

Version anglaise de la Transaction

Voir ci-joint.

CANADA

SUPERIOR COURT
(Class Actions)

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL
No. 500-06-001186-226

CONSTANTIN SULTANA

Applicant

v.

TOYOTA CANADA INC.

Respondent

SETTLEMENT AGREEMENT

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I. PREAMBLE

WHEREAS Constantin Sultana (the "**Plaintiff**") filed a *Demande pour autorisation d'exercer une action collective et pour être représentant* on May 19, 2022, which was later amended and re-amended (the "**Application for Authorization**"), against Toyota Canada Inc. (the "**Toyota**", and together with the Plaintiff, the "**Parties**") before the Superior Court of Quebec, Judicial District of Montreal, in the court file bearing the docket number 500-06-001186-226 (the "**Class Action**");

WHEREAS, in the Application for Authorization, the Plaintiff alleges that certain 2019 to 2022 model year Toyota and Lexus vehicles are affected by a defect in the hybrid wiring system, which in some cases can cause premature corrosion and failure;

WHEREAS Toyota denies any wrongdoing of any kind and all liability including any liability for monetary compensation or reparation in kind to the Members (as defined hereinafter) and opposes the authorization of the Class Action, including any of the relief sought;

WHEREAS, during the hearing of the Application for Authorization, the Court commented that the Class Action could likely be resolved through a negotiated settlement, before judgment on the Application for Authorization is rendered;

WHEREAS the Plaintiff, representing the Members, and Toyota have agreed to enter into a binding settlement in order to achieve a full and final resolution of the Class Action, taking into account the uncertainty, risk, delay and costs inherent to litigation;

WHEREAS Toyota has already begun to implement a Warranty Enhancement Program to address the issue alleged in the Application for Authorization, and this program has been progressively rolled out on the basis of availability of replacement parts;

WHEREAS, subject to the terms hereunder and the Court's approval of this Settlement, Toyota undertakes to extend and publicize the Warranty Enhancement Program for all Eligible Members by April 30, 2024;

WHEREAS the Parties have agreed that this Settlement would be a national settlement and Plaintiff has therefore agreed to amend the Application for Authorization to modify the current Quebec only class to a national class;

WHEREAS the Parties agree that the settlement provided for under this Settlement is fair, reasonable, adequate, and in the best interests of the Parties and the Members;

WHEREAS this settlement and Court approval thereof do not constitute any admission of liability on the part of Toyota or an acknowledgement by Toyota that any damages were caused to the Members;

WHEREAS, for the purpose of settlement only and contingent on approvals by the Court as provided for in this Settlement, Toyota will not oppose authorization of the Class Action;

IN CONSIDERATION OF THE FOREGOING, THE PLAINTIFF AND TOYOTA AGREE AS FOLLOWS:

II. DEFINITIONS

Unless a different meaning is indicated by the context, the following definitions shall apply to the Settlement and its Schedules. Words or phrases importing a number shall be construed such that the singular includes the plural and vice-versa. Similarly, words or phrases importing the masculine gender shall be construed as including the feminine gender and vice-versa, where appropriate;

- (a) "**Alleged Issue**" means the issue detailed in the Technical Description of the Alleged Issue (Schedule "C" hereto).
- (b) "**Amendment, Authorization, and Notices Approval Application**" means an *Application for Leave to Amend the Application for Authorization, for Authorization to Institute a Class Action for Settlement Purposes, and for the Approval of Notices to Class Members*, which application will provide, inter alia, that the class definition in the Application for Authorization will be amended to correspond to the definition of "Class" herein, such that the class definition (i) will cover all of Canada instead of Quebec, (ii) will exclude the phrase "Prius 2019-2022 with all-wheel drive", and (iii) will add "+" immediately following the term "NX450h".
- (c) "**Approval Application**" means an *Application for the Approval of the Settlement and Approval of Class Counsel Fees*,

- (d) **"Approval Hearing"** means the hearing to be presided over by the Court for the purpose of determining whether the Approval Application made pursuant to Article 590 of the *Code of Civil Procedure* and in accordance with paragraphs 20 to VII.22 of the Settlement is to be granted. For greater certainty, nothing in this Settlement prevents the Parties from holding separate hearings for approval of the Settlement and of Class Counsel Fees, respectively;
- (e) **"Class"** means the class defined in the Application for Authorization, excluding the phrase "*Prius 2019-2022 with all-wheel drive*"¹, replacing the word "*Quebec*" with the word "*Canada*", and adding "+" immediately following the word "*NX450h*"², namely:
- "Any individual, corporation, partnership or association that owns or leases, or has owned or leased, the following Toyota vehicles in [Canada]:*
- Highlander hybrid 2020-2022,*
- [...]
- RAV4 hybrid 2019-2022, RAV4 Prime 2021-2022*
- Venza hybrid 2021-2022;*
- Sienna hybrid 2021-2022*
- Or the past or present owner or lessee of the following Lexus vehicle:*
- NX350h hybrid and NX450h[+] plug-in hybrid 2022."*
- (f) **"Class Counsel"** means Mtre Fredy Adams of Adams Avocat Inc.;
- (g) **"Class Counsel Fees"** means Class Counsel fees (plus GST and QST) and disbursements, inclusive of any and all claimable Class Counsel judicial fees, all extra-judicial fees, costs and disbursements, such amount being subject to Court approval;
- (h) **"Counsel for Toyota"** means Stikeman Elliott LLP;
- (i) **"Court"** means the Superior Court of Quebec sitting in the District of Montreal;
- (j) **"Days"** means calendar days;
- (k) **"Documents"** means, irrespective of the medium, all pleadings, proceedings, affidavits, exhibits, transcripts of examinations, replies to undertakings, hearing or case management conference call minutes and related transcripts, if any, letters and emails exchanged between Counsel Toyota and Class Counsel or between the latter and the Court in relation to this Class Action;
- (l) **"Effective Date"** means the date on which the Judgment Approving the Settlement becomes final;
- (m) **"Eligible Member"** means a Member who has not exercised a Right of Exclusion as communicated to Counsel for Toyota by Class Counsel pursuant to the Settlement;
- (n) **"Exclusion Period"** means a period of thirty (30) Days following publication of the Notice of Approval Hearing authorized by the Court, during which time Members who so desire may exclude

¹ As appears from Schedule C, the Alleged Issue does not affect 2019-2022 Toyota Prius AWD vehicles, which do not share the same hybrid drive design as the Subject Vehicles.

² There is no model "NX450h"; the "NX450h+" is included in the Subject Vehicles.

themselves from the Class and the Settlement. If the Exclusion Period ends on a Saturday or a non-judicial Day, such period may be extended until midnight of the next following judicial Day;

- (o) **"Exclusion Procedure"** means the procedure for exercising the Right of Exclusion in accordance with the terms and conditions set out in paragraph 17 of the Settlement;
- (p) **"Judgment Approving the Settlement"** means the Court judgment approving the Settlement and Class Counsel Fees;
- (q) **"Judgment Authorizing the Amendment and Notice Program"** means the judgment approving the Amendment, Authorization, and Notices Approval Application;
- (r) **"Member"** means any individual, corporation, partnership or association that is included in the definition of the Class.
- (s) **"Notice of the Approval Hearing"** means the notice described in paragraph 11 of the Settlement notifying the Members of the Approval Hearing (Schedule "A" (French) and Schedule "B" (English) hereto);
- (t) **"Notice Program"** means the plans approved by the Court for the dissemination of the Notice of the Approval Hearing;
- (u) **"Objection"** means an objection by an Eligible Member to the Settlement made in the manner and within the time frame specified by the Court, or if none is specified by the Court, by applicable legislation, in accordance with Article 590 of the *Code of Civil Procedure*, based on the terms and conditions proposed in paragraph 23 of the Settlement;
- (v) **"Parties"** means the Plaintiff and Toyota;
- (w) **"Right of Exclusion"** means the right of an Member to exclude himself or herself from the Settlement in accordance with the terms and conditions set out in paragraphs 15 to 19 of the Settlement;
- (x) **"Schedules"** means any and all of the documents that the Parties have attached to the Settlement and that are identified in paragraph 45 of the Settlement together with any other document that the Parties may attach hereto with the Court's approval. However, the Parties may make amendments to the form and content of the Schedules, provided such amendments comply with the provisions of the Settlement;
- (y) **"Settlement"** means this transaction agreement, including the Schedules and subsequent amendments thereto, together with any other subsequent agreement that the Parties may see fit to add hereto subject to the Court's approval;
- (z) **"Subject Vehicle"** means the following vehicles, which may be susceptible to the Alleged Issue and which are eligible for the WEP (as defined herein):
 - a. 2019-2022 Toyota RAV4 HV AWD
 - b. 2021-2022 Toyota RAV4 Prime
 - c. 2020-2022 Toyota Highlander HV AWD
 - d. 2021-2022 Toyota Sienna HV AWD
 - e. 2021-2022 Toyota Venza HV

f. 2022 Lexus NX 350h/450h+

- (aa) “WEP” means the Warranty Enhancement Program detailed at Schedule “D” hereto, which extends the manufacturer’s warranty for Subject Vehicles to eight (8) years or 160,000kms, whichever comes first, from the date of first use of the Subject Vehicle, and provides for repairs related to the Alleged Issue only;

III. SCOPE AND EXTENT OF THE SETTLEMENT

1. The preamble forms an integral part of the Settlement.
2. Through the Settlement, the Parties wish to settle among themselves and on behalf of the Members any and all claims, allegations or causes of action of whatsoever nature arising directly or indirectly out of any of the facts or causes of action alleged in the proceedings relating to the Class Action, the supporting exhibits or the Documents, in accordance with the terms and conditions of the Settlement.
3. The Settlement is conditional upon the Court approving it in its entirety, with the exception of paragraphs 10 and 29 to 32 of the Settlement, failing which the Settlement will be null and void and will not give rise to any right or obligation in favour of or against the Parties and the Members unless both Parties, acting in their sole discretion, agree to accept any variation of the Settlement that might be imposed by the Court.
4. The Parties undertake to cooperate and make and deploy all efforts and means necessary or useful to justify the Settlement and to support and demonstrate its fairness and reasonableness with a view to obtaining Court approval of the Settlement and to make joint representations to the Court in the hearings for the purposes of obtaining the Judgment Authorizing the Amendment and Notice Program and the Judgment Approving the Settlement.
5. Whether or not this Settlement is terminated or approved, this Settlement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement, and any action taken to carry out this Settlement:
 - (a) shall not be deemed, construed or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by Toyota, or of the truth of any of the claims or allegations contained in the Class Action or any other pleading filed by the Plaintiff;
 - (b) shall not be referred to, offered as evidence or received in evidence in any pending or future action or proceeding, except in a proceeding to authorize the Class Action, approve or enforce this Settlement or to defend against the assertion of released claims, or as otherwise required by law.

IV. SETTLEMENT

6. Toyota undertakes to complete the following within thirty (30) Days of the Effective Date or any time earlier at Toyota’s sole discretion:
 - (a) extend the application of the WEP to all Subject Vehicles, such that appropriate repairs required on a Subject Vehicle due to the Alleged Issue, as specified in the documentation issued by Toyota to its Canadian dealers for the vehicle in respect of the WEP, shall be performed free of charge by Toyota, its dealers, or its agents for a period of one hundred and sixty thousand (160,000) kilometers or eight (8) years from the date of first use of the Subject Vehicle, whichever comes first; and

- (b) inform all Eligible Members in writing to the email address associated with each Eligible Member for whom such address is known to Toyota, and to the mailing address of all Eligible Members for whom an email address is not known to Toyota, unless Toyota knows of neither an email address or a mailing address for such Eligible Member, the whole as approved by the Court in the Judgment Authorizing the Class Action and Approving the Settlement, that their Subject Vehicle is covered by the WEP.

- 7. The Parties hereby acknowledge that Toyota's records do not necessarily contain the identities of subsequent owners of Subject Vehicles that have been resold by their original owners, as Toyota depends on voluntary disclosure of such transactions. Accordingly, Toyota shall be deemed to have satisfied its notice obligations to Members pursuant to this Settlement by giving notice to the last registered owner or lessee of a Subject Vehicle in Toyota's records.

V. PROCEDURE FOR PRE-APPROVAL OF THE SETTLEMENT

- 8. Class Counsel will file with the Court the Amendment, Authorization, and Notices Approval Application, presentable at a date to be determined with the Court.

- 9. At the hearing of the Amendment, Authorization, and Notices Approval Application, Class Counsel and Counsel for Toyota will make joint representations to the Court with a view to obtaining the Judgment Authorizing the Amendment and Notice Program.

- 10. The Parties acknowledge that the Court may amend the wording and the terms for the dissemination and publication of the Notice of the Approval Hearing, which will not be grounds for nullity or termination of the Settlement, unless such amendments entail a substantive change to the terms and conditions of the Settlement.

- 11. The Notice of the Approval Hearing will indicate, in particular, the following:

- (a) The existence of the Class Action and the definition of the Class;
- (b) The fact that the Settlement has taken place and will be submitted to the Court for approval, specifying the date, time and place of the Approval Hearing;
- (c) The nature of the Settlement and the method of execution chosen;
- (d) For all members, the right to be heard before the Court in regard to the Settlement and to make representations before the Court regarding the Settlement;
- (e) For members outside of Quebec, the right to send written submissions to Counsel for Toyota and Class Counsel, who undertake to inform the Court thereof;
- (f) The Right of Exclusion and the Exclusion Procedure;
- (g) The fact that the Notice of the Approval Hearing will be the only notice that the Members will receive in regard to the Settlement.

- 12. The Notice of the Approval Hearing will be published and disseminated in the following manner:

- (a) within ten (10) Days following the Judgment Authorizing the Amendment and Notice Program, Toyota will send the Notice of the Approval Hearing to all Members to the email address associated with each Member for whom such address is known to Toyota, and to the mailing address of all Members for whom an email address is not known to Toyota, unless Toyota knows of neither an email address or a mailing address for such Member, the whole at Toyota's expense;

- (b) within ten (10) Days following the Judgment Authorizing the Amendment and Notice Program, Class Counsel will create a website or webpage containing an electronic version of the Notice of the Approval Hearing, the Settlement and Schedules, and any press releases published by the Plaintiff or Class Counsel in accordance with the conditions of the Settlement, the whole at the expense of Class Counsel;
 - (c) posting, with the Settlement, on the Quebec Class Action Registry of the Court; and
 - (d) posting, with the Settlement, on the National Class Action Database of the Canadian Bar Association.
13. Within fifteen (15) Days following the Judgment Authorizing the Amendment and Notice Program, the Plaintiff or Class Counsel may publish a press release in the form of the Notice of the Approval Hearing, unless agreed to the contrary and subject to this Settlement, no further press releases will be published thereafter by the Plaintiff or Class Counsel in connection with the filing of the Amendment, Authorization, and Notices Approval Application or the Judgment Authorizing the Amendment and Notice Program. The Plaintiff and Class Counsel undertake to give Toyota, in accordance with paragraph 55 of the Settlement, forty-eight (48) hours' notice in advance of the publication, dissemination or communication of the press release. Notice must be given to Counsel for Toyota between 9:00 a.m. and 5:00 p.m. ET on a business day.
14. Should the Court (i) refuse to grant the Amendment, Authorization, and Notices Approval Application, or (ii) refuse to authorize the publication of the Notice of the Approval Hearing unless substantive changes to the terms and conditions of the Settlement are made, or (iii) make changes to the Notice of the Approval Hearing that substantially increase costs, or (iv) require any other changes that have an impact on the implementation and execution of the Settlement, the Settlement will be null and void and will not give rise to any right or obligation in favour of or against the Parties.

VI. EXCLUSION FROM THE SETTLEMENT

15. Members have the right to exclude themselves from the Settlement.
16. Exercise of the Right of Exclusion by a Member of the Class entails the loss of the right to benefit from the Settlement and the loss of the status of Eligible Member.
17. A Member wishing to exercise his or her Right of Exclusion must, before the expiry of the Exclusion Period, send, by registered or certified mail addressed to the clerk of the Superior Court of Quebec (at the address below) a written request for exclusion duly signed by the Member containing the following information:
- (a) The Court and Court docket number;
 - (b) The name and contact information of the Member who is exercising his or her Right of Exclusion;
 - (c) An affirmation that the Member is the current or former owner or lessee of a Subject Vehicle;
 - (d) The Member's email address;

The request for exclusion must be conveyed and received by the Court before the expiry of the Exclusion Period to the following address:

Greffe de la Cour supérieure du Québec
PALAIS DE JUSTICE DE MONTRÉAL
1 Notre-Dame Street East
Room 1.120
Montreal, Quebec, H2Y 1B5

Reference:
Sultana v. Toyota Canada Inc.
Class Action
S.C.M. no. 500-06-001186-226

With a copy to Class Counsel at the following address:

Adams Avocat Inc.
M^{TRE} FREDY ADAMS
1255 Robert-Bourassa Blvd, Suite 1416
Montréal, QC, H3B 3X1

18. Members who have not exercised the Right of Exclusion according to the Exclusion Procedure before the expiry of the Exclusion Period will be irrevocably deemed to have chosen to participate in the Settlement and will be bound by the terms of the Settlement following its approval by the Court and by all judgments or orders subsequently issued by the Court, if any.
19. Within ten (10) Days following the expiry of the Exclusion Period, Class Counsel shall inform Counsel for Toyota of any Member who has exercised his or her Right of Exclusion and provide a copy of all requests for exclusion received during the Exclusion Period.

VII. PROCEDURE FOR APPROVAL OF THE SETTLEMENT

20. After publication of the Notice of the Approval Hearing, Class Counsel will file with the Court an Approval Application for the purpose of proceeding to the Approval Hearing.
21. The Approval Application will be served by Class Counsel on the *Fonds d'aide aux actions collectives* in accordance with the provisions of the *Code of Civil Procedure*, the *Act respecting the Fonds d'aide aux actions collectives* and the *Regulation of the Superior Court in Civil Matters* in sufficient time before the Approval Hearing.
22. At the Approval Hearing, Class Counsel and Counsel for Toyota will make joint representations before the Court to obtain the Judgment Approving the Settlement, namely that the Settlement is fair, reasonable, and in the best interests of the Parties and the Members. For greater certainty, Counsel for Toyota will not make any representations with respect to Class Counsel Fees other than in accordance with paragraph 32 of the Settlement.
23. Members who so wish may raise an Objection before the Court at the Approval Hearing, provided that they did not exercise their Right of Exclusion. In this regard, Members who wish to raise an Objection are required to inform Class Counsel and Counsel for Toyota in writing of the reasons for their Objection at least five (5) Days before the Approval Hearing, by communicating a document containing the following information:
 - (a) The Court and Court docket number;
 - (b) The name and contact information of the Member who is raising an Objection;

- (c) An affirmation that the Member is the current or former owner or lessee of a Subject Vehicle;
 - (d) The Member's email address;
 - (e) A brief description of the reasons for the Member's Objection;
24. The Objection must be conveyed before the expiry of the Exclusion Period to the addresses mentioned in paragraph 55 of the Settlement.
25. Within five (5) Days following the Effective Date, the Plaintiff and Class Counsel may publish a press release announcing the approval of the Settlement. Unless agreed to the contrary, no further press releases will be published thereafter by the Plaintiff or Class Counsel in connection with the Settlement without providing Toyota forty-eight (48) hours' notice in advance of the publication, dissemination or communication of the press release. Notice must be given to Counsel for Toyota between 9:00 a.m. and 5:00 p.m. ET on a business day.
26. Within fifteen (15) days following the Effective Date, Toyota shall provide all automobile dealers in Canada associated with Toyota with a notice describing the WEP and shall request that it be displayed in their respective premises for six (6) months following the Effective Date. The notice shall provide clearly visible information regarding the extension of the base warranty for Subject Vehicles, the list of vehicle models concerned, and the conditions for the WEP to apply.
27. Notwithstanding Article 591 of the *Code of Civil Procedure*, the Notice of the Approval Hearing will be the only notice the Members will receive in regard to the Settlement.
28. Should the Court refuse to grant the Approval Application or refuse to approve the Settlement in whole or in part, save and except with regards to the Class Counsel Fees or the application of the *Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives* to the Settlement, the Settlement will be null and void and will not give rise to any right or obligation in favour of or against the Parties.

VIII. FEES AND DISBURSEMENTS OF CLASS COUNSEL

29. Toyota will pay Class Counsel Fees in the agreed upon amount of C\$700,000.00 plus GST, QST, and disbursements in the amount of C\$10,202.90, or any lesser amounts approved by the Court.
30. Class Counsel Fees represent any and all claimable Class Counsel judicial fees and are inclusive of all professional fees, costs and disbursements and are to be approved by the Court at the Approval Hearing. Toyota shall pay Class Counsel Fees by cheque or wire transfer and Class Counsel shall provide and invoice and all necessary banking information to complete said wire transfer upon request.
31. In consideration of payment of the Class Counsel Fees, Class Counsel will not, directly or indirectly, claim from Toyota or the Members any other fees, costs or disbursements of any kind or based on any source, nor will Class Counsel participate or be involved, directly or indirectly, in any class action arising in whole or in part from any of the facts or causes of action alleged in the Class Action or the Documents.
32. At the Approval Hearing, Toyota will represent that it has agreed to pay Class Counsel Fees pursuant to this Settlement.

IX. RELEASE AND DISCHARGE AND CONSIDERATION OF THE PLAINTIFF

33. The Parties agree to the following release and waiver, which shall take effect upon the occurrence of the Effective Date.
34. In consideration for the Settlement, the Plaintiff and each Eligible Member, on behalf of themselves and their agents, mandataries, representatives, heirs, successors and assigns, if any, hereby give a full, general, irrevocable and final release and discharge to Toyota, its affiliates, related entities, subsidiaries, and their respective mandataries, agents, representatives, partners, insurers, reinsurers, shareholders, employees, officers, directors, professionals, staff, contractors, successors and assigns (collectively the “**Released Parties**”), for any past, current or future claim, suit or cause of action of any kind whatsoever, including experts' fees, disbursements, judicial fees, solicitor-client fees, and legal fees, that the Class Counsel, the Plaintiff and the Members had, have or may have, directly or indirectly, arising out of, related to, arising in connection with or resulting or stemming from any of the facts or causes of action alleged in the proceedings relating to the Class Action, the supporting exhibits or the Documents, except to enforce terms and conditions contained in this Settlement (the “**Release**”).
35. The Plaintiff and each Eligible Member expressly agree that this Release and the Approval Judgment are, will be, and may be raised as a complete defense to, and will preclude any action or proceeding encompassed by this Release.
36. If an Eligible Member commences, files, initiates, or institutes any new legal action or other proceeding against a Released Party for any claim released in this Settlement in any court, arbitral tribunal, or administrative or other forum, Released Parties will be entitled to invoke this Settlement in order to move for such legal action or proceeding to be dismissed with prejudice at the Eligible Member's cost (as provided by law).
37. Plaintiff represents and warrants that he is the sole and exclusive owner of all claims that he personally is releasing under this Settlement. Plaintiff further acknowledges that he has not assigned, pledged, or in any manner whatsoever sold, transferred, assigned or encumbered any right, title, interest or claim arising out of or in any way whatsoever pertaining to the Class Action, including without limitation, any claim for benefits, proceeds or value under the Class Action, and that Plaintiff is not aware of anyone other than him claiming interest, in whole or in part, in the Class Action or in any benefits, proceeds or values under the Class Action.
38. No provision of the Settlement will constitute or be deemed to constitute or be construed as constituting a waiver by Toyota of any right or defence against any claim, suit or cause of action of a Member who has exercised the Right of Exclusion or a waiver by Toyota of any right or defence in contesting the Class Action should the Settlement not be approved by the Court or otherwise become null and void owing to the application of any of the provisions of the Settlement.
39. No provision of the Settlement will constitute or be deemed to constitute or be construed as constituting a waiver by the Plaintiff and the Eligible Members of any right, claim, suit or cause of action against Toyota should the Settlement not be approved by the Court or otherwise become null and void owing to the application of any of the provisions of the Settlement.
40. None of the obligations, of whatever kind, assumed by Toyota and Counsel for Toyota in executing the Settlement nor the consent of Toyota to the Settlement taking place or to the Court issuing the Judgment Authorizing the Amendment and Notice Program and the Judgment Approving the Settlement, shall constitute in any manner an admission of liability by Toyota.
41. Should the Court approve the Settlement and Toyota perform all of its obligations arising from the Settlement, Plaintiff and Class Counsel agree not to institute, directly or indirectly, any suit, complaint, action or claim, arising out of, related to, arising in connection with or resulting or

stemming from any of the facts or causes of action alleged in any of the proceedings relating to the Subject Vehicles, as described in the Class Action, the supporting exhibits or the Documents.

X. TERMINATION

42. In the event that:

- (a) the Court does not grant the Amendment and Notice Approval Application; or
- (b) the Court does not grant the Approval Application or declines to approve any material part hereof or approves this Settlement in a materially modified form;

this Settlement shall be terminated and, except as provided for in paragraph 44 of the Settlement, it shall be null and void and have no further force or effect, shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation.

43. In the event that:

- (a) the Judgment Authorizing the Amendment and Notice Program or the Judgment Approving the Settlement is appealed from; or
- (b) any orders approving this Settlement made by the Court do not become final orders;

Toyota shall have, in its sole discretion, the option of declaring this Settlement null and void and, except as provided for in paragraph 44 of the Settlement, it shall have no further force or effect, shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation.

44. If this Settlement is terminated:

- (a) no application to authorize the Class Action as a class proceeding on the basis of this Settlement shall proceed and the Parties shall return to their state prior to the execution of this Settlement;
- (b) any and all orders authorizing the Class Action on the basis of this Settlement shall be set aside and declared null and void and of no force or effect, and all persons shall be estopped from asserting otherwise; and
- (c) within ten (10) Days of such termination having occurred, Class Counsel shall destroy all documents or other materials provided by Toyota or containing or reflecting information derived from such documents or other materials received from Toyota during negotiations relating to the Settlement and, to the extent Class Counsel has disclosed any documents or information provided by Toyota to any other person, shall recover and destroy such documents or information. Class Counsel shall provide Toyota with a written confirmation of such destruction.

XI. SCHEDULES

45. The following Schedules form an integral part of the Settlement and are incorporated therein as if they were recited at length therein:

- (a) **Schedule "A" (French):** Avis d'audience d'approbation;
- (b) **Schedule "B" (English):** Notice of the Approval Hearing;
- (c) **Schedule "C":** Technical Description of the Alleged Issue;

(d) **Schedule “D”**: WEP

XII. FINAL PROVISIONS

46. The Settlement and the Schedules hereto constitute the full and entire Settlement between the Parties.
47. The Settlement and the Schedules hereto supersede all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements and agreements in principle in connection herewith. Neither Party will be bound by any prior obligations, conditions or representations with respect to the subject matter of this Settlement, unless expressly incorporated herein.
48. The Settlement constitutes the full and final settlement of any and all disputes between the Parties and the Members concerning the Class Action and constitutes a transaction within the meaning of Articles 2631 and following of the *Civil Code of Québec*.
49. The Settlement will not be considered to constitute any admission or acknowledgment by either Party of the validity of any right, claim or defence.
50. The purpose of the Settlement is to settle the Class Action and must be considered as an inseparable and indivisible whole, and each and every one of its provisions is intrinsically related to and dependent on the others.
51. The Court has exclusive jurisdiction regarding the implementation, execution, interpretation, management and application of the Settlement and its Schedules, and any litigation that may arise therefrom. The Settlement and its Schedules will be governed by and construed in accordance with the laws in force in the Province of Quebec and the Parties submit to the exclusive jurisdiction of the Superior Court of Quebec in this regard.
52. In the event of a discrepancy between the wording of the notices to Members and the Settlement, the wording of the Settlement will take precedence.
53. All costs associated with the implementation and execution of the Settlement that have not been specifically provided for by the Settlement, if any, will be borne by the Party that has incurred them and their reimbursement may not be claimed from the other Party.
54. To the extent that any provision or term of this Settlement provides for the consent, agreement or approval of the Plaintiff or Members, the Parties or Class Counsel, the Plaintiff acknowledges and agrees that Class Counsel is authorized to give such consent, agreement or approval and that the Plaintiff and Members will be bound by such consent, agreement or approval.
55. Any communication to a party with respect to the implementation and execution of the Settlement will be in writing, by mail, fax, or email and will be addressed as follows:

To the attention of the Plaintiff, the Class, or Class Counsel:

Adams Avocat Inc.
Mtre Fredy Adams
1255 Robert-Bourassa Blvd, Suite 1416
Montréal, QC, H3B 3X1
Telephone: (514) 848-9363 / Fax: (514) 848-0319
Email: archives@adamsavocat.com

To the attention of Toyota and Counsel for Toyota:

Mtre Guillaume Boudreau-Simard
Mtre Simon Ledsham
STIKEMAN ELLIOTT S.E.N.C.R.L., S.R.L.
1155 Blvd. René-Lévesque West
41st Floor
Montreal, Quebec H3B 3V2
Telephone: 514.397.3694 / 514.397.3385
Fax: 514.397.3222
Email: gboudreausimard@stikeman.com
sledsham@stikeman.com

56. This Settlement may be signed in one or more counterparts, including via electronic signature, each of which will be deemed to be valid and binding, and that such separate counterparts shall constitute together one and the same instrument, and such counterparts may be transmitted in PDF format by email.

[Signature page follows]

IN WITNESS WHEREOF, THE PLAINTIFF AND TOYOTA AND THEIR RESPECTIVE COUNSEL HAVE SIGNED:

Signed this ___ day of _____ 2024

Constantin Sultana

Signed this ___ day of _____ 2024

ADAMS AVOCAT INC. (M^{TRE} FREDY ADAMS)
Class Counsel and
Counsel for Constantin Sultana

Signed this ___ day of _____ 2024

**STIKEMAN ELLIOTT LLP, ON BEHALF OF
TOYOTA CANADA INC.**

Signed this ___ day of _____ 2024

STIKEMAN ELLIOTT LLP
Counsel for Toyota Canada Inc.