

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

IN RE AUTOMOTIVE PARTS ANTITRUST
LITIGATION

CASE NO. 12-MD-02311

HON. MARIANNE O. BATTANI

In Re: INSTRUMENT PANEL CLUSTERS

THIS RELATES TO:

2:12-cv-00201-MOB-MKM

ALL DIRECT PURCHASER ACTIONS

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement” or “Settlement”) is made and entered into this 27th day of December 2016 (“Execution Date”) by and between Yazaki Corporation and Yazaki North America, Inc. (collectively, “Yazaki”), and Direct Purchaser Plaintiff (as defined in Paragraph 4, below), both individually and on behalf of a class of direct purchasers of Instrument Panel Clusters, as defined in Paragraph 13, below (the “Settlement Class”, as more particularly defined in Paragraph 8, below).

WHEREAS, Direct Purchaser Plaintiff is prosecuting the above *In Re Automotive Parts Litigation*, Master File No. 12-md-02311 (E.D. Mich.) (the “MDL Litigation”), *Instrument Panel Clusters Cases*, Case No. 12- cv-00201 (the “Action”) on its own behalf and on behalf of the Settlement Class against, among others, Yazaki;

WHEREAS, Direct Purchaser Plaintiff alleges that it was injured as a result of Yazaki’s participation in an unlawful conspiracy to raise, fix, maintain, and/or stabilize prices, rig bids, and allocate supply and customers for Instrument Panel Clusters in violation of Section 1 of the Sherman Act, as set forth in Direct Purchaser Plaintiff’s Second Consolidated Amended Class

Action Complaint (2:12-cv-00201, Doc. No. 117) (the “Complaint”);

WHEREAS, Yazaki denies Direct Purchaser Plaintiff’s allegations and has asserted defenses to Direct Purchaser Plaintiff’s claims;

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

WHEREAS, Direct Purchaser Plaintiff, through its counsel, has conducted an investigation into the facts and the law regarding the Action and has concluded that resolving the claims against Yazaki, according to the terms set forth below, is in the best interest of the Direct Purchaser Plaintiff and the Settlement Class because of the payment of the Settlement Amount and the value of the Cooperation (as those terms are defined below) that Yazaki has agreed to provide pursuant to this Agreement;

WHEREAS, the Action will continue against certain Defendants (as defined below) that are not Releasees (as defined below);

WHEREAS, Yazaki, despite its belief that it is not liable for the claims asserted 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 Yazaki with respect to Instrument Panel Clusters based on the allegations in the Action, as more particularly set out below;

WHEREAS, Yazaki has agreed to provide Cooperation to Direct Purchaser Plaintiff in the ongoing prosecution of the Action as set forth in this Agreement, and such Cooperation will

reduce Direct Purchaser Plaintiff's substantial burden and expense associated with prosecuting the Action; and

WHEREAS, Direct Purchaser Plaintiff recognizes the benefits of Yazaki's Cooperation and recognizes that because of joint and several liability, this Agreement with Yazaki does not impair Direct Purchaser Plaintiff's ability to collect the full amount of damages to which it and the Settlement Class may be entitled in the Action:

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 Plaintiff, the Settlement Class, or Yazaki, subject to the approval of the Court, on the following terms and conditions:

A. Definitions.

1. "Cooperation" shall refer to those provisions set forth below in Paragraphs 32-39.
2. "Cooperation Materials" means any information, testimony, Document (as defined below) or other material provided by Yazaki under the terms of this Agreement.
3. "Defendant" means, for purposes of this Settlement Agreement only, any one or more of the following: Continental Automotive Electronics LLC; Continental Automotive Korea Ltd.; Continental Automotive Systems, Inc.; Denso Corporation; Denso International America, Inc.; Nippon Seiki Co. Ltd.; N.S. International, Ltd.; New Sabina Industries, Inc.; Yazaki Corporation; and Yazaki North America, Inc.
4. "Direct Purchaser Plaintiff" means the Settlement Class Member, as defined in Paragraph 10, below, who is the named plaintiff in the Complaint.

5. “Document” is defined to be synonymous in meaning and equal in scope to the usage of this term in Rule 34(a) of the Federal Rules of Civil Procedure, including without limitation, electronically stored information. A draft or non-identical copy is a separate document within the meaning of this term.

6. “Releasees” shall refer jointly and severally, individually and collectively, to Yazaki, its parents, subsidiaries, affiliates, divisions, predecessors, successors and assigns, and their respective past and present officers, directors, employees, principals, partners, agents, stockholders, members, representatives, insurers, attorneys, heirs, executors, administrators, and assigns. Releasees does not include any Defendant in the Action other than Yazaki.

7. “Releasers” shall refer jointly and severally, individually and collectively, to Direct Purchaser Plaintiff and the Settlement Class Members, as well as each of their parents, subsidiaries, affiliates, divisions, predecessors, successors and assigns, and their respective past and present officers, directors, employees, principals, partners, agents, members, representatives, insurers, attorneys, heirs, executors, administrators, and assigns.

8. For purposes of this Agreement, the “Settlement Class” is defined as:

All direct purchasers of motor vehicle Instrument Panel Clusters in the United States directly from any of the Defendants (or their controlled subsidiaries, affiliates, or joint ventures) from January 1, 1998 through the Execution Date.

9. “Settlement Class Counsel” shall refer to the following law firms: Freed Kanner London & Millen LLC, 2201 Waukegan Road, Suite 130, Bannockburn, IL 60015; Kohn, Swift & Graf, P.C., One South Broad Street, Suite 2100, Philadelphia, PA 19107; Preti, Flaherty, Beliveau & Pachios, LLP, One City Center, Portland, ME 04101; and Spector Roseman Kodroff & Willis, P.C., 1818 Market Street, Suite 2500, Philadelphia, PA 19103.

10. “Settlement Class Member” means each member of the Settlement Class who has not timely and validly elected to be excluded from the Settlement Class.

11. “Settlement Amount” shall be US \$7,700,000. The Settlement Amount is subject to reduction based on valid and timely requests for exclusion as set forth in Paragraphs 25-26.

12. “Settlement Fund” shall be the Settlement Amount plus accrued interest on said amount as set forth in Paragraph 24.

13. “Instrument Panel Clusters” for purposes of this Settlement Agreement, has the same definition as set forth in the Complaint, specifically, “the mounted array of instruments and gauges housed in front of the driver of a motor vehicle; they are also known as meters.”

B. Approval of this Agreement and Dismissal of Claims Against Yazaki.

14. Direct Purchaser Plaintiff and Yazaki 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 Federal Rules of Civil Procedure 23(c) and (e)) to secure the complete and final dismissal with prejudice of the Action only as to Yazaki and the other Releasees.

15. Within fifteen (15) business days after the Execution Date, Direct Purchaser Plaintiff and Yazaki shall endeavor to inform the Court that they have finalized an agreement to settle the Action. Within thirty (30) calendar days after the Execution Date, Direct Purchaser Plaintiff shall endeavor to submit to the Court a motion seeking preliminary approval of this Agreement (the “Motion”). The Motion shall include the proposed form of an order preliminarily approving this Agreement. The text of the proposed order shall be agreed upon by Direct Purchaser Plaintiff and Yazaki before submission of the Motion.

16. Direct Purchaser Plaintiff, at a time to be decided in its 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 the Settlement Class (the “Notice Motion”).

Consistent with Paragraph 27(b), in order to mitigate the costs of notice, the Direct Purchaser Plaintiff shall use its best efforts, if practicable, to disseminate notice with any other settlements reached with other defendants in this Action and to apportion costs of notice on a pro rata basis across the applicable settlements. The Notice Motion shall include a proposed form of, method for, and proposed dates of dissemination of notice.

17. Direct Purchaser Plaintiff shall seek, and Yazaki will not object unreasonably to, the entry of an order and final judgment, the text of which Direct Purchaser Plaintiff and Yazaki 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 described in Paragraph 8 pursuant to Rule 23 of the Federal Rules of Civil Procedure, solely for purposes of this Settlement as a settlement class;

(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 of the Federal Rules of Civil Procedure and directing its consummation according to its terms;

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

(d) reserving exclusive jurisdiction over the settlement and this Agreement, including the administration and consummation of this settlement, as well as over Yazaki, for the duration of its provision of Cooperation pursuant to this Agreement, to the United States District Court for

the Eastern District of Michigan;

(e) determining under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directing that the judgment of dismissal as to Yazaki shall be final; and

(f) providing that (i) the Court's certification of the Settlement Class is without prejudice to, or waiver of, the rights of any Defendant, including Yazaki, to contest certification of any other class proposed in the MDL Litigation, (ii) the Court's findings in this order shall have no effect on the Court's ruling on any motion to certify any class in the MDL Litigation or on the Court's rulings concerning any Defendant's motion; 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 or any Defendant's motion.

18. This Agreement shall become final when (i) the Court has entered a final order certifying the Settlement Class described in Paragraph 8 and approving this Agreement under Federal Rule of Civil Procedure 23(e) and has entered a final judgment dismissing the Action with prejudice as to Yazaki and without costs other than those provided for in this Agreement, and (ii) the time for appeal or to seek permission to appeal from the Court's approval of this Agreement and entry of a final judgment as to Yazaki described in (i) hereof has expired or, if appealed, approval of this Agreement and the final judgment as to Yazaki have been affirmed in their 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. It is agreed that the provisions of Rule 60 of the Federal Rules of Civil Procedure shall not be taken into account in determining the above-stated times. On the date that Direct Purchaser Plaintiff and Yazaki have executed this Agreement, Direct Purchaser Plaintiff and Yazaki shall be bound by its terms and this Agreement shall not be rescinded except in accordance with Paragraph 40 of this Agreement.

19. Neither this Agreement (whether or not it should become final) nor the final judgment, nor any and all negotiations, documents and discussions associated with them (including Cooperation Materials produced pursuant to this Agreement) shall be deemed or construed to be an admission by Yazaki, or evidence, of any violation of any statute or law or of any liability or wrongdoing whatsoever by Yazaki or the other Releasees, or used against Yazaki or the other Releasees as evidence 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 MDL Litigation, arbitration, or other proceeding, against Yazaki or any other Releasee. 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 Yazaki, 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, or as otherwise required by law. Nothing in this Paragraph shall prevent Direct Purchaser Plaintiff from using and/or introducing into evidence Cooperation Materials produced pursuant to Paragraphs 32-39, against any other defendants in the MDL Litigation, subject to the terms and conditions set forth in the Protective Order in the Action.

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

20. 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 18 of this Agreement, and in consideration of payment of the Settlement Amount, as specified in Paragraph 23 of this Agreement, into the Settlement Fund, and for other valuable consideration, 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 or local law of any jurisdiction in the United States, that Releasers, 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 arising out of, any and all known and 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 Execution Date alleged in the Complaint, or any act or omission of the Releasees (or any of them) alleged in the Complaint concerning price fixing, bid rigging, or supply or customer allocation of Instrument Panel Clusters, 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 (the "Released Claims"), provided however, that nothing herein shall release: (1) any claims based on indirect purchases of Instrument Panel Clusters; (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 similar claim relating to Instrument Panel Clusters; (3) claims made by any state, state agency, or instrumentality or political subdivision of a state as to government purchases and/or penalties; (4) claims brought outside the United States under United States law relating to purchases of Instrument Panel Clusters outside the United States that could not have been brought in the United States; (5) claims brought under laws other than those of the United States relating to purchases of Instrument Panel Clusters outside the United States; and (6) claims concerning any product other

than Instrument Panel Clusters. Releasors shall not, after the date of this Agreement, seek to establish liability against any Releasee as to, in whole or in part, any of the Released Claims unless the Agreement, for any reason, does not become final, or is rescinded or terminated.

21. In addition to the provisions of Paragraph 20 of this Agreement, Releasors hereby expressly waive and release, solely with respect to the Released Claims, upon this Agreement becoming final, any and all provisions, rights, and benefits, conferred by § 1542 of the California Civil Code, which states:

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 law 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 that are released pursuant to the provisions of Paragraph 20 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 Yazaki and Direct Purchaser Plaintiff have agreed to release pursuant to Paragraph 20, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts.

22. Yazaki and the other Releasees release any and all claims, rights or causes of action or liabilities whatsoever, whether based on federal, state, local, statutory or common law or any other law, rule or regulation, including both known claims and unknown claims (as set forth in Paragraphs 20 and 21), that have been or could have been asserted in the Action or in

any other action or proceeding by Yazaki or the Releasees or any of them or the successors and assigns of any of them against the Direct Purchaser Plaintiff, any Settlement Class Member, or their attorneys, which arise out of or relate in any way to the institution, prosecution, or settlement of the Action (except for claims to enforce the terms of the Agreement).

D. Settlement Amount.

23. Subject to the provisions hereof, and in full, complete and final settlement of the Action as provided herein, Yazaki Corporation, on behalf of Yazaki, shall pay the Settlement Amount. The Settlement Amount shall be paid by wire transfer into an escrow account in United States Dollars to be administered in accordance with the provisions of Paragraph 24 of this Agreement (the "Escrow Account"). Yazaki shall pay 28% of the Settlement Amount (\$2,156,000) within thirty (30) calendar days after preliminary approval of this Settlement and, within thirty (30) calendar days after the end of the period to request exclusion from the Settlement Class, shall pay the remainder of the Settlement Amount still due, if any, after accounting for all valid and timely exclusions, consistent with Paragraph 26 of this Agreement.

24. Escrow Account.

(a) An Escrow Account shall be maintained at PNC. Such escrow shall be administered under the Court's continuing supervision and control.

(b) All payments into the Escrow Account, including any income earned thereon, 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. Yazaki shall have no responsibility for, or liability in connection with, the Settlement Fund or Escrow Account, including, without limitation, the investment, administration, maintenance, or distribution thereof.

(c) The Settlement Fund held in the Escrow Account 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) Subject to the limitation set forth in Paragraph 27(a), reasonable disbursements for expenses associated with providing notice of the settlement to the Settlement Class, expenses for maintaining and administering the Settlement Fund, taxes, and expenses incurred in connection with taxation matters may be paid without approval from the Court and shall not be refundable to Yazaki in the event the Agreement does not become final, or is rescinded or terminated in accordance with the provisions hereof, to the extent such expenses have actually been expended or incurred. Any refund that becomes owed to Yazaki pursuant to Paragraph 26 may be paid out of the Escrow Account without approval from the Court. 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 Yazaki, a “relation back election” as described in Treas. Reg. § 1.468B-1(j) shall be made so as to enable the Escrow Account 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 from the Settlement Fund on any income earned on the funds in the Escrow Account, whether or not Final Approval has occurred. In the event federal or state income tax liability is finally assessed against and paid by Yazaki as a result of any income earned on the funds in the Escrow Account, Yazaki shall be entitled to reimbursement of such payment from the funds in the Escrow Account after approval of the Court and whether or not Final Approval has occurred. Yazaki will use reasonable efforts to resist any such assessment or payment. Except as set forth in this Paragraph, Yazaki 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 Yazaki 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 8, or if the Action is not certified as a class action for settlement purposes, or if the Agreement is rescinded or terminated, then all amounts paid by Yazaki into the Settlement Fund (other than costs expended or incurred in accordance with Paragraph 24(d)), shall be returned to Yazaki from the Escrow Account along with any interest accrued thereon within thirty (30) calendar days of (i) the Court's denial of final approval of the Agreement or Settlement Class, or (ii) the rescission or termination of this Agreement.

E. Exclusions.

25. Within ten (10) days after the end of the period to request exclusion from the Settlement Class, Settlement Class Counsel will cause copies of timely requests for exclusion from the Settlement Class to be provided to counsel for Yazaki. With respect to any potential Settlement Class Member who requests exclusion from the Settlement Class, Yazaki reserves all

of its legal rights and defenses, including, but not limited to, any defenses relating to whether the excluded Settlement Class Member is a direct purchaser of any allegedly price-fixed Instrument Panel Clusters or whether it has standing to bring any claim.

26. The Settlement Amount is subject to reduction based on valid and timely requests for exclusion in accordance with the terms set forth in a separate, confidential letter agreement between Yazaki and the Settlement Class. The confidential letter agreement may be provided to the Court for in camera review upon its request. Within forty-five (45) calendar days after the end of the period to request exclusion from the Settlement Class, any reduction in the Settlement Amount owed to Yazaki shall be returned to Yazaki from the Escrow Account along with any interest accrued thereon.

27. Payment of Settlement Expenses.

(a) Yazaki agrees to permit use of a maximum of \$75,000 (which limitation is effective up until the date of Final Approval of this Settlement) of the Settlement Fund for notice to the Settlement Class and the costs of administration of the Settlement Fund, as set forth in Paragraph 24(d). The notice and administration expenses (subject to the maximum set forth in this Paragraph 27) are not recoverable by Yazaki if this Settlement does not become final or is rescinded or 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 27, and in Paragraphs 24 and 32, Yazaki 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 any Special Master, appeals, trials or the negotiation of other settlements, or for class administration and costs.

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

(c) Within ten (10) days after entry of the Preliminary Approval Order or by such later date as the Court may set for other Defendants to provide such information, Yazaki will supply to Settlement Class Counsel, in an electronic mailing format, the names and addresses of putative Settlement Class Members to whom it has sold Instrument Panel Clusters during the Settlement Class Period to the extent they are identifiable through reasonable efforts, and to the extent not previously provided to Settlement Class Counsel.

F. The Settlement Fund.

28. Releasors shall look solely to the Settlement Fund for settlement and satisfaction, as provided herein, of all Released Claims against the Releasees, and shall have no other recovery against Yazaki or any other Releasee.

29. After this Agreement becomes final within the meaning of Paragraph 18, the Settlement Fund shall be distributed in accordance with a plan to be submitted to the Court at the appropriate time by 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 Fund, including, but not limited to, the costs and expenses of such distribution and administration except as expressly otherwise provided in Paragraphs 24(d) and 27 of this Agreement.

30. Direct Purchaser Plaintiff 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 24(d) and 27(a). Yazaki and the other Releasees shall not be liable for any costs, fees, or expenses of any of Direct Purchaser Plaintiff or the Settlement Class's respective attorneys, experts, advisors, agents, or representatives, but all such costs, fees, and expenses as approved by the Court, or authorized by Paragraphs 24(d) and 27, shall be paid out of the Settlement Fund.

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

(a) Subject to Court approval, Direct Purchaser Plaintiff 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. Incentive awards to the Direct Purchaser Plaintiff, 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 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 the Settlement does not become final or is rescinded or terminated.

(b) The procedure for and the allowance or disallowance by the Court of the application by Settlement Class Counsel for attorneys' fees, costs and expenses, and 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, and any order or proceeding relating to a request for attorneys' fees and reimbursement of expenses, 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 Yazaki nor any other Releasee under this Agreement shall have any responsibility for, or interest in, or liability whatsoever with respect to, any payment to Settlement Class Counsel of any fee or expense award in the Action.

G. Cooperation.

32. In return for the release and discharge provided herein, Yazaki agrees to pay the Settlement Amount and agrees to use its best efforts to provide satisfactory and timely Cooperation, at its expense except as otherwise provided herein, as set forth specifically in Paragraphs 32-39, until final judgment of all Instrument Panel Clusters claims by Direct Purchaser Plaintiff against each and every one of the Defendants in the Action or dismissal with prejudice of all Instrument Panel Clusters claims by Direct Purchaser Plaintiff against each and every one of the Defendants in the Action (“Termination Orders”), whichever is earlier.¹ Cooperation will take place consistent with the timing set forth specifically in Paragraphs 33-39 below, and in a manner that is in compliance with Yazaki’s obligations to the United States Department of Justice (“DOJ”), the Japanese Fair Trade Commission, and/or the European Commission (collectively referred to herein as “Government Entities”). Settlement Class Counsel will work with counsel for Yazaki to coordinate all Cooperation so as to avoid all unnecessary duplication and expense.

33. In the event that Yazaki produces Documents or provides declarations or written

¹ Yazaki’s Cooperation obligations shall continue until the time for appeal or to seek permission to appeal from the Court’s Termination Orders has expired or, if appealed, approval of the Termination Orders have been affirmed in their 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.

responses to discovery to any opposing party in the Action or in any other Instrument Panel Clusters action within 2:12-cv-00200 (a “Relevant Production”), Yazaki shall produce all such Documents, declarations, or written discovery responses to Settlement Class Counsel contemporaneously with making the Relevant Production to the extent such Documents, declarations or written discovery responses have not previously been produced by Yazaki to Settlement Class Counsel. This Agreement does not restrict Settlement Class Counsel from attending and/or participating in any depositions in this Action or in any other Instrument Panel Clusters cases. Yazaki will not object to Settlement Class Counsel attending and/or participating in depositions of Yazaki witnesses in any Instrument Panel Clusters case in the MDL Litigation, to the extent Settlement Class Counsel’s participation does not expand the time allotted for the deposition pursuant to applicable stipulations or orders in the MDL Litigation.

34. 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, Yazaki shall provide a privilege log, to the extent it already exists or comes into existence as a result of the MDL Litigation or otherwise (“Existing Privilege Log”) and was not previously produced by Yazaki to Settlement Class Counsel. No Document shall be withheld under a claim of privilege if produced to any Government Entity. If any Document protected by the attorney-client privilege, attorney work-product protection or any other privilege is accidentally or inadvertently produced to Settlement Class Counsel, upon notice by Yazaki of such inadvertent production, the Document shall promptly be destroyed and/or returned to Yazaki, the Document shall not be used by Settlement Class Counsel for any purpose, and its production shall in no way be construed to have waived any privilege or protection attached to such Document. This Agreement, together with the

Protective Order in this Action, bring any inadvertent production by Yazaki within the protections of Federal Rule of Evidence 502(d), and Settlement Class Counsel will not argue that production to any person or entity made at any time suggests otherwise. Any dispute regarding any claim of privilege shall be resolved by motion to the Court under Paragraph 46 of this Agreement.

35. In addition, Yazaki shall use its best efforts to cooperate with Settlement Class Counsel as set forth in Paragraphs 35(a)-35(c). To the extent reasonably practicable, any attorney proffers provided pursuant to the below obligations shall be coordinated with, and occur at the same time as, the attorney proffers to be provided in settlements of indirect purchaser claims entered into by Yazaki in the MDL Litigation and any related obligations that may arise from any other settlement.

(a) Within twenty (20) business days following preliminary approval of this Agreement, Yazaki's counsel will make themselves available in the United States for one (1) meeting of up to one (1) business day to provide an attorney's proffer to Settlement Class Counsel of facts known to them regarding Documents, witnesses, meetings, communications, agreements with competitors, events, background information and any other relevant topics not covered by privilege or other protections available under any applicable statute or United States law. This meeting shall be scheduled to take into account similar cooperation requirements under any other settlement executed between Yazaki and Settlement Class Counsel. Thereafter, Yazaki's counsel will make themselves available for reasonable follow-up conversations. It is understood that Yazaki 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, Yazaki 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. Upon reasonable written request from Settlement Class Counsel, Yazaki agrees to provide an affidavit or declaration attesting to information provided by Yazaki's counsel during the aforementioned proffer. Notwithstanding any other provision in this Agreement, Settlement Class Counsel shall maintain all statements made by Yazaki's counsel as "Highly Confidential," as said designation is described in the Protective Order in the Action, and shall not use the information so received for any purpose other than the prosecution of the Instrument Panel Clusters claims in the MDL Litigation, 12-md-02311. The parties and their counsel further agree that any statements made by Yazaki's counsel in connection with and/or as part of this Settlement, including the attorney's proffer referred to in this Paragraph 35(a), shall not be disclosed to any other party and shall be governed by Federal Rule of Evidence 408. Notwithstanding anything herein, Settlement Class Counsel may use information contained in such statements in the prosecution of the Instrument Panel Clusters claims in the MDL Litigation, 12-md-02311, 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 a reasonable opportunity for further investigation or discovery.

(b) In addition to its other Cooperation obligations set forth herein, Yazaki agrees to produce through affidavit(s) or declaration(s) and/or at trial, in Settlement Class Counsel's discretion, a representative qualified to authenticate, establish as business records, or otherwise establish any other necessary foundation for admission into evidence of any of Yazaki's Documents and transactional data produced or to be produced, and to the extent possible, any Documents produced by Defendants or third-parties in this Action. Settlement Class Counsel

agree to use their best efforts to obtain stipulations from any non-settling Defendants that would avoid the need to call any Yazaki witness at trial for the purpose of obtaining such evidentiary foundations. Should those efforts prove unsuccessful such that Settlement Class Counsel ultimately calls a Yazaki witness to testify at trial for the purpose of obtaining said evidentiary foundations, Settlement Class Counsel shall reimburse Yazaki for reasonable travel expenses incurred by any such witness in connection with his trial testimony, but in no event shall Settlement Class Counsel be responsible for reimbursing such person for time or services rendered.

(c) Direct Purchaser Plaintiff and Settlement Class Counsel agree they will not use the information provided by Yazaki or the other Releasees or their representatives under this Agreement for any purpose other than the prosecution of claims in the MDL Litigation, and will use it in the Action and any other case in the MDL Litigation consistent with the Protective Order in the Action, and will not use it beyond what is reasonably necessary for the prosecution of claims in the MDL Litigation or as otherwise required by law. All Documents and other Cooperation Materials provided pursuant to this Agreement shall be governed by the terms of the Protective Order in the Action.

36. Yazaki's obligations to provide Cooperation shall not be affected by the releases set forth in this Settlement Agreement. Unless this Agreement is rescinded, disapproved, or terminated, Yazaki's obligations to provide Cooperation under this Agreement shall continue in accordance with the provisions of Paragraphs 32-39.

37. In the event that this Agreement fails to receive final approval by the Court as contemplated in Paragraphs 14-18 hereof, including final approval of the "Settlement Class" as defined in Paragraph 8, or in the event that it is rescinded or terminated by either party under any

provision herein, the parties agree that neither Direct Purchaser Plaintiff nor Settlement Class Counsel shall be permitted to introduce into evidence against Yazaki, at any hearing or trial, or in support of any motion, opposition or other pleading in the Action or in any other federal or state or foreign action alleging a violation of any law relating to the subject matter of the Action, any Cooperation Materials (as opposed to from any other source or pursuant to a court order). This limitation shall not apply to any discovery of Yazaki which Settlement Class Counsel participates in as part of MDL 2311. Notwithstanding anything contained herein, Direct Purchaser Plaintiff and the Settlement Class are not relinquishing any rights to pursue discovery against Yazaki in the event that this Agreement fails to receive final approval by the Court as contemplated in Paragraphs 14-18 hereof, including final approval of the "Settlement Class" as defined in Paragraph 8, or in the event that it is terminated by either party under any provision herein.

38. Yazaki need not respond to discovery requests made pursuant to the Federal Rules of Civil Procedure from Direct Purchaser Plaintiff or otherwise participate in the Action during the pendency of the Agreement, including responding to any document production and other discovery deadlines ordered in the Action. This withdrawal of discovery and pending motions shall be without prejudice to reinstating such discovery or motions if this Agreement fails to receive final approval by the Court or in the event that it is terminated by either party under any provision herein. Other than to enforce the terms of this Agreement, neither Yazaki nor Direct Purchaser Plaintiff shall file motions against the other, in the Action, during the pendency of the Agreement.

39. If Settlement Class Counsel believes that Yazaki has refused to use its best efforts to cooperate under the terms of this Agreement, Settlement Class Counsel may seek an order

from the Court compelling Yazaki to use best efforts. Nothing in this provision shall limit in any way Yazaki'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.

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

40. If the Court refuses to approve this Agreement or any part hereof, including if the Court does not certify a settlement class in accordance with the specific Settlement Class definition set forth in Paragraph 8 of 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 17 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 Yazaki and Direct Purchaser Plaintiff shall each, in their sole discretion, have the option to rescind this Agreement in its entirety. The provisions of Paragraphs 24(d) and 27(a) of this Agreement shall remain in effect in the event this Agreement is rescinded. Written notice of the exercise of any such right to rescind shall be made according to the terms of Paragraph 51. 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.

41. In the event that this Agreement does not become final as set forth in Paragraph 18, or this Agreement otherwise is rescinded or terminated pursuant to Paragraph 40, 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 Account (including interest earned thereon) shall be returned forthwith to Yazaki less only disbursements made, or the amount of obligations incurred in accordance with Paragraphs 24(d) and 27(a) (subject to the maximum of \$75,000 for notice and

administration expenses in this Action) of this Agreement. Yazaki and Direct Purchaser Plaintiff expressly reserve all their respective rights and defenses if this Agreement does not become final.

42. 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 in exchange for the payment of the Settlement Amount and Cooperation by Yazaki.

I. Miscellaneous.

43. Yazaki 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.

44. Yazaki, Direct Purchaser Plaintiff, and Settlement Class Counsel agree not to disclose publicly or to any other person the terms of this Agreement at any time before Direct Purchaser Plaintiff submits its motion for preliminary approval of this Settlement.

45. This Agreement does not settle or compromise any claim by Direct Purchaser Plaintiff or any Settlement Class Member asserted in the Complaint or, if amended, any subsequent Complaint, against any Defendant or alleged co-conspirator other than Yazaki and the other Releasees. All rights against such other Defendants or alleged co-conspirators are specifically reserved by Direct Purchaser Plaintiff 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 Yazaki and the other Releasees, for sales made by Yazaki and Yazaki's alleged illegal conduct are specifically reserved by Direct Purchaser Plaintiff and Settlement Class Members. Yazaki's sales to the class and its alleged illegal conduct shall, to the extent permitted or authorized by law, remain in the Action as a potential

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 Yazaki and the other Releasees. Yazaki shall not be responsible for any payment to Direct Purchaser Plaintiff other than the Settlement Amount.

46. The United States District Court for the Eastern District of Michigan 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 Plaintiff and Yazaki, 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. Yazaki will not object to complying with any of the provisions outlined in this Agreement on the basis of jurisdiction.

47. This Agreement constitutes the entire, complete and integrated agreement among Direct Purchaser Plaintiff and Yazaki pertaining to the settlement of the Action against Yazaki, and supersedes all prior and contemporaneous undertakings, communications, representations, understandings, negotiations and discussions, either oral or written, between Direct Purchaser Plaintiff and Yazaki in connection herewith. This Agreement may not be modified or amended except in writing executed by Direct Purchaser Plaintiff and Yazaki, and approved by the Court.

48. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of Direct Purchaser Plaintiff and Yazaki. Without limiting the generality of the foregoing, upon final approval of this Agreement, each and every covenant and agreement made herein by Direct Purchaser Plaintiff or Settlement Class Counsel shall be binding upon all

Settlement Class Members and Releasers. The Releasees (other than the Yazaki entities that are parties hereto) are third-party beneficiaries of this Agreement and are authorized to enforce its terms applicable to them.

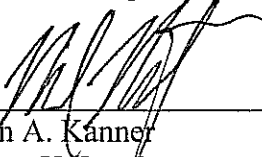
49. This Agreement may be executed in counterparts by Direct Purchaser Plaintiff and Yazaki, and a facsimile or scanned signature shall be deemed an original signature for purposes of executing this Agreement.

50. Neither Direct Purchaser Plaintiff nor Yazaki 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.

51. 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.

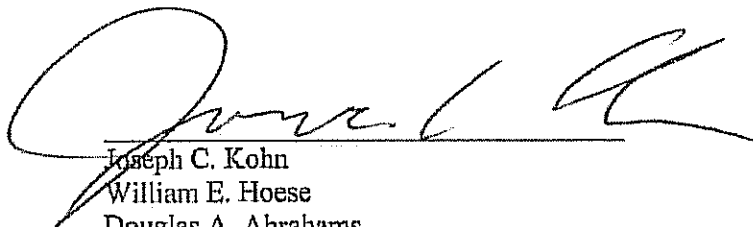
52. Each of the undersigned attorneys represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Agreement subject to Court approval.

Dated: December 27, 2016



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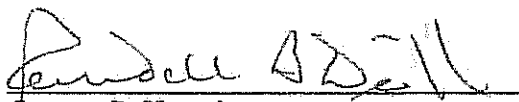
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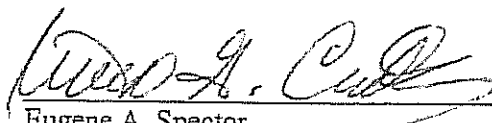
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