

SCHEDULE “A”

Court File No. CV-16-550271-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N :

YOGESH KALRA

Plaintiff

- and -

**MERCEDES-BENZ CANADA INC., DAIMLER AG, MERCEDES-BENZ USA, LLC and
MERCEDES-BENZ FINANCIAL SERVICES CANADA CORPORATION**

Defendants

SETTLEMENT AGREEMENT

Dated as of December 7, 2021

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TABLE OF EXHIBITS

Exhibit	Title
1	Claim Form
2	Long Form Notice
3	Notice Program
4	Short Form Notice
5	Notice Approval and Discontinuance Order
6	Approval Order

1. INTRODUCTION

On April 5, 2016, the Plaintiff commenced this lawsuit against the Defendants in the Court arising out of the Defendants' marketing and sale of Mercedes-Benz BlueTEC diesel vehicles. The Court granted certification of the Action pursuant to the Certification Order and the opt-out period in the Action in respect of the certified class concluded on July 20, 2018. After extensive litigation and arms'-length settlement negotiations, assisted by the Honourable Dennis O'Connor as mediator, the Parties have agreed to resolve Settlement Class Members' claims related to the BlueTEC diesel vehicles sold or leased in Canada and settle and dismiss the Action on the terms and conditions set out in this Settlement Agreement.

This Settlement Agreement is between the Defendants and the Plaintiff on behalf of the Settlement Class. This Settlement Agreement explains the consideration that Settlement Class Members are eligible to receive under the Settlement Agreement.

As detailed below, the Settlement Agreement, if approved by the Court, provides substantial compensation and relief to all eligible Settlement Class Members. The Settlement Agreement provides eligible Settlement Class Members with cash payments and other consideration. The Defendants will also provide Field Measures – modifications of the emission control system software calibration and certain related hardware – that ensure that the Eligible Vehicles meet the emissions standards to which they were originally certified. Regulatory agencies have approved Field Measures for most of the BlueTEC II diesel vehicles sold or leased in Canada. Proposed emission modifications for the remaining BlueTEC II vehicles are scheduled to be submitted for approval soon.

The Settlement Agreement reflects a claims-made settlement. The Settlement Class Member Payments pursuant to the Settlement Agreement are available only to Settlement Class Members who submit Valid Claims in the Claims Program. The amount the Defendants will pay in total under the Settlement Agreement depends on how many Settlement Class Members submit Valid Claims. The consideration provided by this Settlement Agreement will become available after this Settlement Agreement receives final approval from the Court.

2. DEFINITIONS

The capitalized terms in this Settlement Agreement, including the attached exhibits, have the following meanings, unless this Settlement Agreement specifically provides otherwise. Other capitalized terms used in this Settlement Agreement that are not defined in Section 2 shall have the meanings ascribed to them elsewhere in this Settlement Agreement.

- 2.1 **“Action”** means the class proceeding in Kalra v. Mercedes-Benz Canada Inc., Daimler AG, Mercedes-Benz USA, LLC and Mercedes-Benz Financial Services Canada Corporation, Ontario Court File No. CV-16-550271-00CP.
- 2.2 **“Approval Order”** means the Court’s order and/or judgment approving this Settlement Agreement.
- 2.3 **“Approved Emission Modification(s)” or “AEM(s)”** means modifications to the emissions software and certain related hardware of vehicles in the Emission Modification Categories, as proposed by the Defendants and approved by EPA and CARB, pursuant to Appendix B, Paragraphs 4-5 of the US-CA Consent Decree.
- 2.4 **“Authorized Service Provider”** means a Dealer or any other entity authorized by MBC to install the Field Measure in Canada.
- 2.5 **“BlueTEC Diesel Matter”** means all claims arising from or in any way relating to: (1) the design, manufacture, assembly, testing, development, installation, performance, presence, or disclosure or nondisclosure of any auxiliary emission control devices (“AECD”) or defeat devices in any Eligible Vehicle; (2) the design, manufacture, assembly, testing, development, installation, or performance of emissions control equipment and methods and related hardware or software in Eligible Vehicles (including Diesel Exhaust Fluid and associated equipment, Selective Catalytic Reduction systems, electronic control units, or emissions-related software programs, programing, coding, or calibration used or for use in an Eligible Vehicle) including any claims for overpayment or diminution in value related to same; (3) the overpayment or diminution in value related to the design, manufacture, assembly, testing, development, installation, or performance of emission control equipment and methods and related hardware or software in Eligible Vehicles; (4) the actual or alleged compliance or noncompliance of

Eligible Vehicles with emissions standards; (5) the marketing or advertisement of any Eligible Vehicle, including as clean, green, clean diesel, environmentally friendly, low emissions, and/or compliant with federal, provincial, or territorial emissions standards; (6) the marketing or advertisement of the fuel economy, fuel efficiency, mileage, power, drivability, or performance of any Eligible Vehicle; (7) any badges, signage, or BlueTEC labels on the Eligible Vehicles, including any badges or signage placed on the Eligible Vehicles at the point of sale or in an advertisement; (8) the performance of the Field Measure in an Eligible Vehicle (except for disputes subject to the resolution processes described in Sections 5.27 and 14.7); (9) whether the Eligible Vehicles meet or exceed (or met or exceeded) consumer expectations, to the extent related in any way to the emissions performance, the design, manufacture, assembly, testing, development, installation, or performance of emission control equipment, and methods and related hardware or software; or (10) the subject matter of the Action, as well as any related events or allegations, with respect to Eligible Vehicles. Without limiting the foregoing, “BlueTEC Diesel Matter” includes allegations that formed or relate to the factual basis for a claim that was made or could have been made in the Action.

- 2.6 “**Canadian Black Book Average Value**” means the average value of the Eligible Vehicle listed by the Canadian Black Book on the date the offer of repurchase is made.
- 2.7 “**CARB**” means the California Air Resources Board and any of its successor departments or agencies.
- 2.8 “**Certification Order**” means the order of this Court dated June 29, 2017 certifying the Action as a class proceeding.
- 2.9 “**Claim**” means the claim of any Settlement Class Member or their representative submitted on a Claim Form as provided in this Settlement Agreement.
- 2.10 “**Claims Appeal**” means an appeal to determination of a Claim as defined in Section 2.9.
- 2.11 “**Claim Form**” means the paper or online form used to submit a Claim for a Settlement Class Member Payment under this Settlement Agreement. The Claim Form is attached hereto as Exhibit 1.

- 2.12 **“Claims Submission Deadline for Eligible Former Owners/Lessees”** means the later of (a) 75 days after the Notice Date, or (b) the date on which the Superior Court of Justice approves this Settlement Agreement.
- 2.13 **“Claims Submissions Deadline for Eligible Current Owners/Lessees”** means May 1, 2023, unless the Field Measure becomes available for an Emissions Modification Group between March 1, 2023 and May 1, 2023, in which case the claim submission deadline for Eligible Vehicles in that Emissions Modification Group will be 60 days after the Field Measure becomes available. If the Field Measure Availability Deadline is extended pursuant to Section 2.39 and a Field Measure becomes available by the Field Measure Availability Deadline but after May 1, 2023, then Eligible Current Owners/Lessees of the affected Eligible Vehicle may file a Claim for an Owner/Lessee Payment or Post-Announcement Owner/Lessee Payment (as applicable) within 60 days of the date on which the Field Measure becomes available, in accordance with the claims process described in Sections 5-6. If a Field Measure becomes available less than 120 days before the Field Measure Availability Deadline and an Eligible Current Owner/Lessee is unable to have it installed in an Eligible Vehicle prior to the Field Measure Availability Deadline, the Settlement Administrator shall have discretion to treat as a Valid Claim any otherwise Valid Claim filed by the deadline established in this Section, where: (1) the Claim Form of the Eligible Current Owner/Lessee is accompanied by evidence of the diligent efforts of the Eligible Current Owner/Lessee to have the Field Measure installed in the Eligible Vehicle before the applicable deadline, and (2) where the Field Measure is installed in an Eligible Vehicle. The Settlement Administrator may, in its discretion, require the Eligible Current Owner/Lessee to provide a sworn statement giving evidence of diligent attempts to obtain an appointment to have the Field Measure installed at an Authorized Service Provider before the Field Measure Availability Deadline, and may require the Eligible Current Owner/Lessee to produce such further documentation as may be available for the purpose of assessing such claims.
- 2.14 **“Claims Program”** means the program through which Settlement Class Members may submit Claims and, if eligible, obtain consideration under this Settlement Agreement, as described in Section 6.

- 2.15 “**Claims Review Committee**” or “**CRC**” means the committee approved by the Court to resolve disputes regarding implementation of the Extended Modification Warranty. The CRC is described more fully in Section 5.27.
- 2.16 “**Class Counsel**” means Koskie Minsky LLP and Lenczner Slaght LLP.
- 2.17 “**Class Representative**” means Yogesh Kalra.
- 2.18 “**Court**” means the Ontario Superior Court of Justice, or any applicable appellate court, as the context requires.
- 2.19 “**CPF**” has the meaning ascribed to it in Section 10.1.
- 2.20 “**Daimler**” means Daimler AG.
- 2.21 “**Dealer**” means any entity authorized by MBC, subject to a written dealer agreement, to service Eligible Vehicles in Canada.
- 2.22 “**Defendants**” means Daimler, MBC, MBUSA and MBFSC.
- 2.23 “**Defendants’ Counsel**” means Fasken LLP.
- 2.24 “**Discontinuance Claims**” means the claims of members of the class certified pursuant to the Certification Order who are current or former owners or lessees of Model Year 2007-2009 E320 Mercedes-Benz BlueTEC I vehicles.
- 2.25 “**Effective Date**” means the date on which the Approval Order becomes final and binding, and, in particular, upon the later of (1) the expiry of any applicable appeal or leave to appeal periods of the Approval Order (or any orders of any appellate court in relation to the Approval Order), if no appeal is taken or sought; and (2) the final disposition of any appeals of the Approval Order.
- 2.26 “**Eligible Current Owners/Lessees**” includes Eligible Owners, Eligible Lessees, Eligible Post-Announcement Owners, and Eligible Post-Announcement Lessees.
- 2.27 “**Eligible Former Lessee**” means a Settlement Class Member (1) who leased an Eligible Vehicle prior to the Settlement Filing Date (2) who surrenders or surrendered the Eligible

Vehicle on or before the Claims Submission Deadline for Eligible Former Owners/Lessees, and (3) whose Eligible Vehicle did not receive the Field Measure before or during their lease period. For the avoidance of doubt, this includes any Eligible Former Lessee whose lease is terminated as a result of a total loss before the Field Measure is installed in their Eligible Vehicle.

- 2.28 **“Eligible Former Owner”** means a Settlement Class Member (1) who owned an Eligible Vehicle prior to the Settlement Filing Date (2) who sold or otherwise transferred ownership of the Eligible Vehicle on or before the Claims Submission Deadline for Eligible Former Owners/Lessees, and (3) whose Eligible Vehicle did not receive the Field Measure before or during their period of ownership. For avoidance of doubt, a sale or transfer of ownership under this definition includes the transfer of ownership of an Eligible Vehicle as a result of a total loss.
- 2.29 **“Eligible Former Owners/Lessees”** includes Eligible Former Owners and Eligible Former Lessees.
- 2.30 **“Eligible Lessee”** means a Settlement Class Member who (1) leases an Eligible Vehicle on or before the Settlement Filing Date; and (2) is leasing the Eligible Vehicle at the time the Field Measure is installed in that vehicle. A Settlement Class Member is not an Eligible Lessee if they surrender their Eligible Vehicle under the terms of the lease or assign their lease to another Person before the Field Measure is installed.
- 2.31 **“Eligible Owner”** means a Settlement Class Member who (1) owns an Eligible Vehicle on or before the Settlement Filing Date; and (2) owns the Eligible Vehicle at the time the Field Measure is installed in that vehicle. The lessor of an Eligible Vehicle shall not be an Eligible Owner.
- 2.32 **“Eligible Post-Announcement Lessee”** means a Settlement Class Member who did not lease the Eligible Vehicle on or before the Settlement Filing Date, but who leases the Eligible Vehicle at the time the Field Measure is installed.
- 2.33 **“Eligible Post-Announcement Owner”** means a Settlement Class Member who did not own the Eligible Vehicle on or before the Settlement Filing Date, but who owns the Eligible Vehicle at the time the Field Measure is installed. The lessor of an Eligible Vehicle shall not be an Eligible Post-Announcement Owner.

2.34 “**Eligible Vehicle**” means a model year 2009-2016 Mercedes-Benz BlueTEC II vehicle, which consist of the vehicles listed below:

Vehicle	Model Year	Emission Modification Group
E250	2014-2016	12
E350	2011-2012	8
E350	2013	7
GL320	2009	5
GL350	2010-2012	5
GL350	2013-2016	4
GLE350d	2016	14
GLK250	2013-2015	9
ML320	2009	5
ML350	2010-2011	5
ML350	2012-2014	4
ML350	2015	4
R320	2009	5
R350	2010-2012	5
R350	2013	13
S350	2012-2013	6
Sprinter (4-cylinder)	2014-2016	3
Sprinter (6-cylinder)	2010-2012	2
Sprinter (6-cylinder)	2013-2016	1

2.35 “**Emission Modification Group**” means (1) one of the 12 categories of models and model years as identified in the seventh column of Appendix B, Attachment I of the US-CA Consent Decree (“Emission Modification Category”); (2) the model year 2013 R350, which shall constitute a separate Emission Modification Group for the purpose of this Settlement Agreement; and (3) the model year 2016 GLE350d, which shall constitute a separate Emission Modification Group for the purpose of this Settlement Agreement. The model year 2015 ML350 will receive the same Field Measure as vehicles in Emission Modification Category 4. For the purpose of this Settlement Agreement, the model year 2015 ML350 shall be considered part of Emission Modification Group 4.

2.36 “**EPA**” means the United States Environmental Protection Agency and any of its successor departments or agencies.

- 2.37 **“Extended Modification Warranty”** means the warranty described in Sections 5.17 to 5.23 to this Settlement Agreement. The terms of the Extended Modification Warranty will be posted on the Settlement Website.
- 2.38 **“Field Measure”** means changes to the emissions software and/or hardware, as applicable, of an Eligible Vehicle that are equivalent, or substantively equivalent, to the AEMs submitted to, and approved by, the EPA and CARB pursuant to the US-CA Consent Decree.
- 2.39 **“Field Measure Availability Deadline”** means the date on which, if a Field Measure for an Eligible Vehicle is not available, Settlement Class Members who own or lease an affected Eligible Vehicle become eligible and may file a Claim for a Settlement Class Member Payment pursuant to Sections 5.11 or 5.12. The Field Measure Availability Deadline is May 1, 2023. However, if the deadline to submit a proposal for an AEM to EPA and CARB (pursuant to Attachment I of Appendix B of the US-CA Consent Decree) for an Emission Modification Category is extended beyond January 31, 2022 pursuant to the terms of the US-CA Consent Decree, the Field Measure Availability Deadline for Eligible Vehicles within that Emission Modification Category shall be extended by the number of days that the last deadline to submit a proposal for an AEM to EPA and CARB extends beyond January 31, 2022.
- 2.40 **“Former Owner/Lessee Payment”** means monetary compensation, as set out in Section 5.3, the Defendants will pay to Eligible Former Owners and Eligible Former Lessees who submit a Valid Claim, on the conditions in Sections 5-6.
- 2.41 **“Honorarium”** has the meaning ascribed to it in Section 11.4.
- 2.42 **“Honorarium Payment”** has the meaning ascribed to it in Section 11.4.
- 2.43 **“Levy”** has the meaning ascribed to it in Section 10.1.
- 2.44 **“Long Form Notice”** means the long form notice substantially in the form attached hereto as Exhibit 2.
- 2.45 **“MBC”** means Mercedes-Benz Canada Inc.
- 2.46 **“MBFSC”** means Mercedes-Benz Financial Services Canada Corporation.

- 2.47 “**MBUSA**” means Mercedes-Benz USA, LLC.
- 2.48 “**Mediator**” means the Honourable Dennis O’Connor (ret.), who mediated settlement negotiations between the Parties, and who may preside over certain settlement-related proceedings, if necessary, as set out in this Settlement Agreement.
- 2.49 “**Notice Approval**” and Discontinuance Order means the Court’s order (i) approving the Notice Program, including the proposed Long Form Notice and Short Form Notice; and (ii) discontinuing the Discontinuance Claims (as described in Section 4.1).
- 2.50 “**Notice Date**” means the date on which the Long Form Notice is first posted to the Settlement Website.
- 2.51 “**Notice of Settlement**” means the notice of the settlement that will be distributed pursuant to the Notice Approval and Discontinuance Claims in accordance with Section 4.1.
- 2.52 “**Notice Program**” means the program for distributing information about the Settlement Agreement to the Settlement Class, as approved by the Court, substantially in the form of Exhibit 3.
- 2.53 “**Objection Deadline**” means the last day a Person within the definition of the Settlement Class may object to the Settlement Agreement, which is 60 days from the Notice Date.
- 2.54 “**Operable**” means that a vehicle can be driven under its own engine power. An Eligible Vehicle that has been altered with the use of any after-market emissions-related components, parts, and/or software or the removal of any original emissions-related components, parts, and/or software, if such alteration(s) are likely to substantially affect the operation of the vehicle with the Field Measure or substantially impede installation of the Field Measure, shall not be considered Operable unless and until the owner or lessee of such vehicle has reversed the alteration(s) such that the Field Measure may be installed and not substantially affected. The

determination of whether a vehicle is Operable will be made by the Authorized Service Provider that has been asked to install the Field Measure in the vehicle.

- 2.55 “**Owner/Lessee Payment**” means monetary compensation, as set out in Section 5.2, the Defendants will pay to Eligible Owners and Eligible Lessees who submit a Valid Claim, on the conditions in Sections 5-6.
- 2.56 “**Parties**” means the Class Representative and the Defendants, collectively.
- 2.57 “**Person or Persons**” includes individuals and entities.
- 2.58 “**Post-Announcement Owner/Lessee Payment**” means monetary compensation, as set out in Section 5.4, the Defendants will pay to Eligible Post-Announcement Owners and Eligible Post-Announcement Lessees who submit a Valid Claim, on the conditions in Sections 5-6.
- 2.59 “**Pro Rata Honorarium Share**” has the meaning ascribed to it in Section 11.4.
- 2.60 “**Release**” means the full and final release described in Section 9 of this Settlement Agreement.
- 2.61 “**Released Claims**” has the meaning set out in Section 9.3 of this Settlement Agreement.
- 2.62 “**Released Party or Released Parties**” has the meaning set out in Section 9.2 of this Settlement Agreement.
- 2.63 “**Releasing Party or Released Parties**” has the meaning set out in Section 9.3 of this Settlement Agreement.
- 2.64 “**Settlement Administrator**” means the third-party agent agreed to by the Parties and appointed by the Court to implement and oversee the Notice Program, the Claims Program, the Honorarium Payment, and the payment of the Levy to the CPF.
- 2.65 “**Settlement Agreement**” means this settlement agreement and the exhibits attached hereto, including any subsequent amendments and any exhibits and schedules to such amendments.
- 2.66 “**Settlement Approval Hearing**” means the hearing before the Court for the purpose of determining whether to grant the Approval Order.

- 2.67 **“Settlement Class”** means a class of all Canadian residents who (1) on or before the Settlement Filing Date owned or leased an Eligible Vehicle, or (2) after the Settlement Filing Date begin owning or leasing an Eligible Vehicle for which a Field Measure has not been installed. The following Persons are excluded from the Settlement Class: (a) the Defendants and their officers and directors; (b) the authorized motor vehicles dealers of the Defendants and the officers and directors of those dealers; (c) Persons who have opted out of the Action; (d) Persons who have settled with, released, or otherwise had claims adjudicated on the merits against the Defendants arising from the same core allegations or circumstances as the BlueTEC Diesel Matter; and (e) the heirs, successors, and assigns of the Persons described in (a), (b), (c), and (d).
- 2.68 **“Settlement Class Member”** means a member of the Settlement Class.
- 2.69 **“Settlement Class Member Payment”** means the monetary compensation that the Defendants shall pay eligible Settlement Class Members who submit a Valid Claim, on the conditions set forth in Sections 5-6. The Settlement Class Member Payment includes the Owner/Lessee Payment, Post-Announcement Owner/Lessee Payment, Former Owner/Lessee Payment and the contingency payments described in Sections 5.9, 5.10, 5.11, 5.12, 5.15 and 5.16.
- 2.70 **“Settlement Filing Date”** means the date of filing of the motion for approval of the Notice of Settlement.
- 2.71 **“Settlement Website”** means the public website that provides information and key filings regarding the Settlement Agreement.
- 2.72 **“Short Form Notice”** means the Short Form Notice(s) substantially in the form as attached hereto as Exhibit 4.
- 2.73 **“US-CA Consent Decree”** means the consent decree among (1) the United States on behalf of the EPA; (2) the People of the State of California, by and through CARB and the Attorney General of California; (3) Daimler and MBUSA, resolving disputes between those parties on the terms described therein, as approved and entered by a U.S. federal district court on March 9, 2021, and including any modifications thereto. The US-CA Consent Decree can be found at Civ. No. 1:20-cv-02564 (D.D.C.), and will be posted on the Settlement Website.

- 2.74 **“Valid Claim”** means a Claim that is accurate, truthful and complete, executed by or on behalf of a Settlement Class Member, and submitted to the Claims Administrator by or on behalf of a Settlement Class Member by the applicable claims deadline. A Valid Claim must include all required documentation, including, for Eligible Current Owners/Lessees, proof that the Field Measure has been installed in their Eligible Vehicle by an Authorized Service Provider (e.g., by repair order).
- 2.75 The terms “he or she” and “his or her” include “it” or “its,” as applicable; the terms “they” or “their” include “he,” “she,” “his,” “her,” “it,” or “its,” as applicable.

3. DENIAL OF ANY WRONGDOING AND LIABILITY

- 3.1 The Defendants deny the material factual allegations and legal claims asserted by the Class Representative and Settlement Class Members in the Action, including, but not limited to, any and all charges of wrongdoing or liability, or allegations of defect, arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Action.
- 3.2 Neither this Settlement Agreement nor the Claims Program, nor any act performed or document executed pursuant to or in furtherance of this Settlement Agreement, the Notice Program, or the Claims Program is or may be deemed to be or may be used or construed as an admission of, or evidence of, the validity of any of the Released Claims, or of any wrongdoing or liability of any Released Parties; nor may the Settlement Agreement, the Notice Program, or Claims Program be used, deemed, or construed as an admission of, or evidence of, any fault or omission of any Released Parties in any civil, criminal, regulatory, or administrative proceeding in any court, administrative agency, or other tribunal. Nor shall this Settlement Agreement, the Notice Program, or the Claims Program be deemed an admission by any Party as to the merits of any claim or defence.

4. MOTIONS FOR NOTICE APPROVAL AND SETTLEMENT APPROVAL

- 4.1 Promptly after this Settlement Agreement is signed, Class Counsel shall submit this Settlement Agreement to the Court in support of a motion seeking an order (i) approving the Notice Program, including the Long Form Notice and the Short Form Notice; and (ii) discontinuing the Discontinuance Claims (the “Notice Approval and Discontinuance Order”), substantially in the form of the order attached hereto as Exhibit 5.

- 4.2 Following the granting of the Notice Approval and Discontinuance Order, the Parties agree to promptly take all actions and steps reasonably necessary to obtain the Approval Order from the Court, including the full and final dismissal of the Action in respect of the Settlement Class, substantially in the form of the order attached hereto as Exhibit 6, and to fully implement and effectuate this Settlement Agreement.

5. SETTLEMENT CLASS MEMBER CONSIDERATION

- 5.1 **Overview of Consideration.** The Settlement Agreement provides consideration to owners and lessees, as detailed in this Section 5 (Consideration). The cash payments described in this Section 5 are available only to Settlement Class Members who submit a Valid Claim.
- 5.2 **Settlement Class Member Payments for Eligible Owners and Eligible Lessees.** Eligible Owners and Eligible Lessees whose Eligible Vehicle receives a Field Measure and who submit a Valid Claim shall receive an “Owner/Lessee Payment” of \$2,925 per Eligible Vehicle, unless an Eligible Former Lessee and/or Eligible Former Owner submits a Valid Claim for that same vehicle, in which case the Owner/Lessee Payment is \$2,090. To obtain the Owner/Lessee Payment, an Eligible Owner or Eligible Lessee must submit a Valid Claim by the Claims Submissions Deadline for Eligible Current Owners/Lessees. No Owner/Lessee Payment will be issued to an Eligible Owner or Eligible Lessee until the Settlement Administrator receives proof that the Field Measure was installed in that Eligible Owner’s or Eligible Lessee’s Eligible Vehicle at an Authorized Service Provider (e.g., by repair order).
- 5.3 **Settlement Class Member Payments for Eligible Former Owners and Eligible Former Lessees.** Eligible Former Owners and Eligible Former Lessees who timely submit a Valid Claim shall receive a “Former Owner/Lessee Payment.” The Former Owner/Lessee Payment is \$835 per vehicle and shall be divided equally among each Eligible Former Owner and Eligible Former Lessee who submits a Valid Claim on the same vehicle. To obtain the Former Owner/Lessee Payment, Eligible Former Owners and Eligible Former Lessees must submit a Valid Claim by the Claims Submission Deadline for Eligible Former Owners/Lessees.
- 5.4 **Settlement Class Member Payments for Eligible Post-Announcement Owners and Lessees.** Eligible Post-Announcement Owners and Post-Announcement Lessees who install the Field Measure in their Eligible Vehicle and who submit a Valid Claim shall receive a Post-

Announcement Owner/Lessee Payment of \$2,090. To obtain the Post-Announcement Owner/Lessee Payment, a Eligible Post-Announcement Owner or Eligible Post-Announcement Lessee must submit a Valid Claim by the Claims Submissions Deadline For Eligible Current Owners/Lessees and Eligible Post-Announcement Owners/Lessees. No Post-Announcement Owner/Lessee Payment will be issued to an Eligible Post-Announcement Owner or Eligible Post-Announcement Lessee until the Settlement Administrator receives proof that the Field Measure was installed in that Eligible Post-Announcement Owner's or Eligible Post-Announcement Lessee's Eligible Vehicle at an Authorized Service Provider (e.g., by repair order).

- 5.5 **Payments Not to Exceed 100%.** The Defendants shall not pay to Settlement Class Members more than 100% of the Owner/Lessee Payment in Section 5.2 for any individual vehicle under this settlement, excluding contingent payments that may be required by Sections 5.9, 5.10, 5.11, 5.12, 5.15 and 5.16.
- 5.6 A Settlement Class Member who has submitted a valid claim for compensation under the settlement of the U.S. class action known as *In re Mercedes-Benz Emissions Litigation*, No. 2:16-cv-881-KM-ESK (D.N.J.) in respect of a vehicle, and which has been accepted as such pursuant to the terms of the applicable settlement agreement, will not be eligible to submit a claim in this settlement for an Owner/Lessee Payment, Former Owner/Lessee Payment, or Post-Announcement Owner/Lessee Payment, and will not be eligible to claim the payments described in Paragraphs 5.9-5.16, in connection with the same vehicle for which compensation was claimed and paid in *In re Mercedes-Benz Emissions Litigation*.
- 5.7 A Settlement Class Member who transfers or receives their Eligible Vehicle solely in an attempt to render the vehicle eligible for monetary compensation in both this settlement and the settlement in *In re Mercedes-Benz Emissions Litigation* shall forfeit the right to monetary compensation in this Settlement.
- 5.8 **Field Measures.** The Defendants shall make available, through Authorized Service Providers, Field Measures to enhance the emission control system in the Eligible Vehicles. The Field Measures for most Eligible Vehicles will be equivalent to the AEMs approved by EPA and CARB pursuant to the US-CA Consent Decree. The Defendants anticipate that Field Measures

for the model year 2013 R350 and model year 2016 GLE350d will be substantively equivalent to AEMs approved by EPA and CARB. If an AEM receives regulatory approval and is made available in the United States in accordance with the US-CA Consent Decree, an equivalent Field Measure shall be offered for all corresponding Eligible Vehicles. To the extent that any Canadian regulatory approval is required in order for a Field Measure to be offered, the Defendants shall take all necessary steps to obtain that approval. Vehicles that are not Operable may be unable to receive the Field Measure. The Defendants shall make Field Measures available for each Emission Modification Group by the Claims Submission Deadline for Eligible Current Owners/Lessees and Eligible Post-Announcement Owners/Lessees, and the Defendants shall make Field Measures available to Settlement Class Members within a reasonable time after regulatory approval in the United States in accordance with the US-CA Consent Decree or, if applicable, Canadian regulatory approval. In the event that Field Measures are made available by the Defendants for Class Vehicles before the Claims Program begins, the installation of a Field Measure in a Class Vehicle before the commencement of the Claims Program will not disentitle an eligible Settlement Class Member from any settlement benefits he or she would otherwise be entitled to if the Field Measure been installed after the commencement of the Claims Program.

5.9 **Deferred Availability Payment.** If an AEM is not scheduled to be submitted for approval to EPA and CARB (pursuant to Attachment I of Appendix B of the US-CA Consent Decree and any subsequent modifications thereto) by the Defendants within 60 days of the Effective Date, Eligible Owners and Eligible Lessees of vehicles with equivalent Field Measures will be eligible for a “Deferred Availability Payment” of \$406.40 which shall be payable in addition to and at the same time as the Owner/Lessee Payment. To obtain a Deferred Availability Payment, Eligible Owners and Eligible Lessees must submit Valid Claims by the Claims Submission Deadline for Eligible Current Owners/Lessees. Eligible Post-Announcement Owners and Eligible Post-Announcement Lessees shall not be entitled to the Deferred Availability Payment. For the avoidance of doubt, Eligible Owners and Eligible Lessees cannot receive both the Deferred Availability Payment and compensation for a Field Measure that is not available pursuant to Sections 5.11 or 5.12.

5.10 **Reclassification of Emission Standard.** The Defendants represent that, after receiving the Field Measure, Eligible Vehicles shall remain within the same emissions classification to which

they were originally certified by EPA and CARB (i.e., the emissions classifications listed in Attachment I of Appendix B of the US-CA Consent Decree). If, however, EPA and CARB approve an AEM that fails to meet the emission standard to which the Eligible Vehicles were originally certified, Eligible Current Owners/Lessees of the affected Eligible Vehicle will be eligible for a payment of \$355.60, which shall be paid in addition to and at the same time as the Owner/Lessee Payment or Post-Announcement Owner/Lessee Payment, as applicable. For the purpose of this Section 5.10, (1) EPA's and CARB's approval of the AEM for Emission Modification Category 4 will apply to model year 2015 ML350 and 2016 GLE350d vehicles; and (2) EPA's and CARB's approval of the AEM for Emission Modification Category 5 will apply to model year 2013 R350 vehicles. To obtain a payment pursuant to this Section 5.10, Eligible Current Owners/Lessees must submit Valid Claims by the Claim Submission Deadline for Eligible Current Owners/Lessees and Eligible Post-Announcement Owners/Lessees.

- 5.11 **If a Field Measure Is Not Made Available.** The Defendants expect to offer a Field Measure for each Eligible Vehicle. If, however, the Field Measure is not available for an Emission Modification Group prior to the Field Measure Availability Deadline, Settlement Class Members who own or lease an Eligible Vehicle in that Emission Modification Group on the Field Measure Availability Deadline will be eligible for a payment in accordance with the following schedule:

Payment if Settlement Class Member Purchased or Leased the Eligible Vehicle On or Before Settlement Filing Date

Model Year	If no Eligible Former Owner/Lessee submits a Valid Claim for the same vehicle	If an Eligible Former Owner/Lessee submits a Valid Claim for the same vehicle
2014-2016	\$2,340	\$1,672
2012-2013	\$1,755	\$1,254
2009-2013	\$877.50	\$627

**Payment if Settlement Class Member Began Owning or Leasing the Eligible Vehicle
After Settlement Filing Date**

Model Year	Payment
2014-2016	\$1,672
2012-2013	\$1,254
2009-2013	\$627

To obtain a payment pursuant to this Section 5.11, eligible Settlement Class Members must submit a Valid Claim within 60 days of the Field Measure Availability Deadline.

- 5.12 If, prior to the Field Measure Availability Deadline, a Field Measure is unavailable for an Emission Modification Group, and no Eligible Vehicle in that Emissions Modification Group can be re-registered in the Eligible Vehicle owner’s province or territory of residence because the Field Measure is unavailable, then the owner of the affected Eligible Vehicle on the date of the Field Measure Availability Deadline may file a claim within sixty (60) days of that deadline. If a Valid Claim is received by the deadline, the Defendants will offer to repurchase the Eligible Vehicle for an amount equal to the Canadian Black Book Average Value of the vehicle.
- 5.13 Settlement Class Members cannot receive both the Field Measure Not Made Available payment referred to in Section 5.11 above and the repurchase remedy described in Section 5.12. Settlement Class Members also cannot receive both (1) a payment for Field Measure Not Available or the repurchase remedy described in Section 5.12; and (2) the Deferred Availability Payment described in Section 5.9.
- 5.14 For the purposes of Sections 5.11, 5.12, 2.13, and 2.39, a Field Measure is “available” on the date the Defendants post a notice of availability for that Field Measure on the Settlement Website, which the Defendants shall do within a reasonable time after the Field Measure receives regulatory approval.
- 5.15 **Payment/Procedures if Field Measure Modifies Performance or Fuel Economy.** The Defendants represent that the Field Measure shall not result in Reduced Performance or Substantially Reduced Performance. For purposes of this Section 5.15, Reduced Performance

means a change in any of the following performance attributes: (1) a reduction in calculated fuel economy using the EPA formula of more than 3 MPG; (2) a decrease of greater than 5% in peak horsepower; or (3) a decrease of greater than 5% in peak torque. Substantially Reduced Performance means a change in any of the following performance attributes: (1) a reduction in calculated fuel economy using the EPA formula of more than 6 MPG; (2) a decrease of greater than 10% in peak horsepower; or (3) a decrease of greater than 10% in peak torque. The performance impacts shall be measured by the Defendants pursuant to industry standards or otherwise as measured in connection with their proposals of AEMs to EPA and CARB. For the purpose of this Section 5.15, (1) the Defendants' proposals for AEMs to EPA and CARB for Emission Modification Category 4 will apply to model year 2015 ML350 and 2016 GLE350d vehicles; and (2) the Defendants' proposals for AEMs to EPA and CARB for Emission Modification Category 5 will apply to model year 2013 R350 vehicles. If a Field Measure causes Reduced Performance of the Eligible Vehicle, then Eligible Current Owners/Lessees of the affected Eligible Vehicle will be eligible for a payment of \$330.20; if a Field Measure causes Substantially Reduced Performance of the Eligible Vehicle, then Eligible Current Owners/Lessees of the affected Eligible Vehicle will be eligible for a payment of \$660.40. Payments for Reduced Performance or Substantially Reduced Performance shall be paid in addition to and at the same time as the Owner/Lessee Payment or Post-Announcement Owner/Lessee Payment, as applicable. To obtain a payment pursuant to this Section 5.15, Eligible Current Owners/Lessees must submit Valid Claims by the Claim Submission Deadline for Eligible Current Owners/Lessees and Eligible Post-Announcement Owners/Lessees. For the avoidance of doubt, the Reduced Performance and Substantially Reduced Performance payments do not cumulate; the maximum possible payment for any individual vehicle with Reduced Performance is \$330.20, and the maximum possible payment for any individual vehicle with Substantially Reduced Performance is \$660.40, even if performance is reduced in more than one category. Eligible Current Owners/Lessees may not receive payments for both Reduced Performance and Substantially Reduced Performance for any individual vehicle.

- 5.16 **Change in DEF Refill Interval.** In the event the Field Measure is expected to change the frequency with which consumers need to refill their DEF tank, Eligible Current Owners/ Lessees of the affected Eligible Vehicle will be eligible to receive \$76.20, which shall be paid in addition to and at the same time as the Owner/Lessee Payment or Post-Announcement Owner/Lessee

Payment, as applicable. For the purposes of this Section 5.16, (1) whether there is a change in the frequency with which consumers need to refill their DEF tank will be determined by whether the consumer emission modification disclosures required by Paragraph 15.a of Appendix A of the US-CA Consent Decree state that there will be such a change for a particular model and model year of Eligible Vehicles; (2) the statement regarding DEF refill in the consumer emission modification disclosures required by Paragraph 15.a of Appendix A of the US-CA Consent Decree for Emissions Modification Category 5 will apply to the model year 2013 R350; (3) Eligible Current Owners/Lessees of model year 2015 ML350 and model year 2016 GLE350d vehicles will be deemed to be eligible for the \$76.20 payment for change in DEF Refill Interval. To obtain a payment pursuant to this Section 5.16, Eligible Current Owners/Lessees must submit Valid Claims by the Claims Submission Deadline for Eligible Owners/Lessees and Eligible Post-Announcement Owners/Lessees.

5.17 **Warranty Obligations.** MBC, whose address is 98 Vanderhoof Avenue, Toronto, Ontario, will provide an extended warranty for each Eligible Vehicle that receives the Field Measure at an Authorized Service Provider (the “**Extended Modification Warranty**”). The Extended Modification Warranty shall be associated with the Eligible Vehicle, and remains available to all subsequent owners and lessees subject to other limitations set forth in the vehicles’ warranties. Those who come to own or lease an Eligible Vehicle after a Field Measure is installed will receive no payment, but will be eligible for the Extended Modification Warranty. The Defendants shall not seek or offer a waiver of any provision of the Extended Modification Warranty.

5.18 Neither the Extended Modification Warranty, nor installation of the Field Measure or any approved changes made thereto, shall supersede or void any existing warranty applicable to the Eligible Vehicle. To the extent there is a conflict in any provision(s) of the Extended

Modification Warranty and any other warranty on any Eligible Vehicles, that conflict shall be resolved to the benefit of the consumer.

- 5.19 The Extended Modification Warranty shall not modify, limit, or affect any provincial, territorial, local or federal legal rights available to the owners. The Extended Modification Warranty shall be subject to any remedies provided by provincial, territorial or federal laws.
- 5.20 In no event shall warranty coverage under the Extended Modification Warranty be subject to service writers' discretion.
- 5.21 The Extended Modification Warranty becomes effective at the time the Field Measure is installed in the Eligible Vehicle. The Extended Modification Warranty is not retroactive and does not provide reimbursement for repairs performed prior to installation of the Field Measure.
- 5.22 **Extended Warranty Period.** The Extended Modification Warranty shall be the greater of: (i) 10 years from date of initial sale or 120,000 miles (193,000 kilometers) on the odometer, whichever comes first; or (ii) 4 years or 48,000 miles (77,250 kilometers) from the date of installation of the Field Measure, whichever comes first.
- 5.23 **Modification of the Extended Modification Warranty.** MBC shall expand the Extended Modification Warranty to include all additional parts that, due to a change to the Approved Emission Modification as approved by EPA and CARB pursuant to Paragraph 14.a of Appendix A of the US-CA Consent Decree, are exchanged as part of the Field Measure beyond those parts listed in Attachment I of Appendix B of the US-CA Consent Decree.
- 5.24 **Warranties for Nonmodified Eligible Vehicles.** For those who do not receive the Field Measure for an Eligible Vehicle, the existing applicable warranty provisions shall continue to govern, provided, however, that the Defendants may decline to service the Engine Control Unit ("ECU") or Transmission Control Unit ("TCU") if servicing the ECU or TCU would require the Defendants to install or reflash any configuration other than the Field Measure. Such requirements, and the potential effect on owners and lessees of Eligible Vehicles (or prospective

purchasers or prospective lessees), must be clearly described in the terms of the Extended Modification Warranty.

- 5.25 **Warranty Database.** For ten (10) years following the Effective Date, the Defendants shall maintain a database by which users, including Eligible Current Owners/Lessees, prospective purchasers and lessees, and dealers may conduct a free-of-charge search by vehicle VIN to determine whether a Field Measure is available for a vehicle, whether the vehicle has received a Field Measure, and whether the Extended Modification Warranty and any additional warranty extension(s) discussed in Section 5.23 apply to the specific vehicle. Information relevant to a specific part covered by the applicable Extended Modification Warranty, including whether a specific part is covered by the Extended Modification Warranty, shall be available when searching on the website by VIN.
- 5.26 **Issues Regarding Extended Modification Warranty.** Settlement Class Members and the Defendants agree to meet-and-confer in good faith to address issues raised by Settlement Class Members regarding the implementation of the Extended Modification Warranty. Class Counsel shall participate in this meet-and-confer process on behalf of Settlement Class Members (and have responsibility for handling related communications with Settlement Class Members), and the Defendants shall have responsibility for handling related communications with Authorized Service Providers, if necessary. When Settlement Class Members raise issues relating to implementation of the Extended Modification Warranty, the Defendants and Class Counsel will confer and attempt to resolve the issue within 30 days. If the Defendants and Class Counsel address the issue through agreement, the agreement is binding upon the Settlement Class Member and the Defendants, who shall not have any right to appeal the agreement to the Court.
- 5.27 **Claims Review Committee To Finally Adjudicate Disputes Regarding Extended Modification Warranty.** If Class Counsel and the Defendants cannot resolve an issue raised by a Settlement Class Member relating to implementation of the Extended Modification Warranty, then (and only then) the dispute may be submitted to the Claims Review Committee (“CRC”). The CRC will include the Defendants’ representative, Class Counsel’s representative, and a “CRC Neutral.” Class Counsel shall designate a representative to participate in the CRC on behalf of Settlement Class Members (and have responsibility for handling related communications with Settlement Class Members), and the Defendants shall designate a

representative to participate in the CRC on behalf of the Defendants (and have responsibility for handling related communications with dealers). The CRC shall resolve the dispute in a final adjudication rendered within 30 days of the submission of the dispute to the CRC. The CRC Neutral will be a third party who will be agreed upon by both the Defendants and Class Counsel. In the event that the Defendants and Class Counsel cannot agree on a Neutral representative, they agree to mediate the issue before the Mediator, who shall have authority to make the final selection. The Parties may agree to a replacement or successor CRC Neutral at any point. Final adjudications by the CRC are binding on the Defendants and the Settlement Class Member raising the dispute. The Defendants and Settlement Class Members shall not have any right to appeal a final adjudication by the CRC to the Court or the Mediator. The Parties will bear their own costs, and the Defendants will pay for the CRC Neutral.

- 5.28 **Field Measure Disclosure.** The Defendants shall provide owners and lessees of vehicles eligible to receive the Field Measure with a clear and accurate written disclosure (the “**Field Measure Disclosure**”) regarding the impacts of the Field Measure. The Field Measure Disclosure shall be sent via electronic mail (or mailing, where only physical mailing addresses are given for Settlement Class Members) to all owners and lessees of vehicles eligible to receive the Field Measure known to the Defendants after the Field Measure becomes available to Settlement Class Members. The Field Measure Disclosure will describe in plain language: (1) a summary of the Field Measure generally; (2) a list of any hardware exchanged; (3) a general description of any changes, or lack thereof, in fuel economy and drivability resulting from the Field Measure; (4) a general description of any changes, or lack thereof, in frequency of oil changes and DEF refill, resulting from the Field Measure; and (5) a summary of how Settlement Class Members can obtain the Field Measure.

- 5.28.1 The Field Measure Disclosure shall also be made available online by the Defendants through the Settlement Website within a reasonable time after the Field Measure is made available.

- 5.29 **Covered Parts.** The Extended Modification Warranty shall cover the cost of all parts and labour needed to repair the items listed below:

- Catalysts

- Diesel Oxidation Catalyst
 - Diesel Particulate Filter Assembly
 - Selective Catalytic Reduction (SCR) Catalyst
- Diesel Exhaust Fluid (DEF) System
 - DEF Injector
 - DEF Injector Controller
 - DEF Supply Module
 - DEF Pump
 - Temperature Sensor Unit
- Parts of the Fuel System
 - Fuel Injectors
- Parts of the Exhaust Gas Recirculation (EGR) System
 - EGR Cooler (including bypass control)
 - EGR Valve
 - EGR Temperature Sensor
 - EGR duct
- Other Sensors That Are Covered
 - Oxygen Sensors (“Lambda” sensor where equipped after Field Measure)
 - NOx Sensors
 - Intake Manifold Pressure Sensor
 - Particulate Matter Sensor
 - Exhaust Temperature Sensor
- Engine Control Unit hardware (where replaced as part of Field Measure)
- Transmission Control Unit hardware (where replaced as part of Field Measure)
- Hydraulic Control Unit hardware (where replaced as part of Field Measure)
- Air intake throttle
- Intake manifold/charge air distributor
- Instrument cluster hardware (where replaced as part of Field Measure)
- Cylinder Head Assembly components: Valves, Springs, Valve Spring Keepers, Valve Seats, Cam Bearing Caps, Camshaft, and Manifold Studs
- Engine timing chain
- Turbocharger, including VGT actuator
- Coolant thermostat (where replaced as part of Field Measure)
- Crankcase Ventilation Valve (including line and heating element)

5.30 **Excluded Parts.** Any parts not specified in Section 5.29 above are excluded from coverage under the Extended Modification Warranty.

5.31 **Grounds for Exclusion or Denial of Extended Modification Warranty.** Extended Modification Warranty coverage will be excluded or denied if:

- (a) an Eligible Vehicle has been altered with the use of any after-market emissions-related components, parts, and/or software, and such alteration(s) are likely to substantially affect the operation of the vehicle with the Field Measure, until the owner of such vehicle, at his or her expense, has reversed the alteration(s) such that the Field Measure will not be substantially affected;
- (b) an Eligible Vehicle has been altered with the removal of any original emissions-related components, parts, and/or software, and such alteration(s) are likely to substantially affect the operation of the vehicle with the Field Measure, until the owner of such vehicle, at his or her expense, has reversed the alteration(s) such that the Field Measure will not be substantially affected;

Additionally, the Extended Modification Warranty does not cover any of the following:

- (a) Any damage or malfunctions caused by the installation of non OEM parts, including damage or malfunction to parts needed for proper diagnosis of a covered part;
- (b) Damage or malfunctions caused by or related to outside influence, such as damage due to an accident, or vehicle misuse or neglect;
- (c) Vehicles that have received the Field Measure and are subsequently exported outside of Canada or the United States;
- (d) Vehicles on which the odometer has been altered and/or the actual mileage cannot be determined.
- (e) Vehicles previously identified as having no warranty coverage (e.g., vehicles with salvage titles);
- (f) Extra Expenses; This warranty does not cover payment for loss of use of the vehicle during warranty repairs nor lodging bills, substitute transportation rentals, or other travel costs, telephone calls, loss of pay, or other economic loss or consequential damages.
- (g) Anything else excluded from coverage by the terms of other warranties originally applying to your vehicle.

- 5.32 In the event that the hardware of the Engine Control Unit or Transmission Control Unit is damaged by the software flash during installation of the Field Measure, MBC will replace the hardware at no cost to the customer and provide a 2-year “spare parts” warranty for the replaced part.
- 5.33 **Responsibility for Required Payments.** MBC shall bear the ultimate responsibility for all required payments owed under this Settlement Agreement. All of the Defendants’ obligations under the Settlement Agreement apply to, and are binding upon, MBC, any of MBC’s agents, heirs, executors, administrators, successors, transferees, assigns or other Persons otherwise bound by law. MBC bears the ultimate responsibility for making all payments owed pursuant to this Settlement Agreement, including, but not limited to, all costs and warranties associated with the Claims Program. Further, MBC shall be responsible to implement all repair requirements described herein. Any legal successor or assign of MBC shall assume MBC’s liability and shall be liable for the payment and other obligations herein. No change in the ownership or control of any such entity shall affect the obligations herein of MBC without modification of this Settlement Agreement.
- 5.34 **Tax Implications.** Settlement Class Members should consult their personal tax advisors for assistance regarding any tax ramifications of this Settlement Agreement. None of Class Counsel, the Defendants, or the Defendants’ Counsel are providing any opinion or advice as to the tax consequences or liabilities of Settlement Class Members as a result of any payments or other consideration under this Settlement Agreement. The Parties further acknowledge and agree that nothing in this Settlement Agreement should be relied upon by any Settlement Class Member as the provision of tax advice. Each Settlement Class Member’s tax consequences or liabilities, and the determination thereof, are the sole responsibility of the Settlement Class Member, and it is understood that each Settlement Class Member’s federal, territorial, provincial, city, local, tribal, foreign tax consequences or liabilities may vary depending on the particular circumstances of each individual Settlement Class Member. Settlement Class Members shall hold the Defendants and their counsel harmless from any federal, territorial, provincial, city, local, tribal tax assessments, interest, and/or penalties that result for any amounts paid or consideration provided under this Settlement Agreement, and the Defendants shall not be liable for the payment of any additional amounts now or in the future for any amount related to any Settlement Class Member’s tax consequences.

6. CLAIMS PROGRAM

- 6.1 The process for submitting a Claim is designed to be as simple and convenient to Settlement Class Members as possible, who will only be required to file a single Claim Form per Eligible Vehicle, consistent with the integrity of the Claims Program.
- 6.2 The Claims Program described in this Settlement Agreement shall be the sole and exclusive process for submitting a Claim for any Settlement Class Member Payment, and any Settlement Class Member seeking a Settlement Class Member Payment is required to comply fully with the deadlines and other requirements for the Claims Program. However, participation in the Claims Program is not required in order for a Settlement Class Member's vehicle to be eligible to receive a Field Measure. All Settlement Class Members who receive a Field Measure will also receive the Extended Modification Warranty, under the terms set forth in Section 5.17 of this Agreement.
- 6.3 **Payment of Claims.** Payments of Claims made to eligible Settlement Class Members may be made by cheque or, if offered by MBC at its sole discretion and requested by an eligible Settlement Class Member, electronic funds transfer. Such payments shall be made within a reasonable time after the determination of both the validity and amount of a Valid Claim.

7. DUTIES OF THE SETTLEMENT ADMINISTRATOR

- 7.1 **Settlement Administrator.** The parties agree that JND Legal Administration shall serve as the Settlement Administrator, subject to approval by the Court.
- 7.2 **Notice Program Administration.** In administering the Notice Program, the Settlement Administrator shall be responsible for, without limitation: (1) printing, mailing, or arranging for the mailing of, and/or e-mailing of the Long Form Notice and/or Short Form Notice, as approved by the Court; (2) handling returned notice-related mail not delivered to the Settlement Class; (3) attempting to obtain updated address information for any notices returned without a forwarding address; (4) establishing a post-office box for the receipt of any correspondence; (5) responding to requests from Class Counsel or the Defendants' Counsel; (6) assisting in the creation of notice-related content for the Settlement Website to which the Settlement Class may refer for

information about the Action and the settlement; (7) otherwise implementing and/or assisting with the dissemination of the Notice of the settlement pursuant to the Notice Program.

7.3 The Settlement Administrator shall be responsible for arranging for the publication of notice as set forth in the Notice Program and ordered by the Court, and for consulting on other aspects of the Notice Program.

7.4 **Claims Program Administration.** In administering the Claims Program, the Settlement Administrator shall be responsible for, without limitation: (1) receiving and maintaining on behalf of the Court any correspondence regarding objections to the settlement; (2) forwarding written inquiries to Class Counsel and the Defendants' Counsel or their designees for a response, if warranted; (3) overseeing implementation and administration of the Claims Program; (4) processing and issuing the Settlement Class Member Payments; (5) screening out any fraudulent Claims; (6) making final, unreviewable decisions on whether Claims are Valid Claims; (7) auditing submitted Claims, as requested; (8) consulting on and maintaining the Settlement Website, including posting notices of the Consumer Emission Modification Disclosure for each Field Measure; (9) preparing regular reports to Class Counsel and Defendants' Counsel the status of the Claims Program and the Notice Program, and otherwise responding to inquiries from Class Counsel and Defendants' Counsel.

7.5 **CPF Levy.** The Settlement Administrator shall be responsible for overseeing the deduction of the Levy from the settlement payments that Settlement Class Members receive pursuant to this settlement, and paying the Levy to the CPF when payments to Settlement Class Members are made.

7.6 **Honorarium Payment.** The Settlement Administrator shall be responsible for overseeing the deduction of the Pro Rata Honorarium Share from the settlement payments that Settlement Class Members receive pursuant to this settlement, and making the Honorarium Payment to the Class Representative after administration of the Claims Program has concluded.

7.7 **Notice and Administration Costs.** All reasonable and necessary costs of the Notice Program and Claims Program, and the fees and costs of the Settlement Administrator, shall be paid by MBC.

8. OBJECTIONS

- 8.1 **Receipt of Objections.** The Court will appoint the Settlement Administrator to receive any objections to this Settlement Agreement.
- 8.2 **Manner of Objecting.** The Long Form Notice will provide instructions regarding the procedures that must be followed to object to this Settlement Agreement. Objections to this Settlement Agreement must be received by the Settlement Administrator on or before the Objection Deadline.
- 8.3 All objections to this Settlement Agreement shall be personally signed by the Settlement Class Member and shall include the following:
- (a) The Settlement Class Member's name, mailing address, telephone number, and e-mail address (if available);
 - (b) The make, model, model year, and VIN of the Eligible Vehicle;
 - (c) A brief statement of the nature of and reason for the objection to this Settlement Agreement;
 - (d) Whether the Settlement Class Member intends to appear in person or by counsel at the Settlement Approval Hearing, and if appearing by counsel, the name, address, telephone number, and e-mail address of counsel. The Court may hold the Settlement Approval Hearing via videoconference or in person.
- 8.4 Notwithstanding Section 8.3, if the Settlement Class Member is deceased, a minor, or otherwise incapable of making their own written objection to this Settlement Agreement, the information required by Section 8.3 must be provided along with the contact information of the Person acting on behalf of the Settlement Class Member, together with a copy of the power of attorney, court order, or other authorization serving as the proposed basis for permitting such person to represent the Settlement Class Member. A power of attorney will not be recognized as valid by the Settlement Administrator in the place of a signature of a Settlement Class Member, except in the circumstances set out in this Section.
- 8.5 **Objections Reporting.** The Settlement Administrator will, fourteen (14) days before the Settlement Approval Hearing, provide to the Defendants' Counsel and Class Counsel a written report compiling all of the objections received on or before the Objection Deadline, and

otherwise provide to Defendants' Counsel or Class Counsel copies of any individual objections, on request.

9. RELEASES

9.1 **Release.** The Parties agree to the following full and final Release and waiver, which shall take effect upon the Effective Date.

9.2 **Released Parties.** The Released Parties include, without limitation: (1) Daimler, MBUSA, MBC, MBFSC and any former, present, and future owners, shareholders (direct or indirect), members (direct or indirect), directors, officers, members of management or supervisory boards, employees, counsel, affiliates, parent companies (direct or indirect), subsidiaries (direct or indirect), predecessors, and successors of any of the foregoing (the "Entities"); (2) any and all contractors, subcontractors, joint venture partners, consultants, auditors, dealers, distributors, and suppliers of the Entities; (3) any and all persons and entities indemnified by any Entity with respect to the Action or the BlueTEC Diesel Matter; (4) any and all other persons and entities involved in the design, research, development, manufacture, assembly, testing, sale, leasing, repair, warranting, marketing, advertising, public relations, promotion, or distribution of any Eligible Vehicle, even if such persons are not specifically named in this Section 9.2; (5) lenders, creditors, financial institutions, or any other parties that financed any purchase or lease of an Eligible Vehicle; (6) for each of the foregoing, their respective former, present, and future affiliates, parent companies, subsidiaries, predecessors, successors, shareholders, indemnitors, subrogees, spouses, joint venturers, general or limited partners, counsel, assigns, principals, officers, directors, members of management or supervisory boards, employees, members, agents, representatives, trustees, insurers, reinsurers, heirs, beneficiaries, wards, estates, executors, administrators, receivers, conservators, personal representatives, divisions, dealers, and suppliers; and (7) any other person or entity that is or could be alleged to be responsible or liable in any way whatsoever, whether directly or indirectly, for the BlueTEC Diesel Matter.

9.3 **Releasing Parties and Released Claims.** In exchange for the consideration set forth in this Settlement Agreement, Settlement Class Members, on behalf of themselves and their agents, heirs, executors and administrators, successors, assigns, insurers, counsel (including any counsel engaged by Settlement Class Members who is not Class Counsel), representatives, shareholders, owners associations, and any other Persons who may claim by, through, or under

them (the “**Releasing Parties**”), fully, finally, irrevocably, and forever release, waive, discharge, relinquish, settle, and acquit any and all claims, demands, actions, or causes of action of any kind or nature whatsoever, whether in law or in equity, contractual, quasi-contractual or statutory, known or unknown, direct, indirect or consequential, liquidated or unliquidated, past, present or future, foreseen or unforeseen, developed or undeveloped, contingent or non-contingent, suspected or unsuspected, whether or not concealed or hidden, arising from, in whole or in part, or in any way related to the BlueTEC Diesel Matter, including without limitation (1) any claims or allegations that are, were, or could have been asserted in the Action; (2) any claims for fines, penalties, economic damages, punitive damages, exemplary damages, statutory damages, liens, injunctive relief, counsel fees (except as provided in Section 11 of this Settlement Agreement), expert, consultant, or other litigation fees or costs; or (3) any other liabilities that were or could have been asserted in any civil, administrative, or other proceeding, including arbitration (the “**Released Claims**”). The Released Claims include, without limitation, any and all such claims, demands, actions, or causes of action regardless of the legal or equitable theory or nature under which they are based or advanced including, without limitation, legal and/or equitable theories under any federal, territorial, provincial, local, tribal, administrative or international law, or statute, ordinance, code, rule, regulation, contract, common law, equity, or any other source, and whether based in strict liability, negligence, gross negligence, punitive damages, nuisance, trespass, breach of warranty, misrepresentation, breach of contract, fraud, or any other legal or equitable theory, whether existing under the laws of Canada, a province or territory of Canada or of any other foreign or domestic state, territory, county, city, or municipality, or any other legal or governmental body, whether existing now or arising in the future, that arise from, in whole or in part, or in any way relate to the BlueTEC Diesel Matter. Notwithstanding the foregoing, this Agreement does not release any claims for wrongful death or personal injury.

- 9.4 **Possible Future Claims.** For the avoidance of doubt, Class Counsel, the Class Representative and Settlement Class Members expressly understand and acknowledge that they may hereafter discover claims presently unknown or unsuspected, or facts in addition to or different from those that they now know or believe to be true, related to the BlueTEC Diesel Matter, the Released Claims, and/or the Release herein. Nevertheless, it is the intention of Class Counsel, the Class Representative, and Settlement Class Members in executing this Settlement Agreement to fully,

finally, irrevocably, and forever release, waive, discharge, relinquish, settle, and acquit all Released Claims which exist, hereafter may exist, or might have existed (whether or not previously or currently asserted in any action or proceeding).

9.5 **Actions or Proceedings Involving Released Claims.** The Class Representative and the Settlement Class Members expressly agree that this Release and the Approval Order, are, will be, and may be raised as a complete defence to, and will preclude, any action or proceeding specified in, or involving claims encompassed by, this Release. Settlement Class Members shall not now or hereafter institute, maintain, prosecute, assert, and/or cooperate in the institution, commencement, filing, or prosecution of any suit, action, and/or other proceeding against the Released Parties with respect to the claims, causes of action, and/or any other matters subject to this Release. To the extent that they have initiated, or caused to be initiated, any suit, action, or proceeding not already encompassed by the Action, Settlement Class Members shall promptly cause their claims in any such suit, action, or proceeding to be dismissed with prejudice. If a Settlement Class Member commences, files, initiates, or institutes any legal action or other proceeding for any Released Claim against any Released Party in any court, arbitral tribunal, or administrative or other forum, (1) such legal action or other proceeding shall be dismissed with prejudice and with costs, and at that Settlement Class Member's expense; (2) any refusal or failure to immediately dismiss such claims shall provide a basis for any Released Party to seek an injunction, sanctions, or other appropriate relief; and (3) the respective Released Party shall be entitled to recover any and all reasonable related costs and disbursements from that Settlement Class Member arising as a result of that Settlement Class Member's breach of their obligations under this Release.

9.6 **Ownership of Released Claims.** The Class Representative represents and warrants that he is the sole and exclusive owner of any and all claims that he is releasing under this Settlement Agreement. The Class Representative 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 BlueTEC Diesel Matter, including without limitation, any claim for benefits, proceeds, or value under the Action, and that the Class Representative is not aware of anyone other than himself claiming any interest, in whole or in part, in any benefits, proceeds or values to which the Class Representative may be entitled as a result of the Action or the BlueTEC Diesel Matter. Settlement Class Members

submitting a Claim Form shall represent and warrant therein that they are the sole and exclusive owner of all claims that they are releasing under the Settlement Agreement and that they have 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 BlueTEC Diesel Matter, including without limitation, any claim for benefits, proceeds, or value under the Action or the BlueTEC Diesel Matter, and that such Settlement Class Members are not aware of anyone other than themselves claiming any interest, in whole or in part, in any benefits, proceeds, or values to which those Settlement Class Members may be entitled as a result of the Action or BlueTEC Diesel Matter

- 9.7 **Total Satisfaction of Released Claims.** The consideration set forth in this Settlement Agreement is in full, complete, and total satisfaction of all of the Released Claims against the Released Parties. The consideration set forth in this Settlement Agreement is sufficient and adequate consideration for each and every term of this Release, and this Release shall be irrevocably binding upon the Class Representative and Settlement Class Members.
- 9.8 **Release Not Conditioned on Claim or Payment.** The Release shall be effective with respect to all Releasing Parties, including all Settlement Class Members, regardless of whether those Settlement Class Members ultimately submit a Claim, receive a Settlement Class Member Payment, or receive a Field Measure (and the associated Extended Modification Warranty) under this Settlement Agreement.
- 9.9 **Settlement Agreement as Defence to Released Claims.** Any of the Released Parties may file this Settlement Agreement and/or the Approval Order in any action that may be brought against them in order to support any defence or counterclaim, including without limitation those based on principles of res judicata, collateral estoppel, issue estoppel, release, good faith settlement,

judgment bar or reduction, or any other theory of claim preclusion, or similar defence or counterclaim.

9.10 **Material Term.** The Settlement Class Representative and Class Counsel hereby agree and acknowledge that this Section 9 in its entirety was separately bargained for and constitutes a key, material term of the Settlement Agreement that shall be reflected in the Approval Order.

9.11 **Cooperation.** Class Counsel shall cooperate with the Released Parties to ensure that the Release set forth in the Approval Order is given its full force and effect (including by seeking the inclusion of the Release in the Approval Order and the Claim Forms) and to ensure that Releasing Parties comply with their obligations set forth in this Settlement Agreement.

9.12 **No Other Obligations.** No Settlement Class Member shall recover, directly or indirectly, any sums or non-monetary benefits for Released Claims from the Released Parties, other than consideration set forth in this Settlement Agreement, and the Released Parties shall have no obligation to make any payments or provide any non-monetary relief to any non-parties for liability arising out of Released Claims by operation of this Settlement Agreement.

10. CLASS PROCEEDINGS FUND

10.1 Class Counsel and the Class Representative have sought and received funding and an indemnity in this action from the Law Foundation of Ontario's Class Proceedings Fund ("CPF"). As such, the Parties agree that the CPF shall be paid its levy in accordance with O. Reg. 771/92 (the "Levy") out of the settlement payments that Settlement Class Members receive pursuant to this settlement. No part of the Levy shall be paid by the Defendants. Payment of the Levy shall be made to the CPF by the Settlement Administrator when payments to Settlement Class Members are made.

11. CLASS COUNSEL FEES AND DISBURSEMENTS AND CLASS REPRESENTATIVE HONORARIUM

11.1 **Class Counsel Fees and Disbursements.** Subject to Court approval and the exhaustion or expiration of all appellate rights, MBC shall pay to Class Counsel the amount of \$16,310,000 on account of Class Counsel fees, disbursements, and HST (collectively, the "Agreed Class Counsel Amount"), which is comprised of \$14 million in fees, \$490,000 in disbursements

(inclusive of HST), and \$1,820,000 in HST on fees, or such lesser amount as is approved by the Court (“Ordered Amount”). The Class Counsel fees, disbursements and HST must be approved by the Court. Court approval of the terms of the settlement shall be obtained before approval of the Agreed Class Counsel Amount is sought. Class Counsel and the Defendants represent that they reached agreement in principle on the material terms of this Settlement Agreement before discussing the amount of fees and disbursements to be paid. MBC will wire to an account specified by Class Counsel all counsel fees and disbursements approved by the Court within thirty (30) days after both the Effective Date and exhaustion or expiration of all appellate rights.

- 11.2 **Class Counsel Fees and Disbursements Cap.** Class Counsel will not seek approval for an amount of Class Counsel fees, disbursements and HST that is in excess of the Agreed Class Counsel Amount specified in Section 11.1, and in any event, they agree that the Defendants shall not pay, nor be obligated to pay, any sum in excess of the Agreed Class Counsel Amount specified in Section 11.1. Class Counsel will not seek any additional fees, disbursements, or other amounts after the Court makes an award based on this Settlement Agreement, nor any other amounts for the Class Representative.
- 11.3 The Defendants reserve the right to challenge Class Counsel’s request for Class Counsel fees and disbursements only to the extent the request is inconsistent with the terms of this Settlement Agreement, e.g., exceeds the fees and disbursements that the Defendants have agreed to pay.
- 11.4 **Class Representative Honorarium.** Subject to Court approval, the Class Representative will receive an honorarium of up to \$15,000 (the “**Honorarium**”). The Honorarium shall be paid out of the settlement payments that Settlement Class Members receive pursuant to this settlement, on a pro rata basis based on a total estimated number of on-road Eligible Vehicles in Canada, being 73,185. Accordingly, the pro rata share of the Honorarium for each Eligible Vehicle shall be \$0.20 (the “**Pro Rata Honorarium Share**”). The Pro Rata Honorarium Share shall be deducted from each Settlement Class Member Payment made, in proportion to the number of Valid Claims made in respect of each Eligible Vehicle in accordance with the Claims Program. After administration of the Claim Program has ended, the Settlement Administrator shall pay to the Class Representative the total amount of the Pro Rata Honorarium Shares

deducted (the “**Honorarium Payment**”). No part of the Honorarium shall be paid by the Defendants.

12. AGREEMENT TO COOPERATE TO EFFECTUATE SETTLEMENT

12.1 **Authorization.** Class Counsel and the Defendants’ Counsel represent and warrant that they are expressly authorized by the Parties who they represent to negotiate this Settlement Agreement. Each Person signing this Settlement Agreement on behalf of each Party warrants that he or she is authorized to sign this Settlement Agreement on behalf of that Party.

12.2 **Cooperation.** The Parties, their successors and assigns, and their respective counsel will cooperate with each other, act in good faith, and make all reasonable efforts in seeking prompt Court approval of this Settlement Agreement, including the full and final dismissal of the Action, to ensure the timely and expeditious implementation and effectuation of the Settlement Agreement, the Notice Program and the Claims Program, and to minimize the costs and expenses incurred therein. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement Agreement, the Parties may first seek the assistance of the Mediator, and then if necessary the Court, to resolve such disagreement.

12.3 **Litigation Suspended.** Upon execution of this Settlement Agreement, the Parties agree that all proceedings in this Action, other than the proceedings necessary to effectuate this Settlement Agreement, shall be stayed and suspended until further notice of the Court. The Class Representative and Class Counsel shall not pursue any steps in the litigation of the Action against the Defendants and shall not in any way subsequently argue that the Defendants have failed to comply with their litigation obligations in any respect by reason of the suspension of litigation efforts following the execution of this Settlement Agreement.

13. MODIFICATION OR TERMINATION OF SETTLEMENT AGREEMENT

13.1 The terms and provisions of this Settlement Agreement may only be amended, modified, or expanded by written agreement of the Parties and approval of the Court; provided, however, that after issuance of the Approval Order, the Parties may by written agreement effect such amendments, modifications, or expansions of this Settlement Agreement and its implementing

documents (including all exhibits hereto) without further notice to the Settlement Class or approval by the Court if such changes are consistent with the Approval Order and do not limit the rights of Settlement Class Members under this Settlement Agreement.

- 13.2 Any unintended conflicts within this Settlement Agreement shall not be held against any of the Parties, but shall instead be resolved by agreement of the Parties with, if necessary, the aid of the Court and/or the Mediator.
- 13.3 This Settlement Agreement shall terminate at the discretion of either the Defendants or the Class Representative, through Class Counsel, if: (1) the Court rejects, modifies, or denies approval of any portion of this Settlement Agreement, that the Class Representative (through Class Counsel) in his sole judgment and discretion reasonably determines is material to this Settlement Agreement, or that the Defendants in their sole judgment and discretion reasonably determine is material, including, without limitation, the terms of relief, the findings or conclusions of the Court, the provisions relating to notice, the definition of the Settlement Class, the discontinuance of the Discontinuance Claims, and/or the terms of the Release; or (2) the Court does not issue, or alters, narrows, or expands, any portion of the Approval Order, or any of the Court's findings of fact or conclusions of law, that the terminating Party in its (or their) sole judgment and discretion reasonably determine(s) is material. The terminating Party must exercise the option to withdraw from and terminate this Settlement Agreement, as provided in this Section 13, by a signed writing served on the other Parties no later than 20 days after receiving notice of the event prompting the termination. The Parties will be returned to their positions status quo ante as of the date immediately before the Parties' execution of the Settlement Agreement.
- 13.4 If an option to withdraw from and terminate this Settlement Agreement arises under Section 13.3, neither the Defendants nor the Class Representative is required for any reason or under any circumstance to exercise that option and any exercise of that option shall be at their election in good faith.
- 13.5 If, but only if, this Settlement Agreement is terminated pursuant to Section 13.3 then:
- (a) This Settlement Agreement shall be null and void and shall have no force or effect, and no Party to this Settlement Agreement shall be bound by any of its terms, except for the terms of Section 13 herein;

- (b) All of the provisions of this Settlement Agreement, and all negotiations, statements, and proceedings relating to it, shall be without prejudice to the rights of the Defendants, the Class Representative, or any Settlement Class Member, all of whom shall be restored to their respective positions existing immediately before the execution of this Settlement Agreement, except that the Parties shall cooperate in requesting that the Court set a new scheduling order such that no Party's substantive or procedural rights are prejudiced by the settlement negotiations and proceedings;
- (c) The Released Parties expressly and affirmatively reserve all rights, defences, arguments and positions as to all claims that have been or might later be asserted in the Action;
- (d) The Class Representative and all other Settlement Class Members, on behalf of themselves and their heirs, assigns, executors, administrators, predecessors, and successors, expressly and affirmatively reserve and do not waive all rights as to, and arguments in support of, all claims, causes of action, or remedies that have been or might later be asserted in the Action;
- (e) The Defendants expressly and affirmatively reserve and do not waive all rights and positions as to, and arguments in support of, all defences to the causes of action or remedies that have been sought or might be later asserted in the Action, including without limitation, any argument or position opposing liability, damages, or injunctive relief;
- (f) Neither this Settlement Agreement, the fact of its having been entered into, nor the negotiations leading to it shall be admissible or entered into evidence for any purpose whatsoever;
- (g) Any settlement-related order(s) or judgment(s) entered in this Action after the date of execution of this Settlement Agreement shall be null and void; and
- (h) The Defendants shall bear all reasonable and necessary costs incurred by the Settlement Administrator in connection with the implementation of this Class Action Settlement up until its termination. Neither the Class Representative nor Class Counsel shall be responsible for any such settlement-related costs; and
- (i) Class Counsel shall return or reimburse to the Defendants any class counsel fees and disbursements paid by the Defendants, except for any costs awards previously awarded and paid to the Plaintiff in this litigation.

14. GENERAL MATTERS

- 14.1 **Independent Investigation and Discovery.** Class Counsel represent that they have conducted sufficient independent investigation and discovery to enter into this Settlement Agreement and that they execute this Settlement Agreement freely, voluntarily, and without being pressured or influenced by, or relying on any statements, representations, promises, or inducements made by the Released Parties or any Person representing the Released Parties, other than as set forth in this Settlement Agreement. Class Counsel represent that they are authorized by the Class Representative to enter into this Settlement Agreement with respect to the claims asserted in the Action and all other claims covered by the Release, and that they are seeking to protect the interests of the Settlement Class. The Class Representative acknowledges, agrees, and specifically represents and warrants that he has discussed with Class Counsel the terms of this Settlement Agreement and has received legal advice with respect to the advisability of entering into this Settlement Agreement and the Release, and the legal effect of this Settlement Agreement and the Release.
- 14.2 **Binding Agreement.** This Settlement Agreement, and the representations and warranties made throughout, will be binding upon, and inure to the benefit of, the agents, heirs, executors, administrators, successors, transferees, and assigns of the Defendants, the Settlement Class Representative, and Settlement Class Members.
- 14.3 **Confidential Information.** The Class Representative and Class Counsel agree that confidential information made available to them solely through the settlement process was made available solely to facilitate this settlement, and on the condition that it not be disclosed to Persons other than Class Counsel and certain experts or consultants retained by Class Counsel in connection with the Action. This confidential information cannot be used for any purpose other than effectuating this settlement. For the avoidance of doubt, the Settlement Class Representative and Class Counsel agree that they cannot use any confidential information provided in the course of settlement negotiations in any other action, litigation, arbitration, mediation, proceeding, or matter of any kind.
- 14.4 Information provided by the Defendants, the Defendants' Counsel, and/or the Mediator to Class Counsel, any individual Settlement Class Member, counsel for any individual Settlement Class Member, the Settlement Administrator, and/or other administrators, pursuant to the negotiation

and implementation of this Settlement Agreement, includes trade secrets and highly confidential and proprietary business information and shall be deemed “Highly Confidential” pursuant to the Parties’ Agreement Governing the Use of Confidential Information and shall be subject to all of the provisions thereof. Any materials inadvertently produced shall, upon the Defendants’ request, be promptly returned to the Defendants’ Counsel, as appropriate, and there shall be no implied or express waiver of any privileges, rights, or defences.

14.5 **Entire Agreement.** This Settlement Agreement, complete with its exhibits and all documents filed with the Court, sets forth the entire agreement among the Parties with respect to its subject matter, and it may not be altered, amended, or modified except by written instrument executed by Class Counsel and the Defendants’ Counsel. The Parties expressly acknowledge that no other agreements, arrangements, or understandings not expressed in this Settlement Agreement or the documents filed with the Court exist among or between them, and that in deciding to enter into this Settlement Agreement, they have relied solely upon their own judgment and knowledge. No parol or other evidence may be offered to explain, construe, contradict, or clarify its terms, the intent of the Parties or their counsel, or the circumstances under which this Settlement Agreement was made or executed. This Settlement Agreement and the accompanying documents filed with the Court supersede any prior agreements, understandings, or undertakings (written or oral) by and between the Parties regarding the subject matter of this Settlement Agreement.

14.6 **Governing Law.** This Settlement Agreement and any amendments thereto, and any dispute arising out of or related to this Settlement Agreement, shall be governed by and interpreted according to the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to any conflict of law rule or principle that would mandate or permit application of the substantive law of any other jurisdiction.

14.7 **Court’s Exclusive Jurisdiction.** The Court shall retain exclusive and continuing jurisdiction over the Parties, Settlement Class Members, the Action, and this Settlement Agreement to resolve any suit, action, proceeding, case, controversy, or dispute that may arise regarding this Settlement Agreement, the Notice Program, the Claims Program, application of the Release, or in relation to this Action, including any dispute regarding validity, performance, interpretation, administration, enforcement, enforceability, or termination of the Settlement Agreement

(“Disputes”). The Parties, and each Settlement Class Member, hereby irrevocably attorn to the exclusive jurisdiction of the Court for resolution of Disputes, and irrevocably waive and agree not to assert, by way of motion, as a defence or otherwise, any claim or objection that they are not subject to the jurisdiction of the Court, or that the Court is in any way an improper venue or an inconvenient forum. No Party or Settlement Class Member shall oppose the reopening and reinstatement of the Action for the purposes of effecting the Release described in Section 9. To the extent there are any Disputes between the Parties and/or Settlement Class Members, they will submit those disputes to the Mediator before reopening and reinstating this Action. The Parties and Settlement Class Members hereby agree to pay, and the Court is authorized to award, legal fees and disbursements to the prevailing party in connection with a Dispute.

- 14.8 **Notice to Other Party:** Whenever this Settlement Agreement requires or contemplates that one of the Parties shall or may give notice to the other, notice shall be provided by e-mail and/or next-day (excluding Saturdays, Sundays, and Canadian statutory holidays) courier as follows:

If to the Defendants, then to:

Steven F. Rosenhek
Vera Toppings
Fasken Martineau DuMoulin LLP
333 Bay Street, Suite 2400
Bay Adelaide Centre, Box 20
Toronto, ON M5H 2T6

srosenhek@fasken.com

vtoppings@fasken.com

Tel: 416-865-4541

Cynthia Grelik
Mercedes-Benz Canada Inc.
98 Vanderhoof Avenue
Toronto, ON M4G 4C9

cgrelik@mercedes-benz.ca

If to the Settlement Class, then to:

Peter Griffin
Brian Kolenda
Lenczner Slaght LLP
130 Adelaide Street West, Ste. 2600

Toronto, ON M5H 3P5

pgriffin@litigate.com

bkolenda@litigate.com

Tel: 416-865-2921

Kirk Baert

James Sayce

Koskie Minsky LLP

20 Queen Street West, Ste. 900

Box 52

Toronto, ON M5H 3R3

kmbaert@kmlaw.ca

jsayce@kmlaw.ca

Tel: 416-595-2092

- 14.9 **Computation of Time Periods.** All time periods in this Settlement Agreement shall be computed in calendar days unless otherwise expressly provided. In computing any period of time in this Settlement Agreement or by order of the Court, the day of the act or event shall not be included. The last day of the period shall be included, unless it is a Saturday, a Sunday or a Canadian statutory holiday or, when the act to be done is a court filing, a day on which the court is closed, in which case the period shall run until the end of the next day that is not one of the aforementioned days.
- 14.10 **Reasonable Extensions of Time.** The Parties reserve the right, subject to the Court's approval where necessary, to agree to any reasonable extensions of time that might be necessary to carry out any of the provisions of this Settlement Agreement.
- 14.11 **Not Deemed to be Drafted.** The Class, the Class Representative, the Class Counsel, the Defendants, and/or the Defendants' Counsel shall not be deemed to be the drafter of this Settlement Agreement or of any particular provision, nor shall they argue that any particular provision should be construed against its drafter. All Parties agree that this Settlement Agreement was drafted by counsel for the Parties during extensive arm's-length negotiations.
- 14.12 **Settlement Agreement Not Evidence.** The Class Representative, Class Counsel, and the Settlement Class Members agree that, whether or not it is terminated, this Settlement Agreement

and anything contained herein, and any and all negotiations, documents, discussions, and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence, or received in evidence in any present, pending or future civil, criminal, regulatory, or administrative action or proceeding, except in a proceeding to approve, implement, and/or enforce this Settlement Agreement, or as otherwise required by law or as provided in this Settlement Agreement.

- 14.13 **Voluntary Settlement Agreement.** The Parties agree that the Settlement Agreement was reached voluntarily after consultation with competent legal counsel.
- 14.14 **Good Faith.** The Parties, their successors and assigns, and their counsel undertake to implement the terms of this Settlement Agreement in good faith, and to use good faith in resolving any disputes that may arise in the implementation of the terms of this Settlement Agreement.
- 14.15 **Waiver of Breach.** The waiver by one Party of any breach of this Settlement Agreement by another Party shall not be deemed a waiver of any prior or subsequent breach of this Settlement Agreement.
- 14.16 **Written Notice of Material Breach.** If one Party to this Settlement Agreement considers another Party to be in breach of its obligations under this Settlement Agreement, that Party must provide the breaching Party with written notice of the alleged breach and provide a reasonable opportunity to cure the breach before taking any action to enforce any rights under this Settlement Agreement.
- 14.17 **Electronic Signature/Counterparts.** This Settlement Agreement may be signed with an electronic or facsimile signature and in counterparts, each of which shall constitute a duplicate original.
- 14.18 **Unenforceable Provision.** In the event any one or more of the provisions contained in this Settlement Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision if the Parties mutually agree in writing to proceed as if such invalid, illegal, or unenforceable

provision had never been included in this Settlement Agreement. Any such agreement shall be reviewed and approved by the Court before it becomes effective.

Date: December ____, 2021

FOR DAIMLER AG

Wolfgang Bartels

Unterschrieben von: Wolfgang Bartels
E-Mail: wolfgang.bartels@daimler.com
Signaturzeitpunkt: 07-12-2021 18:17:59 (+01:00)
IP-Adresse: 163.116.178.31

Name: Dr. Wolfgang Bartels
Title: Vice President and Group General
Counsel

Date: December ____, 2021

FOR DAIMLER AG

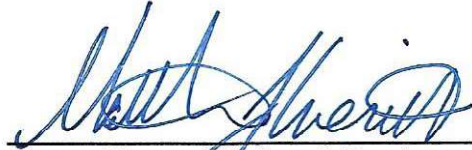
Jürgen Gleichauf

Unterschrieben von: Juergen Gleichauf
E-Mail: juergen.gleichauf@daimler.com
Signaturzeitpunkt: 07-12-2021 18:19:37 (+01:00)
IP-Adresse: 163.116.178.118

Name: Dr. Jürgen Gleichauf
Title: Chief Compliance Officer,
Vice President Legal Product &
Technology

Date: December 5, 2021

FOR MERCEDES-BENZ USA, LLC



Name: Matthew J. Everitt

Title: Vice President & General Counsel

Date: December ____, 2021

FOR MERCEDES-BENZ CANADA, INC.

A handwritten signature in black ink, appearing to read 'Cynthia Grelik', written in a cursive style.

Signed by: Cynthia Grelik

Signing time: 06-12-2021 10:36:18 (-05:00)

Name: Cynthia Grelik

Title: General Counsel

Date: December ____, 2021

**FOR MERCEDES-BENZ FINANCIAL
SERVICES CANADA CORPORATION**



Name: Hina Latif
Title: Vice President, General
Counsel & Secretary

Date: December 08, 2021

FOR FASKEN MARTINEAU DuMOULIN LLP



Name: Steven Rosenhek
Lawyers for the defendants, MERCEDES-
BENZ CANADA INC., DAIMLER AG,
MERCEDES-BENZ USA, LLC and
MERCEDES-BENZ FINANCIAL
SERVICES CANADA CORPORATION

Date: December 8, 2021

**FOR LENCZNER SLAGHT ~~ROYCE SMITH~~
~~GRIFFIN~~ LLP**



Name: Peter Griffin
Lawyers for the plaintiff and Class
Representative, YOGESH KALRA, on his
own behalf and on behalf of the Settlement
Class.

Date: December 8, 2021

FOR KOSKIE MINKSY LLP



Name: Kirk Baert
Lawyers for the plaintiff and Class
Representative, YOGESH KALRA, on his
own behalf and on behalf of the Settlement
Class.

EXHIBIT 1

CLAIM FORM

[bar code]

Mercedes-Benz BlueTEC II Diesel Class Action
Kalra v. Mercedes-Benz Canada, et al.
Class Action Settlement Claim Form
and Claim Form Instructions

Instructions for Completing the Enclosed Claim Form

You must complete, sign, and return the enclosed Claim Form to receive a payment under the settlement.¹

Please read the full Long Form Notice, which is available at the Settlement Website, [\[insert URL\]](#), before completing your Claim Form. If you have questions about this Claim Form, please visit the Settlement Website, call [\[insert phone number\]](#) toll-free or email [\[insert email\]](#).

CLAIM SUBMISSION INSTRUCTIONS AND DEADLINES:

- To receive a Settlement Class Member Payment, you must submit a completed and signed Claim Form, including all required documentation, by the deadline that applies to you. These deadlines are set forth in detail at the Settlement Website, [\[insert URL\]](#). To summarize:
 - If you are an Eligible Current Owner/Lessee, your claim must be submitted online or postmarked by **May 1, 2023**.
 - If you are an Eligible Former Owner/Lessee, your claim must be submitted online or postmarked by **[[75 days after Notice Date], or by the date the Court approves the settlement (if after [75 days after Notice Date])]**. Please visit [\[insert URL\]](#) for updates about the deadline to submit your claim.
 - You may submit your completed Claim Form and all required documents online at [\[insert URL\]](#). You may also mail your completed Claim Form and documentation to:

[\[insert address\]](#)
- You should not wait until close to the deadline to submit your Claim Form. All Claim Forms require information and documentation that you might need time to collect, and all Eligible Current Owners/Lessee must have scheduled and completed installation of the Field Measure for their vehicle before submitting their Claim Form.
- The following documentation is required to submit a claim:
 - A completed and signed Claim Form
 - Proof of current or former ownership or lease, including dates of ownership or lease, for your Eligible Vehicle
 - If you are an Eligible Current Owner/Lessee, a repair order showing the Field Measure is installed in your Eligible Vehicle by an Authorized Service Provider
 - **If you are an Eligible Current Owner/Lessee, you must schedule an appointment and have the Field Measure installed before submitting your Claim Form and required documents.** You will be eligible for a Settlement Class Member Payment **only** after the Field Measure is installed (at no charge to you).

¹ All capitalized terms in this Claim Form are defined in the Settlement Agreement, which can be found at [\[insert URL\]](#)

Mercedes-Benz BlueTEC Diesel II Class Action
Kalra v. Mercedes-Benz Canada, et al.
Class Action Settlement Claim Form
and Claim Form Instructions

You can check whether the Field Measure is available now for your Eligible Vehicle by visiting the Settlement Website, [\[insert URL\]](#), where you can type in your Vehicle Identification Number ("VIN") to check the Field Measure availability for your vehicle, or review a listing of all Eligible Vehicle models that are ready for the Field Measure installation. If your vehicle is not listed, you will be notified when the Field Measure becomes available. Please continue to check the Settlement Website for updated information.

You can find a list of the types of documents that fulfill the documentation requirements below.

- If you are an Eligible Current Owner/Lessee and a Field Measure has only become available within 120 days of the claims submission deadline, and you have attempted to but not been able to obtain a Field Measure, please contact the Settlement Administrator for information on the documentation to submit with your Claim Form.

CLAIM REVIEW AND PAYMENT PROCESS:

- After you have submitted your Claim Form, the Settlement Administrator will review your Claim Form and supporting documents for completeness and eligibility. The Settlement Administrator will also screen the claims for fraud and determine the payment amount.
- The payment amount you may receive depends on when you purchased or leased the Eligible Vehicle, whether you owned or leased the Eligible Vehicle at the time the Field Measure was installed in the Eligible Vehicle, the number of claims made per Eligible Vehicle and, for Eligible Current Owners/Lessees, whether your Eligible Vehicle qualifies for possible additional payments. The Settlement Administrator will issue the payment after your claim is deemed complete and you are determined to be eligible for a Settlement Class Member Payment.

If you have questions about filling out this form,
please visit [\[insert URL\]](#) or call [\[insert phone number\]](#)
To view JND's privacy policy, please visit <https://www.jndla.com/privacy-policy>

Mercedes-Benz BlueTEC Diesel II Class Action
Kalra v. Mercedes-Benz Canada, et al.
Class Action Settlement Claim Form
and Claim Form Instructions

SECTION A: NAME AND CONTACT INFORMATION — ALL CLAIMANTS MUST COMPLETE

Please provide your name and contact information below. You must notify the Settlement Administrator if your contact information changes after you submit your Claim Form; otherwise you may not receive your Settlement Class Member Payment.

First Name	Middle Initial	Last Name	Suffix
Mailing Address			
City	Province	Postal Code	
Email Address		Best Telephone Number to Contact You	

SECTION B: VEHICLE INFORMATION — ALL CLAIMANTS MUST COMPLETE

All claimants must complete this Section B. If you are making a claim as an Eligible Former Owner or Lessee, you must provide the information for the Eligible Vehicle that you formerly owned or leased.

Please provide the model and model year of your Eligible Vehicle in the box below. Be sure to write clearly and neatly. If you have a claim for more than one Eligible Vehicle, you must submit a separate Claim Form for each Eligible Vehicle.

Model	Model Year

Please enter the VIN of the Eligible Vehicle you entered above. The VIN may be located on your vehicle registration, your car title or in vehicle maintenance records from your dealer. Your Mercedes-Benz Owner's Manual can also direct you to the physical location of the VIN on your vehicle. To avoid confusion between letters and numbers, please enter numbers in the same form as the chart below. Be sure to write clear and neatly.

Zero	One	Two	Three	Four	Five	Six	Seven	Eight	Nine
Ø	1	2	3	4	5	6	7	8	9

If you have questions about filling out this form,
please visit [\[insert URL\]](#) or call [\[insert phone number\]](#)
To view JND's privacy policy, please visit <https://www.jndla.com/privacy-policy>

Mercedes-Benz BlueTEC Diesel II Class Action
Kalra v. Mercedes-Benz Canada, et al.
Class Action Settlement Claim Form
and Claim Form Instructions

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Enter the 17-digit VIN in the boxes above.

If you have questions about filling out this form,
please visit **[insert URL]** or call **[insert phone number]**
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Mercedes-Benz BlueTEC Diesel II Class Action
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Class Action Settlement Claim Form
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NEXT STEPS AFTER COMPLETING SECTION B:

If you are a Current Owner or Lessee of the Eligible Vehicle, **fill out Section C and Section E below (skip Section D).**

If you no longer own or lease the Eligible Vehicle and did not install the Field Measure while you possessed it, **skip Section C and fill out Sections D and E below.**

If you no longer own or lease the Eligible Vehicle, but you installed the Field Measure while you still possessed the Eligible Vehicle, **fill out Sections C and E below and skip Section D.**

**SECTION C: CURRENT OWNERS/LESSEES AND
FORMER OWNERS/LESSEES WHO INSTALLED THE FIELD MEASURE**

If you began owning or leasing the Eligible Vehicle on or before [Settlement Filing Date] , check here:	<input type="checkbox"/>
If you began owning or leasing the Eligible Vehicle after [Settlement Filing Date] , check here:	<input type="checkbox"/>
If you owned or leased the Eligible Vehicle at the time the Field Measure has been installed, check here: Please enter the date the Field Measure was installed in the Eligible Vehicle (MM/DD/YYYY): <div style="border: 1px solid black; padding: 5px; display: inline-block; width: 200px; text-align: center;">/ /</div>	<input type="checkbox"/>

If you did not own or lease the Eligible Vehicle at the time the Field Measure was installed, you are not eligible for an Owner/Lessee Payment or Post-Announcement Owner/Lessee Payment.

Required Documents – Current Owners and Lessees

Current Owners and Lessees must include a copy of the following supporting documents with your Claim Form to complete your claim. Please check all the boxes below that apply to you in order to confirm that you have included all the required documents. Please do not send the originals because the documents will not be returned to you. (Former Owners and Lessees do not need to provide these documents.)

DOCUMENTS REQUIRED TO COMPLETE YOUR CLAIM – CURRENT OWNERS/LESSEES*:

If you have questions about filling out this form,
please visit **[insert URL]** or call **[insert phone number]**
To view JND's privacy policy, please visit <https://www.jndla.com/privacy-policy>

Mercedes-Benz BlueTEC Diesel II Class Action
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- ☐ A copy of your driver's license or other government-issued photo identification
- ☐ The repair order or invoice you received at the time the Field Measure was installed in your Eligible Vehicle
- ☐ Proof that you owned or leased the Eligible Vehicle. Permitted documentation to prove ownership or lease includes your bill of sale, lease agreement, title, registration from time of purchase or lease, Ministry of Transportation registration history, financing agreement, insurance documentation listing your date of purchase or lease, or proof of lease payment. Your documentation must show the date you acquired or leased the Eligible Vehicle.

**You may need to provide additional documentation in certain circumstances. If so, the Settlement Administrator will endeavor to notify you.*

SECTION D: FORMER OWNERS AND LESSEES ONLY

If you began owning or leasing the Eligible Vehicle **on or before [Settlement Filing Date]**, and did not have the Field Measure installed while you owned or leased the Eligible Vehicle, check here:

Please enter the date you sold the Eligible Vehicle or the date you gave back the Eligible Vehicle because your lease ended (MM/DD/YYYY):

/ /

If your Eligible Vehicle was totaled, enter the date the Eligible Vehicle was given to an insurance company (or given or sold to a junkyard, salvage dealer, or the equivalent).

/ /

If you began owning or leasing the Eligible Vehicle after **[Settlement Filing Date]**, and you did not have the Field Measure installed in your vehicle while you owned or leased it, you are not eligible for payment.

If you no longer own or lease the Eligible Vehicle, **but you had the Field Measure installed** in the Eligible Vehicle while you owned or leased it, please fill out **Section C and Section E**.

Required Documentation – Former Owners and Lessees

Former Owners and Lessees must include a copy of the following supporting documentation with your Claim Form to complete your claim. Please check the corresponding box to confirm that you have included the specified documentation with your claim. Please do not send the originals as the documents will not be returned to you.

If you have questions about filling out this form,
please visit **[insert URL]** or call **[insert phone number]**
To view JND's privacy policy, please visit <https://www.jndla.com/privacy-policy>

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DOCUMENTS REQUIRED TO COMPLETE YOUR CLAIM*:

- ☐ A copy of your driver's license or other government-issued photo identification
- ☐ Proof that you owned or leased the Eligible Vehicle on or before **[Settlement Filing Date]**. Permitted documentation to prove ownership or lease includes your bill of sale, lease agreement, title, registration from time of purchase or lease, Ministry of Transportation registration history, financing agreement, insurance documentation listing your date of purchase or lease, or proof of lease payment. Your documentation must show the date you purchased or leased the Eligible Vehicle.
- ☐ Proof that you sold or transferred the Eligible Vehicle (permitted documents include your bill of sale, trade-in receipt, copy of title transfer, or proof of lease termination)

**You may need to provide additional documentation in certain circumstances. If so, the Settlement Administrator will endeavor to notify you.*

SECTION E: CERTIFICATION STATEMENT FOR ENTIRE CLAIM FORM
ALL CLAIMANTS MUST COMPLETE

I understand that in order to obtain relief under the Settlement Agreement, I must sign and date the following certification and provide the documentation listed above. I represent and warrant that I have authority to submit a claim for the Eligible Vehicle listed above, and that any of my co-owners and co-lessees of the Eligible Vehicle listed above have signed this Claim Form. I affirm under penalty of perjury that all information in this Claim Form is true and accurate to the best of my knowledge.

Signature	Date
Print Name	

CURRENT OWNERS OR LESSEES:	Claim Forms must be submitted online at [insert URL] or postmarked no later than May 1, 2023.
FORMER OWNERS OR LESSEES:	Claim Forms must be submitted online at [insert URL] or postmarked by [[75 days after Notice Date], or by the date the Court finally approves the Settlement Agreement (if after [75 days after Notice Date])] . Please visit [insert URL] for updates about the deadline to submit your claim.

Please keep a copy of your Claim Form and all supporting documentation for your records.

If you have questions about filling out this form,
please visit **[insert URL]** or call **[insert phone number]**
To view JND's privacy policy, please visit <https://www.jndla.com/privacy-policy>

EXHIBIT 2

LONG FORM NOTICE

Mercedes-Benz BlueTEC II Settlement in Canada
OFFICIAL COURT COMMUNICATION

A NATIONWIDE SETTLEMENT HAS BEEN REACHED IN CANADA AFFECTING OWNERS AND LESSEES OF MERCEDES-BENZ BLUETEC II DIESEL VEHICLES:

IF YOU **OWNED** OR **LEASED** ONE OF THESE VEHICLES ON OR BEFORE **DECEMBER 8, 2021** OR IF YOU **CURRENTLY OWN OR LEASE** ONE OF THESE VEHICLES, PLEASE REVIEW THIS NOTICE CAREFULLY

FOR MORE INFORMATION, VISIT WWW.BLUETECSETTLEMENT.CA / CALL 1-855-918-6073

YOU MAY ALSO CONTACT LAWYERS FOR AFFECTED VEHICLE OWNERS AND LESSEES AT THIS PHONE NUMBER: 1-844-819-8524

A nationwide Settlement in Canada has been reached by Daimler AG ("**Daimler**"), Mercedes-Benz Canada Inc. ("**MBC**"), Mercedes-Benz USA, LLC ("**MBUSA**"), and Mercedes-Benz Financial Services Canada Corporation ("**MBFSC**") (collectively, "**Mercedes-Benz**"), and Yogesh Kalra on behalf of the Settlement Class (the "**Settlement**"). The Settlement must be approved by the Ontario Superior Court of Justice (the "**Court**") to become effective.

If approved, Mercedes-Benz has agreed to offer the following to Settlement Class Members:

Settlement Class Member Payments

—and—

Installation of Field Measure with Extended Modification Warranty

Your rights and options—and the deadlines to exercise them—are explained in this Notice. Additional information is available at www.BlueTECSettlement.ca and by calling the Settlement Administrator at **1-855-918-6073**.

**PLEASE READ THIS NOTICE CAREFULLY.
YOUR RIGHTS UNDER THE SETTLEMENT ARE AFFECTED EVEN IF YOU DO NOTHING.**

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CLASS ACTION QUESTIONS

A. WHAT ARE MY OPTIONS IN THE SETTLEMENT?

If you think you are included in the Settlement, you have the following options:

LEARN MORE ABOUT THE SETTLEMENT AND WHETHER YOU MAY BE ELIGIBLE	<p>STEP 1: Visit www.BlueTECSettlement.ca</p> <p>STEP 2: Use the website to determine whether you may be eligible under the Settlement and learn more about what you may be eligible for.</p>
COURT APPROVAL OF THE SETTLEMENT	<p>The nationwide Settlement is subject to approval by the Court. A Settlement Approval Hearing has been scheduled for February 9, 2022 at 10:00 a.m. (EST) before the Court. This Settlement Approval Hearing is public and you are welcome to attend at your own cost.</p> <p><i>See Question W for more information.</i></p>
OBJECT TO THE SETTLEMENT BEFORE IT IS APPROVED	<p>If you do not like the Settlement, you may provide your views in writing. They must be received by the Settlement Administrator by February 2, 2022. Your objection will be provided to the Court and considered at the Settlement Approval Hearing. If you are a Settlement Class Member, you will be bound by the Settlement if it is approved by the Court even though you objected to some of its terms.</p> <p><i>See Questions V and W for more information.</i></p>
PARTICIPATE IN THE SETTLEMENT	<p>If you are a <u>current</u> owner or lessee of an Eligible Vehicle, you will receive a payment if the Field Measure is installed and you submit a Valid Claim by May 1, 2023.</p> <p>If you are a <u>former</u> owner or lessee of an Eligible Vehicle, you will receive a payment if you submit a Valid Claim by March 23, 2022, or by the date the Court approves the Settlement (if after March 23, 2022). Please visit the Settlement Website www.BlueTECSettlement.ca for updates about the deadline to submit your claim.</p> <p><i>See Question J for more information.</i></p>
IF YOU TAKE NO STEPS	<p>If you do not submit a Claim by the applicable deadline, you will not receive a Settlement Class Member Payment from the Settlement but you will give up any rights you currently have to separately sue Mercedes-Benz for the Claims being resolved by the Settlement. Settlement Class Members do not need to submit a Claim to have the Field Measure installed in their vehicle and receive the Extended Modification Warranty.</p>

B. WHAT IS THE CLASS ACTION ABOUT?

The class action is seeking damages and other relief on behalf of owners and lessees of certain Mercedes-Benz BlueTEC II vehicles. They allege that these vehicles were equipped with emission control systems that caused the vehicles to emit more nitrogen oxide (“NOx”) emissions than consumers reasonably expected, and more NOx than was permitted under federal and provincial environmental laws. They also claim that Mercedes-Benz misled consumers about the qualities and characteristics of the vehicles. Mercedes-Benz denies these allegations.

The class action is known as *Yogesh Kalra v Mercedes-Benz Canada Inc. et al*, Court File No. CV-16-550271-00CP (the “Action”).

C. WHY AM I RECEIVING THIS NOTICE?

This Notice summarizes the Settlement, which affects your legal rights if you are a Settlement Class Member (see *Question F*). Receipt of this Notice does not mean that you are a Settlement Class Member.

If you are a Settlement Class Member, this Notice informs you of your legal rights and options. These options include participating in the Settlement and, if you wish, objecting to the Settlement. You can also attend the upcoming public Settlement Approval Hearing before the Court, which will determine whether the Settlement should be approved (see *Question W*).

CLASS MEMBERSHIP QUESTIONS

D. AM I INCLUDED IN THE SETTLEMENT?

You may be included in the Settlement if:

- You own or lease or previously owned or leased an Eligible Vehicle (see *Question E*); and
- You are a Settlement Class Member (see *Question F*)

By reviewing the questions and answers below, find out if you are included in the Settlement and, if so, what you may receive.

E. IS MY VEHICLE AN “ELIGIBLE VEHICLE”?

Only Eligible Vehicles are included in the Settlement.

If your vehicle meets the following criteria, it may be considered an Eligible Vehicle:

- It must be one of the following model year 2009-2016 Mercedes-Benz BlueTEC II vehicles listed below:

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ELIGIBLE VEHICLES	
MODEL	MODEL YEARS
E250 BlueTEC	2014-2016
E350 BlueTEC	2011-2013
GL320 BlueTEC	2009
GL350 BlueTEC	2010-2016
GLE350d	2016
GLK250 BlueTEC	2013-2015
ML320 BlueTEC	2009
ML350 BlueTEC	2010-2015
R320 BlueTEC	2009
R350 BlueTEC	2010-2013
S350 BlueTEC	2012-2013
Sprinter (4-cylinder)	2014-2016
Sprinter (6-cylinder)	2010-2016

- It must not have already been installed with a Field Measure when you acquired it (see *Question N*).

F. AM I A “SETTLEMENT CLASS MEMBER”?

You may be a Settlement Class Member and included in the Settlement if you are a Canadian resident who:

- Was the owner or lessee of an Eligible Vehicle on or before **December 8, 2021**; or
- Purchased or leased an Eligible Vehicle after **December 8, 2021** for which the Field Measure has not been installed.

Some exceptions apply (see *Question H*).

There are six categories of Settlement Class Members who may be entitled to Settlement Class Member Payments under the Settlement if they submit a Claim during the Claims Program:

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Eligible Owners	An Eligible Owner is a Settlement Class Member who owns an Eligible Vehicle on or before December 8, 2021 and who owns the Eligible Vehicle at the time the Field Measure is installed in that vehicle.
Eligible Former Owners	An Eligible Former Owner is a Settlement Class Member who owned an Eligible Vehicle prior to December 8, 2021 and who sold or otherwise transferred ownership of the Eligible Vehicle on or before March 23, 2022, or the date on which the Court approves this Settlement (if after March 23, 2022) , and whose Eligible Vehicle did not receive the Field Measure during their period of ownership.
Eligible Lessees	An Eligible Lessee is a Settlement Class Member who leases an Eligible Vehicle on or before December 8, 2021 and who is leasing the Eligible Vehicle at the time the Field Measure is installed.
Eligible Former Lessees	An Eligible Former Lessee is a Settlement Class Member who leased an Eligible Vehicle prior to December 8, 2021 but who surrenders or surrendered the Eligible Vehicle on or before March 23, 2022, or the date on which the Court approves this Settlement (if after March 23, 2022) , and whose Eligible Vehicle did not receive the Field Measure during their lease period.
Post-Announcement Eligible Owners	A Post-Announcement Eligible Owner is a Settlement Class Member who did not own the Eligible Vehicle on or before December 8, 2021 , but who owns the Eligible Vehicle at the time the Field Measure is installed.
Post-Announcement Eligible Lessees	A Post-Announcement Eligible Lessee is a Settlement Class Member who did not lease the Eligible Vehicle on or before December 8, 2021 , but who leases the Eligible Vehicle at the time the Field Measure is installed.

If you are unsure of whether you fit into one of these categories, please visit the FAQ section at www.BlueTECSettlement.ca.

G. IS THE SETTLEMENT IN CANADA THE SAME AS IN THE U.S.?

No. The Settlement in Canada is specific to Settlement Class Members.

Owners or lessees of BlueTEC II diesel vehicles in the U.S. may be eligible to claim in the U.S. settlement. Visit www.mbbbluetecsettlement.com for more information on the U.S. settlement. A Settlement Class Member who has submitted a valid claim for compensation under the U.S. settlement will not be eligible to submit a claim in this Settlement for a Settlement Class Member Payment in connection with the vehicle for which compensation was claimed in U.S. settlement.

H. WHO IS EXCLUDED FROM THE SETTLEMENT?

The Settlement Agreement applies to all Settlement Class Members, except Excluded Persons. Excluded Persons are:

- Mercedes-Benz and their officers and directors;
- The authorized motor vehicles dealers of the Defendants and the officers and directors of those dealers;
- Persons who have opted out of the Action;
- Persons who have settled with, released, or otherwise had claims adjudicated on the merits against the Defendants arising from the same core allegations or circumstances as the BlueTEC Diesel Matter; and
- The heirs, successors, and assigns of the Persons described in (a), (b), (c), and (d)

CLAIMS PROCESS AND RELATED QUESTIONS

I. WHAT CAN I RECEIVE AS AN ELIGIBLE OWNER OR ELIGIBLE LESSEE?

The Settlement provides various items to owners and lessees of Eligible Vehicles (*see Question E*).

The monetary compensation ("Settlement Class Member Payment") and other things that may be available to you depend upon whether you are an Eligible Owner, Eligible Lessee, Eligible Former Owner, Eligible Former Lessee, Eligible Post-Announcement Owner, or Eligible Post-Announcement Lessee (*see Question F*). The Settlement Class Member Payment that may be available to you is also impacted by the Class Proceedings Fund levy and the Class Representative Honorarium, which are described directly below.

Impact of Class Proceedings Fund Levy

Class Counsel and the Class Representative have sought and received funding and an indemnity in this Action from the Law Foundation of Ontario's Class Proceedings Fund ("CPF"). As such, the CPF shall be paid a levy of 10% out of the Settlement Class Member Payments that are made pursuant to this Settlement, in accordance with Class Counsel's agreement with the CPF and the applicable law. No part of the levy will be paid by Mercedes-Benz. **All Settlement Class Member Payments described in this notice are subject to a reduction of 10% in favour of the CPF.**

Impact of Class Representative Honorarium

Subject to Court approval, the Class Representative will receive a payment of up to \$15,000, to reward his efforts in advancing the Action to Settlement on behalf of the Settlement Class Members (the "Honorarium"). The Honorarium will be paid out of the settlement payments that Settlement Class Members receive pursuant to this settlement, on a pro rata basis based on the total estimated number of on-road Eligible Vehicles in Canada, which is 73,185. Accordingly, the pro rata share of the Honorarium for each Eligible Vehicle is up to \$0.20 (the "Pro Rata Honorarium Share"). The Pro Rata Honorarium Share shall be deducted from each Settlement Class Member Payment made, in proportion to the number of Valid Claims made in respect of each Eligible Vehicle in accordance with

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the Claims Program. No part of the Honorarium shall be paid by Mercedes-Benz. **All Settlement Class Member Payments described in this notice are subject to a reduction of up to \$0.20 as contribution towards the Honorarium. Because the amount of the reduction may decrease if there is more than one claim per vehicle, this reduction of up to \$0.20 per claim is not reflected in the Class Member Payment amounts described below.**

Eligible Owners and Eligible Lessees

If you are an **Eligible Owner or Eligible Lessee** who installs the Field Measure in the Eligible Vehicle and timely submits a Valid Claim, you will receive an Owner/Lessee Payment of \$2,925 (\$2,632.50 after the CPF levy), unless an Eligible Former Lessee and/or Eligible Former Owner timely submits a Valid Claim for that same vehicle, in which case the Owner/Lessee Payment you will receive is \$2,090 (\$1,881 after the CPF levy).

Eligible Former Owners and Eligible Former Lessees

If you are an **Eligible Former Owner or Eligible Former Lessee** and timely submit a Valid Claim, you will receive a Former Owner/Lessee Payment.

The Former Owner/Lessee Payment is \$835 (\$751.50 after the CPF levy) per vehicle and shall be divided equally among all Eligible Former Owners and Eligible Former Lessees who timely submit a Valid Claim on the same vehicle.

Eligible Post-Announcement Owners and Eligible Post-Announcement Lessees

If you are an **Eligible Post-Announcement Owner or Eligible Post-Announcement Lessee** who installs the Field Measure in their Eligible Vehicle and timely submits a Valid Claim, you will receive a Post-Announcement Owner/Lessee Payment of \$2,090 (\$1,881 after the CPF levy).

J. HOW CAN I MAKE A CLAIM IN THE SETTLEMENT?

To claim a Settlement Class Member Payment under the Settlement, you must submit a Valid Claim by the applicable deadline (see *Question L*). Claims can be submitted online, at **www.BlueTECSettlement.ca**, or by mail. You can obtain and print Claim Forms for mail submissions by downloading them from **www.BlueTECSettlement.ca**.

Submit claims Online: **www.BlueTECSettlement.ca**

Submit claims via Mail: Mercedes-Benz BlueTEC II Settlement in Canada
c/o JND Legal Administration
PO Box 8111
Vancouver Main
Vancouver, BC V6B 4E2

K. WHEN CAN I SUBMIT A CLAIM?

The Claims Program begins on **January 7, 2022**. Eligible Former Owners/Lessees may submit claims as soon as the Claims Program begins. Eligible Current Owners/Lessees may submit claims after the Claims Program begins and after they have the Field Measure installed in their Eligible Vehicle.

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Information about Field Measure availability will be posted on the Settlement Website, **www.BlueTECSettlement.ca**. There you can also type in your VIN to check if a Field Measure is available for your Eligible Vehicle.

You can visit the Settlement Website at **www.BlueTECSettlement.ca** to sign up for e-mail updates about the Settlement. Signing up for e-mail updates on the Settlement Website is not a submission of a claim, and you should check the Settlement Website at **www.BlueTECSettlement.ca** often, even after you sign up for e-mail updates.

L. WHAT IS THE DEADLINE TO SUBMIT A CLAIM?

The deadline for you to submit a claim depends on whether you are an Eligible Current Owner/Lessee or an Eligible Former Owner/Lessee.

The deadline for Eligible Current Owners/Lessees to have the Field Measure installed in their Eligible Vehicle and submit a Valid Claim is **May 1, 2023**. To ensure that you have adequate time to schedule and complete your Field Measure and complete the Claim Form, you should not wait until the May 1, 2023 deadline approaches to schedule your Field Measure installation and submit your Claim Form.

Note: If a Field Measure for your vehicle is not available by May 1, 2023, you must submit a complete Claim Form by July 1, 2023 to receive a Settlement Class Member Payment; please see Question T for more details. Please see Question Q for information about how to check whether a Field Measure is ready for your Eligible Vehicle.

The deadline for Eligible Former Owners/Lessees to submit a Valid Claim is **March 23, 2022, or the date the Court approves the Settlement (if after March 23, 2022)**. Please visit the Settlement Website at **www.BlueTECSettlement.ca** for updates about the deadline to submit your claim.

Class Members who do not submit a Valid Claim by the applicable deadline will not receive a Settlement Class Member Payment.

M. WHAT IS THE FIELD MEASURE AND EXTENDED MODIFICATION WARRANTY?

There will be a Field Measure, which will modify the emission control system software calibration and certain related hardware to ensure that the Eligible Vehicles meet the emissions standards to which they were originally certified.

The Field Measure can be obtained at Authorized Service Providers.

In addition, each vehicle that receives the Field Measure will also receive an Extended Modification Warranty on certain components, as described in the Settlement Agreement. Please select from the following links for the terms of the Extended Modification Warranty.

- For passenger cars: **BlueTECUpdate.Mercedes-Benz.ca**
- For vans: **BlueTECUpdate.Mercedes-Benz-Vans.ca**

N. IF THE FIELD MEASURE IS MADE AVAILABLE AND INSTALLED PRIOR TO SETTLEMENT APPROVAL, CAN I STILL FILE A CLAIM?

Provided the Settlement is approved by the Court, in the event that Field Measures are made available by the Defendants for Eligible Vehicles before the Claims Program begins, the installation of a Field Measure in an Eligible Vehicle before the commencement of the Claims Program will not disentitle a Settlement Class Member from any Settlement benefits he or she would otherwise be entitled to had the Field Measure been installed after the commencement of the Claims Program.

O. WHAT ADDITIONAL SETTLEMENT CLASS MEMBER PAYMENTS WILL BE AVAILABLE FOR ELIGIBLE OWNERS/LESSEES WHO HAVE A FIELD MEASURE INSTALLED IN THEIR VEHICLES?

In addition to the Owner/Lessee Payment and Post-Announcement Owner/Lessee Payment described in Question I, Eligible Owners, Eligible Lessees, Post-Announcement Eligible Owners and Post-Announcement Eligible Lessees who submit Valid Claims and have a Field Measure installed in their Eligible Vehicles may be eligible for additional payments, as summarized below. Eligible Former Owners and Eligible Former Lessees are not eligible for these additional payments. Such additional payments will be paid at the same time as the Owner/Lessee Payment or Post-Announcement Owner/Lessee Payment, as applicable.

SITUATION	ADDITIONAL PAYMENT
If the proposal for an Approved Emission Modification is scheduled under a settlement among the Daimler AG, MBUSA, and U.S. and California state regulators (the "US-CA Consent Decree") for submission to the U.S. Environmental Protection Agency and California Air Resources Board more than 60 days after the Court approves the Settlement	\$406.40 (\$365.76 after the CPF levy) Please see Section 5.9 of the Settlement Agreement for more details
If an Eligible Vehicle must be reclassified to a less stringent emissions standard after receiving the Field Measure	\$355.60 (\$320.04 after the CPF levy) Please see Section 5.10 of the Settlement Agreement for more details
If a Field Measure causes a reduction in calculated fuel economy using the EPA formula of more than 3 MPG; a decrease of greater than 5% in peak horsepower; or a decrease of greater than 5% in peak torque.	\$330.20 (\$287.18 after the CPF levy)**
If a Field Measure causes a reduction in calculated fuel economy using the EPA formula of more than 6 MPG, or a decrease of greater than 10% in peak horsepower or peak torque	\$660.40 (\$594.36 after the CPF levy)**

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SITUATION	ADDITIONAL PAYMENT
**These payments cannot be combined; the additional payment would be <u>either</u> \$330.20 (\$287.18 after the CPF levy) <u>or</u> \$660.40 (\$594.36 after the CPF levy), depending on the performance impacts, even if performance is reduced in more than one category. Please see Section 5.15 of the Settlement Agreement for more details.	
If the Field Measure changes the frequency with which consumers need to refill their DEF tank, as indicated in the consumer notifications required by the US-CA Consent Decree.	\$76.20 (\$68.58 after the CPF levy) Please see Section 5.16 of the Settlement Agreement for more details

P. IS THERE A CHARGE TO HAVE A FIELD MEASURE INSTALLED?

No. Field Measures are free of charge to you at an Authorized Service Provider.

Q. HOW DO I SCHEDULE AN APPOINTMENT TO HAVE A FIELD MEASURE INSTALLED IN MY VEHICLE?

Call your preferred Authorized Service Provider to schedule an appointment to have the Field Measure installed. You can check **www.mercedes-benz.ca** for authorized dealerships in your area.

R. WHAT IF I ALTERED MY VEHICLE'S EMISSION CONTROL SYSTEM?

If you altered the emission control system in your vehicle, you may still be eligible to receive the Field Measure and may still be a Settlement Class Member eligible for a payment under the Settlement. However, if such alterations are likely to substantially affect the operation of the vehicle with the Field Measure or substantially impede installation of the Field Measure, your vehicle will not be considered Operable and will be unable to receive the Field Measure unless and until you have reversed the alterations such that the Field Measure may be installed and vehicle operation not substantially affected.

S. WHAT IF MY VEHICLE IS NOT OPERABLE?

In order for Settlement Class Members to receive a Field Measure, their Eligible Vehicle must be Operable—*i.e.*, is currently capable of being driven under its own engine power.

T. WHAT IF THERE IS NO AVAILABLE FIELD MEASURE FOR MY ELIGIBLE VEHICLE?

Settlement Class Members Who Purchased or Leased the Eligible Vehicle On or Before Settlement Filing Date

If you are a Settlement Class Member who purchased or leased the Eligible Vehicle on or before the Settlement Filing Date and the Field Measure is not made available for your vehicle's Emission Modification Group by May 1, 2023, you may file a Claim for a Settlement Class Member Payment within sixty (60) days. There are two tiers of payments for these Settlement Class Members who cannot install the Field Measure because it is not made available by May 1, 2023, as follows:

First Tier: If the Field Measure is not made available for your vehicle's Emissions Modification Group by May 1, 2023, Settlement Class Members who own or lease an affected Eligible Vehicle at that time may file a Claim within sixty (60) days for payment in accordance with the following schedule:

Model Year	If no Eligible Former Owner/Lessee submits a Valid Claim for the same vehicle	If an Eligible Former Owner/Lessee submits a Valid Claim for the same vehicle
2014-2016	\$2,340 (\$2,106 after the CPF levy)	\$1,672 (\$1,504.80 after the CPF levy)
2012-2013	\$1,755 (\$1,579.50 after the CPF levy)	\$1,254 (\$1,128.60 after the CPF levy)
2009-2013	\$877.50 (\$789.50 after the CPF levy)	\$627 (\$564.30 after the CPF levy)

Second Tier: If a Field Measure is not made available by May 1, 2023, and no Eligible Vehicle in that Emission Modification Group can be re-registered in the Settlement Class Members' province or territory of residence because the Field Measure is unavailable, any Settlement Class Member who owns an affected Eligible Vehicle on May 1, 2023 may at that time file a Claim within sixty (60) days for repurchase of the vehicle. If a Valid Claim is received by the deadline, Mercedes-Benz will offer to repurchase the Eligible Vehicle for an amount equal to the Canadian Black Book Average Value of the vehicle.

Settlement Class Members Who Began Owning or Leasing the Eligible Vehicle After the Settlement Filing Date

If you are a Settlement Class Member who began owning or leasing the Eligible Vehicle after the Settlement Filing Date and the Field Measure is not made available by May 1, 2023, you may file a Claim for a Class Member Payment within sixty (60) days. There are two tiers of payments for these Settlement Class Members who cannot install the Field Measure because it is not available by May 1, 2023, as follows:

First Tier: If the Field Measure is not made available by May 1, 2023, Settlement Class Members who own or lease an Eligible Vehicle at that time may file a Claim within sixty (60) days for payment in accordance with the following schedule:

Model Year	Payment
2014-2016	\$1,672 (\$1,504.80 after the CPF levy)
2012-2013	\$1,254 (\$1,128.60 after the CPF levy)
2009-2013	\$627 (\$564.30 after the CPF levy)

Second Tier: If a Field Measure is not made available by May 1, 2023, and no Eligible Vehicle in that Emissions Modification Group can be re-registered in the Settlement Class Member's province or territory of residence because the Field Measure is unavailable, any Settlement Class Member who owns an affected Eligible Vehicle on May 1, 2023 may at that time file a Claim within sixty (60) days for repurchase of the vehicle. If a Valid Claim is received by the deadline, Mercedes-Benz will offer to repurchase the Eligible Vehicle for an amount equal to the Canadian Black Book Average Value of the vehicle.

SETTLEMENT PROCESS QUESTIONS

U. IF I AM A SETTLEMENT CLASS MEMBER, WHAT RIGHTS AM I GIVING UP?

A settlement is an agreement to resolve legal claims, and usually involves compromises by both sides. This settlement would end this lawsuit while allowing the parties to avoid the costs and risks of a trial. A settlement also allows the parties to avoid the very significant time delays of litigation.

If the Settlement is approved by the Court, you will release Mercedes-Benz from all claims arising from, in whole or in part, or in any way related to the BlueTEC Diesel Matter, as described more fully in Sections 2.5 and 9 of the Settlement Agreement. Releasing someone from a claim means giving up the right to sue them.

All Settlement Class Members are bound by a full and final release that will take effect whether they file any Claim or install a Field Measure (and receive the associated Extended Modification Warranty) on the date the Settlement is approved by the Court (the "**Release**"). Settlement Class Members who wish to participate in the Claims Program must make their claim before the applicable claims submission deadline (depending on whether the Settlement Class Member is an Eligible Former Owner, Eligible Former Lessee, Eligible Owner, Eligible Lessee, Eligible Post-Announcement Owner or Eligible Post-Announcement Lessee).

The above is only a summary of the Release. The Settlement sets out and describes the releases contained in the Release, so read them carefully. If you have any questions, you can talk to Class Counsel (see *Question X*) for free. You can also talk to your own lawyer, at your own expense, if you have questions about what this means. The Settlement Agreement is available at www.BlueTECSettlement.ca.

V. HOW CAN I OBJECT TO THE SETTLEMENT?

Before objecting, it is recommended that you visit www.BlueTECSettlement.ca to get more information about the Settlement. You can talk to Class Counsel (see *Question X*) for free. You can also talk to your own lawyer at your own expense.

If you are a Settlement Class Member and have comments about, or disagree with, any aspect of the Settlement that applies to you, you may express your views to the Court by submitting a personally signed written objection as provided below.

Mercedes-Benz BlueTEC II Settlement in Canada
OFFICIAL COURT COMMUNICATION

Your written objection must include:

- Your name, mailing address, telephone number and e-mail address (if available);
- The make, model, model year and VIN of the Eligible Vehicle;
- A brief statement of the nature of and reason for your objection to this Settlement; and
- Whether you intend to appear in person or by counsel at the Settlement Approval Hearing, and if appearing by counsel, the name, address, telephone number, and e-mail address of counsel. (The Court may hold the Settlement Approval Hearing via videoconference or in person.)

Your objection must be received by no later than **February 2, 2022** at:

Mail or Courier to:	Mercedes-Benz BlueTEC II Settlement in Canada c/o JND Legal Administration PO Box 8111 Vancouver Main Vancouver, BC V6B 4E2	E-Mail to:	info@BlueTECSettlement.ca
DO NOT SEND OBJECTIONS DIRECTLY TO THE COURT			

Note: Objecting to the Settlement simply means telling the Court that you do not like something about the Settlement. If the Court approves the Settlement, you will still be a Settlement Class Member, provided you meet the Settlement Class definition, and you will be bound by the terms of the Settlement whether or not you make a Claim or install a Field Measure. Objecting does not disqualify you from making a Claim nor does it make you ineligible to receive Settlement Class Member Payments under the Settlement.

If you deliver a written objection to the Settlement, you do not have to come to Court to talk about it. As long as you submit your written objection on time, the Court will receive it. Should you wish to speak at the Settlement Approval Hearing, you must indicate your wish to do so in your written objection. You can hire a lawyer to appear on your behalf at your own expense or you may appear. As the Settlement was negotiated between Class Counsel and Mercedes-Benz, Class Counsel will not be advocating on behalf of objectors at the hearing.

W. CAN I ATTEND THE SETTLEMENT APPROVAL HEARING?

Yes. Before determining whether to approve the Settlement, the Court will hold the following hearing:

- The Court will hold a Settlement Approval Hearing at **10:00 a.m. (EST) on February 9, 2022**; and

The Settlement Approval Hearing may move to a different date or time. Visit **www.BlueTECSettlement.ca** or call the Settlement Administrator at **1-855-918-6073** for current information.

At this Settlement Approval Hearing, the Court will consider whether the Settlement is fair, reasonable and in the best interests of the Settlement Class. Class Counsel will answer any questions the Court

Mercedes-Benz BlueTEC II Settlement in Canada
OFFICIAL COURT COMMUNICATION

may have about the Settlement. If there are objections, the Court will consider them at that time. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long this decision will take.

You are welcome to attend the Settlement Approval Hearing at your own expense, but you are not required to attend.

X. WHO IS MY LAWYER / CLASS COUNSEL?

The law firms representing all Settlement Class Members are listed below:

Lenczner Slaght Royce Smith Griffin LLP 130 Adelaide St. W, Suite 2600 Toronto, ON M5H 3P5
Koskie Minsky LLP 900-20 Queen St. W., Box 52 Toronto, ON M5H 3R3

You will not be charged for contacting these lawyers. Class Counsel can be reached by telephone at: **1-844-819-8524**.

Y. HOW WILL CLASS COUNSEL BE PAID?

Any reasonable legal fees and costs awarded to Class Counsel by the Court will be paid separately by Mercedes-Benz in addition to the Settlement Class Member Payments and will not reduce benefits to Class Members. The Mercedes Defendants will not pay legal fees and costs to any lawyers other than Class Counsel. If you choose to hire lawyers that have not been appointed as Class Counsel, you may have to pay those lawyers legal fees, subject to your agreement with your personally retained lawyers. No lawyers other than Class Counsel will receive fees or costs from Mercedes-Benz in connection with the Settlement or the Action.

Z. HOW DO I GET MORE INFORMATION?

This Notice is only a summary of some of the terms of the Settlement. If there is a conflict between this Notice and the Settlement, the Settlement applies.

For more information about your legal rights under the Settlement, you may also consult Class Counsel at no charge by calling **1-844-819-8524**

In addition, more information about the options Settlement Class Members may have is available at **www.BlueTECSettlement.ca**, or by calling the Settlement Administrator at **1-855-918-6073**.

EXHIBIT 3

NOTICE PROGRAM

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

YOGESH KALRA

Plaintiff

- and -

**MERCEDES-BENZ CANADA INC., DAIMLER AG, MERCEDES-BENZ USA, LLC and
MERCEDES-BENZ FINANCIAL SERVICES CANADA CORPORATION**

Defendants

NOTICE PROGRAM

1. Capitalized terms used but not defined herein shall have the meaning given to them in the Settlement Agreement.
2. Members of the Settlement Class ("**Settlement Class Members**") shall be notified by the Settlement Administrator, JND Legal Administration, that a settlement has been proposed in this proceeding, as follows:
 - (a) by sending the Short Form Notice (attached at **Schedule "A"**), within 30 days of entry of the Notice Approval and Discontinuance Order:
 - (i) by e-mail to the last known e-mail address of Settlement Class Members for whom the Defendants have a valid e-mail address, or who have contacted Class Counsel and provided an e-mail address; or
 - (ii) by regular mail to the last known mailing address of Settlement Class Members for whom the Defendants only have a valid mailing address, or

who have contacted Class Counsel and provided only a mailing address as their contact information;

- (b) by making available the Short Form Notice, or a summary thereof, orally by recorded message at a toll-free hotline; and
- (c) by posting the Long Form Notice and Short Form Notice on the Settlement Website ([insert URL]), within 30 days of the entry of the Notice Approval and Discontinuance Order.

3. The Defendants shall provide the e-mail addresses and mailing addresses referred to in paragraph 2 above to the Settlement Administrator.

4. Class Counsel shall make the Short Form Notice and the Long Form Notice available on Class Counsel's website, together with a link to the Settlement Website.

5. After the Field Measures are made available, the Settlement Administrator shall send the applicable Field Measure Disclosure and Supplemental Notice to affected current owners and lessees of Subject Vehicles. The Field Measure Disclosure and Supplemental Notice shall be sent in the manner set out at paragraph 2(a)(i) and (ii) above and to all Settlement Class Members who contact the Settlement Administrator and provide their e-mail address or mailing address.

6. If the Court approves the Settlement Agreement, the Settlement Administrator shall send reminder notice postcards and reminder notice e-mails to all identified Settlement Class Members that have not submitted a claim, or have not unsubscribed from the e-mail campaign. The content of the reminder notices will be materially the same as the e-mail notice, but the subject line will remind Settlement Class Members that they have not yet filed a claim and need to do so in order to receive a payment pursuant to the Settlement Agreement and the language will be adjusted to remove any deadlines that have passed. The reminder notices will direct Settlement Class Members to the Settlement Website and will remind current owners and lessees of Eligible Vehicles to install the Field Measure if it is available for their vehicle.

7. The reasonable and necessary costs of the notice in paragraphs 2, 5 and 6, and the fees and costs of the Settlement Administrator shall be paid by the Defendants.

EXHIBIT 4

SHORT FORM NOTICE

A NATIONWIDE SETTLEMENT HAS BEEN REACHED IN CANADA AFFECTING OWNERS AND LESSEES OF MERCEDES-BENZ BLUETEC II DIESEL VEHICLES:

IF YOU **OWNED** OR **LEASED** ONE OF THESE VEHICLES ON OR BEFORE **DECEMBER 8, 2021** OR IF YOU **CURRENTLY OWN OR LEASE** ONE OF THESE VEHICLES, PLEASE REVIEW THIS NOTICE CAREFULLY

FOR MORE INFORMATION, VISIT WWW.BLUETECSETTLEMENT.CA/ CALL 1-855-918-6073

YOU MAY ALSO CONTACT LAWYERS FOR AFFECTED VEHICLE OWNERS AND LESSEES AT THIS PHONE NUMBER: 1-844-819-8524

A nationwide Settlement in Canada has been reached by Daimler AG ("**Daimler**"), Mercedes-Benz Canada Inc. ("**MBC**"), Mercedes-Benz USA, LLC ("**MBUSA**"), and Mercedes-Benz Financial Services Canada Corporation ("**MBFSC**") (collectively, "**Mercedes-Benz**"), and Yogesh Kalra on behalf of the Settlement Class (the "**Settlement**"). The Settlement must be approved by the Ontario Superior Court of Justice (the "**Court**") to become effective.

If approved, Mercedes-Benz has agreed to offer the following to Settlement Class Members:

Settlement Class Member Payments

—and—

Installation of Field Measure with Extended Modification Warranty

Your rights and options—and the deadlines to exercise them—are explained in this Notice. Additional information is available at www.BlueTECSettlement.ca and by calling the **Settlement Administrator** at 1-855-918-6073.

PLEASE READ THIS NOTICE CAREFULLY.

YOUR RIGHTS UNDER THE SETTLEMENT ARE AFFECTED EVEN IF YOU DO NOTHING.

Mercedes-Benz BlueTEC II Settlement in Canada
OFFICIAL COURT COMMUNICATION

If you currently own or lease a model year 2009-2016 Mercedes-Benz BlueTEC II diesel vehicle (see the table below showing the “Eligible Vehicles”¹) in Canada, you may be eligible for a cash payment of **\$2,925 (\$2,632 after the CPF levy)** if you get a Field Measure installed in your vehicle (free of charge to you); or **\$2,090 (\$1,881 after the CPF levy)** (once the Field Measure is installed) if a former owner or lessee submits a Valid Claim for the same vehicle. You may also be eligible for additional payments, depending on the vehicle you own or lease.

Former owners and lessees of Eligible Vehicles in Canada may be entitled to up to **\$835 (\$751 after the CPF levy)**. Please visit **www.BlueTECSettlement.ca** for more details.

Current owners and lessees must have a Field Measure installed to receive the cash payments. Installation is available free of charge to you and you will receive an Extended Modification Warranty after the installation. You can check Field Measure availability at the Settlement Website, **www.BlueTECSettlement.ca**, where you can type in your VIN or review a list of all Eligible Vehicle models that are ready for the Field Measure installation.

WHO IS INCLUDED IN THE PROPOSED SETTLEMENT?

You are receiving this notice as a current or former owner or lessee of one of the Eligible Vehicles listed below. **If you are a Canadian resident who purchased or leased an Eligible Vehicle, you may be a Settlement Class Member and eligible for a cash payment, even if you no longer own or lease the Eligible Vehicle.**

ELIGIBLE VEHICLES	
MODEL	MODEL YEARS
E250 BlueTEC	2014-2016
E350 BlueTEC	2011-2013
GL320 BlueTEC	2009
GL350 BlueTEC	2010-2016
GLE350d	2016
GLK250 BlueTEC	2013-2015
ML320 BlueTEC	2009
ML350 BlueTEC	2010-2015
R320 BlueTEC	2009
R350 BlueTEC	2010-2013
S350 BlueTEC	2012-2013
Sprinter (4-cylinder)	2014-2016
Sprinter (6-cylinder)	2010-2016

¹ All capitalized terms in this Notice are defined in the Settlement Agreement, a copy of which is available at **www.BlueTECSettlement.ca**.

Mercedes-Benz BlueTEC II Settlement in Canada
OFFICIAL COURT COMMUNICATION

WHAT ARE MY OPTIONS?

If you think you are included in the Settlement, you have the following options:

LEARN MORE ABOUT THE SETTLEMENT AND WHETHER YOU MAY BE ELIGIBLE	<p>STEP 1: Visit www.BlueTECSettlement.ca</p> <p>STEP 2: Use the website to determine whether you may be eligible under the Settlement and learn more about what you may be eligible for.</p>
COURT APPROVAL OF THE SETTLEMENT	<p>The nationwide Settlement is subject to approval by the Court. A Settlement Approval Hearing has been scheduled for February 9, 2022 at 10:00 a.m. (EST) before the Court. This Settlement Approval Hearing is public and you are welcome to attend at your own cost.</p>
OBJECT TO THE SETTLEMENT BEFORE IT IS APPROVED	<p>If you do not like the Settlement, you may provide your views in writing. They must be received by the Settlement Administrator by February 2, 2022. Your objection will be provided to the Court and considered at the Settlement Approval Hearing. If you are a Settlement Class Member, you will be bound by the Settlement if it is approved by the Court even though you objected to some of its terms.</p>
PARTICIPATE IN THE SETTLEMENT	<p>If you are a <u>current</u> owner or lessee of an Eligible Vehicle, you will receive a payment if the Field Measure is installed and you submit a Valid Claim by May 1, 2023.</p> <p>If you are a <u>former</u> owner or lessee of an Eligible Vehicle, you will receive a payment if you submit a Valid Claim by March 23, 2022, or by the date the Court approves the Settlement (if after March 23, 2022). Please visit the Settlement Website www.BlueTECSettlement.ca for updates about the deadline to submit your claim.</p>
IF YOU TAKE NO STEPS	<p>If you do not submit a Claim by the applicable deadline, you will not receive a Settlement Class Member Payment from the Settlement but you will give up any rights you currently have to separately sue Mercedes-Benz for the Claims being resolved by the Settlement. Settlement Class Members do not need to submit a Claim to have the Field Measure installed in their vehicle and receive the Extended Modification Warranty.</p>

Mercedes-Benz BlueTEC II Settlement in Canada
OFFICIAL COURT COMMUNICATION

HOW CAN I GET A PAYMENT?

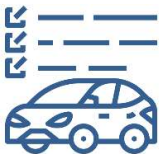
Current and former owners and lessees may be eligible for cash payments. To claim a cash payment, Class Members must submit a Valid Claim by the deadlines in this Notice.

If you are a current owner or lessee of an Eligible Vehicle and have not opted-out from the Settlement, you can receive a payment by (1) having the Field Measure installed on your vehicle and (2) submitting a Valid Claim by **May 1, 2023**. Here are the steps to receive a payment:



1. Once a Field Measure for your vehicle is available, contact your preferred authorized dealership in Canada to schedule an appointment to have the Field Measure installed. Field Measures are free of charge to you. Authorized Mercedes-Benz dealerships can be found at **www.mercedes-benz.ca**.

You can check Field Measure availability at **www.BlueTECSettlement.ca**. As Field Measures become available, owners and lessees of those vehicles will receive another mailed notice. Please continue to check **www.BlueTECSettlement.ca** for updated information.



2. Bring your vehicle to your appointment for installation of the Field Measure. **You must complete the Field Measure installation before you submit a claim.** Make sure to keep your repair order to submit with your claim.



3. Submit a valid Claim Form and all required documents by **May 1, 2023** at **www.BlueTECSettlement.ca** or by mail (postmarked by May 1, 2023) to:

Mercedes-Benz BlueTEC II Settlement in Canada
c/o JND Legal Administration
PO Box 8111
Vancouver Main
Vancouver, BC V6B 4E2

If you are a former owner or lessee of an Eligible Vehicle, you must submit a Valid Claim by **March 23, 2022**, or by the date the Court approves the Settlement (if after March 23, 2022) at **www.BlueTECSettlement.ca** or by mail to the address listed directly above. Please visit **www.BlueTECSettlement.ca** for updates about the deadline to submit your claim.

Check www.BlueTECSettlement.ca often for information about the date of Court approval of the Settlement and other updates.

A Claim Form is enclosed in this mailing.

HOW CAN I GET MORE INFORMATION?

Visit **www.BlueTECSettlement.ca** or call **1-855-918-6073** for more details about the Settlement, to register for updates, and to learn more about your rights and options. A Long Form Notice with more information about the Settlement is available at **www.BlueTECSettlement.ca**.

EXHIBIT 5

NOTICE APPROVAL AND DISCONTINUANCE ORDER

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE) THURSDAY, THE
)
JUSTICE BELOBABA) 9TH DAY OF DECEMBER, 2021

B E T W E E N:

YOGESH KALRA

Plaintiff

- and -

**MERCEDES-BENZ CANADA INC., DAIMLER AG, MERCEDES-BENZ USA, LLC and
MERCEDES-BENZ FINANCIAL SERVICES CANADA CORPORATION**

Defendants

Proceeding under the Class Proceedings Act 1992

**ORDER
(SETTLEMENT NOTICE APPROVAL AND DISCONTINUANCE)**

THIS MOTION made by the Plaintiff for an Order appointing JND Legal Administration as Settlement Administrator; approving the Short Form Notice and the Long Form Notice (collectively, the “**Settlement Notices**”) and the program for distributing information about the Settlement Agreement to the Settlement Class (the “**Notice Program**”); setting the objection deadline; and discontinuing without costs the claims of members of the class certified pursuant to the Certification Order in this Action dated June 29, 2017 (the “**Certification Order**”) who are current or former owners or lessees of model year 2007-2009 E320 Mercedes-Benz BlueTEC I

vehicles, and approving the notice of discontinuance in connection with those claims (the “**Notice of Discontinuance**”), was heard by videoconference in Toronto, Ontario, on December 9, 2021.

ON READING the materials filed and on hearing the submissions of Class Counsel and counsel for the Defendants;

AND ON BEING ADVISED that the Parties have entered into a settlement agreement dated as of December 7, 2021 (the “**Settlement Agreement**”), attached hereto as Schedule “A”, which is subject to the approval of this Court, in respect of the following Mercedes-Benz BlueTEC II vehicles:

E250 BlueTEC	2014-2016
E350 BlueTEC	2011-2013
GL320 BlueTEC	2009
GL350 BlueTEC	2010-2016
GLE350d	2016
GLK250 BlueTEC	2013-2015
ML320 BlueTEC	2009
ML350 BlueTEC	2010-2015
R320 BlueTEC	2009
R350 BlueTEC	2010-2013
S350 BlueTEC	2012-2013
Sprinter (4-cylinder)	2014-2016
Sprinter (6-cylinder)	2010-2016

AND ON BEING ADVISED that JND Legal Administration consents to the requested appointment;

AND ON BEING ADVISED that the Parties consent to this Order;

1. **THIS COURT DECLARES** that the definitions in the Settlement Agreement apply to and are incorporated into this Order.

2. **THIS COURT ORDERS** that the Class Definition in this matter is hereby amended to the Settlement Class, as defined at section 2.67 of the Settlement Agreement.

3. **THIS COURT ORDERS** that any opt-out requirements and, except as provided for herein, notice requirements with respect to the Settlement Class are hereby dispensed with.

4. **THIS COURT ORDERS** that JND Legal Administration is hereby appointed the Settlement Administrator to implement and oversee the Notice Program, the Claims Program, the Honorarium Payment to the Class Representative, and the payment of the Levy to the Class Proceedings Fund.

5. **THIS COURT ORDERS** that any Settlement Class Member who wishes to object to the Settlement Agreement must do so by sending a written objection, which includes the information and documentation required by paragraph 6 herein, by email or mail to the Settlement Administrator at email: info@bluetecsettlement.ca or

by mail:
PO Box 8111
Vancouver Main
Vancouver, BC V6B 4E2

so that it is received on or before the Objection Deadline of February 2, 2022, in accordance with Section 8 of the Settlement Agreement and the Settlement Notices.

6. **THIS COURT ORDERS** that all written objections to the Settlement Agreement shall be personally signed by the Settlement Class Member and shall include the following:

- (a) the Settlement Class Member's name, mailing address, telephone number, and e-mail address (if available);

- (b) the make, model, model year, and VIN of the Eligible Vehicle;
- (c) a brief statement of the nature of and reason for the objection to the Settlement Agreement;
- (d) whether the Settlement Class Member intends to appear in person or by counsel at the Settlement Approval Hearing, and if appearing by counsel, the name, address, telephone number, and e-mail address of counsel.

7. **THIS COURT ORDERS** that, if the Settlement Class Member is deceased, a minor, or otherwise incapable of making their own written objection to the Settlement Agreement, the information required by Paragraph 6 herein must be provided along with the contact information of the person acting on behalf of the Settlement Class Member, together with a copy of the power of attorney, court order, or other authorization serving as the proposed basis for permitting such person to represent the Settlement Class Member. A power of attorney will not be recognized as valid by the Settlement Administrator in the place of a signature of a potential member of the Settlement Class, except where the individual is deceased, a minor or otherwise incapable of making his/her own personal objection to the Settlement Agreement.

8. **THIS COURT ORDERS** that the Settlement Approval Hearing shall take place by videoconference on February 9, 2022.

9. **THIS COURT ORDERS** that the Settlement Notices are hereby approved substantially in the form attached hereto as Schedules “B” and “C”.

10. **THIS COURT ORDERS** that the Notice Program is hereby approved substantially in the form attached hereto as Schedule “D”.

11. **THIS COURT ORDERS** that the Notice of Discontinuance is hereby approved substantially in the form attached hereto as Schedule “E”.

12. **THIS COURT ORDERS** that the Settlement Notices shall be disseminated within 30 days of this Order, in accordance with the Notice Program.

13. **THIS COURT ORDERS** that:

- (a) on the Effective Date of the Settlement Agreement this Action is hereby discontinued without costs on behalf of members of the class certified pursuant to the Certification Order who are current or former owners or lessees of model year 2007-2009 E320 Mercedes-Benz BlueTEC I vehicles, without prejudice to any existing rights of these class members to commence another action.
- (b) within five (5) days of the Effective Date of the Settlement Agreement, the Notice of Discontinuance shall be (a) sent by email to the last known e-mail addresses of persons affected by the discontinuance for whom the Defendants have a valid e-mail address, or who have contacted Class Counsel and provided an e-mail address; and (b) posted on the Class Counsel website.

The Honourable Justice Belobaba

YOGESH KALRA

Plaintiff

-and- MERCEDES-BENZ CANADA INC. et al.

Defendants
Court File No. CV-16-550271-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

**Proceeding commenced at
Toronto**

ORDER

**(SETTLEMENT NOTICE APPROVAL
AND DISCONTINUANCE)**

KOSKIE MINSKY LLP
Barristers and Solicitors
900-20 Queen Street West
Toronto, ON M5H 3R3

Kirk M. Baert (LSO: 30942O)
kmbaert@kmlaw.ca
Tel: 416 595 2092

James Sayce (LSO: 58730M)
jsayce@kmlaw.ca
Tel: 416 542 6298

LENCZNER SLAGHT LLP
Barristers and Solicitors
2600-130 Adelaide Street West
Toronto, ON M5H 3P5

Peter Griffin (LSO: 19527Q)
pgriffin@litigate.com
Tel: 416 865 2921

Brian Kolenda (LSO: 60153N)
bkolenda@litigate.com
Tel: 416 865 2897

EXHIBIT 6

APPROVAL ORDER

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE) [●] THE
JUSTICE BELOBABA) [●] DAY OF [●], [●]

B E T W E E N:

YOGESH KALRA

Plaintiff

- and -

**MERCEDES-BENZ CANADA INC., DAIMLER AG, MERCEDES-BENZ USA, LLC and
MERCEDES-BENZ FINANCIAL SERVICES CANADA CORPORATION**

Defendants

Proceeding under the Class Proceedings Act 1992

**ORDER
(SETTLEMENT APPROVAL)**

THIS MOTION, made by the Plaintiff, for an Order approving the Settlement Agreement between the Parties dated December 7, 2021 (attached as Schedule “A”) and dismissing this Action, was heard this day at [●].

ON READING the materials filed and on hearing the submissions of Class Counsel, counsel for the Defendants, [and certain Settlement Class Members who filed objections];

AND ON BEING ADVISED that the deadline for objecting to the Settlement Agreement has passed and there have been [●] written objections to the Settlement Agreement;

1. **THIS COURT DECLARES** that the definitions in the Settlement Agreement apply to and are incorporated into this Order.

2. **THIS COURT DECLARES** that the Settlement Agreement is fair, reasonable, and in the best interests of the Settlement Class.

3. **THIS COURT ORDERS** that all provisions of the Settlement Agreement form part of this Order and are binding upon the Defendants, the Class Representative and all members of the Settlement Class, including those persons who are minors or mentally incapable, and the requirements of rules 7.04(1) and 7.08(4) of the Rules of Civil Procedure are waived.

4. **THIS COURT ORDERS** that the Settlement Agreement, which is expressly incorporated by reference into this Order, be and hereby is approved and shall be implemented in accordance with this Order and further orders of this Court.

5. **THIS COURT ORDERS** that the Release is approved and shall take effect upon the Effective Date.

6. **THIS COURT ORDERS AND DECLARES** that the Released Parties include, without limitation: (1) Daimler, MBUSA, MBC, MBFSC and any former, present, and future owners, shareholders (direct or indirect), members (direct or indirect), directors, officers, members of management or supervisory boards, employees, counsel, affiliates, parent companies (direct or

indirect), subsidiaries (direct or indirect), predecessors, and successors of any of the foregoing (the “Entities”); (2) any and all contractors, subcontractors, joint venture partners, consultants, auditors, dealers, distributors, and suppliers of the Entities; (3) any and all persons and entities indemnified by any Entity with respect to the Action or the BlueTEC Diesel Matter; (4) any and all other persons and entities involved in the design, research, development, manufacture, assembly, testing, sale, leasing, repair, warranting, marketing, advertising, public relations, promotion, or distribution of any Eligible Vehicle, even if such persons are not specifically named in Section 9.2 of the Settlement Agreement; (5) lenders, creditors, financial institutions, or any other parties that financed any purchase or lease of an Eligible Vehicle; (6) for each of the foregoing, their respective former, present, and future affiliates, parent companies, subsidiaries, predecessors, successors, shareholders, indemnitors, subrogees, spouses, joint venturers, general or limited partners, counsel, assigns, principals, officers, directors, members of management or supervisory boards, employees, members, agents, representatives, trustees, insurers, reinsurers, heirs, beneficiaries, wards, estates, executors, administrators, receivers, conservators, personal representatives, divisions, dealers, and suppliers; and (7) any other person or entity that is or could be alleged to be responsible or liable in any way whatsoever, whether directly or indirectly, for the BlueTEC Diesel Matter.

7. **THIS COURT ORDERS** that, for consideration set forth in the Settlement Agreement, the Settlement Class Members, on behalf of themselves and their agents, heirs, executors and administrators, successors, assigns, insurers, counsel (including any counsel engaged by Settlement Class Members who is not Class Counsel), representatives, shareholders, owners associations, and any other Persons who may claim by, through, or under them (the

“Releasing Parties”), fully, finally, irrevocably, and forever release, waive, discharge, relinquish, settle and acquit any and all claims, demands, actions, or causes of action of any kind or nature whatsoever, whether in law or in equity, contractual, quasi-contractual or statutory, known or unknown, direct, indirect or consequential, liquidated or unliquidated, past, present or future, foreseen or unforeseen, developed or undeveloped, contingent or non-contingent, suspected or unsuspected, whether or not concealed or hidden, arising from, in whole or in part, or in any way related to the BlueTEC Diesel Matter, including without limitation (1) any claims or allegations that are, were, or could have been asserted in the Action; (2) any claims for fines, penalties, economic damages, punitive damages, exemplary damages, statutory damages, liens, injunctive relief, counsel fees (except as provided in Section 11 of the Settlement Agreement), expert, consultant, or other litigation fees or costs; or (3) any other liabilities that were or could have been asserted in any civil, administrative, or other proceeding, including arbitration (the **“Released Claims”**). The Released Claims include, without limitation, any and all such claims, demands, actions, or causes of action regardless of the legal or equitable theory or nature under which they are based or advanced including, without limitation, legal and/or equitable theories under any federal, territorial, provincial, local, tribal, administrative or international law, or statute, ordinance, code, rule, regulation, contract, common law, equity, or any other source, and whether based in strict liability, negligence, gross negligence, punitive damages, nuisance, trespass, breach of warranty, misrepresentation, breach of contract, fraud, or any other legal or equitable theory, whether existing under the laws of Canada, a province or territory of Canada or of any other foreign or domestic state, territory, county, city, or municipality, or any other legal or governmental body, whether existing now or arising in the future, that arise from, in whole or in part, or in any way

relate to the BlueTEC Diesel Matter. Notwithstanding the foregoing, this Release does not release any claims for wrongful death or personal injury.

8. **THIS COURT ORDERS** that the Release and this Order are, and may be raised as, a complete defence to, and will preclude, any action or proceeding specified in, or involving claims encompassed by, the Release. Settlement Class Members shall not now or hereafter institute, maintain, prosecute, assert, and/or cooperate in the institution, commencement, filing, or prosecution of any suit, action, and/or other proceeding against the Released Parties with respect to the claims, causes of action, and/or any other matters subject to this Release. To the extent that they have initiated, or caused to be initiated, any suit, action, or proceeding not already encompassed by the Action, Settlement Class Members shall promptly cause their claims in any such suit, action, or proceeding to be dismissed with prejudice. If a Settlement Class Member commences, files, initiates, or institutes any legal action or other proceeding for any Released Claim against any Released Party in any court, arbitral tribunal, or administrative or other forum, (1) such legal action or other proceeding shall be dismissed with prejudice and with costs, and at that Settlement Class Member's expense; (2) any refusal or failure to immediately dismiss such claims shall provide a basis for any Released Party to seek an injunction, sanctions, or other appropriate relief; and (3) the respective Released Party shall be entitled to recover any and all reasonable related costs and disbursements from that Settlement Class Member arising as a result of that Settlement Class Member's breach of their obligations under this Release.

9. **THIS COURT ORDERS** that the Release shall be effective with respect to all Releasing Parties, including all Settlement Class Members, regardless of whether those Settlement

Class Members ultimately submit a Claim or receive a Settlement Class Member Payment under the Settlement Agreement.

10. **THIS COURT ORDERS** that any of the Released Parties may file the Settlement Agreement and/or this Order in any action that may be brought against them in order to support any defence or counterclaim, including without limitation those based on principles of res judicata, collateral estoppel, issue estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion, or similar defence or counterclaim.

11. **THIS COURT ORDERS** that for purposes of administration and enforcement of the Settlement Agreement and this Order, this Court will retain an ongoing supervisory role and the Plaintiff, Settlement Class Members and the Defendants attorn to the jurisdiction of this Court solely for the purpose of implementing, administering, enforcing, and interpreting the Settlement Agreement and this Order, and subject to the terms and conditions set out in the Settlement Agreement and this Order.

12. **THIS COURT DECLARES** that the Parties may by written agreement effect such amendments, modifications or expansions of the Settlement Agreement and its implementing documents (including all exhibits thereto) without further notice to the Settlement Class or approval by the Court if such changes are consistent with this Order and do not limit the rights of Settlement Class Members under the Settlement Agreement.

13. **THIS COURT ORDERS** that Class Counsel fees and disbursements payable to Class Counsel will be submitted to the Court for approval.

14. **THIS COURT ORDERS** that the Honorarium for the Class Representative will be submitted to the Court for approval.

15. **THIS COURT ORDERS** that the Class Proceedings Fund shall be paid its levy in accordance with O. Reg. 771/92 (the “Levy”) out of the Settlement Class Member Payments to which Settlement Class Members are entitled pursuant to the Settlement Agreement, and that no part of the Levy shall be paid by the Defendants.

16. **THIS COURT ORDERS** that the terms of this Order and the approval of the Settlement hereby do not determine, and are and shall be without prejudice to, the proper interpretation and application of Ontario Regulation 771/92 and any position that the Law Foundation of Ontario may take in any other case in that regard.

17. **THIS COURT ORDERS** that in the event that the Settlement Agreement is terminated in accordance with its terms, this Order shall be declared null and void on subsequent motion made on notice.

18. **THIS COURT ORDERS** that, upon the Effective Date, the Action be and hereby is dismissed, without costs and with prejudice.

The Honourable Justice Belobaba

YOGESH KALRA

Plaintiff

-and- MERCEDES-BENZ CANADA INC. et al.

Defendants

Court File No. CV-16-550271-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**Proceeding commenced at
Toronto**

ORDER

(SETTLEMENT APPROVAL)

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