

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

CLASS ACTION: CASE NO. 1:14-CV-24728-CIV-SCOLA/OTAZO-REYEZ

KENAI BATISTA, ANDY CHANCE, GERARDO
TORRES, ANGELA MATLIN, AND TUNG
NGUYEN, INDIVIDUALLY AND ON BEHALF
OF THOSE SIMILARLY SITUATED,

PLAINTIFFS,

VS.

NISSAN NORTH AMERICA, INC.

DEFENDANT.

SETTLEMENT AGREEMENT

SETTLEMENT AGREEMENT

Plaintiffs Kenai Batista, Andy Chance, Angela Matlin, Tung Nguyen, Boyong Park and Gerardo Torres (“Plaintiffs”) and Defendant Nissan North America, Inc. (“NNA”) (collectively, NNA and Plaintiffs shall be referred to as the “Parties”), by and through their counsel of record enter into this Settlement Agreement, providing for settlement of all claims asserted or which could have been asserted in the Lawsuits described below, pursuant to the terms and conditions set forth below, and subject to the approval of the Court, described below.

WHEREAS, Plaintiffs have filed three putative class action lawsuits alleging that certain Nissan and Infiniti vehicles contain a defect in the continuously variable transmission (“CVT”) which can lead to transmission judder, and asserting various breach of warranty, statutory, and common law theories of liability:

- On December 15, 2014, Kenai Batista filed suit against NNA in the Southern District of Florida, Case No. 14-CV-24728, on behalf of herself and all current and former owners of 2013-2014 model year Nissan Pathfinder vehicles and, on October 8, 2015, along with Andy Chance and Crystal Quebral, filed an Amended Complaint that expanded the vehicles covered by the proposed class to include the 2014 model year Infiniti QX60 (herein referred to as the “*Batista* case”);
- On March 30, 2015, Gerardo Torres and Angela Matlin filed suit against NNA in the Los Angeles County Superior Court on behalf of themselves and all current and former owners of 2013-2014 model year Nissan Pathfinder vehicles, and the case was removed to the United States District Court for the Central District of California, Case No. 2:15-cv-03251-RGK-FFM (herein referred to as the “*Torres*” case);
- On March 18, 2016, Boyong Park and Tung Nguyen filed suit against NNA in the Middle District of Tennessee, Case No. 3:16-cv-00624, on behalf of themselves and all current and former owners of 2013 and later model year Nissan Pathfinder vehicles (herein referred to as the “*Nguyen*” case);

WHEREAS, the Plaintiffs in the *Torres* case subsequently dismissed without prejudice their individual claims alleged in the *Torres* case but specifically retained a personal stake in the claims asserted on behalf of a putative class;

WHEREAS, NNA has strongly denied and continues to strongly deny all of the Plaintiffs' claims related to the CVT in their vehicles, denies all allegations of wrongdoing, fault, liability, or damage of any kind to Plaintiffs or the Settlement Class (as defined below), denies that it acted improperly or wrongfully in any way, and believes that this litigation is without merit;

WHEREAS, the Parties to this Settlement Agreement completed extensive investigation and discovery into the claims and defenses in this case;

WHEREAS, discovery and investigation confirmed that 2015 and later model year Infiniti QX60 and Nissan Pathfinder vehicles have a later generation transmission than the 2013-2014 model year Nissan Pathfinder and 2013-2014 Infiniti JX35/QX60 vehicles;

WHEREAS, while Plaintiffs and their counsel believe that the claims asserted in the Lawsuits have merit, and that such claims could have been successful at trial, they recognize the costs and risks of prosecuting this litigation and believe that it is in the interest of all members of the Settlement Class to resolve finally and completely the pending and potential claims of the Plaintiffs and the Settlement Class against NNA on the terms as agreed;

WHEREAS, although NNA believes the Lawsuits have no merit, it has concluded that settlement is desirable as a further commitment to its customers, to ensure the satisfaction of its customers, to preserve and enhance goodwill with its customers, including the Plaintiffs, and to end further litigation in the Lawsuits which could be protracted, burdensome and expensive for both Plaintiffs and NNA;

WHEREAS, Plaintiffs' counsel and NNA's counsel conducted arm's length settlement negotiations via a mediation that covered multiple sessions and further telephone negotiations and, as a result, this Settlement Agreement has been reached, subject to Court approval;

WHEREAS, the undersigned Parties believe that this Settlement offers significant benefits to the Settlement Class and is fair, reasonable, adequate, and in the best interest of all members of the Settlement Class Members; and

WHEREAS, NNA has agreed to class treatment of the claims alleged in the Lawsuits solely for the purpose of effectuating a compromise and settlement of those claims on a class basis, as set forth herein, and denies that any of the Lawsuits could properly proceed on a class basis for purposes of litigation or trial.

NOW, THEREFORE, the undersigned Parties stipulate and agree, subject to the approval of the Court, that all claims of Plaintiffs and Settlement Class Members against NNA shall be finally settled, discharged, and resolved on the terms and conditions as set forth below.

DEFINITIONS

As used in this Settlement Agreement, the following terms shall have the defined meanings set forth below. Where appropriate, terms used in the singular shall be deemed to include the plural and vice versa.

1. “Authorized VPP Participant” means any Settlement Class Member who has satisfied the Criteria for VPP Pricing, as defined herein, and is thus eligible to receive VPP Pricing for the purchase or lease of a single eligible Nissan or Infiniti vehicle on or before March 15, 2018, as described in Paragraphs 51 and 52 of this Settlement Agreement. Status or rights as an Authorized VPP Participant are not transferable.

2. “Attorneys’ Fees and Expenses” means the amounts approved by the Court for payment to Class Counsel, including attorneys’ fees, costs, and litigation expenses including fees and expenses of experts or other consultants.

3. “Class Counsel” or “Plaintiffs’ Counsel” means:

F. Jerome Tapley
Hirlye R. "Ryan" Lutz, III
Adam W. Pittman
CORY WATSON, P.C.
2131 Magnolia Avenue
Birmingham, Alabama 35205

Lawrence Deutsch
Jeffrey L. Osterwise
Berger & Montague, P.C.
1622 Locust Street
Philadelphia, PA 19103

Ronald P. Weil
Mary Olszewska
Weil Quaranta, P.A.
200 S. Biscayne Blvd., Suite 900
Miami, Florida 33131

Jordan L. Lurie
Robert K. Friedl
Tarek H. Zhody
Cody R. Padgett
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067

C. Richard Newsome
William Ourand
NEWSOME MELTON, LLP
201 S. Orange Ave, Suite 1500
Orlando, Florida 32801

4. "Class Vehicles" means 2013-2014 model year Nissan Pathfinder and 2013-2014 Infiniti JX35/QX60 vehicles equipped with the FK-*k2 CVT.

5. "Court" means the United States District Court for the Southern District of Florida in which the *Batista* case is pending.

6. "Criteria for VPP Pricing" means the criteria that a Settlement Class Member must satisfy in order to be eligible to receive VPP Pricing pursuant to the terms of this Settlement Agreement, which is: (1) he or she must be a former owner of a Class Vehicle as of the Notice Date; and (2) NNA warranty records reflect that, during the time that the Settlement Class Member owned the Class Vehicle, the Class Vehicle had two or more CVT replacements or repairs to the transmission assembly, torque converter and/or valve body.

7. "Effective Date of Settlement" means sixty-one (61) days after the date when the Final Order and Judgment in the Lawsuit is entered, if no appeal is timely filed or if no motion to extend the time for filing an appeal has been filed. If a motion to extend the time to file an appeal is

filed within sixty (60) days after the Final Order and Judgment in the Lawsuit is entered, then the Effective Date is the date on which the motion to extend is denied or, if granted after any appeal, as follows. If there is an appeal, the Effective Date shall be the date on which (a) all such appeals have been dismissed; or (b) the appropriate Court of Appeals has entered a final judgment affirming the Final Order and Judgment of the Court, which (i) is no longer subject to any further appellate challenge, or (ii) has been affirmed by the United States Supreme Court, whichever is earlier.

8. “Eligible Nissan or Infiniti Vehicle” means Nissan and Infiniti models and trim levels eligible for VPP Pricing under the Nissan and Infiniti Vehicle Purchase Program for Nissan and Infiniti contractors or business associates at the time the Settlement Class Member desires to purchase or lease a Nissan or Infiniti vehicle using VPP Pricing.

9. “Event of Termination” means any event terminating the Settlement Agreement, including but not limited to: (1) mutual written agreement of the parties to terminate the Settlement Agreement; (2) the Court denying any motion for preliminary or final approval of the Settlement; (3) any reviewing Court reversing the Court’s orders of preliminary or final approval of the Settlement; or (4) any other event set forth in this Settlement Agreement according to which the Settlement Agreement would be terminated.

10. “Excluded Claims” means (1) claims for personal injury, wrongful death, or physical damage to property other than a Class Vehicle or its component parts and (2) Future Transmission Claims.

11. “Expedited Resolution Process” means the exclusive and binding process for addressing any Future Transmission Claims, as well as any claim or dispute relating to or involving, in whole or in part, allegations related to the transmission in a Class Vehicle, which process is described in more detail in Exhibit A to this Settlement Agreement. No Settlement Class Member

may participate as a class representative or class member on any class claim against NNA related to claims covered by the Expedited Resolution Process.

12. “Fairness Hearing” means the final approval hearing(s) scheduled by the Court to determine whether to approve this Settlement, finally certify the Settlement Class, and to render an award of Attorneys’ Fees and Expenses.

13. “Final Order and Judgment” means the order and final judgment of the Court dismissing the Lawsuits with prejudice and approving this Settlement, substantially in the form of Exhibit “E” to this Settlement Agreement.

14. “Future Transmission Claims” means claims for breach of the New Vehicle Limited Warranty as modified by the Warranty Extension that first accrued after the Notice Date. No claim will be deemed to have accrued after the Notice Date, and a Settlement Class Member shall not have standing to assert any claim against NNA for breach of the New Vehicle Limited Warranty as modified by the Warranty Extension, unless the Settlement Class Member, after the Notice Date, takes their Class Vehicle to an authorized Nissan or Infiniti dealer, as appropriate for the make of Class Vehicle involved, and requests warranty coverage for a claimed defect in the transmission under the New Vehicle Limited Warranty and NNA fails to comply with the terms of the New Vehicle Limited Warranty. A claim based, in whole or in part, on any transmission performance issue, repair or repair attempt, or any other conduct or event before the Notice Date is not a Future Transmission Claim but is a Released Claim. Future Transmission Claims must be based entirely upon transmission performance issues, repairs or repair attempts, or any other conduct or event which occur after the Notice Date.

15. “Lawsuits” means the three proceedings captioned *Batista, et al. v. Nissan North America, Inc.*, Cause No. 14-cv-24728-RNS, on behalf of themselves and all others similarly

situated, pending in the United States District Court for the Southern District of Florida, Miami Division; *Gerardo Torres, et al. v. Nissan North America, Inc. and Nissan Motor Co., Ltd.*, Cause No. 2:15-cv-03251-RGK-FFM, on behalf of themselves and all others similarly situated, pending in the United States District Court for the Central District of California; and *Tung Nguyen, et al. v. Nissan North America, Inc.*, Cause No. 3:16-cv-00624, on behalf of themselves and all others similarly situated, pending in the United States District Court for the Middle District of Tennessee, Nashville Division.

16. “Long Form Notice” means the Court-approved long form of notice of this Settlement to be made available to the Settlement Class on the settlement website, and by the Settlement Administrator upon request, substantially in the form attached hereto as Exhibit “B.”

17. “NNA’s Counsel” means:

E. Paul Cauley, Jr.
SEDGWICK LLP
1717 Main Street, Suite 5400
Dallas, Texas 75201

18. “NNA” means Nissan North America, Inc.

19. “New Vehicle Limited Warranty” means the written limited warranty described in the applicable 2013-2014 model year Nissan Pathfinder or 2013-2014 model year Infiniti JX35/QX60 Warranty Information Booklet and all of its terms and conditions, including applicable limitations and exclusions.

20. “Notice” means the Court-approved form of notice of this Settlement to the Settlement Class, including the Summary Notice, Long Form Notice and other measures of providing notification to the Settlement Class of the Settlement, its terms and the Settlement Class Members rights and obligations.

21. “Notice and Settlement Administration Expenses” means all reasonable costs and expenses incurred in connection with preparing, printing, and mailing the Summary Notice and any costs incurred in administering the settlement.

22. “Notice Date” means the date on which the Settlement Administrator mails the Summary Notice or other such Court required Notice.

23. “Notice of ATCU Software Update” means a written notification by NNA to all current owners and lessees of the Class Vehicles for which NNA warranty records indicate their vehicles have not been updated with ATCU software that can set diagnostic trouble codes for detection of judder (pursuant to NTB 15-014, ITB 15-011, and updates or revisions to each), advising them to take their vehicles in to an authorized dealership to obtain the latest software free of charge.

24. “Parties” means Plaintiffs and NNA.

25. “Plaintiffs” means Kenai Batista, Andy Chance, Angela Matlin, Tung Nguyen, Boyong Park, and Gerardo Torres.

26. “Preliminary Approval Order” means the order of the Court, substantially in the form of Exhibit “D,” preliminarily approving the Settlement, as described in Paragraph 41, below.

27. “Related Parties” means NNA, Nissan Motor Co., Ltd., JATCO, Ltd. and, for each of such corporations, all of their past and present officers, directors, agents, designees, servants, sureties, attorneys, employees, parents, associates, shareholders, general or limited partners or partnerships, subsidiaries, divisions, affiliates, insurers, franchises, suppliers, dealers and all of their predecessors or successors in interest, assigns, or legal representatives, as well as any other person, company, or entity in the chain of distribution of a Class Vehicle or component of such Class Vehicle.

28. “Released Claims” means and includes any and all claims, demands, rights, damages, obligations, suits, debts, liens, contracts, agreements, and causes of action of every nature and description whatsoever, ascertained or unascertained, suspected or unsuspected, accrued or unaccrued, existing or claiming to exist, including those unknown, both at law and equity which have been brought, which might or could have been brought, and which might be brought in the future upon the happening of certain events, against the Released Parties, or any of them, based upon or in any way related to “transmission judder,” or transmission design, manufacturing or performance, including but not limited to all claims asserted in the Lawsuits, whether based upon breach of contract, violation of a duty sounding in tort, violation of any state or federal statute or regulation, violation of any state consumer protection statute or regulation (including any lemon law statute or regulation), fraud, unjust enrichment, money had and received, restitution, equitable relief, punitive or exemplary damages and civil penalties and fines or any other claims whatsoever under federal or state law. The “Released Claims” shall explicitly extend to and include any claim for attorneys’ fees, expenses, costs, and catalyst fees under any state’s law or under federal law. The “Released Claims” do not include “Excluded Claims” defined above.

29. “Released Parties” means NNA and all Related Parties.

30. “Settlement” means the agreement between the Parties, as embodied in the Settlement Agreement, including all exhibits attached to the Settlement Agreement.

31. “Settlement Class” means all current and former owners or lessees of Class Vehicles in the United States and its territories including Puerto Rico. Excluded from the Settlement Class are: (1) NNA, any entity or division in which NNA has a controlling interest, its/their legal representatives, officers, directors, assigns and successors; (2) any judge to whom this case is

assigned and the judge's clerks and any member of the judge's immediate family; and (3) fleet and government purchasers and lessees.

32. "Settlement Class Members" means all persons who are members of the Settlement Class, except those who validly request exclusion from the Settlement Class.

33. "Settling Parties" includes all Settlement Class Members and NNA.

34. "Settlement Administrator" means Kurtzman Carson Consultants, LLC ("KCC"), or such other third party administrator to which the parties shall mutually agree, to handle the notice program and claims administration process.

35. "Summary Notice" means the Court-approved form of notice of this Settlement to the Settlement Class, consisting of a notice to be sent to the Settlement Class, substantially in the form of Exhibit "C" to the Settlement Agreement.

36. "VPP Pricing" means the price at which eligible Nissan and Infiniti contractors may purchase or lease an eligible new Nissan or Infiniti vehicle under the Nissan and Infiniti Vehicle Purchase Program.

37. "Warranty Extension" means extension of the time and mileage durational limits applicable to powertrain coverage under the applicable New Vehicle Limited Warranty, but only as to the transmission assembly (including the valve body and torque converter), by twenty-four (24) months or twenty-four thousand (24,000) miles, whichever occurs first. The Warranty Extension does not apply to the Automatic Transmission Control Unit ("ATCU") and related software, nor does it apply to any other powertrain component parts.

REQUIRED EVENTS

Promptly after the execution of this Settlement Agreement:

38. Plaintiffs in the *Torres* and *Nguyen* cases will take no further action pending preliminary and final approval of the Settlement, but will inform their courts of the pending

settlement on behalf of a nationwide class for which approval will be sought that would resolve their cases as well, and may seek a formal stay if necessary or required by those courts.

39. Class Counsel shall take all necessary steps to obtain preliminary approval of the Settlement in the *Batista* case and, having done so, shall take all necessary steps consistent with this Settlement Agreement to obtain final approval of the Settlement and the Final Order and Judgment.

40. By October 5, 2016, Plaintiffs shall file a Second Amended Complaint in the *Batista* case. The Complaint will add Plaintiffs Tung Nguyen, Angela Matlin, and Gerardo Torres as class representatives and remove Crystal Quebral as a named Plaintiff. The Complaint will seek certification of a nationwide class of current and former owners or lessees of Class Vehicles.

41. By October 5, 2016, Class Counsel in the *Batista* case shall make a good faith effort to file a Motion for Preliminary Approval of Proposed Settlement (“Motion for Preliminary Approval”) and seek a hearing on the Motion for Preliminary Approval by October 7, 2016. In their Motion for Preliminary Approval, Plaintiffs will submit the Settlement Agreement to the Court for Preliminary Approval and shall move for one or more orders in substantially the same form as Exhibit “D” (the Preliminary Approval Order), which by their terms shall:

- a. Preliminarily approve the terms of the Settlement;
- b. Conditionally certify the Settlement Class for Settlement purposes only;
- c. Approve the Summary Notice and Long Form Notice to be given to the Settlement Class advising them of the Settlement and of the Fairness Hearing to be held to determine the fairness, reasonableness and adequacy of the Settlement; and
- d. Schedule a hearing to review objections, if any, comments, and other issues regarding the Settlement and to consider the fairness, reasonableness and adequacy of the Settlement and the application for an award of Attorneys’ Fees and Expenses, and to consider whether the Court should issue a Final Order and Judgment (in substantially the form attached as Exhibit “E”) approving the Settlement, dismissing the *Batista* case with prejudice as to NNA, and ruling upon the fairness and reasonableness of the Attorneys’ Fees and Expenses.

42. The Parties agree that certification will be sought under the Federal Rules of Civil Procedure on an opt-out basis.

43. At least three (3) days prior to the filing of the Motion for Preliminary Approval, Class Counsel will give NNA an opportunity to review and comment on the draft Motion for Preliminary Approval. NNA will not oppose the preliminary certification of the Settlement Class, but NNA may, at its discretion, submit such briefing as it deems necessary to support the Motion for Preliminary Approval, clarify its positions, and otherwise protect its interests.

44. No later than twenty-eight (28) days before the date set by the Court for the Fairness Hearing, Class Counsel will file a motion for Final Approval of the Settlement and Certification of the Settlement Class (the "Motion for Final Approval"), requesting that the Court enter a Final Order and Judgment, in substantially the same form attached to this Settlement Agreement as Exhibit "E," which will, among other things, dismiss the *Batista* case with prejudice as to NNA, subject to the continuing jurisdiction of the Court as set forth in Paragraph 83 below, approve the Settlement, certify the Settlement Class and render an award of Attorneys' Fees and Expenses. At least five (5) days prior to the filing of the Motion for Final Approval, Class Counsel will give NNA an opportunity to review and comment on the draft Motion for Final Approval. NNA will not oppose Final Approval but NNA may, at its discretion, submit such briefing as it deems necessary to support the Motion for Final Approval, clarify its positions, and otherwise protect its interests. Such briefing by NNA will be due no later than fourteen (14) days before the date set by the Court for the Fairness Hearing, and NNA shall, at least three (3) days prior the filing of any such brief, give Class Counsel the opportunity to review and comment on the draft brief. Class Counsel and NNA's Counsel shall also be entitled to file responses to any Objections which may have been filed, which responses shall be filed fourteen (14) days prior to the date set by the Court for the Fairness Hearing.

45. Within seven (7) days after Final Approval of the Settlement by the Court, Plaintiffs in the *Batista* and *Nguyen* cases will take all further necessary actions, to have those cases and any associated appeals dismissed.

46. The Parties acknowledge that prompt approval, consummation, and implementation of the Settlement set forth in this Settlement Agreement are essential. The Parties shall cooperate with each other in good faith to carry out the purposes of and effectuate this Settlement Agreement, shall promptly perform their respective obligations hereunder, and shall promptly take all actions and execute and deliver all additional documents and all other materials and/or information reasonably necessary or appropriate to carry out the terms of this Settlement Agreement and the transactions contemplated hereby.

47. In the event that the Court fails to grant Preliminary Approval or fails to issue a Final Order and Judgment, Class Counsel and NNA's Counsel agree to use all reasonable efforts, consistent with this Settlement Agreement, to address and resolve any concerns identified by the Court.

RELIEF TO SETTLEMENT CLASS MEMBERS AND PLAINTIFF PARK

48. NNA agrees to extend the time and mileage durational limits for powertrain coverage under the applicable New Vehicle Limited Warranty for Class Vehicles to the extent it applies to the transmission assembly (including the valve body and torque converter) by twenty-four (24) months or twenty-four thousand (24,000) miles, whichever occurs first. The Warranty Extension does not apply to the Automatic Transmission Control Unit ("ATCU") and related software, nor does it apply to any other powertrain components.

49. The Warranty Extension will be subject to the terms and conditions of the original applicable New Vehicle Limited Warranty, which excludes coverage for, among other things,

damage resulting from alteration, tampering, improper repair, misuse, environmental conditions, and/or lack of or improper maintenance.

50. NNA also agrees to send a Notice of ATCU Software Update to all current owners and lessees of the Class Vehicles for which NNA warranty records indicate their Class Vehicles have not been updated with ATCU software that can set diagnostic trouble codes for detection of judder. The form and content of such notice will be in the complete discretion of NNA. The notice will be sent within thirty (30) days after the Effective Date of Settlement but NNA may send the Notice of ATCU Software Update at an earlier date at its sole discretion.

51. For former owners of Class Vehicles who meet the Criteria for VPP Pricing and become Authorized VPP Participants, NNA agrees to provide VPP Pricing for either a purchase or lease of a single Eligible Nissan or Infiniti Vehicle so long as the Authorized VPP Participant purchases or leases an Eligible Nissan or Infiniti Vehicle on or before March 15, 2018.

52. Former owners of Class vehicles will be determined by the Settlement Administrator based on vehicle registration data obtained in the manner provided in ¶ 58 below. That list of former owners and associated VINs will be checked against a list of VINs provided by NNA from a search of its warranty records for Class Vehicles that had two or more CVT replacements or repairs to the transmission assembly, torque converter and/or valve body. Within twenty-eight days after the Effective Date of Settlement, the Settlement Administrator will send former owners, determined through this process to meet the Criteria for VPP Pricing, a notice advising them that they are an Authorized VPP Participant.

53. In exchange for a complete release of all claims against the Released Parties by Plaintiff Boyong Park, who is not a Settlement Class Member under Paragraph 32, NNA agrees to pay Mr. Park \$5,000. NNA also agrees to have a field representative meet Mr. Park at a Nissan

dealership at a mutually agreeable time to assist the dealership in evaluating performance of the CVT on Mr. Park's vehicle and determine whether any repairs or updates are needed. If such repairs are needed, Nissan will perform them at no cost to Mr. Park.

NOTICE TO THE SETTLEMENT CLASS

54. The Settlement Administrator shall be responsible for implementing Notice to the Settlement Class in the manner described in this Settlement Agreement.

55. Dissemination of Notice to the Settlement Class shall be accomplished as described in Paragraphs 59-61, below. The Settlement Administrator shall be responsible for: (i) mailing of the Summary Notice, and (ii) responding to requests for the Notice. All Notice and Settlement Administration Expenses shall be paid by NNA.

56. The Settlement Administrator shall sign a confidentiality agreement in a form agreed to by Class Counsel and NNA's Counsel, which shall provide that the names, addresses and other information about specific Settlement Class Members provided by either Class Counsel, NNA or by individual Settlement Class Members, shall all be treated as confidential and shall be used by the Settlement Administrator only as required by this Settlement Agreement.

57. The Parties agree the names and addresses, or other identifying information, of Settlement Class Members shall not be provided to Class Counsel by NNA, NNA's Counsel, or the Settlement Administrator.

58. NNA will provide the Settlement Administrator with Vehicle Identification Number (VIN) information for all Class Vehicles. Using this VIN information, the Settlement Administrator will obtain address data for the Settlement Class Members from a qualified third-party, such as IHS/R.L. Polk, that maintains databases related to the automobile industry and which specializes in obtaining such information from, inter alia, the Department of Motor Vehicles of all fifty (50) States in the United States and its territories, including Puerto Rico. The Settlement Administrator will

review the address data provided by the third-party vendor, check addresses for validity, eliminate duplications and process the addresses through the National Change of Address database for the purpose of updating the addresses.

59. The Settlement Administrator shall only mail a single, direct mail post card with the Summary Notice, postage prepaid, via the United States Postal Service to the Settlement Class. The Notice shall be substantially in the same form as the exemplar submitted as Exhibit “C” to this Settlement Agreement, as approved by the Court. The Settlement Administrator shall also cause any other elements of Notice (including activation of the settlement website) to take place on or about the Notice Date.

60. The Settlement Administrator shall utilize the United States Postal Service to attempt, on a one-time basis, to secure updated addresses for any Settlement Class Member whose Summary Notice is returned as undeliverable and resend the Summary Notice to the updated address.

61. The Settlement Administrator shall create and maintain a dedicated website for information about this Settlement (“Settlement Website”), on which the Settlement Administrator will make available for download in portable document format (1) the Long Form Notice as approved by the Court and (2) other documents and pleadings as agreed by the Parties. The Settlement Administrator will also provide a link to the Settlement Website in the Summary Notice, maintain a toll free number and an email address for Settlement Class Members to seek answers to questions about the Settlement, and provide a reference to the toll free number and email address in the Summary Notice.

62. The Settlement Administrator shall have the responsibility to prepare and provide the notices required by the Class Action Fairness Act of 2005, Pub. L. 109-2 (2005), including but not limited to, the notices to the United States Department of Justice and to the Attorneys General of all

States in which Settlement Class Members reside, as specified in 28 U.S.C. § 1715. Class Counsel and NNA's Counsel shall cooperate in the drafting of such notices, and Class Counsel shall provide to NNA's Counsel, upon request, any and all information in its possession necessary for the preparation of these notices.

63. No later than thirty-five (35) days prior to the Fairness Hearing, the Settlement Administrator shall provide a declaration to the Court, with a copy to Class Counsel and NNA's Counsel, attesting that Notice was disseminated in a manner consistent with the terms of this Settlement Agreement, or those otherwise required by the Court.

64. The Notice described in Paragraph 20, the website(s) contemplated by paragraph 61, and the permitted response to inquiries in paragraph 61, will be the only type of notice to the public or Settlement Class Members about the Settlement, and Plaintiffs may not advertise or publicize the Settlement by any other means, with the exception that Class Counsel will be permitted to put notification on their firms' websites (a) advising of the settlement and (b) directing potential class members to the Settlement Website.

65. Counsel for the Parties will be permitted to respond to inquiries from reporters regarding the Settlement with a jointly prepared statement or response, which the Parties shall jointly prepare prior to the date that the Preliminary Approval Order is entered, but counsel for the Parties shall not initiate communication with reporters, or any form of print, digital, social or broadcast media directly or through representatives concerning the specific terms of this Settlement beyond information that may be included on the firms' websites as described above.

66. Nothing in this Settlement Agreement shall prevent (1) NNA from communicating with its dealers and/or customers (including owners or lessees of Class Vehicles) at any time for purposes of customer satisfaction, as NNA generally communicates with its dealers and/or

owners/lessees in the ordinary course of its business, or (2) Class Counsel from responding to inquiries from Settlement Class Members after preliminary approval of the Settlement.

67. Nothing in this Settlement Agreement shall prevent NNA from communicating, and it is contemplated that NNA may communicate, after preliminary approval of the Settlement, with its dealers and customers (including owners and lessees of Class Vehicles) concerning the Warranty Extension and NNA may indicate the Warranty Extension is being provided as a customer satisfaction effort to address customer concerns, including those expressed by the named Plaintiffs in the Lawsuits. NNA's official communications to its dealers and/or owners/lessees of Class Vehicles will explain that the Warranty Extension is subject to final approval of the Settlement. After preliminary approval and prior to final approval, NNA may also reimburse dealers for making repairs that would be covered by the Warranty Extension.

OBJECTIONS AND REQUESTS FOR EXCLUSION BY SETTLEMENT CLASS MEMBERS

68. Any Settlement Class Member who intends to object to the fairness, reasonableness, and/or adequacy of the Settlement (an "Objection") must file a written Objection with the Court, and mail a copy to NNA's Counsel and Class Counsel at the addresses set forth below. The Summary Notice will provide a specific date by which the Objection must be filed and copies postmarked, which date will be thirty-five (35) days prior to the Fairness Hearing date specified in the Notice.

69. To state a valid Objection to the Settlement, a Settlement Class Member making an Objection must provide the following information in his or her written Objection: (i) the Settlement Class Member's full name and current address; (ii) the model year and make of his or her vehicle(s) and approximate date(s) of purchase; (iii) whether the Settlement Class Member still owns the vehicle(s); (iv) the VIN number of the vehicle(s); (v) current odometer mileage of the vehicle(s) currently owned; (vi) a specific and clear statement of the Settlement Class Member's reasons for

objecting to the Settlement, including the factual and legal grounds for his or her position; (vii) a detailed list of any other objections to any class action settlements submitted to any court, whether State, Federal, or otherwise, in the United States in the previous five (5) years; (viii) whether the Settlement Class Member intends to appear at the Fairness Hearing and whether the Settlement Class Member will be represented by separate counsel; and (ix) the Settlement Class Member's signature with the date of signature.

70. No Settlement Class Member shall be entitled to be heard at the Fairness Hearing (whether individually or through separate counsel) or to object to the Settlement Agreement, and no written Objection or brief submitted by any Settlement Class Member shall be received or considered by the Court at the Fairness Hearing, unless written notice of the Settlement Class Member's intention to appear at the Fairness Hearing and copies of any written Objections or briefs have been filed with the Court and served on Class Counsel and NNA's Counsel on or before the date specified in the Preliminary Approval Order and Summary Notice. Settlement Class Members who fail to timely file and serve a written Objection in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement Agreement.

71. Objections must be served:

Upon NNA's Counsel at:

E. Paul Cauley, Jr.
SEDGWICK LLP
1717 Main Street, Suite 5400
Dallas, Texas 75201

Upon Class Counsel at:

F. Jerome Tapley
CORY WATSON, P.C.
2131 Magnolia Avenue

Birmingham, Alabama 35205

72. Settlement Class Members may elect to exclude themselves from this Settlement Agreement, relinquishing their rights to benefits under this Settlement Agreement. A Settlement Class Member wishing to exclude himself/herself from the Settlement must send to the Settlement Administrator a signed letter including (i) his/her name, (ii) address, (iii) telephone number, (iv) model and year of vehicle, (v) the VIN number of the vehicle(s); (vi) mileage at the time of Notice, and (vii) a clear statement communicating that he/she elects to be excluded from the Settlement Class, does not wish to be a Settlement Class Member, and elects to be excluded from any judgment entered pursuant to this Settlement Agreement. Any request for exclusion must be postmarked on or before the exclusion deadline provided in the Court's Preliminary Approval Order and the Summary Notice, or on or before such other date set by the Court. The date of the postmark on the return mailing envelope shall be the exclusive means used to determine whether a request for exclusion has been timely submitted. Settlement Class Members who fail to submit a valid and timely request for exclusion on or before the date specified in the Preliminary Approval Order and Notice, shall be bound by all terms of the Settlement Agreement and the Final Order and Judgment, regardless of whether they have requested exclusion from the Settlement.

73. Any Settlement Class Member who submits a timely request for exclusion may not file an Objection to the Settlement and shall be deemed to have waived any rights or benefits under the Settlement.

74. Not later than three (3) business days after the deadline for submission of requests for exclusion, the Settlement Administrator shall provide to Class Counsel and NNA's Counsel a complete exclusion list together with copies of the exclusion requests.

75. Notwithstanding any other provision of this Settlement Agreement, if the number of Settlement Class Members who exclude themselves from the Settlement is in excess of two hundred fifty (250) as of the date set forth in the Notice, NNA, in its sole discretion, may rescind and revoke the entire Settlement and this Settlement Agreement, thus rendering the Settlement void in its entirety. To do so, NNA shall send written notice that NNA revokes the Settlement pursuant to this Paragraph to Class Counsel within fourteen (14) days following the date the Settlement Administrator informs NNA of the number of Settlement Class Members who have requested exclusion from the Settlement pursuant to paragraph 72.

76. Upon expiration of the deadlines for filing objections and requests for exclusion from the Settlement as set forth in the Preliminary Approval Order and Summary Notice, and on the date set forth in the Preliminary Approval Order and Summary Notice, the Fairness Hearing shall be conducted to determine final approval of the Settlement, along with the amount properly payable for Attorneys' Fees and Expenses. Upon final approval of the Settlement by the Court at or after the Fairness Hearing, the Parties shall present the Final Order and Judgment, substantially in the form attached to this Settlement Agreement as Exhibit "E," to the Court for approval and entry.

RELEASES, DISMISSAL OF THE LAWSUITS AND FUTURE CLAIMS

77. It is agreed that upon the Effective Date of Settlement, all Settlement Class Members and their heirs, executors, estates, predecessors, successors, assigns, agents and representatives shall be deemed to have jointly and severally released, and forever discharged, NNA and the Related Parties from any and all Released Claims, whether known or unknown, and shall be fully and forever barred and enjoined from instituting or prosecuting in any court or tribunal, either directly or indirectly, individually or representatively, any and all Released Claims against NNA or the Related Parties.

78. Settlement Class Members who have timely requested exclusion from the settlement by the date set by the Court do not release their claims, and will not obtain any of the benefits of the Settlement.

79. It is further agreed that, upon the Effective Date of Settlement, Plaintiff Park and his heirs, executors, estates, predecessors, successors, assigns, agents and representatives shall be deemed to have jointly and severally released, and forever discharged, NNA and the Related Parties from any and all Released Claims, whether known or unknown, and shall be fully and forever barred and enjoined from instituting or prosecuting in any court or tribunal, either directly or indirectly, individually or representatively, any and all Released Claims against NNA or the Related Parties.

80. The claims released, settled, and compromised by this Settlement Agreement include known and unknown claims relating to the claims in the Lawsuits, and this Settlement Agreement is expressly intended to cover and include all such injuries or damages relating to the claims in the Lawsuits, including all rights of action thereunder. Settlement Class Members and Plaintiffs, including Park, expressly, knowingly, and voluntarily waive the provisions of Section 1542 of the California Civil Code, which provides as follows:

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.

Settlement Class Members and Plaintiffs, including Park, expressly waive and relinquish any and all rights and benefits which they may have under, or which 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 which is similar, comparable, or equivalent to Section 1542, to the fullest extent that they may lawfully waive such rights or benefits pertaining to the Released Claims. In connection with such

waiver and relinquishment, the Settlement Class Members and Plaintiffs, including Park, acknowledge that they are aware that they or their attorneys may hereafter discover claims or facts in addition to or different from those which they now know or believe to exist with respect to the Released Claims, but that it is their intention to fully, finally, and forever settle and release all of the Released Claims known or unknown, suspected or unsuspected, which they have against NNA or Related Parties. In furtherance of such intention, the release herein given by the Settlement Class Members and Plaintiffs, including Park, to NNA and Related Parties shall be and remain in effect as a full and complete general release of the Released Claims notwithstanding the discovery or existence of any such additional different claims or facts.

81. All Future Transmission Claims, as well as any claim or dispute relating to or involving, in whole or in part, allegations related to the transmission in a Class Vehicle will be governed exclusively by the Expedited Resolution Process.

82. Upon the Effective Date of Settlement, the Class Action Complaints in the Lawsuits shall be dismissed with prejudice. Plaintiffs in the *Batista, Torres* and *Nguyen* cases agree to voluntarily dismiss, with prejudice, all claims and causes of action relating to the Class Vehicles, including all appeals in any capacity.

83. With the exception of Future Transmission Claims which are subject to the Expedited Resolution Process, and notwithstanding the dismissal of the Lawsuits, the Court shall retain jurisdiction over the Parties to the Settlement Agreement with respect to the future performance of the terms of the Settlement Agreement including, but not limited to, whether any claim being asserted in any Court or forum is released by the terms of the Settlement Agreement. Any dispute about whether the Expedited Resolution Process applies to a claim or dispute must be presented to the Court unless both parties to that dispute agree to have another court or person decide the issue.

84. Upon the Effective Date of Settlement: (a) the Settlement Agreement shall be the exclusive remedy for any and all Released Claims of Settlement Class Members; (b) the Released Parties shall not be subject to liability or expense of any kind other than obligations under this Settlement Agreement to any Settlement Class Members; and (c) Settlement Class Members shall be permanently barred and enjoined from initiating, asserting, or prosecuting any Released Claim against the Released Parties in any federal or state court or tribunal.

**EFFECT OF CERTIFICATION AND DISAPPROVAL, CANCELLATION OR
TERMINATION OF THE SETTLEMENT**

85. For purposes of settlement only, the Parties and their counsel agree that the Court should make preliminary findings and enter the Preliminary Approval Order granting provisional certification of the Settlement Class subject to final findings and ratification in the Final Order and Judgment, and appointing Class Representatives and Class Counsel.

86. NNA does not consent to certification of the Settlement Class for any purpose other than to effectuate the Settlement of the Action. If this Settlement Agreement is terminated for any reason, or the Effective Date of Settlement for any reason does not occur, the order certifying the Settlement Class for purposes of effectuating this Settlement Agreement, and all preliminary and/or final findings regarding that class certification order, shall be automatically vacated upon notice of the same to the Court, the Lawsuits shall proceed as though the Settlement Class had never been certified pursuant to this Settlement Agreement and such findings had never been made, the Lawsuits shall return to the procedural *status quo* in accordance with this paragraph, and NNA shall have the right to object to certification of the Settlement Class or any other class at any future time.

87. In the event an appeal is filed from the Court's Final Order and Judgment, or any other appellate review is sought prior to the Effective Date of Settlement, administration of the Settlement shall be stayed pending final resolution of the appeal or other appellate review.

SETTLEMENT NOT EVIDENCE AGAINST PARTIES

88. The Released Parties deny any and all allegations set forth in the Lawsuits and deny all wrongdoing. This Settlement Agreement is not a concession or admission, and shall not be used against any of the Released Parties as an admission or indication with respect to any claim of any fault, concession, or omission by any of the Released Parties. Whether or not the Settlement Agreement is finally approved, neither the Settlement Agreement, nor any document, statement, proceeding, or conduct related to this Settlement Agreement, nor any reports or accounts thereof, shall be: (i) construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose, including, but not limited to, evidence of a presumption, concession, indication or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession or damage; or (ii) disclosed or referred to for any purpose, or offered or received in evidence, in any further proceeding in the Lawsuits, or any other civil, criminal, or administrative action or proceeding against any of the Released Parties except for purposes of settling the Lawsuits pursuant to this Settlement Agreement. The limitations set forth in this paragraph do not apply to use and/or disclosure by any of the Released Parties against Settlement Class Members or third parties, including, without limitation, for purposes of supporting a defense or counterclaim of res judicata, collateral estoppel, release, good faith settlement, judgment bar, offset, reduction, or any other theory or claim of issue preclusion or similar defense or counterclaim.

89. Whether or not this Settlement Agreement is finally approved by the Court, the Parties agree that the Settlement Agreement shall not constitute evidence of the propriety of class certification for the purpose of litigation or for trial in the Lawsuits or any other case.

ATTORNEYS' FEES AND EXPENSES

90. Class Counsel shall be entitled to apply to the Court for an award of reasonable Attorneys' Fees and Expenses in a total amount up to, but not to exceed, \$3,750,000 (three million,

seven hundred fifty thousand dollars). Class Counsel may also apply to the Court for an award to class representatives Kenai Batista, Andy Chance, Angela Matlin, Tung Nguyen and Gerardo Torres (“Class Representatives”) of an incentive payment of \$5,000 per Class Representative. The award of Attorneys’ Fees and Expenses will include all fees, expenses, and costs for Class Counsel in the Lawsuits. Class Counsel shall not be permitted to petition the Court for any additional payments for fees (including catalyst fees), costs, expenses or incentive awards, and the award shall be for all claims for Attorneys’ Fees and Expenses and incentive awards past, present, and future incurred in the Lawsuits. The actual amount of any award of Attorneys’ Fees and Expenses will be determined by the Court. The Parties negotiated and agreed to the amount of Attorneys’ Fees and Expenses for which Class Counsel could apply only after reaching agreement upon all other material terms of this Settlement Agreement.

91. NNA and its attorneys agree not to oppose any applications for Attorneys’ Fees and Expenses of \$3,750,000 (three million, seven hundred fifty thousand dollars) or less by Class Counsel and the Class Representative incentive payment of \$5,000 to each Class Representative, so long as such applications are consistent with the provisions of this Settlement Agreement, and further agree to pay any amount awarded by the Court for Attorneys’ Fees and Expenses that does not exceed \$3,750,000 (three million, seven hundred fifty thousand dollars).

92. Any Attorneys’ Fees and Expenses awarded by the Court to Class Counsel and incentive awards awarded by the Court to Plaintiffs shall be paid by NNA through direct wire transfer to an escrow account maintained by Cory Watson, P.C., within twenty-eight (28) days after the Effective Date of Settlement. In the event of an appeal of the approval of the Settlement or of the Court’s award of Attorneys’ Fees and Expenses, the awarded amount of Attorneys’ Fees and Expenses shall, within ten (10) days after a Notice of Appeal is filed, be deposited in an interest

bearing account at an institution approved by both NNA's Counsel and Class Counsel. Within twenty-eight (28) days after the final resolution of any appellate proceedings and related Court proceedings with regard to the approval of the Settlement or award of Attorneys' Fees and Expenses, assuming such court approval has been upheld and affirmed, the amount of Attorneys' Fees and Expenses awarded by the Court shall be paid to Class Counsel, together with all accrued interest on the said amount. Such a deposit shall have the effect of superseding any judgment or order pertaining to awarding Class Counsel attorneys' fees, expenses, costs, and catalyst fees under any state's law or under federal law pending the resolution of the appeal. NNA shall have no liability or other responsibility for the allocation of the Attorneys' Fees and Expenses among and between Class Counsel, or for the allocation of the incentive payments among and between Plaintiffs. Class Counsel shall distribute the Attorneys' Fees and Expenses amount awarded among all of the Plaintiffs' Counsel, in their sole discretion. In the event any dispute arises relating to the allocation of the Attorneys' Fees and Expenses, Class Counsel agree to hold NNA harmless from any and all liabilities, costs and expenses relating to such dispute.

93. NNA's payment of the Attorneys' Fees and Expenses, as described in this Settlement Agreement, shall constitute full satisfaction of NNA's obligation to pay any person, attorney, or law firm for attorneys' fees, costs, and expenses incurred on behalf of the Plaintiffs and the Settlement Class, and shall relieve NNA and the Related Parties from any other claims or liability to any other attorney, law firm, or person for any attorneys' fees, expenses, and costs to which any of them may claim to be entitled on behalf of Plaintiffs and the Settlement Class that are in any way related to the Released Claims.

94. In the event that Class Counsel seek, request, or apply in any forum, in connection with this Settlement or the claims asserted in the Lawsuits, for an award of Attorneys' Fees and

Expenses in excess of \$3,750,000 (three million, seven hundred fifty thousand dollars), as described in Paragraph 90, above, NNA shall have the right, in its sole discretion, to terminate, cancel, and/or set aside this Settlement Agreement, in which event the Settlement would become null and void. Plaintiffs and Class Counsel agree that no application for an award for Attorneys' Fees and Expenses in connection with the Lawsuits shall be submitted, filed, or pursued in any forum other than the Court. If NNA opposes Class Counsel's request for Attorneys' Fees and Expenses of \$3,750,000 (three million, seven hundred fifty thousand dollars) or less, or seeks a judgment awarding less than \$3,750,000 (three million, seven hundred fifty thousand dollars), Plaintiffs shall have the right to argue for an alternate award and accept whatever Attorneys' Fee and Expense award is entered by the Court.

95. In the event that this Settlement Agreement is not finally approved by the Court, the Parties agree that Class Counsel shall not be entitled to and shall not seek any Attorneys' Fees and Expenses in connection with any benefits received by any Settlement Class Members related to the proposed Settlement under this Settlement Agreement. This prohibition on seeking Attorneys' Fees and Expenses is inapplicable if NNA exercises its rights under ¶ 75, although NNA retains the right to oppose entitlement to any Attorneys' Fees and Expenses which it disputes.

CONFIDENTIAL DISCOVERY MATERIALS

96. Within sixty (60) days of the Effective Date of Settlement, Class Counsel shall comply with the return or destruction of documents provision under the terms and conditions of the Agreed Protective Order entered between the Parties in the Lawsuits.

REPRESENTATIONS, WARRANTIES AND COVENANTS

97. Class Counsel who are signatories to this Settlement Agreement represent and warrant that they have the authority, on behalf of all Plaintiffs, to execute, deliver, and perform this Settlement Agreement and to consummate the transactions contemplated by this Settlement

Agreement. Class Counsel further warrant and represent that they have authority to seek the dismissal with prejudice of the Lawsuits, as contemplated above. This Settlement Agreement has been duly and validly executed and delivered by Class Counsel, individually and on behalf of Plaintiffs, and constitutes their legal valid and binding obligation.

98. NNA represents and warrants that NNA has the authority to execute, deliver, and perform this Settlement Agreement and to consummate the transactions contemplated by this Settlement Agreement. The execution, delivery, and performance by NNA of this Settlement Agreement and the consummation by NNA of the actions contemplated by this Settlement Agreement have been duly authorized by all necessary corporate action on the part of NNA. This Settlement Agreement has been duly and validly executed and delivered by NNA, by and through NNA's Counsel, and constitutes NNA's legal, valid, and binding obligation.

MISCELLANEOUS PROVISIONS

99. The headings in this Settlement Agreement are included for convenience only and shall not be deemed to constitute part of this Settlement Agreement or to affect its construction.

100. This Settlement Agreement, including all appendices and exhibits attached to this Settlement Agreement, may not be modified or amended except in writing signed by all Parties to this Settlement Agreement.

101. This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

102. The terms of this Settlement Agreement shall be governed by and construed in accordance with the substantive laws of the State of Tennessee, without giving effect to any of its conflict of laws provisions.

103. Except as specifically provided in this Settlement Agreement, the Parties shall each bear their own costs and attorneys' fees, including taxable Court costs.

104. All of the exhibits to this Settlement Agreement are material and integral parts of this Settlement Agreement and are fully incorporated into this Settlement Agreement by this reference. This Settlement Agreement and the Exhibits to this Settlement Agreement constitute the entire, fully integrated agreement among the Parties and void, cancel, and supersede all prior written and unwritten agreements and understandings pertaining to the Settlement. The Parties each covenant and warrant that they have not relied upon any promise, representation, or undertaking not set forth in writing herein to enter into this Settlement Agreement.

105. If any provision, paragraph, article, or other portion of this Settlement Agreement is found to be void, all of the remaining portions of this Settlement Agreement shall remain in effect and be binding upon mutual agreement of the Parties.

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

107. Any notice, request or instruction or other document to be given by any Party to this Settlement Agreement to any other Party to this Settlement Agreement (other than the Notice to the Settlement Class) shall be in writing and delivered via e-mail:

Upon NNA at:

E. Paul Cauley, Jr.
SEDGWICK LLP
1717 Main Street, Suite 5400
Dallas, Texas 75201
Email: paul.cauley@sedgwicklaw.com

Upon Class Counsel at:

F. Jerome Tapley
Hirlye R. "Ryan" Lutz, III
Adam W. Pittman
CORY WATSON, P.C.
2131 Magnolia Avenue
Birmingham, AL 35205
ftapley@cwcd.com
rlutz@corywatson.com
apittman@corywatson.com

Lawrence Deutsch
Jeffrey L. Osterwise
BERGER & MONTAGUE, P.C.
1622 Locust Street
Philadelphia, PA 19103
ldeutsch@bm.net
josterwise@bm.net

C. Richard Newsome
William Ourand
NEWSOME MELTON, LLP
201 S. Orange Ave, Suite 1500
Orlando, FL 32801
newsome@newsomelaw.com
ourand@newsomelaw.com

Ronald P. Weil
Mary Olszewska
WEIL QUARANTA, P.A.
200 S. Biscayne Blvd., Suite 900
Miami, FL 33131
rweil@weilquaranta.net
molszewska@weilquaranta.net

Jordan L. Lurie
Robert Friedl
CAPSTONE LAW APC
1840 Century Park East, Suite 450
Los Angeles, CA 90067
Robert.Friedl@capstonelawyers.com
Jordan.Lurie@capstonelawyers.com

108. All applications for Court approval or Court orders required or permitted under this Settlement Agreement shall be made with reasonable prior notice to all Parties.

109. The determination of the terms of, and the drafting of, this Settlement Agreement including its exhibits, has been by mutual agreement after negotiation, with consideration by, and participation of all Parties and their counsel. Because this Settlement Agreement was drafted with the participation of all Parties and their counsel, the presumption that ambiguities shall be construed against the drafter does not apply. Each of the Parties was represented by competent and effective counsel throughout the course of Settlement negotiations and in the drafting and execution of this

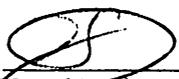
Settlement Agreement, and there was no disparity in bargaining power among the Parties to this Settlement Agreement.

110. The Parties agree to hold all proceedings in the Lawsuits, except such proceedings as may be necessary to implement and complete the Settlement Agreement, in abeyance pending the Fairness Hearing to be conducted by the Court.

111. The Parties believe that this Settlement Agreement is a fair, adequate, and reasonable settlement of the Lawsuits and have arrived at this Settlement through arm's length negotiations, taking into account all relevant factors, present, and potential.

THE PARTIES:

PLAINTIFFS

By: 

Kenai Batista

By: _____
Andy Chance

By: _____
Angela Matlin

By: _____
Tung Nguyen

By: _____
Boyong Park

Settlement Agreement, and there was no disparity in bargaining power among the Parties to this Settlement Agreement.

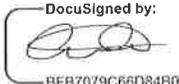
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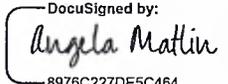
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Kenai Batista

By: _____
Andy Chance

By: _____
Angela Matlin

By: *Tung Nguyen* _____
Tung Nguyen

By: _____
Boyong Park

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THE PARTIES:

PLAINTIFFS

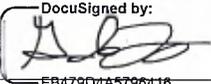
By: _____
Kenai Batista

By: _____
Andy Chance

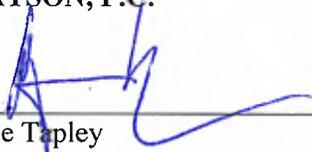
By: _____
Angela Matlin

By: _____
Tung Nguyen

By:  _____
Boyong Park

DocuSigned by:

By: _____
Gerardo Torres
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CORY WATSON, P.C.

By:  _____
F. Jerome Tapley
Hirlye R. "Ryan" Lutz, III
Adam W. Pittman
2131 Magnolia Avenue
Birmingham, Alabama 35205

Dated: 10/5, 2016

WEIL QUARANTA, P.A.

By: _____
Ronald P. Weil
Mary Olszewska
200 S. Biscayne Blvd., Suite 900
Miami, Florida 33131

Dated: _____, 2016

NEWSOME MELTON, LLP

By: _____
C. Richard Newsome
William Ourand
201 S. Orange Ave, Suite 1500
Orlando, Florida 32801

Dated: _____, 2016

BERGER & MONTAGUE, P.C.

By: _____
Lawrence Deutsch
Jeffrey L. Osterwise
1622 Locust Street
Philadelphia, PA 19103

Dated: _____, 2016

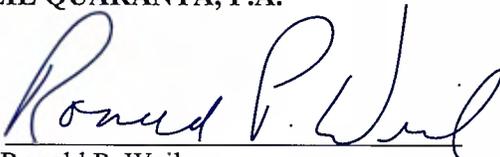
By: _____
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CORY WATSON, P.C.

By: _____
F. Jerome Tapley
Hirlye R. "Ryan" Lutz, III
Adam W. Pittman
2131 Magnolia Avenue
Birmingham, Alabama 35205

Dated: _____, 2016

WEIL QUARANTA, P.A.

By: 
Ronald P. Weil
Mary Olszewska
200 S. Biscayne Blvd., Suite 900
Miami, Florida 33131

Dated: October 4, 2016

NEWSOME MELTON, LLP

By: _____
C. Richard Newsome
William Ourand
201 S. Orange Ave, Suite 1500
Orlando, Florida 32801

Dated: _____, 2016

BERGER & MONTAGUE, P.C.

By: _____
Lawrence Deutsch
Jeffrey L. Osterwise
1622 Locust Street
Philadelphia, PA 19103

Dated: _____, 2016

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Gerardo Torres

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Birmingham, Alabama 35205

Dated: _____, 2016

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By: _____
Ronald P. Weil
Mary Olszewska
200 S. Biscayne Blvd., Suite 900
Miami, Florida 33131

Dated: _____, 2016

NEWSOME MELTON, LLP

By:  _____
C. Richard Newsome
William Ourand
201 S. Orange Ave, Suite 1500
Orlando, Florida 32801

Dated: 10/6/16, 2016

BERGER & MONTAGUE, P.C.

By: _____
Lawrence Deutsch
Jeffrey L. Osterwise
1622 Locust Street
Philadelphia, PA 19103

Dated: _____, 2016

By: _____
Gerardo Torres

CORY WATSON, P.C.

By: _____
F. Jerome Tapley
Hirlye R. "Ryan" Lutz, III
Adam W. Pittman
2131 Magnolia Avenue
Birmingham, Alabama 35205

Dated: _____, 2016

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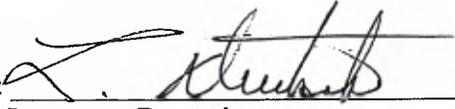
Dated: _____, 2016

NEWSOME MELTON, LLP

By: _____
C. Richard Newsome
William Ourand
201 S. Orange Ave, Suite 1500
Orlando, Florida 32801

Dated: _____, 2016

BERGER & MONTAGUE, P.C.

By:  _____
Lawrence Deutsch
Jeffrey L. Osterwise
1622 Locust Street
Philadelphia, PA 19103

Dated: Oct. 7, 2016

CAPSTONE LAW APC

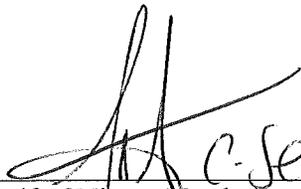
By: 

Dated: 10/4/16, 2016

Jordan L. Lurie
Robert K. Friedl
1875 Century Park East, Suite 1000
Los Angeles, CA 90067

Counsel for Plaintiffs and, upon approval by the Court, for the Settlement Class

DEFENDANT

By: 
On Behalf of Nissan North America, Inc.

Dated: 10/6/16, 2016

SEDGWICK LLP

By: 
E. Paul Cauley, Jr.
1717 Main Street, Suite 5400
Dallas, Texas 75201

Date: 10/06/16, 2016

Counsel for Defendant Nissan North America, Inc.