

**DISTRIBUTION PROTOCOL**  
**IN THE MATTER OF THE CANADIAN AUTOMOTIVE WIRE HARNESS SYSTEMS**  
**PRICE-FIXING CLASS ACTION SETTLEMENTS**

**INDEX**

GENERAL PRINCIPLES .....	2
DEFINITIONS.....	3
DISTRIBUTION OF SETTLEMENT FUNDS.....	5
<i>Cy Pres</i> Payment.....	5
Categorization of Settlement Class Members.....	6
Calculation of Payments .....	6
Sample Calculation .....	9
Distribution .....	10
THE CLAIMS PROCESS .....	10
The Claim.....	10
The Online Claims Portal.....	13
National Brand Data .....	14
Claims Filing Process .....	15
Assistance in Filing a Claim .....	15
Audits.....	15
Deficiencies.....	17
Adjustments to Claims Process and Extension of the Claims Filing Deadline .....	17
Claims Administrator’s Decision.....	20
Appeal of the Claims Administrator’s Decision.....	21
Payment of Claims.....	22
THE CLAIMS ADMINISTRATOR’S DUTIES AND RESPONSIBILITIES .....	23
Supervisory Powers of the Ontario Court.....	23
Investment of Settlement Funds.....	23
Communication, Languages and Translation .....	23
Undeliverable Mail .....	24
Reissuance of Payment .....	24
Taxes .....	24
Reporting.....	24
Preservation and Disposition of Claim Submissions .....	25
Assistance to the Claims Administrator.....	25
Confidentiality .....	25

## GENERAL PRINCIPLES

1. The procedures set forth herein are intended to govern the administration of the settlement agreements entered into in the Canadian Automotive Wire Harness Systems price-fixing class actions (the “Settlement Agreements”).<sup>1</sup>
  
2. The administration shall:
  - (a) implement and conform to the Settlement Agreements, orders of the Courts and this Distribution Protocol;
  - (b) employ secure, paperless, web-based systems with electronic registration and record-keeping wherever possible; and
  - (c) rely on Affected Vehicle sales information provided by the National Brands wherever economically feasible.
  
3. Settlement Class Members seeking compensation must disclose and give credit for any compensation received through other proceedings or private out-of-class settlements in relation to their purchases of Affected Vehicles, unless by such proceedings or private out-of-class settlements the Settlement Class Member’s claim was released in its entirety, in which case the Settlement Class Member shall be deemed ineligible for any further compensation.

---

<sup>1</sup> The Settlement Agreements are available online at [www.classaction.ca](http://www.classaction.ca).

## DEFINITIONS

4. The definitions set out in the Settlement Agreements apply to and are incorporated herein. Where a term is defined in both the Settlement Agreements and in this Distribution Protocol, the definition in this Distribution Protocol shall govern.
5. For the purpose of this Distribution Protocol, the following definitions apply, as well as those stated in paragraph 10:
  - (a) ***Affected Vehicle*** means new passenger cars, sport utility vehicles, vans, and light trucks (up to 10,000 lbs) purchased and/or leased between January 1, 1999 and November 30, 2014 under the following brands: Honda/Acura, Nissan/Infiniti, Toyota/Lexus, Subaru, and new Pontiac Vibes purchased and/or leased between January 1, 1999 and November 30, 2014.
  - (b) ***Affected Vehicle Purchases*** means the total value assigned to a Settlement Class Member's purchases and/or leases of Affected Vehicles, as calculated pursuant to paragraphs 13-19.
  - (c) ***Claim*** means the electronic or paper form that a Settlement Class Member must complete and submit before the Claims Filing Deadline in order to be considered for settlement benefits under this Distribution Protocol.
  - (d) ***Claims Filing Deadline*** means the date by which Claims (and any required supporting documentation) must be electronically submitted in order for Settlement Class Members to be considered for settlement benefits under this Distribution Protocol, which date shall be four (4) months after the first publication of the notice advising Settlement Class Members of the claims process.

- (e) **Decision Notice** shall have the meaning attributed to it in paragraph 45.
- (f) **National Brands** means General Motors of Canada Company (in respect of the Pontiac Vibe), Honda Canada Inc., Nissan Canada Inc., Subaru Canada, Inc., and Toyota Canada Inc.
- (g) **Net Settlement Funds** means the aggregate of the Settlement Amounts recovered pursuant to the Settlement Agreements, plus accrued interest, less:
  - (i) Class Counsel Fees as approved by the Courts;
  - (ii) Administration Expenses;
  - (iii) taxes accruable with respect to the income earned on the settlement funds prior to distribution (including interest and penalties);
  - (iv) the *cy pres* payment provided for in paragraph 6;
  - (v) any compensation provided to the National Brands pursuant to paragraph 31; and
  - (vi) any other deductions approved by the Courts.
- (h) **Settlement Agreements** has the meaning attributed to it in paragraph 1.
- (i) **Settlement Class Members** means all persons in Canada who purchased and/or leased an Affected Vehicle. The following persons are excluded:
  - (i) the Defendants and their respective parents, subsidiaries, affiliates, officers and directors; and

- (ii) persons who validly and timely opted out of the proceedings.

## **DISTRIBUTION OF SETTLEMENT FUNDS**

### ***Cy Pres* Payment**

6. Subject to paragraph 7, indirect compensation in the amount of \$250,000 will be provided for the benefit of those Settlement Class Members who are not eligible for direct payment through equal *cy pres* payments to the following organizations:
  - (a) Automobile Protection Association;
  - (b) London Community Foundation; and
  - (c) Pro Bono Canada.
7. The *cy pres* payments shall be less any amounts payable to the Fonds d'aide aux actions collectives, pursuant to section 42 of the *Act respecting the Fonds d'aide aux actions collectives*, CQLR c. F-3.2.0.1.1 and calculated in accordance with Article 1. (2°) of the *Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives*, R.S.Q. c. F-3.2.0.1.1, r. 2. For the purposes of calculating the amount payable to the Fonds d'aide aux actions collectives, 23.6%<sup>2</sup> of the *cy pres* payment will be notionally allocated to Quebec.
8. To be eligible to receive the monies under this distribution protocol, the *cy pres* recipient must:

---

<sup>2</sup> 23.6% represents that portion of the Canadian population that resides in Quebec based on information from Statistics Canada's website.

- (a) use the monies for the purposes outlined in the recipient's proposal submitted to Siskinds LLP and approved by the Courts; and
  - (b) report to the Claims Administrator on an annual basis until all funds are exhausted on how the monies have been used.
9. Subject to the consent of Class Counsel, all funds shall be used up within two years of receipt.

#### **Categorization of Settlement Class Members**

10. Settlement Class Members will be categorized into the following purchaser groups based on their position in the distribution chain:
- (a) ***National Brand Importers*** means General Motors of Canada Company (in respect of the Pontiac Vibe), Nissan Canada Inc., and Subaru Canada, Inc.;
  - (b) ***Dealer*** means a Settlement Class Member who purchased Affected Vehicles from the National Brands or a subsidiary thereof, for resale to End Users; and
  - (c) ***End User*** means a Settlement Class Member who purchased or leased an Affected Vehicle for its own use and not for commercial resale.
11. Settlement Class Members may fall into more than one category.

#### **Calculation of Payments**

12. The Net Settlement Funds will be distributed to qualifying Settlement Class Members *pro rata* (or proportionally) based on the value of the qualifying Settlement Class Member's Affected Vehicle Purchases as against the value of all qualifying Settlement Class Members' Affected Vehicle Purchases.

13. For the purposes of the *pro rata* distribution, Affected Vehicle Purchases will be calculated based on:

- (a) the purchase price of the Affected Vehicle (see paragraphs 14-17);
- (b) the timing of the Affected Vehicle purchase or lease (see paragraph 18); and
- (c) the categorization of the Settlement Class Member (see paragraph 19).

(a) The Purchase Price of the Affected Vehicle

14. Where a Settlement Class Member:

- (a) purchased and/or leased up to three (3) Affected Vehicles or
- (b) was identified as an End User by the National Brands,

the purchase price of the Affected Vehicle Purchases shall be calculated as follows:

- (a) where the Settlement Class Member provides proof of purchase and the proof of purchase indicates a purchase price greater than the manufacturer's suggested retail price ("MSRP") of the Affected Vehicle, the purchase price provided by the Settlement Class Member shall govern.
- (b) where the Settlement Class Member purchased an Affected Vehicle (including through a buy-out of a lease) and does not provide proof of purchase, the purchase price shall be calculated based on the MSRP of the Affected Vehicle.
- (c) where the Settlement Class Member leased and did not subsequently purchase the Affected Vehicle, the purchase price of the Affected Vehicle Purchases shall be calculated based on:

- (i) 20% of the MSRP for year one of the lease; and
  - (ii) 10% of the MSRP for each subsequent year of the lease.
- 15. For the purposes of paragraph 14, the MSRP of each Affected Vehicle will be calculated by averaging the MSRP of all trim levels of that Affected Vehicle during the model year.
- 16. Subject to paragraph 17, where a Settlement Class Member:
  - (a) purchased and/or leased four (4) or more Affected Vehicles or
  - (b) was identified as a Dealer by the National Brands,

the purchase price or aggregate lease payments of the Affected Vehicle Purchases shall be calculated based on the information provided by the Settlement Class Member as part of the Claims process (including in response to any audit) and/or, if applicable, the information provided by the National Brands.
- 17. For the purposes of paragraph 16, the purchase price or aggregate lease payments shall be calculated based on the purchase price, less any taxes, discounts, rebates, delivery or shipping charges, and for leases, less 5% to account for financing costs built into the lease payments and/or buy-out amount.
  - (b) The Timing of the Affected Vehicle Purchase or Lease
- 18. For the purposes of calculating Affected Vehicle Purchases, the following values will be applied in order to account for the timing of the purchase:
  - (a) purchases or leases entered into between January 1, 1999 and February 28, 2010 will be valued at 100%; and



- (b) purchases or leases entered into between March 1, 2010 and November 30, 2014 will be discounted by 50%.
  - (c) The Categorization of the Settlement Class Member
19. For the purposes of calculating Affected Vehicle Purchases, the following values will be applied in order to account for the capacity in which the Affected Vehicle was purchased:
- (a) purchases or leases by a National Brand Importer will be valued at 7.5%;
  - (b) purchases or leases by a Dealer will be valued at 25%; and
  - (c) purchases or leases by an End User will be valued at 67.5%.

**Sample Calculation**

20. If an End User purchased Affected Vehicles with purchase prices totaling \$50,000 between January 1, 1999 and February 28, 2010, and \$75,000 between March 1, 2010 and November 30, 2014, its Affected Vehicle Purchases for the purposes of determining its *pro rata* share of the Net Settlement Funds would be calculated as follows:

$\$50,000$  (representing the purchase price)  $\times$  1 (representing the timing of the purchase or lease)  $\times$  0.675 (representing the categorization of the Settlement Class Member as an End User) = \$33,750

Plus

$\$75,000$  (representing the purchase price)  $\times$  0.5 (representing the timing of the purchase or lease)  $\times$  0.675 (representing the categorization of the Settlement Class Member as an End User) = \$25,312.50

21. Assuming the value of all qualifying Settlement Class Members' Affected Vehicle Purchases totalled \$10 million, this Settlement Class Member would be entitled to 0.59% ( $\$59,062.50/\$10$  million) of the Net Settlement Funds.

## **Distribution**

22. In consultation with Class Counsel, the Claims Administrator can seek directions from the Ontario Court with respect to the distribution of the Net Settlement Funds to ensure a fair and cost effective distribution of the Net Settlement Funds.
23. Notwithstanding any other provision in this Distribution Protocol and subject to further order of the Ontario Court following the adjudication of all claims, all valid Claims will be assigned a minimum value of \$25. The \$25 valuation target is not an estimate of any damages suffered. It is a minimum administrative threshold designed to maintain a feasible economic and administrative platform for the settlement distribution.
24. To the extent that the full Net Settlement Funds are not paid out due to uncashed e-transfers or cheques, residual interest or otherwise, subject to further instructions of the Ontario Court, such monies shall be distributed equally to the organizations identified in paragraph 6, less any amounts payable to the Quebec Fonds d'aide aux actions collectives, as calculated pursuant to paragraph 7.

## **THE CLAIMS PROCESS**

### **The Claim**

25. Each Claim shall require the following:
  - (a) where the Settlement Class Member's purchases and/or leases of Affected Vehicles are substantiated by the information provided to the Claims Administrator by the National Brands, no further purchase information is required, except that if an End User is claiming for a purchase price greater than the MSRP for any purchases and/or leases of Affected Vehicles, the End User must provide documentary proof

of purchase evidencing the purchase price (less any taxes, shipping, delivery charges, rebates, etc.);

- (b) where a Settlement Class Member is claiming for purchases of Affected Vehicles in addition to those substantiated by information provided to the Claims Administrator by the National Brands or is a National Brand Importer, the Settlement Class Member must provide purchase information in accordance with (c) or (d) below.
- (c) for Settlement Class Members who purchased and/or leased up to three (3) Affected Vehicles:
  - (i) a declaration specifying the make, model and year of each Affected Vehicle purchased or leased by the Settlement Class Member between January 1, 1999 and November 30, 2014 and the approximate date of each Affected Vehicle purchase or lease; and
  - (ii) if the Settlement Class Member is claiming for a purchase price greater than the MSRP for any purchases and/or leases of Affected Vehicles, documentary proof of purchase evidencing the purchase price (less any taxes, shipping, delivery charges, rebates, etc.);
- (d) for Settlement Class Members who purchased and/or leased four (4) or more Affected Vehicles, a declaration of:
  - (i) the dollar value of the Settlement Class Member's aggregate Affected Vehicle purchases (less any taxes, shipping, delivery charges, rebates, discounts, etc.); and/or

- (ii) the aggregate lease payments plus any buy-out amount (less any taxes, shipping, delivery charges, rebates, discounts, etc.);
- (e) information that will allow the Claims Administrator to determine whether the Settlement Class Member's purchases and/or leases of Affected Vehicles were in the capacity of a National Brand Importer, Dealer or an End User;
- (f) disclosure regarding whether the Settlement Class Member has received compensation through other proceedings or private out-of-class settlements in relation to its purchases and/or leases of Affected Vehicles, and/or whether the Settlement Class Member's claims in relation to its purchases and/or leases of Affected Vehicles have been released, and details of the compensation received and the claims released;
- (g) authorization to the Claims Administrator to contact the Settlement Class Member or its representative, as the Claims Administrator deems appropriate, for more information and/or to audit the Claim;
- (h) a declaration that the information submitted in the Claim is true and correct;
- (i) if the Claim is submitted by a third-party on behalf of a Settlement Class Member (including a parent company claiming on behalf of a subsidiary or affiliate), the third-party must provide a signed statement from that Settlement Class Member at the time the Claim is filed authorizing the third-party to file the Claim on its behalf;
- (j) an option for Settlement Class Members to consent to the Claims Administrator retaining the information provided in the Claim for the purpose of filing a future claim in other automotive parts class actions, including consent to receiving

correspondence and/or notices relating to other automotive parts class actions by email or direct mail; and

(k) an option for Settlement Class Members to assign their settlement benefits in accordance with paragraph 56.

26. Where a Settlement Class Member has purchase records for Affected Vehicle purchases or leases for at least two years during the period between January 1, 1999 and November 30, 2014, the Settlement Class Member can use such records to extrapolate its Affected Vehicle purchases or leases for the remainder of the period between January 1, 1999 and November 30, 2014. If the Settlement Class Member's Claim is audited pursuant to paragraphs 37 to 38, the Settlement Class Member must provide a sworn statement explaining the basis for and calculation of the extrapolation of purchases.

27. In addition, if the Settlement Class Member receives a notice containing purchase or lease information provided by the National Brands, the Settlement Class Member can use such information alone or together with its own purchase records to extrapolate its Affected Vehicle purchases or leases for the remainder of the period between January 1, 1999 and November 30, 2014. If the Settlement Class Member's Claim is audited pursuant to paragraphs 37 to 38, the Settlement Class Member must provide a sworn statement explaining the basis for and calculation of the extrapolation of purchases.

### **The Online Claims Portal**

28. The Claims Administrator shall create an online claims portal that Settlement Class Members can access in order to file a Claim and shall provide the necessary administrative support to enable Settlement Class Members to do so.

29. The online claims portal shall contain fields that require the Settlement Class Member to provide all applicable information required as part of the Claim, in accordance with paragraph 25 above.

**National Brand Data**

30. Prior to the outset of the claims process, Class Counsel will send a notice, by direct mail or email, to the National Brands, informing them of this Distribution Protocol and requesting that they provide to the Claims Administrator the following information (in Microsoft Excel, Microsoft Access or such other format as agreed upon with the Claims Administrator) respecting their End User's and Dealers' Affected Vehicle purchases:
  - (a) End User: name, address (including email address, if available), a listing of the Affected Vehicles purchased and/or leased between January 1, 1999 and February 28, 2010, and separately, between March 1, 2010 and November 30, 2014; and
  - (b) Dealers: name, address (including a corporate contact name and/or email address, if available), and the aggregate purchase price (excluding any shipping, taxes, rebates, and any other form of discounts) of Affected Vehicles purchased between January 1, 1999 and February 28, 2010, and separately, between March 1, 2010 and November 30, 2014.
31. The National Brands will be compensated for their reasonable time and expenses associated with collecting and providing End User and/or Dealer information, which compensation will be paid out of the Net Settlement Funds. Any disputes regarding the reasonableness of time or expenses shall be resolved by the Ontario Court.

### **Claims Filing Process**

32. Settlement Class Members will be encouraged to complete and submit a Claim electronically using the online claims portal. Subject to paragraphs 33 and 42, or further order of the Ontario Court, Claims must be submitted to the online claims portal on or before the Claim Filing Deadline.
33. If a Settlement Class Member does not have internet access or is otherwise unable to submit a Claim using the online claims portal, the Settlement Class Member can register over the telephone with the Claims Administrator and the Claims Administrator shall send the Settlement Class Member a hardcopy claim form by mail. Subject to paragraph 42 or further order of the Ontario Court, the completed and executed hardcopy Claim must be submitted to the Claims Administrator postmarked no later than the Claims Filing Deadline.

### **Assistance in Filing a Claim**

34. Settlement Class Members can contact the Claims Administrator or Class Counsel, at no charge, with questions about how to complete a Claim.
35. Settlement Class Members may utilize third-party claims services, a lawyer of their own choosing, or similar services to file Claims. If a Settlement Class Member chooses to use a third-party claims service, a lawyer of their own choosing, or similar services, the Settlement Class Members will be responsible for any and all expenses incurred in doing so.

### **Audits**

36. Where a National Brand has provided customer information in respect of that Settlement Class Member, that information shall be *prima facie* proof of the Settlement Class

Member's purchases and/or leases of Affected Vehicles and those purchases and/or leases shall not be subject to an audit.

37. The Claims Administrator shall audit:

(a) all Claims where data was provided by the relevant National Brand for the relevant time period in which Settlement Class Members disclosed having purchased and/or leased Affected Vehicles, but those purchases and/or leases were not identified in the data provided by the relevant National Brand. For example, if Honda provided data for 2000-2014, and you claim for purchases of a 2006 Honda Civic and a 2010 Honda Odyssey that were not identified by Honda, your Claim would be subject to an audit;

(b) for Claims where data was not provided by the relevant National Brand for the relevant time period in which Settlement Class Members disclosed having purchased and/or leased four (4) or more Affected Vehicles:

(i) a random selection of at least 10% of Claims; and

(ii) Claims representing the top 20% of Claims (by value of Affected Vehicle Purchases).

38. At its sole discretion, the Claims Administrator can elect to audit any other Claim.

39. The Claims Administrator shall notify the Settlement Class Member, by email or by regular mail, that the Settlement Class Member's Claim is the subject of an audit and the requirement to provide documentary proof:



- (a) For Settlement Class Members who purchased and/or leased up to three (3) Affected Vehicles, documentary proof might include invoices, receipts, original purchase or lease records, insurance documentation, government vehicle identification history documentation, historical accounting records or comparable verification that is acceptable to the Claims Administrator.
- (b) For Settlement Class Members who purchased and/or leased four (4) or more Affected Vehicles, documentary proof might include invoices, receipts, original purchase or lease records, purchase summaries provided by a National Brand, historical accounting records or comparable verification that is acceptable to the Claims Administrator.

40. The Claims Administrator shall allow the Settlement Class Member thirty (30) days from the date of such notice to provide documentary proof. If documentary proof is not provided within the thirty (30) day period, the Claims Administrator shall reject the Claim.

**Deficiencies**

41. If, during claims processing, the Claims Administrator finds that deficiencies exist in a Claim or other information is required, the Claims Administrator shall notify the Settlement Class Member by email or regular mail, of the deficiencies. The Claims Administrator shall allow the Settlement Class Member thirty (30) days from the date of such notice to correct the deficiencies. If the deficiencies are not corrected within the thirty (30) day period, depending on the nature of the deficiency, the Claims Administrator may reject the Claim.

**Adjustments to Claims Process and Extension of the Claims Filing Deadline**

42. By agreement between the Claims Administrator and Class Counsel:

- (a) the Claims Filing Deadline may be extended;
- (b) for End Users who purchased ten or more Affected Vehicles (or such other threshold(s) that Class Counsel and the Claims Administrator agree is economically feasible) and whose name, address and purchase information (including in the form of vehicle identification numbers (“VINs”)) has been provided by the National Brands to the Claims Administrator, the Claims Administrator can implement a process whereby such End Users are provided with a user name and password for the online claims portal and the purchase information is pre-populated on the online claims portal. The End User would have the option of agreeing with, supplementing or rejecting the information provided. Where the End User agrees with the information provided, no further proof of purchase would be required (unless claiming for a purchase price greater than the MSRP). Where the End User supplements or rejects the information provided, the End User must provide proof of purchase information in accordance with paragraphs 25(b) to (d) and the claim could be subject to an audit in accordance with paragraphs 37 to 40;
- (c) where a National Brand discloses the name, address and purchase information (including in the form of VINs) for its Dealers to the Claims Administrator, the Claims Administrator can implement a process whereby such Dealers are provided with a user name and password for the online claims portal and the purchase information is pre-populated on the online claims portal. The Dealers’ aggregate purchases will be calculated as follows:
  - (i) where the National Brand has provided actual purchase data for the Dealer’s purchases of Affected Vehicles, that purchase information will be used;

- (ii) where the National Brand has provided a good faith estimate of the aggregate purchase price for the Dealer's purchases of Affected Vehicles, that estimate shall be used;
- (iii) where the National Brand has only provided the VINs of the Dealer's purchases of Affected Vehicles, the MSRP of each identified Affected Vehicle shall be discounted by a percentage to be determined by Class Counsel and disclosed in the direct notice provided to the Dealers; or
- (iv) where the National Brands provides purchase information in some other form, Class Counsel and the Claims Administrator will determine whether such information is of sufficient reliability to be relied upon as the basis for the Dealer's aggregate purchases.

The Dealer would have the option of agreeing with, supplementing or rejecting the information provided. Where the Dealer agrees with the information provided, no further proof of purchase would be required. Where the Dealer supplements or rejects the information provided, the Dealer must provide proof of purchase information in accordance with paragraphs 25(b) to 25(d) and the claim could be subject to an audit in accordance with paragraphs 36 to 39; and

- (d) the Claims Administrator may adjust the Claims process with respect to the use of customer information provided by the National Brands, deficiencies and/or audits.

Class Counsel and the Claims Administrator shall agree to extend the Claims Filing Deadline and/or adjust the Claims process if, in their opinions, doing so will further the

fair and efficient administration of the Net Settlement Funds and it is in the best interests of the Settlement Class Members to do so.

43. To the extent that there is an additional administrative cost in programming the online claims portal to allow for the pre-population of the online claims portal in accordance with paragraphs 41(b) and (c), these costs would be deducted *pro rata* from those Settlement Class Members who benefitted from this service.

### **Claims Administrator's Decision**

44. In respect of each Settlement Class Member who has filed a Claim in accordance with this Distribution Protocol, the Claims Administrator shall:
  - (a) decide whether the Settlement Class Member is eligible to receive settlement benefits payable out of the Net Settlement Funds in accordance with the Settlement Agreements, orders of the Courts and this Distribution Protocol;
  - (b) classify the Settlement Class Member's Affected Vehicle Purchases as being made by a National Brand Importer, Dealer or End User; and
  - (c) make a determination of the Affected Vehicle Purchases in respect of which the Settlement Class Member is entitled to settlement benefits in accordance with the Settlement Agreements, orders of the Courts and this Distribution Protocol.
45. The Claims Administrator shall send to the Settlement Class Member, by email or regular mail, a decision as to the approval or rejection of the Claim, the classification of purchases as being made in the capacity of a National Brand Importer, Dealer or End User and the determination of the Affected Vehicle Purchases (the "Decision Notice"). Where the Claims Administrator has rejected all or part of the Claim or re-classified the Settlement

Class Member's purchases, the Claims Administrator shall include in the Decision Notice its grounds for doing so.

46. The Claims Administrator's decision will be binding upon the Settlement Class Member, subject to the Settlement Class Member's limited right to appeal, as outlined in paragraphs 47 to 53.

#### **Appeal of the Claims Administrator's Decision**

47. The right to appeal is limited to circumstances where the dispute as to the value of the Affected Vehicle Purchases is equal to or greater than \$1,000,000.
48. Appeals must be submitted within thirty (30) days from the date of the Decision Notice.
49. Appeals will be determined by the Ontario Court or a third party designated by the Ontario Court.
50. Appeals will be on the basis of written submissions, supported by the documentation provided to the Claims Administrator by the Settlement Class Member as part of the claims process. Settlement Class Members are not permitted to provide any new documentation as part of the appeal. Any new documentation provided as part of the appeal will not be provided to the Ontario Court or its designee for consideration.
51. The Claims Administrator must provide to the Ontario Court a copy of the documentation provided by the Settlement Class Member in response to requests for additional information, the Decision Notice, and any other information that might be reasonably useful in the determination of the appeal, and make written submissions to the Ontario Court or its designee as is reasonably necessary.

52. Notwithstanding the foregoing, the Ontario Court or its designee, acting in its sole discretion, can request oral submissions (to be provided via teleconference or videoconference, as requested by the Ontario Court or its designee) from the Settlement Class Member and/or Claims Administrator.
53. The decision on the appeal is final and binding and shall not be subject to any further appeal or review whatsoever.

### **Payment of Claims**

54. As soon as practicable after the claims evaluations and any appeals are completed, the Claims Administrator shall:
  - (a) report to Class Counsel the particulars of the proposed distribution to each eligible Settlement Class Member; and
  - (b) make arrangements to pay approved Claims.
55. Individual claimants will be paid by e-transfer through email where an email address has been provided or cheque where no email address has been provided or the Settlement Class Member has made arrangements with the Claims Administrator. Commercial claimants will be paid by cheque or, at the Claims Administrator's discretion, wire transfer.
56. Settlement Class Members can elect to assign their settlement benefits to Canadian charitable foundations or initiatives created or supported by the National Brands. Where a Settlement Class Member has assigned their settlement benefits, the Claims Administrator shall issue the payment to the relevant entity rather than the Settlement Class Member. At that time, the Claims Administrator shall request a charitable tax receipt on behalf of the

Settlement Class Member and provide the information necessary to enable the relevant entity to issue a charitable tax receipt to the Settlement Class Member.

## **THE CLAIMS ADMINISTRATOR'S DUTIES AND RESPONSIBILITIES**

### **Supervisory Powers of the Ontario Court**

57. The Claims Administrator shall administer the Settlement Agreements and this Distribution Protocol under the ongoing authority and supervision of the Ontario Court.

### **Investment of Settlement Funds**

58. The settlement funds shall be held in a guaranteed investment vehicle, liquid money market account or equivalent security with a rating equivalent to or better than that of a Canadian Schedule I bank (a bank listed in Schedule I of the *Bank Act*, SC 1991, c 46), held at a Canadian financial institution.

### **Communication, Languages and Translation**

59. Where a Claim is filed by a third-party claims agent or lawyer on behalf of a Settlement Class Member, unless the Settlement Class Member requests otherwise, all communications shall be made to the third-party claims agent or lawyer.

60. The Claims Administrator shall establish a toll-free number for calls from Canada.

61. The Claims Administrator shall dedicate sufficient personnel to respond to Settlement Class Members' inquiries in English or French, as the Settlement Class Member elects.

62. All written communications from the Claims Administrator to a Settlement Class Member shall be transmitted via email if an email address has been provided, or if an email address has not been provided, by regular mail.

**Undeliverable Mail**

63. The Claims Administrator shall have no responsibility for locating Settlement Class Members for any mailing returned to the Claims Administrator as undeliverable.
64. The Claims Administrator shall have the discretion, but is not required, to reissue payments to Settlement Class Member returned as undeliverable under such policies and procedures as the Claims Administrator deems appropriate. Any costs associated with locating current address information for the Settlement Class Member shall be deducted from that Settlement Class Member's settlement benefits.

**Reissuance of Payment**

65. Where a Settlement Class Member who is entitled to payment of greater than \$25 requests that an e-transfer be reissued, \$10 shall be deducted from that Settlement Class Member's settlement benefits representing the costs of reissuing payment. Where a Settlement Class Member who is entitled to payment of greater than \$25 requests that a cheque be reissued, \$15 shall be deducted from that Settlement Class Member's settlement benefits representing the costs of reissuing payment. Subject to the sole discretion of the Claims Administrator, payments for \$25 will not be reissued.

**Taxes**

66. The Claims Administrator shall take all reasonable steps to minimize the imposition of taxes upon the Net Settlement Funds and shall pay any taxes imposed on such monies out of the Net Settlement Funds.

**Reporting**

67. The Claims Administrator shall provide regular reports to Class Counsel regarding the administration.
68. The Claims Administrator shall provide any reports requested by the Courts.



### **Preservation and Disposition of Claim Submissions**

69. Subject to paragraph 72, the Claims Administrator shall preserve, in hard copy or electronic form, as the Claims Administrator deems appropriate, the submissions relating to a Claim, until two years after all settlement monies or court awards have been paid out to Settlement Class Members, and at such time shall destroy the submissions by shredding, deleting, or such other means as will render the materials permanently illegible.

### **Assistance to the Claims Administrator**

70. The Claims Administrator shall have the discretion to enter into such contracts and obtain financial, accounting, and other expert assistance as are reasonably necessary in the implementation of the Settlement Agreements and this Distribution Protocol.

### **Confidentiality**

71. All information received from Defendants, the National Brands or Settlement Class Members collected, used, and retained by the Claims Administrator for the purposes of administering the Settlement Agreements, including evaluating the Settlement Class Member's eligibility status under the Settlement Agreements, is protected under the *Personal Information Protection and Electronic Documents Act*, SC 2000 c 5. The information provided by Settlement Class Members is strictly private and confidential and will not be disclosed without the express written consent of the relevant Settlement Class Member, except in accordance with the Settlement Agreements, orders of the Ontario Court and/or this Distribution Protocol. Prior to implementing the Distribution Protocol, the Claims Administrator shall execute an undertaking that confirms its commitment to abide by the obligations set out in this paragraph.
72. If a Settlement Class Member consents, information respecting a Claim filed by that Settlement Class Member may be preserved and used by the Claims Administrator in the

future administration of settlement agreements relating to alleged price-fixing and/or bid-rigging of other automotive parts. The information shall continue to be treated as strictly private and confidential and subject to the protections of the *Personal Information Protection and Electronic Documents Act*, SC 2000 c 5.