

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

IN RE: AUTOMOTIVE PARTS ANTITRUST LITIGATION	Master File No. 12-md-02311
In re: Fuel Injection Systems	Hon. Marianne O. Battani
THIS RELATES TO: End-Payor Actions	2:13-cv-02203-MOB-MKM

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made and entered into this 19 day of December 2016 (“Execution Date”) by and between Aisan Industry Co., Ltd., Franklin Precision Industry, Inc., Aisan Corporation of America, Hyundam Industrial Co., Ltd., (collectively, “Aisan Defendants”), and End-Payor Plaintiffs (as defined below in Paragraph 5), both individually and on behalf of a class of indirect purchasers of Fuel Injection Systems (the “Settlement Class,” as defined below in Paragraph 13).

WHEREAS, End-Payor Plaintiffs are prosecuting the above *In Re Automotive Parts Antitrust Litigation*, Master File No. 12-md-02311 (E.D. Mich.) (the “MDL Litigation”) and Case No.: 2:13-cv-02203 (the “Action”) on their own behalf and on behalf of the Settlement Class;

WHEREAS, End-Payor Plaintiffs allege that they were injured as a result of Aisan Defendants’ participation in an unlawful conspiracy to raise, fix, maintain, and/or stabilize prices, rig bids, and allocate markets and customers for Fuel Injection Systems (as defined in Paragraph 7 below) in violation of Section 1 of the Sherman Act and various state antitrust,

unfair competition, unjust enrichment, and consumer protection laws as set forth in End-Payor Plaintiffs' Corrected Consolidated Amended Class Action Complaint in the Fuel Injection Systems Action (the "Complaint");

WHEREAS, Aisan Defendants deny End-Payor Plaintiffs' allegations and have asserted and/or would assert defenses to End-Payor Plaintiffs' claims in the Action;

WHEREAS, arm's-length settlement negotiations have taken place between Settlement Class Counsel (as defined below in Paragraph 14) and counsel for Aisan Defendants and this Agreement has been reached as a result of those negotiations, including with the assistance of a mediator;

WHEREAS, End-Payor Plaintiffs, through Settlement Class Counsel, have conducted an investigation into the facts and the law regarding the Action and have concluded that resolving the claims against Aisan Defendants, according to the terms set forth below, is in the best interests of End-Payor Plaintiffs and the Settlement Class because of the payment of the Settlement Amount and the value of the Prospective Relief and Cooperation (as those terms are defined below) that Aisan Defendants have agreed to provide pursuant to this Agreement;

WHEREAS, Aisan Defendants, despite their belief that they are not liable for the claims asserted and their belief that they have good defenses thereto, have 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 Aisan Defendants with respect to Fuel

Injection Systems based on the allegations in the Action, as more particularly set out below;
and

WHEREAS, End-Payor Plaintiffs recognize the benefits of Aisan Defendants' Cooperation and the Prospective Relief (as those terms are defined below) Aisan Defendants agreed to provide, and recognize that because of joint and several liability, this Agreement with Aisan Defendants does not impair End-Payor Plaintiffs' ability to collect the full amount of damages to which they and the Settlement Class (defined below) may be entitled in the Action, including any damages attributable to Aisan Defendants' 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 End-Payor Plaintiffs, the Settlement Class, or Aisan Defendants, 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 35-48.
2. "Cooperation Materials" means any information, testimony, Documents (as defined below) or other material (including information from an attorney proffer) provided by Aisan Defendants under the terms of this Agreement.
3. "Defendant" means any party named as a defendant in the Action at any time up to and including the date when the Court has entered a final order certifying the Settlement Class described in Paragraph 13 and approving this Agreement under Federal Rule of Civil Procedure ("FRCP") 23(e).

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

5. “End-Payor Plaintiffs” means those Settlement Class Members, as defined in Paragraph 15, below, who were named plaintiffs in the Action as of Execution Date or who have been or are subsequently added as named plaintiffs in the Action prior to entry of the final judgment against Aisan Defendants in the Action.

6. “Indirect Purchaser States” means Arizona, Arkansas, California, District of Columbia, Florida, Hawaii, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wisconsin.

7. “Fuel Injection Systems” shall have the meaning set forth in Paragraph 2 of the Complaint.

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

9. “Protective Orders” means the Stipulation and Protective Order Governing the Production and Exchange of Confidential Information, No. 12-md-2311 (E.D. Mich. July 10, 2012) (ECF No. 200), and any other similar order issued in this Action.

10. “Released Claims” means the Claims described in Paragraphs 24-25.

11. “Releasees” shall refer to (i) Aisan Defendants, (ii) all of Aisan Defendants’ past and present direct and indirect, parents, subsidiary companies and affiliates, including their respective predecessors, successors and assigns, and (iii) each and all of the present and former

principals, partners, officers, directors, supervisors, employees, agents, stockholders, members, representatives, insurers, attorneys, heirs, executors, administrators, and assigns of each of the persons and each of the persons and entities listed in (i) and (ii). “Releasees” does not include any Defendant in the MDL Litigation other than Aisan Defendants.

12. “Releasers” shall refer to End-Payor Plaintiffs and the members of the Settlement Class, as defined in Paragraph 13, below, and to their past and present officers, directors, supervisors, employees, agents, stockholders, members, attorneys, servants, representatives, trustees, parents, subsidiaries, affiliates, principals, partners, insurers and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and the predecessors, successors, heirs, executors, administrators and assigns of any of the foregoing.

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

All persons and entities that, from January 1, 2000 through the Execution Date, purchased or leased a new Vehicle in the United States not for resale, which included one or more Fuel Injection Systems as a component part, or indirectly purchased one or more Fuel Injection Systems as a replacement part, which were manufactured or sold by a Defendant, any current or former subsidiary of a Defendant, or any co-conspirator of a Defendant. Excluded from the Settlement Class are Defendants, their parent companies, subsidiaries and affiliates, any co-conspirators, federal governmental entities and instrumentalities of the federal government, states and their subdivisions, agencies and instrumentalities, and persons who purchased Fuel Injection Systems directly or for resale.

14. “Settlement Class Counsel” shall refer to the law firms of:

Cotchett, Pitre, & McCarthy LLP
San Francisco Airport Office Center
840 Malcolm Road, Suite 200
Burlingame, CA 94010

Robins Kaplan LLP
601 Lexington Avenue, Suite 3400
New York, NY 10022

Susman Godfrey L.L.P.

1901 Avenue of the Stars, Suite 950
Los Angeles, CA 90067

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

16. “Settlement Amount” shall be \$4,560,000, and the “Settlement Fund” shall be the Settlement Amount plus any income or accrued interest earned on that amount as set forth in Paragraph 27.

17. “Vehicles” shall refer to four-wheeled passenger automobiles, vans, sports utility vehicles, and crossover or pick-up trucks.

B. Approval of this Agreement and Dismissal of Claims Against Aisan Defendants.

18. End-Payor Plaintiffs and Aisan Defendants 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 FRCP 23(c) and (e)) to secure the complete, and final dismissal with prejudice of the Action as to the Releasees only.

19. Within forty five (45) days after the execution of this Agreement, End-Payor Plaintiffs shall submit to the Court a motion seeking preliminary approval of this Agreement (the “Preliminary Approval Motion”). The Preliminary Approval Motion shall include (i) the proposed form of an order preliminarily approving this Agreement, and (ii) a proposed form of order and final judgment that shall include at least the terms set forth in Paragraph 21 below. The text of the proposed orders shall be agreed upon by End-Payor Plaintiffs and Aisan Defendants before submission of the Preliminary Approval Motion.

20. End-Payor 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 Settlement Class Members identified by End-Payor

Plaintiffs (the “Notice Motion”). The Notice Motion shall provide for notice to all members of the Settlement Class in a method designed to meet the requirements of FRCP 23 and the Due Process Clause. The End-Payor Plaintiffs will submit a draft of the Notice Motion to Aisan Defendants sufficiently in advance of the date the End-Payor Plaintiffs intend to submit the Notice Motion to the Court for Aisan Defendants to review and comment upon the Notice Motion. To mitigate the costs of notice, End-Payor Plaintiffs shall endeavor, if practicable, to disseminate notice of this settlement with notice of any other settlements reached. The Notice Motion shall include a proposed form of, method for, and date of dissemination of notice.

21. End-Payor Plaintiffs shall seek, and Aisan Defendants will not object unreasonably to, the entry of an order and final judgment in the Action, the text of which End-Payor Plaintiffs and Aisan Defendants shall agree upon. 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 13, pursuant to FRCP 23, solely for purposes of this settlement as a 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 FRCP 23 and directing its consummation according to its terms;

(c) directing that all Releasers shall, by operation of law, be deemed to have released all Releasees from the Released Claims.

(d) as to Aisan 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, to the United States District Court for the Eastern District of Michigan;

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

(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 Aisan Defendants, to contest certification of any other class proposed in the MDL Litigation; (ii) the Court's findings in the order and final judgment in the Action 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.

22. This Agreement shall become final and deemed to be a "Final Court Approval" within the meaning of this Agreement when (i) the Court has entered a final order certifying the Settlement Class described in Paragraph 13 and approving this Agreement under FRCP 23(e) and has entered a final judgment dismissing the Action with prejudice as to Aisan Defendants 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 Aisan Defendants described in (i) above has expired or, if appealed, approval of this Agreement and the final judgment in the Action as to Aisan 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 is

pending in any court. It is agreed that the provisions of FRCP 60 shall not be taken into account in determining the above-stated times. On the date that End-Payor Plaintiffs and Aisan Defendants have executed this Agreement, End-Payor Plaintiffs and Aisan Defendants shall be bound by its terms and this Agreement shall not be rescinded except in accordance with Paragraphs 27(h) or 49 of this Agreement.

23. Neither this Agreement (whether or not it should become final) nor the final judgment, nor any and all negotiations, documents, or discussions associated with them (including Cooperation Materials produced pursuant to Paragraphs 35-48), 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, directly or indirectly, whether in the MDL Litigation, or any other arbitration, action or proceeding whatsoever, against the Releasees. Nothing in this Paragraph shall prevent End-Payor Plaintiffs from using and/or introducing into evidence Cooperation Materials produced pursuant to Paragraphs 35-48, subject to the limitations in those paragraphs, against any other defendants in the MDL Litigation, or to develop and promulgate a plan of allocation and distribution. 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 Aisan Defendants, 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.

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

24. 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 22 of this Agreement, and in consideration of payment of the Settlement Amount, as specified in Paragraph 26 of this Agreement, into the Escrow Account (as defined below), 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) that Releasers, or any 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 (i) any conduct alleged in the Complaint, and (ii) any act or omission of the Releasees (or any of them) concerning Fuel Injection Systems, including but not limited to any conduct alleged and causes of action alleged or asserted or that could have been alleged or asserted, in any class action or other complaint(s) filed in the Action (the "Released Claims"), provided however, that nothing herein shall release: (1) any claims made by direct purchasers of Fuel Injection Systems; (2) any claims made by automotive dealerships that are indirect purchasers of Fuel Injection Systems; (3) any claims made by any State, State agency, or instrumentality or political subdivision of a State as to government purchases and/or penalties; (4) claims involving any negligence, personal injury, breach of contract, bailment, failure to deliver lost goods, damaged or delayed goods, product defect, securities or similar claim relating to Fuel Injection Systems; (5) claims concerning any

automotive part other than Fuel Injection Systems; (6) claims under laws other than those of the United States relating to purchases or leases made by any Releasor outside of the United States involving Fuel Injection Systems; and (7) claims for damages under the state or local laws of any jurisdiction other than an Indirect Purchaser State. 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 this Agreement is, for any reason, not finally approved or terminated.

25. In addition to the provisions of Paragraph 24 of this Agreement, Releasors hereby expressly waive and release, upon this Agreement becoming final, as set out in Paragraph 22 of this Agreement, any and all provisions, rights, and benefits, as to their claims concerning Fuel Injection Systems 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 law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to Section 1542 of the California Civil Code. Each 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 24 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 Aisan Defendants and End-Payor Plaintiffs have agreed to release pursuant to Paragraph 24, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts.

D. Settlement Amount.

26. Subject to the provisions hereof, Aisan Defendants shall pay or cause to be paid the Settlement Amount of U.S. \$4,560,000. The Settlement Amount shall be paid in U.S. dollars into an escrow account to be administered in accordance with the provisions of Paragraph 27 of this Agreement (the “Escrow Account”) within thirty (30) days following the later of (i) entry of an order preliminarily approving this Agreement; or (ii) Aisan Defendants being provided with account number, account name, and wiring information for the Escrow Account. No part of the Settlement Amount paid by Aisan Defendants shall constitute, nor shall be construed or treated as constituting, a payment for treble damages, fines, penalties, forfeitures or punitive recoveries.

27. Escrow Account.

(a) The Escrow Account will be established at Wells Fargo Bank with such Bank serving as escrow agent (“Escrow Agent”) subject to an escrow agreement mutually acceptable to Settlement Class Counsel and Aisan Defendants, such escrow to be administered by the Escrow Agent under the Court’s continuing supervision and control.

(b) The Escrow Agent shall cause the funds deposited in the Escrow Account to be invested in short-term instruments backed by the full faith and credit of the United States Government or fully insured in writing by the United States Government, or money market funds rated Aaa and AAA, respectively by Moody’s Investor Services and Standard and Poor’s, invested substantially in such instruments, and shall reinvest any income from these instruments and the proceeds of these instruments as they mature in similar instruments at their then current market rates. Aisan Defendants shall bear no risk related to the management and investment of the Settlement Fund.

(c) All funds 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 such funds shall be distributed pursuant to this Agreement and/or further order(s) of the Court.

(d) End-Payor Plaintiffs and Aisan Defendants agree to treat the Settlement Fund as being at all times a “Qualified Settlement Fund” within the meaning of Treas. Reg. § 1.468B-1. In addition, Settlement Class Counsel shall timely make such elections as necessary or advisable to carry out the provisions of this Paragraph 27, including the relation-back election (as defined in Treas. Reg. § 1.468B-1(j)) back to the earliest permitted date, if available. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of Settlement Class Counsel to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur. All provisions of this Agreement shall be interpreted in a manner that is consistent with the Settlement Fund being a “Qualified Settlement Fund” within the meaning of Treasury Regulation § 1.468B-1.

(e) For the purpose of § 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the administrator of the Settlement Fund shall be Settlement Class Counsel. Settlement Class Counsel shall timely and properly file all information and other tax returns necessary or advisable with respect to the Settlement Fund (including without limitation the returns described in Treas. Reg. § 1.468B-2(k), (1)). Such returns (as well as the election described in Paragraph 27(d) above) shall be consistent with Paragraph 27(d) and in all events shall reflect that all Taxes, as defined below (including any estimated Taxes, interest or penalties), on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided in Paragraph 27(f) hereof.

(f) All (i) taxes (including any estimated taxes, interest or penalties) arising with respect to the income earned by the Settlement Fund, including any taxes or tax detriments that may be imposed upon Aisan Defendants or any other Releasee with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a Qualified Settlement Fund for federal or state income tax purposes (“Taxes”); and (ii) expenses and costs incurred in connection with the operation and implementation of Paragraphs 27(d) through 27(f) (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns described in Paragraph 27(e) (“Tax Expenses”)), shall be paid out of the Settlement Fund.

(g) Neither the Aisan Defendants nor any other Releasee nor their respective counsel shall have any liability or responsibility for the Taxes or the Tax Expenses. Settlement Class Counsel shall indemnify and hold harmless the Releasees for Taxes and Tax Expenses. Further, Taxes and Tax Expenses shall be treated as, and considered to be a cost of administration of the Settlement Fund and shall be timely paid by the Escrow Agent out of the Settlement Fund without prior order from the Court and Settlement Class Counsel and the Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to any claimants authorized by the Court any funds necessary to pay such amounts including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(1)(2)). Neither Aisan Defendants nor any Releasee shall be responsible or have any liability therefor. End-Payor Plaintiffs and Aisan Defendants agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of Paragraphs 27(d) through 27(f).

(h) If this Agreement does not receive Final Court Approval, including final approval of the Settlement Class as defined in Paragraph 13, or if the Action is not certified as a class action for settlement purposes, then the Settlement Fund (other than costs expended or incurred in accordance with Paragraphs 27 and 30), shall be returned to Aisan Defendants from the Escrow Account by the Escrow Agent, including any income or interest accrued thereon, within thirty (30) calendar days of the Court's final determination denying Final Court Approval of the Agreement and/or Settlement Class.

28. Prospective Relief.

Subject to the provisions hereof, and in full, complete, and final settlement of the Action as provided herein, Aisan Defendants further agree that they will not engage in conduct that constitutes a *per se* violation of Section 1 of the Sherman Act (whether characterized as price fixing, market allocation, bid rigging, or otherwise) with respect to the sale of Fuel Injection Systems for a period of 24 months from the date of the entry of final judgment.

29. Exclusions from the Settlement Class.

Subject to Court approval, any person or entity seeking exclusion from the Settlement Class must file a written request for exclusion 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. Any person or entity that files such a request shall be excluded from the Settlement Class and shall have no rights with respect to this settlement. Subject to Court approval, a request for exclusion that does not comply with all of the provisions set forth in the applicable class notice will be invalid, and the person(s) or entity(ies) serving such an invalid request shall be deemed Settlement Class Member(s) and shall be bound by the

Settlement Agreement upon Final Court Approval. Settlement Class Counsel shall, within ten (10) business days of the Opt-Out Deadline, provide Aisan Defendants with a list and copies of all opt out requests it receives in the Action and shall file with the Court a list of all members of the Settlement Class who timely and validly opted out of the settlement.

(a) Subject to Court Approval, any member of the Settlement Class who submits a valid and timely request for exclusion will not be a Settlement Class Member and shall not be bound by the terms of this Agreement. Aisan Defendants reserve all of their legal rights and defenses, including but not limited to any defenses relating to whether any excluded member of the Settlement Class is an indirect purchaser of Fuel Injection Systems or has standing to bring any claim against Aisan Defendants.

(b) Subject to Court Approval, in the written request for exclusion, the member of the Settlement Class must state his, her, or its full name, street address, telephone number, and email address. Further, the member of the Settlement Class must include a statement in the written request for exclusion that he, she, or it wishes to be excluded from the settlement. Any member of the Settlement Class that submits a written request for exclusion may also identify the number of Vehicles purchased from January 1, 2000 through the Execution Date of this Agreement as requested in the notice to the Settlement Class as provided in Paragraph 20.

(c) Aisan Defendants 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.

30. Payment of Expenses.

(a) Aisan Defendants agree to permit a reasonable portion of the Settlement Fund to be used towards the cost of providing notice to the Settlement Class and the costs of administration of the Settlement Fund. To the extent such expenses have been actually incurred or paid, the notice and administration expenses are not recoverable if this settlement does not become final or is terminated to the extent such funds have actually been expended or incurred for notice and administration costs. Other than as set forth in this Paragraph 30 and Paragraph 27, Aisan Defendants shall not be liable for any of the costs or expenses incurred by End-Payor Plaintiffs in 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, End-Payor Plaintiffs shall use their best efforts, if practicable, to disseminate notice with any other settlements reached with other defendants in the MDL Litigation and to apportion the costs of notice and administration on a pro rata basis across the applicable settlements.

E. The Settlement Fund.

31. Releasors shall look solely to the Settlement Fund for settlement and satisfaction against the Releasees of all Released Claims, and shall have no other recovery against Aisan Defendants or any Releasee for any Released Claims.

32. After this Agreement becomes final within the meaning of Paragraph 22, and at a time to be determined by Settlement Class Counsel, 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, and 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 Paragraph 30 of this Agreement.

33. End-Payor 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. Aisan Defendants and the other Releasees shall not be liable for any costs, fees, or expenses of any of End-Payor Plaintiffs or the Settlement Class' respective attorneys, experts, advisors, agents, or representatives, but all such costs, fees, and expenses as approved by the Court shall be paid out of the Settlement Fund.

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

(a) Settlement Class Counsel may submit an application or applications to the Court (the "Fee and Expense Application") for: (i) an award of attorneys' fees not in excess of one-third of the Settlement Fund; plus (ii) reimbursement of expenses and costs incurred in connection with prosecuting the Action and incentive awards, 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 (the "Fee and Expense Award"). Settlement Class Counsel reserve the right to make additional applications for Court approval of fees and expenses incurred and reasonable incentive awards, but in no event shall Releasees be responsible to pay any such additional fees and expenses except to the extent they are paid out of the Settlement Fund.

(b) Subject to Court approval, End-Payor Plaintiffs and Settlement Class Counsel shall be reimbursed and paid solely out of the Settlement Fund for all expenses

including, but not limited to, attorneys' fees and past, current, or future litigation expenses and incentive awards. Attorneys' fees 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 expenses is reduced or reversed, or in the event the Agreement is rescinded or terminated pursuant to Paragraph 27(h) or Paragraph 49.

(c) 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 is not part of this Agreement, and is to be considered by the Court separately from the Court's consideration of the fairness, reasonableness and adequacy of this Agreement. Any order or proceeding relating to the Fee and Expense Application, or any appeal from any such order shall not operate to terminate or cancel this Agreement, or affect or delay the finality of the Final Court Approval of the Settlement.

(d) Other than to pay the Settlement Amount as provided herein, no Releasee under this Agreement shall have any responsibility for, or interest in, or liability whatsoever with respect to any payment to Settlement Class Counsel and/or End-Payor Plaintiffs of any Fee and Expense Award in the Action.

(e) Neither Aisan Defendants nor any other Releasee under this Agreement shall have any responsibility for, or interest in, or liability whatsoever with respect to the

allocation among Settlement Class Counsel, End-Payor Plaintiffs and/or any other person who may assert some claim thereto, of any Fee and Expense Award that the Court may make in the Action.

F. Cooperation.

35. In return for the release and discharge provided herein, Aisan Defendants agree to pay the Settlement Amount and be bound by the Prospective Relief described in Paragraph 28, and further agree to use their best efforts to provide satisfactory and timely Cooperation, as set forth specifically in Paragraphs 35-48 below, until the time that final judgment has been entered in the Action against all Defendants in the Action and there is no further possibility of appeal. Cooperation will take place consistent with the timing set forth specifically below, and in a manner that is in compliance with Aisan Defendants' obligations to Government Entities (defined as the United States Department of Justice ("DOJ"), the Japanese Fair Trade Commission ("JFTC"), the European Commission ("EU"), or any other government entity from any jurisdiction).

36. Aisan Defendants shall not be required to provide Documents protected by the attorney-client privilege, the attorney work product doctrine, any applicable privilege under foreign law, or whose disclosure is prohibited by relevant antitrust agencies and/or by the law of the relevant foreign jurisdictions, or prohibited by court order. Should Aisan Defendants withhold any materials pursuant to the foregoing sentence, Aisan Defendants will so inform the End-Payor Plaintiffs and will describe the basis for such withholding to the extent permissible under applicable law. Cooperation shall be limited to Fuel Injection Systems and shall not include information relating to other products manufactured by Aisan Defendants and/or Releasees.

37. End-Payor Plaintiffs shall use reasonable best efforts to coordinate Cooperation in such a manner so as to avoid unnecessary duplication and expenses. End-Payor Plaintiffs shall use reasonable best efforts to coordinate any attorney proffer, witness interviews, or depositions provided pursuant to this Section F with the Automobile Dealer Plaintiffs and the attorneys general of California and Florida. End-Payor Plaintiffs and Settlement Class Counsel further agree that all Documents and any other Cooperation Materials produced by Aisan Defendants pursuant to this Section F shall be treated as “Highly Confidential,” as said designation is described in Protective Orders unless otherwise agreed by the parties or ordered by the Court, and that they shall not use the information so received for any purpose other than the prosecution of the claims in the MDL Litigation.

38. Identity of Individuals. Within five (5) business days of the Execution Date of this Agreement, Counsel for Aisan Defendants shall provide Settlement Class Counsel with the identity of all current and former employees, directors and officers of Aisan Defendants who: (1) were interviewed and/or prosecuted by the DOJ, the JFTC or the EU in connection with alleged price-fixing, bid rigging and market allocation of Fuel Injection Systems; (2) appeared before the grand jury in the DOJ’s investigation into alleged antitrust violations with respect to Fuel Injection Systems; and/or (3) were disclosed to the DOJ as having knowledge or information relating to the DOJ’s investigation into alleged antitrust violations with respect to Fuel Injection Systems. Within 15 days of End-Payor Plaintiffs’ request, Aisan Defendants shall provide Settlement Class Counsel with the identity of all current and former employees, directors and officers of Aisan Defendants who were interviewed and/or prosecuted by any other Government Entity (other than DOJ, JFTC, or EU) specified by End-Payor Plaintiffs.

39. Transactional Data. Aisan Defendants will use their best efforts to complete the production of transactional data as soon as reasonably possible, on a rolling basis, but no later than 120 days after preliminary approval by the Court of this Agreement, concerning Aisan Defendants' bids for and sales of Fuel Injection Systems sold to Original Equipment Manufacturers, or other purchasers of Fuel Injection Systems from January 1, 1998 through the Execution Date. Aisan Defendants will produce any such transactional data that was provided to the DOJ, to the extent such transactional data has not yet been produced to Settlement Class Counsel, within 30 days after preliminary approval by the Court of this Agreement. In addition, Aisan Defendants will provide, in response to a written request from Settlement Class Counsel, a single production of electronic transactional data generated during the two years after the Execution Date of this Agreement, as it exists in Aisan Defendants' electronic databases at the time of the request, within sixty (60) days of the receipt of such request. Aisan Defendants will preserve such transactional data until two years after the Execution Date of this Agreement. Aisan Defendants will produce transaction data only from existing electronic transaction databases, except that, to the extent Aisan Defendants have not recorded or maintained electronic transaction data for any period between January 1, 1998 and two years from the Execution Date of this Agreement, then Aisan Defendants will use reasonable efforts to produce existing hard copy records of sales transactions not recorded or maintained electronically in the existing electronic sales transaction database.

40. In addition, after conducting a reasonable search, Aisan Defendants shall, to the best of their knowledge, identify those Vehicles sold in the United States from January 1, 2000 through the Execution Date of this Agreement that contain Fuel Injection Systems sold by Aisan Defendants.

41. Documents. Aisan Defendants will use their best efforts to complete the production of the following Documents, including English translations, to the extent they exist and have not already been produced to Settlement Class Counsel, no later than 60 days after preliminary approval by the Court of this Agreement: (1) Documents provided to or seized by the DOJ, the JFTC, or EU relating to their investigation into alleged competition violations with respect to Fuel Injection Systems; (2) Documents concerning Aisan Defendants' determination of their prices for Fuel Injection Systems, including pricing formulas and guidelines; (3) Documents showing how employees were trained or instructed to bid and set prices for Fuel Injection Systems; and (4) Documents relating to issued requests for quotation ("RFQ"), bids submitted in response to RFQs, RFQ award notifications, and post-award price adjustments for Fuel Injection Systems. As to Documents in Aisan Defendants' possession, custody, or control that are not listed above, Aisan Defendants will consider in good faith any reasonable request by End-Payor Plaintiffs to collect and produce such Documents. In addition, Aisan Defendants will use their best efforts to complete the production of the following Documents, including English translations, to the extent they exist and have not already been produced to Settlement Class Counsel, no later than 60 days after End-Payor Plaintiffs' request specifying the Government Entity(ies): Documents provided to or seized by any other Government Entity relating to its investigation into alleged competition violations with respect to Fuel Injection Systems.

42. Attorney Proffers and Witness Interviews. Additionally, Aisan Defendants shall use their best efforts to cooperate with Settlement Class Counsel as set forth in this Paragraph 42 below.

(a) Aisan Defendants' counsel will make themselves available at a mutually agreed location in the United States for one (1) meeting of one business day to

provide an attorney's proffer of facts known to them. Thereafter, Aisan Defendants' counsel will make themselves available for up to two (2) reasonable follow-up conversations and will use reasonable efforts to respond to questions posed by Settlement Class Counsel (the follow up conversations and attorney proffer, collectively "Attorney Proffer"). Settlement Class Counsel shall maintain all statements made by Aisan Defendants' counsel during the Attorney Proffer as "Highly Confidential" under the applicable Protective Orders. Absent a Court order, End-Payor Plaintiffs and Settlement Class Counsel will not attribute any factual information obtained from the Attorney Proffer to Aisan Defendants or their counsel. End-Payor Plaintiffs and Settlement Class Counsel may share information obtained from the Attorney Proffer with Automobile Dealer Plaintiffs and the Attorneys General of California and Florida once those parties have executed settlement agreements with the Aisan Defendants, but, absent a Court order, End-Payor Plaintiffs shall not disclose information obtained from the Attorney Proffer to any other claimants or potential claimants, including without limitation direct purchaser plaintiffs, public entity plaintiffs, and opt-out plaintiffs in the MDL Litigation, except with the express written consent of the Aisan Defendants. Notwithstanding anything herein, Settlement Class Counsel may use information contained in such statements in the prosecution of the Action, 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) Aisan Defendants further agree to use best efforts to make up to five (5) persons available for interviews and depositions, provide declarations or affidavits from the same persons, and make those persons available to testify at trial. The deposition shall be

conducted at a mutually agreed-upon location in the United States, and shall be limited to a total of seven (7) hours over one (1) day unless the deposition is in a language other than English, in which case the deposition shall be limited to a total of thirteen (13) hours over two (2) days. If any such interview or deposition takes place outside of the country of the witness's residence, Settlement Class Counsel shall reimburse the Aisan Defendants for such person's economy class fare and up to \$450 per day for lodging and expenses actually incurred. To the extent Settlement Class Counsel coordinates any such interview with settlement class counsel for Automobile Dealer Plaintiffs ("Auto Dealer Settlement Class Counsel"), Settlement Class Counsel and Auto Dealer Settlement Class Counsel shall collectively reimburse Aisan Defendants for such person's economy class fare and up to \$450 per day for lodging and expenses actually incurred. Unless otherwise set forth herein, the total number of persons, whether interviewed or deposed, provided pursuant to this Paragraph 42(b) shall not exceed five (5). If Aisan Defendants are unable to make the same persons available for interviews and depositions, then Settlement Class Counsel may select a substitute interviewee or deponent, irrespective of whether such substitution results in the total number of persons interviewed or deposed to exceed five (5).

(c) Aisan Defendants agree to produce through affidavit(s), declaration(s) and/or at trial, in Settlement Class Counsel's discretion, representatives qualified to authenticate, establish as business records, or otherwise establish any other necessary foundation for admission into evidence of any documents or transactional data produced or to be produced by Aisan Defendants. Settlement Class Counsel agrees to use their best efforts to obtain stipulations that would avoid the need to call Aisan Defendants' witnesses at trial for the purpose of

obtaining such evidentiary foundations. The provisions in this Paragraph 42(c) do not apply to any English Translations or any other translations produced to End-Payor Plaintiffs.

43. In the event that Aisan Defendants produce Documents or provide declarations or written responses to discovery to any party or nonparty in the actions in the MDL Litigation, concerning or relating to the Action (“Relevant Production”), Aisan Defendants shall produce all such Documents, declarations or written discovery responses to End-Payor Plaintiffs contemporaneously with making the Relevant Production to the extent such Documents, declarations or written discovery responses have not previously been produced by Aisan Defendants to End-Payor Plaintiffs. This Agreement does not restrict Settlement Class Counsel from cross-noticing, attending and/or participating in any deposition in the MDL Litigation. Settlement Class Counsel may cross-notice, attend and/or participate in any depositions of Aisan Defendants’ witnesses in addition to the depositions set forth in Paragraph 42, and Settlement Class Counsel together with settlement class counsel for the Automobile Dealer Plaintiffs may ask questions for a combined total of three (3) hours at such deposition, provided that the time for participation of Settlement Class Counsel and settlement class counsel for the Automobile Dealer Plaintiffs shall not expand the time permitted for the deposition as may be provided by the Court, and Settlement Class Counsel will not ask the Court to enlarge the time of any deposition noticed of an Aisan Defendants’ current or former employee. Participation by Settlement Class Counsel in the depositions discussed in this Paragraph will not limit the number of depositions to be provided under Paragraph 42 above. End-Payor Plaintiffs and Settlement Class Counsel agree to use their best efforts to ensure that any depositions taken under Paragraph 42 above are coordinated with any other depositions noticed in the MDL Litigation to avoid unnecessary duplication.

44. Aisan Defendants' obligations to provide Cooperation shall not be affected by the Releases set forth in this Agreement. Unless this Agreement is rescinded, disapproved, or otherwise fails to take effect, Aisan Defendants' obligations to provide Cooperation under this Agreement shall continue only until the later of (a) the entry of the final judgment or judgments with respect to all of the remaining Defendants in the Action and when such judgments become "final" within the meaning of Paragraph 22; (b) dismissal with prejudice of those Defendants and when such judgments or dismissals become "final" within the meaning of Paragraph 22; or (c) unless otherwise ordered by the Court.

45. In the event that this Agreement fails to receive Final Court Approval, including final approval of the Settlement Classes as defined in Paragraph 13, or in the event that it is terminated by either party under any provision herein, the parties agree that neither End-Payor Plaintiffs nor Settlement Class Counsel shall be permitted to introduce into evidence against Releasees 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 provided by Aisan Defendants and/or the other Releasees, their counsel, or any individual made available by Aisan Defendants pursuant to Cooperation (as opposed to from any other source or pursuant to a court order). This limitation shall not apply to any discovery of Aisan Defendants which Settlement Class Counsel participate in as part of the MDL Litigation. Notwithstanding anything contained herein, End-Payor Plaintiffs on behalf of the Settlement Class and the Aisan Defendants are not relinquishing any rights to pursue discovery from each other in the event that this Agreement fails to receive Final Court Approval, including final approval of the Settlement Classes as defined in Paragraph 13, or in the event that it is terminated by either party under any provision herein.

46. End-Payor Plaintiffs further agree that, within sixty (60) days of this Agreement being rescinded pursuant to Paragraph 49, End-Payor Plaintiffs shall return or destroy all Cooperation Materials received from Aisan Defendants. Whether the Cooperation Materials are returned or destroyed, End-Payor Plaintiffs must submit a written certification of such return or destruction to the Aisan Defendants by the sixty (60) day deadline.

47. Unless and until this Agreement is rescinded, disapproved or otherwise fails to take effect, Aisan Defendants need not respond to formal discovery requests from End-Payor Plaintiffs or otherwise participate in the Action during the pendency of this Agreement, with the exception of the Cooperation provisions set forth in Paragraphs 35-48. Other than to enforce the terms of this Agreement, neither Aisan Defendants nor End-Payor Plaintiffs shall file motions against the other, in the Action, during the pendency of this Agreement.

48. If Settlement Class Counsel believes that Aisan Defendants or any current or former employee, officer or director of Aisan Defendants has failed to use its best efforts to cooperate under the terms of this Agreement, then Settlement Class Counsel shall meet and confer with the Aisan Defendants. Upon reaching an impasse in any meet and confer, Settlement Class Counsel may seek an order from the Court compelling such cooperation. Nothing in this provision shall limit in any way Aisan Defendants' ability to defend the level of Cooperation they have provided or to defend their compliance with the terms of the Cooperation provisions in this Agreement.

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

49. 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 definitions 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 judgments provided for in Paragraph 22 of this Agreement,

or if the Court enters the final judgments and appellate review is sought, and on such review, such final judgments are not affirmed in its entirety, then Aisan Defendants and End-Payor Plaintiffs shall each, in their sole discretion, have the option to rescind this Agreement in its entirety. Written notice of the exercise of any such right to rescind shall be made according to the terms of Paragraph 62. 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.

50. In the event that this Agreement does not receive Final Court Approval as set forth in Paragraph 22, or this Agreement otherwise is terminated pursuant to any provision herein, then (i) this Agreement shall be of no force or effect, except as provided in the Agreement; and (ii) 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 Aisan Defendants less only disbursements made in accordance with Paragraphs 30 and 27 of this Agreement; and (iii) Aisan Defendants shall be entitled to any tax refunds owing to the Settlement Fund. At the request of Aisan Defendants, Settlement Class Counsel shall file claims for any tax refunds owed to the Settlement Fund and pay the proceeds, after deduction of any fees and expenses incurred with filing such claims for tax refunds, to Aisan Defendants. Aisan Defendants expressly reserve all rights and defenses if this Agreement does not receive Final Court Approval.

51. Further, and in any event, End-Payor Plaintiffs and Aisan Defendants agree that this Agreement, whether or not it shall receive Final Court Approval, and any and all negotiations, documents, and discussions associated with it, shall not be deemed or construed to be an admission or evidence of (i) any violation of any statute or law or of any liability or

wrongdoing whatsoever by Aisan Defendants, or the other Releasees, to be used against Aisan Defendants, or of (ii) 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 Aisan Defendants, 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 Aisan Defendants or any other Releasee, except to enforce this Agreement. Nothing in this Paragraph shall prevent End-Payor Plaintiffs from using Cooperation Materials pursuant to Section F above, subject to the limitations in Section F, for the purpose of prosecution of the claims in the MDL Litigation.

52. 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.

53. The parties to this Agreement contemplate and agree that, prior to final approval of the settlement as provided for in Paragraphs 18-22 hereof, appropriate notice 1) of the settlement; and 2) of a hearing at which the Court will consider the approval of this Agreement, will be given to the Settlement Class.

H. Miscellaneous.

54. Aisan Defendants 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.

55. This Agreement does not settle or compromise any claim by End-Payor 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 Aisan Defendants. All rights against such other Defendants or alleged co-conspirators are specifically reserved by End-Payor 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 Aisan Defendants and the other Releasees, for sales made by Aisan Defendants and Aisan Defendants' alleged illegal conduct are specifically reserved by End-Payor Plaintiffs and Settlement Class Members. Aisan Defendants' sales to the 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 Aisan Defendants and the other Releasees. Aisan Defendants shall not be responsible for any payment to End-Payor Plaintiffs other than the amount specifically agreed to in Paragraph 26 of this Agreement.

56. 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 End-Payor Plaintiffs and Aisan Defendants, 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. Aisan Defendants will not object to complying with any of the provisions outlined in this Agreement on the basis of jurisdiction.

57. This Agreement constitutes the entire, complete and integrated agreement among End-Payor Plaintiffs and Aisan Defendants pertaining to the settlement of the Action against Aisan Defendants, and supersedes all prior and contemporaneous undertakings, communications, representations, understandings, negotiations and discussions, either oral or written, between End-Payor Plaintiffs and Aisan Defendants in connection herewith. This Agreement may not be

modified or amended except in writing executed by End-Payor Plaintiffs and Aisan Defendants, and approved by the Court.

58. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of End-Payor Plaintiffs and Aisan Defendants. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by End-Payor Plaintiffs or Settlement Class Counsel shall be binding upon all Settlement Class Members and Releasers. The Releasees (other than Aisan Defendants which are parties hereto) are third-party beneficiaries of this Agreement and are authorized to enforce its terms applicable to them.

59. This Agreement may be executed in counterparts by End-Payor Plaintiffs and Aisan Defendants, and a facsimile signature shall be deemed an original signature for purposes of executing this Agreement.

60. Aisan Defendants and End-Payor Plaintiffs agree not to disclose publicly or to any other person, except for Releasees where necessary, the terms of this Agreement until this Agreement is submitted to the Court for preliminary approval.

61. Neither End-Payor Plaintiffs nor Aisan Defendants 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.

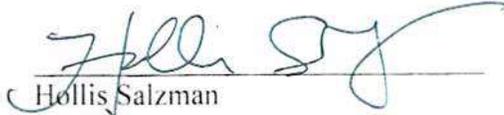
62. Where this Agreement requires either party to provide notice or any other communication or document to the other, such notice shall be in writing, and such notice, communication or document shall be provided by facsimile, or electronic mail (provided that the recipient acknowledges having received 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.

63. 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: December 19, 2016



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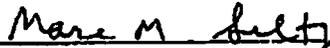
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*Interim Co-Lead Class Counsel for the Proposed
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Dated: December 19, 2016



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