Hearing, either in person or through

personal counsel hired at the Class Member's expense, to object to the fairness, reasonableness, or adequacy of this Settlement Agreement, the requested award of Attorneys' Fees, Costs, and Expenses, or the requested awards to the Class Representatives. Class Members or their attorneys who intend to make an appearance at the Fairness Hearing must file with the Court a notice of intention to appear, with courtesy copies to one of Class Counsel identified in the Class Notice and to Toyota's Counsel, on a date ordered by the Court.

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

D. Any Class Member who objects to the Settlement Agreement shall be entitled to all of the benefits of the Settlement Agreement if the Settlement Agreement and the terms contained herein are approved, as long as the objecting Class Member complies with all requirements of this Settlement Agreement applicable to Class Members, including the timely submission of Frame Replacement Reimbursement Claim Forms and other requirements herein.

VII. RELEASE AND WAIVER

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

B. In consideration for the Settlement Agreement, Class Representatives, and each Class Member, on behalf of themselves and any other legal or natural persons who may claim by, through or under them, agree to fully, finally and forever release, relinquish, acquit, and discharge the Released Parties from any and all claims, demands, suits, petitions, liabilities, causes of action, rights, and damages of any kind and/or type regarding the subject matter of the Action and the Related Action, including, but not limited to, compensatory, exemplary, punitive, expert and/or attorneys' fees or by multipliers, whether past, present, or future, mature, or not yet mature, known or unknown, suspected or unsuspected, contingent or non-contingent, derivative or direct, asserted or un-asserted, whether based on federal, state or local law, statute, ordinance, regulation, code, contract, common law, violations of any state's deceptive, unlawful, or unfair business or trade practices, false, misleading or fraudulent advertising, consumer fraud or consumer protection statutes, any breaches of express, implied or any other warranties, RICO, or the Magnuson-Moss Warranty Act, or any other source, or any claim of any kind related arising from, related to, connected with, and/or in any way involving the Action, the Related Action, the Subject Vehicles that are, or could have been, defined, alleged or described in the Complaint, the Amended Complaint, the Second Amended Complaint, the Action, the Related Action or any amendments of the Action or the Related Action, including, but not limited to, the design, manufacturing, advertising, replacement, repair, testing, marketing, functionality, servicing, sale, lease or resale of the Subject Vehicles. Notwithstanding the foregoing, Class Representatives

and Class Members are not releasing claims for personal injury, wrongful death or actual physical property damage arising from an accident involving a Subject Vehicle.

C. Notwithstanding the foregoing, the Released Parties shall be held harmless by any Class Representative or Class Member for a Released Claim against the Released Parties asserted by that Class Representative or Class Member, either brought directly or by any legal or natural persons who claim by, through, or under that Class Representative or Class Member.

D. The Final Order will reflect these terms.

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

F. Class Representatives and Class Members shall not now or hereafter institute, maintain, prosecute, assert, and/or cooperate in the institution, commencement, filing, or prosecution of any suit, action, and/or proceeding, against the Released Parties, either directly or indirectly, on their own behalf, on behalf of a class or on behalf of any other person or entity with respect to the claims, causes of action and/or any other matters released through this settlement and the Settlement Agreement.

G. In connection with the Settlement Agreement, Class Representatives and Class Members acknowledge that they and other Class Members may hereafter discover claims presently unknown or unsuspected, or facts in addition to or different from those that they now know or believe to be true concerning the subject matter of the Action or the Related Action and/or the Release herein. Nevertheless, it is the intention of Class Counsel and Class Representatives in executing this Settlement Agreement to fully, finally and forever settle, release, discharge, and hold harmless all such matters, and all claims relating thereto which exist,

hereafter may exist, or might have existed (whether or not previously or currently asserted in any action or proceeding) with respect to the Action and the Related Action.

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

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

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

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

Replacement Reimbursement Claim Form shall represent and warrant therein that they are the sole and exclusive owner of all claims that they personally are releasing under the Settlement Agreement and that they have not assigned, pledged, or in any manner whatsoever, sold, transferred, assigned or encumbered any right, title, interest or claim arising out of or in any way whatsoever pertaining to the Action or the Related Action, including without limitation, any claim for benefits, proceeds or value under the Action or the Related Action, and that such Class Member(s) are not aware of anyone other than themselves claiming any interest, in whole or in part, in the claims that they are releasing under the Settlement Agreement or in any benefits, proceeds or values in the claims that they are releasing under the Settlement Agreement.

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

K. In consideration for the Settlement Agreement, Toyota and its past or present officers, directors, employees, agents, attorneys, predecessors, successors, affiliates, subsidiaries, divisions, and assigns shall be deemed to have, and by operation of the Final Order shall have, released Plaintiffs' Counsel, Class Counsel and each current and former Class Representatives from any and all causes of action that were or could have been asserted pertaining solely to the conduct in filing and prosecuting the litigation or in settling the Action.

L. Class Representatives, Plaintiffs' Counsel and any other attorneys who receive attorneys' fees and costs from this Settlement Agreement acknowledge that they have conducted

sufficient independent investigation and discovery to enter into this Settlement Agreement and, by executing this Settlement Agreement, state that they have not relied upon any statements or representations made by the Released Parties or any person or entity representing the Released Parties, other than as set forth in this Settlement Agreement.

M. The Parties specifically understand that there may be further pleadings, discovery requests and responses, testimony, or other matters or materials owed by the Parties pursuant to existing pleading requirements, discovery requests, or pretrial rules, procedures, or orders, and that, by entering into this Settlement Agreement, the Parties expressly waive any right to receive, hear, or inspect such pleadings, testimony, discovery, or other matters or materials.

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

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

VIII. ATTORNEYS' FEES, COSTS, AND EXPENSES AND INDIVIDUAL PLAINTIFF AND CLASS REPRESENTATIVE AWARDS

A. The Parties did not discuss the payment of Attorneys' Fees, Costs, and Expenses, and incentive awards, until after the substantive elements of the Settlement Agreement had been agreed upon.

B. After agreeing to the principal terms set forth in this Settlement Agreement, Class Counsel and Toyota's Counsel negotiated the amount of Attorneys' Fees, Costs, and Expenses that, separate and apart from the consideration for this settlement, following application to the Court and subject to Court approval, would be paid by Toyota as the fee award and costs award to Plaintiffs' Counsel. As a result of negotiations, Class Counsel agrees to make on behalf of all

plaintiffs' counsel, and Toyota agrees not to oppose, an application for an award of Attorneys' Fees, Costs, and Expenses in the Action in the amount of \$9.75 million for attorneys' fees and up to \$150,000.00 in costs and expenses. This award shall be the sole compensation paid by Toyota for all plaintiffs' counsel in the Action and Related Action and/or for work incurred that inured to the benefit of the Class.

C. Class Counsel may petition the Court for incentive awards of up to \$2,500.00 per Class Representative for bringing the Action and the Related Action and for their time in connection with the Action and Related Action.

D. Within thirty (30) days after the occurrence of the Final Effective Date, Toyota shall pay the Attorneys' Fees, Costs, and Expenses and incentive awards that are awarded by the Court to an account established by Class Counsel. Thereafter, Class Counsel shall distribute the award of Attorneys' Fees, Costs, and Expenses among Plaintiffs' Counsel and the incentive awards to Class Representatives. The Attorneys' Fees, Costs, and Expenses paid by Toyota as provided for in this Agreement shall be allocated by Class Counsel among other plaintiffs' counsel in a manner that Class Counsel in good faith believes reflects the contributions of plaintiffs' counsel to the prosecution and settlement of the claims against Toyota in the Action and the Related Action.

E. The amount(s) of any Attorneys' Fees, Costs, and Expenses, and the incentive awards to Class Representatives are intended to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the settlement. No order of the Court, or modification or reversal or appeal of any order of the Court, concerning the amount(s) of any Attorneys' Fees, Costs, and Expenses awarded by the Court to Class Counsel, or concerning the amounts of incentive awards that are awarded by the Court to Class

Representatives, shall affect whether the Final Order and Final Judgment are final or constitute grounds for cancellation or termination of the settlement.

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

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

The Preliminary Approval Order shall, among other things:

1. Certify a nationwide settlement-only Class, approve Class Representatives as Class Representatives and appoint Class Counsel as counsel for the Class, pursuant to Fed. R. Civ. P. 23;

2. Preliminarily approve the Settlement Agreement;

3. Require the dissemination of the Notice and the taking of all necessary and appropriate steps to accomplish this task;

4. Determine that Class Notice complies with all legal requirements, including, but not limited to, the Due Process Clause of the United States Constitution;

5. Schedule a date and time for a Fairness Hearing to determine whether the Settlement Agreement should be finally approved by the Court;

6. Require Class Members who wish to exclude themselves to submit an appropriate and timely written request for exclusion as directed in this Settlement Agreement and Long Form Notice and that a failure to do so shall bind those Class Members who remain in the Class;

7. Require Class Members who wish to object to this Settlement Agreement to submit an appropriate and timely written statement as directed in this Settlement Agreement and Long Form Notice;

8. Require Class Members who wish to appear to object to this Settlement Agreement to submit an appropriate and timely written statement as directed in the Settlement Agreement and Long Form Notice;

9. Require attorneys representing Class Members objecting to the Settlement Agreement, at such Class Members' expense, to file a notice of appearance as directed in this Settlement Agreement and Long Form Notice;

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

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

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

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

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

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

1. Find that the Court has personal jurisdiction over all Class Members, that the Court has subject matter jurisdiction over the claims asserted in the Action, and that venue is proper;

2. Confirm the certification of the class for settlement purposes only, pursuant to Fed. R. Civ. P. 23;

3. Finally approve the Settlement Agreement, pursuant to Fed. R. Civ. P. 23;

4. Find that the Notice and the Notice dissemination methodology complied with all laws, including, but not limited to, the Due Process Clause of the United States Constitution;

5. Dismiss the Action with prejudice and without costs (except as provided for herein as to costs), and order the Parties to file a stipulation of dismissal with prejudice or substantial equivalent for the Related Action;

6. Incorporate the Release set forth in the Agreement and make the Release effective as of the date of the Final Judgment and Final Order;

7. Issue a permanent injunction;

8. Authorize the Parties to implement the terms of the Agreement;

9. Retain jurisdiction relating to the administration, consummation, enforcement, and interpretation of the Agreement, the Final Judgment and Final Order, and for any other necessary purpose; and

10. Issue related Orders to effectuate the final approval of the Agreement and its implementation.

C. Within five (5) business days of issuance by the Court of the Final Order and Final Judgment, the Parties shall file a stipulation of dismissal with prejudice or substantial equivalent in the Related Action.

X. MODIFICATION OR TERMINATION OF THIS SETTLEMENT AGREEMENT

A. The terms and provisions of this Settlement Agreement may be amended, modified, or expanded by written agreement of the Parties and approval of the Court; provided, however, that after entry of the Final Judgment and Final Order, the Parties may by written agreement effect such amendments, modifications, or expansions of this Settlement Agreement and its implementing documents (including all exhibits hereto) without further notice to the Class or approval by the Court if such changes are consistent with the Court's Final Judgment and Final Order and do not limit the rights of Class Members under this Settlement Agreement.

B. This Settlement Agreement shall terminate at the discretion of either Toyota or the Class Representatives, through Class Counsel, if: (1) the Court, or any appellate court(s), rejects, modifies, or denies approval of any portion of the Settlement Agreement that the terminating party in its (or their) sole judgment and discretion reasonably determine(s) is material, including, without limitation, the terms of relief, the findings, or conclusions of the Court, the provisions relating to notice, the definition of the Class, and/or the terms of the Release; or (2) the Court, or any appellate court(s), does not enter or completely affirm, or alters, narrows or expands, any portion of the Final Order and Final Judgment, or any of the Court's findings of fact or conclusions of law, that the terminating party in its (or their) sole judgment and discretion reasonably determine(s) is material. The terminating party must exercise the option to withdraw from and terminate this Settlement Agreement, as provided in this Section X, by a signed writing served on the other Parties no later than 20 days after receiving notice of the event prompting the termination. The Parties will be returned to their positions status quo ante.

C. If an option to withdraw from and terminate this Settlement Agreement arises under Section X(B) above, neither Toyota nor Class Representatives are required for any reason

or under any circumstance to exercise that option and any exercise of that option shall be in good faith.

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

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

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

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

4. Toyota and the other Released Parties expressly and affirmatively reserve all defenses, arguments, and motions as to all claims that have been or might later be asserted in the Action or the Related Action, including, without limitation, the argument that the Action or the Related Action may not be litigated as a class action;

5. Class Representatives and all other Class Members, on behalf of themselves and their heirs, assigns, executors, administrators, predecessors, and successors, expressly and affirmatively reserve and do not waive all motions as to, and arguments in support of, all claims, causes of actions or remedies that have been or might later be asserted in the Action or the

Related Action including, without limitation, any argument concerning class certification, and treble or other damages;

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

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

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

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

10. Notwithstanding the terms of this paragraph, if the Settlement Agreement is not consummated, Class Counsel may include any time spent in settlement efforts as part of any fee petition filed at the conclusion of the case, and Toyota reserves the right to object to the reasonableness of such requested fees.

XI. GENERAL MATTERS AND RESERVATIONS

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

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

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

C. The Parties and their counsel agree to keep the existence and contents of this Settlement Agreement confidential until the date on which the Motion for Preliminary Approval is filed; provided, however, that this Section shall not prevent Toyota from disclosing such information, prior to the date on which the Motion for Preliminary Approval is filed, to state and federal agencies, independent accountants, actuaries, advisors, financial analysts, insurers or attorneys, nor shall it prevent Toyota from disclosing such information based on the substance of

this Settlement Agreement. Nor shall it prevent the Parties and their counsel from disclosing such information to persons or entities (such as experts, courts, co-counsel, and/or administrators) to whom the Parties agree disclosure must be made in order to effectuate the terms and conditions of this Settlement Agreement.

D. Class Representatives and Class Counsel agree that the confidential information made available to them solely through the settlement process was made available, as agreed to, on the condition that neither Class Representatives nor their counsel may disclose it to third parties (other than experts or consultants retained by Class Representatives in connection with the Action or the Related Action); that it not be the subject of public comment; that it not be used by Class Representatives or Class Counsel in any way in this litigation or otherwise should the Settlement Agreement not be achieved, and that it is to be returned if a settlement is not concluded; provided, however, that nothing contained herein shall prohibit Class Representatives from seeking such information through formal discovery if not previously requested through formal discovery or from referring to the existence of such information in connection with the settlement of the Action or the Related Action.

E. Information provided by Toyota, Toyota's Counsel, and/or the Settlement Special Master to Class Representatives, Plaintiffs' Counsel, any individual Class Member, counsel for any individual Class Member, and/or administrators, pursuant to the negotiation and implementation of this Settlement Agreement, includes trade secrets and highly confidential and proprietary business information and shall be deemed "Highly Confidential" pursuant to the protective orders that have been or will be entered in the Action or the Related Action, and shall be subject to all of the provisions thereof. Any materials inadvertently produced shall, upon

Toyota's request, be promptly returned to Toyota's Counsel, and there shall be no implied or express waiver of any privileges, rights and defenses.

F. Within 90 days after the Final Effective Date (unless the time is extended by agreement of the Parties), Plaintiffs' Counsel, and any expert or other consultant employed by them in such capacity or any other individual with access to documents provided by Toyota, and/or Toyota's Counsel, and/or the Settlement Special Master to Plaintiffs' Counsel shall either: (i) return to Toyota's Counsel, all such documents and materials (and all copies of such documents in whatever form made or maintained) produced during the settlement process by Toyota and/or Toyota's Counsel, and/or the Settlement Special Master and any and all handwritten notes summarizing, describing or referring to such documents; or (ii) certify to Toyota's Counsel that all such documents and materials (and all copies of such documents in whatever form made or maintained) produced by Toyota, and/or Toyota's Counsel, and/or the Settlement Special Master and any and all handwritten notes summarizing, describing or referring to such documents have been destroyed, provided, however, that this Section IX shall not apply to any documents made part of the record in connection with a Claim, nor to any documents made part of a Court filing, nor to Plaintiffs' Counsel's work product. Six months after the distribution of the settlement funds to Class Members who submitted valid Frame Replacement Reimbursement Claim Forms, the Settlement Notice Administrator shall return or destroy all documents and materials to Toyota and/or Toyota's Counsel and/or Plaintiffs' Counsel that produced the documents and materials, except that it shall not destroy any and all Frame Replacement Reimbursement Claim Forms, including any and all information and/or documentation submitted by Class Members. Nothing in this Settlement Agreement shall affect any confidentiality order or protective order in the Action.

G. Toyota's execution of this Settlement Agreement shall not be construed to release – and Toyota expressly does not intend to release – any claim Toyota may have or make against any insurer for any cost or expense incurred in connection with this Settlement Agreement, including, without limitation, for attorneys' fees and costs.

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

I. Class Counsel further represent that the Class Representatives: (1) have agreed to serve as representatives of the Class proposed to be certified herein; (2) are willing, able, and ready to perform all of the duties and obligations of representatives of the Class, including, but not limited to, being involved in discovery and fact finding; (3) have read the pleadings in the Action and the Related Action or have had the contents of such pleadings described to them; (4) are familiar with the results of the fact-finding undertaken by Class Counsel; (5) have been kept apprised of settlement negotiations among the Parties, and have either read this Settlement Agreement, including the exhibits annexed hereto, or have received a detailed description of it from Class Counsel and they have agreed to its terms; (6) have consulted with Class Counsel about the Action and this Settlement Agreement and the obligations imposed on representatives of the Class; (7) have authorized Class Counsel to execute this Settlement Agreement on their behalf; and (8) shall remain and serve as representatives of the Class until the terms of this Settlement Agreement are effectuated, this Settlement Agreement is terminated in accordance with its terms, or the Court at any time determines that said Class Representatives cannot represent the Class.

J. The Parties acknowledge and agree that no opinion concerning the tax

consequences of the Settlement Agreement to Class Members is given or will be given by the Parties, nor are any representations or warranties in this regard made by virtue of this Settlement Agreement. Each Class Member's tax obligations, and the determination thereof, are the sole responsibility of the Class Member, and it is understood that the tax consequences may vary depending on the particular circumstances of each individual Class Member.

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

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

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

N. Any disagreement and/or action to enforce this Settlement Agreement shall be commenced and maintained only in the United States District Court for the Central District of California.

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

1. If to Toyota, then to:

John P. Hooper
Reed Smith LLP
599 Lexington Avenue
22nd Floor
New York, New York 10022
Tel.: (212) 521-5400
Fax: (212) 521-5450
E-mail: Jhooper@reedsmith.com

2. If to the Class, then to:

Timothy G. Blood
Blood Hurst & O'Reardon, LLP
701 B Street, Suite 1700
San Diego, CA 92101
Tel: (619) 338-1100
Fax: (619) 338-1101
E-mail: tblood@bholaw.com

and

Ben Barnow
Barnow and Associates, P.C.
1 North LaSalle Street, Suite 4600
Chicago, IL 60602
Tel: (312) 621-2000
Fax: (312) 641-5504
E-mail: b.barnow@barnowlaw.com

P. All time periods set forth herein shall be computed in calendar days unless otherwise expressly provided. In computing any period of time prescribed or allowed by this Settlement Agreement or by order of the Court, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so

computed shall be included, unless it is a Saturday, a Sunday or a Federal Holiday, or, when the act to be done is the filing of a paper in court, a day on which weather or other conditions have made the office of the clerk of the court inaccessible, in which event the period shall run until the end of the next day that is not one of the aforementioned days. As used in this Section XI “Federal Holiday” includes New Year’s Day, Birthday of Martin Luther King, Jr., Presidents’ Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Patriot’s Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President, the Congress of the United States or the Clerk of the United States District Court for the Central District of California.

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

R. The Class, Class Representatives, Class Counsel, Toyota and/or Toyota’s Counsel shall not be deemed to be the drafter of this Settlement Agreement or of any particular provision, nor shall they argue that any particular provision should be construed against its drafter. All Parties agree that this Settlement Agreement was drafted by counsel for the Parties during extensive arm’s length negotiations. No parol or other evidence may be offered to explain, construe, contradict, or clarify its terms, the intent of the Parties or their counsel, or the circumstances under which this Settlement Agreement was made or executed.

S. The Parties expressly acknowledge and agree that this Settlement Agreement and its exhibits, along with all related drafts, motions, pleadings, conversations, negotiations, and correspondence, constitute an offer of compromise and a compromise within the meaning of Federal Rule of Evidence 408 and any equivalent rule of evidence in any state. In no event shall

this Settlement Agreement, any of its provisions or any negotiations, statements or court proceedings relating to its provisions in any way be construed as, offered as, received as, used as, or deemed to be evidence of any kind in the Action or the Related Action, any other action, or in any judicial, administrative, regulatory or other proceeding, except in a proceeding to enforce this Settlement Agreement or the rights of the Parties or their counsel. Without limiting the foregoing, neither this Settlement Agreement nor any related negotiations, statements, or court proceedings shall be construed as, offered as, received as, used as or deemed to be evidence or an admission or concession of any liability or wrongdoing whatsoever on the part of any person or entity, including, but not limited to, the Released Parties, Class Representatives, or the Class or as a waiver by the Released Parties, Class Representatives or the Class of any applicable privileges, claims or defenses.

T. Class Representatives expressly affirm that the allegations contained in the operative complaint were made in good faith, but consider it desirable for the Action and the Related Action to be settled and dismissed because of the substantial benefits that the Settlement Agreement will provide to Class Members.

U. The Parties, their successors and assigns, and their counsel undertake to implement the terms of this Settlement Agreement in good faith, and to use good faith in resolving any disputes that may arise in the implementation of the terms of this Settlement Agreement.

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

W. If one Party to this Settlement Agreement considers another Party to be in breach of its obligations under this Settlement Agreement, that Party must provide the breaching Party with written notice of the alleged breach and provide a reasonable opportunity to cure the breach before taking any action to enforce any rights under this Settlement Agreement.

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

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

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

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Agreed to on the date indicated below.

APPROVED AND AGREED TO BY CLASS COUNSEL
AS AUTHORIZED BY CLASS REPRESENTATIVES

BY _____

DATE: [date], 2016

TIMOTHY G. BLOOD
BLOOD HURST & O'REARDON, LLP

BY _____

DATE: [date], 2016

BEN BARNOW
BARNOW and ASSOCIATES, P.C.

APPROVED AND AGREED TO BY TOYOTA MOTOR SALES, U.S.A., INC.

BY _____
SANDRA L. PHILLIPS
GROUP VICE PRESIDENT
GENERAL COUNSEL AND CHIEF LEGAL OFFICER
TOYOTA MOTOR NORTH AMERICA

DATE: [date], 2016

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

BY _____
JOHN P. HOOPER
REED SMITH LLP

DATE: [date], 2016