

SETTLEMENT AGREEMENT AND RELEASE

This SETTLEMENT AGREEMENT AND RELEASE ("Settlement Agreement") is entered into this ____ day of July, 2006, by and between Martin Daniel, Robert Rawlings, and Joshua Bennett ("Plaintiffs"), acting on behalf of the Settlement Class (as defined herein), and Defendant American Honda Motor Co., Inc. ("Honda").

WHEREAS, Plaintiffs have filed a Second Amended Complaint in this action (the "Class Action") wherein Plaintiffs have alleged:

- a. A cause of action for unlawful, unfair, fraudulent and deceptive advertising practices in violation of the Unfair Competition Law (Cal. Bus. & Prof. Code §§ 17200, *et seq.*);
- b. A cause of action for false or misleading advertising in violation of the False Advertising Law (Cal. Bus. & Prof. Code §§ 17500, *et seq.*); and
- c. A cause of action for deceptive business practices in violation of California's Consumers Legal Remedies Act (Cal. Civ. Code §§ 1750, *et seq.*).

All three causes of action arise out of Plaintiffs' allegations that the windshields of 2003 and 2004 model years of Honda Element sport utility vehicles ("Class Vehicles") are affected by design and manufacturing defects (the "Windshield Cracking Condition"). Plaintiffs allege that defects in the windshields of Class Vehicles cause them to crack, compromising the integrity of the windshields and the safety to occupants, and that Honda's failure to disclose what it knew about the Windshield Cracking Condition violated the statutes described above.

WHEREAS, Honda has filed demurrers and motions to strike, by which it challenged the legal sufficiency of each of Plaintiffs' causes of action and challenging the factual and legal basis for prosecuting the matter as a class action;

WHEREAS, Honda denies each and every one of Plaintiffs' allegations, denies any wrongdoing of any kind, and asserts a number of defenses to Plaintiffs' claims;

WHEREAS, Plaintiffs and Honda agree that this Settlement Agreement shall not be deemed or construed to be an admission or evidence of any violation of any statute or law or any liability or

wrongdoing by Honda or of the truth of the claims or allegations alleged in the Class Action or otherwise;

WHEREAS, the Parties and their respective counsel are thoroughly familiar with the factual and legal issues presented by their respective claims and defenses and recognize the uncertainties as to the ultimate outcome in the Class Action, and the likelihood that any final result would require years of further complex litigation and substantial expense;

WHEREAS, Plaintiffs and their counsel ("Class Counsel") have concluded that it is in the best interests of the Settlement Class to enter into this Settlement Agreement in order to avoid the uncertainties of litigation, particularly complex litigation such as this, and to assure that the substantial benefits reflected herein are obtained for the Settlement Class, and further, that Plaintiffs consider the settlement set forth herein to be fair, reasonable, adequate, and in the best interests of the Settlement Class;

WHEREAS, despite believing that it is not liable for the claims asserted herein and that it has good defenses thereto, Honda has decided to enter into this Settlement Agreement to avoid further expense, inconvenience, and the burden of protracted litigation, to avoid the distraction and diversion of its personnel and resources, to avoid the risk of litigation, and to put to rest this controversy with its valued customers;

WHEREAS, this Settlement Agreement was entered into following production of voluminous documentation from Honda and related Honda entities regarding the design, manufacture and failure rate of 2003 and 2004 Honda Element front windshields;

WHEREAS, this Settlement Agreement is the product of extensive arms-length discussions and negotiations between counsel for Honda and Class Counsel over more than a one year period;

WHEREAS, counsel for Honda and Class Counsel agree that the settlement contemplated by this Settlement Agreement is a fair, reasonable and adequate resolution;

WHEREAS, the Parties desire to compromise and settle all issues and claims that have been brought, or that could have been brought, against Honda in the Class Action; and

WHEREAS, the Parties desire and intend to seek court approval of the Settlement of the Class Action as set forth in this Settlement Agreement and, upon such judicial approval, the Parties

intend also to seek a Final Order and Judgment from the Court dismissing the claims of all Plaintiffs and Settlement Class Members with prejudice;

NOW, THEREFORE, it is agreed that in consideration of the promises and mutual covenants set forth in this Settlement Agreement and the entry by this Court of a Final Order and Judgment approving the terms and conditions of the Settlement as set forth in this Settlement Agreement, and providing for dismissal with prejudice of the claims asserted in the Class Action by Plaintiffs and Settlement Class Members, the Class Action shall be settled and compromised under the terms and conditions contained herein.

A. DEFINITIONS

Whenever the following capitalized terms are used in this Settlement Agreement and in the Exhibits annexed hereto (in addition to any definitions elsewhere in this Settlement Agreement), they shall have the following meanings:

1. "Class Counsel" refers to the law firms of Fazio | Micheletti, LLP, Jeffrey L. Fazio, Dina E. Micheletti, 4900 Hopyard Road, Suite 290, Pleasanton, CA 94588-7100, Cuneo Gilbert & LaDuca LLP, Jon Tostrud, 507 C Street, N.E., Washington, D.C. 20002, and Cohen, Milstein, Hausfeld & Toll, P.L.L.C., Michael D. Hausfeld, Lisa M. Mezzetti, 1100 New York Avenue, N.W., Suite 500, West Tower, Washington, D.C. 20005.
2. "Class Notice" refers to the notice to the Settlement Class of the pendency of this litigation and of this Settlement, attached hereto as Exhibit 1.
3. "Class Vehicles" means 2003 through 2004 model year Honda Element automobiles.
4. "Court" means the Superior Court of the State of California for Los Angeles County.
5. "Effective Date of Settlement" means the date on which all appellate rights with respect to the Final Order and Judgment have expired or have been exhausted in such a manner as to affirm the Final Order and Judgment.
6. "Honda" means Defendant American Honda Motor Co., Inc.

7. "Parties" means Honda, Plaintiffs, and the Settlement Class Members.
8. "Plaintiffs" means Martin Daniel, Robert Rawlings, and Joshua Bennett.
9. "Windshield Cracking Condition" shall refer to the front windshields of 2003 and 2004 Honda Elements and relates to the claim that those windshields have a propensity to crack either without impact to their surface by any foreign object or by a light impact of a foreign object.
10. "Released Claims" shall collectively mean all claims, demands, rights, liabilities and causes of action relating to the Windshield Cracking Condition whatsoever that were or could have been brought in the Class Action, known or unknown, matured or unmatured, whether at law or in equity, whether before a local, state or federal court, tribunal, administrative agency or commission, and whether now liquidated or unliquidated, whether or not concealed or hidden, asserted or that might have been asserted, including under any federal, state or local consumer protection statute or administrative rule or regulation, or under any other state or federal statute, rules, or regulations, by any Plaintiff or Settlement Class Member (together with their predecessors, successors, representatives, parents, subsidiaries and affiliates, and the heirs, executors, administrators, successors and assignees) against Honda or the Released Parties, arising out of, based upon, or related to the subject matter of the Class Action, including any and all claims arising out of, based upon or related to the Settlement or resolution of the Class Action. "Released Claims" does not include any claims arising out of, based upon or related to personal injury, wrongful death, or physical damage to property other than cracks in the front windshields, regardless of whether the claim is brought in an action or matter making allegations pertaining to the Windshield Cracking Condition or its effects, and regardless of whether such claims arose before or after the Settlement.
11. "Released Claims" shall include, but not be limited to, all claims or causes of action that relate to the design, testing, manufacture, distribution, sale, advertising, service or repair of class vehicles relating to the Windshield Cracking Condition. The

“Released Claims” includes, but is not limited to, all claims made, or that could have been made, in tort or contract alleging fraud, false advertising, breach of warranty, unlawful secret warranties, breach of state and federal statutes relating to automobile warranties, Unfair Business Practices Act claims under California’s Business & Professions Code §§ 17200 et seq., violations of California’s Unfair Business Practices Act based upon Business & Professions Code §§ 17500 et seq., breaches of California’s Consumer Legal Remedies Act based upon breaches of Civil Code §17700, and breach of contract.

12. The “Released Claims” includes all claims in equity, including, but not limited to, restitution, rescission of contract, disgorgement of profits and injunctive relief.
13. The “Released Claims” includes, but is not limited to, all of the claims identified in paragraphs 10, 11 and 12 of this Agreement and causes of action that might be brought under any similar or comparable state laws in any of the 50 states of the United States of America, District of Columbia, Commonwealth of Puerto Rico and U.S. Virgin Islands.
14. The “Claims Administrator” refers to Gilardi & Co., which will perform all services relating to administration of the notice to the class and claims for reimbursement that are submitted by class members.
15. The “Settlement Agreement” refers to this Settlement Agreement and “Settlement” refers to the terms of the settlement described herein.
16. “Pen Test” means the test that dealers perform on cracked windshields to determine whether a crack was caused by an impact with an object.
17. The “Preliminary Approval Date” is the date one business day after the court grants preliminary approval to this Settlement Agreement and directs the defendant to send notice to Settlement Class Members on the terms specified herein.
18. “Settlement Class” refers to:
 - A. All United States residents who own or lease a 2003 or 2004 model year

Element on the Preliminary Approval Date;

- B. All United States residents who were the prior registered owners or lessees of a 2003 or 2004 model year Element at the time of a windshield repair or replacement and who paid to replace or repair their Element's windshield(s) due to the Windshield Cracking Condition.
19. "United States residents shall include the residents of each of the 50 states, District of Columbia, Commonwealth of Puerto Rico and the U.S. Virgin Islands.
20. Specifically excluded from the "Settlement Class" are each of the following:
- A. Honda and its subsidiaries, affiliates, officers, directors and employees;
 - B. Persons who have claimed personal injuries as a result of the Windshield Cracking Condition;
 - C. Persons who have filed separate, non-class legal actions against Honda asserting claims relating to the Windshield Cracking Condition;
 - D. Persons who have pursued a claim against, and reached a verdict against or settled with Honda from individual claims substantially similar to those alleged in the Complaint;
 - E. Persons who claim to have suffered property damage due to the Windshield Cracking Condition (other than a crack in the front windshield);
 - F. Persons who validly opt out of the settlement.
21. "Released Parties" means American Honda Motor Co., Inc., Honda Motor Co., Ltd., Honda R & D Co., Ltd., Honda R & D Americas, Inc., Honda North America, Inc., Honda of America Mfg., Inc., Honda of Canada Mfg., Inc. and each of such entities, present and former officers, directors, employees, agents, heirs, executors, administrators, successors, reorganized successors, spin-offs assignees, subsidiaries, affiliates, parents, divisions, and predecessors.
22. "Settlement Class Members" means all persons or entities who fit the Settlement Class definition specified in Paragraph 18 above, who have not validly and timely requested exclusion from the Settlement Class.

23. "Timely manner" shall refer to claims for reimbursement submitted to the Claims Administrator by _____.
24. "Special Campaign" refers to a program instituted by Honda as part of the settlement to provide to Class Members the benefits described in Paragraph B(2)(d) of this Settlement Agreement.

B. TERMS OF SETTLEMENT AGREEMENT AND RELEASE

1. This Settlement Agreement is for settlement purposes only, and neither the fact of, nor any provision contained in, this Settlement Agreement nor any action taken hereunder shall constitute, or be construed as, any admission of the validity of any claim or any factual allegation that was or could have been made by Plaintiffs or Settlement Class Members in the Class Action, or of any wrongdoing, fault, violation of law, or liability of any kind on the part of Honda or any admission by Honda of any claim or allegation made in any action or proceeding against Honda. This Settlement Agreement shall not be offered or be admissible in evidence by or against Honda or the Released Parties, or cited or referred to in any other action or proceeding, except (1) in any action or proceeding brought by or against the Parties to enforce or otherwise implement the terms of this Settlement Agreement, or (2) in any action involving Plaintiffs, Settlement Class Members, Released Parties, or any of them, to support a defense of res judicata, collateral estoppel, release, or other theory of claim preclusion, issue preclusion, or similar defense.

2. In consideration of the releases and the dismissal of the Class Action with prejudice under the terms of this Settlement Agreement, Honda agrees as follows:

- a. Honda will modify its current warranty procedures in evaluating cracked windshields involving Class Vehicles. The "Pen Test" will no longer be used to determine the cause of a crack in a Class Vehicle windshield. Cracks will be presumptively covered under the applicable warranty (or extended coverage under the Special Campaign) absent any open or obvious condition that would invalidate coverage. Examples of open or obvious conditions would include, but are not limited to, an automobile collision, an accident, natural disaster damage, or an impact with a large or heavy foreign object.

- b. For windshield repairs or replacements (performed by a Honda dealer or by an independent repair facility, regardless of whether the replacement was OEM or non-OEM) that took place prior to the Effective Date of Settlement, Honda will reimburse Class Members for the actual cost of each such repair or replacement of windshields (including the cost of labor) that occurs within the first six years from the date of initial sale or 60,000 miles (whichever is first) and that a Class Member describes in a valid claim for reimbursement. For purposes of this Agreement, a claim for reimbursement shall be valid if it: (1) is submitted to the Claims Administrator in a Timely Manner and; (2) meets the criteria set forth below for a valid claim.
- c. For a valid claim, the registered owner of the Class Vehicle at the time the cost of repair is incurred shall submit one claim form per claim under penalty of perjury with the following information:
- (1) Name and address of claimant. (Claimant must be the registered owner at the time the windshield repair or replacement was performed; this information will be pre-printed on the mailed notice);
 - (2) Amount of claim;
 - (3) Model and year of vehicle;
 - (4) Name of repair facility and the city and state in which the repair facility is located;
 - (5) A copy of the work order, repair order, receipt, cancelled check or credit card receipt/statement.

Where an invalid claim is submitted, the claim form will be returned to the individual Settlement Class Member with a letter specific to that Settlement Class Member, providing the reason(s) for denial of the claim. The letter must advise Settlement Class Members that they have the right to cure the defect(s) within the time limit set forth in this agreement ("Right-to-Cure Letters"). The parties anticipate that the language to be used in most, if not all, Right-to-Cure Letters, can be drafted in advance, and such language shall be pre-approved by both parties,

whose consent shall not be unreasonably withheld. In the event an issue arises that cannot be answered using a letter containing pre-approved language, the parties shall be given the opportunity to review and approve alternative language. Upon receiving a Right to Cure Letter, the Settlement Class Member may then resubmit the claim upon curing the deficiencies specified therein. A resubmitted claim must be mailed to the Claims Administrator no later than 35 days from the date of the letter specifying the grounds for denial.

d. On [DATE] Honda will implement a Special Campaign to expand the coverage on windshields installed in Class vehicles. Under this Special Campaign, Honda will bear all of the costs of labor and materials associated with the replacement of cracked windshields in Class Vehicles for six years from the date of original retail sale or lease of a Class Vehicle or 60,000 miles, whichever shall occur first. To obtain replacement of a cracked OEM or non-OEM windshield for the Window Cracking Condition under the Special Campaign, a Settlement Class Member must bring his or her Class Vehicle to an authorized Honda Dealer for repair on or after [DATE]. All costs for labor and materials associated with the replacement of a cracked windshield will be borne solely by Honda, provided the replacement is conducted by an authorized Honda dealer. Settlement Class Members who have their Class Vehicle windshields replaced or repaired after [DATE] by anyone other than an authorized Honda dealer shall not be reimbursed for the cost of that repair or replacement. During the pendency of the Special Campaign, Honda shall take all reasonable steps to ensure that dealers and Class Members are made aware of its terms, including, but not limited to, making reference to the terms of the Special Campaign in an appropriate section of Honda's dealer-network database, in a supplement to the class notice, which class members will be advised to keep in their vehicle, and on the website described in Paragraph 5c. of this Agreement.

e. Honda shall pay all costs associated with Class Notice.

f. In addition to the other benefits provided to the Settlement Class, Honda has agreed to pay for (i) the fees and litigation expenses Class Counsel have incurred in the prosecution of this litigation and (ii) an incentive award to the three named Plaintiffs as compensation for the time and effort they have expended in connection with the prosecution of this litigation not to exceed an aggregate of \$625,000. The portion of the \$625,000 payment that will be attributed to the incentive award (if approved by the Court) shall be allocated as follows: Martin Daniel (\$5,000), Robert Rawlings (\$8,000), and Joshua Bennett (\$2,000). Class Counsel will file with the Court a motion for judicial approval of the \$625,000 award for Class Counsel's fees and litigation expenses and Plaintiffs' incentive awards; Honda agrees to not oppose such a motion and to pay for fees and expenses the amount approved by the Court not to exceed \$625,000 in the aggregate, regardless of whether the Court approves the payment of Plaintiffs' incentive awards. Honda shall pay such attorneys' fees and expenses as the Court awards to Class Counsel within thirty (30) days of the Effective Date of Settlement.

g. The parties agree that Honda is in no way liable for any taxes Class Counsel, Plaintiffs, Settlement Class Members, or others may be required to pay as a result of this Settlement. The Parties also agree that neither Class Counsel, Plaintiffs, nor any Settlement Class Members are in any way liable for any taxes Honda may be required to pay as a result of this Settlement.

3. Subject to Court approval, it is agreed by the Parties that the Class Action will be deemed, for the purpose of this Settlement only, to be certified as a class action in accordance with the Settlement Class definition in Paragraph A.18. of this Settlement Agreement. Neither this Settlement Agreement nor any certification order issued pursuant to this Paragraph shall constitute an admission by Honda in this or any other proceeding. If this Settlement Agreement is terminated pursuant to its terms, any order certifying the Settlement class shall be vacated, and the Class Action shall proceed as though the Settlement Class had never been certified, without prejudice to

the Parties' rights to either request or oppose class certification. However, if this Settlement Agreement is not approved in full and either Honda or Class Counsel elect to terminate this Settlement Agreement pursuant to its terms, any and all orders vacated or modified as a result of this Settlement Agreement shall be reinstated, and any judgment or order entered by the Court in accordance with the terms of this Settlement Agreement, whether relating to class certification or not, shall be vacated *nunc pro tunc*.

4. Class Counsel and counsel for Honda shall present this Settlement Agreement to the Court as soon as is practicable after the execution of this Settlement Agreement, along with the (Proposed) Order for Preliminary Approval of the Agreement, Certification of the Settlement Class, Appointment of Class Counsel, Setting a Hearing on Final Approval of the Agreement, and Directing Notice to the Class (Notice Order," attached hereto as Exhibit ___).

5. Honda shall disseminate notice to the Settlement Class as directed in the Notice Order ("Class Notice") as follows:

- a. Mailed Notice of Pendency of Class Action, Proposed Settlement and Hearing ("Mailed Notice") (in substantially the same form set forth in Exhibit ___) shall be disseminated by first-class mail to persons and entities who fall within the Settlement Class definition who are identified in Honda's records and those obtained by R. L. Polk & Co. or other similar service. All such addresses shall be verified through a national change of address service. The Mailed Notice shall also be sent by first-class mail to each member of the Settlement Class whose identity becomes known to Honda after the initial mailing. Such Mailed Notices shall bear the return address described in Paragraph _____. If any Mailed Notice is returned along with an advisory identifying a forwarding address, Honda shall cause the Mailed Notice to be mailed to the forwarding address. Settlement Class Members who are not on the list of persons to whom notice was sent at the time of notice, and who do

not obtain benefits under this settlement, shall not be deemed to have released Honda from liability for the claims asserted in this litigation.

- b. The contents of the Mailed Notice shall also be posted on the Internet ("Internet Notice") on a website maintained by the Claims Administrator. The Internet Notice shall remain posted on that website through December 31, 2010.
- c. Honda, through the services of the Claims Administrator, shall maintain a toll free telephone number through _____. The toll free number will be included in the mailed notice (Exhibit 1) and the Internet Notice (Exhibit 2). The purpose of the toll free number shall be, in part, to respond to questions by the settlement class regarding obtaining documents relating to the proposed settlement and answering questions relating to the procedures for submissions of claim forms.
- d. Honda shall maintain a toll free number through December 31, 2010, which toll free number will be included in the mailed notice (Exhibit 1) and the Internet Notice (Exhibit 2). The toll free number shall be to Honda's Customer Relations Department for purposes of assisting class members in respect to warranty claims involving the windshields of the Class Vehicles or claims relating to the special coverage that applies to the windshields of the Class Vehicles. The toll free number is not intended and shall not be used for the processing of claims of financial reimbursement which will be the responsibility of the Third Party Administrator, Gilardi & Co., as described in Section c. above. Honda agrees to provide its Customer Relations Department personnel with information regarding this lawsuit, the settlement, and the terms of the special campaign, and to take reasonable steps to ensure that Customer Service Personnel provide accurate information to class members about the special campaign.

- e. Honda shall pay all costs related to the administration of the settlement, including all costs related to the preparation, distribution, and administration of all forms of Class Notice, the costs of the physical preparation of individual notice (including duplication and printing) and the charges of the Claims Administrator.
- f. In the event that the Court determines that the proposed Class Notice is insufficient, Honda will modify the manner in which Class Notice is prepared and/or distributed in a manner that satisfies the Court's criteria. A ruling that the proposed Notice is insufficient shall not constitute valid grounds to terminate this Settlement Agreement.

6. Honda, through the Claims Administrator, shall complete dissemination of the Mailed Notice and shall post the Internet Notice, within thirty (30) days of entry of the Notice Order. Class Counsel and counsel for Honda will request that the Court schedule a Fairness Hearing to obtain final approval of the settlement on or about sixty (60) days after dissemination of Mailed Notice is completed.

7. Persons who wish to be excluded from the Settlement Class must submit a written Request for Exclusion by sending it by U.S. mail to the Claims Administrator at the address listed in the Class Notice. Any Request for Exclusion must be postmarked on or before the deadline specified in the Class Notice, which shall be approximately thirty-five (35) days after dissemination of notice has been completed. The Claims Administrator shall provide Class Counsel and Honda with a list of names and addresses of all persons who submit Requests for Exclusion, as part of the report described in Paragraph 14, below, and, upon request by Class Counsel or Honda, shall provide copies of the completed Requests for Exclusion.

- a. Persons submitting a Request for Exclusion must (i) set forth his/her full name and current address, (ii) identify the model year of his/her Class Vehicle(s) as well as the Vehicle Identification Number of his/her Class Vehicle(s), and (iii) specifically state his/her desire to be excluded from the Settlement Class.

- b. The Court may deem that persons falling within the Settlement Class definition who do not submit a Request for Exclusion in compliance with the deadlines and other specifications set forth in the Summary Notice and the Mailed Notice shall remain Settlement Class Members and shall be bound by all proceedings, orders, and judgments of this Court pertaining to the Settlement Class.

8. Any Settlement Class Member who wishes to object to the proposed Settlement must send a written objection to the Settlement (“Objection”) to Honda and Class Counsel at the address listed in the Mailed Notice by U.S. mail, first class postage paid. Any Objection must be postmarked on or before the deadline specified in the Summary Notice and the Mailed Notice, which shall be approximately forty-five (45) days after dissemination of notice has been completed. Only Settlement Class Members may object to the Settlement.

- a. In his/her Objection, an objecting Settlement Class Member must (i) set forth his/her full name, current address, and telephone number, (ii) identify the model year of his/her Class Vehicle(s), as well as the Vehicle Identification Number of his/her Class Vehicle(s), , (iii) set forth a statement of the position(s) the objector wishes to assert, (iv) state the factual and legal grounds therefor, and (v) provide copies of any other documents that the objector wishes to submit in support of his/her position.
- b. All Objections must also be served on Class Counsel, by directing them to Jeffrey L. Fazio, Dina E. Micheletti, Fazio | Micheletti, LLP, 4900 Hopyard Road, Suite 290, Pleasanton, CA 94588-7100 (who shall provide a copy to the other counsel who are representing the Plaintiff class in this matter), and on counsel for Honda, Roy M. Brisbois, Lewis Brisbois Bisgaard & Smith, LLP, 221 North Figueroa Street, Suite 1200, Los Angeles, California 90012.
- c. Any Settlement Class Member who does not submit an Objection in compliance with this paragraph and the provisions specified in the Class Notice may not be permitted to object to the Settlement.

- d. Any objecting Settlement Class Member may appear at the hearing on the fairness of the proposed Settlement (the "Fairness Hearing") in person or by counsel to show cause why the proposed Settlement or any aspect of the Settlement should not be approved; provided, however, that the parties will ask that the Court require all objecting Settlement Class Member to file with the Clerk of the Court and serve upon counsel designated in Paragraph 8b of this Settlement Agreement, a notice of intention to appear at the Fairness Hearing ("Notice of Intention to Appear") by the deadline specified in the Summary Notice and the Mailed Notice, which shall be approximately thirty-five (35) days after dissemination of notice has been completed. The Notice of Intention to Appear should include copies of any papers, exhibits, or other evidence that the objecting Settlement Class Member (or his/her counsel) will present to the Court in connection with the Fairness Hearing. Any Settlement class Member who does not provide a Notice of Intention to Appear in compliance with the deadlines and other specifications set forth in the Summary Notice and Mailed Notice, or who has not filed an Objection in compliance with the deadlines and other specifications set forth in this Paragraph and the Mailed Notice, may be precluded from being heard at the Fairness Hearing.

9. At the Fairness Hearing, the Parties will request entry of a Final Order and Judgment which, at a minimum, contains provisions:

- a. certifying the Settlement Class solely for purposes of this Settlement Agreement;
- b. approving the Settlement Agreement as fair, reasonable, and adequate;
- c. declaring the Settlement Agreement to be binding on Honda, Plaintiffs and all Settlement Class Members;
- d. dismissing all claims in the Class Action on the merits and with prejudice;

- e. finding that the notice providing for in Paragraph 5 and the exhibits referred to therein constituted the best notice practicable under the circumstances to all persons within the definition of the Settlement Class and fully complied with California law, the United States Constitution, and any other applicable law;
- f. forever discharging Honda from the Released Claims; provided, however, that nothing in this subparagraph is intended to bar Plaintiffs or Settlement Class Members from seeking to enforce or otherwise implement this Settlement Agreement or from pursuing claims based upon, or related to personal injury, wrongful death, property damage due to the Windshield Cracking Condition (other than cracks to the windshield itself) regardless of whether the claim is brought in an action or matter making allegations pertaining to the Windshield Cracking Condition or its effects, and regardless of whether such claims arose before or after the Settlement; and
- g. awarding Class Counsel reasonable attorneys' fees and litigation expenses not to exceed \$625,000.00, the amount of which includes an incentive award in the amount of \$15,000, which shall be allocated by Class Counsel to the named Plaintiffs in this action, Martin Daniel, Robert Rawlings, and Joshua Bennett.

10. Prior to the Fairness Hearing, the Parties shall submit a form of Final Order and Judgment, in substantially the form attached hereto as Exhibit ___.

11. If (a) preliminary approval of the Settlement Agreement and the Settlement described herein or the Final Judgment and Order is not obtained from the Court in substantially the form attached hereto; (b) the Court fails to grant final approval to the Settlement; or (c) the Final Order and Judgment is reversed or modified on appeal; and either Honda or Plaintiffs so elect, this Settlement Agreement shall be null and void, shall have no further force and effect, and shall not be offered in evidence or used in any litigation for any purpose, including the existence, certification, or maintenance of any purported class. The canceling and terminating party may make such

election only by furnishing written notice of an intent not to proceed with the terms and conditions of this Settlement Agreement to the other party within fifteen (15) days of the event constituting the basis for the election to terminate. In the event of such election, this Settlement Agreement and all negotiations, proceedings, documents prepared, and statements made in connection herewith shall be without prejudice to the Parties, shall not be deemed or construed to be an admission or confession by any Party of any fact, matter, or proposition of law, shall not be used in any manner for any purpose, and all Parties to the Class Action shall stand in the same position as if this Settlement Agreement had not been negotiated, made or filed with the Court. If the Settlement Agreement is terminated, any and all orders entered by the Court pursuant to the provisions of the Settlement Agreement shall be vacated *nunc pro tunc*. Provided, however, that no modification by any court of any award of attorneys' fees and/or expenses to Class Counsel shall be a basis for terminating this Settlement Agreement.

12. In the event this Settlement Agreement is not approved by the Court or the Settlement is terminated or fails to become effective in accordance with its terms, all orders entered as of the date on which this Settlement was executed shall become operative and fully effective, as if the proceedings relating to this Settlement had not occurred.

13. In the event that over two thousand (2,000) Settlement Class Members request exclusion from the Settlement Class, Honda may elect to terminate this Settlement Agreement by so notifying Class Counsel and the Court, not less than fifteen (15) days prior to the date set for the Fairness Hearing. Class Counsel shall have the right to contact Settlement Class Members who file exclusion requests and to challenge the timeliness and validity of any exclusion request, as well as the right to request the withdrawal of any exclusion filed in error and any exclusion which a present or former Settlement Class Member wishes to withdraw for purposes of participating in the Settlement. The Court shall determine whether any of the contested exclusions is valid.

14. The Claims Administrator shall provide reports to Class Counsel on the progress of notice as set forth in this Paragraph. Within thirty (30) days of the deadline for completion of notice, the Claims Administrator shall serve and file a report describing all notice given to the Settlement Class, and a copy of each request for exclusion. After final approval of the settlement is

entered, the Claims Administrator shall provide reports to Class Counsel that (a) summarize the claims for reimbursement, repairs, and replacements that Settlement Class Members have submitted within the preceding 90-day period that (b) state whether each claim has been approved or denied, and (c) if denied, a brief reason for the denial, and (d) information concerning the number of Settlement Class Members who challenge a denied claim and the results of any such challenge. These reports shall be submitted to Class Counsel on a periodic basis (but in no event less than quarterly) until the status of all claims have been reported.

15. Honda shall pay all costs and expenses required for notice and administration of the Settlement.

16. If the Effective Date of Settlement does not occur, or if this Settlement Agreement is terminated pursuant to its terms, none of the Plaintiffs, Class Members, or Class Counsel shall have any obligation to repay any amounts paid or incurred by Honda for costs of notice and administration pursuant to the terms of this Settlement Agreement.

17. The parties to this Settlement Agreement agree to cooperate fully, to execute any and all supplementary documents reasonably necessary to effectuate the terms of this Settlement Agreement, and to take all additional actions which may be necessary or appropriate to obtain judicial approval of this Settlement Agreement and to give this Settlement Agreement full force and effect. The Parties agree that the Settlement embodied in this Settlement Agreement is fair and reasonable as to all Parties.

18. The obligations under this Settlement Agreement shall be in full and final disposition of this action with prejudice and of any and all Released Claims as against all Released Parties. On the Effective Date, Plaintiffs and the Settlement Class shall be deemed to have, and by operation of the Order and Final Judgment shall have fully, finally and forever released, relinquished, and discharged the Released Parties with respect to each and every Released Claim, including unknown claims and shall forever be enjoined from prosecuting any claim or action against any of the Released Parties with respect to each and every Released Claim or unknown claim.

19. The undersigned parties further understand and agree that, with respect to all such claims, causes of action, liabilities and/or demands against each other, this Settlement Agreement

constitutes a general release. All parties have been advised of and fully understand the provisions of Section 1542 of the California Civil Code, and on that basis, expressly and specifically waive all rights under said statute and any law of any state or territory of the United States, federal law or principle of common law, or of international or foreign law, which is similar, comparable, or equivalent to Section 1542 of the California Civil Code. Section 1542 provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

Honda, the Released Parties, Plaintiffs and/or Settlement Class Members may hereafter discover facts in addition to or different from those which they now know or believe to be true, but hereby stipulate and agree that upon the entry of the Order and Final Judgment, they will fully, finally, and forever settle and release any and all of the claims described in this paragraph, whether known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden from existence, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such difference or additional facts. In no event, however, do Plaintiffs or Settlement Class Members waive or intend to waive any claim for personal injury, wrongful death or property damage due to the Windshield Cracking Condition (other than crack to the windshield itself) against Honda or the Released Parties, regardless of whether such claim arose before or after the Settlement, and regardless of whether the claim is brought in an action or matter making allegations pertaining to the Windshield Cracking Condition. The Parties acknowledge that the foregoing waiver was bargained for and is a material element of the Settlement Agreement. The Parties also acknowledge that the foregoing waiver shall be null and void if (a) the Court does not grant final approval to the Settlement Agreement (b) the approval of the Settlement Agreement or the Settlement is reversed on appeal, or (c) the Final Order and Judgment is reversed on appeal.

20. No Person shall have any claim against Plaintiffs, Class Counsel, Honda, Honda's Counsel, or the Released Parties or their agents based on administration of the Settlement substantially in accordance with the terms of the Settlement Agreement or any order of the Court or any appellate court.

21. This Settlement Agreement and its exhibits shall constitute the entire Settlement between the Parties and shall not be subject to any change, modification, amendment, or addition without the express written consent of counsel for all Parties to the Settlement Agreement. This Settlement Agreement supersedes and replaces all prior negotiations and proposed agreements, written or oral.

22. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties and class members hereof and their respective heirs, successors, and assignees.

23. 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 Honda and Class Counsel, on behalf of Plaintiffs and Settlement class Members, mutually elect to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Settlement Agreement,

24. The Court shall retain continuing and exclusive jurisdiction over the Parties hereto, including the Plaintiffs and all Settlement Class Members, and over the administration and enforcement of the Settlement and the benefits to Plaintiffs and Settlement Class Members hereunder. Any disputes or controversies arising with respect to the interpretation, enforcement, or implementation of this Settlement Agreement must be resolved by noticed motion to the Court. In the event of a dispute relating to the enforcement of this Settlement Agreement, Class Counsel shall have the right to petition the Court for an award of fees and costs incurred in connection with such dispute. In no event shall Honda's agreement to allow Class Counsel to petition for an award of fees and costs in the event of a dispute over the enforcement of this Settlement Agreement be deemed to constitute a concession or admission that Class Counsel are actually entitled to such an award, nor shall this provision be deemed to constitute an agreement pursuant to California Civil Code section 1717. To the extent that Class Counsel petition for an award of attorney fees or costs,

the petition must be supported by applicable law providing for an award of fees and/or costs under the circumstances underlying the petition.

25. All counsel or other persons executing this Settlement Agreement or any related settlement documents, warrant and represent that they have the full authority to do so.

26. The Parties hereby agree and stipulate to stay all proceedings in this Class Action until the approval of this Settlement Agreement has been finally determined, except that the stay of proceedings shall not prevent the filing of any motions, affidavits, or other matters necessary to the approval of this Settlement Agreement.

27. Honda and Plaintiffs acknowledge that they have been represented and advised by independent legal counsel throughout the negotiations that have culminated in the execution of this Settlement Agreement, and that they have voluntarily executed the Settlement Agreement with the consent and on the advice of counsel.

28. This Settlement Agreement may be executed in counterpart by the parties hereto, and a facsimile signature shall be deemed an original signature for purposes of this Settlement Agreement.

29. This Settlement Agreement shall be construed under and governed by the laws of the State of California.

30. The Parties have negotiated and fully reviewed the terms of this Settlement Agreement, and the rule that uncertainty or ambiguity is to be construed against the drafter shall not apply to the construction of this Settlement Agreement by a court of law or any other adjudicating body.

31. Whenever, under the terms of this Settlement Agreement, a person is required to provide service or written notice to Honda or to Class Counsel, such service or notice shall be directed to the individuals and addresses specified below, unless those individuals or their successors give notice to the other Parties in writing.

Class Counsel

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Honda's Counsel:

Roy M. Brisbois
LEWIS BRISBOIS BISGAARD & SMITH LLP
221 North Figueroa Street, Suite 1200
Los Angeles, CA 90012

IN WITNESS THEREOF, the Parties hereto have executed this Settlement Agreement as follows:

ON BEHALF OF PLAINTIFFS AND SETTLEMENT CLASS MEMBERS:

Dated:

FAZIO | MICHELETTI LLP
COHEN, MILSTEIN, HAUSFELD & TOLL, P.L.L.C.
CUNEO GILBERT & LaDUCA LLP

By: _____
Jeffrey L. Fazio

