

<i>McBain v. Hyundai Auto Canada Corp., et al.</i>	Ontario Superior Court of Justice, Court File No. CV-19-00001186-00CP
<i>Asselstine v. Kia Canada Inc., et al.</i>	Ontario Superior Court of Justice, Court File No. CV-19-00001302-0000
<i>Papp v. Kia Motors America Inc., et al.</i>	Court of Queen's Bench for Saskatchewan, Court File No. QBG 795/19
<i>Killoran v. Hyundai Auto Canada Corp., et al.</i>	Supreme Court of British Columbia, Court File No. S-194327
<i>Pelletant v. Hyundai Auto Canada Corp., et al.</i>	Superior Court of Québec, Court File No. 500-06-0010103-198

**HYUNDAI AND KIA GDI ENGINE CANADIAN CLASS ACTIONS
SETTLEMENT AGREEMENT**

Dated as of October 22, 2020

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TABLE OF EXHIBITS

Exhibit	Title
A	Settlement Class Vehicles
B	Short-Form Notice
C	Long-Form Notice

1. INTRODUCTION

This Settlement Agreement settles, subject to approval by the Courts, on behalf of the Settlement Class in the Actions, all claims asserted by the Settlement Class related to Hyundai- and Kia-brand vehicles with a Theta II 2.0-litre or 2.4-litre gasoline direct injection engine, as identified in **Exhibit “A”**, which were originally sold or leased in Canada.

The Actions seek damages and other relief on behalf of customers with these affected vehicles. They allege that certain Hyundai and Kia vehicles equipped with Theta II 2.0-litre and 2.4-litre gasoline direct injection engines were manufactured, marketed, sold, and leased with an engine defect that can result in sudden engine seizure, engine failure and/or engine fire. The Defendants deny the allegations and any liability, and believe that they have meritorious defenses to the claims alleged in the Actions.

The Defendants have already implemented product improvement campaigns with respect to the Settlement Class Vehicles in which knock sensor detection technology is added to the vehicle through a free software update. The product improvement campaigns included, among other things, extensions to the engine warranty for the Settlement Class Vehicles. Supplementary to those benefits, and notwithstanding the Defendants’ denial of any liability or culpability, as a further benefit to their customers and to avoid protracted litigation, the Defendants wish to settle all claims asserted in the Actions by the Settlement Class related to an alleged defect in the engines in the Settlement Class Vehicles.

Through negotiations between the parties that began in November 2019, the Parties have agreed on the terms and conditions set forth in this Settlement Agreement.

The matters addressed in this Settlement Agreement relate solely to proceedings in Canada. The Parties recognize that the matters do not relate to the enforcement of the laws of countries other than Canada. Nothing in this Settlement Agreement is intended to apply to or affect Hyundai’s or Kia’s obligations under the laws or regulations of any jurisdiction outside Canada. In addition, this Settlement Agreement makes no factual findings or conclusions of law. Nothing in this Settlement Agreement is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any of the Released Claims, or of any wrongdoing or liability

of any Releasees in any civil, criminal, regulatory or administrative proceeding in any court, administrative agency or other tribunal. Nor shall this Settlement Agreement be deemed an admission by any Party as to the merits of any claim or defense.

2. DEFINITIONS

The capitalized terms in this Settlement Agreement, including the attached schedules and exhibits, have the following meanings, unless this Settlement Agreement specifically provides otherwise. Other capitalized terms used in this Settlement Agreement that are not defined in section 2 shall have the meanings ascribed to them elsewhere in this Settlement Agreement.

2.1 “**Actions**” means the following five actions collectively:

- the action in the Ontario Superior Court of Justice titled *McBain v. Hyundai Auto Canada Corp., et al.*, with court file number CV-19-00001186-00CP;
- the action in the Ontario Superior Court of Justice titled *Asselstine v. Kia Canada Inc., et al.*, with court file number CV-19-00001302-0000;
- the action in the Court of Queen’s Bench for Saskatchewan titled *Papp v. Kia Motors America Inc., et al.*, with court file number QBG 795/19;
- the action in the Supreme Court of British Columbia titled *Killoran v. Hyundai Auto Canada Corp., et al.*, with court file number S-194327; and
- the action in the Superior Court of Québec titled *Pelletant v. Hyundai Auto Canada Corp., et al.*, with court file number 500-06-0010103-198.

2.2 “**Approval Notice**” means the English and French notice of the Approval Orders published and disseminated to Settlement Class Members, substantially in a form to be approved by the Courts.

2.3 “**Approval Notice Date**” means the date on which the Approval Notice is first published and disseminated, in accordance with the Approval Orders.

- 2.4 “**Approval Order**” means a Court’s order and/or judgment approving this Settlement Agreement.
- 2.5 “**Authorized Dealer**” means any authorized Hyundai- or Kia-brand dealership located in Canada, as evidenced by a valid dealer sales and service agreement.
- 2.6 “**Claim**” means a properly completed Claim Form submitted by or on behalf of a Settlement Class Member with all required supporting documentation to the Claims Administrator on or before the Claims Deadline.
- 2.7 “**Claim Form**” means the document that enables a Settlement Class Member to apply for benefits under this Settlement Agreement.
- 2.8 “**Claimant**” means a Settlement Class Member, or a Settlement Class Member’s estate or legal representative, who completes and submits a Claim Form.
- 2.9 “**Claims Administrator**” means the third party agreed to by the Parties and appointed by the Courts to administer and oversee the Claims Program.
- 2.10 “**Claims Deadline**” means the deadline by which Settlement Class Members must submit a complete and valid Claim, which, subject to section 13.4, shall be ninety (90) days from the Effective Date.
- 2.11 “**Claims Program**” means the program through which Settlement Class Members may file Claims and, if eligible, obtain benefits under this Settlement Agreement, as described in section 5.
- 2.12 “**Class Counsel**” means the law firms listed as lawyers of record in the Actions, namely McKenzie Lake Lawyers LLP, Strosberg Sasso Sutts LLP, Merchant Law Group LLP, and Garcha & Company.
- 2.13 “**Court(s)**” means, with respect to the National Settlement Class, the Ontario Superior Court of Justice and, with respect to the Québec Settlement Class, the Superior Court of Québec.

- 2.14 **“Defendants”** means Hyundai Auto Canada Corporation (**“HACC”**), Hyundai Motor Company, Hyundai Motor America, Inc., and Hyundai Motor Manufacturing Alabama, LLC (collectively, **“Hyundai”**); and Kia Canada Inc. (**“KCI”**), Kia Motors Corporation, Kia Motors America, Inc., and Kia Motors Manufacturing Georgia, Inc. (collectively, **“Kia”**).
- 2.15 **“Effective Date”** means the first business day after the Settlement Approval Date, unless any appeals are taken from an Approval Order, in which case it means the date upon which all appeals have been fully disposed of in a manner that affirms the subject Approval Order, or a date after the Settlement Approval Date that is agreed to in writing by the Parties.
- 2.16 **“Excluded Persons”** means the following individuals and entities:
- 2.16.1 the Defendants, and their directors, officers, and employees;
 - 2.16.2 persons who validly opt out of the settlement;
 - 2.16.3 persons who purchased a Settlement Class Vehicle that had, prior to their purchase, been deemed a total loss or that had a branded title of “Dismantled”, “Junk”, “Salvage”, or “Mechanically Unfit” (subject to verification through Carfax or other means);
 - 2.16.4 current or former owners or lessees of a Settlement Class Vehicle that previously released their claims in an individual settlement with any of the Defendants with respect to the issues raised in the Actions; and
 - 2.16.5 Class Counsel and presiding judges in the Actions.
- 2.17 **“Exceptional Neglect”** means:
- (a) when the vehicle’s engine evidences a lack of maintenance or care for a significant period of time of not less than one (1) year, based on the recommended ‘normal maintenance schedule’ service intervals detailed in the vehicle’s owner manual, unless such lack of maintenance or care was due to a Loss Event; or

(b) failure of a Settlement Class Member to have the KSDS update completed pursuant to the KSDS Campaigns by a Hyundai or Kia dealer within 60 days of the Approval Notice Date, or within 60 days of the mailing of the KSDS Campaign notice, whichever is later.

Diagnostic costs associated with establishing Exceptional Neglect will be borne by the Defendants.

- 2.18 **“Fair Market Value”** means a Settlement Class Vehicle’s Canadian Black Book (“CBB”) Wholesale Value (including any CBB-valued options), with no regional adjustment, as at the Relevant Loss Date based on the vehicle’s mileage at that time. In the event that an odometer reading is not available as of the Relevant Loss Date, the default condition category for determining the CBB Wholesale Value will be the ‘Average’ condition.
- 2.19 **“Knock Sensor Detection Software”** or **“KSDS”** means the engine monitoring technology developed by the Defendants that, with software innovations, leverages existing hardware on the Settlement Class Vehicles to continuously monitor engine performance for symptoms that may precede engine failure and that is, in any event of a settlement, being offered as a software update to Settlement Class Members free of charge pursuant to product improvement campaigns (the **“KSDS Campaigns”**).
- 2.20 **“Loss”** means an amount lower than the Settlement Class Vehicle’s Fair Market Value.
- 2.21 **“Loss Event”** means any incident involving a Settlement Class Vehicle that would have led to a Qualifying Repair (such as an engine seizure, engine stall, engine noise, engine compartment fire arising from a connecting rod bearing failure, or illumination of the oil lamp caused by a connecting rod bearing failure and diagnosed as requiring repair of the engine block) but as a result of which the Settlement Class Member disposed of the Settlement Class Vehicle at a Loss, and for which the estimated repair cost, as documented at the time, exceeded 50% of the then-Fair Market Value of the vehicle. This includes events for which there was insurance coverage, but only where the Settlement Class

Member was still not made whole by such insurance payments, and only to the extent they were not made whole.

- 2.22 “**Notice Administrator**” means the third party agreed to by the Parties and appointed by the Courts to implement the Notice Program and administer the opt-out and objection processes. The Parties agree that Epiq Class Action Services Canada Inc. shall serve as Notice Administrator, subject to approval by the Courts.
- 2.23 “**Notice Program**” means a reasonable notice program for distributing the Settlement Class Notices that reflects the potential availability of direct notice to Settlement Class Members.
- 2.24 “**Pamphlet**” refers to the informational document designed to be kept with the owner’s manual for Settlement Class Vehicles. The Pamphlet will: (i) prominently warn of the risk that Settlement Class Vehicles may suffer engine stalling while driving, (ii) list all warning signs known by the Defendants that potentially precede such an engine seizure or stall, such as engine knocking and illumination of the Settlement Class Vehicle’s oil lamp; (iii) recommend that any Settlement Class Member who has not already done so, should promptly present their Settlement Class Vehicle to a Hyundai or Kia Authorized Dealer (as appropriate) for a free inspection and, if appropriate, repair; (iv) describe the warranty and payment benefits provided by this settlement; and (v) describe the Defendants’ KSDS Campaigns for the Settlement Class Vehicles.
- 2.25 “**Parties**” means Hyundai, Kia and the Settlement Class Representatives, collectively.
- 2.26 “**Pre-Approval Notice**” means the English and French versions of the short- and long-form notices described in section 6.2 and substantially in the forms attached as **Exhibits “B”** and **“C”**, respectively.
- 2.27 “**Pre-Approval Notice Date**” means the date on which the Pre-Approval Notice in short-form is first published in a national newspaper in Canada in accordance with section 6.
- 2.28 “**Pre-Approval Order**” means a Court’s order certifying/authorizing the Settlement Class for settlement purposes only and approving the Pre-Approval Notice and Notice

Program, which will also set the deadline for a potential Settlement Class Member to opt out of the Settlement Class or to object to this Settlement Agreement (the “**Opt-Out Deadline**” and “**Objection Deadline**”, respectively).

- 2.29 “**Qualifying Repair**” means any type of repair, replacement, diagnosis or inspection of the Settlement Class Vehicle’s short block assembly (consisting of the engine block, crankshaft and bearings, connecting rods and bearings, and pistons) due to a connecting rod bearing failure or symptoms associated with connecting rod bearing failure, except in the event of Exceptional Neglect. For purposes of reimbursement of repairs that occurred before notice of this settlement is issued, “Qualifying Repair” also includes repairs to any other Settlement Class Vehicle components (including but not limited to the long block assembly and its components, the battery, and the starter), provided that there is corresponding documentation confirming that the work was conducted in an attempt to address engine seizure, engine stall, engine noise, engine compartment fire, illumination of the oil lamp, or other mechanical or cosmetic damage to the Settlement Class Vehicle that was caused by a connecting rod bearing failure or symptoms associated with connecting rod bearing failure, except in the event of Exceptional Neglect. Nothing in this definition shall require the Defendants to cover the costs of repairs required due to a collision involving a Settlement Class Vehicle, unless such collision is directly caused by an engine failure in a Settlement Class Vehicle that would have otherwise led to a Qualifying Repair.
- 2.30 “**Relevant Loss Date**” means:(a) in the case of a Settlement Class Vehicle that is deemed a total loss as a result of an engine fire, the date of the engine fire; or, (b) in the case of a Settlement Class Vehicle that experienced a Loss Event and was sold or traded-in without obtaining a Qualifying Repair, the date of the sale or trade-in.
- 2.31 “**Settlement Agreement**” means this proposed settlement agreement, including its exhibits and any supplemental agreements, as amended and approved.
- 2.32 “**Settlement Approval Date**” means the date on which the last Approval Order is issued and entered.

- 2.33 “**Settlement Approval Hearing**” means the hearing before a Court to determine whether to issue an Approval Order.
- 2.34 “**Settlement Class**” means all persons (including individuals and entities) who purchased or leased a Settlement Class Vehicle in Canada, with the exception of Excluded Persons. Persons included in the Settlement Class are referred to as “**Settlement Class Members**”. The Settlement Class is comprised of the following two subgroups:
- 2.34.1 “**National Settlement Class**” means all Settlement Class Members who are not in the Québec Settlement Class; and,
- 2.34.2 “**Québec Settlement Class**” means all Settlement Class Members whose Settlement Class Vehicle is identified based on reasonably available information as having been registered in Québec on the Pre-Approval Notice Date.
- 2.35 “**Settlement Class Vehicle**” means a Hyundai or Kia vehicle originally equipped with or replaced with a genuine Theta II 2.0-litre or 2.4-litre gasoline direct injection (“**GDI**”) engine within OEM specifications that: (a) is of a model type and model year listed in **Exhibit “A”**; (b) was originally sold or leased in Canada; and, (c) was manufactured before the Knock Sensor Detection Software was incorporated into the vehicle’s production.
- 2.36 “**Settlement Class Notices**” means the English and French versions of the Pre-Approval Notice, Approval Notice, and any other notice provided for in the Notice Program.
- 2.37 “**Settlement Class Release**” means the release and waiver by Settlement Class Members described in section 9, which will take effect upon entry of the Approval Orders in the Actions.
- 2.38 “**Settlement Class Representatives**” means Chantel Asselstine, John Kevin Killoran, Keith McBain, Alexandra Papp, and Ludovic Pelletant.

3. APPROVAL OF THIS SETTLEMENT AGREEMENT AND CERTIFICATION/AUTHORIZATION FOR SETTLEMENT PURPOSES

- 3.1 Promptly after the execution of this Settlement Agreement, Class Counsel shall submit this Settlement Agreement to the Courts pursuant to a motion for a Pre-Approval Order.
- 3.2 Any certification/authorization of the Settlement Class, and any motion for a Pre-Approval Order seeking certification/authorization of the Settlement Class, shall be for settlement purposes only, and the Defendants retain all rights to assert that certification/authorization of a class in the Actions for any other purpose is not appropriate.
- 3.3 Except as otherwise agreed to by the Parties, a motion for a Pre-Approval Order shall be submitted to each of the Courts in a manner that seeks to preserve the confidentiality of the motion and Settlement Agreement until such time as the hearing of the motion. In addition, the motion for a Pre-Approval Order submitted to each Court shall seek a Pre-Approval Order that is conditional upon a complementary Pre-Approval Order being made by the other Court.
- 3.4 The Parties and their counsel agree to take all actions and steps reasonably necessary to obtain the Approval Orders. The motion for an Approval Order submitted to each Court shall seek an Approval Order that is conditional upon an Approval Order being made by the other Court.
- 3.5 This Settlement Agreement shall be null and void and of no force and effect unless Approval Orders are granted by both Courts and the Effective Date occurs.

4. SETTLEMENT BENEFITS

In consideration for the settlement and dismissal of the Settlement Class's claims, and for the release provided herein, Hyundai and Kia agree to provide to the Settlement Class the consideration set out below. All dollar amounts referred to in this Settlement Agreement are in Canadian dollars.

4.1 **Lifetime Engine Warranty Coverage for Short Block and Damage Caused By Connecting Rod Bearing Issue**

4.1.1 For any Settlement Class Vehicle that has the KSDS update completed, HACC and KCI will extend the existing Powertrain Warranty to cover, for the life of the vehicle effective beginning on the Approval Notice Date:

(a) any damage to the short block assembly (consisting of the engine block, crankshaft and bearings, connecting rods and bearings, and pistons) caused by a connecting rod bearing failure; and,

(b) any damage to the rest of the long block assembly caused by a connecting rod bearing failure (the “**Lifetime Warranty**”).

4.1.2 The Lifetime Warranty will cover all costs associated with inspections and repairs, including the costs associated with replacement parts, labour, diagnoses, and mechanical or cosmetic damage to the Settlement Class Vehicle caused by an engine malfunction (*e.g.*, engine failure or fire).

4.1.3 In conjunction with any Qualifying Repair at a Hyundai or Kia Authorized Dealer, HACC or KCI (as applicable) will provide a loaner vehicle at no cost, as may be available at the relevant dealer location, or will provide reimbursement of up to \$40 per day for a reasonable rental car until the engine repair or replacement is completed.

4.1.4 With the exception of cases of Exceptional Neglect arising from conduct identified in only subsection 2.17(a) of the definition of Exceptional Neglect (*i.e.*, the requirement to receive the KSDS update within 60-days included in subsection 2.17(b) shall not apply to Settlement Class Members seeking benefits under the Lifetime Warranty) and subject to section 4.1.6 below and to the existing terms, limitations and conditions of the Settlement Class Vehicles’ original Powertrain Warranty, the Lifetime Warranty will otherwise endure for issues arising from connecting rod bearing wear or damage irrespective of the Settlement Class

Vehicle's mileage and duration of ownership, and is fully transferrable to any subsequent owner or lessee.

- 4.1.5 For a Settlement Class Vehicle that needs a new engine pursuant to this Lifetime Warranty, but has mileage at or above 200,000 km and is more than eight (8) years from the original in-service date, HACC or KCI, as applicable, shall have the option, in lieu of replacing the engine, to repurchase the vehicle at the then-current Fair Market Value.
- 4.1.6 The Lifetime Warranty shall not apply or be available to used car dealers, franchisees, or automobile auction houses. Further, this Settlement Agreement does not oblige Hyundai or Kia, or their dealerships, to repair engines or provide new engines under the Lifetime Warranty, or provide any other compensation or payment, for otherwise inoperative vehicles (e.g., branded, salvage, or junkyard vehicles not otherwise roadworthy) unless such inoperability is directly caused by an engine failure or fire originating from a connecting rod bearing failure and otherwise subject to a Qualifying Repair.
- 4.1.7 Settlement Class Members shall not be required to present the Long Form Notice, Pamphlet, Claim Form, or any other Settlement-related document in order to receive Lifetime Warranty inspections or repairs at an Authorized Dealer. Settlement Class Members will be instructed to continue to retain all vehicle maintenance records, and will be required to provide records for vehicle maintenance performed before and after completing the KSDS update to receive repairs under the Lifetime Warranty. Settlement Class Members who intentionally seek to conceal evidence of Exceptional Neglect by refusing to provide their maintenance records will be denied a repair under the Lifetime Warranty. Receiving the KSDS update or a repair under the Lifetime Warranty does not automatically entitle a Settlement Class Member to any other benefits available under this Settlement Agreement.

- 4.1.8 In order to obtain the Lifetime Warranty, Settlement Class Members must, at their own expense, bring their Settlement Class Vehicle to an Authorized Dealer to receive the KSDS update.
- 4.1.9 HACC and KCI may implement or continue to implement customer satisfaction or goodwill benefits for individual Settlement Class Members on a case-by-case basis, and without regard to their entitlement to relief under this Settlement Agreement. No such goodwill decision by HACC or KCI, however, shall (1) deprive a Settlement Class Member or Claimant of the benefits under this Settlement Agreement; or (2) entitle any other Settlement Class Member or Claimant to the same or similar discretionary goodwill benefits.
- 4.1.10 Any repairs performed pursuant to the Lifetime Warranty before the Pre-Approval Notice Date shall preclude the Settlement Class Members who received such repairs from opting out of the Settlement Class.

4.2 Payment for Past Repairs

- 4.2.1 To the extent any Claimant – before notice of the settlement is issued – obtained a Qualifying Repair for a Settlement Class Vehicle, the Claimant will be entitled to full payment by HACC (for Hyundai Settlement Class Vehicles) and KCI (for Kia Settlement Class Vehicles) of all repair expenses incurred by the Claimant to have a Hyundai or Kia Authorized Dealer or a qualified mechanic in Canada diagnose or address a Qualifying Repair, with the exception of expenses caused by Exceptional Neglect.
- 4.2.2 The Claimant must submit a completed Claim Form by the Claims Deadline, with proof of payment of the repair expense incurred by the Claimant. Proof of payment of the repair expense means the original or a copy of any document(s) generated at or around the time an expense was incurred for a Qualifying Repair that identifies the date performed, cost incurred, and nature of the repair such that it can be identified as a Qualifying Repair.

- 4.2.3 If a Claimant was denied an in-warranty repair at an Authorized Dealer and then obtained the Qualifying Repair elsewhere, and can provide proof of payment for that Qualifying Repair, they are also entitled to a credit, valid for one year from the date it is issued, for a free oil and filter change and tire rotation at any Hyundai or Kia Authorized Dealer (as applicable).
- 4.2.4 Claimants previously reimbursed for past repairs or related expenses (*e.g.*, through a HACC, KCI, or dealership goodwill payment) will not be entitled to a payment under this settlement for that portion of the expense for which they have already been reimbursed.
- 4.2.5 Claimants who paid for the Qualifying Repair with a credit card shall substantiate the cost for the Qualifying Repair with a repair receipt from the dealership showing their payment, a credit card receipt from the dealership, or a credit card statement showing a payment to the dealership. Claimants who paid for the Qualifying Repair with a debit card or cheque shall substantiate the cost for the Qualifying Repair with a repair receipt from the dealership showing their payment, debit card receipt from the dealership, cleared cheque showing their payment to the dealership, or a bank statement showing a payment to the dealership. Claimants who paid for the Qualifying Repair with cash shall substantiate the cost for the Qualifying Repair with a repair receipt from the dealership showing their payment, or if they do not have such a repair receipt, with a statement under oath attesting that they do not have a repair receipt from the dealership showing their payment and as to the dollar amount they paid in cash to the dealership.

4.3 **Payment for Incurred Expenses Related to Past Repair**

- 4.3.1 A Claimant shall be entitled to payment for incurred (a) towing expenses; and (b) rental car or alternative transportation service expenses (if a loaner vehicle was not originally provided by HACC, KCI or a dealership) up to a maximum of \$40 per day, which were reasonably related to obtaining a Qualifying Repair for a Class Vehicle (“**Incurred Expenses Related to Repair**”).

4.3.2 In order to obtain this payment, the Claimant must submit a completed Claim Form by the Claims Deadline, with proof of the Incurred Expenses Related to Repair and proof that a Qualifying Repair was performed, or that the Settlement Class Vehicle was at a Hyundai or Kia Authorized Dealer awaiting a Qualifying Repair, within 30 days of the Incurred Expenses Related to Repair. Proof of the Incurred Expenses Related to Repair consists of the original or a copy of any document(s) generated at or around the time that the expense was incurred, and which identifies the nature of the expense, the date the cost was incurred, and the dollar amount.

4.3.3 For greater certainty, Incurred Expenses Related to Repair do not include any other out-of-pocket expenses. For example, there is no entitlement to lost wages allegedly incurred due to an inability to get to or from a place of employment or to recover other forms of consequential damages.

4.3.4 Claimants previously reimbursed in full or in part for such repair-related expenses (e.g., through a HACC, KCI, or dealership goodwill payment) will not be entitled to a payment under this settlement for that portion of the Incurred Expense Related to Repair for which they have already been reimbursed.

4.4 **Credit for Inconvenience Due to Past Repair Delays**

4.4.1 To the extent any Claimant was required – due to a lack of necessary parts or dealer capacity – to wait 60 days or more to obtain a Qualifying Repair from a Hyundai or Kia Authorized Dealer, the Claimant shall be entitled to a dealer credit based on the length of the delay.

4.4.2 This credit – available for use within one year of the date it was issued – may be used towards any service, parts or merchandise at any Hyundai or Kia Authorized Dealer (as applicable based on the brand of the Settlement Class Vehicle). The value of the credit will be calculated as follows: \$65 for delays lasting between 60 and 90 days, and \$35 for each additional 30-day period of delay or fraction thereof.

- 4.4.3 In order to obtain this credit, the Claimant must submit a completed Claim Form by the Claims Deadline, with a statement under oath attesting that they were inconvenienced by the delay, and providing supporting documentation confirming the length of delay.
- 4.4.4 Claimants that have already received any payment or credit from HACC, KCI or any Hyundai or Kia Authorized Dealer for a delay in obtaining a Qualifying Repair will be ineligible for this benefit.

4.5 Payment for Loss of Vehicle by Engine Fire

- 4.5.1 To the extent a Claimant's vehicle is deemed a total loss as a result of an engine fire arising from a vehicle condition that would have otherwise resulted in a Qualifying Repair, the Claimant will be entitled to payment of the Fair Market Value – based on the vehicle's mileage on the Relevant Loss Date, and up to a maximum of the amount the Claimant paid to purchase the vehicle – plus an additional \$140 payment, less any amount actually received by the Claimant in respect of the loss of the vehicle (from an insurer or otherwise).
- 4.5.2 In order to be eligible for this payment, the Claimant must submit a completed Claim Form by the Claims Deadline or, for losses incurred after the Effective Date, within 90 days of the date of the engine fire, with proof of the Loss Event and third party documentation acceptable to the Claims Administrator establishing that a fire occurred and originated within the engine compartment and was unrelated to any collision.
- 4.5.3 Nothing in this section shall require HACC or KCI to provide any payment for the loss of a Settlement Class Vehicle due to an engine fire caused by collision or a source other than the engine.

4.6 Payment for Loss of Vehicle Sold or Traded-In Due to Loss Event

- 4.6.1 Except in respect of vehicles exhibiting Exceptional Neglect, Claimants who, before the Pre-Approval Notice Date, experienced a Loss Event and sold or

traded-in their Settlement Class Vehicle without obtaining a Qualifying Repair, are entitled to payment of the Fair Market Value – based on the mileage on the Relevant Loss Date, and up to a maximum of the amount the Claimant paid to purchase the vehicle – plus \$140.00, less any amount actually received by the Claimant from the sale or trade-in.

4.6.2 In order to obtain this payment, the Claimant must submit a completed Claim Form by the Claims Deadline, with proof acceptable to the Claims Administrator of (a) the Loss Event; and (b) the sale or trade-in and the value received under the sale or trade-in.

4.6.3 A Claimant's maintenance history or lack thereof before the repair diagnosis, except in the event of Exceptional Neglect, shall not be a basis for denying or limiting compensation under this section.

4.6.4 A Claimant who was previously reimbursed by HACC, KCI, or a Hyundai or Kia Authorized Dealer in connection with a sale or trade-in of a Settlement Class Vehicle following a Loss Event shall not be entitled to a payment under this section for that portion of the loss for which he, she or it has already been reimbursed. It shall be the Defendants' burden to establish that any prior payments were directly related to a Loss Event.

4.7 Trade-In Rebate Program

4.7.1 To the extent a Settlement Class Member decides as a result of the allegations in the Actions to trade in their Settlement Class Vehicle at a Hyundai or Kia Authorized Dealer for a new Hyundai or Kia vehicle, respectively, he, she or it may then submit a claim for a rebate, provided that they previously experienced an incident with their Settlement Class Vehicle that led to a Qualifying Repair.

4.7.2 To be eligible for this rebate, the claim must: (a) be submitted by the Claims Deadline or, if the engine failure or fire occurred after the Effective Date, within 90 days of the engine failure or fire; and (b) contain proof of the completed trade-

in of the Settlement Class Vehicle for a replacement Hyundai or Kia vehicle from a Hyundai or Kia Authorized Dealer, respectively.

4.7.3 The rebate will be calculated by determining the difference between the actual trade-in amount and the Fair Market Value of the Settlement Class Vehicle at the time of the trade-in, up to the following maximum amounts:

- For model year 2011 through 2014 Settlement Class Vehicles: \$1,750
- For model year 2015 and 2016 Settlement Class Vehicles: \$1000
- For model year 2017 through 2019 Settlement Class Vehicles: \$500

4.7.4 The rebate paid by HACC or KCI, through the Claims Administrator, under this section will be paid in addition to the benefit of the lower sales tax on the replacement Hyundai or Kia vehicle, which the Claimant will receive in the ordinary course as a result of the trade-in value being deducted from the replacement vehicle sale price.

4.8 Notice and Claims Administration Costs

4.8.1 HACC and KCI shall pay for: (a) notice to the Settlement Class of the Settlement Approval Hearings and, if approved, the settlement approval; and (b) administration of the settlement.

4.9 Several Liability

4.9.1 Hyundai's and Kia's obligations to comply with the requirements of this Settlement Agreement are several. HACC shall be severally liable for all required payments or benefits provided under this Settlement Agreement to Settlement Class Members who own(ed) or lease(d) a Hyundai Settlement Class Vehicle. KCI shall be severally liable for all required payments or benefits provided under this Settlement Agreement to Settlement Class Members who own(ed) or lease(d) a Kia Settlement Class Vehicle.

4.9.2 Any legal successor or assign of HACC or KCI shall remain severally liable for the payment and other performance obligations of Hyundai or Kia, respectively, under this Settlement Agreement.

5. CLAIMS PROGRAM ADMINISTRATION

5.1 The Defendants' obligation to implement the Claims Program in accordance with this Settlement Agreement is and shall be contingent upon each of the following:

5.1.1 Entry of the Approval Orders;

5.1.2 The occurrence of the Effective Date; and

5.1.3 The satisfaction of any other conditions set forth in this Settlement Agreement.

5.2 **Claims Administrator.** The Claims Administrator will oversee the implementation and administration of the Claims Program, including verification and determination of Claim eligibility and approval of payments to Eligible Claimants. The Claims Administrator's duties include, but are not limited to: (a) oversight of the Settlement Websites (described below in section 6.7); (b) administration of Claims and issuance of payments and/or credits to Eligible Claimants; (c) management of communications with Settlement Class Members regarding the Claims Program, including through the use of a call centre for the Settlement Phone Number (described below in section 6.6); and (d) forwarding written inquiries to Class Counsel or Kia or Hyundai for a response, if warranted. The Claims Administrator shall have the authority to perform all actions, to the extent not expressly prohibited by, or otherwise inconsistent with, any provision of this Settlement Agreement, deemed by the Claims Administrator to be reasonably necessary for the efficient and timely administration of this Settlement Agreement. This shall include the authority to deny Claims that frustrate the spirit of this Settlement Agreement.

5.3 **Claims Program.** Subject to section 5.1, the Claims Program will begin as soon as reasonably practicable after the Effective Date. The Claims Program is to be implemented by the Claims Administrator, working with HACC and KCI.

- 5.4 Claims may be submitted, at the election of the Claimant, by mail, email, or through the Settlement Website.
- 5.5 The mailing address and email address to which Claimants may submit Claims, as well as Claimants' right to submit their Claims through the Settlement Websites, shall be posted prominently in each of the following locations: the Long Form Notice, the Pamphlet (once prepared and as made available before the Effective Date on the Settlement Websites), the Claim Form, and the Settlement Websites. The www.hyundaicanada.com website shall provide a link to the Settlement Website for Hyundai Settlement Class Vehicles accessible from its homepage. The www.kia.ca website shall provide a link to the Settlement Website for Kia Settlement Class Vehicles accessible from its homepage.
- 5.6 The Claim Form shall provide an option for Claimants to indicate a preference for communication via regular mail instead of email. If the Claims Administrator has an email address for a Claimant and the Claimant did not indicate on the Claim Form that he, she or it prefers to communicate via regular mail, the Claims Administrator shall respond by email. In instances in which regular mail is used, the Claims Administrator shall respond using the address provided on the Claim Form.
- 5.7 Upon receipt of a Claim, the Claims Administrator shall review the Claim to determine whether the Claim meets all qualifications set forth in this Settlement Agreement for receipt of the requested benefits and, if so, the amount of the benefits owed.
- 5.8 For each Claim qualifying for a benefit under this Settlement Agreement, the Claims Administrator shall deliver to the Claimant, at the address on the Claim Form, (a) the payment by cheque; and/or (b) the applicable dealer credit voucher. Any dealer credit provided under this Settlement Agreement shall be redeemable for at least one year from the date it was issued, without any fees charged by HACC, KCI, or the Authorized Dealers.

- 5.9 Within 45 days of receiving a Claim, if the Claim is not accepted in full by the Claims Administrator, the Claims Administrator shall provide written notice to the Claimant who submitted it, notifying the Claimant of:
- a) the amount, if any, that the Claims Administrator intends to provide to the Claimant under this Settlement Agreement;
 - b) the basis for the Claims Administrator's decision to either deny or provide less than the full benefits requested (if applicable); and
 - c) the Claimant's right to attempt to cure any deficiency that led to the Claims Administrator's decision to provide less than the full benefits requested.
- 5.10 In response to receiving the written notice under section 5.9, a Claimant may:
- a) attempt to cure the deficiency stated as justification for not awarding the full benefits requested, by submitting the information and/or documentation identified by the Claims Administrator as lacking in the Claim, within 25 days of the date of the written notice. The Settlement Administrator shall have 25 days from the date it received the cure attempt to provide written notice to the Claimant stating its final determination as to the total benefits to be paid to the Claimant and the reasons for the benefit amount if less than requested; or
 - b) accept the partial benefit offered by the Claims Administrator, which acceptance will be presumed if no cure attempt is received by the Claims Administrator within 25 days of the date of the written notice.
- 5.11 Further to section 12.2 below, the Courts retain jurisdiction to resolve any disputes that arise between the Parties regarding the administration of the Claims Program or the performance of the Claims Administrator.
- 5.12 No materials submitted to the Claims Administrator by any Claimant will be returned to the Claimant.

- 5.13 **Uncashed Cheques.** Any cheques issued to Eligible Claimants shall become stale dated and non-negotiable no later than six (6) months from the issuance of the cheque or six (6) months after the Claims Deadline, whichever comes first. Stale dated and non-negotiable cheques, unless reissued and subsequently cashed, will constitute an unclaimed balance (the “**Balance**”) for distribution as set forth below. In no event shall Hyundai or Kia have any obligation to reissue, or fund the Claim Administrator’s reissuance of a cheque to an Eligible Claimant more than six (6) months following the Claims Deadline, and any right that an Eligible Claimant may have to receive a reissued cheque from the Claims Administrator shall become extinguished at that time. No later than twelve (12) months following the Claims Deadline, the amount of the Balance will be calculated and the *Fonds d’aide aux actions collectives* (the “**Fonds**”) will be entitled to receive the percentage of the Balance resulting from stale dated and non-negotiable cheques issued to eligible Claimants in the Québec Settlement Class, which percentage shall be determined in accordance with the *Regulation respecting the percentage withheld by the Fonds d’aide aux actions collectives*, chapter F-3.2.0.1.1, r. 2. Following the payment to the Fonds, the Parties will agree on a plan for the distribution of the remaining amount of the Balance, if any, and will then make an application to the Courts for approval of the distribution plan agreed to by the Parties.
- 5.14 **Reporting.** The Claims Administrator will prepare periodic reports on the progress and status of the Claims Program that shall be provided to HACC, KCI and Class Counsel. Unless otherwise reasonably requested by HACC, KCI and Class Counsel, the Claims Administrator shall provide its first report one (1) month after the commencement of the Claims Program, and every month thereafter. These reports will include information sufficient to allow HACC, KCI, and Class Counsel to assess the Claims Program’s progress. Upon request of any of the Parties, the Claims Administrator shall also provide to Class Counsel, HACC, and KCI a copy of any final determination notice sent by the Claims Administrator pursuant to section 5.9, along with a copy of the applicable Claim Form and other documentation associated with the Claim.
- 5.15 **Final Report.** When the Claims Program is concluded, the Claims Administrator must provide a final report to the Courts, Hyundai, Kia and Class Counsel detailing the number

of Eligible Claimants that received benefits under the Settlement Program and the total value of those benefits. When the Claims Program is concluded, the Claims Administrator will also provide a report to Hyundai, Kia, and Class Counsel concerning any cheques for the payment of Claims that remain uncashed.

- 5.16 **Confidentiality.** Any personal information acquired as the result of this Settlement Agreement shall be used solely for purposes of evaluating and paying Claims under this Settlement Agreement. All information relating to the Claims Program and processing is confidential and proprietary and shall not be disclosed, except as necessary to the Claims Administrator, Hyundai, Kia, Authorized Dealers, Class Counsel, and the Courts in accordance with the terms of this Settlement Agreement, and as required by legal process or by Hyundai and/or Kia to comply with their obligations to regulators in Canada. The Claims Administrator shall take security measures to prevent unauthorized access to personal information it obtains under this Settlement Agreement, as well as to prevent the loss, destruction, falsification, and leakage of such personal information. The Claims Administrator shall respond immediately with appropriate measures when issues arise related to the confidentiality of a Settlement Class Member's information.

6. NOTICE TO THE CLASS

- 6.1 The Parties agree that reasonable notice shall be given to the Settlement Class pursuant to orders of the Courts. To distribute such notice, Hyundai, Kia, and Class Counsel have agreed to engage the Notice Administrator to advise them with respect to the Notice Program. Settlement Class Notices shall include, but not be limited to, the dissemination of Pre-Approval Notice as set forth in section 6.2. The Notice Program and mechanisms for distributing the Settlement Class Notices shall be subject to approval of the Courts.
- 6.2 **Pre-Approval Notice.** Short-form notices in English and French, including through print media and the Internet, shall be published in accordance with the directions of the Courts in their Pre-Approval Orders. Short-form notices shall also be: (a) emailed to all potential Settlement Class Members (i) for whom HACC or KCI has a valid email address, and/or (ii) who have contacted Class Counsel and provided an email address; and (b) mailed, by regular mail, to all potential Settlement Class Members (i) for whom HACC or KCI has

only a valid mailing address, and/or, (ii) who have contacted Class Counsel and provided only a mailing address as their contact information. These short-form notices shall include details of where to access the Settlement Website on which English and French versions of a long-form notice shall be made available.

- 6.3 The long-form notice shall: (a) state that this Settlement Agreement is contingent upon the Courts' Approval Orders; (b) advise potential Settlement Class Members that they may elect to opt out of the Settlement Class by submitting a written statement providing the information required by section 7.3 to the Notice Administrator no later than the Opt-Out Deadline; (c) advise potential Settlement Class Members that they may object to this Settlement Agreement by submitting a written statement of objection clearly specifying the grounds for the objection and providing the information required by section 7.3 to the Notice Administrator no later than the Objection Deadline; (d) advise that any Settlement Class Member may enter an appearance at the Settlement Approval Hearings, including through counsel of his, her or its choice, at his, her or its own expense; and (e) state that any Settlement Class Member who does not give proper and timely notice of his, her or its intention to opt out of the Settlement Class will be bound by the Approval Orders in the Actions, even if he, she or it has objected to this Settlement Agreement or, in the case of a National Settlement Class Member, has other claims pending against Hyundai or Kia relating to a Released Claim.
- 6.4 Hyundai and Kia shall have the right to monitor, inspect, and audit the costs of the Settlement Class Notices.
- 6.5 The Notice Administrator shall, no later than seven (7) days before the first scheduled Settlement Approval Hearing, deliver to Hyundai, Kia, and Class Counsel and file with the Courts proof, by affidavit, of the publications and mailings described in section 6.2.
- 6.6 A Canadian toll-free settlement phone number shall be included in the Settlement Class Notices (the "**Settlement Phone Number**"). The Claims Administrator shall manage a call centre for the Settlement Phone Number, which potential Settlement Class Members can call to receive information in English and French about (among other things): (a) this Settlement Agreement, including information about eligibility for benefits; (b) obtaining

the long-form notice of this Settlement Agreement described in section 6.2 or any other materials described in this section; (c) the Opt-Out Deadline and Objection Deadline; (d) submitting a Claim; and (e) the dates of relevant Court proceedings, including the Settlement Approval Hearings.

6.7 **Settlement Websites.** If Pre-Approval Orders are granted by the Courts, Hyundai, Kia, and Class Counsel shall cause public Internet websites in English and French concerning this Settlement Agreement to be established by the Pre-Approval Notice Date (the “**Settlement Website(s)**”). Hyundai and Kia shall maintain the Settlement Websites throughout the Claims Program, subject to exceptional circumstances that result in or require the websites to be taken down, or Class Counsel consents to the websites being taken down, such consent not to be unreasonably withheld. The Settlement Websites – the domain names of which are subject to Class Counsel’s approval – shall contain:

- (a) information on the Opt-Out Deadline, the Objection Deadline, and the dates of relevant Court proceedings, including the Settlement Approval Hearings;
- (b) the Settlement Phone Number;
- (c) copies of this Settlement Agreement with signatures redacted, the Settlement Class Notices, the Pamphlet, and the Claim Form;
- (d) instructions on how to obtain benefits under this Settlement Agreement;
- (e) a mechanism by which Claimants can submit Claims electronically;
- (f) any Orders issued in the Actions relevant to this Settlement; and
- (g) any other information the Parties determine is relevant to the Settlement.

6.8 Following the Effective Date of the Settlement Agreement, a copy of Hyundai’s or Kia’s Pamphlet (as applicable based on the brand of the Settlement Class Vehicle) shall be: (a) emailed to all potential Settlement Class Members (i) for whom HACC or KCI has a valid email address, and/or (ii) who have contacted Class Counsel and provided an email address; and (b) mailed, by regular mail, to all potential Settlement Class Members (i) for

whom HACC or KCI has only a valid mailing address, and/or (ii) who have contacted Class Counsel and provided only a mailing address as their contact information.

6.9 Beginning no later than two weeks after the Effective Date, HACC and KCI shall provide – in both hard copy and electronic form – the Pamphlet to each of its Authorized Dealers, with instruction to disseminate the Pamphlet to any person who presents a Settlement Class Vehicle for maintenance or service of any type and provide information regarding HACC’s and KCI’s KSDS Campaigns.

7. SETTLEMENT CLASS MEMBERS’ RIGHTS TO OPT OUT AND OBJECT

7.1 The Courts will appoint the Notice Administrator to receive any (a) written elections to opt out of the Settlement Class and (b) objections to this Settlement Agreement.

7.2 Elections to opt out of the Settlement Class and objections to this Settlement Agreement must be received by the Notice Administrator by mail, courier, or email on or before the Opt-Out Deadline or Objection Deadline, as applicable.

7.3 All written elections to opt out of the Settlement Class and objections to this Settlement Agreement shall be personally signed by the potential Settlement Class Member and shall include the following:

7.3.1 The potential Settlement Class Member’s name, mailing address, telephone number, and email address (if available);

7.3.2 The model, model year, and VIN of the Settlement Class Vehicle;

7.3.3 A statement that the potential Settlement Class Member elects to be excluded from the Settlement Class, or a brief statement of the nature of and reason for the objection to this Settlement Agreement, including all factual and legal grounds for the objection, as applicable; and

7.3.4 If objecting to this Settlement Agreement, whether the potential Settlement Class Member intends to appear in person or through counsel at the Settlement Approval Hearing in Toronto, Ontario or the Settlement Approval Hearing in Montreal,

Québec, and if appearing by counsel, the name, address, telephone number, and email address of counsel.

- 7.4 Notwithstanding section 7.3, if the potential Settlement Class Member is deceased, a minor, or otherwise incapable of making his, her or its own election to opt out or his, her or its own written objection to this Settlement Agreement, the information required by section 7.3 must be provided along with the contact information of the person acting on behalf of the potential Settlement Class Member, together with a copy of the power of attorney, court order, or other authorization serving as the proposed basis for permitting such person to represent the potential Settlement Class Member. A power of attorney will not be recognized as valid by the Notice Administrator in the place of a signature of a potential Settlement Class Member, except in the circumstances set out in this section.
- 7.5 Potential Settlement Class Members who elect to opt out of the Settlement Class may re-elect in writing to become potential Settlement Class Members, if their re-election request is received by the Notice Administrator on or before the Opt-Out Deadline or, thereafter, only by agreement of HACC or KCI, as applicable, and Class Counsel.
- 7.6 Any potential Settlement Class Member who elects to opt out of the Settlement Class may not also object to this Settlement Agreement. If a potential Settlement Class Member elects to opt out of the Settlement Class and objects to this Settlement Agreement, the opt out election shall supersede the objection and the objection shall be deemed withdrawn.
- 7.7 **Consequences of Failure to Opt Out in a Timely and Proper Manner.** All potential Settlement Class Members who do not opt out in a timely and proper manner will, in all respects, be bound by the terms of this Settlement Agreement, as approved by the Approval Orders.
- 7.8 The Notice Administrator shall report to Hyundai, Kia, and Class Counsel the names, VINs, and details of all opt-out elections and objections on a weekly basis, beginning three (3) weeks after the Pre-Approval Notice Date. Wherever reasonably possible, such copies shall be provided in electronic form and in a manner that minimizes the Opt-Out/Objection expenses.

- 7.9 The Notice Administrator shall, no later than seven (7) days before the first scheduled Settlement Approval Hearing, provide to Hyundai, Kia, and Class Counsel and file with the Courts an affidavit reporting on the number of opt-out elections and re-elections received on or before the Opt-Out Deadline, and compiling all of the written objections received on or before the Objection Deadline, and detailing the number of opt-outs and written objections by brand of Settlement Class Vehicle and by potential members of the National Settlement Class and the Québec Settlement Class.
- 7.10 Hyundai and Kia will each have the unilateral right, but not the obligation, to terminate this Settlement Agreement in the event that the number of Settlement Class Members who validly opt out of this Settlement Agreement by the Opt-Out Deadline meets the threshold and conditions set forth in a confidential supplemental agreement between the Parties (the “**Supplemental Agreement**”). The Supplemental Agreement, which is being executed concurrently with this Settlement Agreement, shall not be filed with the Courts and its terms shall not be disclosed in any other manner (other than the statements herein or as otherwise provided in the Supplemental Agreement), unless and until a Court otherwise directs or a dispute arises between the Parties concerning its interpretation or application. If submission of the Supplemental Agreement is required for resolution of a dispute or is otherwise ordered by a Court, the Parties will make their best efforts to have the Supplemental Agreement submitted to the Court *in camera* or filed under seal. Hyundai and/or Kia shall advise the Courts and Class Counsel, in writing, of any election under this section within three (3) days after receiving the affidavit of the Notice Administrator referred to in section 7.9. In such event, this Settlement Agreement may not be offered or received into evidence or utilized for any other purpose in the Actions or in any other action, suit or proceeding.

8. COOPERATION TO ANNOUNCE AND IMPLEMENT THE SETTLEMENT

- 8.1 The Parties may publicly release and announce the fact and terms of the settlement, subject to the Parties reaching mutual written consent on the contents of the press release.

- 8.2 Aside from such a joint announcement, neither the Parties nor their counsel shall issue (or cause any other person to issue) any other press release concerning this Settlement Agreement, unless otherwise agreed to in writing.
- 8.3 The Parties and their respective counsel will cooperate with each other, act in good faith, and use commercially reasonable efforts to implement the Claims Program in accordance with the terms and conditions of this Settlement Agreement as soon as reasonably practicable after the Effective Date.
- 8.4 The Parties agree to make all reasonable efforts to ensure the timely and expeditious administration and implementation of this Settlement Agreement and to ensure that the costs and expenses incurred, including the claims administration expenses, are reasonable.
- 8.5 The Parties and their successors, assigns, and 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. Counsel for the Parties shall, upon the request of the other, meet and confer by telephone to discuss the implementation of this Settlement Agreement and to attempt to resolve any issues raised by the Parties, Settlement Class Members, or Claims Administrator.
- 8.6 The Parties reserve the right, subject to the Courts' approval, to agree to any reasonable extensions of time that might be necessary to carry out any of the provisions of this Settlement Agreement.
- 8.7 In the event that the Parties are unable to reach agreement on the form or content of any document needed to implement this Settlement Agreement, or on any supplemental provisions that may become necessary to implement the terms of this Settlement Agreement, the Parties may seek the assistance of the Courts to resolve such matters.

9. RELEASE AND WAIVER

- 9.1 The Parties agree to the following Settlement Class Release that shall take effect upon entry of the Approval Orders.

9.2 **Released Parties.** “**Releasee(s)**” means, jointly and severally, individually and collectively, (a) any person involved in the design, manufacture, development, assembly, distribution, testing, sale, lease, repair, warranting or marketing of the Settlement Class Vehicles, (b) any person involved in the design, development and/or dissemination of advertisements for the Settlement Class Vehicles, (c) HACC, KCI, Hyundai Motors America, Kia Motors America, Hyundai Motor Manufacturing Alabama, Kia Motors Manufacturing Georgia, Hyundai Motor Company, Kia Motors Corporation, and (d) all affiliates of the Hyundai Motor Group, and each of their respective future, present, and former direct and indirect parents, subsidiaries, affiliates, divisions, predecessors, successors, assigns, dealers, distributors, agents, principals, suppliers, vendors, issuers, licensees, and joint ventures, and their respective future, present, and former officers, directors, employees, partners, general partners, limited partners, members, managers, agents, shareholders (in their capacity as shareholders) and legal representatives, and the predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing. As used in this paragraph, “affiliates” means entities controlling, controlled by, or under common control with a Releasee.

9.3 **Settlement Class Release.** In consideration of this Settlement Agreement, Settlement Class Members, on behalf of themselves and their agents, heirs, executors and administrators, successors, assigns, insurers, lawyers, representatives, shareholders, owners associations, and any other legal or natural persons who may claim by, through, or under them (individually and collectively, the “**Releasers**”), fully, finally, irrevocably, and forever release, waive, discharge, relinquish, settle, and acquit any and all claims, demands, actions, or causes of action, whether known or unknown, existing or potential, that they may have, purport to have, or may have hereafter against any Released Party relating to Settlement Class Vehicles, arising out of or related to the facts alleged in any claim or application for authorization filed in the Actions and all legal claims of whatever type or description arising out of, that may have arisen as a result of, or which could have been brought based on, any of the facts, acts, events, transactions, occurrences, courses of conduct, representations, omissions, circumstances or other matters asserted in the Actions (the “**Released Claims**”). The Released Claims include, but are not limited to,

claims related to issues of oil consumption, oil maintenance, engine stalling, engine failure, and vehicles fires originating in the engine compartment that are covered by and remedied under the Lifetime Warranty and other benefits described in sections 4.1 through 4.7 of this Settlement Agreement.

- 9.4 This Settlement Class Release applies without limitation to any and all such claims, demands, actions, or causes of action regardless of the legal or equitable theory or nature under which they are based or advanced including without limitation legal and/or equitable theories under any federal, provincial, territorial, municipal, local, tribal, administrative or international law, statute, ordinance, code, regulation, contract, common law, equity, or any other source, and whether based in strict liability, negligence, gross negligence, punitive damages, nuisance, trespass, breach of warranty, misrepresentation, breach of contract, fraud, or any other legal or equitable theory, whether existing now or arising in the future, that arise from or in any way relate to the Released Claims.
- 9.5 Notwithstanding the foregoing, this Settlement Class Release does not release any claims for (i) wrongful death, (ii) personal injury, or (iii) damage to tangible property other than a Settlement Class Vehicle.
- 9.6 **Possible Future Claims.** For the avoidance of doubt, Settlement Class Members expressly understand and acknowledge that they 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, related to the Released Claims, the Actions and/or the Settlement Class Release. Nevertheless, it is the intention of Class Counsel and the Settlement Class Representatives in executing this Settlement Agreement to fully, finally, irrevocably, and forever release, waive, discharge, relinquish, settle, and acquit 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 Released Claims.
- 9.7 **Covenant Not to Sue.** Notwithstanding this section 9, for any Settlement Class Member resident in any province or territory where the release of one tortfeasor is a release of all other tortfeasors, the Releasers do not release the Released Parties but instead irrevocably

covenant not to sue the Released Parties, or any of them, including on a joint, several, and/or solidary liability basis, and undertake not to make any claim in any way or to threaten, commence, participate in, or continue any proceeding in any jurisdiction against the Released Parties for, in respect of, or in relation to the Released Claims.

9.8 **Actions or Proceedings Involving Released Claims.** Settlement Class Members expressly agree that the Settlement Class Release, and the Approval Orders, are, will be, and may be raised as a complete defence to, and will preclude, any action or proceeding specified in, or involving claims encompassed by, this Settlement Class Release whether in Canada or elsewhere. Settlement 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 other proceeding, whether in Canada or elsewhere, against the Released Parties with respect to the claims, causes of action, and/or any other matters subject to the Settlement Class Release. To the extent that they have initiated, or caused to be initiated, any suit, action, or proceeding not already encompassed by the Actions, whether in Canada or elsewhere, Settlement Class Members shall cause such suit, action, or proceeding to come to an end, with prejudice where available, consistent with section 12.1. If a Settlement Class Member commences, files, initiates, or institutes any new legal action or other proceeding for any Released Claim against any Released Party in any federal, state, provincial, or territorial court, arbitral tribunal, or administrative or other forum, whether in Canada or elsewhere, (a) such legal action or other proceeding shall, at that Settlement Class Member's cost, be brought to an end, with prejudice where available, consistent with section 12.1; and (b) if permitted by law, the respective Released Party shall be entitled to recover any and all reasonable related costs and expenses from that Settlement Class Member arising as a result of that Settlement Class Member's breach of his, her or its obligations under this Settlement Class Release. This section does not apply to preclude the continuation of any suit, action, or proceeding, whether in Canada or elsewhere, as to any claim that is not a Released Claim.

9.9 **Ownership of Released Claims.** The Settlement Class Representatives represent and warrant that they are the sole and exclusive owners of any and all claims that they personally are releasing under this Settlement Agreement. The Settlement 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 Released Claims, including without limitation, any claim for benefits, proceeds, or value under the Actions, and that the Settlement Class Representatives are not aware of anyone other than themselves claiming any interest, in whole or in part, in any benefits, proceeds, or values to which they may be entitled as a result of the Released Claims. Settlement Class Members submitting a Claim shall represent and warrant therein that they are the sole and exclusive owner of all claims that they personally are releasing under this 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 in the Actions arising out of or in any way whatsoever pertaining to the Released Claims, including without limitation, any claim for benefits, proceeds, or value under the Actions, and that such Settlement Class Members are not aware of anyone other than themselves claiming any interest, in whole or in part, in any benefits, proceeds, or values to which those Settlement Class Members may be entitled as a result of the Released Claims.

- 9.10 **Total Satisfaction of Released Claims.** Any benefits pursuant to this Settlement Agreement are (a) in full, complete, and total satisfaction of all of the Released Claims against the Released Parties, and (b) sufficient and adequate consideration for each and every term of the Settlement Class Release. The Settlement Class Release shall be irrevocably binding upon the Settlement Class Representatives and all Settlement Class Members.
- 9.11 **Release Not Conditioned on Claim or Payment.** The Settlement Class Release shall be effective with respect to all Releasing Parties, including all Settlement Class Members, regardless of whether those Settlement Class Members ultimately file a Claim or receive compensation under this Settlement Agreement.
- 9.12 **Basis for Entering Release.** Class Counsel acknowledge that they have conducted sufficient independent investigation and discovery to recommend the approval of this Settlement Agreement to the Courts and that they execute this Settlement Agreement

freely, voluntarily, and without being pressured or influenced by, or relying on any statements, representations, promises, or inducements made by the Released Parties or any person or entity representing the Released Parties, other than as set forth in this Settlement Agreement. The Settlement Class Representatives agree and specifically represent and warrant that they have discussed with Class Counsel the terms of this Settlement Agreement and have received legal advice with respect to the advisability of entering into this Settlement Agreement and the Settlement Class Release, and the legal effect of this Settlement Agreement and the Settlement Class Release. The representations and warranties made throughout this Settlement Agreement shall survive the execution of this Settlement Agreement and shall be binding upon the respective heirs, representatives, successors, and assigns of the Parties.

- 9.13 **Material Term.** The Settlement Class Representatives and Class Counsel hereby agree and acknowledge that this section 9 was separately bargained for and constitutes a key, material term of this Settlement Agreement that shall be reflected in the Approval Orders. The failure of any Court to approve this Settlement Agreement, the Settlement Class Release, the covenant not to sue in section 9.7, and the dismissals and other terminations of proceedings involving Released Claims contemplated in sections 9.8 and 12.1, or if a Court approves any of them in a materially modified form from that contemplated herein, shall give rise to a right of termination by Hyundai, Kia, or the Settlement Class Representatives, through Class Counsel.
- 9.14 **Reservation of Claims.** This Settlement Agreement shall resolve the claims of Settlement Class Members only as they relate to the Released Claims. The Parties reserve all rights to litigate liability and equitable relief of any sort for any subset of vehicles, purchasers, or lessees not covered by this Settlement Agreement.
- 9.15 **Released Parties' Releases of Settlement Class Representatives, the Settlement Class and Class Counsel.** Upon the Effective Date, the Released Parties absolutely and unconditionally release and forever discharge the Settlement Class Representatives, Settlement Class Members, and Class Counsel from any and all claims relating to the institution or prosecution of the portion of the Actions pertaining to the Released Claims.

9.16 **No Admission of Liability.** The Settlement Class Representatives, Class Counsel, the Settlement Class, and the Releasing Parties agree, whether or not this Settlement Agreement is approved, terminated, or otherwise fails to take effect for any reason, that this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions, and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed, or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by any of the Released Parties, or of the truth of any of the claims or allegations contained in the Actions or any other pleading filed against Hyundai or Kia by, or on behalf of, the Settlement Class Representatives, the Settlement Class, or any class that may be certified or authorized in the Actions.

9.17 **Settlement Agreement Not Evidence.** The Settlement Class Representatives, Class Counsel, and the Settlement Class agree that, whether or not it is terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions, and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence, or received in evidence in any present, pending or future civil, criminal, or administrative action or proceeding, except in a proceeding to approve, implement, and/or enforce this Settlement Agreement, or as otherwise required by law or as provided in this Settlement Agreement.

10. CLASS COUNSEL FEES

10.1 The Defendants and Class Counsel acknowledge that they have not discussed Counsel Fees prior to agreement on the terms of this Settlement Agreement.

10.2 The Defendants agree to pay the legal fees and disbursements of Class Counsel that are fair and reasonable in all of the circumstances, plus applicable GST, HST and/or QST, which were incurred for the prosecution of the claims in the Actions relating to the Released Claims and to produce this Settlement Agreement, as approved by the Courts (“**Counsel Fees**”).

- 10.3 Counsel Fees will become payable within sixty (60) days following the later of: (a) the date when the Courts' orders on Counsel Fees to be paid by the Defendants in the Actions become final and non-appealable; and (b) the date when the Courts' Approval Orders in the Actions become final and non-appealable.
- 10.4 If the Defendants and Class Counsel reach an agreement on the amount of Counsel Fees, Class Counsel will submit the negotiated amount for approval to the Ontario Superior Court of Justice and to the Québec Superior Court.
- 10.5 If the Defendants and Class Counsel do not reach an agreement as to the amount of Counsel Fees, Class Counsel will bring a motion: (a) to the Ontario Superior Court of Justice for a determination of the issue of Counsel Fees as it relates to the National Settlement Class; and (b) to the Québec Superior Court for a determination of the issue of Counsel Fees as it relates to the Québec Settlement Class.
- 10.6 Class Counsel and the Defendants, as applicable, shall have the right to appeal from such orders relating to Counsel Fees. Class Counsel will not seek additional counsel fees and costs after the Courts approve or award Counsel Fees.

11. MODIFICATION OR TERMINATION OF THIS SETTLEMENT AGREEMENT

- 11.1 The terms and provisions of this Settlement Agreement may be amended, modified, or expanded by written agreement of the Parties and approval of the Courts provided, however, that after entry of the Approval Orders, 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 Settlement Class or approval by the Courts if such changes are consistent with the Approval Orders and do not limit the rights of Settlement Class Members under this Settlement Agreement.
- 11.2 Any unintended conflicts within this Settlement Agreement shall not be held against any of the Parties, but shall instead be resolved by agreement of the Parties and/or, if necessary, with the aid of the Courts.

11.3 If this Settlement Agreement is terminated for any reason, then:

11.3.1 This Settlement Agreement, including the Settlement Class Release, 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 sections 3.2, 3.5, 5.16, 9.16, 9.17, 11.3, 12.3, 12.4, and 13.5, and the definitions and any exhibits applicable thereto;

11.3.2 All of the provisions of this Settlement Agreement, and all negotiations, statements, and proceedings relating to it, shall be without prejudice to the rights of Hyundai, Kia, the Settlement Class Representatives, or any Settlement Class Member, all of whom shall be restored to their respective positions existing immediately before the execution of this Settlement Agreement;

11.3.3 The Released Parties expressly and affirmatively reserve all defences, arguments, and motions as to all claims that have been or might later be asserted in the Actions;

11.3.4 Neither this Settlement Agreement, the fact of its having been entered into, nor the negotiations leading to it shall be admissible or entered into evidence for any purpose whatsoever; and

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

12. TERMINATION OF CLASS ACTIONS, JURISDICTION OF THE COURTS

12.1 Approval Orders in the Actions will be sought from the Ontario Superior Court of Justice and the Superior Court of Québec. Class Counsel will take such reasonable steps as are necessary to give effect to this Settlement Agreement and to bring an end to, without costs, without reservation and, where available, with prejudice, all Released Claims by any Settlement Class Member in the Actions. After the Approval Orders are issued and entered, Class Counsel will discontinue, without costs, (a) the action in the Court of

Queen's Bench for Saskatchewan titled *Papp v. Kia Motors America Inc., et al.*, with court file number QBG 795/19; and, (b) the action in the Supreme Court of British Columbia titled *Killoran v. Hyundai Auto Canada Corp., et al.*, with court file number S-194327.

- 12.2 Class Counsel will further cooperate with Hyundai's and Kia's efforts to give effect to this Settlement Agreement and to bring an end to, without costs, without reservation, and, where available, with prejudice, all Released Claims by any Settlement Class Member in any other pending or future litigation. The Parties agree that the conclusions of the actions set out in this section shall not alter, negate or otherwise have any impact or effect on the Settlement Class Release.
- 12.3 **Courts' Ongoing and Exclusive Jurisdiction.** The Courts shall retain ongoing and exclusive jurisdiction over the Settlement Class's claims commenced in their jurisdiction in order to resolve any dispute or other matters that may arise in the implementation of this Settlement Agreement or their Approval Order. For clarity, the Ontario Superior Court of Justice shall retain jurisdiction to resolve any dispute that may arise in relation to the National Settlement Class or any Member thereof, and the Superior Court of Québec shall retain jurisdiction to resolve any dispute that may arise in relation to the Québec Settlement Class or any Member thereof. This shall include any dispute regarding the validity, performance, interpretation, administration, enforcement, enforceability, or termination of this Settlement Agreement. No Party shall ask a Court to make any order or give a direction in respect of any matter of shared jurisdiction unless that order or direction is conditional upon a complementary order or direction being made or given by the other Court with which it shares jurisdiction over that matter.
- 12.4 If one Party to this Settlement Agreement considers another Party to be in material breach of its obligations under this Settlement Agreement, that Party must provide the breaching Party with written notice of the alleged material breach and provide a reasonable opportunity to cure such breach before taking any action to enforce any rights under this Settlement Agreement.
- 12.5 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 the Parties 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 Courts before it becomes effective.

13. OTHER TERMS AND CONDITIONS

- 13.1 This Settlement Agreement shall be binding upon, and inure to the benefit of Hyundai, Kia, the Settlement Class Representatives, and all Settlement Class Members, and their respective agents, heirs, executors, administrators, successors, transferees, and assigns.
- 13.2 Class Counsel represent that (a) Class Counsel are authorized by the Settlement Class Representatives to enter into this Settlement Agreement; and (b) Class Counsel are seeking to protect the interests of the Settlement Class.
- 13.3 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.
- 13.4 All time periods in this Settlement Agreement shall be computed in calendar days unless expressly provided otherwise. Further, unless otherwise provided in this Settlement Agreement, in computing any period of time in this Settlement Agreement or by order of a Court, the day of the act or event shall not be included, and the last day of the period shall be included, unless it is a Saturday, a Sunday, or a Canadian statutory holiday, or, when the act to be done is a court filing, a day on which the Court is closed, in which case the period shall run until the end of the next day that is not one of the aforementioned days.
- 13.5 The Parties agree that confidential information made available to them solely through the settlement process was made available on the condition that it not be disclosed to third parties. Information provided by Hyundai, Kia, Class Counsel, or any individual Settlement Class Member pursuant to the negotiation and implementation of this Settlement Agreement, including trade secrets and highly confidential and proprietary business information, shall continue to be treated as "Settlement Discussions" within the

meaning of the Confidentiality Agreement executed between the Parties on November 11, 2019, and shall be subject to all of the provisions thereof. Any materials inadvertently produced shall, upon Hyundai's or Kia's request, be promptly returned to Defendants' counsel and there shall be no implied or express waiver of any privileges, rights, and defences.

- 13.6 This Settlement Agreement sets forth the entire agreement among the Parties with respect to its subject matter. Hyundai, Kia and Class Counsel must execute any agreement purporting to change or modify the terms of this Settlement Agreement. 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 have relied solely upon their own 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.
- 13.7 In Québec, this Settlement Agreement constitutes a transaction within the meaning of Article 2631 and following of the *Civil Code of Québec*, and the Parties are hereby renouncing any errors of fact, of law, and/or of calculation.
- 13.8 The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais. A French translation of the related notice documents will be prepared, at the reasonable expense of Hyundai and Kia, and filed with the Courts no later than the date that the Pre-Approval Order is granted. The Parties agree that such translation is for convenience only.
- 13.9 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 email and/or next-day (excluding Saturdays, Sundays, and Canadian statutory holidays) express delivery service as follows:

If to Hyundai or Kia, then to:


Cheryl Woodin
BENNETT JONES LLP
3400 One First Canadian Place
100 King Street West
Toronto, ON M5X 1A4
Email: woodinc@bennettjones.com

If to the Settlement Class, then to:

Michael J. Peerless
MCKENZIE LAKE LAWYERS LLP
140 Fullarton Street, Suite 1800
London, ON N6A 5P2
Email: peerless@mckenzielake.com

- 13.11 The Settlement Class, Settlement Class Representatives, Hyundai, and/or Kia 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 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.
- 13.12 The division of this Settlement Agreement into sections and the insertion of topic and section headings are for convenience of reference only and shall not affect the construction or interpretation of this Settlement Agreement.
- 13.13 This Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to any conflict of law rule or principle that would mandate or permit application of the substantive law of any other jurisdiction.
- 13.14 This Settlement Agreement may be signed with an electronic signature and in counterparts, each of which shall constitute a duplicate original.
- 13.15 The Parties have executed this Settlement Agreement as of the date on the cover page.

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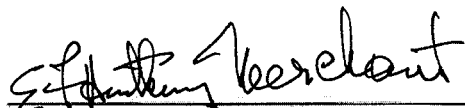
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Counsel for Hyundai Auto Canada Corp., Hyundai Motor Company, Ltd, Hyundai Motor America, Inc, Hyundai Motor Manufacturing Alabama, LLC, Kia Canada Inc., Kia Motors Corporation, Kia Motors America, Inc., Kia Motors Manufacturing Georgia, Inc.



By: _____
Cheryl Woodin
BENNETT JONES LLP
100 King Street West
Toronto, ON M5X 1A4
Email: woodinc@bennettjones.com

Hyundai Auto Canada Corp., Hyundai Motor Company, Ltd, Hyundai Motor America, Inc,
Hyundai Motor Manufacturing Alabama, LLC

Name:
Title:

I have the authority to bind the corporations.

Kia Canada Inc., Kia Motors Corporation, Kia Motors America, Inc., Kia Motors
Manufacturing Georgia, Inc.

Name:
Title:

I have the authority to bind the corporations.

SCHEDULE "A"

THE CLASS VEHICLES

Hyundai Vehicles	
MODEL	MODEL YEARS
Sonata	2011-2019
Santa Fe Sport	2013-2019
Tucson	2014-2015; 2019
Kia Vehicles	
MODEL	MODEL YEARS
Optima	2011-2019
Sorento	2012-2019
Sportage	2011-2019

SCHEDULE "B"

SHORT-FORM NOTICE

LEGAL NOTICE OF HYUNDAI THETA II GDI ENGINE SETTLEMENT IN CANADA

A nationwide class action settlement has been reached in Canada involving the following Hyundai vehicles with Theta II 2.0-litre and 2.4-litre gasoline direct injection (GDI) engines:

<u>Model</u>	<u>Model Years</u>
Hyundai Sonata	2011 – 2019
Hyundai Santa Fe Sport	2013 – 2019
Hyundai Tucson	2014, 2015, 2019

IF YOU OWN(ED) OR LEASE(D) ONE OF THESE VEHICLES, THE SETTLEMENT MAY AFFECT YOUR LEGAL RIGHTS. READ THIS NOTICE CAREFULLY.

This Notice is to inform you of a proposed settlement of class action lawsuits against Hyundai. The lawsuits allege that the Class Vehicles suffer from an issue that can cause engine seizure, failure, and/or fire, and that some owners and lessees have been improperly denied repairs under warranty. None of the allegations have been proven. The parties have instead reached a voluntary settlement.

Under the proposed settlement, Settlement Class Members (those who purchased or leased a Class Vehicle in Canada who are not excluded from the Settlement Class) may be eligible for the following benefits:

- Extension of the Powertrain Warranty to provide lifetime warranty coverage for damage to the engine short block and the rest of the long block assembly if caused by a connecting rod bearing failure, upon completion of the Knock Sensor Detection Software update.
- Cash payment for qualifying past out-of-pocket repairs and repair-related expenses.
- Dealer credit for inconvenience due to past repair delays.
- Cash payment for certain sales and trade-ins of unrepaired vehicles.
- Cash payment for vehicles lost due to certain engine fires.
- In some instances, a cash rebate if you lost faith in the vehicle after experiencing engine troubles and you traded it in for another Hyundai vehicle.

The settlement must be approved by the Courts to become effective. The approval hearings will take place on:

- **[Date], 2020:** Ontario Superior Court of Justice, 130 Queen Street West, Toronto
- **[Date], 2020:** Superior Court of Québec, 1 Notre-Dame Street East, Montreal

The legal fees to class counsel may also be approved, but those amounts will be paid separately and will not reduce the settlement benefits.

YOUR LEGAL RIGHTS AND OPTIONS:

- **Participate** in the Settlement, if approved by the Courts, and submit a claim for eligible benefits. If you wish to participate, you are not required to do anything until after the Settlement is approved.
- **Object** to the Settlement before the Courts consider whether to approve it and attend an approval hearing.
- **Exclude** yourself from the Settlement (**opt out**), in which case, you will not be eligible to receive any benefits. You must take steps if you wish to exclude yourself and preserve your legal rights against Hyundai and Kia.

To object to or opt out of the Settlement, you must submit the request so it is received by **[Opt-Out Deadline]**.

TO OBTAIN MORE INFORMATION, VISIT www.HyundaiEngineSettlementCanada.com or, OR CALL [Notice Admin Call Center #]

YOU MAY ALSO CONTACT LAWYERS FOR AFFECTED VEHICLE OWNERS AND LESSEES

In Canada, except Quebec: [insert class counsel #] –OR– [insert alternative class counsel #]

In Quebec or French inquiries: [insert Quebec class counsel #]

LEGAL NOTICE OF KIA THETA II GDI ENGINE SETTLEMENT IN CANADA

A nationwide class action settlement has been reached in Canada involving the following Kia vehicles with Theta II 2.0-litre and 2.4-litre gasoline direct injection (GDI) engines:

<u>Model</u>	<u>Model Years</u>
Kia Optima	2011 – 2019
Kia Sorento	2012 – 2019
Kia Sportage	2011 – 2019

IF YOU OWN(ED) OR LEASE(D) ONE OF THESE VEHICLES, THE SETTLEMENT MAY AFFECT YOUR LEGAL RIGHTS. READ THIS NOTICE CAREFULLY.

This Notice is to inform you of a proposed settlement of class action lawsuits against Kia. The lawsuits allege that the Class Vehicles suffer from an issue that can cause engine seizure, failure, and/or fire, and that some owners and lessees have been improperly denied repairs under warranty. None of the allegations have been proven. The parties have instead reached a voluntary settlement.

Under the proposed settlement, Settlement Class Members (those who purchased or leased a Class Vehicle in Canada who are not excluded from the Settlement Class) may be eligible for the following benefits:

- Extension of the Powertrain Warranty to provide lifetime warranty coverage for damage to the engine short block and the rest of the long block assembly if caused by a connecting rod bearing failure, upon completion of the Knock Sensor Detection Software update.
- Cash payment for qualifying past out-of-pocket repairs and repair-related expenses.
- Dealer credit for inconvenience due to past repair delays.
- Cash payment for certain sales and trade-ins of unrepaired vehicles.
- Cash payment for vehicles lost due to certain engine fires.
- In some instances, a cash rebate if you lost faith in the vehicle after experiencing engine troubles and you traded it in for another Kia vehicle.

The settlement must be approved by the Courts to become effective. The approval hearings will take place on:

- **[Date], 2020:** Ontario Superior Court of Justice, 130 Queen Street West, Toronto
- **[Date], 2020:** Superior Court of Québec, 1 Notre-Dame Street East, Montreal

The legal fees to class counsel may also be approved, but those amounts will be paid separately and will not reduce the settlement benefits.

YOUR LEGAL RIGHTS AND OPTIONS:

- **Participate** in the Settlement, if approved by the Courts, and submit a claim for eligible benefits. If you wish to participate, you are not required to do anything until after the Settlement is approved.
- **Object** to the Settlement before the Courts consider whether to approve it and attend an approval hearing.
- **Exclude** yourself from the Settlement (**opt out**), in which case, you will not be eligible to receive any benefits. You must take steps if you wish to exclude yourself and preserve your legal rights against Kia.

To object to or opt out of the Settlement, you must submit the request so it is received by **[Opt-Out Deadline]**.

TO OBTAIN MORE INFORMATION, VISIT www.KiaEngineSettlementCanada.com, OR CALL [Notice Admin Call Center #]

YOU MAY ALSO CONTACT LAWYERS FOR AFFECTED VEHICLE OWNERS AND LESSEES
In Canada, except Quebec: [insert class counsel #] –OR– [insert alternative class counsel #]

In Quebec or French inquiries: [insert Quebec class counsel #]

SCHEDULE "C"

LONG-FORM NOTICE

Hyundai Theta II GDI Engine Settlement in Canada

NOTICE OF PROPOSED CLASS SETTLEMENT

If you bought or leased any of the following Hyundai vehicles equipped with a genuine Theta II 2.0-litre or 2.4-litre gasoline direct injection (GDI) engine (the “**Settlement Class Vehicles**”), you may benefit from a class action settlement:

Model	Model Years
Hyundai Sonata	2011 – 2019
Hyundai Santa Fe Sport	2013 – 2019
Hyundai Tucson	2014, 2015, 2019

Your rights are affected whether you act or not. Read this notice carefully.

- The purpose of this notice is to inform you of a proposed settlement in the following class action lawsuits:
 - *McBain v. Hyundai Auto Canada Corp., et al.*, Court File No. 1156/19 (Ontario Superior Court of Justice)
 - *Papp v. Kia Motors America Inc., et al.*, Court File No. QBG 795/19 (Saskatchewan Court of Queen’s Bench)
 - *Killoran v. Hyundai Auto Canada Corp., et al.*, Court File No. S-194327 (British Columbia Supreme Court)
 - *Pelletant v. Hyundai Auto Canada Corp., et al.*, Court File No. 500-06-0010103-198 (Quebec Superior Court of Justice)

You are receiving this notice because the records of Hyundai Auto Canada Corporation (“**HACC**”), Hyundai Motor Company, Hyundai Motor America, Inc., or Hyundai Motor Manufacturing Alabama, LLC (collectively, “**Hyundai**”) indicate that you may be entitled to claim certain benefits offered by this proposed settlement.

- These lawsuits allege that the Settlement Class Vehicles suffer from a defect that can cause engine seizure, stalling, failure, and/or fire. Hyundai has not been found liable for any of the claims alleged in these lawsuits. The parties have instead proposed a settlement in order to avoid lengthy litigation (the “**Settlement**”).
- Individuals who own or lease, or who previously owned or leased, a Settlement Class Vehicle are each known as “**Settlement Class Members**” and are collectively the “**Settlement Class.**” Settlement Class Members may be entitled to compensation if they submit a valid and timely claim that is approved pursuant to the review process described in this notice and approved by the Courts.

Hyundai 2.0L and 2.4L Theta II GDI Engine Settlement in Canada

Potential Settlement Benefits:

Under the Settlement, Settlement Class Members (those who purchased or leased a Class Vehicle in Canada who are not excluded from the Settlement Class) may be eligible for the following benefits:

- Extension of the Powertrain Warranty to provide lifetime warranty coverage for damage to the engine short block assembly and long-block assembly if caused by a connecting rod bearing failure, upon completion of the Knock Sensor Detection Software update.
- Cash payment for qualifying past out-of-pocket repairs and repair-related expenses.
- Dealer credit for inconvenience due to past repair delays.
- Cash payment for certain sales and trade-ins of unrepaired vehicles.
- Cash payment for vehicles lost due to certain engine fires.
- In some instances, a cash rebate if you lost faith in the vehicle after requiring an engine repair and you traded it in for another Hyundai vehicle.

Settlement Approval Hearings:

The Settlement must be approved by the Courts to become effective. The approval hearings will take place on:

- **[Date], 2020:** Ontario Superior Court of Justice, 130 Queen Street West, Toronto **[NTD: to be updated if motion heard through Zoom]**
- **[Date], 2020:** Superior Court of Québec, 1 Notre-Dame Street East, Montreal

The legal fees to class counsel may also be approved, but those amounts will be paid separately and will not reduce the settlement benefits.

Your Legal Rights and Options:

- **Participate** in the Settlement, if approved by the Courts, and submit a claim for eligible benefits. If you wish to participate, you are not required to do anything until after the Settlement is approved.
- **Object** to the Settlement before the Courts consider whether to approve it and attend an approval hearing to present that objection.
- **Exclude** yourself from the Settlement (**opt out**), in which case, you will not be eligible to receive any benefits. You must take steps if you wish to exclude yourself and preserve your legal rights against Hyundai.

To object to or opt out of the Settlement, you must submit the request so it is received by **[Opt-Out Deadline]**.

- These rights and options—**and the deadlines to exercise them**—are explained in this notice.

Hyundai 2.0L and 2.4L Theta II GDI Engine Settlement in Canada

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Hyundai 2.0L and 2.4L Theta II GDI Engine Settlement in Canada

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Hyundai Theta II GDI Engine Settlement in Canada

BASIC INFORMATION

1. Why did I get this notice package?

According to Hyundai's records, you bought or leased a Settlement Class Vehicle in Canada.

You have a right to know about a proposed settlement of class action lawsuits and about your options before the Courts decide whether to approve the Settlement. If the Courts approve the Settlement, Hyundai will provide the payments and other benefits agreed to in the Settlement to Settlement Class Members who submit valid claims. This notice explains the class actions, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

You should read this entire notice.

2. What are the class actions about?

The individuals who filed these lawsuits are referred to as the "**Representative Plaintiffs**", and the companies they sued, including Hyundai, are called the "**Defendants**" (the Representative Plaintiffs and the Defendants are, together, the "**Parties**"). The Representative Plaintiffs allege that the Settlement Class Vehicles suffer from a defect that can cause engine seizure, stalling, failure, and/or fire. The Representative Plaintiffs also allege that some owners and lessees have been improperly denied repairs under the vehicle's warranty. Hyundai denies the Representative Plaintiffs' allegations.

These class actions consist of three national class actions (*McBain v Hyundai Auto Canada Corp., et al.*, Court File No. 1156/19 before the Ontario Superior Court of Justice; *Papp v Kia Motors America Inc., et al.*, Court File No. QBG 795/19 before the Saskatchewan Court of Queen's Bench; and *Killoran v Hyundai Auto Canada Corp., et al.*, Court File No. S-194327 before the British Columbia Supreme Court) and a class action on behalf of residents of Quebec (*Pelletant v Hyundai Auto Canada Corp., et al.*, Court File No. 500-06-0010103-198 before the Quebec Superior Court of Justice).

The Settlement Class is divided into a Quebec Settlement Class that includes all Settlement Class Members whose Settlement Class Vehicle is registered in Quebec, and a National Settlement Class that includes all Settlement Class Members who are not Quebec Settlement Class Members. Approval of the Settlement is being sought in both the Ontario Superior Court of Justice and the Quebec Superior Court of Justice (each a "**Court**" and together the "**Courts**").

3. Why is there a settlement?

The parties have agreed to the Settlement to avoid the cost and risk of further litigation, including a potential trial, and so that the Settlement Class Members can receive the payments and other benefits outlined in this notice in exchange for releasing the Defendants from liability. The Settlement does not mean that the Defendants broke any laws or did anything wrong, and the Courts did not decide which side was right.

Hyundai 2.0L and 2.4L Theta II GDI Engine Settlement in Canada

The Parties entered into a Settlement Agreement. The Representative Plaintiffs and the lawyers representing them (called “**Class Counsel**”) believe that the Settlement is in the best interests of the Settlement Class.

This notice summarizes the essential terms of the Settlement. The Settlement Agreement along with all exhibits describe in greater detail the rights and obligations of all the parties and are available at [settlement website]. If there is any conflict between this notice and the Settlement Agreement, the Settlement Agreement governs.

WHO IS IN THE SETTLEMENT?

4. How do I know if I am part of the Settlement?

For the purposes of the Settlement, all persons (including individuals and entities) who purchased or leased a Settlement Class Vehicle in Canada are Settlement Class Members. Some exceptions apply (*see section 5*).

5. Who is Excluded from the Settlement?

The Settlement does not apply to anyone who is not a Settlement Class Member, including Excluded Persons. Excluded Persons are:

- The Defendants and their directors, officers, and employees;
- Anyone who validly opts out of the Settlement;
- Anyone who purchased a Settlement Class Vehicle that had, prior to their purchase, been deemed a total loss or that had a branded title of “Dismantled”, “Junk”, “Salvage”, or “Mechanically Unfit”;
- Current or former owners or lessees of a Settlement Class Vehicle who released their claims against the Defendants in an individual settlement with any of the Defendants with respect to an issue raised in the class actions; and
- Class Counsel and the presiding judges in the class actions.

6. Which vehicles are included?

The “**Settlement Class Vehicles**” for the purposes of the description in section 4 above, are 2011-2019 model year Hyundai Sonata vehicles, 2013-2019 model year Hyundai Santa Fe Sport vehicles, and 2014-2015 and 2018-2019 model year Hyundai Tucson vehicles equipped with genuine 2.0-litre and 2.4 litre Theta II gasoline direct injection engines within OEM specifications.

7. If I bought or leased a Class Vehicle that has not had problems, am I included?

Yes. You do NOT have to have experienced engine stalling, seizure, failure, or fire to be included in this Settlement. If you still own or lease a Settlement Class Vehicle you will be eligible to take advantage of the extension of the Powertrain Warranty to a Lifetime Warranty.

8. I am still not sure if I'm included.

If you are still not sure whether you are included, you can ask for help for free. You can visit the website at [settlement website]. You can also call [Notice Administrator's number] and ask whether your vehicle is included in the Settlement.

Whether you visit the website or call the toll-free number, you will need to have your Vehicle Identification Number ("VIN") ready. The VIN is located on a small placard on the top of the dashboard and is visible through the driver's side corner of the windshield. It also appears on your vehicle registration card and probably appears on your vehicle insurance card. Your VIN should have 17 characters, a combination of both letters and numbers.

SETTLEMENT BENEFITS – WHAT YOU GET

9. What does the Settlement provide?

The Settlement provides the following benefits:

1. Warranty Extension

Hyundai is extending the Powertrain Warranty to a Lifetime Warranty for Settlement Class Members who are individual consumers and who have the KSDS update completed on their Settlement Class Vehicle. The Lifetime Warranty will cover any damage to the short block assembly (consisting of the engine block, crankshaft and bearings, connecting rods and bearings, and pistons) and the rest of the long block assembly caused by a connecting rod bearing failure in applicable Settlement Class Vehicles.

With the exception of cases of Exceptional Neglect (defined below) and subject to the existing terms, limitations, and conditions of the Settlement Class Vehicles' original Powertrain Warranty, the Lifetime Warranty shall otherwise endure for issues arising from connecting rod bearing wear or damage irrespective of the Class Vehicle's mileage, duration of ownership, or prior warranty engine repairs and/or warranty replacements.

The extension of the warranty covers all costs of inspections and repairs including the costs associated with replacement parts, labour, diagnoses, and mechanical or cosmetic damage to the Settlement Class Vehicle caused by an engine malfunction. Settlement Class Members must retain their vehicle maintenance records, and will be required to provide records for vehicle maintenance performed before and after the Notice Date to receive Lifetime Warranty repairs.

Hyundai dealerships will provide a free loaner vehicle until repairs are completed. If no loaner vehicle is available, Hyundai will provide reimbursement of reasonable rental car expenses up to \$40 per day.

Hyundai 2.0L and 2.4L Theta II GDI Engine Settlement in Canada

If a Settlement Class Vehicle needs a new engine pursuant to the Lifetime Warranty but has mileage at or above 200,000 km and is more than eight (8) years from the original in-service date, Hyundai has the option of buying back the vehicle at its fair market value (as determined by Canadian Black Book's wholesale value for the vehicle, with no regional adjustment) instead of replacing the engine.

The warranty extension may be denied for “**Exceptional Neglect**” of the vehicle, which means:

- a) when the vehicle’s engine suffers from a lack of maintenance or care by the current owner or lessee for not less than (1) year, based on the recommended ‘normal maintenance schedule’ service intervals detailed in the vehicle’s owner manual, unless the lack of maintenance was due to a “**Loss Event**”. A Loss Event is an incident involving a Settlement Class Vehicle that would have led to a Qualifying Repair, the cost of which exceeded 50% of the fair market value of the vehicle, but as a result of which you sold the vehicle at a loss; or
- b) where a class member has not had the Knock Sensor Detection Software (“**KSDS**”) installed in the vehicle by a Hyundai dealer within 60 days of the Approval Notice Date, or within 60 days of mailing of the KSDS Campaign Notice, whichever is later.

You do NOT need to submit a Claim Form to receive this extension of the Powertrain Warranty under this Settlement. The extended Powertrain Warranty will automatically be available to you in the event an issue arises with your vehicle that is covered by this warranty.

2. Reimbursement for Past Repairs

Money you spent on certain Settlement Class Vehicle repairs (Qualifying Repairs) will be reimbursed in full, and in certain instances you may receive additional compensation, based on the following requirements:

(a) **DATE OF REPAIRS**

- A Qualifying Repair must be completed before notice of the settlement is issued.

(b) **TYPES OF “QUALIFYING REPAIRS”**

- A Qualifying Repair is a repair, replacement, diagnosis, or inspection of the engine short block assembly, which includes the engine block, crankshaft and bearings, connecting rods and bearings, and pistons due to a connecting rod bearing failure or symptoms associated with connecting rod bearing failure.
- Repairs to any other components (such as the long block assembly, battery, or starter) if paperwork shows the work was an attempt to address (i) engine seizure, (ii) engine stalling, (iii) engine noise, (iv) engine compartment fire, (v) illumination of the oil lamp, or (vi) other mechanical or cosmetic damage that was caused by a connecting rod bearing failure or symptoms associated with connecting rod bearing failure, except in cases of Exceptional Neglect (repair costs will not be reimbursed if the paperwork reflects that the repairs were plainly unrelated to the short block assembly).

Hyundai 2.0L and 2.4L Theta II GDI Engine Settlement in Canada

- It does not include repairs caused by a collision involving a Class Vehicle, unless the collision was directly caused by a Settlement Class Vehicle failure otherwise subject to a Qualifying Repair.
- Whether a repair constitutes a Qualifying Repair will be determined by the Claims Administrator through a review of the repair documentation submitted with your Claim, with assistance from Hyundai and Class Counsel if required.

(c) COMPENSATION FOR PREVIOUSLY DENIED WARRANTY REPAIRS

- If before receiving notice of this Settlement you presented a Qualifying Repair to a Hyundai dealership and were denied an in-warranty repair and subsequently obtained the repair elsewhere, you are eligible to receive a free oil and filter change and tire rotation at any Hyundai authorized dealer.

(d) COMPENSATION FOR INCONVENIENCE DUE TO REPAIR DELAYS

- If you experienced more than 60 days of delay in obtaining a Qualifying Repair from an authorized Hyundai dealership you are eligible to receive a dealer credit based on the length of the delay.
- If you had delays between 61 and 90 days you will be entitled to a \$65 dealer credit, plus an additional \$35 dealer credit for each additional 30-day period of delay or fraction thereof. (E.g., a Settlement Class Member may receive a \$65 dealer credit for delays lasting 61-90 days, a \$100 dealer credit for delays lasting 91-120 days, etc.).

(e) MAKE A TIMELY CLAIM

- See section 10 for how to make your claim for any of these benefits using the Claim Form.

* * *

Settlement Class Members are eligible for a reimbursement even if warranty coverage was denied on grounds of improper service or maintenance (except in cases of Exceptional Neglect circumstances as defined on page 4), and even if the repairs were performed at an independent mechanic.

3. Reimbursement for Rental Cars, Towing, Etc.

Money you spent on rental cars, towing services, and similar services will also be reimbursed in full if:

- The expense was reasonably related to obtaining one of the Qualifying Repairs listed above, and
- You make a timely claim using the Claim Form. (See section 10 for how to do this)

Hyundai 2.0L and 2.4L Theta II GDI Engine Settlement in Canada

4. Compensation If You Sold or Traded-In a Settlement Class Vehicle

If your Settlement Class Vehicle (i) experienced a Loss Event that would have led to a Qualifying Repair (such as an engine seizure, engine stall, engine noise, engine compartment fire, or illumination of the oil lamp diagnosed as requiring repair of the engine block), AND (ii) you sold or traded-in the Class Vehicle without first getting the recommended Qualifying Repair before the Pre-Approval Notice Date, you may receive compensation for any effect on fair market value of the Class Vehicle that resulted. You may also receive an additional payment of \$140.00.

The amount of compensation will be based on the sale or trade-in transaction as a whole and the vehicle's mileage on the date of the Loss Event that would have led to a Qualifying Repair (among other considerations).

The vehicle's maintenance history before the repair diagnosis will not be a basis for denying or limiting compensation under this section (except in cases of Exceptional Neglect circumstances as defined on page 4).

To be considered for compensation, submit a claim using the Claim Form. Instructions are provided in section 10 below.

5. Compensation for Loss of Vehicle by Engine Fire

If your Settlement Class Vehicle was deemed a total loss as a result of an engine fire arising from a vehicle condition that would have otherwise been addressed by a Qualifying Repair, you may receive compensation for the value of the vehicle, and an additional \$140 payment.

The amount of compensation will be based on the fair market value of your Settlement Class Vehicle on the date of the engine fire, up to a maximum of the amount you paid to purchase your Settlement Class Vehicle, provided that you submit a claim demonstrating the fire originated from the engine compartment and was unrelated to any sort of collision.

To be considered for compensation, submit a claim using the Claim Form. Instructions are provided in section 10 below.

6. Rebate Program

If you have lost faith in your Class Vehicle as a result of an incident that would have led to a Qualifying Repair and you purchase a new Hyundai vehicle at a Hyundai Authorized Dealer, you may be entitled to a rebate. You must complete the Claim Form to be entitled to any rebate (which would be calculated by determining the difference between the actual trade-in amount and the Fair Market Value of the Settlement Class Vehicle at the time of the trade in), and may qualify for a rebate up to the following maximum amounts based on the model year of the vehicle traded-in: for model year 2011-2014 Class Vehicles – \$1,750; for model year 2015 and 2016 Class Vehicles – \$1,000; and for model year 2017-2019 Class Vehicles – \$500.

7. Informational Pamphlet

The Settlement provides that Hyundai will distribute an informational pamphlet to Settlement Class Members that provides further recommended guidance on the maintenance of the engines in the Settlement Class Vehicles and that reminds Settlement Class Members of the available inspections and repairs.

HOW YOU GET A REIMBURSEMENT – SUBMITTING A CLAIM FORM

10. How do I make a claim?

- 1) Fill out the Claim Form (paper or online);
- 2) Include the documentation specified on the Claim Form;
- 3) Submit online, by mail, or email the Claim Form to the address listed on the Claim Form; and
- 4) Do so by [Claims Deadline DATE].

Please keep a copy of your completed Claim Form and all documentation you submit for your own records.

If you fail to submit a Claim Form and supporting documents by the required deadline, you will not get paid. Sending in a Claim Form late will be the same as doing nothing.

11. When would I get my reimbursement?

In general, valid claims will be paid as they are approved after the date of the Court orders giving final approval to the Settlement if there are no appeals (the “**Effective Date**”). If there are appeals, the date will be later. When the date becomes known it will be posted at [settlement website].

The Settlement must be approved by the Courts to become effective. The Settlement Approval Hearings will take place on:

- [Date], 2020: Ontario Superior Court of Justice, 130 Queen Street West, Toronto [NTD: to be updated if by Zoom]
- [Date], 2020: Superior Court of Québec, 1 Notre-Dame Street East, Montreal

The Settlement Approval Hearings may be rescheduled without further notice. To obtain updated scheduling information, see the [settlement website].

You may continue to check on the progress of the Settlement by visiting the website [settlement website] or calling [Notice Administrator phone number].

12. Who will review my claim?

A third party Claims Administrator will be appointed by the Courts to administer the settlement and the claims process. Once you submit a claim, it will be reviewed by the Claims Administrator and if the claim is valid, the Claims Administrator will send you the settlement reimbursement directly.

13. What if my claim is found to be deficient?

If a claim is found to be deficient and is rejected during the review process by the Claims Administrator, the Settlement Class Member will be notified of the deficiency. The Settlement Class Member will then have an opportunity to remedy the deficiency within 25 days of the notice.

14. What am I giving up to stay in the Settlement Class?

Unless you exclude yourself in writing as described in the answer to Question 14, you will be part of the Settlement Class if the Settlement is approved. That means that you can't sue, continue to sue, or be part of any other lawsuit against Hyundai or other related entities or individuals (listed in the Settlement Agreement, which you can view at [settlement website]) about the legal issues in this case related to your Settlement Class Vehicle. It also means that all of the Court's orders will apply to you and legally bind you.

However, nothing in this Settlement will prohibit you from pursuing claims for: (i) personal injury; (ii) damage to property other than to a Settlement Class Vehicle; or (iii) claims that relate to something other than a Settlement Class Vehicle and the alleged defect here.

If you have any questions about the scope of the legal claims you give up by staying in the Settlement Class, you may view Section VI of the Settlement Agreement (available at [settlement website]) or you can contact the lawyers representing the Settlement Class for free:

<p>Michael Peerless MCKENZIE LAKE LAWYERS London Office 140 Fullarton Street Suite 1800 London, ON N6A 5P2 E-mail: peerless@mckenzielake.com</p>	<p>K.S. Garcha GARCHA & COMPANY Barristers & Solicitors #405 – 4603 Kingsway Burnaby, BC V5H 4M4 Email: ksgarcha@garchalaw.ca</p>
<p>Jay Strosberg STROSBERG SASSO SUTTS LLP 1561 Ouellette Avenue Windsor, ON N8X 1K5 Email: jay@strosbergco.com</p>	<p>E.F. Anthony Merchant, Q.C. MERCHANT LAW GROUP LLP 2401 Saskatchewan Drive Regina, SK S4P 4H8 Email: tmerchant@merchantlaw.com</p>

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want the benefits or reimbursements provided in this settlement, and you want to keep the right to sue or continue to sue Hyundai or other related entities or individuals on your own about the legal issues in this case, then you must take steps to get out of the Settlement Class. This is called excluding yourself or opting out of the Settlement Class.

15. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must submit a personally signed written request as explained below.

An Opt-Out Form is available as of [Pre-Approval Notice Date] at [Settlement Website]. Be sure to include (i) your full name, current address, telephone number, and e-mail address (ii) the model year, approximate date(s) of purchase or lease, and Vehicle Identification Number ("VIN") of your vehicle (which is located on a small placard on the top of the dashboard visible through the driver's side corner of the windshield), and (iii) clearly state your desire to be excluded from the settlement and from the Class. You must deliver your exclusion request postmarked no later than [Opt Out Deadline] to:

Notice Administrator
[Notice Administrator Address]

You can't exclude yourself on the phone, on any website, or by e-mail. Please keep a copy of any exclusion (or opting out) letter for your records.

If you ask to be excluded, you cannot receive any benefits under this Settlement, and you cannot object to the Settlement. If you choose to be excluded (also known as "opting out"), you will be excluded for all claims you have that are included in the Settlement. You will not be legally bound by anything that happens in this lawsuit.

16. If I don't exclude myself, can I sue for the same thing later?

No. Unless you exclude yourself (opt out), you give up the right to sue Hyundai, and other related entities or individuals for the claims that this Settlement resolves.

If you have a pending lawsuit against Hyundai, or other related entities or individuals, speak to your lawyer in that lawsuit immediately. You must exclude yourself from this Settlement Class to continue your own lawsuit if it concerns the same legal issues in this case. Remember, the exclusion deadline is [Opt Out Deadline].

If you are a Settlement Class Member and you do nothing, you will remain a Settlement Class Member and all of the Court's orders will apply to you, you will be eligible for the Settlement benefits described above as long as you satisfy the conditions for receiving each benefit, and you will not be able to sue the Defendants over the issues in this lawsuit.

17. If I exclude myself, can I get the benefits of this Settlement?

No. If you exclude yourself, do not send in a Claim Form to ask for any reimbursement. But, you may sue, continue to sue, or be part of a different lawsuit against Hyundai, and other related entities or individuals for the claims that this Settlement resolves, provided the time for doing so has not expired.

THE LAWYERS REPRESENTING YOU

18. Do I have a lawyer in this case?

The law firms representing all Settlement Class Members are listed below.

<p>Michael Peerless MCKENZIE LAKE LAWYERS London Office 140 Fullarton Street Suite 1800 London, ON N6A 5P2 E-mail: peerless@mckenzielake.com</p> <p>Jay Strosberg STROSBERG SASSO SUTTS LLP 1561 Ouellette Avenue Windsor, ON N8X 1K5 Email: jay@strosbergco.com</p>	<p>K.S. Garcha GARCHA & COMPANY Barristers & Solicitors #405 – 4603 Kingsway Burnaby, BC V5H 4M4 Email: ksgarcha@garchalaw.ca</p> <p>E.F. Anthony Merchant, Q.C. MERCHANT LAW GROUP LLP 2401 Saskatchewan Drive Regina, SK S4P 4H8 Email: tmerchant@merchantlaw.com</p>
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You will not be charged for contacting these lawyers. If you want to be represented by your own lawyer, you may hire one at your own cost.

19. How will the lawyers representing the Settlement Class be paid?

Class Counsel will ask the Courts for approval of the payment of their fees and other expenses by the Defendants. It will be up to the Courts to approve or determine the amount that the Defendants will be ordered to pay for those fees and expenses. The Court may award less than the amounts requested by Class Counsel. These amounts will not come out of the funds for payments to Settlement Class Members. You may continue to check on the progress of Class Counsel's request for fees and expenses by visiting [\[settlement website\]](#)

The Defendants will also separately pay the costs to administer the Settlement. The payment of settlement administration costs will not come out of the funds for payments to Settlement Class Members.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you don't agree with the Settlement or some part of it.

20. How do I tell the Court if I do not like the Settlement?

If you are a member of the Settlement Class, you can object to the Settlement if you don't like any part of it. You can give reasons why you think the Courts should not approve it. The Court will consider your views.

To object, you must deliver an Objection Form saying that you object to the addresses below:

Notice Administrator
[Notice Administrator Address]

An Objection Form is available as of [Pre-Approval Notice Date] at [settlement website]. The completed Objection Form must include:

- 1) Your full name, address, and telephone number, and e-mail address (if applicable);
- 2) The model year and VIN of your Class Vehicle;
- 3) A detailed written statement of each objection being made, including the specific reasons for each objection including all factual and legal grounds, and any evidence or legal authority to support each objection;
- 4) Whether you intend to appear on your own behalf or through counsel at the Settlement Approval Hearing in Toronto, Ontario or the Settlement Approval Hearing in Montreal, Quebec, and if appearing by counsel, the name, address, telephone number, and e-mail address of counsel.
- 5) Your signature.

Objections must be sent by mail, courier, or e-mail to the above addresses on or before [Objection Deadline]. Objections submitted after this date will not be considered.

Should you wish to speak at a Settlement Approval Hearing, you must indicate your wish to do so in the Objection Form. You can hire a lawyer to appear on your behalf at your own expense or you may appear yourself. If you do not state your intention to appear in accordance with the applicable deadlines and specifications, or you do not submit an objection in accordance with the applicable deadlines and specifications, you will waive all objections and can be barred from speaking at the final approval hearing.

21. What is the difference between objecting and excluding?

Objecting is simply telling the Court that you don't like something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you do

not want to be part of the Settlement Class and the Settlement. If you exclude yourself, you have no basis to object because the Settlement no longer affects you.

THE SETTLEMENT APPROVAL HEARINGS

The Courts will hold hearings to decide whether to approve the Settlement. You may attend and you may ask to speak, subject to the requirements above, but you don't have to.

22. When and where will the Courts decide whether to approve the Settlement?

The Courts will hold the Settlement Approval Hearings on:

- **[Date], 2020:** Ontario Superior Court of Justice, 130 Queen Street West, Toronto **[NTD: update this section if approval hearings are heard through videoconference]**
- **[Date], 2020:** Superior Court of Québec, 1 Notre-Dame Street East, Montreal

At these Settlement Approval Hearings, the Courts will consider whether the Settlement is fair, reasonable, and in the best interests of the class. If there are objections, the Courts will consider them. The Courts will listen to people who have asked to speak at the hearing. The Courts may also decide how much to pay Class Counsel. After the hearings, the Courts will decide whether to finally approve the Settlement. We do not know how long these decisions will take.

The Settlement Approval Hearings may be rescheduled without further notice to you, so it is recommended you periodically check [\[settlement website\]](#) for updated information.

23. Do I have to come to the Settlement Approval Hearing?

No. Class Counsel will answer any questions the Courts may have. But, you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also attend or pay your own lawyer to attend, but it is not necessary. Settlement Class Members do not need to appear at the hearing or take any other action to indicate their approval.

IF YOU DO NOTHING

24. What happens if I do nothing at all?

If you do nothing, you'll get no payments from this Settlement, though you will be entitled to the benefits of the Lifetime Warranty (if you continue to own or lease your Settlement Class Vehicle). But unless you exclude yourself, you won't be able to start a lawsuit, continue a lawsuit, or be part of any other lawsuit against Hyundai, or other related entities or individuals about the legal issues in this case.

However, even if you take no action, you will keep your right to sue the Defendants for any other claims not resolved by the Settlement.

GETTING MORE INFORMATION

25. Are there more details about the Settlement?

This notice summarizes the proposed Settlement. More details are in a Settlement Agreement, which you can view at [settlement website].

Neither the Defendants nor the Representative Plaintiffs make any representation regarding the tax effects, if any, of receiving any benefits under this Settlement. Consult your tax adviser for any tax questions you may have.

26. How do I get more information?

You can call [Notice Administrator's phone number] toll free or visit [settlement website], where you will find information and documents about the Settlement, a Claim Form, plus other information. You may also contact Class Counsel listed in response to Question 12.

Kia Theta II GDI Engine Settlement in Canada

NOTICE OF PROPOSED CLASS SETTLEMENT

If you bought or leased any of the following Kia vehicles equipped with a genuine Theta II 2.0-litre or 2.4-litre gasoline direct injection (GDI) engine (the “**Settlement Class Vehicles**”), you may benefit from a class action settlement:

Model	Model Years
Kia Optima	2011 – 2019
Kia Sorento	2012 – 2019
Kia Sportage	2011 – 2019

Your rights are affected whether you act or not. Read this notice carefully.

- The purpose of this notice is to inform you of a proposed settlement in the following class action lawsuits:
 - *Asselstine v. Kia Canada Inc., et al.*, Court File No. 1302/19 (Ontario Superior Court of Justice)
 - *Papp v. Kia Motors America Inc., et al.*, Court File No. QBG 795/19 (Saskatchewan Court of Queen’s Bench)
 - *Killoran v. Hyundai Auto Canada Corp., et al.*, Court File No. S-194327 (British Columbia Supreme Court)
 - *Pelletant v. Hyundai Auto Canada Corp., et al.*, Court File No. 500-06-0010103-198 (Quebec Superior Court of Justice)

You are receiving this notice because the records of Kia Canada Inc. (“**KCI**”), Kia Motors Corporation, Kia Motors America, Inc., or Kia Motors Manufacturing Georgia, Inc. (collectively, “**Kia**”) indicate that you may be entitled to claim certain benefits offered by this proposed settlement.

- These lawsuits allege that the Settlement Class Vehicles suffer from a defect that can cause engine seizure, stalling, failure, and/or fire. Kia has not been found liable for any of the claims alleged in these lawsuits. The parties have instead proposed a settlement in order to avoid lengthy litigation (the “**Settlement**”).
- Individuals who own or lease, or who previously owned or leased, a Settlement Class Vehicle are each known as “**Settlement Class Members**” and are collectively the “**Settlement Class.**” Settlement Class Members may be entitled to compensation if they submit a valid and timely claim that is approved pursuant to the review process described in this notice and approved by the Courts.

Potential Settlement Benefits:

Under the Settlement, Settlement Class Members (those who purchased or leased a Class Vehicle in Canada who are not excluded from the Settlement Class) may be eligible for the following benefits:

- Extension of the Powertrain Warranty to provide lifetime warranty coverage for damage to the engine short block assembly and long-block assembly if caused by a connecting rod bearing failure, upon completion of the Knock Sensor Detection Software update.
- Cash payment for qualifying past out-of-pocket repairs and repair-related expenses.
- Dealer credit for inconvenience due to past repair delays.
- Cash payment for certain sales and trade-ins of unrepaired vehicles.
- Cash payment for vehicles lost due to certain engine fires.
- In some instances, a cash rebate if you lost faith in the vehicle after requiring an engine repair and you traded it in for another Kia vehicle.

Settlement Approval Hearings:

The Settlement must be approved by the Courts to become effective. The approval hearings will take place on:

- **[Date], 2020:** Ontario Superior Court of Justice, 130 Queen Street West, Toronto **[NTD: to be updated if motion heard through Zoom]**
- **[Date], 2020:** Superior Court of Québec, 1 Notre-Dame Street East, Montreal

The legal fees to class counsel may also be approved, but those amounts will be paid separately and will not reduce the settlement benefits.

Your Legal Rights and Options:

- **Participate** in the Settlement, if approved by the Courts, and submit a claim for eligible benefits. If you wish to participate, you are not required to do anything until after the Settlement is approved.
- **Object** to the Settlement before the Courts consider whether to approve it and attend an approval hearing to present that objection.
- **Exclude** yourself from the Settlement (**opt out**), in which case, you will not be eligible to receive any benefits. You must take steps if you wish to exclude yourself and preserve your legal rights against Kia.

To object to or opt out of the Settlement, you must submit the request so it is received by **[Opt-Out Deadline]**.

- These rights and options—**and the deadlines to exercise them**—are explained in this notice.

Kia 2.0L and 2.4L Theta II GDI Engine Settlement in Canada

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Kia Theta II GDI Engine Settlement in Canada

BASIC INFORMATION

1. Why did I get this notice package?

According to Kia's records, you bought or leased a Settlement Class Vehicle in Canada.

You have a right to know about a proposed settlement of class action lawsuits and about your options before the Courts decide whether to approve the Settlement. If the Courts approve the Settlement, Kia will provide the payments and other benefits agreed to in the Settlement to Settlement Class Members who submit valid claims. This notice explains the class actions, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

You should read this entire notice.

2. What are the class actions about?

The individuals who filed these lawsuits are referred to as the “**Representative Plaintiffs**”, and the companies they sued, including Kia, are called the “**Defendants**” (the Representative Plaintiffs and the Defendants are, together, the “**Parties**”). The Representative Plaintiffs allege that the Settlement Class Vehicles suffer from a defect that can cause engine seizure, stalling, failure, and/or fire. The Representative Plaintiffs also allege that some owners and lessees have been improperly denied repairs under the vehicle's warranty. Kia denies the Representative Plaintiffs' allegations.

These class actions consist of three national class actions (*Asselstine v Kia Canada Inc., et al.*, Court File No. 1302/19 before the Ontario Superior Court of Justice; *Papp v Kia Motors America Inc., et al.*, Court File No. QBG 795/19 before the Saskatchewan Court of Queen's Bench; and *Killoran v Hyundai Auto Canada Corp., et al.*, Court File No. S-194327 before the British Columbia Supreme Court) and a class action on behalf of residents of Quebec (*Pelletant v Hyundai Auto Canada Corp., et al.*, Court File No. 500-06-0010103-198 before the Quebec Superior Court of Justice).

The Settlement Class is divided into a Quebec Settlement Class that includes all Settlement Class Members whose Settlement Class Vehicle is registered in Quebec, and a National Settlement Class that includes all Settlement Class Members who are not Quebec Settlement Class Members. Approval of the Settlement is being sought in both the Ontario Superior Court of Justice and the Quebec Superior Court of Justice (each a “**Court**” and together the “**Courts**”).

3. Why is there a settlement?

The parties have agreed to the Settlement to avoid the cost and risk of further litigation, including a potential trial, and so that the Settlement Class Members can receive the payments and other benefits outlined in this notice in exchange for releasing the Defendants from liability. The Settlement does not mean that the Defendants broke any laws or did anything wrong, and the Courts did not decide which side was right.

Kia 2.0L and 2.4L Theta II GDI Engine Settlement in Canada

The Parties entered into a Settlement Agreement. The Representative Plaintiffs and the lawyers representing them (called “**Class Counsel**”) believe that the Settlement is in the best interests of the Settlement Class.

This notice summarizes the essential terms of the Settlement. The Settlement Agreement along with all exhibits describe in greater detail the rights and obligations of all the parties and are available at [settlement website]. If there is any conflict between this notice and the Settlement Agreement, the Settlement Agreement governs.

WHO IS IN THE SETTLEMENT?

4. How do I know if I am part of the Settlement?

For the purposes of the Settlement, all persons (including individuals and entities) who purchased or leased a Settlement Class Vehicle in Canada are Settlement Class Members. Some exceptions apply (*see section 5*).

5. Who is Excluded from the Settlement?

The Settlement does not apply to anyone who is not a Settlement Class Member, including Excluded Persons. Excluded Persons are:

- The Defendants and their directors, officers, and employees;
- Anyone who validly opts out of the Settlement;
- Anyone who purchased a Settlement Class Vehicle that had, prior to their purchase, been deemed a total loss or that had a branded title of “Dismantled”, “Junk”, “Salvage”, or “Mechanically Unfit”;
- Current or former owners or lessees of a Settlement Class Vehicle who released their claims against the Defendants in an individual settlement with any of the Defendants with respect to an issue raised in the class actions; and
- Class Counsel and the presiding judges in the class actions.

6. Which vehicles are included?

The “**Settlement Class Vehicles**” for the purposes of the description in section 4 above, are 2011-2019 model year Kia Optima vehicles, 2012-2019 model year Kia Sorento vehicles, and 2011-2019 model year Kia Sportage vehicles equipped with genuine 2.0-litre and 2.4-litre Theta II gasoline direct injection engines within OEM specifications.

7. If I bought or leased a Class Vehicle that has not had problems, am I included?

Yes. You do NOT have to have experienced engine stalling, seizure, failure, or fire to be included in this Settlement. If you still own or lease a Settlement Class Vehicle you will be eligible to take advantage of the extension of the Powertrain Warranty to a Lifetime Warranty.

8. I am still not sure if I'm included.

If you are still not sure whether you are included, you can ask for help for free. You can visit the website at [settlement website]. You can also call [Notice Administrator's number] and ask whether your vehicle is included in the Settlement.

Whether you visit the website or call the toll-free number, you will need to have your Vehicle Identification Number ("VIN") ready. The VIN is located on a small placard on the top of the dashboard and is visible through the driver's side corner of the windshield. It also appears on your vehicle registration card and probably appears on your vehicle insurance card. Your VIN should have 17 characters, a combination of both letters and numbers.

SETTLEMENT BENEFITS – WHAT YOU GET

9. What does the Settlement provide?

The Settlement provides the following benefits:

1. Warranty Extension

Kia is extending the Powertrain Warranty to a Lifetime Warranty for Settlement Class Members who are individual consumers and who have the KSDS update completed on their Settlement Class Vehicle. The Lifetime Warranty will cover any damage to the short block assembly (consisting of the engine block, crankshaft and bearings, connecting rods and bearings, and pistons) and the rest of the long block assembly caused by a connecting rod bearing failure in applicable Settlement Class Vehicles.

With the exception of cases of Exceptional Neglect (defined below) and subject to the existing terms, limitations, and conditions of the Settlement Class Vehicles' original Powertrain Warranty, the Lifetime Warranty shall otherwise endure for issues arising from connecting rod bearing wear or damage irrespective of the Class Vehicle's mileage, duration of ownership, or prior warranty engine repairs and/or warranty replacements.

The extension of the warranty covers all costs of inspections and repairs including the costs associated with replacement parts, labour, diagnoses, and mechanical or cosmetic damage to the Settlement Class Vehicle caused by an engine malfunction. Settlement Class Members must retain their vehicle maintenance records, and will be required to provide records for vehicle maintenance performed before and after the Notice Date to receive Lifetime Warranty repairs.

Kia dealerships will provide a free loaner vehicle until repairs are completed. If no loaner vehicle is available, Kia will provide reimbursement of reasonable rental car expenses up to \$40 per day.

Kia 2.0L and 2.4L Theta II GDI Engine Settlement in Canada

If a Settlement Class Vehicle needs a new engine pursuant to the Lifetime Warranty but has mileage at or above 200,000 km and is more than eight (8) years from the original in-service date, Kia has the option of buying back the vehicle at its fair market value (as determined by Canadian Black Book's wholesale value for the vehicle, with no regional adjustment) instead of replacing the engine.

The warranty extension may be denied for “**Exceptional Neglect**” of the vehicle, which means:

- a) when the vehicle’s engine suffers from a lack of maintenance or care by the current owner or lessee for not less than (1) year, based on the recommended ‘normal maintenance schedule’ service intervals detailed in the vehicle’s owner manual, unless the lack of maintenance was due to a “**Loss Event**”. A Loss Event is an incident involving a Settlement Class Vehicle that would have led to a Qualifying Repair, the cost of which exceeded 50% of the fair market value of the vehicle, but as a result of which you sold the vehicle at a loss; or
- b) where a class member has not had the Knock Sensor Detection Software (“**KSDS**”) installed in the vehicle by a Kia dealer within 60 days of the Approval Notice Date, or within 60 days of mailing of the KSDS Campaign Notice, whichever is later.

You do NOT need to submit a Claim Form to receive this extension of the Powertrain Warranty under this Settlement. The extended Powertrain Warranty will automatically be available to you in the event an issue arises with your vehicle that is covered by this warranty.

2. Reimbursement for Past Repairs

Money you spent on certain Settlement Class Vehicle repairs (Qualifying Repairs) will be reimbursed in full, and in certain instances you may receive additional compensation, based on the following requirements:

(a) **DATE OF REPAIRS**

- A Qualifying Repair must be completed before notice of the settlement is issued.

(b) **TYPES OF “QUALIFYING REPAIRS”**

- A Qualifying Repair is a repair, replacement, diagnosis, or inspection of the engine short block assembly, which includes the engine block, crankshaft and bearings, connecting rods and bearings, and pistons due to a connecting rod bearing failure or symptoms associated with connecting rod bearing failure.
- Repairs to any other components (such as the long block assembly, battery, or starter) if paperwork shows the work was an attempt to address (i) engine seizure, (ii) engine stalling, (iii) engine noise, (iv) engine compartment fire, (v) illumination of the oil lamp, or (vi) other mechanical or cosmetic damage that was caused by a connecting rod bearing failure or symptoms associated with connecting rod bearing failure, except in cases of Exceptional Neglect (repair costs will not be reimbursed if the paperwork reflects that the repairs were plainly unrelated to the short block assembly).

Kia 2.0L and 2.4L Theta II GDI Engine Settlement in Canada

- It does not include repairs caused by a collision involving a Class Vehicle, unless the collision was directly caused by a Settlement Class Vehicle failure otherwise subject to a Qualifying Repair.
- Whether a repair constitutes a Qualifying Repair will be determined by the Claims Administrator through a review of the repair documentation submitted with your Claim, with assistance from Kia and Class Counsel if required.

(c) COMPENSATION FOR PREVIOUSLY DENIED WARRANTY REPAIRS

- If before receiving notice of this Settlement you presented a Qualifying Repair to a Kia dealership and were denied an in-warranty repair and subsequently obtained the repair elsewhere, you are eligible to receive a free oil and filter change and tire rotation at any Kia authorized dealer.

(d) COMPENSATION FOR INCONVENIENCE DUE TO REPAIR DELAYS

- If you experienced more than 60 days of delay in obtaining a Qualifying Repair from an authorized Kia dealership you are eligible to receive a dealer credit based on the length of the delay.
- If you had delays between 61 and 90 days you will be entitled to a \$65 dealer credit, plus an additional \$35 dealer credit for each additional 30-day period of delay or fraction thereof. (E.g., a Settlement Class Member may receive a \$65 dealer credit for delays lasting 61-90 days, a \$100 dealer credit for delays lasting 91-120 days, etc.).

(e) MAKE A TIMELY CLAIM

- See section 10 for how to make your claim for any of these benefits using the Claim Form.

* * *

Settlement Class Members are eligible for a reimbursement even if warranty coverage was denied on grounds of improper service or maintenance (except in cases of Exceptional Neglect circumstances as defined on page 4), and even if the repairs were performed at an independent mechanic.

3. Reimbursement for Rental Cars, Towing, Etc.

Money you spent on rental cars, towing services, and similar services will also be reimbursed in full if:

- The expense was reasonably related to obtaining one of the Qualifying Repairs listed above, and
- You make a timely claim using the Claim Form. (See section 10 for how to do this)

Kia 2.0L and 2.4L Theta II GDI Engine Settlement in Canada

4. Compensation If You Sold or Traded-In a Settlement Class Vehicle

If your Settlement Class Vehicle (i) experienced a Loss Event that would have led to a Qualifying Repair (such as an engine seizure, engine stall, engine noise, engine compartment fire, or illumination of the oil lamp diagnosed as requiring repair of the engine block), AND (ii) you sold or traded-in the Class Vehicle without first getting the recommended Qualifying Repair before the Pre-Approval Notice Date, you may receive compensation for any effect on fair market value of the Class Vehicle that resulted. You may also receive an additional payment of \$140.00.

The amount of compensation will be based on the sale or trade-in transaction as a whole and the vehicle's mileage on the date of the Loss Event that would have led to a Qualifying Repair (among other considerations).

The vehicle's maintenance history before the repair diagnosis will not be a basis for denying or limiting compensation under this section (except in cases of Exceptional Neglect circumstances as defined on page 4).

To be considered for compensation, submit a claim using the Claim Form. Instructions are provided in section 10 below.

5. Compensation for Loss of Vehicle by Engine Fire

If your Settlement Class Vehicle was deemed a total loss as a result of an engine fire arising from a vehicle condition that would have otherwise been addressed by a Qualifying Repair, you may receive compensation for the value of the vehicle, and an additional \$140 payment.

The amount of compensation will be based on the fair market value of your Settlement Class Vehicle on the date of the engine fire, up to a maximum of the amount you paid to purchase your Settlement Class Vehicle, provided that you submit a claim demonstrating the fire originated from the engine compartment and was unrelated to any sort of collision.

To be considered for compensation, submit a claim using the Claim Form. Instructions are provided in section 10 below.

6. Rebate Program

If you have lost faith in your Class Vehicle as a result of an incident that would have led to a Qualifying Repair and you purchase a new Kia vehicle at a Kia Authorized Dealer, you may be entitled to a rebate. You must complete the Claim Form to be entitled to any rebate (which would be calculated by determining the difference between the actual trade-in amount and the Fair Market Value of the Settlement Class Vehicle at the time of the trade in), and may qualify for a rebate up to the following maximum amounts based on the model year of the vehicle traded-in: for model year 2011-2014 Class Vehicles – \$1,750; for model year 2015 and 2016 Class Vehicles – \$1,000; and for model year 2017-2019 Class Vehicles – \$500.

7. Informational Pamphlet

The Settlement provides that Kia will distribute an informational pamphlet to Settlement Class Members that provides further recommended guidance on the maintenance of the engines in the Settlement Class Vehicles and that reminds Settlement Class Members of the available inspections and repairs.

HOW YOU GET A REIMBURSEMENT – SUBMITTING A CLAIM FORM

10. How do I make a claim?

- 1) Fill out the Claim Form (paper or online);
- 2) Include the documentation specified on the Claim Form;
- 3) Submit online, by mail, or email the Claim Form to the address listed on the Claim Form; and
- 4) Do so by [Claims Deadline DATE].

Please keep a copy of your completed Claim Form and all documentation you submit for your own records.

If you fail to submit a Claim Form and supporting documents by the required deadline, you will not get paid. Sending in a Claim Form late will be the same as doing nothing.

11. When would I get my reimbursement?

In general, valid claims will be paid as they are approved after the date of the Court orders giving final approval to the Settlement if there are no appeals (the “**Effective Date**”). If there are appeals, the date will be later. When the date becomes known it will be posted at [settlement website].

The Settlement must be approved by the Courts to become effective. The Settlement Approval Hearings will take place on:

- [Date], 2020: Ontario Superior Court of Justice, 130 Queen Street West, Toronto [NTD: to be updated if by Zoom]
- [Date], 2020: Superior Court of Québec, 1 Notre-Dame Street East, Montreal

The Settlement Approval Hearings may be rescheduled without further notice. To obtain updated scheduling information, see the [settlement website].

You may continue to check on the progress of the Settlement by visiting the website [settlement website] or calling [Notice Administrator phone number].

12. Who will review my claim?

A third party Claims Administrator will be appointed by the Courts to administer the settlement and the claims process. Once you submit a claim, it will be reviewed by the Claims Administrator and if the claim is valid, the Claims Administrator will send you the settlement reimbursement directly.

13. What if my claim is found to be deficient?

If a claim is found to be deficient and is rejected during the review process by the Claims Administrator, the Settlement Class Member will be notified of the deficiency. The Settlement Class Member will then have an opportunity to remedy the deficiency within 25 days of the notice.

14. What am I giving up to stay in the Settlement Class?

Unless you exclude yourself in writing as described in the answer to Question 14, you will be part of the Settlement Class if the Settlement is approved. That means that you can't sue, continue to sue, or be part of any other lawsuit against Kia or other related entities or individuals (listed in the Settlement Agreement, which you can view at [settlement website]) about the legal issues in this case related to your Settlement Class Vehicle. It also means that all of the Court's orders will apply to you and legally bind you.

However, nothing in this Settlement will prohibit you from pursuing claims for: (i) personal injury; (ii) damage to property other than to a Settlement Class Vehicle; or (iii) claims that relate to something other than a Settlement Class Vehicle and the alleged defect here.

If you have any questions about the scope of the legal claims you give up by staying in the Settlement Class, you may view Section VI of the Settlement Agreement (available at [settlement website]) or you can contact the lawyers representing the Settlement Class for free:

<p>Michael Peerless MCKENZIE LAKE LAWYERS London Office 140 Fullarton Street Suite 1800 London, ON N6A 5P2 E-mail: peerless@mckenzielake.com</p> <p>Jay Strosberg STROSBERG SASSO SUTTS LLP 1561 Ouellette Avenue Windsor, ON N8X 1K5 Email: jay@strosbergco.com</p>	<p>K.S. Garcha GARCHA & COMPANY Barristers & Solicitors #405 – 4603 Kingsway Burnaby, BC V5H 4M4 Email: ksgarcha@garchalaw.ca</p> <p>E.F. Anthony Merchant, Q.C. MERCHANT LAW GROUP LLP 2401 Saskatchewan Drive Regina, SK S4P 4H8 Email: tmerchant@merchantlaw.com</p>
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EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want the benefits or reimbursements provided in this settlement, and you want to keep the right to sue or continue to sue Kia, or other related entities or individuals, on your own about the legal issues in this case, then you must take steps to get out of the Settlement Class. This is called excluding yourself or opting out of the Settlement Class.

15. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must submit a personally signed written request as explained below.

An Opt-Out Form is available as of [Pre-Approval Notice Date] at [Settlement Website]. Be sure to include (i) your full name, current address, telephone number, and e-mail address (ii) the model year, approximate date(s) of purchase or lease, and Vehicle Identification Number (“VIN”) of your vehicle (which is located on a small placard on the top of the dashboard visible through the driver’s side corner of the windshield), and (iii) clearly state your desire to be excluded from the settlement and from the Class. You must deliver your exclusion request postmarked no later than [Opt Out Deadline] to:

Notice Administrator
[Notice Administrator Address]

You can’t exclude yourself on the phone, on any website, or by e-mail. Please keep a copy of any exclusion (or opting out) letter for your records.

If you ask to be excluded, you cannot receive any benefits under this Settlement, and you cannot object to the Settlement. If you choose to be excluded (also known as "opting out"), you will be excluded for all claims you have that are included in the Settlement. You will not be legally bound by anything that happens in this lawsuit.

16. If I don’t exclude myself, can I sue for the same thing later?

No. Unless you exclude yourself (opt out), you give up the right to sue Kia, and other related entities or individuals for the claims that this Settlement resolves.

If you have a pending lawsuit against Kia, or other related entities or individuals, speak to your lawyer in that lawsuit immediately. You must exclude yourself from this Settlement Class to continue your own lawsuit if it concerns the same legal issues in this case. Remember, the exclusion deadline is [Opt Out Deadline].

If you are a Settlement Class Member and you do nothing, you will remain a Settlement Class Member and all of the Court’s orders will apply to you, you will be eligible for the Settlement benefits described above as long as you satisfy the conditions for receiving each benefit, and you will not be able to sue the Defendants over the issues in this lawsuit.

17. If I exclude myself, can I get the benefits of this Settlement?

No. If you exclude yourself, do not send in a Claim Form to ask for any reimbursement. But, you may sue, continue to sue, or be part of a different lawsuit against Kia, and other related entities or individuals for the claims that this Settlement resolves, provided the time for doing so has not expired.

THE LAWYERS REPRESENTING YOU

18. Do I have a lawyer in this case?

The law firms representing all Settlement Class Members are listed below.

<p>Michael Peerless MCKENZIE LAKE LAWYERS London Office 140 Fullarton Street Suite 1800 London, ON N6A 5P2 E-mail: peerless@mckenzielake.com</p> <p>Jay Strosberg STROSBERG SASSO SUTTS LLP 1561 Ouellette Avenue Windsor, ON N8X 1K5 Email: jay@strosbergco.com</p>	<p>K.S. Garcha GARCHA & COMPANY Barristers & Solicitors #405 – 4603 Kingsway Burnaby, BC V5H 4M4 Email: ksgarcha@garchalaw.ca</p> <p>E.F. Anthony Merchant, Q.C. MERCHANT LAW GROUP LLP 2401 Saskatchewan Drive Regina, SK S4P 4H8 Email: tmerchant@merchantlaw.com</p>
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You will not be charged for contacting these lawyers. If you want to be represented by your own lawyer, you may hire one at your own cost.

19. How will the lawyers representing the Settlement Class be paid?

Class Counsel will ask the Courts for approval of the payment of their fees and other expenses by the Defendants. It will be up to the Courts to approve or determine the amount that the Defendants will be ordered to pay for those fees and expenses. The Court may award less than the amounts requested by Class Counsel. These amounts will not come out of the funds for payments to Settlement Class Members. You may continue to check on the progress of Class Counsel's request for fees and expenses by visiting [[settlement website](#)]

The Defendants will also separately pay the costs to administer the Settlement. The payment of settlement administration costs will not come out of the funds for payments to Settlement Class Members.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you don't agree with the Settlement or some part of it.

20. How do I tell the Court if I do not like the Settlement?

If you are a member of the Settlement Class, you can object to the Settlement if you don't like any part of it. You can give reasons why you think the Courts should not approve it. The Court will consider your views.

To object, you must deliver an Objection Form saying that you object to the addresses below:

Notice Administrator
[Notice Administrator Address]

An Objection Form is available as of [Pre-Approval Notice Date] at [settlement website]. The completed Objection Form must include:

- 1) Your full name, address, and telephone number, and e-mail address (if applicable);
- 2) The model year and VIN of your Class Vehicle;
- 3) A detailed written statement of each objection being made, including the specific reasons for each objection including all factual and legal grounds, and any evidence or legal authority to support each objection;
- 4) Whether you intend to appear on your own behalf or through counsel at the Settlement Approval Hearing in Toronto, Ontario or the Settlement Approval Hearing in Montreal, Quebec, and if appearing by counsel, the name, address, telephone number, and e-mail address of counsel.
- 5) Your signature.

Objections must be sent by mail, courier, or e-mail to the above addresses on or before [Objection Deadline]. Objections submitted after this date will not be considered.

Should you wish to speak at a Settlement Approval Hearing, you must indicate your wish to do so in the Objection Form. You can hire a lawyer to appear on your behalf at your own expense or you may appear yourself. If you do not state your intention to appear in accordance with the applicable deadlines and specifications, or you do not submit an objection in accordance with the applicable deadlines and specifications, you will waive all objections and can be barred from speaking at the final approval hearing.

21. What is the difference between objecting and excluding?

Objecting is simply telling the Court that you don't like something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you do

not want to be part of the Settlement Class and the Settlement. If you exclude yourself, you have no basis to object because the Settlement no longer affects you.

THE SETTLEMENT APPROVAL HEARINGS

The Courts will hold hearings to decide whether to approve the Settlement. You may attend and you may ask to speak, subject to the requirements above, but you don't have to.

22. When and where will the Courts decide whether to approve the Settlement?

The Courts will hold the Settlement Approval Hearings on:

- **[Date], 2020:** Ontario Superior Court of Justice, 130 Queen Street West, Toronto **[NTD: update this section if approval hearings are heard through videoconference]**
- **[Date], 2020:** Superior Court of Québec, 1 Notre-Dame Street East, Montreal

At these Settlement Approval Hearings, the Courts will consider whether the Settlement is fair, reasonable, and in the best interests of the class. If there are objections, the Courts will consider them. The Courts will listen to people who have asked to speak at the hearing. The Courts may also decide how much to pay Class Counsel. After the hearings, the Courts will decide whether to finally approve the Settlement. We do not know how long these decisions will take.

The Settlement Approval Hearings may be rescheduled without further notice to you, so it is recommended you periodically check [\[settlement website\]](#) for updated information.

23. Do I have to come to the Settlement Approval Hearing?

No. Class Counsel will answer any questions the Courts may have. But, you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also attend or pay your own lawyer to attend, but it is not necessary. Settlement Class Members do not need to appear at the hearing or take any other action to indicate their approval.

IF YOU DO NOTHING

24. What happens if I do nothing at all?

If you do nothing, you'll get no payments from this Settlement, though you will be entitled to the benefits of the Lifetime Warranty (if you continue to own or lease your Settlement Class Vehicle). But unless you exclude yourself, you won't be able to start a lawsuit, continue a lawsuit, or be part of any other lawsuit against Kia, or other related entities or individuals about the legal issues in this case.

However, even if you take no action, you will keep your right to sue the Defendants for any other claims not resolved by the Settlement.

GETTING MORE INFORMATION

25. Are there more details about the Settlement?

This notice summarizes the proposed Settlement. More details are in a Settlement Agreement, which you can view at [settlement website].

Neither the Defendants nor the Representative Plaintiffs make any representation regarding the tax effects, if any, of receiving any benefits under this Settlement. Consult your tax adviser for any tax questions you may have.

26. How do I get more information?

You can call [Notice Administrator's phone number] toll free or visit [settlement website], where you will find information and documents about the Settlement, a Claim Form, plus other information. You may also contact Class Counsel listed in response to Question 12.