

**HONDA QUEBEC EARLY PAINT DEGRADATION CLASS ACTION**  
**SETTLEMENT AGREEMENT AND RELEASE**

**Made in Montreal as of the 25<sup>th</sup> day of April 2022**

**April 25, 2022**

## TABLE OF CONTENTS

RECITALS .....	1
SECTION 1 – DEFINITIONS.....	4
SECTION 2 – COOPERATION .....	14
SECTION 3 – SETTLEMENT ADMINISTRATION .....	14
A. Roles and Responsibilities .....	14
B. Informing Settlement Class Members.....	15
C. Settlement Approval Hearing.....	16
D. Payment of Total Settlement Value .....	16
E. Claims Procedure .....	17
F. Claim Denial: Cure and Reconsideration.....	19
G. Consolidation Period.....	20
H. Payment of Settlement Benefits .....	21
I. Elements Specific to the Administration of the In-Kind Remedy .....	21
J. Final Payments .....	22
SECTION 4 – SETTLEMENT CONSIDERATION .....	22
A. Generally .....	22
B. Ineligibility, Conflicting and Incompatible Claims.....	23
C. Reimbursement Remedy: Reimbursement of Reasonable Expenses Caused by EPD and Having Occurred Before the Claims Period.....	24
D. Loss at Resale Remedy: Compensation for Sale of Class Vehicle to a Third Party for a Price Lower than Initially Sought because of EPD at the Time of Sale.....	25
E. In-Kind Remedy: Contribution by Honda towards the Cost of Repair by Authorized Body Shop or Reduced Indemnity In Lieu Thereof.....	25
F. Supplemental Compensation.....	26
SECTION 5 – OBJECTIONS AND OPT-OUTS.....	27
A. Objections.....	27
B. Opting Out.....	28
C. Opting Back In .....	29
SECTION 6 –FINAL STEPS .....	29
A. Payment to the FAAC .....	29
B. – Payments to Class Counsel .....	29
C. Closing Report.....	30
SECTION 7 – TERMINATION.....	31
SECTION 8 – CLAIMS BAR .....	32
SECTION 9 – RELEASES .....	33
SECTION 10 – ENFORCEMENT OF THIS AGREEMENT .....	34
SECTION 11 – COVENANT NOT TO SUE.....	34
SECTION 12 – REPRESENTATIONS AND WARRANTIES.....	35
SECTION 13 – MISCELLANEOUS TERMS.....	36

<b>Schedule “A”</b>	Value Matrix.....	1
<b>Schedule “B”</b>	Short and Detailed Notices.....	1
<b>Schedule “C”</b>	Notice Distribution Plan.....	1
<b>Schedule “D”</b>	Notice Approval Judgment.....	1
<b>Schedule “E”</b>	Claim Forms.....	1
<b>Schedule “F”</b>	Opt-Out Form.....	1
<b>Schedule “G”</b>	Repair Approval Certificate.....	1
<b>Schedule “H”</b>	Settlement Approval Judgment.....	1
<b>Schedule “I”</b>	Paint Degradation Illustrations.....	1
<b>Schedule “J”</b>	Notice to Authorized Body Shops.....	1
<b>Schedule “K”</b>	Objection Form (model).....	1

## **RECITALS**

- A. **WHEREAS** this Agreement (**all terms defined at Section 1 below**) is entered into between and among the Plaintiff on behalf of herself and as representative of Settlement Class Members on the one hand, and Honda on the other hand, by and through their undersigned counsel, in order to fully and finally settle and resolve the Litigation for the entire Class on the terms set forth herein, subject to the approval of the Court;
- B. **WHEREAS** in 2012, 2013 and 2014, Honda issued a warranty extension for premature paint degradation for some of the Class Vehicles;
- C. **WHEREAS** some Class Vehicle owners have availed themselves of this warranty extension;
- D. **WHEREAS** a number of Class Vehicle owners have received repairs with or without a contribution from Honda or from a Honda or Acura dealer, in respect of a EPD on their vehicle, pursuant to the warranty extension or otherwise;
- E. **WHEREAS** on May 4, 2018, the Plaintiff filed an application in the Superior Court, under docket number 500-06-000927-182, for authorization to bring a class action against Honda for the benefit of the Civic Sub-class;
- F. **WHEREAS** the Plaintiff alleges that her 2009 model year Honda Civic vehicle suffered from EPD, and alleges that this EPD affected her use of her vehicle and adversely affected the vehicle's resale value or its durability, and that the damage she suffered as a result would also have been suffered by the members of the Civic Sub-class;
- G. **WHEREAS** the Plaintiff alleges that some members incurred costs to repair the EPD allegedly suffered and that they are entitled to claim reimbursement for the repair costs incurred to correct such EPD;
- H. **WHEREAS** the Plaintiff alleges that members who did not seek repairs of the alleged EPD on their vehicles are entitled to claim compensatory damages or an amount representing a reduction in the purchase price of their Vehicle.
- I. **WHEREAS** the Plaintiff also alleges that the possibility of EPD is an important fact, the non-disclosure of which amounts to a prohibited practice;

- J. **WHEREAS** on February 27, 2019, the Plaintiff's application for authorization to bring a class action was granted;
- K. **WHEREAS** the members of the Civic Sub-class were duly notified thereof and had until February 14, 2020 to opt out of the class action;
- L. **WHEREAS** on April 26, 2019, an originating application was filed for this Litigation for the benefit of the Civic Sub-class;
- M. **WHEREAS** on September 4, 2020, a motion to amend the class definition by adding the CSX Sub-class was filed;
- N. **WHEREAS** on January 18, 2021, this amendment was granted;
- O. **WHEREAS** the members of the CSX Sub-class were duly notified thereof and had until April 30, 2021 to opt out of the class action;
- P. **WHEREAS** a Case Settlement Conference was held on May 31 and July 5, 2021, at the end of which an agreement in principle was reached with a view to bringing the Litigation to a complete and definitive end and to settle, completely and definitely, all claims arising out of or relating to the alleged EPD, including allegations that were or could have been raised in this Litigation by the claimant or Settlement Class Members in relation to the EPD;
- Q. **WHEREAS** a new agreement in principle was reached on January 31, 2022, which modified that of July 5, 2022;
- R. **WHEREAS** it was imperative for the parties that the mode of recovery be a hybrid between individual recovery and collective recovery;
- S. **WHEREAS** this Agreement provides for the mechanics of the 2022 agreement in principle;
- T. **WHEREAS** this Agreement is entered into without any admission of any kind, either with respect to the Litigation or with respect to any similar claim that may be brought as an individual or class action;
- U. **WHEREAS** it is agreed that this Agreement shall not be deemed or construed to be an acknowledgement, admission, concession, or evidence of any violation of any federal,

provincial, or local statute, regulation, rule, or other law, or of any liability or wrongdoing whatsoever, by Honda or any of the Releasees, or of the truth or legal or factual validity or viability of any of the Released Claims or the claims Plaintiff or any Settlement Class Member has or could have asserted in the Litigation;

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

W. **WHEREAS** the Plaintiff confirms that she has had the opportunity to obtain explanations from Class Counsel or from any other person she wished and that she believes that the Settlement is in the best interests of all Settlement Class Members;

X. **WHEREAS** Class Counsel have experience in this type of class action and, therefore, recognize the costs and risks of litigation in this dispute and believe that it is in the interest of all members of the settlement class to resolve this dispute, as well as all claims against Honda arising from the conduct alleged in the amended proceedings, as set out in this Agreement;

Y. **WHEREAS** Honda, for the purpose of avoiding the burden, expenses, risks, and uncertainty of continuing to defend the Litigation, and for the purpose of fully and finally resolving all Released Claims that were or could have been asserted by the Plaintiff and Settlement Class Members, for good and valuable consideration, and without any admission of liability or wrongdoing, desires to enter into this Agreement;

Z. **WHEREAS** Class Counsel represent and warrant that they are fully authorized to enter into this Agreement on behalf of the Plaintiff and the Settlement Class Members, and that they have consulted with Plaintiff and confirm that she supports and has no objection to this Agreement;

**NOW THEREFORE**, having regard to the mutual concessions and reservations and the terms of this Agreement, and subject to the final approval of the Court, the Parties agree as follows:

April 25, 2022

## Section 1 – Definitions

1.1 “**Administration Fees**” means the fees charged by the Administrator and, if the Settlement is approved, the fees charged by the Provisional Administrator, if any, the fees pertaining to the Notice Distribution Plan, the fees associated with the Website and the fees for promotion of the Settlement; the Administration Fees shall be the sum of the Base Administration Fees and, if any, the Excess Administration Fees (“*Frais d’administration*”).

1.2 “**Administrator**” means an independent third party designated by the Court, to be responsible for administering the Settlement (“*Administrateur*”).

1.3 “**Agreement**” means this Honda Quebec Early Paint Degradation Class Action Settlement Agreement and Release and schedules hereto, including any subsequent amendments and any schedules to such amendments (“*Entente*”). In the Notices and Claims Forms, the “**Agreement**” may be referred to as the “**Settlement Agreement.**”

1.4 “**Authorization Opt-Outs**” means timely and valid opt-outs received further to the Civic Authorization Notice and the CSX Authorization Notice (“*Exclusion à l’autorisation*”).

1.5 “**Authorized Body Shop**” means any of the Quebec body shops authorized to effect the In-Kind Remedy, which is a member in due standing of the CCPQ or is otherwise authorized by Honda to perform the In-Kind Remedy; and has approved Honda's terms and conditions, including those set out in this Agreement. A list of Authorized Body Shops will be published on the Website (“*Atelier de carrosserie autorisé*”).

1.6 “**Authorized Cost of Repair**” means the maximum value which may be reimbursed to a Settlement Class Member who submits a valid Claim for the In-Kind Remedy as determined by the Administrator pursuant to Section 4.E (“*Coûts de peinture corrective autorisés*”).

1.7 “**Base Administration Fees**” means the portion of the Administration Fees payable by Honda, which includes any fees charged by any Provisional Administrator and/or for the Notice Distribution Plan by third parties if the Settlement is approved, and which shall not exceed \$1,200,000 (excluding applicable taxes) (“*Frais d’administration de base*”).

1.8 “**Cap**” means the maximum amount Honda will pay as Total Settlement Value pursuant to

this Agreement, being \$27,000,000.00 (taxes included) (“*Plafond*”) but does not include the Base Administration Fees and any applicable taxes on the same.

1.9 “**CBB Price**” means the price listed in the *Canadian Black Book* values as provided by Honda to the Administrator no more than five (5) business days after a request from the Administrator for the Class Vehicle of the Settlement Class Member whose otherwise valid Claim Form includes a claim for the Loss at Resale Remedy (“*Prix du CBB*”).

1.10 “**CCPQ**” means the Corporation des carrossiers professionnels du Québec, a non-profit organization with its head office at 14, rue Robert, 2<sup>nd</sup> floor, suite 1 in Saint-Basile-le-Grand (Québec), J3N 1L7 (“*CCPQ*”).

1.11 “**Civic Authorization Notice**” means the Notice sent to members of the Civic Sub-class as ordered by the Court, which set an opt-out deadline of February 14, 2020 (“*Avis d’autorisation relatif aux modèles Civic*”).

1.12 “**Civic Sub-Class**” means all current and former owners of Honda Civic vehicles for model-years 2006 to 2013 whose Class Vehicle was purchased in Quebec and which experienced non insignificant EPD after May 4, 2015 (“*Sous-groupe Civic*”).

1.13 “**Claim Form**” means a form substantially similar from Schedule “E”, or an electronic equivalent that is formatted for ease of completion on the Website, to be completed by a Settlement Class Member to request a Settlement Benefit under this Agreement (“*Formulaire de réclamation*”).

1.14 “**Claim**” means a request for a Settlement Benefit under Section 4 of this Agreement (“*Réclamation*”).

1.15 “**Claims Period**” means the period during which a Settlement Class Member may submit a Claim Form, which period shall be one hundred and eighty (180) days in length and shall begin on the Effective Date (“*Période de réclamation*”).

1.16 “**Class**” means all members of the CSX Sub-Class and the Civic Sub-Class (“*Groupe*”).

1.17 “**Class Counsel Fee**” means the sums approved by the Court, plus applicable taxes, to be

paid to Class Counsel on behalf of Settlement Class Members in full satisfaction and final payment of all of obligations in respect of fees, disbursements, taxes, and any other costs in connection with the Litigation. For greater certainty, the total compensation paid to the benefit of the Members is comprised of the Pool, plus all individual Claims payable in excess of the Pool, up to the Cap. Additionally, Class Counsel Fees have not been negotiated as part of the Agreement, and no agreement has been reached between Class Counsel and Honda regarding the amount of Class Counsel Fee, except that Class Counsel Fees, disbursements, and applicable taxes, will be deducted from the total sum available to Settlement Class Members (*“Honoraires des avocats de la demande”*).

1.18 **“Class Counsel”** means the law firms of CBL & Associés, avocats and BG Avocat Inc (*“Avocats de la demande”*).

1.19 **“Class Vehicles”** means the 2006-2013 model year Honda Civic vehicles and 2006-2011 model year Acura CSX vehicles (*“Véhicules en cause”*).

1.20 **“Court”** means the Quebec Superior Court (*“Cour”*).

1.21 **“Consolidation Period”** means the period between the end of the Claims Period and the start of the Performance Period, during which the Final Matrix Value will be prepared. The Consolidation Period may not end before the Court has ruled on all Reconsideration Motions (*“Période de consolidation”*).

1.22 **“CSX Authorization Notice”** means the notice sent to members of the CSX Sub-class as ordered by the Court, which set an opt-out deadline of April 30, 2021 (*“Avis d’autorisation relatif aux modèles CSX”*).

1.23 **“CSX Sub-Class”** means all current and former owners of Acura CSX for model-years 2006 to 2011 vehicles, whose Class Vehicle was purchased in Quebec and who experienced non insignificant EPD after September 4, 2017 (*“Sous-groupe CSX”*).

1.24 **“Current Owner”** means a Settlement Class Member who is the owner of a Class Vehicle as the date of a Claim is made therefor. For the purposes of this Agreement, a Current Owner may be or have been a co-owner (*“Propriétaire actuel”*).

1.25 “**Defence Counsel**” means Lavery, de Billy LLP (“*Avocats de la défense*”).

1.26 “**Early Paint Degradation**” or “**EPD**” means the condition illustrated at Schedule “I” (“*Dégradation prématurée de la peinture*” or “*DPP*”).

1.27 “**Effective Date**” means the later of (1) the date when all the following conditions have occurred: (i) this Agreement has been fully executed by the Parties and their counsel; (ii) the Court has provided a Final judgment on Class Counsel Fees; (iii) the Notice has been disseminated; and (iv) the Court has rendered a Final judgment for a Settlement Approval Order, or (2) September 30, 2022 (“*Date d’entrée en vigueur*”).

1.28 “**Excess Administration Fees**” means the portion of Administration Fees that is in excess of the Base Administration Fees, which Excess Administration Fees are payable by the Settlement Members (“*Frais d’administration excédentaire*”).

1.29 “**Final,**” when referring to a judgment, means that the judgment has been issued by the Court without material amendment, and that the time to appeal the judgment has expired without any appeal being taken, or where there has been a final disposition of all appeals without any reversal or material amendment of the judgment (“*devenu définitif*”).

1.30 “**Final Value Matrix**” means the matrix found at Schedule “A” for the Reimbursement Remedy and the In-Kind Remedy, adjusted if necessary to take into account Class Counsel Fees, Administration Fees, and any levy by the FAAC (“*Grille finale des valeurs*”); for greater certainty, it is understood that the matrix for the Compensation for Loss at Resale Remedy and the Indemnity in lieu of the In-Kind Remedy will be established as 60% of the amounts of the Final Value Matrix.

1.31 “**Fonds d’aide aux actions collectives**” or “**FAAC**” means the legal person established pursuant to section 6 of the *Act respecting the Fonds d’aide aux actions collectives*, CQLR c F-3.2.0.1.1 (“*Fonds d’aide aux actions collective*” or “*FAAC*”).

1.32 “**Honda**” means Honda Canada Inc. (“*Honda*”).

1.33 “**Indemnity in lieu of the In-Kind Remedy**” means the compensation paid by Honda to a Settlement Class Member who is eligible for the In-Kind Remedy but who elects to instead receive a cash amount representing sixty per cent (60%) of the value of the In-Kind Remedy they

would have received pursuant to Section 4.E below (“*Indemnité tenant lieu de réparation en nature*”);

1.34 “**In-Kind Remedy**” means the countermeasures performed on a Class Vehicle, at Honda’s cost, further to a valid and timely Claim, as further described in Section 4.E below (“*Réparation en nature*”).

1.35 “**Litigation**” means the class action bearing Court File No. 500-06-000927-182 commenced in the Quebec Superior Court in Montreal, Quebec under the name *Daunais and the Class v. Honda Canada Inc.* and any related dispute regarding EPD on the Class Vehicles (“*Litige*”).

1.36 “**Loss at Resale Remedy**” means the compensation paid by Honda to a Settlement Class Member further to a valid and timely Claim, as further described in Section 4.D below (“*Compensation pour perte à la revente*”).

1.37 “**Notice**” means the Court-approved form of notice of the Settlement which shall be without material alteration from that set out in Schedule “B” (“*Avis*”).

1.38 “**Notice Approval Judgment**” means the judgment to be issued and entered by the Court substantially in the form attached hereto as Schedule “D” to (i) approve the text of the Notice, (ii) approve the Notice Distribution Plan, (iii) appoint, if required, the Provisional Administrator until the Settlement Approval Judgment; (iv) order the SAAQ Data be remitted to the Administrator as required, for the purposes of administering the Settlement and (v) set the Settlement Approval Hearing date (“*Jugement approuvant les avis*”).

1.39 “**Notice Date**” means the date by which the Notice is published on the Website, which will be no later than fifteen (15) days after the Judgment (“*Date des avis*”).

1.40 “**Notice Distribution Plan**” means the plan for providing Notice of the Settlement to the Settlement Class Members, attached hereto as Schedule “C” (“*Plan de diffusion des avis*”).

1.41 “**Opt-Out Threshold**” means two thousand (2,000) timely and valid opt-outs by Settlement Class members holding an eligible Claim pursuant to the present Agreement, received by the Court between the publication of the Notice (Schedule B) and the Settlement Opt-out

Deadline, excluding Authorization Opt-Outs (“*Seuil des exclusions*”).

1.42 “**Original Owner**” means a Class Member who has purchased a new Class Vehicle directly from a Honda or Acura dealer; for greater certainty, a Class Member who has purchased a Class Vehicle that was in demonstration directly from a Honda or Acura dealer is an Original Owner; a Class Member who purchased a Class Vehicle that had been leased is not an Original Owner (“*Propriétaire d'origine*”).

1.43 “**Paint Repair**” means any process performed by an Authorized Body Shop according to rules of art to cover paint on Class Vehicles affected experiencing by EPD, including, but not limited to, repaint, wrapping or covering (“*Réparation de la peinture*”).

1.44 “**Parties**” means Honda and the Plaintiff and Class (“*Parties*”).

1.45 “**Performance Period**” means the period during which Honda will provide Settlement Benefits under Section 4 of this Agreement to Settlement Class Members, which period will begin at the latest two (2) months after the Final Matrix Value is known and last hundred and eighty (180) days (“*Période d'exécution*”).

1.46 “**Plaintiff**” means Stephanie Daunais (“*Demanderesse*”).

1.47 “**Pool**” means the minimum amount Honda will pay pursuant to this Agreement, being \$15,000,000 (“*Plancher*”).

1.48 “**Previous Owner**” means a Settlement Class Member who owned a Class Vehicle but has sold, donated or otherwise disposed of said Class Vehicle or whose Class Vehicle was lost, destroyed or stolen, before making a Claim under this Agreement. For the purposes of this Agreement, a Previous Owner may have been a co-owner (“*Ancien propriétaire*”).

1.49 “**Provisional Administrator**” means an independent third party designated by the Court, if necessary, to be responsible for ensuring the Notice Distribution Plan before the Agreement is approved (“*Administrateur provisoire*”); for greater certainty, if the Settlement Agreement is approved, the fees associated with any Provisional Administrator will be part of the Base Administration Fee, and if the Settlement is not approved, such fees, if any, will be borne equally by Class Counsel and Honda.

1.50 **“Proof of EPD”** means videos or colour photographs, clearly showing each area of a Class Vehicle that the Settlement Class Member believes to be affected by EPD to the satisfaction of the Administrator for the issuance of a relevant Settlement Benefit, as well as a photograph showing the whole Class Vehicle, its licence plate and a photograph of the VIN of the Class Vehicle. Examples of photographs that should meet the applicable requirements are shown at Schedule “I” (*“Preuve de DPP”*).

1.51 **“Proof of Expenses”** means an original invoice, legible photocopy thereof, or other record, or some combination thereof, to the satisfaction of the Administrator, which identifies the reimbursable expenses paid by the Settlement Class Member directly due to EPD issues. Sufficient proof shall include one or more contemporaneous writings, including but not limited to third-party receipts, invoices, and repair orders or bills, which, either individually or collectively, show the existence of an EPD issue and the amount of the expense that was not previously reimbursed by Honda and/or a Honda or Acura dealer or another third party (*“Preuve de dépenses”*).

1.52 **“Proof of Ownership”**

- a) for a Previous Owner, means proof that either (i) the Settlement Member making a Claim for the Reimbursement Remedy was the legal owner of the Class Vehicle when they incurred the EPD-related expenses or (ii) the Settlement Member making a Claim for the Loss at Resale Remedy was the legal owner of the Class Vehicle at the time it was sold at a lower price due to EPD;
- b) for a Current Owner, means proof that either (i) the Settlement Class Member who is making a Claim for the In-Kind Remedy (or the Indemnity in lieu of thereof) is the owner of the Class Vehicle at the time the Claim Form is submitted; (ii) the Settlement Member making a Claim for the Reimbursement Remedy was the owner of the Class Vehicle when they incurred the EPD-related expenses.

Sufficient proof shall include a copy of the vehicle's registration certificate, or a copy of the vehicle's purchase agreement, or an affidavit, duly sworn, attesting to the fact that the Class Member owns or owned the Class Vehicle, as applicable (*“Preuve de propriété”*).

1.53 **“Proof of Loss at Resale Due to EPD”** means proof that (i) a Settlement Class Member who is making a Claim for the Loss at Resale Remedy was (ii) owner of the Class Vehicle at the

date of sale (iii) which was sold at a price lower than the CBB Price (iv) because of the EPD. Sufficient proof shall include dated email or dated screenshots of text messages evidencing that the seller of the Class Vehicle was obliged to conclude a sale for a lower price than initially sought because of the EPD. Comparison with the CBB Price will be done by the Administrator. (*“Preuve de perte de valeur à la revente en raison de la DPP”*).

1.54 **“Sale”** means a document such as a sale contract, SAAQ transfer form or other similar document identifying the Settlement Class Member making a Claim as the seller of the Class Vehicle as well as identifying the purchaser and the sale price (*“Preuve de vente”*).

1.55 **“Reconsideration Motion”** means the motion that Class Counsel may put to the Court if Class Counsel and Defence Counsel disagree as to whether a denied Claim for which a timely Reconsideration Notice was sent should nonetheless be held to be valid (*“Demande en réexamen”*).

1.56 **“Reconsideration Notice”** means written notice containing a statement of reasons why a Settlement Class Member contests the denial of a Claim by the Administrator, along with any additional supporting documentation (*“Avis de réexamen”*).

1.57 **“Reimbursement Remedy”** means the Settlement Benefit described in Section 4.C below (*“Remboursement”*).

1.58 **“Released Claims”** means any and all past, present, future or potential claims, demands, or causes of action, of any nature whatsoever, including, but not limited to, damages, costs, disbursements, expenses, administration expenses, penalties and lawyers' fees (including Class Counsel Fee, and any other lawyer's fees, costs, taxes, disbursements and expenses), statutory or regulatory obligations, or judgments, that Settlement Class Members, including the Plaintiff, had, have or could have, directly or indirectly, in connection with the facts alleged in the Litigation, including the exhibits and any supporting documents. (*“Réclamations quittancées”*).

1.59 **“Releasees”** means jointly, severally, solidarily, and collectively, Honda and its dealers, their respective parents, subsidiaries, and affiliates, and their respective past, present and future parents, predecessors, successors, spin-offs, assigns, holding companies, joint-ventures and joint-venturers, partnerships and partners, members, managers, divisions, stockholders, bondholders, subsidiaries, related companies, affiliates, officers, directors, employees, associates, dealers,

representatives, suppliers, vendors, advertisers, marketers, service providers, distributors and sub-distributors, repairers, agents, attorneys, insurers and advisors. The Parties expressly acknowledge that each of the foregoing is included as a Releasee even though not identified by name herein (“*Renonciataires*”).

1.60 “**Releasors**” means, jointly, severally, solidarily and collectively, any Settlement Class Members, any person who may be entitled to make any personal, subrogated, derivative or other claim pursuant to any contract, law, or statute based upon any relationship with a Settlement Class Member, any person or organization deemed to be a Releasor by operation of this Agreement, and the respective parents, subsidiaries, officers, directors, managers, employees, servants, affiliates, predecessors, successors, heirs, beneficiaries, executors, insurers and assigns of any of the foregoing (“*Renonciateurs*”).

1.61 “**Repair Approval Certificate**” means an instrument comprising all elements listed in Schedule “G” or an electronic equivalent issued by the Administrator upon approval of the Settlement Class Member’s Claim for the In-Kind Remedy, that notifies an Authorized Body Shop of the Authorized Cost of Repair that Honda (or the Administrator on Honda’s behalf) will reimburse to the Authorized Body Shop (“*Certificat de réparation autorisée*”).

1.62 “**SAAQ**” means the Société de l’assurance automobile du Québec, a public body established further to the *Act respecting the Société de l’assurance automobile du Québec*, CQLR c S-11.011 (“*SAAQ*”).

1.63 “**Settlement Agreement**” *see* “Agreement” at section 1.3 above (la “*Convention de règlement*”).

1.64 “**Settlement Approval Hearing**” means a hearing by a Court to determine whether this Settlement is fair and reasonable, and to approve the Class Counsel Fee, such hearing to be no earlier than thirty (30) days after the Notice Date, such date being subject to the approval of the Court (“*Audience d’approbation du règlement*”).

1.65 “**Settlement Approval Judgment**” means a judgment by the Court substantially in the form attached as Schedule “H” approving the Settlement and ruling on Class Counsel Fee (“*Jugement approuvant le règlement*”).

1.66 “**Settlement Benefit**” means the benefit obtained by any Settlement Member through the Reimbursement Remedy, the Loss at Resale Remedy, the In-Kind Remedy (or the Indemnity in lieu of thereof) or the Supplemental Compensation, as the case may be (“*Bénéfice du règlement*”).

1.67 “**Settlement Class Member**” means an individual member of the Settlement Class (“*Membre du règlement*”).

1.68 “**Settlement Class**” means all current and former owners of Class Vehicles, as detailed in the Civic Sub-Class and the CSX Sub-Class, who do not validly opt out of the Settlement pursuant to the procedure set forth in this Agreement (“*Groupe du règlement*”).

1.69 “**Settlement Opt-Out Deadline**” means the date that is thirty (30) days after the Notice Date (“*Date-limite pour l’exclusion du règlement*”).

1.70 “**Settlement Opt-Out Form**” means the document in the form attached hereto as Schedule “F” (“*Formulaire d’exclusion du règlement*”).

1.71 “**Settlement**” means the settlement provided for in this Agreement (“*Règlement*”).

1.72 “**Supplemental Compensation**” means a cash amount of \$125 payable to a Settlement Class Member who is an Original Owner of a Class Vehicle, subject to certain conditions described in Section 4.F (“*Compensation additionnelle*”).

1.73 “**Total Settlement Value**” means the amount that shall be comprised of the total payout of Settlement Benefits, which shall be no less than the Pool and no greater than the Cap, Class Counsel Fees (including any applicable taxes on the same), Administration Fees, and any levy by the FAAC (“*Valeur totale du règlement*”).

1.74 “**Validation Period**” means the period during which the Administrator will determine and communicate the validity of each Settlement Class Member Claim (“*Période de vérification*”); the Validation Period should not exceed the end of the Claims Period by more than two (2) months.

1.75 “**VIN**” means the vehicle identification number of a Class Vehicle (“*NIV*”).

1.76 “**Website**” means the dedicated website created and maintained by or for the

Administrator, which shall contain relevant documents and information about the Settlement as provided in this Agreement (“*Site Web*”). It is agreed the Website may be maintained by the Provisional Administrator before the Settlement Approval Judgment. In the Notices and Claims Forms, the “**Website**” may be referred to as the “**Settlement Website**.”

## **Section 2 – Cooperation**

2.1 Solely for purposes of implementing this Agreement and effectuating the Settlement, the Parties shall consent to the Notice Approval Judgment.

2.2 The Parties, Class Counsel and Defence Counsel shall use their best efforts to cooperate and take all reasonable actions to give effect to the Settlement and the terms and conditions of this Agreement. If the Court fails to grant the Notice Approval Judgment or Settlement Approval Judgment, the Plaintiff, Class Counsel, Defence Counsel and Honda will use all reasonable efforts that are consistent with this Agreement to cure any defect identified by the Court. If, despite such efforts, the Court does not grant the Notice Approval Judgment and the Settlement Approval Judgment, then this Agreement will be terminated in accordance with Section 7.

## **Section 3 – Settlement Administration**

### **A. Roles and Responsibilities**

3.1 Honda shall be responsible for the Base Administration Fees, and Settlement Class Members will be responsible for Excess Administration Fees, if any.

3.2 Promptly after the execution of this Agreement, or as soon as possible depending on the availability of the Court, the Parties will seek the Notice Approval Judgment in the form of Schedule “D” hereto, to have the Court (i) approve the text of the Notice, (ii) approve the Notice Distribution Plan, (iii) appoint a Provisional Administrator, if required, until the Settlement Approval Judgment; (iv) order Class Counsel and Honda to provide the Administrator with any information about Settlement Class Members that is necessary for the purposes of administering the Settlement and (v) set the Settlement Approval Hearing date;

3.3 Honda will ensure that this Agreement as well as the Appendix and Notice are translated into French prior to the Notice Date. Honda will require at least twenty (20) days from the moment the English version of this Agreement is finalized.

**April 25, 2022**

3.4 The Parties agree that the Notice and the Notice Distribution Plan are reasonable, constitute the best notice practicable under the circumstances, and constitute due and sufficient notice of the Settlement and the other matters set forth in the Notice to all persons entitled to receive notice, and fully satisfy the requirements of class action legislation in Quebec and Canadian natural justice.

3.5 The Administrator shall undertake various administrative tasks, including without limitation:

- a) disseminating the Notice and Claim Form in accordance with the Notice Distribution Plan;
- b) creating and maintaining the Website;
- c) publishing on the Website the necessary content to permit electronic access to Claim Forms and the online submission of Claim Forms, Proof of EPD, Proof of Expenses, Proof of Ownership, Proof of Loss at Resale Due to EPD, Proof of Sale and other required documentation;
- d) developing processes and procedures for handling returned email or mail and deficient Claim Forms;
- e) maintaining an email and a mailing address to which members of the Class can send Settlement Opt-Out Forms, Claim Forms and other correspondence;
- f) validating Claim Forms submitted and advising Settlement Class Members whether their Claim is accepted, partially accepted or denied;
- g) determining the Final Value Matrix based on all validated Claims;
- h) issuing Settlement Benefits to eligible Settlement Class Members on behalf of Honda;
- i) reimbursing Authorized Body Shop as per the terms of this Agreement.

#### **B. Informing Settlement Class Members**

3.6 The Administrator will arrange for dissemination of the Notice in accordance with the Notice Distribution Plan as soon as practicable after the Notice Approval Judgment is Final.

3.7 Beginning no later than the Effective Date, the Administrator will host a toll-free telephone

number that will be staffed during normal business hours where Settlement Class Members may make inquiries about the Settlement and request copies of the Claim Form, orders of the Court, the Settlement Opt-Out Form, the Notice, or a copy of this Agreement, in either English or French.

3.8 The Administrator will establish and maintain the Website that will make available documents relating to the Settlement (including the Notice, Settlement Opt-Out Form, and Claim Form) available for download. Within fourteen (14) days of the Notice Approval Judgment, the Agreement, the Notice, the Settlement Opt-Out Form, the Settlement Objection Forms (model) will be posted on the Website, which will also allow interested Settlement Class Members to register their email addresses.

3.9 Class Counsel shall also publish the Notice on their website, and in the Registre des actions collectives du Québec, with a link pointing to the Website for further documentation. Class Counsel shall remove any form or survey from their website as to avoid unnecessary confusion.

### **C. Settlement Approval Hearing**

3.10 The Parties agree to request the Court to approve the Settlement, which will put a final and definitive end to the Litigation and issue the Settlement Approval Judgment which will have the authority of *res judicata*.

3.11 Should the Court refuse to approve this Agreement on substantially the same terms as set out herein further to the Settlement Approval Hearing, this Agreement will terminate in accordance with Section 7.

### **D. Payment of Total Settlement Value**

3.12 Within ten (10) days of the Settlement Approval Judgment, the Administrator will invoice Honda regarding the following amounts:

- a) an amount of \$1,200,000.00 plus applicable taxes representing the Base Administration Fee;
- b) an amount of \$5,000,000.00 as partial payment of the Pool;

which amounts will be paid by Honda within thirty (30) days and held by the Administrator in a

**April 25, 2022**

trust account.

3.13 Excess Administration Fees will be paid by the Settlement Class but may be billed to Honda on a monthly basis. Honda will pay such Excess Administration Fees within thirty (30) days and will deduct such amounts from amounts owing to the Settlement Class, either deducted from the Pool, or deducted from the value of the Cap.

3.14 Within thirty (30) days from notification by the Administrator of the Final Value Matrix, Honda will pay to the Administrator the Total Settlement Value minus any amounts paid by Honda under paragraphs 3.12 and 3.13 of this Agreement.

#### **E. Claims Procedure**

3.15 Settlement Class Members who believe they are eligible for any Settlement Benefit under the Agreement must send the Administrator by mail, or submit through the Website, a completed copy of the appropriate Claim Form along with Proof of EPD, Proof of Expenses, Proof of Ownership, Proof of Loss at Resale Due to EPD or Proof of Sale, as the case may be, and other required documentation as set forth below in Section 4, showing that they are eligible for the remedy sought.

3.16 The Settlement Class Member must provide the following information, as indicated on the Claim Forms:

- a) name, telephone number, email address and mailing address;
- b) identification of the Class Vehicle for which a Settlement Benefit is being sought, including the VIN, make, model year, and dates of ownership;
- c) Proof of Ownership;
- d) as the case may be:
  - i. for the Reimbursement Remedy, Proof of Expenses;
  - ii. for the In-Kind Remedy, Proof of EPD and a quote for the costs of the repairs obtained from an Authorized Body Shop, such quote being at the sole expense (if any) of the Settlement Class Member;

- iii. for the Indemnity in lieu of the In-Kind remedy, Proof of EPD;
  - iv. for the Loss at Resale Remedy, Proof of Loss at Resale Due to EPD;
  - v. for the Supplemental Compensation, Proof of EPD and an attestation that the Class Vehicle would not have been purchased for the value paid had the Class Member known of the potential for EPD.
- e) The following or a substantially similar attestation: “I declare under penalty of perjury that the foregoing is true and correct. I make this declaration believing it to be true, and knowing that it is of the same legal force and effect as if it were sworn.” with the date of execution; and
- f) Any other required documentation proving eligibility as set forth above in Section 3.

3.17 A Settlement Class Member whose Claim is deemed eligible to such a monetary Settlement Benefit must provide coordinates for payment.

3.18 Upon receiving a Claim Form and accompanying documentation, the Administrator will review the documentation and take one of the following steps, as appropriate:

- a) confirm the Settlement Class Member’s eligibility for the Settlement Benefit sought, the value of which will be determined per the Final Value Matrix as will be published at a later date;
- b) deny the Settlement Class Member’s eligibility for the remedy sought and advise on the rights provided for in Section 3 F below; or
- c) request reasonable additional information and/or documentation to substantiate the Settlement Benefits sought.

3.19 If the Administrator requests additional relevant information and/or documentation to substantiate the Claim, the Settlement Class Member shall provide the information requested, or an equivalent, within twenty (20) days of the date of the request. If the additional information

and/or documentation or an equivalent is not provided as requested, or is otherwise insufficient to substantiate the Claim, the Administrator may deny the Settlement Class Member's Claim.

3.20 All Claim Forms supporting documentation and any additional information and/or documentation submitted to the Administrator must be postmarked or submitted through the Website within the prescribed period. Specifically, a Settlement Class Member who fails to submit a Claim Form and supporting documentation postmarked during the Claims Period or submitted through the Website during the Claims Period, or who fails to submit any additional information and/or documentation requested by the Administrator within the delay prescribed to file such additional information and/or documentation, shall not be entitled to receive any remedy pursuant to the Agreement, and shall in all respects be bound by the terms of the Agreement unless the Settlement Class Member had timely and validly opted out of the Agreement.

3.21 Claims that do not meet the requirements set forth in the Agreement shall be denied.

3.22 The Administrator will complete its review of Claims on a rolling basis, with a view to processing each Claim within two (2) months from its receipt, and processing all Claims no later than two (2) months after the end of the Claims Period, excepting those Claims under reconsideration pursuant to the reconsideration process set out in the Agreement.

#### **F. Claim Denial: Cure and Reconsideration**

3.23 The Administrator shall notify in writing anyone whose Claim has been denied, in whole or in part, setting forth: (i) the reason(s) for the denial; (ii) notice of the right to attempt to cure any defect in the Claim within thirty (30) days; and (iii) the coordinates of Class Counsel. The fact that the coordinates of Class Counsel are included does not constitute a conflict of interests in itself, nor does it amount to a recognition that no such conflict of interests can or is likely to exist.

3.24 If the Settlement Class Member is unable to cure the defect in the Claim after thirty (30) days, the Administrator shall confirm that the Claim remains denied.

3.25 The Reconsideration procedures shall also be posted on the Website.

3.26 A person whose Claim has been denied may file a Reconsideration Notice with Class Counsel within thirty (30) days of the date at which the Administrator denied the Claim.

3.27 Class Counsel must assess such Reconsideration Notice within fifteen (15) days of the date at which it was sent. If Class Counsel are of the opinion the person does not hold a valid claim, the Claim remains denied. No further appeal or reconsideration is available to Settlement Class Members. If Class Counsel are of the opinion the person is a Settlement Class Member who holds a valid Claim, Class Counsel will contact Defence Counsel to assess the same.

3.28 Defence Counsel will assess the Reconsideration Notice within fifteen (15) days. If Class Counsel and Defence Counsel agree that the Claim was incorrectly denied, they shall jointly instruct the Administrator to validate the Claim. If Class Counsel and Defence Counsel disagree on the status of the Claim, Class Counsel may seize the Court with a Reconsideration Motion, which will be instructed as a motion in judicial review.

3.29 A Reconsideration Motion may encompass more than one Reconsideration Notice. No Reconsideration Motion may be put to the Court later than ninety (90) days after the Administrator has completed its review of Claims.

3.30 The decision of the Court on a Reconsideration Motion shall be final and binding. No further appeal or reconsideration is available to Settlement Class Members.

3.31 Should the person whose claim was denied retain counsel, said person shall be responsible for paying their own lawyers' fees and other expenses if they decide to retain counsel.

#### **G. Consolidation Period**

3.32 Once all Claims have been assessed and adjudicated by the Administrator, directly or further to a Reconsideration, the Administrator will establish the Final Value Matrix and publish it on the Website.

3.33 The Final Value Matrix will show the maximum Settlement Benefit available for a given Class Vehicle, as well as per affected part, reflecting (i) the total number of valid Claims, (ii) Class Counsel Fees, and their disbursements which will have been approved by the Court, (iii) the levy to the Fonds d'aide aux actions collective provided by law and (iv) Excess Administration Fees.

3.34 The Administrator must agree to work for a lump sum from the moment the Final Value Matrix is known.

## **H. Payment of Settlement Benefits**

3.35 As soon as practical after the Final Value Matrix is established, the Administrator will:

- a) provide a copy thereof to the Court;
- b) post a copy thereof on the Website;
- c) issue payment to those Settlement Class Members eligible for (i) the Reimbursement Remedy; (ii) the Loss at Resale Remedy; (iii) the Indemnity in lieu of the In-Kind remedy; (iv) the Supplemental Compensation;
- d) inform those Settlement Class Members eligible for the In-Kind Remedy of the Authorized Cost of Repair, and advise them of the procedure for claiming the remedy as set out in section 4.17 above along with a copy of the Repair Approval Certificate.

3.36 No Settlement Benefit shall be issued to any Settlement Class Member before the beginning of the Performance Period. No Settlement Benefit shall be issued to any Settlement Class Member after the Performance Period unless the Settlement Class Member has been specifically approved by the Administrator, in which case the Settlement Class Member's Repair Approval Certificate will be cancelled and re-issued with a new expiry date.

3.37 If this Settlement never becomes final for any reason, no Settlement Benefit of any kind shall be conferred upon any Settlement Class Members pursuant to the Agreement.

## **I. Elements Specific to the Administration of the In-Kind Remedy**

3.38 The Settlement Class Member who elects the In-Kind Remedy bears the risk of the loss, theft or destruction of the Class Vehicle after the Claim Form has been submitted.

3.39 If the actual cost of the Paint Repair sought by a Settlement Class Member is greater than the Authorized Cost of Repair as shown on the Repair Approval Certificate, the Settlement Class Member will have to choose one of the following the options: (i) pay for the difference between the Authorized Cost of Repair and the actual cost of repaint; or (ii) as the case may be, negotiate with the Authorized Body Shop the scope of Paint Repairs to be performed so that the Authorized Cost of Repair or other agreed upon cost between them is not exceeded.

3.40 The Administrator will also be responsible for issuing payment to Authorized Body Shops

for the Authorized Cost of Repair.

3.41 An Authorized Body Shop will be reimbursed for Paint Repairs performed up to the Authorized Cost of Repairs if the following conditions are met:

- a) the Paint Repair occurred after the issuance of a valid Paint Repair Approval Certificate and in accordance with the conditions set out by the Administrator and this Agreement;
- b) the Paint Repairs occurred after a quote was obtained by the Settlement Class Member, at their own cost, from an Authorized Body Shop
- c) the Paint Repairs occurred on a Class Vehicle showing signs of EPD;
- d) the Authorized Body Shop submits to the Administrator its own videos or colour photographs showing the EPD before the Paint Repairs are effected as well as the same areas after the Paint Repairs;
- e) the Body Shop submits to the Administrator the prescribed form and documentation within thirty (30) days of having effected the In-Kind Remedy.

3.42 An Authorized Body Shop will not be reimbursed for Paint Repairs performed where the Settlement Class Member obtained a Paint Repair Approval Certificate through misrepresentations. The Authorized Body Shop shall not honour Paint Repair Approval Certificates issued to someone who is not the owner of the Class Vehicle identified thereon. The Authorized Body Shop shall not honour Paint Repair Approval Certificates where the Class Vehicle shows no EPD and shall report the situation to the Administrator as soon as practicable.

3.43 For greater certainty, corrective repair made further to the In-Kind Remedy are subject to the legal warranty with the Authorized Body Shop who has performed the In-Kind remedy.

## **J. Final Payments**

3.44 Payments to Class Counsel, to the FAAC and other matters related to closing the Agreement are found at Section 6 below.

## **Section 4 – Settlement Consideration**

### **A. Generally**

4.1 In exchange for the full and final settlement of the Litigation, and as part of the

consideration Honda is providing in exchange for the releases herein, Honda agrees to provide the consideration set out in this Section 4 to the Settlement Class.

4.2 The purpose of this Section 4 is to detail the benefits to be provided to the Settlement Class Members who allege to have suffered a prejudice due to EPD, including, as the case may, be those who have incurred reasonable out-of-pocket costs as a direct result of alleged EPD, up to a maximum amount per Class Vehicle, as established in the Final Value Matrix.

### **B. Ineligibility, Conflicting and Incompatible Claims**

4.3 No Settlement Benefit shall be issued to the Settlement Class Member who made material misrepresentations.

4.4 No Settlement Benefit shall be issued to a Settlement Class Member for the parts of the Class Vehicle that were already significantly experiencing EPD at the date of purchase.

4.5 No Settlement Benefit shall be issued to an automobile dealer, whether a Honda or Acura dealer or otherwise, a wholesale dealer, a mechanical shop, body shop, or any professional reseller.

4.6 No Settlement Benefit shall be issued to a person who purchased a Class Vehicle after the start of the Settlement Approval Judgment.

4.7 No Reimbursement Remedy and no In-Kind Remedy shall be issued in excess of the amounts of the Final Value Matrix for any given Class Vehicle. No Indemnity in Lieu of In-Kind Remedy and no Loss at Resale Remedy shall be issued in excess of 60% of the amounts of the Final Value Matrix for any given Class Vehicle. No Supplemental Compensation shall be issued in excess of \$125 for any given Class Vehicle.

4.8 The first of two or more co-owners filing a valid and timely Claim will be treated as the sole owner of the Class Vehicle they co-own or co-owned. It will be the responsibility of the owners to distribute any Settlement Benefit amongst themselves, and Honda will bear no liability in this regard.

4.9 Against the same Class Vehicle and for the same part, the following claims are incompatible and will be resolved as follows:

- a) a Claim for the In-Kind Remedy will be denied where a Claim for Loss at Resale Remedy is granted;
- b) a more recent Claim for Loss at Resale Remedy against an older Claim for Loss at Resale Remedy.

4.10 Should more than one valid and timely Claim be filed regarding the same Class Vehicle or parts thereof the total value of which would exceed the maximums amounts of the Final Value Matrix, the Settlement Benefit of the claimants, will be pro-rated therefrom.

4.11 To be eligible for a Settlement Benefit, a Settlement Class Member cannot have been previously compensated or reimbursed in full for their expenses for the same part(s) unless the EPD reappeared, before the start of the Claims Period, on the same part(s) as if no repairs had been carried thereon; any reimbursement made under the Agreement will exclude or be reduced by (i) any prior goodwill repaint made or paid by Honda or a Honda or Acura dealer, or (ii) any reimbursement paid by Honda, and/or any monies paid in relation to the EPD by any insurer or anyone else, to the Settlement Class Member or to their benefit.

4.12 Should the Administrator request relevant additional information and/or documentation to substantiate a Claim, the Settlement Class Member shall provide the additional information and/or documentation requested, or an equivalent, within twenty (20) days of the date of the request, failing which the Claim will be denied.

**C. Reimbursement Remedy: Reimbursement of Reasonable Expenses Caused by EPD and Having Occurred Before the Claims Period**

4.13 Settlement Class Members who paid for past remedial paint work as a direct result of EPD may submit a Claim for a Reimbursement Remedy. In addition to the general requirements of Section 4B above, the following minimum requirements must be met before a Claim is accepted:

- a) a valid Claim form is submitted within the Claims Period;
- b) a valid Proof of Expenses is provided;
- c) a valid Proof of Ownership at the time the remedial paint work for which reimbursement is sought, is provided;

- d) the paint remedial work was executed on or after May 4, 2015 for Civic Class members or on or after September 4, 2017 for CSX Class Members;
- e) no prior settlement or release regarding the same parts was reached with Honda.

**D. Loss at Resale Remedy: Compensation for Sale of Class Vehicle to a Third Party for a Price Lower than Initially Sought because of EPD at the Time of Sale.**

4.14 Settlement Class Members who are Previous Owners and who sold their Class Vehicle for a price lower than that they had initially sought because of EPD may submit a Claim for a Loss at Resale Remedy. In addition to the general requirements of Section 4B above, the following minimum requirements must be met before a Claim is accepted:

- a) a valid Claim form is submitted within the Claims Period;
- b) a valid Proof of Sales is provided;
- c) a valid Proof of Loss at Resale due to EPD is provided;
- d) the sale occurred on or after May 4, 2015 for Civic Class members or on or after September 4, 2017 for CSX Class Members;
- e) no prior settlement or release regarding the same parts affected by EPD issue was reached with Honda; and
- f) an acceptable proof of the sale price of the Class Vehicle is provided, including, but not limited to, a signed sale contract for the Class Vehicle or a purchase contract for a new vehicle indicating the exchange value of the Class Vehicle;

**E. In-Kind Remedy: Contribution by Honda towards the Cost of Repair by Authorized Body Shop or Reduced Indemnity In Lieu Thereof**

4.15 At their sole discretion, Settlement Class Members who are Current Owner and whose Class Vehicle is affected by EPD may submit a Claim to be eligible to (i) have the paint of each part affected by EPD repaired as per the Final Matrix Value and to have Honda contribute to the cost of these repairs (the “**In-Kind Remedy**”) or, alternatively, (ii) obtain an indemnity representing sixty per cent (60%) of the value of the In-Kind Remedy (the “**Indemnity In Lieu of the In-Kind Remedy**”).

4.16 In addition to the general requirements of Section 4B above, a Claim for In-Kind Remedy or Indemnity In Lieu of the In-Kind Remedy will be accepted if all the following conditions are

met:

- a) a valid Claim form is submitted within the Claims Period;
- b) a valid Proof of EPD is provided;
- c) a valid Proof of Ownership is provided;
- d) a picture of the VIN as found
- e) a non-insignificant EPD started to appear on the affected part of the Class Vehicle on or after May 4, 2015 for Civic Class Members or, on or after September 4, 2017 for CSX Class Members;
- f) no prior settlement or release regarding the same parts affected by EPD issue was reached with Honda;
- g) for Settlement Class Members seeking the In-Kind Remedy, they obtained a quote for the costs of repair prior to submitting their Claim; such quote may be obtained at an Authorized Body Shop and will be at the sole expense of the Settlement Class Member.

4.17 The Settlement Class Member who is eligible for the In-Kind Remedy may alternatively elect to obtain an indemnity representing sixty per cent (60%) of the value of the In-Kind Remedy (the “**Indemnity In Lieu of the In-Kind Remedy**”). The choice is made through the Claim Form, and it cannot be revoked. No further compensation will be issued to the Settlement Class Member who ceases to be the owner of the Class Vehicle for which an In-Kind Remedy was approved (whether by sale, loss, theft, destruction or otherwise).

4.18 Should a Settlement Class Member sell a Class Vehicle for which an In-Kind Remedy was approved but was not executed by the date of the sale, the new owner may benefit from the Repair Approval Certificate, provided that:

- a) the sale contract of the Class Vehicle specifically provides for the transfer of the Repair Approval Certificate;
- b) the new owner complies with the terms and conditions of the original Repair Approval Certificate, including any applicable delays.

#### **F. Supplemental Compensation**

4.19 Settlement Class Members who are Original Owners and who would not have purchased their Class Vehicle or would have purchased it at a lower price had they known of the EPD at the

time of their purchase may also claim a Supplemental Compensation.

4.20 The Supplemental Compensation will be issued to eligible Settlement Class Members by the Administrator at the end of the Validation Period along with the Authorized Cost of Repair if applicable.

4.21 In no event shall the Supplemental Compensation be issued to Settlement Class Members by Honda prior to the Performance Period.

## **Section 5 – OBJECTIONS AND OPT-OUTS**

### **A. Objections**

5.1 A Class Member who wishes to object to this Agreement must do so no later than thirty (30) days after the Notice Date by informing the Civil Court Office of the Superior Court at 1, Notre-Dame Street East, Montreal QC H2Y 1B6, and to Class Counsel and Defence Counsel at least ten (10) days prior to the Settlement Approval Hearing at their respective addresses indicated in Section 15 of this Agreement. The Objection can be notified in a written document containing the following information:

- a) the Class action Court file number;
- b) the objector's full name, email address, mailing address and telephone number;
- c) an identification of their Class Vehicle, including the VIN, make, model year and dates of ownership;
- d) Proof of Ownership;
- e) a summary of reasons for the objection.
- f) copies of any papers, briefs or other documents upon which the objection is based;
- g) a statement of whether the objector intends to appear at a Settlement Approval and, if the objector intends to appear at a Settlement Approval Hearing through counsel, the full name, email address, mailing address and telephone number of any counsel representing the objector who will appear at the Settlement Approval Hearing.

5.2 The objection may be notified to the Civil Court Office of the Superior Court, to Class Counsel and to Defence Counsel using the optional objection form attached to the Agreement Schedule "K".

5.3 For greater certainty, if the Court approved the Agreement, no Claim Form will be denied solely because a Settlement Class Member has objected to the Agreement.

## **B. Opting Out**

5.4 A Class Member who wishes to be excluded from the Settlement must submit a properly completed Settlement Opt-Out Form to the Civil Court Office of the Superior Court in person or by regular mail, postmarked on or before the Settlement Opt-Out Deadline.

5.5 To exercise the opt-out right set forth in this Section 5, the Class Member must deliver an Opt-Out Form strictly in accordance with this Agreement. The Opt-Out Form must:

- a) contain the Class member's full name and current email, mailing address and telephone number;
- b) identify the name, phone number, email address and mailing address of the Class member's counsel, if any;
- c) identify the Class Vehicle of the Class Member, including its VIN, make, model year and dates of ownership by the Class Member;
- d) declare that the Class member owns or owned a Class Vehicle, and be willing to provide verification if requested;
- e) declare that the vehicle is affected by EPD and the date at which said EPD first appeared;
- f) declare that the Class member wants to be excluded from the Settlement; and
- g) be signed by the Class member.

5.6 Any Class member who does not submit a properly completed Settlement Opt-Out Form to the Civil Court Office of the Superior Court before the Settlement Opt-Out Deadline shall be deemed to be a Settlement Class Member upon the expiry of the Settlement Opt-Out Deadline.

5.7 Any Class member who has delivered a Settlement Opt-Out Form may retract their Settlement Opt-Out Form, and re-elect in writing to become a Settlement Class Members, if their

written retraction is received by the Civil Court Office of the Superior Court on or before the Settlement Opt-Out Deadline.

5.8 Any Class member who properly and timely submits a Settlement Opt-Out Form and who does not retract it in writing before the Settlement Opt-Out Deadline (i) is not a Settlement Class Member; (ii) may not receive any benefits under this Agreement; and (iii) may bring their lawsuit, as the case may be, at their own expense.

### **C. Opting Back In**

5.9 Any person who has filed an Authorization Opt-Out may apply for Settlement Benefits under the Agreement by filing a valid and timely Claim Form and signing a formal release and waiver in favour of the Releasees. The signatories of such releases will not be counted as valid as opt-outs for purposes of assessing the Opt-Out Threshold.

## **Section 6 –FINAL STEPS**

### **A. Payment to the FAAC**

6.1 For greater certainty due to the hybrid nature of the Agreement:

- a) If the Total Settlement Value is lower than the Pool, the FAAC's levy will be calculated as per article 596 of the *Code of Civil Procedure*, CQLR c C-25.01.
- b) If the Total Settlement Value is greater than the Pool, the FAAC's levy will be calculated as per article 597 of the *Code of Civil Procedure*, CQLR c C-25.01. on each individual pay-out in excess of the Pool.

6.2 Payments will be made accordingly. Should any amount be remittable to a third party by law, Honda may suggest to the Court its choice of said third party or parties, having regard to the Member's interest and after having consulted Class counsel.

### **B. – Payments to Class Counsel**

6.3 Subject to the conditions the Court will determine, the Administrator will pay Class Counsel Fee to Class Counsel on behalf of the Settlement Class Members. Such will be included in the monthly invoices sent to Honda.

6.4 In no event and under no circumstances whatsoever under this Agreement will the

Administrator, on behalf of the Settlement Class Members, be required to pay Class Counsel any other amount or any amount greater than the Class Counsel Fee as approved by the Court in a Final Judgment. In no event and under no circumstances whatsoever under this Agreement will Honda be required to pay Class Counsel any amount. In no event and under no circumstances whatsoever under this Agreement will Honda be required to pay Excess Administration Fee.

### **C. Closing Report**

6.5 As soon as practical after the end of the Performance Period, the Administrator shall file a closing Report, and Defence Counsel shall file a Motion for Closing Judgment within thirty (30) days of the end of said closing report.

6.6 The closing report of the Administrator shall include:

- a) The total number of Opt-Out Forms received;
- b) The total number of people who applied for a Settlement Benefit;
- c) The total number of Settlement Class Members who applied for each of the Reimbursement Remedy, the In-Kind Remedy, the Indemnity in lieu of the In-Kind remedy and the Supplemental Compensation;
- d) The total amount paid to Settlement Class Members;
- e) The total amount paid to Class Counsel;
- f) The total amount paid to the FAAC.

6.7 Within thirty (30) days of the closing judgment, Plaintiff, Class Counsel and Honda undertake to destroy any confidential or privileged information received from the other party (i) in preparation for or in the course of the case settlement conference that led to the Agreement; (ii) during the negotiation that led to the Agreement; (iii) in the performance of the Agreement until the closing judgment.

6.8 Within thirty (30) days of the closing judgment, the Administrator undertakes to destroy any personal information of a Settlement Class Member it has received from Honda in the

performance of the Agreement until the closing judgment.

## **Section 7 – TERMINATION**

7.1 Subject only to Section 2.2, unless the Plaintiff and Honda agree otherwise in writing, this Agreement shall be automatically terminated and shall become null and void, and no obligation on the part of any of the Parties will accrue, (i) if the Court declines to issue the Notice Approval Judgment on substantially the same terms as Schedule “D” attached hereto, (ii) if the Court declines to issue the Settlement Approval Judgment on substantially the same terms as Schedule “H” attached hereto, or (iii) if an appeal of the Settlement Approval Judgment results in the Settlement Approval Judgment not becoming Final.

7.2 For greater certainty, neither the Court’s approval of Class Counsel Fee in an amount less than sought by Class Counsel, nor the Court’s refusal to approve Class Counsel Fee at all, shall constitute a refusal to issue the Settlement Approval Judgment on substantially the same terms as Schedule “H” or any other basis for the termination of this Agreement.

7.3 This Agreement will be terminated in accordance with this Section 7, if the Opt-Out Threshold is exceeded, except if Honda agrees in writing to keep it applicable.

7.4 If Honda has not delivered a notice of termination, this Agreement shall become fully effective and irrevocable at the start of the Performance Period.

7.5 If the Settlement is terminated automatically under Section 7.1 or pursuant to Section 7.3, one or both parties shall bring a motion on consent before the Court for orders:

- a) declaring the Agreement to be null and void and of no force or effect; and, as the case may be,
- b) setting aside the Notice Approval Judgment on the basis of the termination of the Agreement.

7.6 The following terms shall apply should this Agreement be automatically terminated pursuant to under Section 7.1 or pursuant to Section 7.3:

- a) No person or party shall be deemed to have waived any rights, claims or defences whatsoever by virtue of this Agreement and, without limiting the generality of the foregoing, the Releasees shall be deemed to have expressly reserved their right to defend the Litigation;
- b) This Agreement and all negotiations, proceedings, documents prepared and statements made in connection herewith will be without prejudice to Honda, the Plaintiff and the Class, and will not be deemed or construed to be an admission or confession in any way by the Parties of any fact, matter or proposition of law;
- c) With the exception of this Section 7.6, this Agreement shall have no further force and effect, shall not be binding on any person or any of the Parties, and shall not be used as evidence or otherwise in any litigation or other proceeding for any purpose, and the legal position of each of the Parties shall be the same as it was immediately prior to the execution of this Agreement, and each of the Parties may exercise its legal rights to the same extent as if this Agreement had never been executed;
- d) Without limiting the generality of the foregoing, the releases of the Released Claims and the bar of claims provided for in Section 8 and Section 9 shall be null and void and of no force and effect whatsoever;
- e) Notice of the termination shall be published on the Website within seventy-two (72) hours of the termination.

## **Section 8 – Claims Bar**

8.1 The Settlement Approval Judgment shall be a defence to any subsequent action against any of the Releasees based on, relating to or arising out of the Released Claims.

8.2 None of the Releasers, and no legally authorized representative of any of the Releasers,

may file, commence, prosecute, intervene in, or participate as a plaintiff, claimant, or class member in any other lawsuit or administrative, regulatory, arbitration, or other proceeding in any jurisdiction based on, relating to, or arising out of the Released Claims.

8.3 None of the Releasors, and no legally authorized representative of any of the Releasors, may file, commence, or prosecute any lawsuit or administrative, regulatory, arbitration, or other proceeding as a class action on behalf of any other person (including by seeking to amend a pending complaint or action to include class allegations or seeking class authorization in a pending action), based on, relating to, or arising out of the Released Claims.

8.4 None of the Releasors, and no legally authorized representative of any of the Releasors, may attempt to effect an opt out of a class of individuals in any lawsuit or administrative, regulatory, arbitration, or other proceeding based on, relating to or arising out of the Released Claims.

8.5 None of the Releasors may now or hereafter institute, continue, maintain or assert, either directly or indirectly, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim or demand against any person who may claim contribution or indemnity, or any other claim over for relief from any of the Releasees in respect of any Released Claim or any matter related thereto.

8.6 Any proceeding against any of the Releasees related to the Released Claims shall be immediately dismissed and the Parties shall request any court in which such claim is or has been commenced to order the immediate dismissal of the same.

## **Section 9 – RELEASES**

9.1 Subject to the terms and conditions of the present Agreement, the Plaintiff and each and every Releasor, regardless of whether any Releasor executes and delivers a written release, fully and forever release, remise, acquit and discharge the Releasees from the Released Claims. By executing this Agreement, the Parties acknowledge that the Litigation shall be settled in complete and definitive manner pursuant to the terms of the Settlement Approval Order, and all Released Claims shall thereby be conclusively settled, compromised, satisfied, and released as to the Releasees. The Settlement Approval Judgment shall provide for and effect the full and final

release, by the Plaintiff and all Releasers, of all Released Claims.

9.2 No Settlement Class Member shall, now or hereafter, institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim or demand against any Releasee or any other person who may claim contribution or indemnity from any Releasee in respect of any Released Claim or any matter related directly or indirectly thereto.

9.3 If any Settlement Class Member brings an action or asserts a claim against any Releasee contrary to the terms of this Agreement, the counsel of record for such Settlement Class Member shall be provided with a copy of this Agreement. If the Settlement Class Member does not within twenty (20) days thereafter dismiss their action and the action or claim is subsequently dismissed or decided in favor of the Releasee, the Settlement Class Member who brought such action shall pay the Releasee's reasonable counsel fees and disbursements incurred by the Releasee in the defence of such action or claim.

9.4 Except as otherwise provided, nothing in this Agreement shall be construed in any way to prejudice or impair the right of Honda or Honda's insurers to pursue such rights and remedies as they may have against any person under or in connection with any insurance policies.

## **Section 10 – ENFORCEMENT OF THIS AGREEMENT**

10.1 The Court shall retain jurisdiction over the Parties and the Agreement and with respect to the future performance of the terms of the Agreement, and to ensure that all payments and other actions required of any of the Parties by the Settlement and this Agreement are properly made or taken. In the event that Honda, the Plaintiff, Class Counsel, or any Settlement Class Member fails to perform its or their obligations under this Agreement, counsel for the aggrieved party shall give counsel for the other party written notice of the breach. If the alleged breach is not cured to the satisfaction of the aggrieved party within thirty (30) days, the aggrieved party may apply to the Court for relief.

## **Section 11 – COVENANT NOT TO SUE**

11.1 The Plaintiff, on behalf of herself and the Settlement Class Members, hereby covenants and agrees that neither the Plaintiff nor any of the Settlement Class Members, nor any person

authorized to act on behalf of any of them, will commence, authorize, or accept any benefit from any judicial or administrative action or proceeding, other than as expressly provided for in this Agreement, against Releasees in either their personal or corporate capacity, with respect to any claim, matter, or issue that in any way arises from, is based on, or relates to any alleged loss, harm, or damages allegedly caused by Releasees in connection with the Released Claims. The Plaintiff, on behalf of herself and the Settlement Class Members, hereby waives and disclaims any right to any form of recovery, compensation, or other remedy in any such action or proceeding brought by or on behalf of any of them, and agrees that this Agreement shall be a complete bar to any such action.

11.2 No Class Counsel, nor anyone currently or hereafter employed by, associated with, or a partner with Class Counsel, may directly or indirectly participate or be involved in or in any way assist with any claim made or action commenced regarding Class Vehicles by any person which, directly or indirectly, relates to, is substantially similar to or arises from EPD of the Class Vehicles, except in relation to the continued prosecution of the Litigation, should this Agreement be terminated.

## **Section 12 – REPRESENTATIONS AND WARRANTIES**

12.1 Each of the Parties hereby irrevocably affirms, agrees, represents and warrants that:

- a) The Party has carefully read, and knows and understands, the full contents of this Agreement and is voluntarily entering into this Agreement after having had the opportunity to consult with, and having in fact consulted with, independent counsel.
- b) The Party has had an opportunity to receive, and has received, legal advice from counsel regarding the advisability of making the Settlement, the advisability of executing this Agreement, and the legal and any applicable income-tax consequences of this Agreement, and fully understands and accepts the terms of this Agreement.
- c) The Party has not relied upon any statement, representation, omission, inducement, or promise of any other Party (or any officer, agent, employee, representative, or counsel for any other Party) in deciding to execute this Agreement, or in making the Settlement provided for herein, except as expressly stated in this Agreement.

- d) The Party has investigated the facts pertaining to the Settlement and this Agreement, and all matters pertaining thereto, to the full extent deemed necessary by that Party and that Party's counsel.
- e) No portion of the Released Claims that the Plaintiff, the Settlement Class, and/or any of the Settlement Class Members ever had, now have, or may later claim to have at any time in the future against the Releasees, whether known or unknown, arising out of or in any way relating to EPD, and no portion of any recovery or settlement to which they may be entitled, has been assigned, transferred, or conveyed by or for Settlement Class Members in any manner, and no person other than Settlement Class Members shall have any legal or equitable interest in the Released Claims referred to in this Agreement but the Settlement Class Members themselves, except as otherwise provided in this Agreement.

### **Section 13 – MISCELLANEOUS TERMS**

13.1 The Schedules to this Agreement are an integral part of the Settlement and are expressly incorporated and made a part of this Agreement.

13.2 The headings of the sections of this Agreement are included for convenience only and shall not be deemed to constitute part of this Agreement or to affect its construction or interpretation.

13.3 Class Counsel and Defence Counsel have negotiated this Agreement at arm's length. The Parties were represented by competent and effective counsel throughout the course of settlement negotiations and in the drafting and execution of this Agreement, and there was no disparity in bargaining power among the Parties to this Agreement. If a dispute should later arise regarding any of its terms, none of the Parties shall be deemed to be the drafter of any particular provision of this Agreement.

13.4 The Plaintiff, Class Counsel, Honda and Defence Counsel hereby irrevocably acknowledge and agree that any and all information obtained in the course of the discussions between the Parties has been provided on a privileged and without prejudice basis.

13.5 Any and all information obtained by Class Counsel from Honda or by Honda from Class counsel, including any and all documentation transmitted in the course of the negotiation of this

Agreement, will be returned to the originating Party with no copies being made and all other documents destroyed by the receiving Party as soon as possible and at the latest ten (10) days after the closing judgment becomes Final.

13.6 Except as otherwise provided in this Agreement, any filing, submission, notice or written communication shall be deemed filed, delivered, submitted, or effective as of the date of its postmark when mailed by regular or registered mail, postage prepaid, properly addressed to the recipient, or when delivered to any commercial one-or-two-day courier delivery service properly addressed to the recipient, or when actually received by the recipient, whichever occurs first.

13.7 In no event shall Honda, Defence Counsel, the Plaintiff, any Settlement Class Member, or Class Counsel have any liability for claims of wrongful or negligent conduct by any third party with respect to the implementation of any term of this Agreement.

13.8 The terms and conditions of this Agreement, will be kept confidential by the Plaintiff, Class Counsel, Settlement Class Members, Honda and Defence Counsel until such time as the Notice Approval Judgment is sought from the Court. Also until such time as the Notice Approval Judgment is sought from the Court, the fact that an agreement in principle was reached on January 31, 2022, but not the contents thereof, may be disclosed by Class Counsel but only in response to a direct query on the matter from a Class Member and on the condition that it not be further disclosed or published.

13.9 By exception to section 13.8, the following disclosure will be permitted, subject to the disclosing party agreeing to the confidentiality of the communications: (i) to prospective Administrators, any portion of the Agreement necessary for them to understand and properly discharge their duties pursuant to the Agreement should they be appointed by the Court; and, if necessary (ii) to the director of the CCPQ, the general mechanics of the In-Kind Remedy, with a view to implementing the mechanics of payment with Authorized Body Shops who are not already Honda-approved.

13.10 All the information exchanged between the Parties during their exchanges and negotiations leading to the preparation and the execution of this Agreement will be kept confidential by the Parties and shall not be disclosed to any third party whatsoever, except that Honda may share such

information with its insurers, and except to the extent such information subsequently becomes publicly available or unless ordered to do so by the Court.

13.11 This Agreement, including all attached Schedules, constitutes and represents the entire agreement between the Parties, and supersedes any previous or contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle, or memorandum of understanding in connection thereto. None of the Parties will be bound by any prior obligations, conditions or representations with respect to the subject matter of this Agreement, unless expressly incorporated herein.

13.12 The Agreement may not be changed, modified, or amended except in writing signed by Class Counsel and Defence Counsel and subject to Court approval, or as ordered by the Court.

13.13 This Agreement, if approved by the Court, shall be binding upon and ensure to the benefit of the Settlement Class Members, Honda, Class Counsel, and their representatives, officers, employees, insurers, heirs and assigns.

13.14 Except where otherwise indicated, all amounts mentioned in this Agreement are inclusive of capital, interests and applicable taxes.

13.15 This Agreement shall be construed under and governed by the laws of the Province of Quebec and the laws of Canada applicable therein, and any dispute arising therefrom will be adjudicated before the tribunals of the judicial district of Montreal.

13.16 The Parties and their respective counsel agree to prepare and execute any additional documents that may reasonably be necessary to give effect to the terms of this Agreement.

13.17 This Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same Agreement, and a facsimile signature shall be deemed an original signature for purposes of executing this Agreement.

13.18 The Parties acknowledge that this Agreement represents a transaction in accordance with articles 2631 and following of the *Civil Code of Quebec*.

13.19 Each of the undersigned hereby represents and guarantees that he or she is fully authorized

**April 25, 2022**

to enter into the terms and conditions of, and to execute, this Agreement.

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

**FOR HONDA:**

Lavery de Billy LLP  
1 Place Ville Marie, Suite 4000  
Montreal, Quebec H3B 4M4  
c/o: Laurence Bich-Carrière  
lbichcarriere@lavery.ca  
Tel: 514-871-1522

**FOR CLASS COUNSEL AND PLAINTIFF:**

CBL & Associés, avocats  
22, Paré Street  
Granby, Quebec J2G 5C8  
c/o: Éric Bertrand  
ebertrand@cblavocats.com  
c/o: Eric Cloutier  
ecloutier@cblavocats.com  
Tel.: 450-776-1001

Cabinet BG Avocat inc.  
4725, Métropolitaine East, suite 207  
Montreal, Quebec H1R 0C1  
c/o: Benoît Gamache  
bgamache@cabinetbg.ca  
Tel. : 1-877-707-8008

13.21 The Parties have executed this Agreement as of April 25<sup>th</sup>, 2022. The signatures are on the following page.

April 25, 2022

**STEPHANIE DAUNAIS**

**HONDA CANADA INC:**

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Personally and as Class  
Representative

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Per:

**CBL & Associés, avocats**, counsel  
for the Plaintiff

**LIVERY, DE BILLY LLP**,  
Counsel for Honda (“**Defence  
Counsel**”)

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**BG AVOCAT INC.**, counsel to  
counsel for the Plaintiff

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(together, “**Class Counsel**”)