

SETTLEMENT AGREEMENT

This Agreement is made and entered into this 30th day of March, 2022, by and among defendant Ford Motor Company of Canada, Limited, and Plaintiffs, both individually and on behalf of the Class. Capitalized terms used herein are defined in Paragraph 1 below.

WHEREAS, Plaintiffs allege that Ford Canada participated in an unlawful combination and conspiracy with the Other Defendants to prevent the export of new motor vehicles from Canada to the United States which resulted in the reduction of competition in the United States market, including competition in California, and caused the prices for new motor vehicles to be artificially raised in violation of California's Cartwright Act;

WHEREAS, Ford Canada denies Plaintiffs' allegations and admits no wrongdoing of any kind whatsoever;

WHEREAS, Plaintiffs have conducted a thorough investigation into the facts and the law regarding the Action and have concluded that a settlement with Ford Canada according to the terms set forth below is in the best interest of Plaintiffs and the Class;

WHEREAS, Ford Canada, despite its belief that its actions have been proper and that Ford Canada is not liable for the claims asserted and has good defenses thereto, has nevertheless agreed to enter into this Agreement solely to avoid further expense, inconvenience, and the burden of this protracted litigation;

NOW, THEREFORE, in consideration of the covenants, agreements, and releases set forth herein and for other good and valuable consideration, it is agreed by and among the undersigned Parties that the Action be settled, compromised, and dismissed on the merits with prejudice as to

the Releasees, and except as hereinafter provided, without costs against Plaintiffs, the Class, or Ford Canada, subject to the approval of the Court pursuant to applicable class action procedural rules, on the following terms and conditions:

DEFINITIONS

1. The following terms have the following meanings for purposes of this Agreement:
 - a. “Accounting Firm” means a certified public accounting firm, chosen by the Escrow Agent or Class Escrow Counsel, which will perform additional tax reporting regarding the Escrow Account.
 - b. “Action” means the civil action captioned *Automobile Antitrust Cases I and II*, JCCP Nos. 4298 and 4303, currently pending in the Superior Court for the City and County of San Francisco before the Honorable Anne-Christine Massullo, including all actions originally filed in California state court and subsequently consolidated into JCCP Nos. 4298 and 4303.
 - c. “Agreement” means this document, entitled *Settlement Agreement*, an agreement between the Parties.
 - d. “Antitrust Laws” means any and all federal, state, international, foreign, or local antitrust, unfair competition, unfair practices, price discrimination, unitary pricing, common law unjust enrichment, trade practice, consumer protection, fraud protection, racketeering law, civil conspiracy, or similar laws.
 - e. “Authorized Claimant” has the meaning described in Paragraph 21.

f. “Authorized Dealer” means any person or entity authorized by Ford Canada, Ford Motor Company, or any Other Defendant that sells new motor vehicles directly to customers.

g. “Business Days” means a period of days as computed in Federal Rule of Civil Procedure 6(a).

h. “Class” means: All persons and entities residing in California on November 15, 2010, who purchased or leased a new motor vehicle manufactured or distributed by Ford Motor Company; Ford Motor Company of Canada, Limited; Volvo Cars of North America LLC; Volvo Cars of Canada Ltd.; General Motors Corporation; General Motors of Canada, Ltd.; Saab Cars USA, Inc.; Saturn Corporation; DaimlerChrysler AG; DaimlerChrysler Corporation; DaimlerChrysler Motors Co., LLC; DaimlerChrysler Canada, Inc.; DaimlerChrysler AG; DaimlerChrysler Corporation; DaimlerChrysler Motors Co., LLC; DaimlerChrysler Canada, Inc.; Toyota Motor Corporation; Toyota Motor Sales USA, Inc.; Toyota Canada, Inc.; Honda Motor Company, Ltd.; American Honda Motor Company, Inc.; Honda Canada, Inc.; Nissan Motor Company, Ltd.; Nissan North America, Inc.; or Nissan Canada, Inc. from an Authorized Dealer located in California, during the period January 1, 2001 through April 30, 2003, for their own use.

i. “Class Escrow Counsel” means the law firm of Berman Tabacco.

j. “Class Member” means any person or entity falling within the definition of the Class. “Class Members” means each and every Class Member.

k. “Court” means the court presiding over the Action.

l. “Defendant” means Ford Canada.

- m. “Escrow Agent” means the escrow agent under the Escrow Agreement.
- n. “Escrow Agreement” means the escrow agreement substantially in the form included as Appendix A to this Agreement.
- o. “Escrow Account” means the escrow account established for the Settlement Fund pursuant to the Escrow Agreement.
- p. “Escrow Funds” means the monies in the Escrow Account.
- q. “Execution Date” means the first day on which each and every of the undersigned Parties or their designees have fully signed and executed this Agreement under the counterpart execution provisions of Paragraph 28.
- r. “Final” means that all of the conditions stated in Paragraph 10 have been satisfied.
- s. “Ford Canada” means Ford Motor Company of Canada, Ltd., and its past or present subsidiaries, parents, affiliates, and predecessors.
- t. “Other Defendants” means Toyota Motor Sales, U.S.A., Inc., Toyota Motor Corporation, Toyota Canada Inc., American Honda Motor Company, Inc., Honda Canada Inc., Honda Motor Company, Ltd., DaimlerChrysler Corporation, DaimlerChrysler Canada Inc., DaimlerChrysler Motors Co., LLC, DaimlerChrysler Aktiengesellschaft, Nissan North America, Inc., Nissan Canada Inc., Nissan Motor Company, Ltd., Canadian Automobile Dealers’ Association, National Automobile Dealers Association, Volvo Cars of North America, LLC, Volvo Cars of Canada, Ltd., and all other persons or entities that have been, are, or may be in the future defendants in this Action, together with their respective subsidiaries, parents, affiliates,

predecessors, successors-in-interest, and co-conspirators, but not including Ford Canada or Ford Canada's past or present subsidiaries, parents, affiliates, and predecessors. "Other Defendant" means any one of the Other Defendants.

u. "Plaintiff" means any person or entity named as a plaintiff in this Action.

"Plaintiffs" means each and every Plaintiff collectively.

v. "Plaintiffs' Counsel" means the law firms listed as the Plaintiffs' Steering Committee below.

w. "Parties" means Plaintiffs and Ford Canada. "Party" means any one of the Parties.

x. "Recognized Claim Amount" has the meaning described in Paragraph 21.

y. "Released Claims" has the meaning described in Paragraph 11.

z. "Releasees" means, jointly and severally, Ford Canada and its respective past, present, and future officers, directors, employees, agents, stockholders, attorneys, representatives, parents, subsidiaries, affiliates, distributors, dealers, partners, insurers, and all other persons, partnerships, or corporations with whom any of the former have been, or are now, affiliated, and the predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing. The definition of "Releasees" does not include any of the Other Defendants. "Releasee" means any one of the Releasees.

aa. "Releasers" means, jointly and severally, the Plaintiffs, the Class Members, and their respective past and present officers, directors, employees, agents, stockholders, attorneys, representatives, parents, subsidiaries, affiliates, partners, insurers, and all other persons,

partnerships, or corporations with whom any of the former have been, or are now, affiliated, and the predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing.

bb. “Settlement” means the settlement contemplated by this Agreement.

cc. “Settlement Fund” means eighty-two million United States dollars (\$82,000,000.00) and all interest earned thereon after becoming Escrow Funds.

APPROVAL OF THIS AGREEMENT AND DISMISSAL OF CLAIMS AGAINST FORD CANADA

2. Authority to Execute. The undersigned representative of Ford Canada represents that such representative is fully authorized to enter into and execute this Agreement on Ford Canada’s behalf. The undersigned Plaintiffs’ Counsel in the Action represents that such counsel is duly authorized to enter into and execute this Agreement on behalf of Plaintiffs in the Action and on behalf of the Class.

3. Best Efforts to Effectuate this Settlement. The Parties agree to undertake their best efforts and mutually cooperate, including all steps and efforts contemplated by this Agreement and any other steps and efforts which may become necessary or appropriate, by the Court’s orders or otherwise, to effectuate this Settlement, including cooperating in seeking to secure the Court’s preliminary approval, and, subsequently, the complete and final dismissal with prejudice and on the merits of the Action as to Ford Canada. However, in no event shall Ford Canada have any responsibility or duty to identify or locate Class Members or otherwise assist in the notice of the Settlement to the Class or, in the event this Settlement becomes Final, distribution of the Settlement Fund to Class Members. As set forth in Paragraph 8, however, Ford Canada agrees that up to \$5

million of the Settlement Fund may be used to pay for notice to the Class and claims administration.

4. Stay of Action. The Parties agree that, to the extent necessary, the Parties will submit stipulations at an appropriate time, prepared by Plaintiffs, to the Court to stay all proceedings in the Action between the Plaintiffs, individually and on behalf of the Class, and Ford Canada, except those proceedings necessary to carry out this Agreement, and suspend all time deadlines accordingly until such time as the Agreement is rescinded or the Action is dismissed as to Ford Canada.

5. No Admission or Evidence of Wrongdoing. This Agreement, whether or not it becomes Final, and any and all negotiations, documents, exhibits, statements, information exchanges, and discussions associated with it, will not in any event be construed or be deemed to be an admission or concession on the part of any Releasee or anyone acting on a Releasee's behalf of any liability or wrongdoing whatsoever or as any evidence of any wrongdoing or violation by a Releasee of any statute or law. This Agreement, any of its provisions or related documents, or evidence of any negotiations or proceedings in pursuance of the Settlement, will not be discoverable, offered, or received, directly or indirectly, in any action or proceeding as an admission or concession of any liability or wrongdoing whatsoever on the part of any Releasee or anyone acting on a Releasee's behalf or as any evidence of any violation by any Releasee of any statute or law.

6. Motion for Preliminary Approval. As soon as reasonably practical and in no event later than fifteen (15) Business Days after the Execution Date, Plaintiffs will submit to the Court

a motion for preliminary approval of the Settlement. The motion will include a proposed form of, method, and date of dissemination of notice to Class Members.

7. Good-Faith Determination. Ford Canada may, at its option, file papers with the Court seeking a determination of good-faith of the settlement under California Code of Civil Procedure section 877.6. If Ford Canada elects to file such motion, the filing must be made at the same time Plaintiffs move for preliminary approval of the Settlement.

8. Notice to the Class. In the event that the Court preliminarily approves the Settlement, Plaintiffs, in accordance with applicable rules of civil procedure and in accordance with the Court's orders, will provide notice of the Settlement and the date of the hearing the Court schedules to consider the fairness, adequacy, and reasonableness of the proposed Settlement. To the extent reasonably possible, direct notice will be provided to as many Class Members as can be identified. Plaintiffs will take all necessary and appropriate steps to ensure that Plaintiffs provide such notice in accordance with the Court's orders. Plaintiffs may withdraw monies in a reasonable amount, not to exceed \$5 million, from the Escrow Account for the purpose of disseminating notice to the Class and administering claims, subject to the Court's approval. Any additional monies required for notice and administration are subject to further agreement by the Parties and approval by the Court. Plaintiffs will inform Ford Canada in writing of all such withdrawals. In no event will Ford Canada be responsible for giving, or providing any assistance in giving, notice of the Settlement to the Class, including but not limited to the expense and cost of such notice.

9. Proposed Order and Final Judgment. If the Court grants preliminary approval of the Settlement, Plaintiffs will seek entry of an order and final judgment by the Court, the text of which Plaintiffs and Ford Canada will agree upon, that includes the following provisions:

- a. approving fully and finally this Settlement and its terms as being fair, reasonable, and adequate as to the Class Members and directing its consummation according to its terms;
- b. incorporating the terms of the release as outlined in Paragraph 11 of this Agreement;
- c. directing that, as to Ford Canada, the Action be dismissed with prejudice and, except as provided for in this Agreement, without costs;
- d. reserving continuing and exclusive jurisdiction over the Settlement and this Agreement, including the administration and consummation of the Settlement, to the Court; and
- e. determining that there is no just reason for delay and directing that the judgment of dismissal as to Ford Canada is final.

10. Final Approval. The Settlement will become “Final” when all of the following conditions are satisfied:

- a. The Court has entered a final order approving this Settlement;
- b. Only if Ford Canada elects to file a motion for a good-faith determination as described in Paragraph 7, the Court has entered an order finding a good-faith settlement under California Code of Civil Procedure section 877.6 or

concluding that any motion for a good-faith settlement determination is not applicable for reasons unrelated to whether the Settlement was made in good-faith under section 877.6;

- c. The Court has entered final judgment dismissing the claims against Ford Canada in the Action on the merits and with prejudice and without costs other than those provided for in this Agreement; and
- d. Either (i) the time for appeal or to seek permission to appeal the Court's order approving this Settlement as described in clause (a), above, and the final judgment as to Ford Canada as described in clause (c), above, has expired with no appeal having been taken or permission to appeal having been sought; or (ii) such approval and final judgment have been affirmed in their entirety by the court of last resort to which any appeal has been taken or petition for review has been presented, and such affirmance has become no longer subject to further appeal or review.

RELEASE, DISCHARGE, AND COVENANT NOT TO SUE

11. Release. In addition to the effect of any final judgment entered in accordance with this Agreement, upon the Settlement becoming Final, and in consideration of payment of the Settlement Fund and for other valuable consideration, the Releasers will completely release, acquit, and forever discharge the Releasees from the Released Claims. "Released Claims" means any and all claims, demands, actions, suits, causes of action, whether class, individual, or otherwise in nature, damages whenever incurred, liabilities of any nature whatsoever, including costs,

expenses, penalties, and attorneys' fees, known or unknown, derivative or direct, suspected or unsuspected, accrued or unaccrued, asserted or unasserted in law or equity, including, without limitation, claims which have been asserted or could have been asserted in the Action that any of the Releasors ever had, now has, or hereafter can, will, or may have against the Releasees, based upon the direct or indirect purchases of new motor vehicles, and which arise under the Antitrust Laws, from the beginning of time to the Execution Date. The foregoing release, discharge, and covenant not to sue will not include claims by any Releasor for personal injury, breach of contract, breach of warranty, product defect, negligence, or other causes of action that do not arise under the Antitrust Laws. After the Execution Date, Releasors covenant not to sue Releasees and will not seek to establish liability or seek to recover against any of the Releasees based, in whole or in part, upon any of the Released Claims. Releasees release Releasors and their attorneys from any claims for fees, costs, or otherwise arising out of the subject matter of the Action.

12. Waiver of Rights. Upon the Settlement becoming Final, each Class Member will be deemed to have waived and released, with respect to the Released Claims that such Class Member has released pursuant to Paragraph 11, any and all provisions, rights, and benefits conferred either (a) by section 1542 of the California Civil Code, which reads:

“General release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party[;]”

or (b) by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to section 1542 of the California Civil Code. Each Class Member may hereafter discover facts other than or different from those that it knows or believes

to be true with respect to the subject matter of the Released Claims that such Class Member has released pursuant to Paragraph 11; but each Class Member, upon the Settlement becoming Final, will be deemed to have waived and fully, finally, and forever settled and released any known or unknown, suspected or unsuspected, asserted or unasserted, contingent or non-contingent claim with respect to the Released Claims that such Class Member has released pursuant to Paragraph 11, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts.

13. Agreement Is a Complete Defense. Any Releasee may plead the Agreement as a full and complete defense to, and may use the Agreement as the basis for an injunction against, any suit or other proceeding that a Releasor may institute, prosecute, or attempt in breach of this Agreement.

THE SETTLEMENT FUND

14. Payment of the Settlement Fund. Ford Canada will cause the Settlement Fund to be paid within twenty (20) Business Days of the entry of the order preliminarily approving the Settlement. Ford Canada will deposit the Settlement Fund payment in the Escrow Account under the custody of the Escrow Agent. Subject to Paragraphs 16, 17, 18, and 20, the Settlement Fund will be held in the Escrow Account until finally distributed pursuant to Paragraphs 17, 19, or 21. Until such distribution, except as expressly provided in this Agreement or in the Escrow Agreement, no distribution to any Class Member or disbursement of any kind may be made from the Escrow Funds.

15. Settlement Fund Satisfies All Claims. Releasors will look solely to the Settlement Fund for settlement and satisfaction against Releasees of all Released Claims. Except as provided for by orders from the Court, no Releasor will have any interest in the Settlement Fund or any portion thereof. Releasees shall not be liable or obligated to pay any fees, expenses, costs, or disbursements to, or incur any expense on behalf of, any person or entity (including, without limitation, Plaintiffs, Class Members, Plaintiffs' Counsel, and any other plaintiffs' counsel who appeared in the Action), directly or indirectly, in connection with the Action or this Settlement Agreement, except as expressly provided for herein.

16. Disbursements from the Escrow Funds. Disbursements for reasonable expenses associated with providing notice of the Settlement to the Class as described in Paragraph 8 may be made from the Escrow Funds, subject to approval of the Court, and will not be refundable to Ford Canada in the event the Agreement is rescinded or the Settlement is not approved or otherwise fails to become Final. Fees of the Escrow Agent, tax payments concerning the Escrow Account, and expenses of administering the Settlement Fund (excluding attorneys' fees) may be made from the Escrow Funds, subject to approval of the Court, and will not be refundable to Ford Canada in the event that the Agreement is rescinded or the Settlement is not approved or otherwise fails to become Final.

17. Attorneys' Fees, Expenses, and Costs Disbursed from the Escrow Funds. Any award of attorneys' fees, expenses, and costs is payable out of the Escrow Funds, as determined by the Court, and Ford Canada shall have no other obligation to pay any award of attorneys' fees, expenses, or costs. Escrow Funds shall be disbursed for attorneys' fees, expenses, and costs only

pursuant to and consistent with orders from the Court awarding such attorneys' fees, expenses, and costs. If the conditions specified in Paragraphs 10(a), (b), and (c) are satisfied and no appeal of either the Settlement or final judgment is filed, any award of attorneys' fees, expenses, and costs shall be paid from the Escrow Funds within five (5) Business Days after the expiration of the appeal periods for those events. If an appeal is filed, any award of attorneys' fees, expenses, and costs shall be paid from the Escrow Funds within twenty (20) Business Days of the expiration of the period for appeals to be filed, subject to the condition precedent for such payment that the Parties reach an agreement as to adequate protections for security of repayment to Ford Canada in the event that the Settlement does not become Final or the Agreement is rescinded, terminated, or voided for any reason, whether by reason of disapproval by the Court or otherwise. Such repayment is to occur within ten (10) Business Days of the event triggering the repayment obligation as described in the prior sentence. If an appeal is filed and approval of the Settlement and final judgment have been affirmed in their entirety by the court of last resort to which any appeal has been taken or petition for review has been presented, or the appeal has otherwise been dismissed, any remaining attorneys' fees, expenses, and costs that have not yet been withdrawn under the provisions of this paragraph shall be paid from the Escrow Funds within five (5) Business Days after such affirmance or dismissal has become no longer subject to further appeal or review. Any order of the Court authorizing a payment of attorneys' fees, expenses, and costs under this paragraph shall incorporate the terms and conditions set forth in this paragraph.

18. Attorneys' Fees and Reimbursement of Expenses and Costs Separate. The procedure for and the allowance or disallowance by the Court of any attorneys' fees or

reimbursement of expenses and costs are not part of the Settlement set forth in this Agreement, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement, except for the limitations specified in the first sentence of Paragraph 17 regarding such award of attorneys' fees and reimbursement of expenses and costs. Any order or proceeding in the Court relating solely to the payment of any attorneys' fees, expenses, and costs, or any fee and/or expense application, or any appeal from any order relating thereto, or a reversal or modification thereof, shall not operate to terminate or cancel this Agreement or affect or delay the finality of the judgments approving the Agreement and settlement of the Action set forth herein.

19. Return of the Settlement Fund to Ford Canada. Ford Canada shall be entitled to a return of the Settlement Fund in accordance with this paragraph in the event that the Settlement does not become Final or the Agreement is rescinded, terminated, or voided for any reason, whether by reason of disapproval by the Court, or otherwise. In such event, and upon the Escrow Agent's receipt of either (i) written notice from Ford Canada and Class Escrow Counsel or (ii) an order of the Court so directing, the Escrow Agent will arrange the return of the Settlement Fund within ten (10) Business Days to Ford Canada in an amount equal to its Settlement Fund payment, together with all interest paid or accrued upon it, minus disbursements described in Paragraph 16.

20. Treatment of the Escrow Account. In accordance with the Escrow Agreement, the Parties agree to treat the Escrow Account as being at all times "qualified settlement funds" within the meaning of the Treas. Reg. Section 1.468B-1, and to that end the Parties will cooperate and will not take a position in any filing or before any tax authority that is inconsistent with such

treatment. At Ford Canada's request, a "relation-back election" (as defined in Treas. Reg. Section 1.468B-1) will be made so as to enable the Escrow Account to be treated as qualified settlement funds from the earliest date possible, and the Accounting Firm will take all actions as may be necessary or appropriate to this end. Such election will be made in compliance with the procedures and requirements contained in such regulations. The Escrow Agent will pay taxes or estimated taxes on any income earned on the Escrow Funds and all related costs and expenses from the Escrow Account after approval by the Court and whether or not the Settlement is Final. In the event federal or state income tax liability is finally assessed against and paid by Ford Canada as a result of any income earned on the Escrow Funds, Ford Canada will be entitled to reimbursement of such payment from any remaining balance in the Escrow Funds after approval by the Court and whether or not the Settlement is Final.

21. Distribution of the Settlement Fund. After the Settlement becomes Final, the Settlement Fund (net of Court-approved fees, expenses, and any other Court-approved deductions) will be distributed to the extent possible according to an allocation plan that will permit members of the Class to be paid out on a weighted *pro rata* basis based on the damages analysis completed by Plaintiffs' experts, Dr. Janet Netz and Professor Robert E. Hall, Ph.D., which based the amount of damages on the vehicle make and model, and the month and year of purchase. Each purchase or lease made by a Class Member who makes a valid claim ("Authorized Claimant") will be assigned a Recognized Claim Amount based on the vehicle's make, model, and month of purchase. The Recognized Claim Amount equates to the estimated damages assigned to that particular vehicle by Plaintiffs' experts resulting from the alleged unlawful conduct at issue in the Action.

The claims administrator will sum up the total Recognized Claim Amounts for all purchases or leases made by an Authorized Claimant, which will be the Authorized Claimant's Total Recognized Claim Amount. The Authorized Claimant's share of the settlement proceeds will be calculated by multiplying the Settlement Fund (net of Court-approved fees, expenses, or any other Court-approved deductions) by the ratio of the Authorized Claimant's Total Recognized Claim Amount to the sum of all Authorized Claimants' Total Recognized Claim Amounts. Plaintiffs will create a proposed plan of allocation, in consultation with Ford Canada, and it shall to the extent possible provide payments to Authorized Claimants, and any residual amount shall be handled subject to approval by the Court, with all reasonable efforts made to distribute any residual to Authorized Claimants until further distributions to Authorized Claimants are not economically feasible. Under no circumstance will any residual be paid back to Ford Canada. Should the number of vehicle purchases or leases claimed by all Authorized Claimants by the Court-ordered claims filing deadline be less than 45,000 vehicles in the aggregate, Plaintiffs, in consultation with Ford Canada, will petition the Court to approve an acceptable plan to make a supplemental distribution to Class Members. Plaintiffs will move for the plan of allocation's approval at the appropriate time in the Court, subject to any award of attorneys' fees and costs, service awards to named Plaintiffs, and any notice and administration costs as approved by the Court.

RESCISSION OR VOIDING OF THE AGREEMENT

22. Effect of Disapproval. If the Court enters an order either refusing to approve or materially modifying the Settlement, or if such approval is materially modified or set aside on appeal, or if the Court refuses to enter the final judgment, or if the Court enters the final judgment

and appellate review of the final judgment is sought, and on such review, such final judgment is not affirmed in its entirety, then the Parties will each, in their sole discretion and not limited by any other paragraph in this Agreement, have the option to rescind the Agreement in its entirety, provided that the Parties have made all reasonable efforts to obtain an order granting preliminary or final approval without material modifications. Additionally, if, in light of motions filed by Plaintiffs in the Action under Paragraph 9, the Court refuses to or enters an order refusing to dismiss Ford Canada with prejudice, or if the Court dismisses Ford Canada with prejudice and appellate review of the dismissal is sought, and on such review, such dismissal is not affirmed in its entirety, then Ford Canada, in its sole discretion and not limited by any other paragraph in this Agreement, has the option either (i) to rescind the Agreement in its entirety or (ii) to have the Parties to meet and confer in good faith on relevant modifications to the Agreement including but not limited to a reduction in the Settlement Fund. Written notice of the exercise of any such right under this paragraph will be made according to the terms of Paragraph 30 within ten (10) Business Days of the event giving rise to the rescission. A modification or reversal on appeal of any amount of attorneys' fees, administrative and tax expenses, expenses associated with providing notice of the Settlement to the Class, or expenses of the Escrow Agent, which the Court awards to Plaintiffs' Counsel from the Settlement Fund, will not be deemed a modification of all or a part of the terms of this Agreement or such final judgment and cannot give rise to a rescission of this Agreement.

PROHIBITION ON CONTRIBUTION AND INDEMNIFICATION ACTIONS

23. Contribution Bar. The Parties agree that no valid and enforceable claim for contribution and/or indemnification against any Releasee is likely to exist as a matter of law, but

in any event the Parties agree that the relevant federal and state statutes and common law bar any such claims. Despite anything to the contrary contained in the Agreement, in consideration of the terms hereof and in order to induce Ford Canada to enter into the Agreement, the Releasors will exclude from the dollar amount of any judgment collectable against any Other Defendant an amount equal to the percentage or amount of such judgment for which any Releasee would be responsible pursuant to a valid and enforceable claim for contribution and/or indemnification (other than any such claim that arises out of any voluntarily assumed contribution and/or indemnification obligation of such Releasee). Plaintiffs agree that the undertaking set forth in this paragraph is not only for the benefit of the Releasees but also for the benefit of any person against whom any such judgment is entered in the Action and that this undertaking may be enforced by any such person as a third-party beneficiary. This paragraph does not in any way diminish the Settlement Fund.

MISCELLANEOUS

24. Public Comments Regarding Settlement. The Parties agree that public comments by them and their counsel about the Settlement or litigation shall not disparage and or defame the Parties. Nothing in this provision shall prohibit the Parties from speaking or communicating truthfully with professional advisors or with any governmental entity or from testifying truthfully under oath.

25. Choice of Forum and Law. The Court will retain exclusive jurisdiction over the implementation, enforcement, and performance of this Agreement, and will, to the fullest extent of the law, have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of

or relating to the Settlement or the applicability of the Agreement that the Parties cannot resolve through negotiation and agreement. The Agreement will be governed by and interpreted according to the substantive laws of the state of California without regard to its choice of law or conflict of laws principles.

26. Entire Agreement; Amendment. This Agreement constitutes the entire agreement among the Parties pertaining to the Settlement of the Action against the Releasees, and supersedes all prior and contemporaneous undertakings of the Parties in connection herewith. This Agreement may not be modified or amended except in writing executed by the Parties and approved by the Court.

27. Binding Effect. This Agreement will be binding upon, and inure to the benefit of, the Parties' successors and assigns. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by Plaintiffs and/or Plaintiffs' Counsel will bind all Releasees.

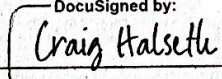
28. Execution in Counterparts. The Parties may execute this Agreement in counterparts. A facsimile or electronically scanned signature will be deemed an original signature for purposes of executing the Agreement.

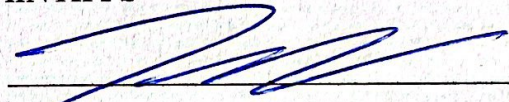
29. No Party Is the Drafter. No Party will be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

30. Notice Between the Parties. Where this Agreement requires a Party to provide notice or any other communication or document to the other, such notice, communication, or document will be provided to counsel of record for the Party to whom notice is being provided either by (a) electronic mail together with simultaneous letter by U.S. First Class Mail, or (b) letter by overnight delivery.

31. Severability. If any provision of this Agreement is not enforceable, the remaining portions of the Agreement will be enforced to the extent that they can be severed from the portion that is not enforceable.

IN WITNESS WHEREOF, the Parties, through their fully-authorized representatives, have agreed to this Agreement.

FORD CANADA
By: 
Name: Craig Halseth
Title: Counsel
Date: Mar-30-2022

PLAINTIFFS
By: 
Date: March 30, 2022
Joseph J. Tabacco, Jr.
Todd A. Seaver
Matthew D. Pearson
BERMAN TABACCO
44 Montgomery Street, Suite 650
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APPENDIX A

ESCROW AGREEMENT

This Escrow Agreement dated April 6, 2022 (the “Escrow Agreement”) is made among Berman Tabacco (“Class Counsel”), Ford Motor Company of Canada, Limited (“Ford Canada”), and Western Alliance Bank, as escrow agent (“Escrow Agent”).

Recitals

A. Class Counsel represents the Class and as such is establishing this escrow on behalf of the Class.

B. This Escrow Agreement governs the deposit, investment, and disbursement of the settlement funds that, pursuant to the Settlement Agreement dated March 30, 2022 (the “Settlement Agreement”) attached hereto as Exhibit A, will be paid to settle the class action captioned *IN RE AUTOMOBILE ANTITRUST CASES I AND II*, JCCP NOS. 4298 AND 4303, including all actions originally filed in California state court and subsequently consolidated into JCCP Nos. 4298 and 4303 (the “Action”), currently pending in the Superior Court for the City and County of San Francisco before the Honorable Anne-Christine Massullo (the “Court”). The Settlement contemplated in the Settlement Agreement is subject to Court approval.

C. Pursuant to the terms of the Settlement Agreement, Ford Canada has agreed to pay or cause to be paid the total amount of USD \$82,000,000 in cash (the “Settlement Amount”) in settlement of the claims brought against Ford Canada in the Action.

D. The Settlement Amount, together with any interest accrued thereon (the “Settlement Fund”), is to be deposited into escrow and used to satisfy payments to Authorized Claimants, payments for Court-approved attorneys’ fees and expenses, payments for tax liabilities, and other costs pursuant to the terms of the Settlement Agreement.

E. Pursuant to the Settlement Agreement, the settling parties desire to appoint Western Alliance Bank as Escrow Agent to hold the Settlement Fund subject to the terms of the Escrow Agreement, and Western Alliance Bank is willing to serve in such capacity.

F. Unless otherwise defined herein, all capitalized terms shall have the meaning ascribed to them in the Settlement Agreement.

Agreement

1. Appointment of Escrow Agent. The Escrow Agent is hereby appointed to receive, deposit, safeguard, and disburse the Settlement Amount upon the terms and conditions provided

in this Escrow Agreement, the Settlement Agreement, and any other exhibits or schedules later annexed hereto and made a part hereof. If there is a conflict between the terms and conditions of this Escrow Agreement and the Settlement Agreement, the terms and conditions of this Escrow Agreement shall control.

2. The Escrow Account. The Escrow Agent shall establish and maintain an escrow account titled as Automobile Antitrust Ford Canada Settlement Fund (the “Escrow Account”) using the taxpayer identification number identified on the IRS-issued Form SS4 attached as Exhibit B of this Escrow Agreement. Pursuant to the Settlement Agreement, Ford Canada will cause the Settlement Amount to be deposited into the Escrow Account within twenty (20) Business Days of the entry of Preliminary Approval order as otherwise outlined in ¶ 14 of the Settlement Agreement. The Settlement Fund shall be held and invested on the terms and subject to the limitations set forth herein, and shall be released by the Escrow Agent in accordance with the terms and conditions herein and set forth in the Settlement Agreement and in any order of the Court that may be required pursuant to the Settlement Agreement.

3. Investment of Settlement Fund. At the written direction of Class Counsel, the Escrow Agent shall invest the Settlement Fund exclusively in instruments or accounts backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof, including a U.S. Treasury Fund or a bank account that is either (a) fully insured by the Federal Deposit Insurance Corporation (“FDIC”) or (b) secured by instruments backed by the full faith and credit of the United States Government. The Escrow Agent shall reinvest the proceeds of these instruments or accounts as they mature in similar instruments at their then-current market rates. All costs and risks related to the investment of the Settlement Fund in accordance with the guidelines set forth in this paragraph shall be borne by Class Counsel. Provided the Escrow Agent invests the Settlement Fund as set forth herein, the Escrow Agent shall have no liability whatsoever with respect to any investment decision made in connection with the Settlement Fund.

4. Escrow Funds Subject to Jurisdiction of the Court. All funds held by the Escrow Agent shall be deemed and considered to be in *custodial legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to the Settlement Agreement and/or further order(s) of the Court.

5. Tax Treatment & Report. The Settlement Fund shall be treated at all times as a “Qualified Settlement Fund” within the meaning of Treasury Regulation §1.468B-1. Class Counsel shall timely make such elections as necessary or advisable to fulfill the requirements of such Treasury Regulation, including the “relation-back election” under Treas. Reg. § 1.468B-1(j)(2) if necessary to the earliest permitted date. For purposes of §468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the “administrator” of the

Settlement Fund shall be Class Counsel. Class Counsel shall timely and properly prepare, deliver to all necessary parties for signature, and file, or cause to be prepared, delivered, and filed, all necessary documentation for any elections required under Treas. Reg. §1.468B-1. Class Counsel shall timely and properly prepare and file, or cause to be prepared and filed, any informational and other tax returns necessary or advisable with respect to the Settlement Fund and the distributions and payments therefrom, including, without limitation, the returns described in Treas. Reg. §1.468B-2(k), and to the extent applicable Treas. Reg. §1.468B-2(l).

6. Tax Payments of Settlement Fund. All taxes with respect to the Settlement Fund, as more fully described in the Settlement Agreement, shall be treated as, and considered to be, a cost of administration of the Settlement Fund, and the Escrow Agent shall timely pay such Taxes out of the Settlement Fund, as appropriate, without prior order of the Court, as directed by Class Counsel. Class Counsel shall be responsible for the timely and proper preparation and delivery of any necessary documentation for signature by all necessary parties, and the timely filing of all tax returns and other tax reports required by law. Class Counsel may engage an accounting firm or tax preparer to assist in the preparation of any tax reports or the calculation of any tax payments due as set forth in Sections 5 and 6, and the expense of such assistance shall be paid from the Settlement Fund. Class Counsel shall indemnify and hold Escrow Agent harmless for any taxes and tax expenses that may be assessed against the Escrow Agent on or with respect to the Settlement Fund and the investment thereof. If the Settlement Fund is returned to Ford Canada for any reason pursuant to the terms of the Settlement Agreement, Ford Canada shall provide Escrow Agent with a properly completed Form W-9 and complete wire instructions. The indemnification provided in this Section 6 shall survive the resignation or removal of the Escrow Agent and the termination of this Escrow Agreement.

7. Class Counsel have retained a claims administrator, A.B. Data, Ltd., whose in-house accounting department will handle all communication, reporting, and filing with tax authorities.

8. Disbursement Instructions

(a) All disbursement instructions from Class Counsel made in accordance with this paragraph, this Escrow Agreement, or the Settlement Agreement shall be made (i) in writing to Escrow Agent in the form attached hereto as Exhibit C and (ii) in accordance with the security procedures described in the Funds Transfer Agreement executed by Class Counsel and Escrow Agreement in conjunction with the establishment of the Escrow Account.

(b) Prior to the date the Settlement becomes Final (as defined in Paragraph 10 of the Settlement Agreement), the Escrow Agent, as directed by Class Counsel in the form attached hereto as Exhibit C, without further approval of Ford Canada or the Court (unless

otherwise ordered by the Court), may pay from the Settlement Fund expenses for notice and administration, as referenced in Paragraph 8 of the Settlement Agreement, of up to \$5,000,000.00. Upon the Settlement becoming Final, Escrow Agent, as directed by Class Counsel and Ford Canada in the form attached hereto as Exhibit C, without further approval of the Court (unless otherwise ordered by the Court), may pay from the Settlement Fund any notice and administration expenses that exceed \$5,000,000.00.

(c) Upon the date the conditions of Paragraphs 10.a, 10.b, and 10.c of the Settlement Agreement are met, the Escrow Agent, as directed by Class Counsel in writing in the form attached hereto as Exhibit C, may pay from the Settlement Fund any amounts of attorneys' fees and expenses awarded by the Court, in accordance with the terms and requirements of the Paragraph 17 of the Settlement Agreement and the order of the Court.

(d) Disbursements other than those described in Sections 6, 8(b), and 8(c) above, including disbursements for distribution of the Settlement Fund, must be authorized by an order of the Court.

9. Termination of Settlement. In the event the Settlement Agreement terminates in accordance with its terms, Class Counsel shall notify the Escrow Agent, at the notice address provided for Escrow Agent in Section 14 of this Escrow Agreement, of the termination of the Settlement Agreement. Upon such notification, the balance of the Settlement Fund, together with any interest earned thereon, less any expenses for notice and administration, taxes, and tax expenses that have either been incurred or disbursed in accordance with the terms of the Settlement Agreement, shall be refunded to Ford Canada pursuant to written instructions from Class Counsel and Ford Canada's Counsel or pursuant to Court order.

10. Fees. The Escrow Agent shall charge no fees for services rendered pursuant to this Escrow Agreement. In the event that a portion of the Settlement Fund is invested in Treasury Bills, the Escrow Agent shall charge an annualized fee of 2 basis points for Treasury Bill purchases. The purchase or sale of multiple T-Bills at one time shall constitute one transaction. There shall be no charge for T-Bill sale transactions. All fees and expenses of the Escrow Agent shall be paid solely from the Settlement Fund. The Escrow Agent may pay itself such fees from the Settlement Fund only after such fees have been approved for payment by Class Counsel. If the Escrow Agent is asked to provide additional services, a separate agreement and fee schedule will be entered into.

11. Duties, Liabilities, and Rights of Escrow Agent. This Escrow Agreement sets forth all of the obligations of the Escrow Agent, and no additional obligations shall be implied from the terms of this Escrow Agreement or any other agreement, instrument or document.

(a) The Escrow Agent may act in reliance upon any instructions, notice, certification, demand, consent, authorization, receipt, power of attorney, or other writing delivered to it and signed by a duly authorized representative or Authorized Agent (as that term is defined in the Funds Transfer Agreement) of Class Counsel or Ford Canada (as the case may be), as provided herein, without being required to determine the authenticity or validity thereof or the correctness of any fact stated therein, the propriety or validity of the service thereof, or the jurisdiction of the court issuing any judgment or order.

(a) The Escrow Agent may consult with legal counsel of its selection in the event of any dispute or question as to the meaning or construction of any of the provisions hereof or its duties hereunder, and it shall incur no liability and shall be fully protected to the extent the Escrow Agent acts in accordance with the reasonable opinion and instructions of counsel. The Escrow Agent shall have the right to reimburse itself for reasonable legal fees and reasonable and necessary disbursements and expenses actually incurred from the Escrow Account only (i) upon written approval by Class Counsel, which approval shall not be unreasonably withheld, or (ii) pursuant to an order of the Court.

(b) The Escrow Agent, or any of its affiliates, is authorized to manage, advise, or service any money market mutual funds in which any portion of the Settlement Fund may be invested.

(c) The Escrow Agent is authorized to hold any treasuries held hereunder in its federal reserve account.

(d) The Escrow Agent shall not bear any risks related to the investment of the Settlement Fund in accordance with the provisions of Section 3 of this Escrow Agreement. Except as a direct result of the Escrow Agent's bad faith, willful misconduct, or gross negligence, Class Counsel will indemnify and hold Escrow Agent harmless against any and all claims, suits, actions, proceedings, investigations, judgments, deficiencies, damages, settlements, liabilities, and expenses (including reasonable legal fees and expenses of attorneys chosen by the Escrow Agent), as and when incurred, arising out of or based upon any act, omission, alleged act, or alleged omission by the Escrow Agent or any other cause, in any case in connection with the acceptance of, or performance or non-performance by the Escrow Agent of, any of the Escrow Agent's duties under this Escrow Agreement.

(e) Upon distribution of all of the funds in the Escrow Account pursuant to the terms of this Escrow Agreement and/or any orders of the Court, the Escrow Agent shall be relieved of any and all further obligations and released from any and all liability under this Escrow Agreement, except as otherwise specifically set forth herein.

(f) The Escrow Agent shall not be responsible or liable for any failure or delay in the performance of its obligations under this Agreement arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation, acts of God; earthquakes; fire; flood; wars; acts of terrorism; civil or military disturbances; sabotage; epidemic; riots; interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications services; accidents; labor disputes; acts of civil or military authority or governmental action; it being understood that the Escrow Agent shall use commercially reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as reasonably practicable under the circumstances.

12. Non-Assignability by Escrow Agent. The Escrow Agent's rights, duties, and obligations hereunder may not be assigned or assumed without the written consent of Class Counsel or the Court. Notwithstanding the foregoing, any corporation or association into which Escrow Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer all or substantially all of its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which Escrow Agent is a party, shall be and become the successor Escrow Agent under this Agreement and shall have and succeed to the rights, powers, duties, immunities and privileges as its predecessor, without the execution or filing of any instrument or paper or the performance of any further act.

13. Resignation of Escrow Agent. The Escrow Agent may, in its sole discretion, resign and terminate its position hereunder at any time following thirty (30) days' prior written notice to the parties to the Escrow Agreement herein. On the effective date of such resignation, the Escrow Agent shall deliver this Escrow Agreement, together with any and all related instruments or documents, and all funds in the Escrow Account to the successor escrow agent, subject to this Escrow Agreement. If a successor escrow agent has not been appointed prior to the expiration of 30 days following the date of the notice of such resignation, then the Escrow Agent may petition the Court for the appointment of a successor escrow agent, or other appropriate relief. Any such resulting appointment shall be binding upon all of the parties to this Escrow Agreement.

14. Notices. Notice to the parties hereto shall be in writing and delivered by hand-delivery, facsimile, electronic mail, or overnight courier service, addressed as follows:

If to Class Counsel: Berman Tabacco
44 Montgomery Street, Suite 650
San Francisco, CA 94104
Attention: Joseph J. Tabacco, Jr. and Todd A. Seaver
Telephone: 415-433-3200
Fax: 415-433-6382
Email: jtabacco@bermantabacco.com;
tseaver@bermantabacco.com

If to Ford Canada: O'Melveny & Myers LLP
2 Embarcadero Center, Suite 2800
Attention: Michael Tubach
Telephone: 415-984-8700
Email: mtubach@omm.com

If to Escrow Agent: Western Alliance Bank
750 B St Ste 1960
Attention: Settlement Services
Telephone: 619-233-2250
Email: settlementservices@westernalliancebank.com

With a copy to: Legal Department
Email: legaldepartment@westernalliancebank.com

15. Patriot Act Warranties. Section 326 of the USA PATRIOT Act (Title III of Pub. L. 107-56), as amended, modified or supplemented from time to time (the "Patriot Act"), requires financial institutions to obtain, verify and record information that identifies each person or legal entity that opens an account (the "Identification Information"). The parties to this Escrow Agreement agree that they will provide the Escrow Agent with such Identification Information as the Escrow Agent may request in order for the Escrow Agent to satisfy the requirements of the Patriot Act.

16. Entire Agreement. This Escrow Agreement, including all Schedules and Exhibits hereto, constitutes the entire agreement and understanding of the parties hereto. Any modification of this Escrow Agreement or any additional obligations assumed by any party hereto shall be binding only if evidenced by a writing signed by each of the parties hereto.

17. Governing Law. This Escrow Agreement shall be governed by the law of the State of California in all respects (without regard to principles of conflicts of law). Action with respect to any dispute regarding this Agreement shall be brought in the state or federal courts of San Francisco County, California, and all parties hereto agree to the jurisdiction of and venue in such courts.

18. Waiver of Jury Trial. To the full extent permitted by law, each party to this Escrow Agreement hereby knowingly, voluntarily, and intentionally waives any right it may have to a trial by jury with respect of any suit, action, or proceeding based hereon, or arising out of, under, or in connection with this Escrow Agreement, or any course of conduct, course of dealing, statements (whether oral or written), or actions of any other party.

19. Termination of Escrow Account. The Escrow Account will terminate (and Escrow Agent may close) after the total Settlement Fund is disbursed in accordance with the provisions of the Settlement Agreement and this Escrow Agreement.

19. Miscellaneous Provisions.

(a) Counterparts. This Escrow Agreement may be executed in one or more counterparts, each of which counterparts shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same Escrow Agreement.

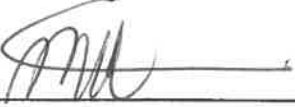
(b) Further Cooperation. The parties hereto agree to do such further acts and things and to execute and deliver such other documents as the Escrow Agent may request from time to time in connection with the administration, maintenance, enforcement or adjudication of this Escrow Agreement in order (a) to give the Escrow Agent confirmation and assurance of the Escrow Agent's rights, powers, privileges, remedies and interests under this Escrow Agreement and applicable law, (b) to better enable the Escrow Agent to exercise any such right, power, privilege or remedy, or (c) to otherwise effectuate the purpose and the terms and provisions of this Escrow Agreement, each in such form and substance as may be acceptable to the Escrow Agent.

(c) Non-Waiver. The failure of any of the parties hereto to enforce any provision hereof on any occasion shall not be deemed to be a waiver of any preceding or succeeding breach of such provision or any other provision.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

WESTERN ALLIANCE BANK, as Escrow Agent

By: 
~~Dana Rager, Managing Director~~
Stacy Lombardo, Director of Operations

BERMAN TABACCO, as Class Counsel

By: 
Todd A. Seaver, Partner

FORD CANADA


By: 
Craig Halseth, Counsel

EXHIBIT A

SETTLEMENT AGREEMENT
On file

EXHIBIT B

IRS FORM SS4
On file

EXHIBIT C

FORM DISBURSEMENT NOTICE

The undersigned, as Class Counsel, pursuant to the Court's order dated _____, 20__ authorizes and instructs Western Alliance Bank as Escrow Agent, to wire \$ _____ from the Escrow Funds to _____ in accordance with the wire instructions set forth below. Capitalized terms not defined herein shall have the same meanings as set forth in the Escrow Agreement dated [X], 20__ by and among Class Counsel, Plaintiffs, Ford Canada, and Western Alliance Bank, as Escrow Agent.

Beneficiaries Name:

Beneficiaries Address:

Receiving Bank Name:

Receiving Bank ABA:

Beneficiaries Account: