

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

_____	:	
IN RE AUTOMOTIVE PARTS	:	2:12-md-02311
ANTITRUST LITIGATION	:	Honorable Marianne O. Battani
_____	:	
IN RE	:	Case No. 2:13-cv-00701-MOB-MKM
ALTERNATORS	:	Case No. 2:15-cv-11828-RSW-MKM
_____	:	Case No. 2:15-cv-13634-MOB-MKM
THIS DOCUMENT RELATES TO:	:	
DIRECT PURCHASER ACTIONS	:	

**SETTLEMENT AGREEMENT**

This Settlement Agreement (“Agreement”) (as more particularly defined in Paragraph 1 below) is made and entered as of March 12, 2018 (“Effective Date”) by and between Hitachi Automotive Systems, Ltd. (“HIAMS”), and Direct Purchaser Plaintiffs (as defined in Paragraph 8), both individually and on behalf of a class of direct purchasers of Alternators (“Settlement Class”), as more particularly defined in Paragraph 17 below.

WHEREAS, Direct Purchaser Plaintiffs are prosecuting the above *In re Automotive Parts Antitrust Litigation*, Master File No. 12-md-02311 (E.D. Mich.) (“MDL Litigation”) and Case No. 2:13-cv-00701 (the “Action”) on their own behalf and on behalf of the Settlement Class.

WHEREAS, Direct Purchaser Plaintiffs allege that they was injured as a result of HIAMS Defendants’ participation in an unlawful conspiracy to raise, fix, maintain, and/or stabilize prices, rig bids, and allocate markets and customers for Alternators (as defined in Paragraph 10) in violation of Section 1 of the Sherman Act as set forth in Direct Purchaser Plaintiffs’ Consolidated Class Action Complaints (“Complaints”) (“HIAMS Defendants” is defined in Paragraph 11 below).

WHEREAS, HIAMS denies Direct Purchaser Plaintiffs' allegations and has asserted defenses to Direct Purchaser Plaintiffs' claims in the Action;

WHEREAS, arm's-length settlement negotiations have taken place between Settlement Class Counsel (as defined in Paragraph 18 below) and counsel for HIAMS, and this Agreement has been reached as a result of those negotiations;

WHEREAS, Direct Purchaser Plaintiffs, through Settlement Class Counsel, have conducted an investigation into the facts and the law regarding the Action and has concluded that resolving the claims against HIAMS Defendants, according to the terms set forth below and the terms set forth in Appendix A as part of and attached to this Agreement ("Appendix A"), is in the best interests of Direct Purchaser Plaintiffs and the Settlement Class because of the payment of the Settlement Amount (as defined in Paragraph 16) and the value of Cooperation (as defined in Paragraph 5 and set forth in Appendix A) that HIAMS has agreed to provide pursuant to this Agreement;

WHEREAS, the Action will continue against Defendants (as defined in Paragraph 7) that are not Releasees (as defined in Paragraph 13)

WHEREAS, HIAMS, despite its belief that it is not liable for the claims asserted by Direct Purchaser Plaintiffs and its belief that it has good defenses thereto, has nevertheless agreed to enter into this Agreement to avoid further expense, inconvenience, and the distraction of burdensome and protracted litigation, and to obtain the releases, orders, and judgment contemplated by this Agreement, and to put to rest with finality all claims that have been or could have been asserted against HIAMS Defendants with respect to Alternators based on the allegations in the Action, as more particularly set out below.

WHEREAS, Direct Purchaser Plaintiffs recognize the benefits of HIAMS's cooperation, and recognizes that because of joint-and-several liability, this Agreement with HIAMS does not impair Direct Purchaser Plaintiffs' ability to collect the full amount of

damages to which it and the Settlement Class may be entitled from non-settled defendants in the Action, including any damages attributable to HIAMS's alleged conduct.

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 that the Action be settled, compromised, and dismissed on the merits with prejudice as to the Releasees and except as hereinafter provided, without costs as to Direct Purchaser Plaintiffs, the Settlement Class, or HIAMS Defendants, subject to the approval of the United States District Court for the Eastern District of Michigan ("Court"), on the terms and conditions set forth below. In addition to this Agreement, HIAMS and the Direct Purchaser Plaintiffs also are entering into separate agreements to settle the Collective Actions (defined in Paragraph 2 below) regarding the Collective Released Parts (as defined in Paragraph 3). This Agreement pertains to Alternators. However, certain terms and conditions were negotiated between the parties collectively for all of the Collective Released Parts. For accuracy, completeness, and context, certain provisions in this Agreement refer to the Collective Released Parts.

**A. Definitions.**

1. "Agreement" shall in all instances refer to this settlement agreement and Appendix A hereto.

2. "Collective Actions" means actions in the MDL Litigations regarding Alternators (Case No. 2:13-cv-00701); Starters (2:13-cv-01101); Ignition Coils (2:13-cv-01401); Fuel Injection Systems (2:13-cv-02201); and Valve Timing Control Devices (2:13-cv-02501) collectively.

3. "Collective Released Parts" collectively refers to Alternators, Starters, Ignition Coils, Valve Timing Control Devices and Fuel Injection Systems, as defined in their respective settlement agreements.

4. “Collective Settlement Agreements” shall refer to all agreements entered into by HIAMS and the Direct Purchaser Plaintiffs to settle the Collective Actions.

5. “Cooperation” shall refer to those provisions set forth in Paragraphs 39-40 of this Agreement and Paragraphs 3-9 in Appendix A.

6. “Cooperation Materials” means any information, testimony, Documents (as defined in Paragraph 9 below) or other material provided by HIAMS under the terms and conditions of this Agreement, including the provisions set forth in Appendix A.

7. “Defendant” means, for purposes of this Agreement only, any party named as a defendant in the Action on or after the Effective Date of this Agreement up to the date when the Court has entered a final order certifying the Settlement Class described in Paragraph 17 and approving this Agreement under Federal Rule of Civil Procedure (“Rule”) 23(e), including but not limited to any or all of the following: Hitachi Automotive Systems, Ltd.; Hitachi Automotive Systems Americas, Inc.; Hitachi, Ltd.; Denso Corporation; Denso International America, Inc.; Denso International Korea Corporation; Denso Products and Services Americas, Inc. (f/k/a Denso Sales California, Inc.); Mitsuba Corporation; American Mitsuba Corporation; Mitsubishi Electric Corporation; Mitsubishi Electric US Holdings, Inc.; Mitsubishi Electric Automotive America, Inc.; Robert Bosch GmbH; and Robert Bosch LLC.

8. “Direct Purchaser Plaintiffs” mean Irving Levine Automotive Distributors, Inc., and All European Auto Supply, Inc. who are the named plaintiffs in the Complaints.

9. “Document” is defined to be synonymous in meaning and equal in scope to the usage of this term in Rule 34(a), including without limitation, electronically stored information. A draft or non-identical copy is a separate Document within the meaning of this term. For purposes of this Agreement, Document shall include all final versions of English translations in HIAMS’s custody, possession or control.

10. “Alternator” for purposes of this Settlement Agreement, has the same definition as set forth in the Class Action Complaints, specifically an Alternator is an electromechanical device that generates an electric current while an engine is in operation. The Alternator provides power to a vehicle’s electrical system and charges its battery.

11. “HIAMS Defendants” means HIAMS, Hitachi Automotive Systems Americas, Inc. (“HIAMS-US”) and Hitachi, Ltd. collectively.

12. “Opt-Out Deadline” means the deadline set by the Court for the timely submission of requests by members of the Settlement Class to be excluded from the Settlement Class.

13. “Releasees” shall refer to HIAMS, HIAMS-US, Hitachi, Ltd., Hitachi Vehicle Energy, Ltd., and Clarion Co., Ltd., their respective past and present parents, owners, subsidiaries, affiliates, divisions, predecessors, successors, assigns, officers, directors, employees, principals, partners, members, heirs, representatives and agents. “Releasees” does not include any Defendant in the MDL Litigation other than the HIAMS Defendants or any other person or entity other than those set forth in this Paragraph 13.

14. “Releasers” shall refer to Direct Purchaser Plaintiffs and the Settlement Class Members (as defined in Paragraph 19 below) as well as each of their respective past and present parents, owners, subsidiaries, affiliates, divisions, predecessors, successors, assigns, officers, directors, employees, principals, partners, members, heirs, representatives, agents, and all persons who may assert Released Claims in a derivative capacity (including, but not limited to, insurers, states and state instrumentalities).

15. “Released Part” shall refer to Alternators (as defined in Paragraph 10).

16. “Settlement Amount” for this Agreement is \$2,210,769.

17. “Settlement Class,” for purposes of this Agreement, is defined as:

All individuals and entities who purchased Alternators in the United States directly from Defendants (or their subsidiaries or

affiliates) from January 1, 2000 through the Effective Date of this Agreement. Excluded from the Settlement Class are Defendants, their present and former parent companies, subsidiaries and affiliates, federal governmental entities and instrumentalities of the federal government, and states and their subdivisions, agencies and instrumentalities.

18. "Settlement Class Counsel" shall refer to the following law firms of:

FREED KANNER LONDON & MILLEN LLC  
2201 Waukegan Road, Suite 130  
Bannockburn, IL 60015

PRETI, FLAHERTY, BELIVEAU & PACHIOS LLP  
One City Center, P.O. Box 9546  
Portland, ME 04101

KOHN, SWIFT & GRAF, P.C.  
One South Broad Street, Suite 2100  
Philadelphia, PA 19107

SPECTOR ROSEMAN & KODROFF, P.C.  
1818 Market Street, Suite 2500  
Philadelphia, PA 19103

19. "Settlement Class Member" means each member of the Settlement Class who has not validly elected to be excluded from the Settlement Class.

20. "Total Settlement Amount" shall be USD \$15,000,000. The Total Settlement Amount covers settlements for all of the Collective Released Parts.

21. "Settlement Fund" shall be the Settlement Amount plus any income or accrued interest earned on that amount as set forth in Paragraph 32.

22. "Vehicles" shall refer to four-wheeled passenger automobiles, vans, sports utility vehicles, and crossover or pick-up trucks, and recreational vehicles.

**B. Approval of this Agreement and Dismissal of Claims Against HIAMS Defendants.**

23. Direct Purchaser Plaintiffs and HIAMS shall use their best efforts to effectuate this Agreement, including cooperating in seeking the Court's approval for the establishment of

procedures (including the giving of class notice under Rules 23(c) and (e)) to secure the complete, and final dismissal with prejudice of the Action as to the Releasees only.

24. Within ninety (90) days of the Effective Date, Direct Purchaser Plaintiffs shall submit to the Court a motion seeking preliminary approval of this Agreement (“Preliminary Approval Motion”). The Preliminary Approval Motion shall include the proposed form of an order preliminarily approving this Agreement. HIAMS shall have a reasonable opportunity to review and comment on the Preliminary Approval Motion, and Direct Purchaser Plaintiffs shall reasonably consider HIAMS’s comments.

25. Direct Purchaser Plaintiffs, at a time to be decided in their sole discretion, shall submit to the Court a motion for authorization to disseminate notice of the settlement and final judgment contemplated by this Agreement to all members of the Settlement Class identified by Direct Purchaser Plaintiffs (“Notice Motion”). To mitigate the costs of notice, Direct Purchaser Plaintiffs shall endeavor, if practicable, to disseminate notice of this settlement with notice of any other settlements reached in this Action. Before submission, HIAMS shall have a reasonable opportunity to review and comment on the Notice Motion, and Direct Purchaser Plaintiffs shall reasonably consider HIAMS’s comments.

26. Direct Purchaser Plaintiffs shall seek, and HIAMS will not object unreasonably to, the entry of an order and final judgment in the Action, the text of which Direct Purchaser Plaintiffs and HIAMS shall agree upon, and such agreement will not be unreasonably withheld. The terms of that proposed order and final judgment will include, at a minimum, the substance of the following provisions:

(a) certifying the Settlement Class defined in Paragraph 17, pursuant to Rule 23, solely for purposes of this settlement as settlement class for the Action;

(b) as to the Action, approving finally this settlement and its terms as being a fair, reasonable, and adequate settlement as to the Settlement Class Members within the meaning of Rule 23 and directing its consummation according to its terms;

(c) directing that all Releasors shall, by operation of law, be deemed to have released all Releasees from the Released Claims (as defined in Paragraph 29) and claims to be waived and released pursuant to Paragraph 30;

(d) as to HIAMS Defendants, directing that the Action be dismissed with prejudice and, except as provided for in this Agreement, without costs;

(e) reserving exclusive jurisdiction over the settlement and this Agreement, including the interpretation, administration and consummation of this settlement, as well as over HIAMS for its provision of Cooperation pursuant to this Agreement, to the Court;

(f) determining under Rule 54(b) that there is no just reason for delay and directing that the judgment of dismissal in the Action as to HIAMS Defendants shall be final;

(g) providing that (i) the Court's certification of the Settlement Class is without prejudice to, or waiver of, the rights of any Defendant, including HIAMS, to contest certification of any other class proposed in the MDL Litigation, (ii) the Court's findings in the order shall have no effect on the Court's ruling on any motion to certify any class in the MDL Litigation; and (iii) no party may cite or refer to the Court's approval of the Settlement Class as persuasive or binding authority with respect to any motion to certify any such class; and

(h) enjoining all Releasors from asserting any Released Claims.

27. This Agreement shall become final when (a) the Court has entered a final order certifying the Settlement Class defined in Paragraph 17 and approving this Agreement under Rule 23(e) and has entered a final judgment dismissing the Action with prejudice as to HIAMS Defendants and without costs other than those provided for in this Agreement, and (b) the time for appeal or to seek permission to appeal against the Court's approval of this Agreement and



entry of a final judgment as to HIAMS Defendants described in (a) above has expired or, if appealed, approval of this Agreement and the final judgment in the Action as to HIAMS Defendants has been affirmed in its entirety by the court of last resort to which such appeal has been taken, and such affirmance has become no longer subject to further appeal or review, and no other motion or pleading concerning such appeal is pending in any court. It is agreed that the provisions of Rule 60 shall not be taken into account in determining the above-stated times. As of the Effective Date, Direct Purchaser Plaintiffs and HIAMS shall be bound by the terms of this Agreement and this Agreement shall not be rescinded except in accordance with Paragraph 32(f) or 41 of this Agreement.

28. Neither this Agreement (whether or not it becomes final) nor the final judgment, nor any and all negotiations, Documents, or discussions associated with them (including Cooperation Materials, unless they were produced in the normal course of discovery, produced pursuant to Appendix A), shall be deemed or construed to be an admission by the Releasees, or evidence of any violation of any statute or law or of any liability or wrongdoing whatsoever by the Releasees, or of the truth of any of the claims or allegations contained in any complaint or any other pleading filed in the MDL Litigation, and evidence thereof shall not be discoverable or used in any way, whether in the Collective Actions, or any other arbitration, action or proceeding whatsoever, against the Releasees. Nothing in this Paragraph shall prevent Direct Purchaser Plaintiffs from using and/or introducing into evidence Cooperation Materials produced pursuant to Appendix A, subject to the limitations in the Appendix A, against any other defendants in the MDL Litigation, or to develop and promulgate a plan of allocation and distribution of the Settlement Fund. Neither this Agreement, nor any of its terms and provisions, nor any of the negotiations or proceedings connected with it, nor any other action taken to carry out this Agreement by HIAMS, shall be referred to, offered as evidence or received in evidence in any pending or future civil, criminal, or administrative action,

arbitration, or proceedings, except in a proceeding to enforce this Agreement, or to defend against the assertion of Released Claims (as defined in Paragraph 29) and/or claims to be waived and released pursuant to Paragraph 30, or as otherwise required by law.

**C. Release, Discharge, and Covenant Not to Sue.**

29. In addition to the effect of any final judgment entered in accordance with this Agreement, upon this Agreement becoming final, as set out in Paragraph 27 of this Agreement, and in consideration of payment of the Settlement Amount, as specified in Paragraph 31 of this Agreement, into the Settlement Fund, and for other valuable consideration, including Cooperation provided pursuant to Appendix A, the Releasees shall be completely released, acquitted, and forever discharged from any and all claims, demands, actions, suits, causes of action, whether class, individual, or otherwise in nature (whether or not any Settlement Class Member has objected to the settlement or makes a claim upon or participates in the Settlement Fund, whether directly, representatively, derivatively or in any other capacity) under any federal, state, local, statutory, or common law of any jurisdiction in the United States, that Releasors, or each of them, ever had, now has, or hereafter can, shall, or may ever have, that now exist or may exist in the future, on account of, or in any way related to, any and all known or unknown, foreseen and unforeseen, suspected or unsuspected, actual or contingent, liquidated or unliquidated claims, injuries, damages, and the consequences thereof in any way arising out of or relating in any way to any conduct, prior to the Effective Date, alleged in the Complaint or any act or omission of the Releasees (or any of them), concerning the Released Part, including but not limited to any conduct and causes of action alleged or asserted, or that could have been alleged or asserted, in any class action or other complaints filed in the Action concerning the Released Part (the "Released Claims"), provided, however, that nothing herein shall release: (1) any claims based on indirect purchases of the Released Part; (2) claims involving any negligence, personal injury, breach of contract, bailment, failure to deliver lost

goods, damaged or delayed goods, product defect, breach of product warranty, securities, or other similar claim relating to the Released Part; (3) claims brought outside the United States relating to purchases of the Released Part outside the United States; (4) claims concerning any product other than the Released Part, and (5) claims under laws other than those of the United States and the states thereof. Releasors shall not, on or after the date of this Agreement, seek to establish liability against any Releasee, in whole or in part, based on any of the Released Claims or conduct at issue in the Released Claims unless this Agreement, for any reason, does not become final, or is rescinded or otherwise fails to become effective.

30. In addition to the provisions of Paragraph 29 of this Agreement, Releasors hereby expressly waive and release, solely with respect to the Released Claims, upon this Agreement becoming final, as set out in Paragraph 27 of this Agreement, any and all provisions, rights, and benefits, as to their claims concerning the Released Part conferred by Section 1542 of the California Civil Code, which states:

CERTAIN CLAIMS NOT AFFECTED BY GENERAL RELEASE. A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR;

or by any equivalent law or statute of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code. Each Releasor may hereafter discover facts other than or different from those which he, she, or it knows or believes to be true with respect to the claims which are released pursuant to the provisions of Paragraph 29 of this Agreement, but each Releasor hereby expressly waives and fully, finally, and forever settles and releases, upon this Agreement becoming final, any known or unknown, suspected or unsuspected, contingent or non-contingent claim that HIAMS and Direct Purchaser Plaintiffs have agreed to release pursuant to Paragraph 29, whether or not

concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts.

**D. Settlement Amount.**

31. Subject to the provisions hereof, and in full, complete and final settlement of the Collective Actions as provided herein, HIAMS shall pay or cause to be paid the Total Settlement Amount of USD \$15,000,000. The Direct Purchaser Plaintiffs have allocated \$2,210,769 of the Total Settlement Amount for this Action. The Total Settlement Amount shall be paid in U.S. dollars as a single lump-sum payment into an escrow account to be administered in accordance with the provisions of Paragraph 32 of this Agreement (“General Escrow Account”) within thirty (30) days following the later of (i) entry of Preliminary Approval orders in all of the Collective Actions or (ii) the date HIAMS is provided with the account number, account name and wiring transfer information for the General Escrow Account. Thereafter, the Settlement Amount shall be transferred to an escrow account established specifically for the Released Part (“Escrow Account”). No part of the Total Settlement Amount paid by HIAMS shall constitute, nor shall it be construed or treated as constituting, a payment for treble damages, fines, penalties, forfeitures, or punitive recoveries.

32. Escrow Account.

(a) The General Escrow Account and Escrow Account (collectively, “Escrow Accounts”) will be established at the Huntington National Bank. The Escrow Accounts shall be administered under the Court’s continuing supervision and control.

(b) All payments into the Escrow Accounts shall, at the direction of Settlement Class Counsel, be invested 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 U.S. Treasury Bills, U.S. Treasury Money Market Funds or a bank account insured by the Federal Deposit Insurance Corporation (“FDIC”) up to the guaranteed

FDIC limit. Any interest earned on any of the foregoing shall become part of the Settlement Fund. HIAMS shall have no responsibility for, or liability in connection with, the Settlement Fund or Escrow Accounts, including, without limitation, the investment, administration, maintenance, or distribution thereof.

(c) The Settlement Fund held in the Escrow Accounts shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as the Settlement Fund shall be distributed pursuant to this Agreement or further order(s) of the Court.

(d) Reasonable disbursements for expenses associated with providing notice of the settlement to the Settlement Class and expenses for maintaining and administering the Settlement Fund may be paid without approval from the Court, subject to the \$1 million limitation in Paragraph 35. Taxes and expenses incurred in connection with taxation matters may also be paid without approval from the Court and these taxes and expenses shall not be refundable to HIAMS in the event the Agreement is disapproved, rescinded, or otherwise fails to become effective, to the extent such expenses have actually been expended or incurred. No other disbursement from or distribution of the Settlement Fund shall be made without prior approval of the Court.

(e) The Escrow Account is intended by the parties hereto to be treated as a “qualified settlement fund” within the meaning of Treas. Reg. § 1.468B-1, and to that end the parties hereto shall cooperate with each other and shall not take a position in any filing or before any tax authority that is inconsistent with such treatment. At the request of HIAMS, a “relation back election” as described in Treas. Reg. § 1.468B-1(j) shall be made so as to enable the Escrow Accounts to be treated as a qualified settlement fund from the earliest date possible, and the parties shall take all actions as may be necessary or appropriate to this end. At the direction of Settlement Class Counsel, taxes or estimated taxes shall be paid on any income

earned on the funds in the Escrow Accounts, whether or not Final Approval has occurred. In the event federal or state income tax liability is finally assessed against and paid by HIAMS as a result of any income earned on the funds in the Escrow Account, HIAMS shall be entitled to reimbursement of such payment from the funds in the Escrow Accounts after approval of the Court and whether or not Final Approval has occurred. HIAMS will use reasonable efforts to resist any such assessment or payment. Except as set forth in this Paragraph, HIAMS and any Releasee, and their respective counsel, shall have no responsibility to make any tax filings related to the Settlement Fund or to pay any taxes or tax expenses with respect thereto, and neither HIAMS nor any Releasee nor their respective counsel shall have any liability or responsibility for the taxes or expenses incurred in connection with taxation matters.

(f) If this Agreement does not receive final Court approval, including final approval of the Settlement Class as defined in Paragraph 17, or if the Action is not certified as a class action for settlement purposes, then all amounts paid by HIAMS into the Settlement Fund (other than costs expended or incurred in accordance with Paragraphs 35 and 38), shall be returned to HIAMS from the Escrow Accounts along with any interest accrued thereon within thirty (30) calendar days of the Court's denial of final approval of the Agreement and/or Settlement Class.

33. Exclusions from the Settlement Classes. Subject to Court approval, with respect to any member of the Settlement Class who submits a valid request for exclusion, HIAMS and the other Releasees reserve all their legal rights and defenses, including but not limited to, any defenses relating to whether any excluded member of the Settlement Class is a direct purchaser of the Released Part or has standing to bring any claim against HIAMS and/or the other Releasees by the Opt-Out Deadline, which shall be the date set by the Court by which any class member must request exclusion from the Settlement Class.

(a) Any person or entity seeking exclusion from the Settlement Class must file a written request for the exclusion by the Opt-Out Deadline. The request for exclusion must state the full name, street address and telephone number of the person seeking exclusion from the class. Subject to Court approval, a request for exclusion that does not comply with all of the provisions set forth in the class notice will be invalid, and the person(s) or entity(ies) serving the invalid request shall be deemed Settlement Class Member(s) and should be bound by this Agreement upon Final Approval.

(b) Settlement Class Counsel shall provide to HIAMS Counsel within ten (10) business days after the Opt-Out Deadline a list and copies of all opt out requests it receives. Any person or entity that files a proper request for exclusion shall be excluded from the Settlement Class and shall have no rights with respect to this Settlement. HIAMS and/or the other Releasees reserve all rights and defenses they may have for claims of any person or entity excluded from the Settlement Class.

34. HIAMS or Settlement Class Counsel may dispute an exclusion request, and the parties shall, if possible, resolve the disputed exclusion request by agreement and shall inform the Court of their position, and, if necessary, obtain a ruling thereon within thirty (30) days of the Opt-Out Deadline.

35. Payment of Expenses.

(a) HIAMS agrees to permit a reasonable portion, but not more than USD \$1,000,000 (which limitation is effective up until the date of final approval of the Collective Settlement Agreements), of the Total Settlement Amount to be used towards notice to the Settlement Classes and the costs of administration of the Settlement Funds in the Collective Actions. This \$1,000,000 maximum is the cumulative total for the Collective Settlement Agreements and does not apply to each Settlement Agreement individually. In the event that one or more of the Collective Settlement Agreements does not become final or is terminated,

the \$1,000,000 maximum will be reduced pro rata and determined subject to a meet and confer between HIAMS and Direct Purchaser Plaintiffs. The notice and administration expenses (up to the maximum of USD \$1,000,000) are not recoverable by HIAMS if this settlement does not become final or is terminated to the extent such funds have actually been expended or the expenses have been incurred for notice and administration costs. Other than as set forth in this Paragraph and in Paragraph 38, HIAMS shall not be liable for any of the costs or expenses of the litigation of the Action, including attorneys' fees, fees and expenses of expert witnesses and consultants, and costs and expenses associated with discovery, motion practice, hearings before the Court or Special Master, appeals, trials or the negotiation of other settlements, or for class administration and costs.

(b) To mitigate the costs of notice and administration, Direct Purchaser Plaintiffs shall use their best efforts, if practicable, to disseminate notice with any other settlements reached with other defendants in this Action and to apportion the costs of notice and administration on a pro rata basis across the applicable settlements.

(c) Within ten (10) days of Preliminary Approval, HIAMS will supply to Settlement Class Counsel, in an electronic mailing format, the names and addresses of putative Settlement Class Members to who it has sold the Released Part during the Settlement Class Period, to the extent they are identifiable through reasonable efforts.

**E. The Settlement Fund.**

36. In addition to the Cooperation provided herein, Releasers' sole source or recourse for settlement and satisfaction against the Releasees of all Released Claims and claims to be waived and released pursuant to Paragraphs 29 and 30 is against the Settlement Amount, and Releasers shall have no other financial recovery against HIAMS or any other Releasee as to the Released Claims. After this Agreement becomes final within the meaning of Paragraph 27, the Settlement Amount shall be distributed in accordance with a plan to be submitted at a



time to be determined in the sole discretion of Settlement Class Counsel, subject to approval by the Court. In no event shall any Releasee have any responsibility, financial obligation, or liability whatsoever with respect to the investment, distribution, or administration of the Settlement Amount, including, but not limited to, the costs and expenses of such distribution and administration except as expressly otherwise provided in Paragraphs 32(d) and 35 of this Agreement.

37. Direct Purchaser Plaintiffs and Settlement Class Counsel shall be reimbursed and indemnified solely out of the Settlement Fund for all expenses and costs, as provided by Court order and the provisions of Paragraphs 32(d), 35 and 38. HIAMS and the other Releasees shall not be liable for any costs, fees, or expenses of any the Direct Purchaser Plaintiffs or the Settlement Class's respective attorneys, experts, advisors, agents, or representatives. Instead, all such costs, fees, and expenses as approved by the Court, or authorized by Paragraphs 32(d) and 35, shall be paid out of the Settlement Fund.

38. Settlement Class Counsel's Attorneys' Fees, Reimbursement of Expenses, and Incentive Awards for Class Representatives.

(a) Subject to Court approval, and except as provided herein, Direct Purchaser Plaintiffs and Settlement Class Counsel shall be reimbursed and paid solely out of the Settlement Fund for all past, current, or future litigation costs and expenses and any award of attorneys' fees incurred in connection with this Action and settlement negotiations with HIAMS. An incentive award to the Direct Purchaser Plaintiffs, if approved by the Court, will also be paid solely out of the Settlement Fund. Attorneys' fees and costs and expenses awarded by the Court shall be payable from the Settlement Fund upon award, notwithstanding the existence of any timely filed objections thereto, or potential appeal therefrom, or collateral attack on the settlement or any part thereof, subject to Settlement Class Counsel's obligation to make appropriate refunds or repayments to the Settlement Fund with interest, if and when, as a result of any appeal and/or further proceedings on remand, or successful collateral attack,

the fee or award of costs and expenses is reduced or reversed, or in the event this Agreement is rescinded or terminated pursuant to Section G of this Agreement. Settlement Class Counsel may submit an application or applications to the Court for: (i) an award of attorneys' fees, (ii) reimbursement of reasonable expenses and costs incurred in connection with prosecuting the Action, and (iii) incentive awards for Direct Purchaser Plaintiffs, plus interest on such attorneys' fees, costs, and expenses at the same rate and for the same period as earned by the Settlement Fund (until paid), as may be awarded by the Court. Settlement Class Counsel reserves the right to make additional applications for Court approval of fees and expenses incurred and reasonable incentive awards, but in no event shall HIAMS or any other Releasees be responsible to pay any such additional fees, expenses and incentive awards.

(b) The procedure for and the allowance or disallowance by the Court of the application by Settlement Class Counsel for attorneys' fees, costs, expenses, or incentive awards for class representatives to be paid out of the Settlement Fund are not part of 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, any order or proceeding relating to a request for attorneys' fees and reimbursement of expenses or incentive awards, or any appeal from any such order, shall not operate to terminate or cancel this Agreement, or affect or delay the finality of the judgment approving the settlement.

(c) Neither HIAMS nor any other Releasees under this Agreement shall have any responsibility for, or interest in, or liability whatsoever with respect to the allocation among Settlement Class Counsel and/or Direct Purchaser Plaintiffs of any fee and expense award, or incentive award, in the Action.

**F. Cooperation.**

39. In return for the release and discharge provided herein, in addition to the Settlement Amount it will pay, HIAMS agrees to provide substantial Cooperation to Direct

Purchaser Plaintiffs as set forth in Appendix A and this Section F. Appendix A is also incorporated into settlement agreements for Starters (2:13-cv-01101); Ignition Coils (2:13-cv-01401); Fuel Injection Systems (2:13-cv-2201) and Valve Timing Control Devices (2:13-cv-02501), entered into contemporaneously with this Agreement, and it is agreed that the obligations set forth in Appendix A will be adjusted as set forth therein if the Court does not approve this Agreement or some or all of the other Collective Settlement Agreements.

40. HIAMS and other Releasees need not respond to formal discovery requests from Direct Purchaser Plaintiffs, produce documents or other discovery in the Action, or otherwise participate in the Action during the pendency of this Agreement, with the exception of the Cooperation provisions set forth in Appendix A. Other than to enforce the terms of this Agreement, neither HIAMS nor Direct Purchaser Plaintiffs shall file motions against the other, in the Action, during the pendency of this Agreement.

**G. Rescission if this Agreement is Not Approved or Final Judgment is Not Entered.**

41. If the Court refuses to approve this Agreement or any part hereof, including if the Court does not certify the Settlement Class in accordance with the specific Settlement Class definition set forth in this Agreement, or if such approval is modified or set aside on appeal, or if the Court does not enter the final judgment provided for in Paragraph 27 of this Agreement, or if the Court enters the final judgment and appellate review is sought, and on such review, such final judgment is not affirmed in its entirety, then HIAMS and Direct Purchaser Plaintiffs shall each, in their sole discretion, have the option to rescind this Agreement in its entirety. The provisions of Paragraphs 32(d) and 35 of this Agreement shall remain in effect in the event this Agreement is rescinded. A modification or reversal on appeal of any amount of Settlement Class Counsel's fees and expenses awarded by the Court from the Settlement Fund shall not be deemed a modification of all or a part of the terms of this Agreement or such final judgment.

42. In the event that this Agreement does not become final as set forth in Paragraph 27, or this Agreement otherwise is terminated pursuant to Paragraph 41, then this Agreement shall be of no force or effect and any and all parts of the Settlement Fund caused to be deposited in the Escrow Accounts (including interest earned thereon) shall be returned forthwith to HIAMS less only disbursements made in accordance with Paragraphs 32(d) and 35 of this Agreement. At the request of HIAMS, Settlement Class Counsel shall file claims for any tax refunds owed to the Settlement Amount and pay the proceeds, after deduction of any fees and expenses incurred with filing such claims for tax refunds to HIAMS. HIAMS expressly reserves all rights and defenses if this Agreement does not become final.

43. Further, and in any event, Direct Purchaser Plaintiffs and HIAMS agree that this Agreement, whether or not it shall become final, and any and all negotiations, Documents, and discussions associated with it, shall not be deemed or construed to be an admission or evidence of (a) any violation of any statute or law or of any liability or wrongdoing whatsoever by HIAMS or the other Releasees, to be used against HIAMS or the other Releasees (except to enforce this Agreement), or of (b) the truth of any of the claims or allegations contained in the Complaint or any other pleading filed in the MDL Litigation, to be used against HIAMS or the other Releasees, and evidence thereof shall not be discoverable or used in any way, whether in the MDL Litigation or in any other action or proceeding, against HIAMS or the other Releasees. Nothing in this Paragraph shall prevent Direct Purchaser Plaintiffs from using Cooperation Materials produced by HIAMS for the prosecution of the Direct Purchaser Plaintiffs' claims against any other defendants in the MDL Litigation.

44. Non-Approval of One or More Agreements. In the event the Court does not give Preliminary or Final Approval for one or more of the Collective Settlement Agreements, the following provisions shall apply:

(a) The Collective Released Parts shall include only the parts covered by Collective Settlement Agreements for which the Court has given approval.

(b) HIAMS's cooperation obligations to provide transactional data, documents, witness interviews, depositions, trial testimony and attorney proffers as set forth in Appendix A shall be limited to the parts covered by Collective Settlement Agreements for which the Court has given approval.

(c) The number of witnesses provided for interviews, depositions or trial testimony shall be reduced pro rata by the number of parts covered by Collective Settlement Agreements for which the Court has not given approval and determined subject to a meet and confer between HIAMS and Direct Purchaser Plaintiffs.

(d) The Direct Purchaser Plaintiffs shall return or destroy all cooperation materials provided by HIAMS for parts for which the Court has not given approval (unless they were produced in the normal course of discovery). The Direct Purchaser Plaintiffs shall not use against HIAMS in any action any information or materials received from HIAMS for parts for which the Court has not given approval (unless such information or materials were produced by HIAMS in the normal course of discovery).

45. In the event that one or more of the Collective Settlement Agreements does not become final as set forth in Paragraph 27 ("Non-Finalized Agreement"), the parties agree the remaining Collective Settlement Agreements shall remain in force. If a party exercises a right to rescind a Non-Finalized Agreement pursuant to Paragraph 41, written notice shall be made according to the terms of Paragraph 57 of the Non-Finalized Agreement.

46. In the event of a Non-Finalized Agreement(s), the Direct Purchaser Plaintiffs will return to HIAMS, within fifteen (15) days of the court's order, any portion of the Settlement Fund attributed to the Non-Finalized Agreement(s), less the amount of allowable administrative expenses actually paid or incurred in connection with the Released Part.

47. Termination In the Event No Settlement Agreement Becomes Final. In the event that the Court denies Preliminary or Final Approval for all of the Collective Settlement Agreements, the Collective Settlement Agreements are void for all of the Collective Released Parts and the following provisions shall apply:

(a) the Direct Purchaser Plaintiffs will return to HIAMS, within fifteen (15) days of the court's order, 100% of the Settlement Fund not set aside for payment of expenses pursuant to Paragraphs 32(d) and 35;

(b) The Direct Purchaser Plaintiffs will return any portion of the Settlement Fund set aside for payment of notice and administration expenses pursuant to Paragraphs 32(d) and 35 to the extent such funds have not actually been expended or incurred for notice and administration costs; and

(c) HIAMS's cooperation obligations set forth in the Collective Settlement Agreements and Appendix A will cease and the Direct Purchaser Plaintiffs shall return or destroy all cooperation materials (unless it was produced in the normal course of discovery) provided by HIAMS for all of the Collective Released Parts.

48. This Agreement shall be construed and interpreted to effectuate the intent of the parties, which is to provide, through this Agreement, for a complete resolution of the relevant claims with respect to each Releasee as provided in this Agreement.

49. The parties to this Agreement contemplate and agree that, prior to final approval of the settlement as provided for in Paragraphs 23-28 hereof, appropriate notice (a) of the settlement; and (b) of a hearing at which the Court will consider the approval of this Agreement, will be given to the Settlement Class.

#### **H. Miscellaneous.**

50. HIAMS shall submit all materials required to be sent to appropriate Federal and State officials pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1715.

51. This Agreement does not settle or compromise any claim by Direct Purchaser Plaintiffs or any Settlement Class Member asserted in the Complaint or, if amended, any subsequent complaint, against any Defendant or alleged co-conspirator other than the Releasees. All rights against such other Defendants or alleged co-conspirators are specifically reserved by Direct Purchaser Plaintiffs and the Settlement Class. All rights of any Settlement Class Member against any and all former, current, or future Defendants or co-conspirators or any other person other than HIAMS and the other Releasees, for sales made by HIAMS and HIAMS's alleged illegal conduct are specifically reserved by Direct Purchaser Plaintiffs and Settlement Class Members. HIAMS's sales to the Settlement Class and its alleged illegal conduct shall, to the extent permitted or authorized by law, remain in the Action as a basis for damage claims and shall be part of any joint-and-several liability claims against other current or future Defendants in the Action or other persons or entities other than HIAMS and the other Releasees. HIAMS shall not be responsible for any payment to Direct Purchaser Plaintiffs other than the amount specifically agreed to in Paragraph 31 of this Agreement.

52. The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement or the applicability of this Agreement that cannot be resolved by negotiation and agreement by Direct Purchaser Plaintiffs and HIAMS, including challenges to the reasonableness of any party's actions. This Agreement shall be governed by and interpreted according to the substantive laws of the state of Michigan without regard to its choice of law or conflict of laws principles. HIAMS will not object to complying with any of the provisions outlined in this Agreement on the basis of jurisdiction.

53. This Agreement, including Appendix A, constitutes the entire, complete and integrated agreement among Direct Purchaser Plaintiffs and HIAMS pertaining to the settlement of the Action against HIAMS Defendants, and supersedes all prior and

contemporaneous undertakings, communications, representations, understandings, negotiations and discussions, either oral or written, between Direct Purchaser Plaintiffs and HIAMS in connection herewith. This Agreement may not be modified or amended except in writing executed by Direct Purchaser Plaintiffs and HIAMS, and approved by the Court.

54. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of Direct Purchaser Plaintiffs and HIAMS. Without limiting the generality of the foregoing, upon final approval of this Agreement each and every covenant and agreement made herein by Direct Purchaser Plaintiffs or Settlement Class Counsel shall be binding upon all Settlement Class Members and Releasers. The Releasees (other than HIAMS which is a party hereto) are third-party beneficiaries of this Agreement and are authorized to enforce its terms applicable to them.

55. This Agreement may be executed in counterparts by Direct Purchaser Plaintiffs and HIAMS, and a facsimile signature shall be deemed an original signature for purposes of executing this Agreement.

56. Neither Direct Purchaser Plaintiffs nor HIAMS shall 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.

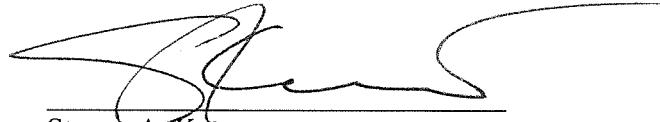
57. Where this Agreement requires either party to provide notice or any other communication or Document to the other, such notice shall be in writing, and such notice, communication or Document shall be provided by facsimile, or electronic mail (provided that the recipient acknowledges having received that email, with an automatic "read receipt" or similar notice constituting an acknowledgement of an email receipt for purposes of this Paragraph), or letter by overnight delivery to the undersigned counsel of record for the party to whom notice is being provided.



58. Each of the undersigned attorneys represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Agreement subject to Court approval.

[signature pages follow]

Dated: May 14<sup>th</sup>, 2018



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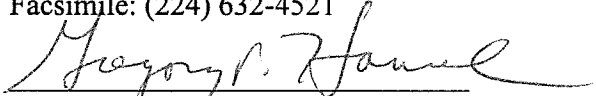
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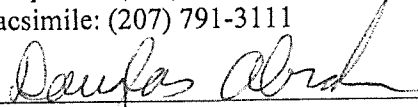
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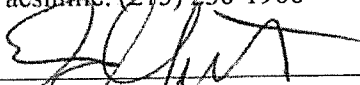
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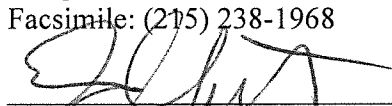
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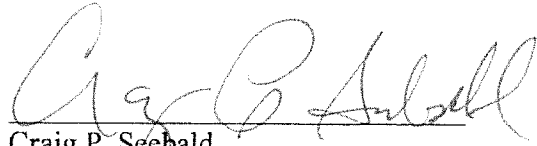


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## APPENDIX A

### **A. Application of Appendix Across Multiple Settlements**

1. HIAMS and the Direct Purchaser Plaintiff have agreed to settle the Collective Actions: Alternators (Case No. 2:13-cv-00701); Starters (2:13-cv-01101); Ignition Coils (2:13-cv-01401); Fuel Injection Systems (2:13-cv-02201); and Valve Timing Control Devices (2:13-cv-02501), and they are entering into settlement agreements to settle each of the Collective Actions. The parties agree that this Appendix A applies equally to and is incorporated into each of the Collective Settlement Agreements.

#### 2. Definitions

(a) The same definitions in the Collective Settlement Agreements shall apply to this Appendix. In the event that terms and conditions in this Appendix A may not be executed and fulfilled because of any difference of a definition set forth in the Collective Settlement Agreements, HIAMS and Direct Purchaser Plaintiff shall meet and confer to solve the difference.

### **B. Cooperation.**

3. In return for the release and discharge provided in the Collective Settlement Agreements, in addition to the Total Settlement Amount it will pay, HIAMS agrees to provide substantial Cooperation to Direct Purchaser Plaintiff as set forth below. All such Cooperation shall occur in a manner that is in compliance with HIAMS's obligations to Government Entities (defined as the United States Department of Justice ("DOJ"), Japan Fair Trade Commission ("JFTC"), and European Commission ("EC")). HIAMS shall not be required to provide documents protected by the work product doctrine, attorney-client privilege, prohibited by the relevant antitrust agencies and/or by the law of the relevant foreign jurisdictions, or prohibited by court order. Cooperation shall be limited to the Collective Released Parts for which the

Court gives preliminary approval and shall not include information relating to other parts manufactured by HIAMS and/or Releasees.

4. Within thirty (30) days after the Preliminary Approval Motions have been granted or denied in all of the Collective Actions, counsel for HIAMS shall provide Settlement Class Counsel with the names of all current and former employees, directors and officers of HIAMS who: (1) were interviewed and/or prosecuted by the DOJ in connection with alleged violations with regard to any one of the Collective Released Parts for which the Court gives Preliminary Approval (“Preliminarily Approved Collective Released Parts”); (2) appeared before the grand jury in connection with the DOJ’s investigation into alleged antitrust violations with respect to any one of the Preliminarily Approved Collective Released Parts; and/or (3) were disclosed to a Government Entity as having knowledge or information relating to investigations into alleged violations with respect to any one of the Preliminarily Approved Collective Released Parts. Counsel for HIAMS shall not be required to disclose to Settlement Class Counsel the specific Government Entities to which each such current or former employee, director or officer of HIAMS was identified to or appeared before.

5. Documents. Except as set forth herein, HIAMS will use its best efforts to substantially complete the production of the following Documents within the time frames set forth in this Paragraph 5 to the extent such Documents have not already been produced to Settlement Class Counsel and excluding those Documents protected by the work product doctrine or the attorney-client privilege, prohibited by the relevant antitrust agencies and/or by the law of the relevant foreign jurisdiction, or prohibited by court order.

(a) Within thirty (30) days after the Preliminary Approval Motions have been granted or denied in all of the Collective Actions: all HIAMS’ transactional data provided to the DOJ (including all English Translations thereof produced to DOJ) relating to the Preliminarily Approved Collective Released Parts.



(b) Within sixty (60) days after the Preliminary Approval Motions have been granted or denied in all of the Collective Actions: Documents, if any, provided to Government Entities as of the Effective Date (including all English Translations thereof provided to those Government Entities) relating to their investigation into alleged competition violations with respect to the Preliminarily Approved Collective Released Parts, to the extent they have not already been produced to Settlement Class Counsel, except those documents protected by the work product doctrine or the attorney-client privilege, or prohibited by the relevant antitrust agencies and/or by the law of the relevant foreign jurisdiction, or prohibited by court order.

(c) At the request of Direct Purchaser Plaintiff and subject to meet and confer with HIAMS,

(i) within one hundred twenty (120) days after the parties agree through the meet and confer: pre-existing sales and cost transactional data related to the Preliminarily Approved Collective Released Parts from January 1, 1996 to the Effective Date, and

(ii) at a time agreed upon between HIAMS and Direct Purchaser Plaintiff: sales and cost transactional data related to the Preliminarily Approved Collective Released Parts from the Effective Date until December 31, 2019. This request does not require HIAMS to compile any data from any less centralized or comprehensive source including without limitation individual invoices, purchase orders, personal computers, backup recording media or devices, hard copy files, or manufacturing facilities. HIAMS shall also provide reasonable assistance to Settlement Class Counsel in understanding any transactional data produced, including, if appropriate, a reasonable number of communications with Direct Purchaser Plaintiff's experts and between technical personnel.

(d) Within one hundred twenty (120) days after the Preliminary Approval Motions have been granted or denied in all of the Collective Actions, at the request of Direct Purchaser Plaintiff and subject to a meet and confer with HIAMS, Documents, if any, which were collected as of the Effective Date in dealing with investigations by Government Entities into alleged competition violations with respect to the Preliminarily Approved Collective Released Parts for which Preliminary approval has been granted, but which were not provided to Government Entities: (1) that relate to or concern the allegations in the Complaints in the Collective Actions and reflect alleged collusion or attempted alleged collusion with respect to Released Parts, by an employee, officer, or director of HIAMS with any employee, officer or director of another manufacturer or seller of the Released Parts; (2) concerning HIAMS's determinations of its prices for Released Parts including pricing policies, formulas and guidelines; and (3) showing how employees were trained or instructed to bid and set prices submitted to purchasers or potential purchasers for Released Parts, in RFQs, or any other procurement process, including Documents stating the lowest bid or price employees were authorized to submit, how to determine the lowest allowable bid or price, and when and how to increase or decrease a proposed bid or price.

6. For all Documents withheld from production pursuant to (1) the attorney-client privilege; (2) the work product doctrine; (3) a protective order, or (4) any other applicable privilege or doctrine protecting documents from disclosure, HIAMS shall provide a privilege log ("Privilege Log"), describing such Documents in sufficient detail as to explain the nature of the privilege asserted or the basis of any other law or rule protecting such Documents. No Document shall be withheld under claim of privilege if produced or made available to a Government Entity. If any Document protected by the attorney-client privilege, attorney work product protection, or any other privilege is accidentally or inadvertently produced, its production shall in no way be construed to have waived any privilege or protection attached to

such Document. Upon notice by HIAMS of such inadvertent production, the Document shall promptly be destroyed and/or returned to HIAMS.

7. In the event that HIAMS produces Documents or provides declarations or written responses to discovery to any party in the actions in the MDL Litigation, concerning or relating to the Collective Actions brought by Direct Purchaser Plaintiff (“Relevant Production”), HIAMS shall produce all such Documents, declarations or written discovery responses to Direct Purchaser Plaintiff contemporaneously with making the Relevant Production to the extent such Documents, declarations or written discovery responses have not previously been produced by HIAMS to Direct Purchaser Plaintiff. This provision does not restrict Settlement Class Counsel from attending and/or participating in any depositions in *In re Automotive Parts Antitrust Litigation*, Master File No. 12-md-2311. Settlement Class Counsel may attend and/or participate in any depositions of HIAMS’s witnesses in addition to the depositions set forth in Paragraph 8(c) of this Appendix A, and Settlement Class Counsel together with settlement class counsel for the End Payor Plaintiffs and Automobile Dealership Plaintiffs may ask questions for a combined total of three (3) hours at such depositions, provided that the time for participation of Settlement Class Counsel and settlement class counsel for the End Payor Plaintiffs and Automobile Dealership Plaintiffs shall not expand the time permitted for the deposition as may be provided by the Court, and Direct Purchaser Plaintiff will not ask the Court to enlarge the time of any deposition noticed of a HIAMS employee. To the extent that the person to be deposed requests an interpreter, the deposition shall be limited to a total of four (4) hours.

8. In addition, HIAMS shall also provide Cooperation to Settlement Class Counsel as set forth in (a) through (f) of this Paragraph 8. All Cooperation shall be coordinated in such a manner so that all unnecessary duplication and expense is avoided. The numerical limits set forth in this Paragraph 8 – including the eight (8)-person limit for interviews, depositions, and

trials and the four (4)-meeting limit for Attorney Proffers (as defined below) – are the cumulative totals for the Collective Settlement Agreements. To the extent possible, any Attorney Proffers (as defined below), witness interviews, or depositions provided pursuant to the below obligations, and any request for transactional data pursuant to Paragraph 5(c) of this Appendix A, shall be coordinated with, and occur at the same time as, the Attorney Proffers (as defined below), witness interviews, depositions and transactional data production to be provided in a contemporaneous settlement with the End Payor Plaintiffs (Case No. 2:13-cv-02203) and Automobile Dealership Plaintiffs (Case No. 2:13-cv-02202). HIAMS shall make its reasonable best efforts (not to include actual or threatened employee disciplinary action) to make available for interviews, depositions, and testimony at trial, or at a mutually agreed-upon location or locations (except for testimony at trial) to the extent relevant laws, regulations and/or government authorities' policy permit up to eight (8) persons for interviews and depositions (as set forth in (b) and (c) of this Paragraph 8), and up to eight (8) persons for trial (as set forth in (d) of this Paragraph 8) who Settlement Class Counsel select together with settlement class counsel for the End Payor and Automobile Dealership Plaintiffs (to the extent the End Payor and Automobile Dealership Plaintiffs remain in the Collective Actions), and which may consist of directors, officers, and/or employees of HIAMS at the time of the specific request pursuant to (b), (c) and (d) of this Paragraph 8 whom Settlement Class Counsel reasonably and in good faith believe possess knowledge of facts or information that would reasonably assist Direct Purchaser Plaintiff in the prosecution of the Collective Actions against other Defendants. It is understood that HIAMS may be unable to make available for interviews or depositions or any Cooperation events the individuals referenced in the sealed attachments of the plea agreement between Hitachi Automotive Systems, Ltd. and the United States of America (Case No. 2:13-cr-20707, E.D. Mich.). Settlement Class Counsel shall use their best efforts to select for interviews, depositions, and trial testimony the same individuals as those

the settlement class counsel for End Payor Plaintiffs and Automobile Dealership Plaintiffs select (to the extent the End Payor Plaintiffs and Automobile Dealership Plaintiffs remain in the Collective Actions). The total number of interviews provided pursuant to Paragraph 8(b) in Appendix A of each Settlement Agreement for the Collective Released Parts shall be eight (8), and the total number of depositions provided pursuant to Paragraph 8(c) in Appendix A of each Settlement Agreement for the Collective Released Parts shall be eight (8). Settlement Class Counsel may participate in all eight (8) depositions and interviews regardless of the selection process.

(a) Attorney Proffers. Within thirty (30) days after all the Preliminary Approval Motions have been granted or denied in all of the Collective Actions, counsel for HIAMS will make themselves available in the United States for up to four (4) meetings of one (1) business day each to provide detailed proffers of the relevant facts known to them relating to Direct Purchaser Plaintiff's allegations of price-fixing, bid-rigging, and market allocation related to the Preliminarily Approved Collective Released Products ("Attorney Proffers"). As part of the Attorney Proffers, to the extent not covered by privilege or other protections available under any applicable statute or laws in the United States or any relevant countries, counsel for HIAMS will provide Settlement Class Counsel with facts known to them regarding Documents, witnesses, meetings, communications, agreements with competitors, events, background information, and any other relevant topics, relating to the claims at issue in the Collective Actions, with respect to the Preliminarily Approved Collective Released Parts including any such information given to the DOJ. Counsel for HIAMS will make themselves available for reasonable follow-up conversations in connection with the Attorney Proffers, and will use reasonable efforts to respond to questions posed by Settlement Class Counsel relating to the Preliminarily Approved Collective Released Parts. It is understood that HIAMS has no obligation to seek new or additional information or documents from any of its employees,

officers or directors in connection with any of these follow-up conversations or otherwise; however, HIAMS will in good faith consider requests for new or additional information or documents, and will produce such information or documents, if appropriate, in its discretion. Direct Purchaser Plaintiff may share information learned in Attorney Proffers with End Payor and Automobile Dealership Plaintiffs but shall not disclose such information to any other parties including other claimants or potential claimants including public entity plaintiffs and opt-out plaintiffs in the MDL Litigation, except with the express written consent of HIAMS. Notwithstanding any other provision of the Collective Settlement Agreements, the parties and their counsel further agree that any Attorney Proffers or other statements made by counsel for HIAMS in connection with or as part of this settlement shall be governed by Federal Rule of Evidence 408. Notwithstanding anything herein, Settlement Class Counsel may use (but shall not introduce an Attorney Proffer into the record, or depose or subpoena any HIAMS counsel related to an Attorney Proffer) information contained in such Attorney Proffers or other statements in the prosecution of its claims in all cases in the MDL Litigation, except any claims against Releasees, and rely on such information to certify that, to the best of Settlement Class Counsel's knowledge, information and belief, such information has evidentiary support or will likely have evidentiary support after reasonable opportunity for further investigation or discovery.

(b) Witness Interviews. Upon reasonable notice after the Preliminary Approval Motions have been granted in all of the Collective Actions, HIAMS shall, at Direct Purchaser Plaintiff's request, make its reasonable best efforts to make available for an interview with Settlement Class Counsel and settlement class counsel for the End Payor Plaintiffs and Automobile Dealership Plaintiffs (to the extent the End Payor Plaintiffs and Automobile Dealership Plaintiffs remain in the Collective Actions) and/or their experts unless otherwise agreed a total of eight (8) persons who are selected by Settlement Class Counsel, and which

may consist of directors, officers, and/or employees of HIAMS at the time of the selection whom the parties reasonably and in good faith believe possess knowledge of facts or information that would reasonably assist Direct Purchaser Plaintiff in the prosecution of claims for the Collective Released Parts in the Collective Actions. Interviews shall each be limited to a total of seven (7) hours over one (1) day. To the extent that the person to be interviewed requests an interpreter, interviews shall be limited to a total of twelve (12) hours, which would occur over two (2) consecutive days at the request of the interviewee. Each of the eight (8) persons shall be interviewed only once. Upon reasonable notice by Settlement Class Counsel, HIAMS shall use its best efforts to make available by telephone the persons who have been interviewed as set forth in this Paragraph 8(b) to answer follow-up questions for a period not to exceed two (2) hours. HIAMS will in good faith consider requests for additional persons for interviews and depositions, if appropriate, in its discretion. If any such interview takes place outside of the country of the witness's residence, Direct Purchaser Plaintiff shall reimburse HIAMS for such person's economy class fare and \$450 per day for lodging and expenses. The maximum reimbursement to HIAMS for any witness shall be \$2,250. In no event shall Direct Purchaser Plaintiff be responsible for reimbursing such person for time or services rendered. If the interview and the below-described deposition occur during the same trip, the above limitations will apply to that trip. Nothing in this provision shall prevent HIAMS from objecting to the reasonableness of the identity and number of persons selected by Settlement Class Counsel and settlement class counsel for the End Payor Plaintiffs and Automobile Dealership Plaintiffs to appear for interviews, for depositions, or as trial witnesses.

(c) Depositions. Upon reasonable notice after the Preliminary Approval Motions have been granted in all of the Collective Actions, HIAMS shall, at Direct Purchaser Plaintiff's request, make its reasonable best efforts (1) to make available to appear for deposition up to eight (8) persons who Settlement Class Counsel and settlement class counsel

for the End Payor Plaintiffs and Automobile Dealership Plaintiffs (to the extent the End Payor Plaintiffs and Automobile Dealership Plaintiffs remain in the Collective Actions) select from among the same eight (8) persons who have been chosen for interviews pursuant to Paragraph 8(b) of this Appendix A, and (2) to provide up to eight (8) declarations/affidavits from the same persons who have been chosen for interviews and depositions pursuant to Paragraph 8(b) and (c) of this Appendix A. If HIAMS is unable to make those same persons available for depositions then Settlement Class Counsel may select another person. HIAMS shall use its reasonable best efforts to make that person available, and that person would then count towards the eight (8) person deposition limit. Each deposition shall be conducted at a mutually agreed upon location at a mutually agreed upon time and shall each be limited to a total of seven (7) hours over one (1) day. To the extent that the person to be deposed requests an interpreter, the deposition shall be limited to a total of twelve (12) hours, seven (7) of which would occur over two (2) consecutive days at the request of the deponent unless such condition is inconsistent with the deposition protocol set forth in the MDL Litigation. Written notice by Settlement Class Counsel to HIAMS's counsel shall constitute sufficient service of notice for such depositions. Direct Purchaser Plaintiff shall reimburse HIAMS for such deponent's economy class fare and \$450 per day for lodging and expenses. The maximum reimbursement to HIAMS for any witness shall be \$2,250. In no event shall Direct Purchaser Plaintiff be responsible for reimbursing such person for time or services rendered. If the deposition and interview occur during the same trip, the above limitations will apply to that trip. Nothing in this provision shall prevent HIAMS from objecting to the reasonableness of the identity and number of persons selected by Settlement Class Counsel and settlement class counsel for End Payor Plaintiffs and Automobile Dealership Plaintiffs to appear for interviews, for depositions, or as trial witnesses.



(d) Trial Testimony. Upon reasonable notice, HIAMS shall make reasonable efforts to provide, for trial testimony, if necessary, up to eight (8) persons from among the persons who have been interviewed or deposed pursuant to Paragraph 8(b) and (c) of this Appendix A, or otherwise deposed in the MDL Litigation, as referenced in Paragraph 7 of this Appendix A, whom the parties reasonably and in good faith believe possess knowledge of facts or information that would reasonably assist Direct Purchaser Plaintiff in the prosecution of the claims for the Preliminarily Approved Collective Released Parts in the MDL Litigation. HIAMS shall not be required to make any individual available to testify more than once in any case. Direct Purchaser Plaintiff shall reimburse HIAMS for such witness's economy class fares and \$450 per day for lodging and expenses. The maximum reimbursement to HIAMS for any witness shall be \$2,250. In no event shall Direct Purchaser Plaintiff be responsible for reimbursing such person for time or services rendered. Nothing in this provision shall prevent HIAMS from objecting to the reasonableness of the identity and number of persons selected by Settlement Class Counsel and settlement class counsel for the End Payor Plaintiffs and Automobile Dealership Plaintiffs (to the extent the End Payor Plaintiffs and Automobile Dealership Plaintiffs remain in the Collective Actions) to appear for interviews, for depositions, or as trial witnesses.

(e) Authentication. In addition to its Cooperation obligations set forth herein, at the request of Direct Purchaser Plaintiff and subject to meet and confer with HIAMS, HIAMS agrees to produce through affidavit(s) or declaration(s) and/or at trial, if necessary, in Settlement Class Counsel's discretion, representatives qualified to authenticate and/or establish as business records any of HIAMS's Documents including transaction and/or cost data produced or to be produced, and to the extent possible, any Documents produced by Defendants or third-parties in the Collective Actions. In addition, if not unduly burdensome, HIAMS agrees to produce through affidavit(s) or declaration(s) and/or at trial, if necessary, representatives

qualified to establish any other necessary foundation for admission into evidence. The provisions in this Paragraph 8(e) do not apply to any English Translations or any other translations produced to Direct Purchaser Plaintiff.

(f) Direct Purchaser Plaintiff and Settlement Class Counsel agree they will not use the information provided by HIAMS or the Releasees or their representatives under Paragraph 8 of this Appendix A for any purpose other than the prosecution of the claims in the Collective Actions except for any such claims against HIAMS or the Releasees and will not use it beyond what is reasonably necessary for the prosecution of those claims or as otherwise required by law. Except as otherwise provided herein, all Documents and other information provided pursuant to Paragraph 8 of this Appendix A shall be governed by the terms of the Protective Order as if they had been produced in response to discovery requests, and all Documents and other information provided pursuant to the Collective Settlement Agreements will be deemed “Highly Confidential” under the protective orders that were or will be issued in the Action or MDL Litigation unless otherwise agreed or ordered by the Court. Direct Purchaser Plaintiff reserves the right to object to HIAMS’s confidentiality designations at a later date. If the Direct Purchaser Plaintiff plan to use any information included in the Documents other information provided pursuant to the Collective Settlement Agreements in their pleadings or any other briefs to be filed with the Court in the MDL Litigation, Direct Purchaser Plaintiff shall, at least ten business days in advance, notify and confirm with HIAMS if the pleading or other briefs including information disclosed as part of HIAMS’s Cooperation should be filed under seal in accordance with any Court orders.

(g) HIAMS’s obligations to provide Cooperation with respect to the Released Part under this Agreement shall continue only until: (i) the date that final judgment has been entered in any given Action against all Defendants as it relates to the Released Part in that particular Action; or (ii) otherwise ordered by the Court.

9. If Settlement Class Counsel believes that HIAMS or any current employee, officer or director of HIAMS has failed to cooperate under the terms of this Agreement, Settlement Class Counsel may seek an order from the Court compelling such Cooperation. Nothing in this provision shall limit in any way HIAMS's ability to defend the level of Cooperation it has provided or to defend its compliance with the terms of the Cooperation provisions in this Agreement.

10. Failure to Take Effect.

(a) If this Agreement is rescinded, disapproved, otherwise fails to take effect, or if final judgment has been entered in the Action against All Defendants (collectively "Final Termination"), unless otherwise agreed by HIAMS, within sixty (60) days after Final Termination, Direct Purchaser Plaintiff must destroy all Cooperation Materials related to the Released Part received from HIAMS including all copies, abstracts, compilations, summaries or any other form that reproduces or captures any of the Cooperation Materials related to the Released Part. Direct Purchaser Plaintiff must submit a written certification to HIAMS by the sixty (60) day deadline that affirms that Direct Purchaser Plaintiff has not retained any copies, abstracts, compilations, summaries or other form that reproduces or captures any of the Cooperation Materials related to the Released Part.

(b) In the event that this Agreement fails to receive Final Court Approval by the Court as contemplated in Paragraphs 23-28 of the Collective Settlement Agreements, including final approval of the Settlement Class as defined in Paragraph 17 of the Collective Settlement Agreements, or in the event that it is terminated by either party under any provision herein, the parties agree that Direct Purchaser Plaintiff shall not be permitted to use or introduce into evidence against HIAMS and other Releasees, at any hearing or trial, or in support of any motion, opposition or other pleading in this Action or in any other federal or state or foreign action alleging a violation of any law relating to the subject matter of this Action, any

deposition testimony or any Documents provided by HIAMS and/or the Releasees, their counsel, or any individual made available by HIAMS pursuant to Cooperation (as opposed to from any other source or pursuant to a court order) as set forth in Appendix A. Notwithstanding anything contained herein, Direct Purchaser Plaintiff is not relinquishing any rights to pursue discovery against HIAMS and other Releasees in the event that this Agreement fails to receive Final Court Approval in this Action as contemplated in Paragraphs 23-28 of the Collective Settlement Agreements, including final approval of the Settlement Class as defined in Paragraph 17 of the Collective Settlement Agreements, or in the event that it is terminated by either party under any provision herein.