

**CATERPILLAR C13 AND C15 DIESEL ENGINE
LITIGATION IN CANADA**

<p>SUKHVIR PABLA Plaintiff -and- CATERPILLAR OF CANADA CORP. CATERPILLAR INC. Defendants</p>	<p>ONTARIO SUPERIOR COURT OF JUSTICE Commenced in Ottawa Court File No.14-60168CP</p>
<p>9157-4863 QUEBEC INC. Plaintiff -vs.- CATERPILLAR OF CANADA CORP. CATERPILLAR INC. Defendants</p>	<p>SUPERIOR COURT OF QUEBEC District of Montreal No. 500-06-000681-144</p>

CANADIAN CLASS ACTION SETTLEMENT AGREEMENT

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This Class Action Settlement Agreement (“Settlement” or “Settlement Agreement” or “Agreement”) is entered into, subject to final approval of the Ontario and Quebec Courts and entry of final orders consistent with same, between Plaintiffs Sukhvir Pabla and 9157-4863 Quebec Inc. (collectively “Plaintiffs”) and the Class, as defined below, and Defendants Caterpillar Inc. (“Caterpillar”) and Caterpillar of Canada Corporation (collectively “Defendants” or “Caterpillar Defendants”). Plaintiffs and Defendants are, at times, individually referred to herein as a “Party” and collectively as the “Parties.”

RECITALS

1. In 2014, Plaintiffs respectively filed proceedings in Ontario and Quebec against Defendants arising from alleged conduct in designing, manufacturing, marketing, advertising, selling for profit, and warranting certain Caterpillar EPA 2007 Compliant C13 and C15 diesel engines with Advanced Combustion Emission Reduction Technology (“ACERT”), all of which were manufactured in 2005 to 2009 (the “Subject Engines” or “Engines”). Plaintiffs contend that the Caterpillar Regeneration System (“CRS”) components of the ACERT used in those Engines failed to work reliably, causing the Engines to derate and shut down, and requiring Caterpillar technicians to repair those engines, which they allegedly could not effectively do.
2. The proceedings in Ontario and Quebec sought to have certified and authorized respectively class actions on behalf of all persons, entities and organizations resident in Canada that purchased and/or leased trucks, buses and other heavy-duty vehicles with the Subject Engines.
3. The Defendants strongly deny all of Plaintiffs’ claims, all allegations of wrongdoing, fault, liability or damage of any kind to Plaintiffs and the proposed classes, deny that they acted improperly or wrongfully in any way, and believe that this litigation is without merit.
4. Following a settlement of U.S. Litigation against Caterpillar involving similar allegations

in 2016, the Parties commenced negotiation of the Canadian litigation, and those negotiations have continued for more than a year. In an effort to advance those negotiations further, the Parties appointed the Honourable J. Douglas Cunningham, formerly a judge of the Ontario Superior Court of Justice, as mediator. Mr. Cunningham presided over a full day mediation on August 22, 2018, and the parties reached an agreement in principle that day, under his direction and guidance.

5. The Parties desire to compromise and settle all issues, claims, and/or facts asserted in the Ontario Class Action and Quebec Class Action, as defined hereafter, or that could have reasonably been asserted by or on behalf of Plaintiffs or members of the Class based upon the facts alleged in those Actions.

6. Plaintiffs, by and through Class Counsel, have made a thorough investigation of the facts asserted in these Actions. The Defendants have given permission to U.S. Plaintiff's Counsel to allow Class Counsel to review all discovery documents and depositions that were produced or created in the context of the U.S. Class Action entitled *In Re: Caterpillar, Inc., C13 and C15 Engine Products Liability Litigation*, Case File No. 14-3722, New Jersey Federal District Court ("U.S. Litigation"), including more than 500,000 pages of documents, responses to written interrogatories, and 49 witness discovery depositions. They have, therefore, had access to, reviewed, and/or discussed with U.S. Plaintiff's Counsel all relevant documentation, exhibits, transcripts, and work product materials produced or created in the context of the U.S. Litigation, including expert reports, pleadings, briefings and court rulings, as well as, the U.S. settlement agreement and information about its conception, reasoning, development, implementation, and outcome. Class Counsel has also received and reviewed documentation and information supplied by the Defendants in the context of confidential settlement negotiations, including Canadian sales

and warranty data related to the Subject Engines, as well as information provided by the 275 Class Members that contacted Class Counsel.

7. Class Counsel is experienced in this type of class litigation, recognizes the risks and costs of the proposed Class Actions, believes that this Settlement Agreement offers significant benefits to Class Members, believes that it is in Plaintiffs' interest and the interest of all Class Members to resolve these Actions, and any and all claims against the Defendants arising in these Actions, on the terms described herein, and believes that the proposed Settlement Agreement is fair, adequate, reasonable and in the best interests of the Class.

8. While the Defendants deny any and all allegations of wrongdoing, they are aware of the substantial legal costs of obtaining a decision on the merits in this litigation and wish to bring the Class Actions to an end before incurring those expenses.

9. The Parties agree to seek certification and/or authorization of a Settlement Class (as defined below) for purposes of this Settlement Agreement only.

NOW, THEREFORE, the Parties, in consideration of the promises, covenants and agreements herein described, and for other good and valuable consideration acknowledged by each of them to be satisfactory and adequate, and intending to be legally bound hereby, subject to the Courts' approval, do hereby mutually agree as follows:

Recitals: The recitals set forth above are incorporated by reference and are explicitly made part of this Agreement.

1. DEFINITIONS

A. In addition to the terms defined above, capitalized terms shall have the meanings provided below, unless defined elsewhere in the Agreement.

i) “Actions” and “Class Actions” means the Ontario Class Action and the Quebec Class Action.

ii) “Approved Claim” means a Claim submitted by a Claimant that the Settlement Administrator, in its discretion, determines to be timely, accurate, complete and in proper form.

iii) “Caterpillar, Inc.” or “Caterpillar” refers to that corporate entity which is a Delaware Corporation with corporate offices at 510 Lake Cook Road, Suite 100, Deerfield, Illinois 60015.

iv) “Caterpillar of Canada Corporation” or “Caterpillar Canada” refers to that corporate entity which is a Canadian Company, subsidiary of Caterpillar Inc., with corporate offices at 3700 Steeles Ave. West, Woodbridge, Ontario L4L 8K8.

v) “Caterpillar Regeneration System” or “CRS” shall mean the components of the Subject Engines which are more fully defined or described by the parts set forth in Attachment A.

vi) “Claim” means a request for relief pursuant to Section **12.A** of this Settlement Agreement submitted by a Class Member by way of a Claim Form to the Settlement Administrator in accordance with the terms of the Settlement Agreement.

vii) “Claim Deadline” means the date by which all Claim Forms must be postmarked to be considered timely. The Claim Deadline shall be 180 days after the notice of Settlement Approval is published.

viii) “Claim Form” means the online form interface and/or written Claim form to be provided by the Settlement Administrator to Class Members. The online Claim Form interface shall be developed by the Settlement Administrator and is subject to review and

approval by the Parties. The written Claim Form shall be substantially in the form of Exhibit A attached hereto.

ix) “Claimant” means a Class Member who has submitted a Claim for a Subject Engine by the Claim Deadline.

x) “Class Representatives” or “Representative Plaintiffs” means Sukvhir Pabla and 9157-4863 Quebec Inc. d.b.a. Perez International.

xi) “Class” or “Settlement Class” means, for settlement purposes only, collectively the National Class Members and the Quebec Class Members as defined herein.

xii) “Class Counsel” or “Plaintiffs’ Counsel” shall mean Consumer Law Group P.C. / Consumer Law Group Inc.

xiii) “Common Issues” means (1) did the Defendants owe a duty of care to Class Members in respect of the losses claimed? (2) if so, did the Defendants exercise a reasonable standard of care in the design of the Subject Engines?

xiv) “Courts” shall mean the Ontario Superior Court of Justice (“Ontario Court”) and the Superior Court of Quebec (“Quebec Court”).

xv) “CRS Related Repair” shall mean a repair or replacement of any Caterpillar Regeneration System related part or component as indicated by the 45 DT and F code combinations reflected in Attachment A. Repairs or replacement made due to a Caterpillar Service Letter performed pro-actively shall not be considered as a CRS Related Repair.

xvi) “Defendants” shall mean Caterpillar Inc. and Caterpillar of Canada Corporation. The term shall, however, include their affiliates, subsidiaries, parents, related companies, and their respective officers, directors, shareholders, managers, partners, contractors, representatives, employees, agents, predecessors, successors, and assigns, and

each of them, whenever describing a right or benefit of the Defendants hereunder (as opposed to an obligation of the Defendants).

xvii) “Effective Date” means the first date by which all of the following events shall have occurred (or in the case of d, Caterpillar has advised it will waive the condition):

- a. The Courts have entered the class certification orders (for settlement purposes only) substantially in the form of Exhibits B1 and B2 attached hereto (the “Class Certification Orders”).
- b. The Courts have entered the Settlement Approval Orders and Judgments substantially in the form of Exhibits G1 and G2 attached hereto approving the Settlement Agreement in all respects and dismissing with prejudice the Ontario Action and declaring as settled the Quebec Action;
- c. The time for appeal from the Settlement Approval Orders and Judgments shall have expired, or if any appeal of the Settlement Approval Orders and Judgments is taken, that appeal (or those appeals) shall have been finally determined by the highest court, such that the Settlement Approval Orders and Judgments are not subject to further adjudication or appeal and have been confirmed in whole in accordance with the terms of the Settlement Agreement;
- d. The Court of Queen’s Bench of Alberta has made an order dismissing or, in the alternative, discontinuing the action brought against Caterpillar of Canada Corporation and others by GPS Transport Inc. in Calgary court file number 100108467; and, if

necessary, barring any claims for contribution or indemnity by the co-defendants, Finning and Western Star Trucks in that action and confirming GPS is only suing them for their several liability.

- e. No event has occurred giving the Defendants the right to terminate this Settlement Agreement pursuant to the Confidential Supplemental Agreement, or the time for the Defendants to terminate has expired without the Agreement being terminated.

xviii) “Escrow Account” means a guaranteed investment vehicle, liquid money market account or equivalent security with a rating equivalent to or better than that of a Canadian Schedule I bank (a bank listed in Schedule I of the *Bank Act*, SC 1991, c 46) held at a Canadian financial institution under the control of Class Counsel or the Settlement Administrator, once appointed, to receive payment of the Settlement Fund.

xix) “Execution Date” means the date upon which this Settlement Agreement has been signed by both necessary parties.

xx) “Long Form Notice” or “Long Form Publication Notice” means the Notice of Class Certification and Settlement Approval Hearings that will be published on the Settlement Administrator’s website substantially in the form attached as Exhibit C.

xxi) “National Class” or “National Class Members” means, for settlement purposes only, all Persons in Canada, excluding members of the Quebec Class, who are original purchasers or original lessees, subsequent purchasers or subsequent lessees, including but not limited to those having some rights to residual purchase of vehicles at lease end of a vehicle (including trucks, buses and other heavy duty vehicles) powered by a Subject Engine. Excluded from the National Class are Defendants, all present or former

affiliates and/or directors of Defendants, all Persons who have already released claims against Defendants for the relief provided herein, and all Persons who will make a timely and valid election to opt-out of the Class in accordance with the provisions of the notice of class certification and opt-out rights. National Class does not include Persons that have previously executed settlement releases concerning the Subject Engines. Such Persons that have previously executed settlement releases are specifically excluded from the Class.

xxii) “Net Settlement Fund” shall mean the Settlement Fund less, subject to court-approved, (1) Service Award of up to \$20,000 to the Class Representatives; (2) attorneys’ fees and expenses not to exceed 30% of the Settlement Fund, plus applicable taxes; and (3) Notice and Settlement Administration expenses.

xxiii) “Notice” or “Notices” shall mean, collectively, the communications by which Class Members are notified of this Settlement Agreement, the class certification and Settlement Approval Hearings, opt-out rights, the claim procedure, and the Courts’ approval of this Settlement Agreement. This includes the Notice of Certification for Settlement and Settlement Approval Hearings (Exhibit D, sometimes referred to as the “Short Form Notice”), the Long Form Notice (Exhibit C), and the Notice of Settlement Approval (Exhibit E). Parties shall agree upon and the Courts shall approve the Notice wording prior to its distribution to the Class and that Notice will be available in both English and French.

xxiv) “Notice Program” means the notice plan as drawn up by the Settlement Administrator and agreed to by Class Counsel and Caterpillar and as described in Exhibit F, which should include, for the initial notice of certification and hearings to approve the settlement, a combination of direct mailing/emailing to Class Members, newspapers, trade

publications and magazines, distribution to trucking associations, and an online advertising campaign.

xxv) “Ontario Class Action” or “Ontario Action” means the Action commenced on February 24, 2014 in the Ottawa office of the Ontario Superior Court of Justice, Court File No. 14-60168 and styled *Sukvhir Pabla v. Caterpillar of Canada Corporation and Caterpillar Inc.*

xxvi) “Opt-Out Deadline” means forty-five (45) days following the publication of the Notice of Class Certification and Settlement Approval Hearings.

xxvii) “Party” and “Parties” shall have the meaning set forth in the introductory section of this Settlement Agreement.

xxviii) “Person(s)” shall mean any natural person, individual, corporation, association, partnership, trust, or any other type of legal entity.

xxix) “Plaintiffs” shall have the meaning set forth in the introductory section of this Settlement Agreement.

xxx) “Quebec Class Action” or “Quebec Action” means the proceeding commenced by Motion to Authorize the Bringing of a Class Action and to Ascribe the Status of Representative on February 21, 2014 in the Montreal office of the Superior Court of Quebec, Court File No. 500-06-000-681-144 and styled *9157-4863 Quebec Inc. v. Caterpillar of Canada Corporation and Caterpillar Inc.*

xxxi) “Quebec Class” or “Quebec Class Members” means, for settlement purposes only, all Persons resident in Quebec who are original purchasers or original lessees, subsequent purchasers or subsequent lessees, including but not limited to those having some rights to residual purchase of vehicles at lease end, of a vehicle (including

trucks, buses and other heavy duty vehicles) powered by a Subject Engine. Excluded from the Quebec Class are Defendants, all present or former affiliates and/or directors of Defendants, all Persons who have already released claims against Defendants for the relief provided herein, and all Persons who will make a timely and valid election to opt-out of the Quebec Class in accordance with the provisions of the notice of class certification and opt-out rights. Quebec Class does not include Persons that have previously executed settlement releases concerning the Subject Engines. Such Persons that have previously executed settlement releases are specifically excluded from the Class.

xxxii) “Released Claims” shall have the meaning set forth in Section **13.A** of this Settlement Agreement.

xxxiii) “Released Persons” shall have the meaning set forth in Section **13.A** of this Settlement Agreement.

xxxiv) “Releasing Parties” shall have the meaning set forth in Section **13.A** of this Settlement Agreement.

xxxv) “Request for Exclusion” and “Opt-Out Request” shall mean a request to be excluded from either of the Class Actions, submitted in accordance with the terms and conditions of this Settlement Agreement and the instructions provided in the Notice.

xxxvi) “Service Award” shall mean cash award paid to the Class Representatives.

xxxvii) “Settlement Administrator” shall mean the firm proposed by Class Counsel and acceptable to Defendants that is appointed by the Courts to administer the Settlement and oversee, among other things, dissemination of the Notice, the Settlement Website, and other communication and notice methods with Class Members, and the processing, handling, reviewing, approving, and paying of Claims made by Claimants.

xxxviii) “Settlement Approval Hearings” means the Courts’ hearings held to determine whether to approve this Settlement Agreement as fair, reasonable, and in the best interests of the Class.

xxxix) “Settlement Approval Orders and Judgments” shall mean the orders finally approving this Settlement Agreement, which shall be substantially in the form of Exhibits G1 and G2 attached hereto.

xl) “Settlement Fund” shall mean a total of \$8 million (CDN) paid by Defendants into the Escrow Account, as set out below in Section **3.A.i**.

xli) “Settlement Website” means the dedicated website created and maintained by the Settlement Administrator at www.enginesettlement.ca, which shall contain relevant documents and information about the settlement including the Actions, this Settlement Agreement, the Notice, the Claim Form, the Opt-Out Form, the Judgments and Orders rendered by the Ontario and Quebec Courts, and which will advise of the approval of this Settlement Agreement, as the case may be, as well as all important dates and deadlines.

xlii) “Short Form Notice” means the Notice of Certification for Settlement and Settlement Approval Hearings attached as Exhibit D hereto.

xliii) “Subject Engine(s) or “Engine(s)” shall mean EPA 2007 Compliant Caterpillar C13 and C15 diesel engines with ACERT manufactured in 2005, 2006, 2007, 2008 and 2009 including the CRS components incorporated therewith.

B. **Singular and Plural.** Definitions used herein shall apply to the singular and plural forms of each term defined.

C. **Gender.** Definitions used herein shall apply to the masculine, feminine, and neuter genders of each term defined.

D. **References to a Person.** References to a Person are also to the Person's successors and assigns.

E. **Terms of Inclusion.** Whenever the words "include," "includes" or "including" are used in this Settlement Agreement, they shall not be limiting but rather shall be deemed to be followed by the words "without limitation."

F. **Currency.** All amounts stated herein are in Canadian dollars.

2. COOPERATION BY THE PARTIES

The Parties and their counsel agree to cooperate fully with each other to promptly execute all documents and to use their best efforts to effectuate the terms and conditions of this Settlement Agreement. The Parties and their counsel further agree to support the approval of the Settlement Agreement including against any appeal of the Settlement Approval Orders and Judgments.

Simultaneously herewith, the Parties are executing a "Confidential Supplemental Agreement" setting forth certain conditions under which the Settlement may be withdrawn or terminated at the sole discretion of the Defendants if potential Settlement Class Members who meet certain criteria exclude themselves from the Settlement Class. The Confidential Supplemental Agreement shall not be filed with the Courts, but may be made available for an in-camera review by the Courts on their request, and its terms shall not be disclosed in any other manner (other than the statements herein). Subject to the foregoing, the Parties shall keep the terms of the Confidential Supplemental Agreement confidential unless disclosure is required by law or to implement the terms of the Confidential Supplemental Agreement.

3. CONSIDERATION TO THE CLASS

A. In exchange for the terms and conditions set forth in this Settlement Agreement, including without limitation the Release of the Released Claims set forth in Section 13 below, Defendants will provide the following consideration:

i. **Settlement Fund.** Defendants will pay \$8,000,000 CDN, all inclusive, to establish a common fund for the benefit of the Class. There will be no reversion of the Settlement Fund to Defendants. The Settlement Fund shall be paid in the following manner: \$325,000.00 into the Escrow Account within 10 days after the last of the Courts have set down a date for the Settlement Approval Hearings (after Certification and Authorization of the Class Actions respectively). The balance of the funds, \$7.675 million, shall be paid into said Escrow Account within 10 days after the Effective Date.

ii. The administrators of the Settlement Fund shall be the Settlement Administrator.

iii. The Settlement Fund shall be invested, at the sole discretion of the Settlement Administrator, and in accordance with the Escrow Account as defined herein, in a Canadian money market fund subject to any applicable regulations, provided however that when disbursement of some or all of the Settlement Fund is approved by the Courts, the necessary funds may be transferred into and paid out of a federally insured bank account. All interest earned on the Settlement Fund shall become and remain part of the Settlement Fund, but in the event the Settlement is terminated or not approved, all interest earned on the Settlement Fund will revert to the Defendants.

iv. In no event shall the Defendants bear any risk or have any responsibility, financial obligation, or liability whatsoever with respect to the investment, distribution,

or administration of the Settlement Fund, including, but not limited to, the costs and expenses of such distribution and administration or any losses associated therewith.

v. Plaintiffs and Class Counsel shall be reimbursed, indemnified, and paid solely out of the Settlement Fund for all expenses including, but not limited to, lawyers' fees, costs and expenses. Defendants shall not be liable for any costs, fees, or expenses of any of Plaintiffs' respective lawyers, experts, advisors, agents, or representatives, and all such costs, fees, and expenses shall be paid out of the Settlement Fund. In no event shall Defendants be obligated to pay anything in addition to the payments as described herein, including without limitation for class notice costs, lawyers' fees, Service Award, settlement administration costs, escrow costs, taxes, or any other cost or expense arising from or to be paid as part of this Agreement. Except as provided in Section **3.A.vi** hereto, no payment shall be made out of the Settlement Fund prior to the Effective Date, and then, only as approved by the Courts.

vi. Prior to the Effective Date, up to \$325,000 of the Settlement Fund may be used to give notice of the Settlement to Class Members and for settlement administration costs, and to pay required taxes on income earned on the Settlement Fund; should the settlement not become effective for any reason, this amount will be used as an offset against any future adverse cost awards against Caterpillar. Except as otherwise provided in this paragraph, any disbursement from the Settlement Fund, including disbursements for lawyers' fees costs and expenses, and the Service Award for named Plaintiffs, shall be made only upon court-approval, and only after the Effective Date.

B. **Distribution of the Net Settlement Fund.** All Class Members who submit an Approved Claim, as defined above, will receive a pro rata share of the Net Settlement Fund according to the following guidelines:

i. Those Class Members who submit an Approved Claim shall each be eligible for, but not guaranteed, a payment according to the following schedule:

a. Class Members whose engines experienced no CRS Related Repairs are eligible to receive but not guaranteed \$500, per Engine, but no more under any circumstance.

b. Class Members whose engines experienced 1 to 5 qualified CRS Related Repairs performed on or before the Execution Date are eligible to receive but not guaranteed an initial amount of \$5,000, up to a maximum of \$15,000, per Engine.

c. Class Members whose engines experienced 6 or more qualified CRS Related Repairs performed on or before the Execution Date are eligible to receive but not guaranteed an initial amount of \$10,000, up to a maximum of \$30,000, per Engine. The amount ultimately distributed under this category must in all circumstances be equal to twice the amount distributed under category b. immediately above.

ii. In the event that there are multiple claimants to a single Engine for the same time period of use, any dispute as to the allocation between such claimants shall be resolved by an arbitrator selected by the Settlement Administrator and Class Counsel, and approved by the Courts, whose decision shall be final and binding and shall not be subject to any

challenge, appeal, or revision. The costs of such arbitrator shall be considered an administrative fee payable from the Settlement Fund.

iv. The initial benefits specifically set forth for an engine in each of the categories a to c described in item i. above (hereinafter referred to as “Settlement Benefits”) are all subject to pro rata distribution downward, if the total amount calculated by multiplying the number of engines included in the Approved Claims times the initial benefits value of each engine exceeds the Net Settlement Fund, which pro rata adjustments will be determined by the Settlement Administrator following the processing of all Claims. The precise number of Engines represented by Approved Claims cannot be determined in advance. In the event that, after calculating distribution of Settlement Benefits to the Class as set forth in the categories a to c described in item i. above, there would be sufficient funds available from the Net Settlement Funds to pay additional funds to each Claimant with an Approved Claim related to engines in categories b and c of item i. above, then such funds will be distributed pro rata to each such Claimant up to the maximum amounts in categories b and c respectively. In no case will Approved Claims be paid more than the maximum amount per engine in each of categories a to c in item i. above.

v. If, within six (6) months of the payments being issued to Claimants from the Claims Administrator, a balance exists in the Escrow Account as a result of uncashed distributions, interest earned, or any other surplus monies, then any remaining funds shall be paid as follows:

(a) The *Fonds d'aide aux actions collectives* will be entitled to claim the percentage provided for at Section 1 (1) of the *Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives*, R.R.Q., c. F-3.2.0.1.1, r. 2,

applied to the Quebec portion of the said remaining funds. Such Quebec portion will correspond to 23.2%¹ of said remaining funds; and

(b) The balance will be donated to a charity proposed by Class Counsel and acceptable to Defendants that is approved by the Courts.

4. CLASS COUNSELS' FEES AND COSTS

A. Application for Class Counsel's Fees and Expenses. The Parties did not discuss the payment of Class Counsel's fees and expenses, until after the substantive elements of the Settlement Agreement had been agreed upon. At the same time as the Settlement Approval Hearing in Ontario, Class Counsel will apply to the Ontario Superior Court of Justice for approval of its fees and disbursements, covering all legal services provided by Class Counsel in the past and future to the Representative Plaintiffs and the Class Members in connection with the Actions, the Settlement of the Actions, any appeal(s) in connection with the Settlement, and the implementation and/or administration of the Settlement and this Agreement. Class Counsel will seek a global award for lawyers' fees and expenses in an amount up to a maximum of 30% of the Settlement Fund, plus applicable taxes. All awarded amounts are to be paid from the Settlement Fund. Defendants will not oppose the application for Class Counsel's fees or expenses. For greater certainty, this Settlement is not conditional on any Court approving any particular Class Counsel fees or expenses.

B. Disbursement of Class Counsel's Fees and Expenses. Class Counsel's fees and expenses awarded by the Ontario Court shall be paid from the Settlement Fund to Class Counsel within five (5) business days after the Effective Date.

¹ According to Census Canada 2016, the Quebec population makes up 23.2% of the Canadian population as a whole.

C. In the event the Settlement is terminated for any reason set forth herein or in the Confidential Supplemental Agreement referred to herein, Settlement Approval is not granted or either of the Courts' Settlement Approval Orders and Judgments are reversed, vacated or modified on appeal, all funds remaining in the Escrow Account, including interest earned from the date of deposit, shall be returned to the Defendants within 10 days of the operative date of termination of this Settlement, without any reduction on account of Class Counsel's fees or expenses or Service Award. In such circumstance, the Defendants will not be entitled to recover any fees and costs incurred or payable in connection with the implementation of the Settlement Agreement, including, but not limited to the Notice Program, Settlement Administration, and in general, all fees and costs associated with notice, publication, claims administration and customer communications. Neither Plaintiffs' nor Class Counsel shall be responsible for any settlement-related costs; should the Settlement not become effective for any reason, this amount will be used as an offset against any future adverse cost awards against Caterpillar.

5. SERVICE AWARD FOR THE PLAINTIFFS

A. Application for Service Award. Within the Ontario motion to approve the settlement, Class Counsel will seek an award of up to \$20,000 to be divided amongst the Class Representatives as a Service Award and to indemnify them for any and all disbursements. Defendants will not oppose the application for Service Award as set forth herein, but this Settlement is not conditioned on the Court's approval of any Service Award

amount. For greater certainty, this Settlement is not conditional on any court approving any Service Award amount.

B. Disbursement of Service Award. The Service Award shall be paid from the Settlement Fund to the Plaintiffs within five (5) business days after the Effective Date.

6. **CONDITIONAL CERTIFICATION OF SETTLEMENT CLASS**

A. Promptly after execution of the Settlement Agreement by all Parties, Class Counsel shall take necessary steps to seek orders certifying and authorizing the Class Actions for settlement purposes and approving notices to the Class. The Parties shall work in good faith to obtain such orders from the Quebec and Ontario Courts which shall be substantially in the forms in Exhibits B1 and B2 attached hereto. Without limitation, the Courts, as applicable, shall be asked, with the input of Defendants, to:

i. certify a National Class (excluding Quebec) pursuant to the Ontario *Class Proceedings Act, 1992*, S.O. 1992, c. 6 as amended and authorize a Quebec Class pursuant to the Quebec *Code of Civil Procedure*, CQLR c C-25.01, for the sole purpose of giving effect to this Settlement Agreement;

ii. certify and authorize the Actions as class proceedings on the basis of the Common Issues;

iii. appoint the Plaintiffs as the Class Representatives for their respective classes;

iv. approve the form, content, and manner of giving notice to the Settlement Class of the certification, opt-out rights, the Settlement Approval Hearings and rights to object (as set forth in Exhibits C and D);

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- v. approve the form and content of the Claim Form and the procedure for submitting Claims (as set forth in Exhibit A);
 - vi. provide for the manner and deadline for opting out of the Class Actions;
 - vii. provisionally appoint the Settlement Administrator for the coordination of the Notice and to oversee the administration of the Settlement if approved and the claims process;
 - viii. order that the costs of the Notice and of the Settlement Administrator be paid for from the Settlement Fund;
 - ix. authorize and order the Defendants to provide the Settlement Administrator with the most up-to-date names and contact information of registered Engine owners in its warranty claims database as of September 25, 2017, solely for the purposes of Notice and claims administration;
 - x. set a schedule for proceedings with respect to approval of this Settlement;
- B. For settlement purposes only, the Parties agree that the Quebec and Ontario Courts may enter orders conditionally certifying the Class Actions substantially in the form attached as Exhibits B1 and B2 hereto.
- C. Conditional certification of the Settlement Class and the Common Issues, as well as appointment of Plaintiffs as Class Representatives and Class Counsel by the Courts, shall be binding only if the terms of this Settlement Agreement are given full force and effect. In the event this Settlement Agreement is terminated pursuant to its terms, or both Settlement Approval Orders and Judgments are not made for any reason, the conditional certification of the Settlement Class and appointments of Class Representatives and Class

Counsel shall be automatically nullified, with the Parties reserving all of their rights with respect to any future request for class certification or authorization.

D. Whether or not this Settlement Agreement is finally approved by the Courts, the Parties agree that the Settlement Agreement shall not constitute evidence of the propriety of class certification for the purposes of litigation or trial in the Class Actions, or of any other case.

7. SETTLEMENT ADMINISTRATOR

The Settlement Administrator's fees and expenses shall be paid from the Settlement Fund. The Settlement Administrator will work without limitation to: (i) provide the court-approved Notice to potential Class Members; (ii) maintain a Settlement website; (iii) establish a toll-free telephone number that Class Members may call for information; (iv) receive and maintain Class Member correspondence and specifically with regard to requests for exclusion and objections to the Settlement; (v) receive, evaluate, and process Settlement Claim Forms after the Settlement has been approved by the Courts; (vi) make payment of Approved Claims to Claimants; (vii) provide any necessary certifications to the Courts concerning the administration and processing of Claims; and (viii) otherwise implement and/or assist with any other matter dealt with in the Settlement once approved. The Settlement Administrator will be available to respond to inquiries from Class Counsel, counsel for Defendants and Class Members. The Settlement Administrator functions shall include managing an interactive Settlement Website from which settlement information and relevant forms can be obtained and, following Court-approval, claims can be electronically submitted; managing a toll free number with a live operator so that Class Members can call and receive information in English or French; administering the Notice Program and Settlement payments; timely and properly filing or causing to be filed on a timely basis of all tax returns

necessary or advisable with respect to the Settlement Fund (including all income tax returns, all informational returns, and all other returns required by any taxation statute or taxing authority).

8. NOTICE OF SETTLEMENT AND ADMINISTRATION OF CLAIMS

A. As soon as practicable after the orders certifying and authorizing the Class Actions and approving notice of same and the opt-out process are made, the Settlement Administrator shall send to all potential Class Members identified by the Defendants as registered Subject Engine owners in its warranty database as of September 25, 2017 via direct mail and email (where available) a copy of the Notice of Certification for Settlement and Settlement Approval Hearings (which shall be substantially in the form of Exhibit D attached hereto). In addition, the Settlement Administrator shall promptly: (a) re-mail any notices returned by the postal service with a forwarding address, or as the case may be, (b) by itself or using one or more address research firms, as soon as practicable following receipt of any returned notices that do not include a forwarding address, research such returned mail for better addresses and promptly mail copies of the applicable notice to any better addresses so found. The same process and procedure will be followed for all potential Class Members that have identified themselves on the Settlement Website.

B. The Settlement Administrator shall also implement publication of the Notice in accordance with the Notice Program and Courts' orders. The Settlement Administrator shall publish the approved Notices of Certification for Settlement and Settlement Approval Hearings (Exhibits C and D) within thirty (30) calendar days after the orders certifying and authorizing the class actions and approving the related notice are made. Upon and after entry of such orders the Settlement Administrator shall also initiate, update and continue to maintain the Settlement Website. Such website will continue to host appropriate

information relating to the Settlement, the administration of Claims once the Settlement is approved, and contact information for the Settlement Administrator. In addition, the Settlement Website will post the Statement of Claim and Motion for Authorization, the Class Certification Orders and this Settlement Agreement. Until such time as the Settlement Approval Orders and Judgments have been issued, the Claim section on the Settlement Website will encourage Class Members to enter their names, emails, contact information, and number of Subject Engines, so as to be kept up-to-date and to receive the Notice of Settlement Approval, information related to the claims process, and the Claim Deadline.

C. All costs associated with the dissemination of the Notice pursuant to the Notice Program shall be paid from the Settlement Fund. Class Counsel shall pay directly for all such costs, other than for direct mailing/emailing to Class Members, and submit such invoices to the Settlement Administrator who will reimburse Class Counsel in full (taxes included) within thirty (30) days of receiving the relevant receipts or proof of payment.

9. REQUESTS FOR EXCLUSION

A. Class Members who wish to exclude themselves from the Class must submit a written Request for Exclusion/Opt-Out. Class Members may use the form attached as Appendix A to the Long Form Notice, properly completed, for this purpose. To be effective, such a request must include the Class Member's name, mailing address, e-mail address, the signature of the Class Member (or, only in the case of a Person who is deceased or incapacitated, the signature of the legally authorized representative of that Class Member), the Engine serial number(s) which the Class Member seeks to exclude, the make, model and VIN number of the vehicle(s) containing the Subject Engine(s), the original

purchase date or lease period, date of subsequent sale (if applicable), and substantially the following statement, “*I want to opt out of the Class Actions in Ontario and/or Quebec (any of which I am a member) related to EPA 2007 Compliant Caterpillar C13 and C15 Diesel Engines manufactured between 2005 and 2009.*” Requests for Exclusion / Opt-Out may be submitted via First Class Mail paid by the Class Member and sent to the Settlement Administrator at the address provided in the Long Form Notice. Class Members must submit a Request for Exclusion/Opt-Out to the Settlement Administrator postmarked or delivered no later than the Opt-Out Deadline shown on the Notice of Certification for Settlement and Settlement Approval Hearings. Requests for Exclusion/Opt-Outs purportedly filed on behalf of groups of Persons are prohibited and will be deemed to be void. Failure to comply with these requirements and to timely submit the Request for Exclusion/Opt-Out will result in the Class Member being bound by all proceedings, orders, and judgments of the Courts pertaining to this Settlement Agreement. However, with respect to Quebec Class Members, this paragraph is subject to article 580 of the Quebec *Code of Civil Procedure*.

B. In addition, Quebec Class Members who want to exclude themselves / opt out must do so by giving notice to the Clerk of the Superior Court of Quebec by the Opt-Out Deadline and in the manner prescribed by the Quebec *Code of Civil Procedure*, as well as complete the Opt-Out Form and file it with the Settlement Administrator by the Opt-Out Deadline.

C. Any Class Member who submits a timely Request for Exclusion/ Opt-Out may not file an objection to the Settlement and shall be deemed to have waived any rights or benefits under this Settlement Agreement.

D. The Settlement Administrator shall promptly log each Request for Exclusion/Opt-Out that is received, and shall provide copies of the log and all such Requests for Exclusion/Opt-Out to Class Counsel and counsel for Defendants within fourteen (14) calendar days after the deadline fixed for Class Members to request exclusion/opt-out.

10. OBJECTIONS

A. Class Members who do not request exclusion from the Class may object to the Settlement. A potential Class Member who submits a Request for Exclusion/Opt-Out is not entitled to object to the Settlement. If both a Request for Exclusion/Opt-Out and an objection are submitted, the objection shall be deemed to be invalid. Only Settlement Class Members may object to the Settlement. Any Settlement Class Member who wishes to object to the Settlement must send a written objection that contains the information set forth in Section **10.B.** below (“Notice of Objection”) via First Class Mail paid by the Class Member to the Settlement Administrator, with copies to counsel for the Parties, and arrange for a copy to be filed with the relevant Court, all at the addresses set forth in Section **10.B.**

B. To be effective, a Notice of Objection to the Settlement that is filed with the Court must:

i. Contain a caption that includes the name of the Class Action in which the person intends to appear and the court file number.

ii. Provide the name, address, telephone number and signature of the Class Member filing the intent to object;

iii. Provide the approximate date(s) of the Person’s purchase, or lease (having some rights to residual purchase of vehicles at lease end) of a vehicle powered by a Subject Engine and the serial number for the Subject Engine(s);

iv. Be filed with the relevant Court not later than fifteen (15) days prior to the Settlement Approval Hearing;

v. Be served on Class Counsel and counsel for Defendants so as to be received no later than fifteen (15) days prior to the Settlement Approval Hearing;

vi. Contain the name, address, bar number and telephone number of the objecting Class Member's counsel, if represented by a lawyer;

vii. State whether the objecting Class Member intends to appear at a Settlement Approval Hearing, either in person or through counsel and which one;

viii. Provide a detailed statement of the specific legal and factual basis for each and every objection; and

ix. Provide a detailed description of any and all evidence the objecting Class Member may offer at the Settlement Approval Hearing, including copies of any and all exhibits that the objecting Class Member may introduce at the Settlement Approval Hearing.

C. Any Class Member who wishes to appear at a Settlement Approval Hearing must file with the relevant Court a Notice of Intention to Appear by the deadline specified in the Long Form Notice. The Notice of Intention to Appear must include copies of any papers, exhibits or other evidence that the objecting Class Member or counsel for the objecting Class Member will present to the Court at the Settlement Approval Hearing. Only a Class Member who files a Notice of Intention to Appear may appear, in person or by counsel, and be heard to the extent permitted under applicable law and allowed by the Court, in opposition to the fairness, reasonableness and adequacy of the settlement, and on Class Counsel's application for an award of lawyers' fees and costs.

D. Any Class Member who does not file a timely and adequate Notice of Objection in accordance with this Section 10 waives the right to object or to be heard at a Settlement Approval Hearing and shall be forever barred from making any objection to the Settlement unless otherwise permitted by one of the Courts. To the extent any Class Member objects to the Settlement, and such objection is overruled in whole or in part, such Class Member will be forever bound by the Settlement Approval Orders and Judgments of the Courts.

E. No later than fifteen (15) calendar days before any Settlement Approval Hearings, the Settlement Administrator shall provide to Class Counsel and counsel for Defendants a declaration confirming that the Notice Program approved by the Courts was effectuated, which declaration shall be filed with the Courts.

11. SETTLEMENT APPROVAL

A. The notice to the Class of certification/authorization shall contain a date, time and location for the Settlement Approval Hearings to be conducted by the Courts. The date for the Settlement Approval Hearings shall be set by the Courts after entry of the Class Certification Orders, for a date at least sixty (60) days after entry of those orders.

B. Upon approval of this Settlement Agreement, the Settlement Approval Orders and Judgments (which shall be substantially in the form of Exhibits G1 and G2 attached hereto) shall be entered by the Courts. They shall, *inter alia*:

i. Approve the Settlement and Settlement Agreement as fair, reasonable, and in the best interests of the Class;

ii. Dismiss with prejudice the Ontario Action and settle the Quebec Action against Defendants and/or the Released Persons;

- iii. Adjudge that the Releasing Parties are conclusively deemed to have released Defendants and the Released Persons from the Released Claims;
- iv. Bar and permanently enjoin each Class Member from prosecuting against the Released Persons any and all of the Released Claims;
- v. Reserve continuing jurisdiction by the Courts to preside over any ongoing proceedings relating to the Claims or this Settlement Agreement;
- vi. Approve the form and content of a Notice of Settlement Approval (Exhibit E hereto) and its method of dissemination as set out in the Notice Program;
- vii. Permanently appoint the Settlement Administrator for the coordination of the Notice and to oversee the administration of the Settlement and the claims process;
- viii. Order that the costs of the Notice and of the Settlement Administrator be paid for from the Settlement Fund; and
- ix. Set the Claim Deadline.

12. CLAIM PROCESSING AND CASH PAYMENTS

- A. Class Members must complete and sign the appropriate Claim Form and submit it to the Settlement Administrator via a submission process to be established by the Settlement Administrator by the Claim Deadline. A Claim Form shall be considered defective if the Claimant fails to timely submit the Claim Form or provide the required information on the Claim Form.
- B. Class Members will be entitled to file a Claim for each of the Subject Engines in vehicles they purchased or leased (having some rights to residual purchase of vehicles at lease end).

C. Within thirty (30) calendar days of the Claim Deadline, the Settlement Administrator will notify any Class Member who has submitted a deficient Claim Form of the nature of the deficiency and of the ability to cure. Those Class Members will be given thirty (30) calendar days to cure.

D. Cash payments will be made to Claimants via physical cheque mailed to the address provided on the Claim Form.

E. Ninety (90) calendar days after the Claim Deadline, the Settlement Administrator will mail cheques for cash payments owing under this Settlement Agreement to the Class Members who have submitted an Approved Claim.

F. Other than the Service Award, the cash payments set forth above shall be the only payments to which any Class Member will be entitled pursuant to this Settlement Agreement, and each Class Member will only be entitled to such cash payment if they submit an Approved Claim.

13. RELEASE BY ALL SETTLEMENT CLASS MEMBERS AND DISMISSAL OF CLASS ACTIONS

A. Plaintiffs, for and on behalf of themselves, every member of the Class, and each of their respective heirs and assigns (the “Releasing Parties”), release, acquit, and forever discharge, and shall forever be enjoined from prosecution of any and all claims, counterclaims, disputes, liabilities, rights, suits, obligations, judgments, duties, demands, defenses, liens, actions, administrative proceedings, costs, expenses, matters, issues, and causes of action of every kind and nature, including based upon fraud, whether known or unknown, contingent or absolute, suspected or unsuspected, disclosed or undisclosed, liquidated or unliquidated, matured or unmatured, accrued or unaccrued, apparent or unapparent, that have been, could

have been, or in the future can or might be asserted in any court, tribunal or proceeding, (including but not limited to any claims arising under federal, provincial, foreign or common law, including any federal or provincial consumer protection law), by or on behalf of Plaintiffs or any member of the Class, whether individual, direct, class, representative, legal, equitable, or any other type or in any other capacity against Defendants, including but not limited to any controlling persons, associates, affiliates, subsidiaries or dealers and each and all of their respective past or present officers, members, managers, directors, stockholders, principals, representatives, employees, lawyers, financial or investment advisors, insurers, consultants, accountants, investment bankers, commercial bankers, entities providing fairness opinions, advisors or agents, heirs, executors, trustees, general or limited partners or partnerships, limited liability companies, members, joint ventures, personal or legal representatives, estates, administrators, predecessors, successors, and assigns (the “Released Persons”), which the Releasing Parties ever had, now have, or may hereafter have by reason of, arising out of, relating to, or in connection with the acts, events, facts, matters, transactions, occurrences, statements, representations, misrepresentations, omissions, or any other matter whatsoever set forth in or otherwise related to the claims asserted or those that could have been asserted in the Class Actions regarding the Subject Engines, including the Caterpillar Regeneration System (collectively, the “Released Claims”); provided, however that the Released Claims shall not include any claims to enforce the Settlement Agreement. Notwithstanding the foregoing,

Class Representatives and Class Members are not releasing any claims for personal injury.

In agreeing to the foregoing release, the Releasing Parties expressly acknowledge and understand that they may hereafter discover facts in addition to or different from those which they now believe to be true with respect to the subject matter of the matters released herein, but expressly agree that they have taken these possibilities into account in electing to participate in this release, and that the release given herein shall be and remain in effect as a full and complete release notwithstanding the discovery or existence of any such additional or different facts, as to which the Releasing Parties expressly assume the risk.

B. As of the Effective Date, by operation of the entry of the Settlement Approval Orders and Judgments, each Class Member who does not file a valid Request for Exclusion/Opt-Out, automatically, upon entry of the Settlement Approval Orders and Judgments, shall be held to have fully released, waived, relinquished and discharged the Released Persons from the Released Claims, to the fullest extent permitted by law, and shall be enjoined from continuing, instituting or prosecuting any legal proceeding against the Released Persons relating in any way whatsoever to the Released Claims. However, with respect to Quebec Class Members, this paragraph is subject to article 580 of the *Quebec Code of Civil Procedure*.

C. The Releasing Parties stipulate and agree that upon the Courts' entry of the Settlement Approval Orders and Judgments, the Ontario Action shall be dismissed with prejudice and the Quebec Action shall be declared settled.

D. The Releasing Parties, on behalf of themselves and their respective assigns, agree not to sue or otherwise make a claim against any of the Released Persons that is in any way

related to the Released Claims. They also agree not to make or continue any claim or proceeding related to the matters released hereby against any Persons who might claim contribution or indemnity from the Released Persons, unless and only to the extent that they limit their claims to the several and distinct liability of such other Persons only, so that the Released Persons have no exposure for liability whatsoever to such other Persons. However, with respect to Quebec Class Members, this paragraph is subject to article 580 of the Quebec *Code of Civil Procedure*.

14. AMENDMENT

This Agreement may be modified, amended or supplemented only by written agreement signed by or on behalf of all Parties and, if such modification, amendment or supplement is to be executed and become effective subsequent to the entry of the Settlement Approval Orders and Judgments only with the approval of the Courts.

15. AUTOMATIC TERMINATION OF SETTLEMENT AGREEMENT AND TERMINATION RIGHTS

In the event that this Settlement Agreement does not become final for any reason:

A. Except as expressly stated herein, this Settlement Agreement shall automatically become null and void and have no further force or effect, and all proceedings that have taken place with regard to this Settlement Agreement and the Settlement shall be without prejudice to the rights and contentions of the Parties hereto;

B. This Settlement Agreement, all of its provisions (including, without limitation, any provisions concerning Class certification/authorization), and all negotiations, statements and proceedings relating to this Settlement Agreement shall be without prejudice to the rights of any of the Parties.

C. This Settlement Agreement, any provision of this Settlement Agreement and the fact of this Settlement Agreement having been made, shall not be admissible or entered into evidence for any purpose whatsoever; nor will any information produced solely in connection with any of the Parties' mediations be admissible;

D. Any judgment or order entered in connection with this Settlement Agreement will be vacated and will be without any force or effect; and

E. This Section shall survive any termination of this Settlement Agreement.

16. INCORPORATION OF EXHIBITS

All exhibits attached hereto are hereby incorporated by reference as though set forth fully herein and are a material part of this Settlement Agreement. Any notice or other exhibit attached hereto that requires approval of the Courts must be approved without material alteration from its current form in order for this Settlement Agreement to become effective, absent written express agreement of the Parties otherwise.

17. GOVERNING LAW AND COMPLIANCE WITH TERMS OF SETTLEMENT AGREEMENT

A. All questions with respect to the construction of this Settlement Agreement and the rights and liabilities of the parties hereto shall be governed by the laws of the province of Ontario, without giving effect to its conflict of laws provisions.

B. The Courts shall have continuing jurisdiction to resolve any dispute that may arise with regard to the terms and conditions of this Settlement Agreement as well as enforce the injunctions set forth in this Agreement, and the Parties hereby consent to such jurisdiction.

C. The Courts expressly retain jurisdiction in order to enter such further orders as may be necessary or appropriate in administering and implementing the terms and provisions of the Settlement Agreement, including, but not limited to, orders enjoining Class Members from prosecuting claims that are released pursuant to the Settlement Agreement, as permitted by law.

18. NO ADMISSION OF WRONGDOING

This Settlement Agreement is made to terminate any and all controversies, real or potential, asserted or unasserted, and claims for injuries or damages or any nature whatsoever, real or potential, asserted or unasserted, between Defendants and the Plaintiffs. Neither the execution nor delivery of this Settlement Agreement nor compliance with its terms shall constitute an admission of any fault or liability on the part of Defendants, or any of their agents, lawyers, representatives, or employees. The Defendants do not admit any fault or liability of any sort and, in fact, expressly deny fault and liability.

19. PREPARATION OF SETTLEMENT AGREEMENT, SEPARATE COUNSEL AND AUTHORITY TO ENTER SETTLEMENT AGREEMENT

A. The Parties and their counsel have each participated and cooperated in the drafting and preparation of this Settlement Agreement. Hence, in any construction to be made of this Settlement Agreement, the same shall not be construed against any Party as drafter of the Settlement Agreement.

B. The Parties each acknowledge that they have each been represented by counsel of their own choice throughout all of the negotiations that led to the execution of this Settlement Agreement and in connection with the preparation and execution of this Settlement Agreement.

C. The Parties each represent and warrant that each of the Persons executing this Settlement Agreement is duly empowered and authorized to do so.

20. FRENCH TRANSLATION

The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; *les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais*. Nevertheless, if required by the Quebec Court, Class Counsel and/or a translation firm mandated by Class Counsel shall prepare a French translation of the Settlement Agreement, the cost of which shall be paid from the Settlement Fund. In the event of any dispute as to the interpretation or application of this Settlement Agreement, only the English version shall govern.

21. TRANSACTION

This Settlement Agreement constitutes a transaction in accordance with Articles 2631 and following of the *Civil Code of Quebec*, CQLR c CCQ-1991.

22. HEADINGS

The headings contained in this Settlement Agreement are for reference only and are not to be construed in any way as affecting the meaning or interpretation of the Settlement Agreement.

23. COUNTERPARTS

This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

24. BINDING EFFECT

This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and to their respective heirs, assigns, and successors-in-interest.

25. ENTIRE AGREEMENT

This Settlement Agreement and the Confidential Supplemental Agreement represent the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior contemporaneous oral and written agreements and discussions. Each of the Parties covenants that they have not entered into this Settlement Agreement or the Confidential Supplemental Agreement as a result of any representation, agreement, inducement, or coercion, except to the extent specifically provided herein. Each Party further covenants that the consideration recited herein is the only consideration for entering into this Settlement Agreement and the Confidential Supplemental Agreement and that no promises or representations of another or further consideration have been made by any Person.

26. CONFIDENTIAL DISCOVERY MATERIALS

Although the Parties to this Settlement Agreement have not yet conducted oral or documentary discovery, Class Counsel has conducted significant documentary review, consulted with U.S. Plaintiff's Counsel in the U.S. Litigation, as well as with experts in order to undertake a meaningful analysis of the issues relating to the terms of the Settlement Agreement with respect to an analysis of both liability issues and appropriate damage assessments.

Class Counsel agrees that the confidential information made available to it solely through the settlement process was made available, as agreed to, on the condition that neither the Class Representatives nor Class Counsel may disclose it to third parties (other than experts or consultants retained by Class Representatives in connection with this Settlement Agreement); that it not be the

subject of public comment; that it not be used by Class Representatives or Class Counsel in any way in this litigation or otherwise; provided, however, nothing contained herein shall prohibit Class Representatives from seeking such information to which they might be entitled through formal discovery.

Within twenty-one (21) days of the Effective Date, Class Counsel shall provide to Defendants' Counsel a Certification under oath of the destruction of all material produced by Defendants in the Class Actions that were designated as "Confidential" or "Attorney Eyes Only" pursuant to the Confidentiality Agreement entered between the Parties on October 17, 2017. This includes a Certification under oath that Plaintiffs' experts have also destroyed such Confidential materials produced by Defendants.

27. NOTICE

All notices, requests, demands and other communications required or permitted to be given pursuant to this Settlement Agreement shall be in writing and shall be emailed, and delivered personally or mailed postage pre-paid by First Class Mail, to the following persons at their addresses set forth as follows:

Class Counsel

Jeff Orenstein
Consumer Law Group P.C.
251 Laurier Ave. West, Suite 900
Ottawa, Ontario K1P 5J6
T: (613) 627-4894
Email: jorenstein@clg.org

Andrea Grass
Consumer Law Group Inc.
1030 rue Berri, Suite 102
Montréal, Québec H2L 4C3
T: (514) 266-7863
Email: agrass@clg.org

Defendants' Lawyer

S. Gordon McKee
Blake, Cassels & Graydon LLP
199 Bay Street, Suite 4000
Toronto, Ontario M5L 1A9
T: (416) 863-3884
Email: gordon.mckee@blakes.com

Francis Rouleau
Blake, Cassels & Graydon LLP
1 Place Ville Marie #3000
Montréal, Québec H3B 4N8
T : (514) 982-4016
Email: francis.rouleau@blakes.com

WHEREFORE, the undersigned, being duly authorized to sign for and on their respective clients' behalf, have caused this Settlement Agreement to be executed on the dates shown below and agree that it shall take effect on the last date of execution by all undersigned representatives of the Parties.

DATED this 17 day of June, 2021



Jeff Orenstein
Consume Law Group P.C. / Consumer Law Group Inc.
Lawyers for the Plaintiffs / Class Counsel



S. Gordon McKee
Blake, Cassels & Graydon LLP
Lawyers for the Defendants / Defence Counsel

45 DTF Codes used for CRS/DPF Coverage

DT	F	Group/Part Name	DT	F	Group/Part Name
131	496	Fuel Priming Grp. - Kit	157	105	Exhaust Gas Recirculation Grp. - Body
131	558	Fuel Priming Grp. - Module	157	429	Exhaust Gas Recirculation Grp. - Head
131	885	Fuel Priming Grp. - Valve	157	737	Exh. Gas Recirculation Grp. - Temp Sensor
135	736	Fuel Injection Grp. - Pressure Sensor	157	876	Exhaust Gas Recirculation Grp. - Tube
139	885	Fuel Lines Grp. - Valve	157	885	Exhaust Gas Recirculation Grp. - Valve
141	111	Electronics Controls Grp. - Bolt	159	000	Aftertreatment System - No #
141	735	Electronics Controls Grp. - Sender	159	318	Aftertreatment System - Duct
141	737	Electronics Controls Grp. - Temp. Sensor	159	357	Aftertreatment System - Filter
152	885	Inlet Manifold Grp. - Valve	159	381	Aftertreatment System - Gasket
153	000	Exhaust Manifold/Muffler/DPF Grp. - No #	159	429	Aftertreatment System - Head
153	132	Exh. Manifold/Muffler/DPF Grp. - Box	159	496	Aftertreatment System - Kit
153	138	Exh. Manifold/Muffler/DPF Grp. - Bracket	159	558	Aftertreatment System - Module
153	210	Exh. Manifold/Muffler/DPF Grp. - Clamp	159	588	Aftertreatment System - Panel
153	318	Exh. Manifold/Muffler/DPF Grp. - Duct	159	737	Aftertreatment System - Temp Sensor
153	324	Exh. Manifold/Muffler/DPF Grp. - Elbow	159	876	Aftertreatment System - Tube
153	357	Exh. Manifold/Muffler/DPF Grp. - Filter	159	885	Aftertreatment System - Valve
153	429	Exh. Manifold/Muffler/DPF Grp. - Head	216	222	Ignition Grp. - Coil
153	496	Exh. Manifold/Muffler/DPF Grp. - Kit	234	885	Air Motor Grp. - Valve
153	558	Exh. Manifold/Muffler/DPF Grp. - Panel	245	737	Instrument Grp. - Temp Sensor
153	735	Exh. Manifold/Muffler/DPF Grp. - Sender	525	009	Air Control Grp. - Acuator
153	737	Exh. Man./Muffler/DPF Grp. - Temp Sensor	525	195	Air Control Grp. - Cartridge
153	876	Exh. Manifold/Muffler/DPF Grp. - Tube	585	222	Pilot Control Valve Grp. - Coil
153	885	Exh. Manifold/Muffler/DPF Grp. - Valve			

TO: CANADIAN CLAIMS ADMINISTRATOR
CATERPILLAR EPA 2007 COMPLIANT C13 & C15 DIESEL ENGINE LITIGATION (CANADA)
[INSERT ADDRESS]

FROM: BUSINESS
REPRESENTATIVE
ADDRESS LINE 1
ADDRESS LINE 2
CITY, PROVINCE, POSTAL CODE
CANADA

MONTH ##, ####
TRACKING NUMBER: XXXXX

CLAIM FILING DEADLINE: MONTH DD, 2021

Canadian Caterpillar EPA 2007 Compliant C13 & C15 Diesel Engine Class Action Settlement

CLAIM FORM

Please read the entire Claim Form carefully before you begin to fill it out. Mail your completed Claim Form to Canadian Claims Administrator Caterpillar EPA 2007 Compliant C13 & C15 Diesel Engine Litigation (Canada) **[insert address]** postmarked on or before **Month DD, 2021**. If you have any questions, please call the Claims Administrator at 888-593-5379 or visit www.enginesettlement.ca.

Definitions

A "Subject Engine" is a Caterpillar EPA 2007 Compliant C13 and C15 diesel engine with Advanced Combustion Emission Reduction Technology ("ACERT") manufactured in 2005, 2006, 2007, 2008 or 2009, including the CRS components of the engines. Visit the website www.enginesettlement.ca for complete descriptions and photographs of the Subject Engines, explanations on how to identify them and the types of vehicles that included them.

"Caterpillar Regeneration System" or "CRS" means the components of the Subject Engine which are more fully defined or described by the parts set forth in Attachment A of the Settlement Agreement (also available at the website).

"CRS Related Repair" means a repair or replacement of any Caterpillar Regeneration System related part or component as indicated by the 45 DT and F code combinations reflected in Attachment A of the Settlement Agreement. Repairs or replacements made due to a Caterpillar Service Letter performed pro-actively are not considered a CRS Related Repair.

SECTION A: Settlement Benefit Options

Note that all amounts are subject to a pro-rata increase or reduction based on the number of Approved Claims/Engines, per the terms of the Settlement Agreement.

- i) If your Engine(s) experienced no CRS Related Repairs, you are eligible to receive, but not guaranteed, \$500, for each Subject Engine, but no more under any circumstance.
- ii) If your Engine(s) experienced 1-5 qualified CRS Related Repairs performed on or before the Execution Date, you are eligible to receive, but not guaranteed, an initial amount of \$5,000, up to a maximum of \$15,000, per Subject Engine.
- iii) If your Engine(s) experienced 6 or more qualified CRS Related Repairs performed on or before the Execution Date, you are eligible to receive, but not guaranteed, an initial amount of \$10,000, up to a maximum of \$30,000, per Subject Engine.

Your claim will be based on the number of Subject Engines for which you provide information. If you were sent this Claim Form in the mail or by email, Subject Engine information may have been pre-populated on this Claim Form.

SECTION B: Engine Information

Please fill out or confirm for each Subject Engine you are claiming. If you were sent this Claim Form in the mail or by email, eligible Subject Engine warranty repair information may have been pre-populated below based on information known to the Claims Administrator. If you wish to claim additional Subject Engines, you will need to provide the information requested below. **YOU MUST LABEL EACH PIECE OF SUPPORTING DOCUMENTATION WITH THE ASSOCIATED ENGINE SERIAL NUMBER.**

Engine 1 Serial Number: XXXXXXXXX

I owned or leased this engine from _____ to _____.

During that time, this engine had _____ CRS Related Repairs. **You must attach proof of the out-of-warranty CRS Related Repairs claimed. Acceptable proof includes an invoice for the repair or similar documentation.**

Engine 2 Serial Number: XXXXXXXXX

I owned or leased this engine from _____ to _____.

During that time, this engine had _____ CRS Related Repairs. **You must attach proof of the out-of-warranty CRS Related Repairs claimed. Acceptable proof includes an invoice for the repair or similar documentation.**

Engine 3 Serial Number: XXXXXXXXX

I owned or leased this engine from _____ to _____.

During that time, this engine had _____ CRS Related Repairs. **You must attach proof of the out-of-warranty CRS Related Repairs claimed. Acceptable proof includes an invoice for the repair or similar documentation.**

Engine 4 Serial Number: XXXXXXXXX

I owned or leased this engine from _____ to _____.

During that time, this engine had _____ CRS Related Repairs. **You must attach proof of the out-of-warranty CRS Related repairs claimed. Acceptable proof includes an invoice for the repair or similar documentation.**

Engine 5 Serial Number: XXXXXXXXX

I owned or leased this engine from _____ to _____.

During that time, this engine had _____ CRS Related Repairs. **You must attach proof of the out-of-warranty CRS Related repairs claimed. Acceptable proof includes an invoice for the repair or similar documentation.**

*If you are providing information for more than 5 Subject Engines, you can copy this page as many times as needed and submit information for all Eligible Engines you owned/leased.

SECTION C: Certification and Signature

By signing below, I declare or affirm, under penalty of law, that I have read this Claim Form, that I believe I am eligible for Class membership, and that all of the information on this Claim Form (or provided with this Claim Form) is true and correct to the best of my knowledge. I understand that, if the Claim Form is not signed, my claim will not be valid, and I will not be eligible to receive a settlement cash payment.

Signature: _____ Date: _____

PLEASE UPDATE MY CONTACT INFORMATION AS FOLLOWS:

Business Name: _____

Representative: _____

Address: _____

City: _____ Province: _____ Postal Code: _____

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE) , THE DAY
JUSTICE M. Z. CHARBONNEAU) OF , 2021
)

B E T W E E N :

SUKHVIR PABLA

Plaintiff

- and -

**CATERPILLAR OF CANADA CORPORATION and
CATERPILLAR, INC.**

Defendants

Proceeding under the *Class Proceedings Act, 1992*, as amended

ORDER

(CERTIFICATION FOR SETTLEMENT AND NOTICE APPROVAL)

THIS MOTION made by the Plaintiff for an Order that this action be certified pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, c. 6, to certify and authorize the Action as class proceedings on the basis of the Common Issues, appoint the Plaintiff as the Class Representative, approve of the form and content and manner of the Notices of Certification, to approve the Notice Program, to approve the form and content of the Claim Form and the procedure for submitting Claims, approve the form and content of the Opt-Out Form, and to provisionally appoint the Settlement Administrator for the coordination of the Notice and to oversee the administration of the Settlement if approved and the claims process, all for settlement purposes

only, was heard on _____, 2021 at the Court House, 161 Elgin St., Ottawa, Ontario, K2P 2K1.

ON READING the materials filed, including the Settlement Agreement entered into by the Parties dated ___, 2021, and on hearing the submissions of counsel for the Plaintiff and counsel for the Defendants;

1. **THIS COURT ORDERS** that capitalized terms herein have the same meaning as in the Settlement Agreement unless otherwise defined herein.
2. **THIS COURT ORDERS** that the within action is certified as a class proceeding pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, c. 6, as amended, section 5(1), for settlement purposes only.
3. **THIS COURT ORDERS** that the National Class is defined as:

All Persons in Canada, excluding members of the Quebec Class, who are original purchasers or original lessees, subsequent purchasers or subsequent lessees, including but not limited to those having some rights to residual purchase of vehicles at lease end, of a vehicle (including trucks, buses and other heavy duty vehicles) powered by a Subject Engine.¹ Excluded from the Class are Defendants, all present or former affiliates and/or directors of Defendants, all Persons who have already released claims against Defendants for the relief provided herein, and all persons who will make a timely and valid election to opt-out of the Class in accordance with the provisions of the notice of class certification and opt-out rights. National Class does not include Persons that have previously executed settlement releases concerning the Subject Engines. Such Persons that have previously executed settlement releases are specifically excluded from the Class.

4. **THIS COURT ORDERS** that Sukhvir Pabla is appointed as the Representative Plaintiff for the National Class.
5. **THIS COURT DECLARES** that the nature of the claims asserted on behalf of the National Class are set forth in the Statement of Claim herein, and include claims for

¹ "Subject Engine(s)" or "Engine(s)" shall mean all EPA 2007 Compliant Caterpillar C13 and C15 diesel engines with Advanced Combustion Emission Reduction Technology manufactured in 2005, 2006, 2007, 2008 and 2009 including CRS components incorporated therewith.

negligence, negligent misrepresentation, breaches of the *Competition Act* and provincial consumer protection and sale of goods legislation, breach of express and implied warranties, breach of duties of good faith, waiver of tort, unjust enrichment and constructive trust; the relief sought by the Class includes cost of repairs, economic loss damages including downtime, lost revenues and profit, diminution in value of the Subject Engines, and disgorgement of revenues and/or profits from sale of the Subject Engines.

6. **THIS COURT ORDERS** that the proceeding is certified on behalf of the National Class in respect of the following common issues, for settlement purposes only:
 - (i) Did the Defendants owe a duty of care to Class members in respect of the losses claimed?
 - (ii) If so, did the Defendants exercise a reasonable standard of care in the design of the Subject Engines?

7. **THIS COURT ORDERS** that the hearing of the motion for approval of the Settlement Agreement will be held at [Time] on [DATE], 2021 at 161 Elgin Street, Ottawa, Ontario (the “Ontario Approval Hearing”). At the Ontario Approval Hearing, the Representative Plaintiff will seek the following Orders:
 - (a) Approval of the Settlement Agreement, as well as, the content and manner of notice to the National Class;
 - (b) Approval of Class Counsel Fees, costs, and taxes;
 - (c) Approval of the Service Award to the Class Representative; and
 - (d) Any other Order that the Court may deem appropriate.

8. **THIS COURT ORDERS** that the Long Form Notice and the Notice of Hearings in the forms attached respectively as Schedules “A” and “B” to this Order, or in forms substantially similar, (collectively the “Notices of Certification”) are hereby approved.

9. **THIS COURT ORDERS** that the Notices of Certification be disseminated in the manner set out in the applicable section of the Notice Program attached as Schedule “C” to this Order; that part of the Notice Program is the best notice practicable under the

circumstances, constitutes sufficient notice to all members of the National Class entitled to notice, and satisfies the requirements of notice under sections 17 through 22, inclusive, of the *Class Proceedings Act, 1992*, S.O. 1992, c.6.

10. **THIS COURT ORDERS** that, in accordance with the terms of the Settlement Agreement, all costs associated with the dissemination of the Notices of Certification pursuant to the Notice Program shall be paid from the Settlement Fund.
11. **THIS COURT ORDERS** that the date and time of the Ontario Approval Hearing set forth in the Notices of Certification is subject to adjournment by the Court without further notice to members of the National Class other than by posting any new date and time for that hearing on the website for the Settlement established and maintained by the Settlement Administrator.
12. **THIS COURT ORDERS** that the Claim Form in the form attached as Schedule “D” to this Order, or in a form substantially similar, is hereby approved.
13. **THIS COURT ORDERS** that the Opt-Out Form in the form attached as Schedule “E” to this Order, or in a form substantially similar, is hereby approved.
14. **THIS COURT ORDERS** that members of the National Class may opt out of the Ontario Class Action by sending a written request to opt out to the Settlement Administrator at the address specified in the Long Form Notice. The request to opt out must contain the information specified in the Long Form Notice. Written requests to opt out must be received by the Settlement Administrator or, postmarked if mailed by prepaid first class mail, no later than 45 days following the publication of the Notice of Class Certification and Settlement Approval Hearings as shown on the Short Form Notice.
15. **THIS COURT ORDERS** that each National Class Member who wishes to opt-out of the Ontario Class Action:
 - a) will not be bound by the Settlement Agreement;
 - b) will not be entitled to receive any share of benefits payable in connection with same; and

- c) will cease to be a Class Member.
16. **THIS COURT ORDERS** that [insert name] is provisionally appointed as Settlement Administrator for the purposes of accomplishing the tasks that devolve to it pursuant to the Settlement Agreement, until the hearing of the motion for approval of the Settlement Agreement.
17. **THIS COURT ORDERS** that, in accordance with the terms of the Settlement Agreement, the Settlement Administrator's fees and expenses shall be paid from the Settlement Fund.
18. **THIS COURT ORDERS** the Defendants to provide the Settlement Administrator with the names and contact information of registered owners and lessees of the Subject Engines and/or vehicles with the Subject Engines found in its electronic warranty database as of September 25, 2017, solely for the purposes of affecting notice on the National Class, and to enable National Class members to file Claims, as set forth herein and in the Settlement Agreement.
19. **THIS COURT ORDERS** that each National Class Member (which does not include those who elect to opt out of the Ontario Class Action) desiring to object to the Settlement Agreement shall submit a timely written Notice of Objection. Such notice shall include the style of cause and court file number on the first page of this Order, and state: (i) the objector's full name, address, telephone number, and email address (or, only in the case of a Person who is deceased or incapacitated, the signature of the legally authorized representative of that Class Member); (ii) the approximate date(s) of the Person's purchase or lease of a vehicle(s) powered by a Subject Engine(s) and the serial number(s) for the Subject Engine(s) which the Class Member seeks to exclude, the make, model and VIN number of the vehicle(s) containing the Subject Engine(s); (iii) date of subsequent sale (if applicable); (iv) the identity of all counsel, if any, representing the objector, and their address, bar number and telephone number; (v) a statement as to whether the objector or their counsel will appear at the Ontario Approval Hearing; and (vi) provide a detailed statement of the specific legal and factual basis for each and every objection, including a detailed description of any and all evidence the objecting Class Member may offer at the Ontario Approval Hearing, with copies of any and all exhibits

that the objecting Class member may introduce at the hearing. The Notice of Objection shall also include the objector's signature or the signature of the objector's duly authorized lawyer or other duly authorized representative. To be timely, written Notice of Objection in appropriate form must be filed with the Court and received by the Settlement Administrator, with copies to Counsel for the Parties, no less than fifteen (15) days before the Ontario Approval Hearing.

20. **THIS COURT ORDERS** that this Order is contingent upon a parallel order (judgment) being made by the Superior Court of Quebec and the terms of this Order shall not be effective unless and until such an order (judgment) is made by the Superior Court of Quebec.
21. There will be no costs on this motion.

Justice Charbonneau

Long Form Notice

CANADA CLASS ACTION SETTLEMENT

If you ever owned or leased a truck, bus or other vehicle with certain Caterpillar engines, you may be entitled to a payment from a class action settlement.

*The Ontario Superior Court of Justice and the Superior Court of Quebec directed this notice.
This is not a solicitation from a lawyer.*

- An \$8 million Settlement has been reached in class action lawsuits in Canada about whether Caterpillar Inc. and Caterpillar of Canada Corp. (“Caterpillar”) brand EPA 2007 Compliant C13 and C15 diesel engines with Advanced Emissions Combustion Reduction Technology (“ACERT”) manufactured in 2005, 2006, 2007, 2008 and 2009, including Caterpillar Regeneration System (“CRS”) [“Subject Engines” or “Engines”], failed to work reliably, causing them to lose horsepower and shut down, requiring Caterpillar-authorized dealer technicians to repair the Engines, which they allegedly could not effectively do. Caterpillar denies the allegations in the lawsuit, and a Court has not decided who is right.
- The Settlement offers payments to original purchasers or original lessees, subsequent purchasers or subsequent lessees of vehicles with the Subject Engines. Class Actions have been authorized and certified respectively in Quebec (for Quebec residents) and in Ontario (for residents of the rest of Canada). If you are a Class member, you must file a claim in order to receive a payment.
- **Your legal rights are affected whether you act or do not act. Read this notice carefully.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM	Submit a Claim Form seeking cash payment.
EXCLUDE YOURSELF	Request to be excluded and get no benefits from the Settlement. This is the only option that allows you to start or continue your own lawsuit against Caterpillar for the claims at issue in the Settlement.
OBJECT	Write to the Claims Administrator and the Parties about why you do not like the Settlement.
GO TO A HEARING	Ask to speak in Court about the fairness of the Settlement.
DO NOTHING	Get no benefits. Give up any rights you might have to sue Caterpillar about the claims resolved by the Settlement.

- These rights and options—and the deadlines to exercise them—are explained in this notice.

- The Courts in charge of the Ontario and Quebec lawsuits still have to decide whether to approve the Settlement. If they do, and after any appeals are resolved, benefits will be distributed to those who submit a qualifying Claim Form. Please be patient.

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BASIC INFORMATION

1. Why is there a notice?

The Ontario and Quebec Courts authorized this notice because you have a right to know about the proposed Settlement of class action lawsuits in Canada identified below by their court names and file numbers, and about all of your options before the Courts decide whether to approve to the Settlement: in Ontario *Pabla v. Caterpillar of Canada Corporation and Caterpillar, Inc.*, Ottawa Court File No. 14-60168CP; and in Quebec 9157-5863 *Quebec Inc. v. Caterpillar of Canada Corporation and Caterpillar, Inc.*, District of Montreal Court File No. 500-06-000681-144.

The people who sued are called the “Plaintiffs”. Caterpillar Inc. and Caterpillar of Canada Corporation (“Caterpillar”) are the “Defendants”. This notice explains the lawsuits, the Settlement, and your legal rights.

2. What is this litigation about?

The lawsuits allege that Caterpillar’s exhaust emission control system, known as the Caterpillar Regeneration System (“CRS”), failed to work reliably, causing its EPA 2007 Compliant C13 and C15 diesel engines with Advanced Combustion Emissions Reduction Technology (“ACERT”) manufactured in 2005, 2006, 2007, 2008 and 2009 including the CRS components incorporated therewith (“Subject Engines”) to derate (lose horsepower) and shut down, requiring Caterpillar-authorized, dealer technicians, to repair the Subject Engines, which they allegedly could not effectively do. The lawsuits allege that the CRS failed to operate under all conditions and all applications on a consistent and reliable basis even after repeated CRS warranty repairs and replacements. Allegedly, these repeated warranty repairs and replacements failed to correct the CRS issues, resulting in damages to the owners and lessees of vehicles with the Subject Engines. The alleged damages included diminished value of the vehicles powered by the Subject Engines, out-of-pocket costs such as repair invoices, towing costs, vehicle rental costs and related hotel/taxi charges. Among other claims, the lawsuits allege causes of action for breach of express warranty, negligence, and misrepresentation.

Caterpillar strongly denies all of Plaintiffs’ claims, denies all allegations of wrongdoing, fault, liability, or damage of any kind to Plaintiffs or the Class/Settlement Class, denies that they acted improperly or wrongfully in any way, and believes that this litigation is without merit.

The Plaintiffs’ Ontario Statement of Claim and Quebec Motion to Authorize a Class Proceeding respectively are posted on the website, www.EngineSettlement.ca. The Settlement resolves the lawsuits. The Courts have not decided who is right.

3. Why is this a class action?

In a class action, one or more people called “Class Representatives” sue on behalf of themselves and other people with similar claims. Together, all the people with similar claims (except those who exclude themselves) are members of a “Class” and, where a Court has certified/authorized a class action for settlement purposes only, as is the case here, a “Settlement Class”.

4. Why is there a Settlement?

The Courts have not decided in favour of the Plaintiffs or Defendants. Instead, both sides have agreed to the Settlement. By agreeing to the Settlement, the Parties avoid the costs and uncertainty of a trial, and if the Settlement is approved by the Courts, Settlement Class Members will receive the benefits described in this notice. The proposed Settlement does not mean that any law was broken or that Caterpillar did anything wrong. Caterpillar denies all legal claims in this case. Plaintiffs and their lawyers think the proposed Settlement is best for everyone who is affected.

WHO IS PART OF THE SETTLEMENT

5. Who is included in the Settlement?

The Settlement includes all persons or entities in Canada who are original purchasers or original lessees, subsequent purchasers or subsequent lessees, (including but not limited to those having some rights to residual purchase of vehicles at lease end) of a vehicle powered by a Subject Engine. The Parties agree to certification and authorization of the Ontario and Quebec Class Actions respectively for purposes of the Settlement Agreement only.

Excluded from the Class are Defendants, all present or former affiliates and/or directors of Defendants, all persons who have already released claims against Defendants for the relief provided herein, and all persons who will make a timely and valid election to be excluded from the Class in accordance with the provisions of the Notice. Settlement Class does not include persons or entities that have previously executed settlement releases concerning the Subject Engines. Such persons or entities that have previously executed settlement releases are specifically excluded from the Class.

6. What is a “Subject Engine,” a “CRS” and a “CRS Related Repair?”

“Subject Engines” are defined as Caterpillar EPA 2007 Compliant C13 and C15 diesel engines with ACERT manufactured in 2005, 2006, 2007, 2008 and 2009 including the CRS components of the engines. Visit the website www.EngineSettlement.ca for complete descriptions and photographs of the Subject Engines, explanations on how to identify them and the types of vehicles that included them.

“CRS” stands for “Caterpillar Regeneration System” and describes certain emission reduction components of the Subject Engines. The parts that make up the CRS are described at www.EngineSettlement.ca and also are listed in Attachment A to the Settlement Agreement.

A “CRS Related Repair” means a repair or replacement of any Caterpillar Regeneration System related part or component (an ARD Head, for example) as indicated by the 45 DT and F code combinations reflected in Attachment A to the Settlement Agreement. Repairs or replacement made due to a Caterpillar Service Letter performed pro-actively shall not be considered as a CRS Related Repair. The CRS Related Repair can have occurred at any time during your ownership or lease of a vehicle with the Subject Engine. If you have any questions about how to determine the number of CRS Related Repairs, see Question 7 below.

7. What if I am not sure whether I am included in the Settlement?

If you are not sure whether you are in the Settlement Class or have any other questions about the Settlement, visit the Settlement Website at www.EngineSettlement.ca or call the toll-free number, 1-8XX-XXX-XXXX. You also may send questions to the Settlement Administrator at XXXX.

THE SETTLEMENT BENEFITS

8. What does the Settlement provide?

The Settlement establishes an \$8 million Settlement Fund for the benefit of the Class. All Class members who submit an Approved Claim (one deemed by the Settlement Administrator to be on time, accurate, and complete) will be eligible to receive a pro rata share of the Net Settlement Fund (after deducting lawyers' fees and expenses and certain other items mentioned below) according to the following guidelines:

- A. Class Members whose engines experienced no CRS Related Repairs are eligible to receive (but not guaranteed), \$500, for each Subject Engine, but no more under any circumstance.
- B. Class Members whose engines experienced one to five qualified CRS Related Repairs performed on or before the Execution Date are eligible to receive (but not guaranteed) an initial amount of \$5,000, up to a maximum of \$15,000 per Subject Engine.
- C. Class Members whose engines experienced six or more qualified CRS Related Repairs performed on or before the Execution Date are eligible to receive (but not guaranteed) an initial amount of \$10,000, up to a maximum of \$30,000 per Subject Engine (the amount ultimately distributed under this option will be twice the amount distributed under option B).

Payments to eligible claimants may be adjusted pro rata (up, but not higher than the maximums described above, or down) depending on the number of Approved Claims filed, the number of Engines included in those claims, and the total amount of the Net Settlement Fund available to pay claims. No money will be returned to the Defendants; any excess money will be donated to charity.

9. How do I file a claim?

In order to receive a cash payment, you will need to complete and submit a valid Claim Form. If you received this Notice in the mail, a Claim Form was included. You may also download a Claim Form from the website. Claim Forms must be postmarked before the deadline that will be published on the website after the Settlement is approved, but will not be earlier than **[date]** and sent to:

Claims Administrator
XXXX [address]
XXX-XXXX [phone no.]

Please read the Claim Form carefully, follow all of the instructions and provide all the information required. **You may file a Claim for each Subject Engine in vehicles you owned or leased.** If you have questions about how to file your claim that cannot be answered by this notice or by reviewing the

QUESTIONS? CALL 1-888-XXX-XXXX OR VISIT www.EngineSettlement.ca

information at the Settlement Website, you may call the Settlement Administrator at 1-8XX-XXX-XXXX.

10. When will I receive my payment?

Payments to Class Members who file Approved Claims will be made only after the Courts approve the Settlement and after any appeals are resolved (*see* “The Courts Approval Hearings” below), and after the expiry of a deadline that will be set by the Courts for submitting Claims Forms. If there are appeals, resolving them can take time. Please be patient.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want benefits from the Settlement, and you want to keep any right you might have to sue Caterpillar about the issues in this case, then you must take steps to get out of the Class Actions. This is called excluding yourself or “opting out” of the Class Actions, in which case you will not be a member of the Settlement Class.

11. How do I get out of the Settlement?

To exclude yourself from the Class Actions, you must send a written Request for Exclusion/Opt-Out by prepaid first class mail to:

Settlement Administrator
XXXX [address]
XXX-XXXX [phone no]

Your request for exclusion must include the following:

- Your name, mailing address, telephone number, e-mail address and your signature (or, only in the case of a Class Member who is deceased or incapacitated, the signature of the legally authorized representative of that Class member);
- The approximate date(s) of the Person’s purchase or lease of a vehicle(s) powered by a Subject Engine(s);
- The date of subsequent sale (if applicable);
- The Engine serial number(s) of your Subject Engine(s);
- The make, model and VIN number of the vehicle(s) containing the Subject Engine(s);
- The original purchase date or lease period, or date of subsequent sale (if applicable); and
- Substantially the following statement, “*I want to opt out of the Class Actions in Ontario and/or Quebec (any of which I am a member) related to EPA 2007 Compliant Caterpillar C13 and C15 Diesel Engines manufactured between 2005 and 2009*”.

In addition, Class members who want to opt out and who are residents of Quebec must also give notice to the Clerk of the Superior Court of Quebec.

Your exclusion request must be postmarked or delivered by no later than **Month Day, 2021 [the Opt-Out Deadline]**. You cannot ask to be excluded on the phone, by email, or at the website.

QUESTIONS? CALL 1-888-XXX-XXXX OR VISIT www.EngineSettlement.ca

12. If I do not exclude myself, can I sue the Defendants for the same thing later?

No. Unless you exclude yourself, you give up any right you might have to sue Caterpillar for legal claims that the Settlement resolves. You must exclude yourself from the Settlement Class in order to try to maintain your own lawsuit. If you start your own lawsuit, you will have to hire your own lawyer, and you will have to prove your claims. Class members who are residents of Quebec, must discontinue their individual case(s) by no later **[same date of the opt-out deadline above]** or they will be deemed to have opted out of the Class Action and are not eligible to receive any Settlement Benefits.

13. What am I giving up to stay in the Settlement Class?

Unless you exclude yourself from the Class Actions, you cannot sue or be part of any other lawsuit against the Defendants about the issues in this case, including any existing litigation, arbitration, or proceeding, to the extent permitted by law. Unless you exclude yourself, all of the decisions and judgments by the Courts will bind you. If you file a Claim Form for benefits or do nothing at all, you will be releasing Caterpillar from all of the claims described and identified in Section 12.

The Settlement Agreement is available at www.EngineSettlement.ca. The Settlement Agreement provides more detail regarding the release and describes the released claims with specific descriptions in necessary, accurate legal terminology, so read it carefully. You can talk to the law firm representing the Class listed below in Question 17 for free, or you can, at your own expense, talk to your own lawyer if you have any questions about the released claims or what they mean.

14. If I exclude myself, can I still get a payment?

No. You will not get a payment from the Settlement Fund if you exclude yourself from the Settlement.

THE LAWYERS REPRESENTING YOU

15. Do I have a lawyer in the case?

The Courts have appointed the following lawyers as “Class Counsel” to represent all members of the Settlement Class: Consumer Law Group P.C. / Consumer Law Group Inc.

You will not be charged for these lawyers. If you want to be represented by another lawyer, you may hire one to appear in Court for you at your own expense.

16. How will the lawyers be paid?

Class Counsel intend to request thirty percent (30%) of the value of the Settlement Fund for lawyers’ fees and costs, plus applicable taxes. A Court will decide the amount of fees and expenses to award.

Class Counsel also will request that Service Awards of \$20,000 be paid from the Settlement Fund to the Class Representatives for their service as representatives on behalf of the whole Settlement Class.

OBJECTING TO THE SETTLEMENT

QUESTIONS? CALL 1-888-XXX-XXXX OR VISIT www.EngineSettlement.ca

17. How do I tell the Courts if I do not like the Settlement?

If you are a Settlement Class Member (and do not exclude yourself from the Class Actions), you can object to any part of the Settlement. To object, you must send (by prepaid first class mail) a written objection to the Settlement Administrator, with copies to counsel for the Parties, that includes the following:

- A caption that includes the name of the Class Action in which you wish to object and the case number (see Question 1 above);
- Your name, address, telephone number, email address and signature;
- The approximate date(s) of your purchase or lease (having some rights to residual purchase of vehicles at lease end) of a vehicle powered by a Subject Engine and the serial number for the Subject Engine(s);
- The make, model and VIN number of the vehicle(s) containing the Subject Engine(s);
- The name, address, bar number and telephone number of your lawyer, if represented by a lawyer;
- A statement whether you intend to appear at a Settlement Approval Hearing, either in person or through counsel;
- A detailed statement of the specific legal and factual basis for each and every objection; and
- A detailed description of any and all evidence you may offer at the Settlement Approval Hearing, and attaching copies of any and all exhibits that you may introduce at the Settlement Approval Hearing.

You must file your objection with one of the Courts by **Month Day, 2021 [15 days before Approval hearing]**. You must also send your objection to the Settlement Administrator, Class Counsel and counsel for Defendants no later than **Month Day, 2021**. The addresses are listed below.

CLASS COUNSEL	ADMINISTRATOR	DEFENDANTS' COUNSEL
Jeff Orenstein Consume Law Group P.C. 251 Laurier Ave. W., Suite 900 Ottawa, ON K1P 5J6 Andrea Grass Consumer Law Group Inc. 1030 rue Berri, Suite 102 Montréal, QC H2L 4C3	Settlement Administrator [insert contact info.]	S. Gordon McKee, Blake, Cassels & Graydon LLP 199 Bay Street, Suite 4000 Toronto, ON M5L 1A9 Francis Rouleau Blake, Cassels & Graydon LLP 1 Place Ville Marie #3000 Montréal, QC H3B 4N8

COURT ADDRESSES

QUESTIONS? CALL 1-888-XXX-XXXX OR VISIT www.EngineSettlement.ca

Ontario Superior Court of Justice Civil Division, Clerk's Office 161 Elgin St. Ottawa, ON K2P 2K1	Superior Court of Quebec Civil Division, Clerk's Office 1 Notre-Dame St. East Montreal, QC H2Y 1B6
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18. What is the difference between objecting and asking to be excluded?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object to the Settlement only if you do not exclude yourself. Excluding yourself is telling the Court that you do not want to be part of the Settlement. If you exclude yourself, you have no basis to object to the Settlement because it no longer affects you.

THE COURTS APPROVAL HEARINGS

The Ontario and Quebec Courts will hold hearings to decide whether to approve the Settlement and any requests for fees and expenses ("Settlement Approval Hearings").

19. When and where will the Court decide whether to approve the Settlement?

The Ontario Court has scheduled a Settlement Approval Hearing on **Month Day, 2021 at 10:00 a.m.** The Quebec Court has scheduled a Settlement Approval Hearing on **Month Day, 2021 at 9:30 a.m.** The Courts' addresses are listed in Question 17 above. A hearing may be moved to a different date or time without additional notice, so it is a good idea to check www.EngineSettlement.ca for updates. At these hearings, the Courts will consider whether the Settlement is fair, reasonable, and adequate. The Ontario Court will also consider the request by Class Counsel for lawyers' fees and expenses and for the Service Award to the Class Representative. It is unknown how long it will take for the Courts to render their decisions.

20. Do I have to attend the hearing?

No. Class Counsel will answer any questions the Courts may have. But, you are welcome to attend a hearing at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you submitted your written objection on time, to the proper addresses, and it complies with the other requirements set forth above, the Courts will consider it. You also may pay your own lawyer to attend a hearing, but it is not necessary.

21. May I speak at the hearing?

You may ask one of the Courts for permission to speak at a Settlement Approval Hearing. Any Class member who wishes to appear at a Settlement Approval Hearing must file with the applicable Court a "Notice of Intention to Appear," which must be received no later than 10 days before the Settlement Approval Hearing at which you intend to appear. The Notice of Intention to Appear must include copies of any papers, exhibits or other evidence that the objecting Class Member or counsel for the objecting Class Member will present to the Court at the Settlement Approval Hearing, unless already attached to a filed Notice of Objection. Only a Class Member who files a Notice of Intention to Appear may appear in person or by counsel and be heard to the extent permitted under applicable law and allowed by the

Court, in opposition to the fairness, reasonableness and adequacy of the Settlement, and on Class Counsel's application for an award of lawyers' fees and costs. The addresses for the Courts are listed in Question 17 above.

You cannot ask to speak at the hearing if you exclude yourself from the Settlement.

IF YOU DO NOTHING

22. What happens if I do nothing at all?

If you are a Class Member and do nothing, you will not get benefits from the Settlement. And, unless you exclude yourself, you will be bound by the judgment entered by the Courts. This means you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit or proceeding against Caterpillar about the statements and claims at issue in this case, to the extent permitted by law.

GETTING MORE INFORMATION

23. How do I get more information?

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. For a complete, definitive statement of the Settlement terms, refer to the Settlement Agreement at www.EngineSettlement.ca. You may also write with questions to the Settlement Administrator at **[insert address]**

Notice of Class Certification and Settlement Approval Hearings

CANADA CLASS ACTION SETTLEMENT

**If you ever owned or leased a truck, bus or other vehicle
with
certain Caterpillar engines, you may be entitled to a
payment in a class action settlement.**

A Settlement has been reached in class action lawsuits in Canada about whether Caterpillar Inc. and Caterpillar of Canada Corp. (“Caterpillar”) brand EPA 2007 Compliant C13 and C15 diesel engines with Advanced Emissions Combustion Reduction Technology (“ACERT”) manufactured in 2005, 2006, 2007, 2008 and 2009, including the Caterpillar Regeneration System (“CRS”) [“Subject Engines”], failed to work reliably, causing them to lose horsepower and shut down, requiring Caterpillar-authorized dealer technicians to repair the Subject Engines which they supposedly could not effectively do. Caterpillar denies the allegations in the lawsuit, and a Court has not decided who is right.

Who’s Included? The Settlement Class includes all persons in Canada who are original purchasers or original lessees, subsequent purchasers or subsequent lessees, (including but not limited to those having some rights to residual purchase of vehicles at lease end) of a vehicle powered by a Subject Engine. The Quebec Class Action is for Quebec residents, while the Ontario Class Action is for residents in the rest of Canada.

What Are the Settlement Terms? The Settlement establishes an \$8 million Settlement Fund for the benefit of the Class. All Class members who submit an Approved Claim will be eligible to receive a pro rata share of the Net Settlement Fund according to the following guidelines:

- A. Class Members whose engines experienced no CRS Related Repairs are eligible to receive (but not guaranteed), \$500, for each Subject Engine, but no more under any circumstance.
- B. Class Members whose engines experienced one to five qualified CRS Related Repairs performed on or before the Execution Date are eligible to receive (but not guaranteed) an initial amount of \$5,000, up to a maximum of \$15,000 per Subject Engine.
- C. Class Members whose engines experienced six or more qualified CRS Related Repairs performed on or before the Execution Date are eligible to receive (but not guaranteed) an initial amount of \$10,000, up to a maximum of \$30,000 per Subject Engine.

Payments to eligible claimants may be adjusted pro rata (up, but not higher than the maximums described above, or down) depending on the number of Approved Claims filed and Engines represented therein, and the net amount of the Settlement Fund available to pay claims. No money will be returned to the Defendants; any excess money will be donated to charity.

How do I file a Claim? In order to receive a cash payment, you must complete and submit a valid Claim. Claim Forms are available at www.EngineSettlement.ca or by calling 1-888-593-5379. The

Exhibit “B1” Schedule “B”

deadline to file your claim will be published on the website after the Settlement is approved, but will not be earlier than **[date]**.

Your Other Options. If you do not want to be legally bound by the Settlement, and therefore not be entitled to the Settlement Benefits as described above, you must exclude yourself by **[date]**. If you do not timely exclude yourself, you will release any claims you may have against Caterpillar relating to the lawsuit. You may object to the Settlement by **[date]**. A detailed Long Form Notice available on the website explains how to exclude yourself or how to object, if you so choose.

The Courts will hold Settlement Approval Hearings on **[date]** in Ottawa, Ontario and on **[date]** in Montreal, Quebec to consider whether to approve the Settlement, and whether to approve a request for lawyers’ fees and costs up to 30% of the Settlement Fund plus applicable taxes and a Service Award of \$20,000 to the Class Representatives. You may appear at the hearing, either yourself or through an lawyer hired by you, but you don't have to. For more information, call the toll-free number or visit the website below.

www.EngineSettlement.ca

1-888-XXX-XXXX

NOTICE PROGRAM

I. The Notice of Hearing will be distributed to Class Members as follows:

A) Short Form Notice (Exhibit “D”)

i. By the Settlement Administrator:

- 1) Posted on the Settlement Website;
- 2) Via direct mail and/or by email to all potential Class Members identified by the Defendants in their warranty database as of September 25, 2017 as registered owners of Subject Engines and/or vehicles with the Subject Engines, along with a copy of the Claim Form;
- 3) 1/3 of a page advertisement of the weekday edition in the following newspaper publications: The Globe & Mail the National Post and a half screen ad in the online French newspaper publication, La Presse+;
- 4) Distribution to the following trucking associations: Canadian Truckers Association, Canadian Trucking Alliance, Ontario Trucking Association, BC Trucking Association, Toronto Trucking Association, Atlantic Provinces Trucking Association, Alberta Motor Transport Association, Association du camionnage du Québec, Saskatchewan Trucking Association and Manitoba Trucking Association;
- 5) Publications in trade magazines in a manner and size as appropriate: Today’s Trucking Magazine, Pro-Trucker Magazine, Transport Topics and Transport Routier;
- 6) Radio Advertisements on Road Dog Radio, Canada Laughs, Canada Talks and Trucker Radio.

ii. By Class Counsel:

- 1) Posted on Class Counsel’s website;
- 2) By email to all persons who have given their contact information to Class Counsel, along with a copy of the Claim Form;
- 3) A summary posting on Class Counsel’s Facebook, Twitter, and Instagram pages;
- 4) Facebook advertisement campaign.

B) Long Form Notice (Exhibit "C")

1. Posted on the Settlement Website and Class Counsel's website;
2. Via direct mail and/or email to all potential Class Members who request it.

II. The Notice of Settlement Approval (Exhibit "E") will be distributed to Class Members as follows:

1. Via direct mail and/or by email to all potential Class Members identified by the Defendants in their warranty database as of September 25, 2017 as registered owners of Subject Engines and/or vehicles with the Subject Engines, along with a copy of the Claim Form;
2. By email to all Persons who have given their contact information to Class Counsel;
3. Posted on the Settlement Website, Class Counsel's website, and a summary posting on Class Counsel's Facebook, Twitter, and Instagram page;
4. A CNW News Release;
5. An additional round of outreach to Trucking Associations;
6. Select Trade Magazines i.e. 1/3 page in each of Transport Routier and Today's Trucking Magazine.

TO: CANADIAN CLAIMS ADMINISTRATOR
CATERPILLAR EPA 2007 COMPLIANT C13 & C15 DIESEL ENGINE LITIGATION (CANADA)
[INSERT ADDRESS]

FROM: BUSINESS
REPRESENTATIVE
ADDRESS LINE 1
ADDRESS LINE 2
CITY, PROVINCE, POSTAL CODE
CANADA

MONTH ##, ####
TRACKING NUMBER: XXXXX

CLAIM FILING DEADLINE: MONTH DD, 2021

Canadian Caterpillar EPA 2007 Compliant C13 & C15 Diesel Engine Class Action Settlement

CLAIM FORM

Please read the entire Claim Form carefully before you begin to fill it out. Mail your completed Claim Form to Canadian Claims Administrator Caterpillar EPA 2007 Compliant C13 & C15 Diesel Engine Litigation (Canada) **[insert address]** postmarked on or before **Month DD, 2021**. If you have any questions, please call the Claims Administrator at 888-593-5379 or visit www.Enginesettlement.ca.

Definitions

A "Subject Engine" is a Caterpillar EPA 2007 Compliant C13 and C15 diesel engine with Advanced Combustion Emission Reduction Technology ("ACERT") manufactured in 2005, 2006, 2007, 2008 or 2009, including the CRS components of the engines. Visit the website www.Enginesettlement.ca for complete descriptions and photographs of the Subject Engines, explanations on how to identify them and the types of vehicles that included them.

"Caterpillar Regeneration System" or "CRS" means the components of the Subject Engine which are more fully defined or described by the parts set forth in Attachment A of the Settlement Agreement (also available at the website).

"CRS Related Repair" means a repair or replacement of any Caterpillar Regeneration System related part or component as indicated by the 45 DT and F code combinations reflected in Attachment A of the Settlement Agreement. Repairs or replacements made due to a Caterpillar Service Letter performed pro-actively are not considered a CRS Related Repair.

SECTION A: Settlement Benefit Options

Note that all amounts are subject to a pro-rata increase *or* reduction based on the number of Approved Claims/Engines, per the terms of the Settlement Agreement.

- i) If your Engine(s) experienced no CRS Related Repairs, you are eligible to receive, but not guaranteed, \$500, for each Subject Engine, but no more under any circumstance.
- ii) If your Engine(s) experienced 1-5 qualified CRS Related Repairs performed on or before the Execution Date, you are eligible to receive, but not guaranteed, an initial amount of \$5,000, up to a maximum of \$15,000, per Subject Engine.
- iii) If your Engine(s) experienced 6 or more qualified CRS Related Repairs performed on or before the Execution Date, you are eligible to receive, but not guaranteed, an initial amount of \$10,000, up to a maximum of \$30,000, per Subject Engine.

Exhibit "B1" Schedule "D"

Your claim will be based on the number of Subject Engines for which you provide information. If you were sent this Claim Form in the mail or by email, Subject Engine information may have been pre-populated on this Claim Form.

SECTION B: Engine Information

Please fill out or confirm for each Subject Engine you are claiming. If you were sent this Claim Form in the mail or by email, eligible Subject Engine warranty repair information may have been pre-populated below based on information known to the Claims Administrator. If you wish to claim additional Subject Engines, you will need to provide the information requested below. **YOU MUST LABEL EACH PIECE OF SUPPORTING DOCUMENTATION WITH THE ASSOCIATED ENGINE SERIAL NUMBER.**

Engine 1 Serial Number: XXXXXXXXX

I owned or leased this engine from _____ to _____.

During that time, this engine had _____ CRS Related Repairs. **You must attach proof of the out-of-warranty CRS Related Repairs claimed. Acceptable proof includes an invoice for the repair or similar documentation.**

Engine 2 Serial Number: XXXXXXXXX

I owned or leased this engine from _____ to _____.

During that time, this engine had _____ CRS Related Repairs. **You must attach proof of the out-of-warranty CRS Related Repairs claimed. Acceptable proof includes an invoice for the repair or similar documentation.**

Engine 3 Serial Number: XXXXXXXXX

I owned or leased this engine from _____ to _____.

During that time, this engine had _____ CRS Related Repairs. **You must attach proof of the out-of-warranty CRS Related Repairs claimed. Acceptable proof includes an invoice for the repair or similar documentation.**

Engine 4 Serial Number: XXXXXXXXX

I owned or leased this engine from _____ to _____.

During that time, this engine had _____ CRS Related Repairs. **You must attach proof of the out-of-warranty CRS Related repairs claimed. Acceptable proof includes an invoice for the repair or similar documentation.**

Engine 5 Serial Number: XXXXXXXXX

I owned or leased this engine from _____ to _____.

During that time, this engine had _____ CRS Related Repairs. **You must attach proof of the out-of-warranty CRS Related repairs claimed. Acceptable proof includes an invoice for the repair or similar documentation.**

*If you are providing information for more than 5 Subject Engines, you can copy this page as many times as needed and submit information for all Eligible Engines you owned/leased.

SECTION C: Certification and Signature

By signing below, I declare or affirm, under penalty of law, that I have read this Claim Form, that I believe I am eligible for Class membership, and that all of the information on this Claim Form (or provided with this Claim Form) is true and correct to the best of my knowledge. I understand that, if the Claim Form is not signed, my claim will not be valid, and I will not be eligible to receive a settlement cash payment.

Signature: _____ Date: _____

PLEASE UPDATE MY CONTACT INFORMATION AS FOLLOWS:

Business Name: _____

Representative: _____

Address: _____

City: _____ Province: _____ Postal Code: _____

**IN RE: CATERPILLAR EPA 2007 COMPLIANT C13 AND C15 DIESEL ENGINE
LITIGATION IN CANADA**

REQUEST FOR EXCLUSION / OPT-OUT FORM

Class Members are bound by the terms of the Settlement Agreement, unless they exclude themselves from the Class Actions.

If you opt out, you will not be entitled to make a Claim or to receive any Benefits pursuant to the Settlement Agreement. If you opt out, you should be aware that there are strictly enforced time limits within which you must take formal legal action to pursue your own individual claim. By opting out, you will take full responsibility for taking all necessary legal steps to protect your claim.

If you wish to opt-out, you must complete and submit by mail the present Opt-Out Form to the following address:

**CANADIAN CLAIMS ADMINISTRATOR
CATERPILLAR EPA 2007 COMPLIANT C13 & C15 DIESEL ENGINE
LITIGATION (CANADA)
Address
Ottawa, Ontario**

Class Members who want to opt out and who are residents of Quebec must IN ADDITION give notice to the Clerk of the Superior Court of Québec at:

Clerk of the Superior Court of Québec
Palais de Justice of Montreal
1, Notre-Dame Street East
Montreal (Quebec) H2Y 1B6
Court file no. 500-06-000681-144
District of Montreal

**THIS IS NOT A REGISTRATION FORM OR A CLAIM FORM.
IT EXCLUDES YOU FROM MAKING A CLAIM IN THE SETTLEMENT.
DO NOT USE THIS FORM IF YOU WANT TO RECEIVE BENEFITS UNDER THE
SETTLEMENT.**

Name:

Address:

Telephone: _____

Email: _____

A: Engine Information

Please list each Subject Engine you owned or leased, the make model and VIN number of the vehicle containing the engine, the original purchase date and date of subsequent sale, or lease period as the case may be.

Engine 1 Serial Number: _____

Make, model and VIN of the vehicle containing the Subject Engine

Date engine purchased _____ and sold _____

I leased this engine from _____ to _____.

Engine 2 Serial Number: _____

Make, model and VIN of the vehicle containing the Subject Engine

Date engine purchased _____ and sold _____

I leased this engine from _____ to _____.

Engine 3 Serial Number: _____

Make, model and VIN of the vehicle containing the Subject Engine

Date engine purchased _____ and sold _____

I leased this engine from _____ to _____.

Engine 4 Serial Number: _____

Make, model and VIN of the vehicle containing the Subject Engine

Date engine purchased _____ and sold _____

I leased this engine from _____ to _____.

*If you are providing information for more than 4 Subject Engines, you can copy this page as many times as needed and submit information for all Eligible Engines you owned/leased.

B: Request for Exclusion (please check):

I represent that I, personally or on behalf of my business, am the owner/lessee of the Subject Engine(s) identified above. I want to opt out of the Class Actions in Ontario and/or Quebec (any of which I am a member) related to EPA 2007 Compliant Caterpillar C13 and C15 Diesel Engines manufactured between 2005 and 2009. I am signing this Opt-Out Form to EXCLUDE myself from entitlement to benefits under the Settlement Agreement.

C: Purpose of Opting-Out (optional):

**I UNDERSTAND THAT BY OPTING OUT I WILL NEVER BE ELIGIBLE TO RECEIVE ANY
COMPENSATION PURSUANT TO THE CATERPILLAR EPA 2007 COMPLIANT C13 &
C15 DIESEL ENGINE SETTLEMENT AGREEMENT**

I wish to opt out of the Caterpillar EPA 2007 Compliant C13 & C15 Diesel Engine Settlement Program in Canada.

DATE: _____

Name of Class Member

Signature of Class Member

**SUPERIOR COURT
(Class Action)**

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

N°: 500-06-000681-144

DATE: _____, 2021

PRESIDING: THE HONOURABLE

J.S.C.

9157-4863 QUEBEC INC.

Plaintiff

v.

CATERPILLAR OF CANADA CORPORATION
and
CATERPILLAR, INC.

Defendants

**JUDGMENT ON AN APPLICATION FOR AUTHORIZATION OF A CLASS ACTION
FOR SETTLEMENT PURPOSES AND NOTICE APPROVAL**

- [1] **CONSIDERING** Plaintiff's Motion to Authorize the Bringing of a Class Action and to Ascribe the Status of Representative dated February 21, 2014 (the "Motion for Authorization");
- [2] **CONSIDERING** the materials filed, including the Settlement Agreement entered into by the Parties dated _____, 2021;
- [3] **CONSIDERING** the submissions of counsel for the Plaintiff and counsel for the Defendants;
- [4] **CONSIDERING** the Plaintiff is hereby seeking from this Court:
- a) to grant its Motion for Authorization for the purposes of the settlement only;

- b) to grant, for the purposes of the settlement only, the status of representative to the Plaintiff for the members of the Class contemplated by the Settlement Agreement;
- c) to approve the Notices of Certification to inform Class Members that a hearing will be held to approve the Settlement Agreement; and
- d) to order the publication and dissemination of the Notices of Certification in accordance with the Notice Program as contemplated in the Settlement Agreement;

[5] **CONSIDERING** that the Parties all consent to this Judgment;

[6] **CONSIDERING** articles 576, 579, 580, 581 and 590 of the *Code of Civil Procedure*;

FOR THESE REASONS, THE COURT:

[7] **GRANTS** the present Application;

[8] **ORDERS** that, except to the extent that they are modified by this Judgment, the definitions contained in the Settlement Agreement shall apply and are incorporated herein;

[9] **AUTHORIZES** the bringing of a class action against the Defendants for the purposes of the settlement only;

[10] **APPOINTS** to the Plaintiff the status of representative of the class herein described as:

“All Persons in Québec who are original purchasers or original lessees, subsequent purchasers or subsequent lessees, including but not limited to those having some rights to residual purchase of vehicles at lease end, of a vehicle (including trucks, buses and other heavy duty vehicles) powered by a Subject Engine.¹¹ Excluded from the Québec Class are Defendants, all present or former affiliates and/or directors of Defendants, all Persons who have already released claims against Defendants for the relief provided herein, and all persons who will make a timely and valid election to opt-out of the Québec Class in accordance with the provisions of the notice of class certification and opt-out rights. Québec Class does not include Persons that have previously

¹¹ “Subject Engine(s)” or “Engine(s)” shall mean all EPA 2007 Compliant Caterpillar C13 and C15 engines manufactured in 2005, 2006, 2007, 2008 and 2009 with Advanced Combustion Emission Reduction Technology, including CRS components incorporated therewith.

executed settlement releases concerning the Subject Engines. Such Persons or entities that have previously executed settlement releases are specifically excluded from the Québec Class.

- [11] **IDENTIFIES**, for the purposes of the settlement, the following common issues:
- i) Did the Defendants owe a legal duty of care to the Class Members in respect of the losses claimed?
 - ii) If so, did the Defendants exercise a reasonable standard of care in the design of the Subject Engines?
- [12] **SETS** the hearing of the Application for Approval of the Settlement Agreement to be held at **[time]** on **[date]**, 2021 at the Montreal Courthouse, 1 Notre-Dame Street East, Montréal, Québec, H2Y 1B6 (the “Québec Approval Hearing”). At the Québec Approval Hearing, the Representative Plaintiff will seek the following Orders:
- a) Approval of the Settlement Agreement, as well as, the content and manner of notice to the Québec Class;
 - b) Any other Order that the Court may deem appropriate;
- [13] **APPROVES** the Long Form Notice and the Notice of Hearings in the forms attached respectively as Schedules “A” and “B” to this Judgment (collectively the “Notices of Certification”);
- [14] **ORDERS** that the Notices of Certification be disseminated in the manner set out in the applicable section of the Notice Program attached as Schedule “C” to this Judgment;
- [15] **ORDERS** that the form and manner of the Notices of Certification, as approved in paragraph 13 and 14 hereinabove, represents fair and reasonable notice to all Persons entitled to notice of the Québec Approval Hearing;
- [16] **ORDERS** that, in accordance with the terms of the Settlement Agreement, all costs associated with the dissemination of the Notices of Certification pursuant to the Notice Program shall be paid from the Settlement Fund;
- [17] **ORDERS** that the date and time of the Québec Approval Hearing shall be set forth in the Notices of Certification, but may be subject to adjournment by this Court without further publication of any notice to members of the Québec Class other than by posting any new date and time for that hearing on the website for the Settlement established and maintained by the Settlement Administrator;

- [18] **APPROVES** the Claim Form in the form attached as Schedule “D” to this Judgment;
- [19] **APPROVES** the Opt-Out Form in the form attached as Schedule “E” to this Judgment;
- [20] **ORDERS** that members of the Québec Class may opt out of the Québec Class Action by sending a written request to opt out to the Settlement Administrator at the address specified in the Long Form Notice, as well as, send a copy of said Opt-Out Form to the Clerk of the Superior Court of Québec at the following address: Superior Court of Québec, Class Action Division, Montreal Courthouse, 1 Notre-Dame Street East, Montreal, Québec, H2Y 1B6. The request to opt out must contain the information specified in the Long Form Notice. Written requests to opt out must be received by the Settlement Administrator or postmarked, if mailed by prepaid first class mail, no later than 45 days following the publication of the Notice of Hearings as shown on the Short Form Notice;
- [21] **ORDERS** that each Québec Class Member who wishes to opt out of the Québec Class Action:
- a) will not be bound by the Settlement Agreement;
 - b) will not be entitled to receive any share of benefits payable in connection with same; and
 - c) will cease to be a Québec Class Member;
- [22] **ORDERS** that **[insert name]** is provisionally appointed as Settlement Administrator for the purposes of accomplishing the tasks that devolve to it pursuant to the Settlement Agreement, until the hearing of the Application for Approval of the Settlement Agreement;
- [23] **ORDERS** that, in accordance with the terms of the Settlement Agreement, the Settlement Administrator’s fees and expenses shall be paid from the Settlement Fund;
- [24] **ORDERS** the Defendants to provide the Settlement Administrator with the names and contact information of registered owners and lessees of the Subject Engines and/or vehicles with the Subject Engines found in its electronic warranty database as of September 25, 2017, solely for the purposes of affecting notice on the Québec Class, and to enable Québec Class Members to file Claims, as set forth herein and in the Settlement Agreement;
- [25] **ORDERS** that each Québec Class Member (which does not include those who elect to opt-out of the Québec Class Action) desiring to object to the Settlement Agreement shall submit a timely written Notice of Objection. Such notice shall

include the style of cause and court file number on the first page of this Order, and state: (i) the objector's full name, address, telephone number, and email address (or, only in the case of a Person who is deceased or incapacitated, the signature of the legally authorized representative of that Québec Class Member); (ii) the approximate date(s) of the Person's purchase or lease of a vehicle(s) powered by a Subject Engine(s) and the serial number(s) for the Subject Engine(s) which the Québec Class Member seeks to exclude, the make, model and VIN number of the vehicle(s) containing the Subject Engine(s); (iii) date of subsequent sale (if applicable), (iv) substantially the following statement, "*I want to opt out of the Class Actions in Ontario and/or Quebec (any of which I am a member) related to EPA 2007 Compliant Caterpillar C13 and C15 Diesel Engines manufactured between 2005 and 2009.*"; (iv) the identity of all counsel, if any, representing the objector, and their address, bar number and telephone number; (v) a statement as to whether the objector or their counsel will appear at the Québec Approval Hearing; and (vi) provide a detailed statement of the specific legal and factual basis for each and every objection, including a detailed description of any and all evidence the objecting Québec Class Member may offer at the Québec Approval Hearing, with copies of any and all exhibits that the objecting Québec Class Member may introduce at the hearing. The Notice of Objection shall also include the objector's signature or the signature of the objector's duly authorized lawyer or other duly authorized representative. To be timely, written Notice of Objection in appropriate form must be filed with this Court and received by the Settlement Administrator, with copies to Counsel for the Parties, no less than fifteen (15) days before the Québec Approval Hearing.

- [26] **ORDERS** that this Judgment is contingent upon a parallel order being made by the Ontario Superior Court of Justice and the terms of this Judgment shall not be effective unless and until such an order is made by the Ontario Superior Court of Justice;
- [27] **THE WHOLE** without legal costs.

J.S.C.

Mtre Andrea Grass
Consumer Law Group Inc.
Attorneys for the Plaintiff

Mtre Francis Rouleau
Blake, Cassels & Graydon L.L.P.
Attorneys for the Defendants

Date of hearing: Insert date

Long Form Notice

CANADA CLASS ACTION SETTLEMENT

If you ever owned or leased a truck, bus or other vehicle with certain Caterpillar engines, you may be entitled to a payment from a class action settlement.

*The Ontario Superior Court of Justice and the Superior Court of Quebec directed this notice.
This is not a solicitation from a lawyer.*

- An \$8 million Settlement has been reached in class action lawsuits in Canada about whether Caterpillar Inc. and Caterpillar of Canada Corp. (“Caterpillar”) brand EPA 2007 Compliant C13 and C15 diesel engines with Advanced Emissions Combustion Reduction Technology (“ACERT”) manufactured in 2005, 2006, 2007, 2008 and 2009, including Caterpillar Regeneration System (“CRS”) [“Subject Engines” or “Engines”], failed to work reliably, causing them to lose horsepower and shut down, requiring Caterpillar-authorized dealer technicians to repair the Engines, which they allegedly could not effectively do. Caterpillar denies the allegations in the lawsuit, and a Court has not decided who is right.
- The Settlement offers payments to original purchasers or original lessees, subsequent purchasers or subsequent lessees of vehicles with the Subject Engines. Class Actions have been authorized and certified respectively in Quebec (for Quebec residents) and in Ontario (for residents of the rest of Canada). If you are a Class member, you must file a claim in order to receive a payment.
- **Your legal rights are affected whether you act or do not act. Read this notice carefully.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM	Submit a Claim Form seeking cash payment.
EXCLUDE YOURSELF	Request to be excluded and get no benefits from the Settlement. This is the only option that allows you to start or continue your own lawsuit against Caterpillar for the claims at issue in the Settlement.
OBJECT	Write to the Claims Administrator and the Parties about why you do not like the Settlement.
GO TO A HEARING	Ask to speak in Court about the fairness of the Settlement.
DO NOTHING	Get no benefits. Give up any rights you might have to sue Caterpillar about the claims resolved by the Settlement.

- These rights and options—and the deadlines to exercise them—are explained in this notice.

- The Courts in charge of the Ontario and Quebec lawsuits still have to decide whether to approve the Settlement. If they do, and after any appeals are resolved, benefits will be distributed to those who submit a qualifying Claim Form. Please be patient.

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23. How do I get more information?

BASIC INFORMATION

1. Why is there a notice?

The Ontario and Quebec Courts authorized this notice because you have a right to know about the proposed Settlement of class action lawsuits in Canada identified below by their court names and file numbers, and about all of your options before the Courts decide whether to approve to the Settlement: in Ontario *Pabla v. Caterpillar of Canada Corporation and Caterpillar, Inc.*, Ottawa Court File No. 14-60168CP; and in Quebec 9157-5863 *Quebec Inc. v. Caterpillar of Canada Corporation and Caterpillar, Inc.*, District of Montreal Court File No. 500-06-000681-144.

The people who sued are called the “Plaintiffs”. Caterpillar Inc. and Caterpillar of Canada Corporation (“Caterpillar”) are the “Defendants”. This notice explains the lawsuits, the Settlement, and your legal rights.

2. What is this litigation about?

The lawsuits allege that Caterpillar’s exhaust emission control system, known as the Caterpillar Regeneration System (“CRS”), failed to work reliably, causing its EPA 2007 Compliant C13 and C15 diesel engines with Advanced Combustion Emissions Reduction Technology (“ACERT”) manufactured in 2005, 2006, 2007, 2008 and 2009 including the CRS components incorporated therewith (“Subject Engines”) to derate (lose horsepower) and shut down, requiring Caterpillar-authorized, dealer technicians, to repair the Subject Engines, which they allegedly could not effectively do. The lawsuits allege that the CRS failed to operate under all conditions and all applications on a consistent and reliable basis even after repeated CRS warranty repairs and replacements. Allegedly, these repeated warranty repairs and replacements failed to correct the CRS issues, resulting in damages to the owners and lessees of vehicles with the Subject Engines. The alleged damages included diminished value of the vehicles powered by the Subject Engines, out-of-pocket costs such as repair invoices, towing costs, vehicle rental costs and related hotel/taxi charges. Among other claims, the lawsuits allege causes of action for breach of express warranty, negligence, and misrepresentation.

Caterpillar strongly denies all of Plaintiffs’ claims, denies all allegations of wrongdoing, fault, liability, or damage of any kind to Plaintiffs or the Class/Settlement Class, denies that they acted improperly or wrongfully in any way, and believes that this litigation is without merit.

The Plaintiffs’ Ontario Statement of Claim and Quebec Motion to Authorize a Class Proceeding respectively are posted on the website, www.EngineSettlement.ca. The Settlement resolves the lawsuits. The Courts have not decided who is right.

3. Why is this a class action?

In a class action, one or more people called “Class Representatives” sue on behalf of themselves and other people with similar claims. Together, all the people with similar claims (except those who exclude themselves) are members of a “Class” and, where a Court has certified/authorized a class action for settlement purposes only, as is the case here, a “Settlement Class”.

4. Why is there a Settlement?

The Courts have not decided in favour of the Plaintiffs or Defendants. Instead, both sides have agreed to the Settlement. By agreeing to the Settlement, the Parties avoid the costs and uncertainty of a trial, and if the Settlement is approved by the Courts, Settlement Class Members will receive the benefits described in this notice. The proposed Settlement does not mean that any law was broken or that Caterpillar did anything wrong. Caterpillar denies all legal claims in this case. Plaintiffs and their lawyers think the proposed Settlement is best for everyone who is affected.

WHO IS PART OF THE SETTLEMENT

5. Who is included in the Settlement?

The Settlement includes all persons or entities in Canada who are original purchasers or original lessees, subsequent purchasers or subsequent lessees, (including but not limited to those having some rights to residual purchase of vehicles at lease end) of a vehicle powered by a Subject Engine. The Parties agree to certification and authorization of the Ontario and Quebec Class Actions respectively for purposes of the Settlement Agreement only.

Excluded from the Class are Defendants, all present or former affiliates and/or directors of Defendants, all persons who have already released claims against Defendants for the relief provided herein, and all persons who will make a timely and valid election to be excluded from the Class in accordance with the provisions of the Notice. Settlement Class does not include persons or entities that have previously executed settlement releases concerning the Subject Engines. Such persons or entities that have previously executed settlement releases are specifically excluded from the Class.

6. What is a “Subject Engine,” a “CRS” and a “CRS Related Repair?”

“Subject Engines” are defined as Caterpillar EPA 2007 Compliant C13 and C15 diesel engines with ACERT manufactured in 2005, 2006, 2007, 2008 and 2009 including the CRS components of the engines. Visit the website www.EngineSettlement.ca for complete descriptions and photographs of the Subject Engines, explanations on how to identify them and the types of vehicles that included them.

“CRS” stands for “Caterpillar Regeneration System” and describes certain emission reduction components of the Subject Engines. The parts that make up the CRS are described at www.EngineSettlement.ca and also are listed in Attachment A to the Settlement Agreement.

A “CRS Related Repair” means a repair or replacement of any Caterpillar Regeneration System related part or component (an ARD Head, for example) as indicated by the 45 DT and F code combinations reflected in Attachment A to the Settlement Agreement. Repairs or replacement made due to a Caterpillar Service Letter performed pro-actively shall not be considered as a CRS Related Repair. The CRS Related Repair can have occurred at any time during your ownership or lease of a vehicle with the Subject Engine. If you have any questions about how to determine the number of CRS Related Repairs, see Question 7 below.

7. What if I am not sure whether I am included in the Settlement?

If you are not sure whether you are in the Settlement Class or have any other questions about the Settlement, visit the Settlement Website at www.EngineSettlement.ca or call the toll-free number, 1-8XX-XXX-XXXX. You also may send questions to the Settlement Administrator at XXXX.

THE SETTLEMENT BENEFITS

8. What does the Settlement provide?

The Settlement establishes an \$8 million Settlement Fund for the benefit of the Class. All Class members who submit an Approved Claim (one deemed by the Settlement Administrator to be on time, accurate, and complete) will be eligible to receive a pro rata share of the Net Settlement Fund (after deducting lawyers' fees and expenses and certain other items mentioned below) according to the following guidelines:

- A. Class Members whose engines experienced no CRS Related Repairs are eligible to receive (but not guaranteed), \$500, for each Subject Engine, but no more under any circumstance.
- B. Class Members whose engines experienced one to five qualified CRS Related Repairs performed on or before the Execution Date are eligible to receive (but not guaranteed) an initial amount of \$5,000, up to a maximum of \$15,000 per Subject Engine.
- C. Class Members whose engines experienced six or more qualified CRS Related Repairs performed on or before the Execution Date are eligible to receive (but not guaranteed) an initial amount of \$10,000, up to a maximum of \$30,000 per Subject Engine (the amount ultimately distributed under this option will be twice the amount distributed under option B).

Payments to eligible claimants may be adjusted pro rata (up, but not higher than the maximums described above, or down) depending on the number of Approved Claims filed, the number of Engines included in those claims, and the total amount of the Net Settlement Fund available to pay claims. No money will be returned to the Defendants; any excess money will be donated to charity.

9. How do I file a claim?

In order to receive a cash payment, you will need to complete and submit a valid Claim Form. If you received this Notice in the mail, a Claim Form was included. You may also download a Claim Form from the website. Claim Forms must be postmarked before the deadline that will be published on the website after the Settlement is approved, but will not be earlier than [date] and sent to:

Claims Administrator
XXXX [address]
XXX-XXXX [phone no.]

Please read the Claim Form carefully, follow all of the instructions and provide all the information required. **You may file a Claim for each Subject Engine in vehicles you owned or leased.** If you have questions about how to file your claim that cannot be answered by this notice or by reviewing the

QUESTIONS? CALL 1-888-XXX-XXXX OR VISIT www.EngineSettlement.ca

information at the Settlement Website, you may call the Settlement Administrator at 1-8XX-XXX-XXXX.

10. When will I receive my payment?

Payments to Class Members who file Approved Claims will be made only after the Courts approve the Settlement and after any appeals are resolved (*see* “The Courts Approval Hearings” below), and after the expiry of a deadline that will be set by the Courts for submitting Claims Forms. If there are appeals, resolving them can take time. Please be patient.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want benefits from the Settlement, and you want to keep any right you might have to sue Caterpillar about the issues in this case, then you must take steps to get out of the Class Actions. This is called excluding yourself or “opting out” of the Class Actions, in which case you will not be a member of the Settlement Class.

11. How do I get out of the Settlement?

To exclude yourself from the Class Actions, you must send a written Request for Exclusion/Opt-Out by prepaid first class mail to:

Settlement Administrator
XXXX [address]
XXX-XXXX [phone no]

Your request for exclusion must include the following:

- Your name, mailing address, telephone number, e-mail address and your signature (or, only in the case of a Class Member who is deceased or incapacitated, the signature of the legally authorized representative of that Class member);
- The approximate date(s) of the Person’s purchase or lease of a vehicle(s) powered by a Subject Engine(s);
- The date of subsequent sale (if applicable);
- The Engine serial number(s) of your Subject Engine(s);
- The make, model and VIN number of the vehicle(s) containing the Subject Engine(s);
- The original purchase date or lease period, or date of subsequent sale (if applicable); and
- Substantially the following statement, “*I want to opt out of the Class Actions in Ontario and/or Quebec (any of which I am a member) related to EPA 2007 Compliant Caterpillar C13 and C15 Diesel Engines manufactured between 2005 and 2009*”.

In addition, Class members who want to opt out and who are residents of Quebec must also give notice to the Clerk of the Superior Court of Quebec.

Your exclusion request must be postmarked or delivered by no later than **Month Day, 2021 [the Opt-Out Deadline]**. You cannot ask to be excluded on the phone, by email, or at the website.

QUESTIONS? CALL 1-888-XXX-XXXX OR VISIT www.EngineSettlement.ca

12. If I do not exclude myself, can I sue the Defendants for the same thing later?

No. Unless you exclude yourself, you give up any right you might have to sue Caterpillar for legal claims that the Settlement resolves. You must exclude yourself from the Settlement Class in order to try to maintain your own lawsuit. If you start your own lawsuit, you will have to hire your own lawyer, and you will have to prove your claims. Class members who are residents of Quebec, must discontinue their individual case(s) by no later **[same date of the opt-out deadline above]** or they will be deemed to have opted out of the Class Action and are not eligible to receive any Settlement Benefits.

13. What am I giving up to stay in the Settlement Class?

Unless you exclude yourself from the Class Actions, you cannot sue or be part of any other lawsuit against the Defendants about the issues in this case, including any existing litigation, arbitration, or proceeding, to the extent permitted by law. Unless you exclude yourself, all of the decisions and judgments by the Courts will bind you. If you file a Claim Form for benefits or do nothing at all, you will be releasing Caterpillar from all of the claims described and identified in Section 12.

The Settlement Agreement is available at www.EngineSettlement.ca. The Settlement Agreement provides more detail regarding the release and describes the released claims with specific descriptions in necessary, accurate legal terminology, so read it carefully. You can talk to the law firm representing the Class listed below in Question 17 for free, or you can, at your own expense, talk to your own lawyer if you have any questions about the released claims or what they mean.

14. If I exclude myself, can I still get a payment?

No. You will not get a payment from the Settlement Fund if you exclude yourself from the Settlement.

THE LAWYERS REPRESENTING YOU

15. Do I have a lawyer in the case?

The Courts have appointed the following lawyers as “Class Counsel” to represent all members of the Settlement Class: Consumer Law Group P.C. / Consumer Law Group Inc.

You will not be charged for these lawyers. If you want to be represented by another lawyer, you may hire one to appear in Court for you at your own expense.

16. How will the lawyers be paid?

Class Counsel intend to request thirty percent (30%) of the value of the Settlement Fund for lawyers’ fees and costs, plus applicable taxes. A Court will decide the amount of fees and expenses to award.

Class Counsel also will request that Service Awards of \$20,000 be paid from the Settlement Fund to the Class Representatives for their service as representatives on behalf of the whole Settlement Class.

OBJECTING TO THE SETTLEMENT

QUESTIONS? CALL 1-888-XXX-XXXX OR VISIT www.EngineSettlement.ca

17. How do I tell the Courts if I do not like the Settlement?

If you are a Settlement Class Member (and do not exclude yourself from the Class Actions), you can object to any part of the Settlement. To object, you must send (by prepaid first class mail) a written objection to the Settlement Administrator, with copies to counsel for the Parties, that includes the following:

- A caption that includes the name of the Class Action in which you wish to object and the case number (see Question 1 above);
- Your name, address, telephone number, email address and signature;
- The approximate date(s) of your purchase or lease (having some rights to residual purchase of vehicles at lease end) of a vehicle powered by a Subject Engine and the serial number for the Subject Engine(s);
- The make, model and VIN number of the vehicle(s) containing the Subject Engine(s);
- The name, address, bar number and telephone number of your lawyer, if represented by a lawyer;
- A statement whether you intend to appear at a Settlement Approval Hearing, either in person or through counsel;
- A detailed statement of the specific legal and factual basis for each and every objection; and
- A detailed description of any and all evidence you may offer at the Settlement Approval Hearing, and attaching copies of any and all exhibits that you may introduce at the Settlement Approval Hearing.

You must file your objection with one of the Courts by **Month Day, 2021 [15 days before Approval hearing]**. You must also send your objection to the Settlement Administrator, Class Counsel and counsel for Defendants no later than **Month Day, 2021**. The addresses are listed below.

CLASS COUNSEL	ADMINISTRATOR	DEFENDANTS' COUNSEL
Jeff Orenstein Consume Law Group P.C. 251 Laurier Ave. W., Suite 900 Ottawa, ON K1P 5J6 Andrea Grass Consumer Law Group Inc. 1030 rue Berri, Suite 102 Montréal, QC H2L 4C3	Settlement Administrator [insert contact info.]	S. Gordon McKee, Blake, Cassels & Graydon LLP 199 Bay Street, Suite 4000 Toronto, ON M5L 1A9 Francis Rouleau Blake, Cassels & Graydon LLP 1 Place Ville Marie #3000 Montréal, QC H3B 4N8

COURT ADDRESSES

QUESTIONS? CALL 1-888-XXX-XXXX OR VISIT www.EngineSettlement.ca

Ontario Superior Court of Justice Civil Division, Clerk's Office 161 Elgin St. Ottawa, ON K2P 2K1	Superior Court of Quebec Civil Division, Clerk's Office 1 Notre-Dame St. East Montreal, QC H2Y 1B6
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18. What is the difference between objecting and asking to be excluded?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object to the Settlement only if you do not exclude yourself. Excluding yourself is telling the Court that you do not want to be part of the Settlement. If you exclude yourself, you have no basis to object to the Settlement because it no longer affects you.

THE COURTS APPROVAL HEARINGS

The Ontario and Quebec Courts will hold hearings to decide whether to approve the Settlement and any requests for fees and expenses ("Settlement Approval Hearings").

19. When and where will the Court decide whether to approve the Settlement?

The Ontario Court has scheduled a Settlement Approval Hearing on **Month Day, 2021 at 10:00 a.m.** The Quebec Court has scheduled a Settlement Approval Hearing on **Month Day, 2021 at 9:30 a.m.** The Courts' addresses are listed in Question 17 above. A hearing may be moved to a different date or time without additional notice, so it is a good idea to check www.EngineSettlement.ca for updates. At these hearings, the Courts will consider whether the Settlement is fair, reasonable, and adequate. The Ontario Court will also consider the request by Class Counsel for lawyers' fees and expenses and for the Service Award to the Class Representative. It is unknown how long it will take for the Courts to render their decisions.

20. Do I have to attend the hearing?

No. Class Counsel will answer any questions the Courts may have. But, you are welcome to attend a hearing at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you submitted your written objection on time, to the proper addresses, and it complies with the other requirements set forth above, the Courts will consider it. You also may pay your own lawyer to attend a hearing, but it is not necessary.

21. May I speak at the hearing?

You may ask one of the Courts for permission to speak at a Settlement Approval Hearing. Any Class member who wishes to appear at a Settlement Approval Hearing must file with the applicable Court a "Notice of Intention to Appear," which must be received no later than 10 days before the Settlement Approval Hearing at which you intend to appear. The Notice of Intention to Appear must include copies of any papers, exhibits or other evidence that the objecting Class Member or counsel for the objecting Class Member will present to the Court at the Settlement Approval Hearing, unless already attached to a filed Notice of Objection. Only a Class Member who files a Notice of Intention to Appear may appear in person or by counsel and be heard to the extent permitted under applicable law and allowed by the

Court, in opposition to the fairness, reasonableness and adequacy of the Settlement, and on Class Counsel's application for an award of lawyers' fees and costs. The addresses for the Courts are listed in Question 17 above.

You cannot ask to speak at the hearing if you exclude yourself from the Settlement.

IF YOU DO NOTHING

22. What happens if I do nothing at all?

If you are a Class Member and do nothing, you will not get benefits from the Settlement. And, unless you exclude yourself, you will be bound by the judgment entered by the Courts. This means you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit or proceeding against Caterpillar about the statements and claims at issue in this case, to the extent permitted by law.

GETTING MORE INFORMATION

23. How do I get more information?

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. For a complete, definitive statement of the Settlement terms, refer to the Settlement Agreement at www.EngineSettlement.ca. You may also write with questions to the Settlement Administrator at **[insert address]**

Notice of Class Certification and Settlement Approval Hearings

CANADA CLASS ACTION SETTLEMENT

**If you ever owned or leased a truck, bus or other vehicle
with
certain Caterpillar engines, you may be entitled to a
payment in a class action settlement.**

A Settlement has been reached in class action lawsuits in Canada about whether Caterpillar Inc. and Caterpillar of Canada Corp. (“Caterpillar”) brand EPA 2007 Compliant C13 and C15 diesel engines with Advanced Emissions Combustion Reduction Technology (“ACERT”) manufactured in 2005, 2006, 2007, 2008 and 2009, including the Caterpillar Regeneration System (“CRS”) [“Subject Engines”], failed to work reliably, causing them to lose horsepower and shut down, requiring Caterpillar-authorized dealer technicians to repair the Subject Engines which they supposedly could not effectively do. Caterpillar denies the allegations in the lawsuit, and a Court has not decided who is right.

Who’s Included? The Settlement Class includes all persons in Canada who are original purchasers or original lessees, subsequent purchasers or subsequent lessees, (including but not limited to those having some rights to residual purchase of vehicles at lease end) of a vehicle powered by a Subject Engine. The Quebec Class Action is for Quebec residents, while the Ontario Class Action is for residents in the rest of Canada.

What Are the Settlement Terms? The Settlement establishes an \$8 million Settlement Fund for the benefit of the Class. All Class members who submit an Approved Claim will be eligible to receive a pro rata share of the Net Settlement Fund according to the following guidelines:

- A. Class Members whose engines experienced no CRS Related Repairs are eligible to receive (but not guaranteed), \$500, for each Subject Engine, but no more under any circumstance.
- B. Class Members whose engines experienced one to five qualified CRS Related Repairs performed on or before the Execution Date are eligible to receive (but not guaranteed) an initial amount of \$5,000, up to a maximum of \$15,000 per Subject Engine.
- C. Class Members whose engines experienced six or more qualified CRS Related Repairs performed on or before the Execution Date are eligible to receive (but not guaranteed) an initial amount of \$10,000, up to a maximum of \$30,000 per Subject Engine.

Payments to eligible claimants may be adjusted pro rata (up, but not higher than the maximums described above, or down) depending on the number of Approved Claims filed and Engines represented therein, and the net amount of the Settlement Fund available to pay claims. No money will be returned to the Defendants; any excess money will be donated to charity.

How do I file a Claim? In order to receive a cash payment, you must complete and submit a valid Claim. Claim Forms are available at www.EngineSettlement.ca or by calling 1-888-593-5379. The

Exhibit “B2” Schedule “B”

deadline to file your claim will be published on the website after the Settlement is approved, but will not be earlier than **[date]**.

Your Other Options. If you do not want to be legally bound by the Settlement, and therefore not be entitled to the Settlement Benefits as described above, you must exclude yourself by **[date]**. If you do not timely exclude yourself, you will release any claims you may have against Caterpillar relating to the lawsuit. You may object to the Settlement by **[date]**. A detailed Long Form Notice available on the website explains how to exclude yourself or how to object, if you so choose.

The Courts will hold Settlement Approval Hearings on **[date]** in Ottawa, Ontario and on **[date]** in Montreal, Quebec to consider whether to approve the Settlement, and whether to approve a request for lawyers’ fees and costs up to 30% of the Settlement Fund plus applicable taxes and a Service Award of \$20,000 to the Class Representatives. You may appear at the hearing, either yourself or through an lawyer hired by you, but you don't have to. For more information, call the toll-free number or visit the website below.

www.EngineSettlement.ca

1-888-XXX-XXXX

NOTICE PROGRAM

I. The Notice of Hearing will be distributed to Class Members as follows:

A) Short Form Notice (Exhibit “D”)

i. By the Settlement Administrator:

- 1) Posted on the Settlement Website;
- 2) Via direct mail and/or by email to all potential Class Members identified by the Defendants in their warranty database as of September 25, 2017 as registered owners of Subject Engines and/or vehicles with the Subject Engines, along with a copy of the Claim Form;
- 3) 1/3 of a page advertisement of the weekday edition in the following newspaper publications: The Globe & Mail the National Post and a half screen ad in the online French newspaper publication, La Presse+;
- 4) Distribution to the following trucking associations: Canadian Truckers Association, Canadian Trucking Alliance, Ontario Trucking Association, BC Trucking Association, Toronto Trucking Association, Atlantic Provinces Trucking Association, Alberta Motor Transport Association, Association du camionnage du Québec, Saskatchewan Trucking Association and Manitoba Trucking Association;
- 5) Publications in trade magazines in a manner and size as appropriate: Today’s Trucking Magazine, Pro-Trucker Magazine, Transport Topics and Transport Routier;
- 6) Radio Advertisements on Road Dog Radio, Canada Laughs, Canada Talks and Trucker Radio.

ii. By Class Counsel:

- 1) Posted on Class Counsel’s website;
- 2) By email to all persons who have given their contact information to Class Counsel, along with a copy of the Claim Form;
- 3) A summary posting on Class Counsel’s Facebook, Twitter, and Instagram pages;
- 4) Facebook advertisement campaign.

B) Long Form Notice (Exhibit “C”)

1. Posted on the Settlement Website and Class Counsel’s website;
2. Via direct mail and/or email to all potential Class Members who request it.

II. The Notice of Settlement Approval (Exhibit “E”) will be distributed to Class Members as follows:

1. Via direct mail and/or by email to all potential Class Members identified by the Defendants in their warranty database as of September 25, 2017 as registered owners of Subject Engines and/or vehicles with the Subject Engines, along with a copy of the Claim Form;
2. By email to all Persons who have given their contact information to Class Counsel;
3. Posted on the Settlement Website, Class Counsel’s website, and a summary posting on Class Counsel’s Facebook, Twitter, and Instagram page;
4. A CNW News Release;
5. An additional round of outreach to Trucking Associations;
6. Select Trade Magazines i.e. 1/3 page in each of Transport Routier and Today’s Trucking Magazine.

TO: CANADIAN CLAIMS ADMINISTRATOR
CATERPILLAR EPA 2007 COMPLIANT C13 & C15 DIESEL ENGINE LITIGATION (CANADA)
[INSERT ADDRESS]

FROM: BUSINESS
REPRESENTATIVE
ADDRESS LINE 1
ADDRESS LINE 2
CITY, PROVINCE, POSTAL CODE
CANADA

MONTH ##, ####
TRACKING NUMBER: XXXXX

CLAIM FILING DEADLINE: MONTH DD, 2021

Canadian Caterpillar EPA 2007 Compliant C13 & C15 Diesel Engine Class Action Settlement

CLAIM FORM

Please read the entire Claim Form carefully before you begin to fill it out. Mail your completed Claim Form to Canadian Claims Administrator Caterpillar EPA 2007 Compliant C13 & C15 Diesel Engine Litigation (Canada) **[insert address]** postmarked on or before **Month DD, 2021**. If you have any questions, please call the Claims Administrator at 888-593-5379 or visit www.enginesettlement.ca.

Definitions

A "Subject Engine" is a Caterpillar EPA 2007 Compliant C13 and C15 diesel engine with Advanced Combustion Emission Reduction Technology ("ACERT") manufactured in 2005, 2006, 2007, 2008 or 2009, including the CRS components of the engines. Visit the website www.enginesettlement.ca for complete descriptions and photographs of the Subject Engines, explanations on how to identify them and the types of vehicles that included them.

"Caterpillar Regeneration System" or "CRS" means the components of the Subject Engine which are more fully defined or described by the parts set forth in Attachment A of the Settlement Agreement (also available at the website).

"CRS Related Repair" means a repair or replacement of any Caterpillar Regeneration System related part or component as indicated by the 45 DT and F code combinations reflected in Attachment A of the Settlement Agreement. Repairs or replacements made due to a Caterpillar Service Letter performed pro-actively are not considered a CRS Related Repair.

SECTION A: Settlement Benefit Options

Note that all amounts are subject to a pro-rata increase *or* reduction based on the number of Approved Claims/Engines, per the terms of the Settlement Agreement.

- i) If your Engine(s) experienced no CRS Related Repairs, you are eligible to receive, but not guaranteed, \$500, for each Subject Engine, but no more under any circumstance.
- ii) If your Engine(s) experienced 1-5 qualified CRS Related Repairs performed on or before the Execution Date, you are eligible to receive, but not guaranteed, an initial amount of \$5,000, up to a maximum of \$15,000, per Subject Engine.
- iii) If your Engine(s) experienced 6 or more qualified CRS Related Repairs performed on or before the Execution Date, you are eligible to receive, but not guaranteed, an initial amount of \$10,000, up to a maximum of \$30,000, per Subject Engine.

Your claim will be based on the number of Subject Engines for which you provide information. If you were sent this Claim Form in the mail or by email, Subject Engine information may have been pre-populated on this Claim Form.

SECTION B: Engine Information

Please fill out or confirm for each Subject Engine you are claiming. If you were sent this Claim Form in the mail or by email, eligible Subject Engine warranty repair information may have been pre-populated below based on information known to the Claims Administrator. If you wish to claim additional Subject Engines, you will need to provide the information requested below. **YOU MUST LABEL EACH PIECE OF SUPPORTING DOCUMENTATION WITH THE ASSOCIATED ENGINE SERIAL NUMBER.**

Engine 1 Serial Number: XXXXXXXXX

I owned or leased this engine from _____ to _____.

During that time, this engine had _____ CRS Related Repairs. **You must attach proof of the out-of-warranty CRS Related Repairs claimed. Acceptable proof includes an invoice for the repair or similar documentation.**

Engine 2 Serial Number: XXXXXXXXX

I owned or leased this engine from _____ to _____.

During that time, this engine had _____ CRS Related Repairs. **You must attach proof of the out-of-warranty CRS Related Repairs claimed. Acceptable proof includes an invoice for the repair or similar documentation.**

Engine 3 Serial Number: XXXXXXXXX

I owned or leased this engine from _____ to _____.

During that time, this engine had _____ CRS Related Repairs. **You must attach proof of the out-of-warranty CRS Related Repairs claimed. Acceptable proof includes an invoice for the repair or similar documentation.**

Engine 4 Serial Number: XXXXXXXXX

I owned or leased this engine from _____ to _____.

During that time, this engine had _____ CRS Related Repairs. **You must attach proof of the out-of-warranty CRS Related repairs claimed. Acceptable proof includes an invoice for the repair or similar documentation.**

Engine 5 Serial Number: XXXXXXXXX

I owned or leased this engine from _____ to _____.

During that time, this engine had _____ CRS Related Repairs. **You must attach proof of the out-of-warranty CRS Related repairs claimed. Acceptable proof includes an invoice for the repair or similar documentation.**

*If you are providing information for more than 5 Subject Engines, you can copy this page as many times as needed and submit information for all Eligible Engines you owned/leased.

SECTION C: Certification and Signature

By signing below, I declare or affirm, under penalty of law, that I have read this Claim Form, that I believe I am eligible for Class membership, and that all of the information on this Claim Form (or provided with this Claim Form) is true and correct to the best of my knowledge. I understand that, if the Claim Form is not signed, my claim will not be valid, and I will not be eligible to receive a settlement cash payment.

Signature: _____ Date: _____

PLEASE UPDATE MY CONTACT INFORMATION AS FOLLOWS:

Business Name: _____

Representative: _____

Address: _____

City: _____ Province: _____ Postal Code: _____

**IN RE: CATERPILLAR EPA 2007 COMPLIANT C13 AND C15 DIESEL ENGINE
LITIGATION IN CANADA**

REQUEST FOR EXCLUSION / OPT-OUT FORM

Class Members are bound by the terms of the Settlement Agreement, unless they exclude themselves from the Class Actions.

If you opt out, you will not be entitled to make a Claim or to receive any Benefits pursuant to the Settlement Agreement. If you opt out, you should be aware that there are strictly enforced time limits within which you must take formal legal action to pursue your own individual claim. By opting out, you will take full responsibility for taking all necessary legal steps to protect your claim.

If you wish to opt-out, you must complete and submit by mail the present Opt-Out Form to the following address:

**CANADIAN CLAIMS ADMINISTRATOR
CATERPILLAR EPA 2007 COMPLIANT C13 & C15 DIESEL ENGINE
LITIGATION (CANADA)
Address
Ottawa, Ontario**

Class Members who want to opt out and who are residents of Quebec must IN ADDITION give notice to the Clerk of the Superior Court of Québec at:

Clerk of the Superior Court of Québec
Palais de Justice of Montreal
1, Notre-Dame Street East
Montreal (Quebec) H2Y 1B6
Court file no. 500-06-000681-144
District of Montreal

**THIS IS NOT A REGISTRATION FORM OR A CLAIM FORM.
IT EXCLUDES YOU FROM MAKING A CLAIM IN THE SETTLEMENT.
DO NOT USE THIS FORM IF YOU WANT TO RECEIVE BENEFITS UNDER THE
SETTLEMENT.**

Name:

Address:

Telephone: _____

Email: _____

A: Engine Information

Please list each Subject Engine you owned or leased, the make model and VIN number of the vehicle containing the engine, the original purchase date and date of subsequent sale, or lease period as the case may be.

Engine 1 Serial Number: _____

Make, model and VIN of the vehicle containing the Subject Engine

Date engine purchased _____ and sold _____

I leased this engine from _____ to _____.

Engine 2 Serial Number: _____

Make, model and VIN of the vehicle containing the Subject Engine

Date engine purchased _____ and sold _____

I leased this engine from _____ to _____.

Engine 3 Serial Number: _____

Make, model and VIN of the vehicle containing the Subject Engine

Date engine purchased _____ and sold _____

I leased this engine from _____ to _____.

Engine 4 Serial Number: _____

Make, model and VIN of the vehicle containing the Subject Engine

Date engine purchased _____ and sold _____

I leased this engine from _____ to _____.

*If you are providing information for more than 4 Subject Engines, you can copy this page as many times as needed and submit information for all Eligible Engines you owned/leased.

B: Request for Exclusion (please check):

I represent that I, personally or on behalf of my business, am the owner/lessee of the Subject Engine(s) identified above. I want to opt out of the Class Actions in Ontario and/or Quebec (any of which I am a member) related to EPA 2007 Compliant Caterpillar C13 and C15 Diesel Engines manufactured between 2005 and 2009. I am signing this Opt-Out Form to EXCLUDE myself from entitlement to benefits under the Settlement Agreement.

C: Purpose of Opting-Out (optional):

I UNDERSTAND THAT BY OPTING OUT I WILL NEVER BE ELIGIBLE TO RECEIVE ANY COMPENSATION PURSUANT TO THE CATERPILLAR EPA 2007 COMPLIANT C13 & C15 DIESEL ENGINE SETTLEMENT AGREEMENT

I wish to opt out of the Caterpillar EPA 2007 Compliant C13 & C15 Diesel Engine Settlement Program in Canada.

DATE: _____	_____
	Name of Class Member

	Signature of Class Member

Long Form Notice

CANADA CLASS ACTION SETTLEMENT

If you ever owned or leased a truck, bus or other vehicle with certain Caterpillar engines, you may be entitled to a payment from a class action settlement.

*The Ontario Superior Court of Justice and the Superior Court of Quebec directed this notice.
This is not a solicitation from a lawyer.*

- An \$8 million Settlement has been reached in class action lawsuits in Canada about whether Caterpillar Inc. and Caterpillar of Canada Corp. (“Caterpillar”) brand EPA 2007 Compliant C13 and C15 diesel engines with Advanced Emissions Combustion Reduction Technology (“ACERT”) manufactured in 2005, 2006, 2007, 2008 and 2009, including Caterpillar Regeneration System (“CRS”) [“Subject Engines” or “Engines”], failed to work reliably, causing them to lose horsepower and shut down, requiring Caterpillar-authorized dealer technicians to repair the Engines, which they allegedly could not effectively do. Caterpillar denies the allegations in the lawsuit, and a Court has not decided who is right.
- The Settlement offers payments to original purchasers or original lessees, subsequent purchasers or subsequent lessees of vehicles with the Subject Engines. Class Actions have been authorized and certified respectively in Quebec (for Quebec residents) and in Ontario (for residents of the rest of Canada). If you are a Class member, you must file a claim in order to receive a payment.
- **Your legal rights are affected whether you act or do not act. Read this notice carefully.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM	Submit a Claim Form seeking cash payment.
EXCLUDE YOURSELF	Request to be excluded and get no benefits from the Settlement. This is the only option that allows you to start or continue your own lawsuit against Caterpillar for the claims at issue in the Settlement.
OBJECT	Write to the Claims Administrator and the Parties about why you do not like the Settlement.
GO TO A HEARING	Ask to speak in Court about the fairness of the Settlement.
DO NOTHING	Get no benefits. Give up any rights you might have to sue Caterpillar about the claims resolved by the Settlement.

- These rights and options—and the deadlines to exercise them—are explained in this notice.

- The Courts in charge of the Ontario and Quebec lawsuits still have to decide whether to approve the Settlement. If they do, and after any appeals are resolved, benefits will be distributed to those who submit a qualifying Claim Form. Please be patient.

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BASIC INFORMATION

1. Why is there a notice?

The Ontario and Quebec Courts authorized this notice because you have a right to know about the proposed Settlement of class action lawsuits in Canada identified below by their court names and file numbers, and about all of your options before the Courts decide whether to approve to the Settlement: in Ontario *Pabla v. Caterpillar of Canada Corporation and Caterpillar, Inc.*, Ottawa Court File No. 14-60168CP; and in Quebec 9157-5863 *Quebec Inc. v. Caterpillar of Canada Corporation and Caterpillar, Inc.*, District of Montreal Court File No. 500-06-000681-144.

The people who sued are called the “Plaintiffs”. Caterpillar Inc. and Caterpillar of Canada Corporation (“Caterpillar”) are the “Defendants”. This notice explains the lawsuits, the Settlement, and your legal rights.

2. What is this litigation about?

The lawsuits allege that Caterpillar’s exhaust emission control system, known as the Caterpillar Regeneration System (“CRS”), failed to work reliably, causing its EPA 2007 Compliant C13 and C15 diesel engines with Advanced Combustion Emissions Reduction Technology (“ACERT”) manufactured in 2005, 2006, 2007, 2008 and 2009 including the CRS components incorporated therewith (“Subject Engines”) to derate (lose horsepower) and shut down, requiring Caterpillar-authorized, dealer technicians, to repair the Subject Engines, which they allegedly could not effectively do. The lawsuits allege that the CRS failed to operate under all conditions and all applications on a consistent and reliable basis even after repeated CRS warranty repairs and replacements. Allegedly, these repeated warranty repairs and replacements failed to correct the CRS issues, resulting in damages to the owners and lessees of vehicles with the Subject Engines. The alleged damages included diminished value of the vehicles powered by the Subject Engines, out-of-pocket costs such as repair invoices, towing costs, vehicle rental costs and related hotel/taxi charges. Among other claims, the lawsuits allege causes of action for breach of express warranty, negligence, and misrepresentation.

Caterpillar strongly denies all of Plaintiffs’ claims, denies all allegations of wrongdoing, fault, liability, or damage of any kind to Plaintiffs or the Class/Settlement Class, denies that they acted improperly or wrongfully in any way, and believes that this litigation is without merit.

The Plaintiffs’ Ontario Statement of Claim and Quebec Motion to Authorize a Class Proceeding respectively are posted on the website, www.EngineSettlement.ca. The Settlement resolves the lawsuits. The Courts have not decided who is right.

3. Why is this a class action?

In a class action, one or more people called “Class Representatives” sue on behalf of themselves and other people with similar claims. Together, all the people with similar claims (except those who exclude themselves) are members of a “Class” and, where a Court has certified/authorized a class action for settlement purposes only, as is the case here, a “Settlement Class”.

4. Why is there a Settlement?

The Courts have not decided in favour of the Plaintiffs or Defendants. Instead, both sides have agreed to the Settlement. By agreeing to the Settlement, the Parties avoid the costs and uncertainty of a trial, and if the Settlement is approved by the Courts, Settlement Class Members will receive the benefits described in this notice. The proposed Settlement does not mean that any law was broken or that Caterpillar did anything wrong. Caterpillar denies all legal claims in this case. Plaintiffs and their lawyers think the proposed Settlement is best for everyone who is affected.

WHO IS PART OF THE SETTLEMENT

5. Who is included in the Settlement?

The Settlement includes all persons or entities in Canada who are original purchasers or original lessees, subsequent purchasers or subsequent lessees, (including but not limited to those having some rights to residual purchase of vehicles at lease end) of a vehicle powered by a Subject Engine. The Parties agree to certification and authorization of the Ontario and Quebec Class Actions respectively for purposes of the Settlement Agreement only.

Excluded from the Class are Defendants, all present or former affiliates and/or directors of Defendants, all persons who have already released claims against Defendants for the relief provided herein, and all persons who will make a timely and valid election to be excluded from the Class in accordance with the provisions of the Notice. Settlement Class does not include persons or entities that have previously executed settlement releases concerning the Subject Engines. Such persons or entities that have previously executed settlement releases are specifically excluded from the Class.

6. What is a “Subject Engine,” a “CRS” and a “CRS Related Repair?”

“Subject Engines” are defined as Caterpillar EPA 2007 Compliant C13 and C15 diesel engines with ACERT manufactured in 2005, 2006, 2007, 2008 and 2009 including the CRS components of the engines. Visit the website www.EngineSettlement.ca for complete descriptions and photographs of the Subject Engines, explanations on how to identify them and the types of vehicles that included them.

“CRS” stands for “Caterpillar Regeneration System” and describes certain emission reduction components of the Subject Engines. The parts that make up the CRS are described at www.EngineSettlement.ca and also are listed in Attachment A to the Settlement Agreement.

A “CRS Related Repair” means a repair or replacement of any Caterpillar Regeneration System related part or component (an ARD Head, for example) as indicated by the 45 DT and F code combinations reflected in Attachment A to the Settlement Agreement. Repairs or replacement made due to a Caterpillar Service Letter performed pro-actively shall not be considered as a CRS Related Repair. The CRS Related Repair can have occurred at any time during your ownership or lease of a vehicle with the Subject Engine. If you have any questions about how to determine the number of CRS Related Repairs, see Question 7 below.

7. What if I am not sure whether I am included in the Settlement?

If you are not sure whether you are in the Settlement Class or have any other questions about the Settlement, visit the Settlement Website at www.EngineSettlement.ca or call the toll-free number, 1-8XX-XXX-XXXX. You also may send questions to the Settlement Administrator at XXXX.

THE SETTLEMENT BENEFITS

8. What does the Settlement provide?

The Settlement establishes an \$8 million Settlement Fund for the benefit of the Class. All Class members who submit an Approved Claim (one deemed by the Settlement Administrator to be on time, accurate, and complete) will be eligible to receive a pro rata share of the Net Settlement Fund (after deducting lawyers' fees and expenses and certain other items mentioned below) according to the following guidelines:

- A. Class Members whose engines experienced no CRS Related Repairs are eligible to receive (but not guaranteed), \$500, for each Subject Engine, but no more under any circumstance.
- B. Class Members whose engines experienced one to five qualified CRS Related Repairs performed on or before the Execution Date are eligible to receive (but not guaranteed) an initial amount of \$5,000, up to a maximum of \$15,000 per Subject Engine.
- C. Class Members whose engines experienced six or more qualified CRS Related Repairs performed on or before the Execution Date are eligible to receive (but not guaranteed) an initial amount of \$10,000, up to a maximum of \$30,000 per Subject Engine (the amount ultimately distributed under this option will be twice the amount distributed under option B).

Payments to eligible claimants may be adjusted pro rata (up, but not higher than the maximums described above, or down) depending on the number of Approved Claims filed, the number of Engines included in those claims, and the total amount of the Net Settlement Fund available to pay claims. No money will be returned to the Defendants; any excess money will be donated to charity.

9. How do I file a claim?

In order to receive a cash payment, you will need to complete and submit a valid Claim Form. If you received this Notice in the mail, a Claim Form was included. You may also download a Claim Form from the website. Claim Forms must be postmarked before the deadline that will be published on the website after the Settlement is approved, but will not be earlier than **[date]** and sent to:

Claims Administrator
XXXX [address]
XXX-XXXX [phone no.]

Please read the Claim Form carefully, follow all of the instructions and provide all the information required. **You may file a Claim for each Subject Engine in vehicles you owned or leased.** If you have questions about how to file your claim that cannot be answered by this notice or by reviewing the

QUESTIONS? CALL 1-888-XXX-XXXX OR VISIT www.EngineSettlement.ca

information at the Settlement Website, you may call the Settlement Administrator at 1-8XX-XXX-XXXX.

10. When will I receive my payment?

Payments to Class Members who file Approved Claims will be made only after the Courts approve the Settlement and after any appeals are resolved (*see* “The Courts Approval Hearings” below), and after the expiry of a deadline that will be set by the Courts for submitting Claims Forms. If there are appeals, resolving them can take time. Please be patient.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want benefits from the Settlement, and you want to keep any right you might have to sue Caterpillar about the issues in this case, then you must take steps to get out of the Class Actions. This is called excluding yourself or “opting out” of the Class Actions, in which case you will not be a member of the Settlement Class.

11. How do I get out of the Settlement?

To exclude yourself from the Class Actions, you must send a written Request for Exclusion/Opt-Out by prepaid first class mail to:

Settlement Administrator
XXXX [address]
XXX-XXXX [phone no]

Your request for exclusion must include the following:

- Your name, mailing address, telephone number, e-mail address and your signature (or, only in the case of a Class Member who is deceased or incapacitated, the signature of the legally authorized representative of that Class member);
- The approximate date(s) of the Person’s purchase or lease of a vehicle(s) powered by a Subject Engine(s);
- The date of subsequent sale (if applicable);
- The Engine serial number(s) of your Subject Engine(s);
- The make, model and VIN number of the vehicle(s) containing the Subject Engine(s);
- The original purchase date or lease period, or date of subsequent sale (if applicable); and
- Substantially the following statement, “*I want to opt out of the Class Actions in Ontario and/or Quebec (any of which I am a member) related to EPA 2007 Compliant Caterpillar C13 and C15 Diesel Engines manufactured between 2005 and 2009*”.

In addition, Class members who want to opt out and who are residents of Quebec must also give notice to the Clerk of the Superior Court of Quebec.

Your exclusion request must be postmarked or delivered by no later than **Month Day, 2021 [the Opt-Out Deadline]**. You cannot ask to be excluded on the phone, by email, or at the website.

QUESTIONS? CALL 1-888-XXX-XXXX OR VISIT www.EngineSettlement.ca

12. If I do not exclude myself, can I sue the Defendants for the same thing later?

No. Unless you exclude yourself, you give up any right you might have to sue Caterpillar for legal claims that the Settlement resolves. You must exclude yourself from the Settlement Class in order to try to maintain your own lawsuit. If you start your own lawsuit, you will have to hire your own lawyer, and you will have to prove your claims. Class members who are residents of Quebec, must discontinue their individual case(s) by no later **[same date of the opt-out deadline above]** or they will be deemed to have opted out of the Class Action and are not eligible to receive any Settlement Benefits.

13. What am I giving up to stay in the Settlement Class?

Unless you exclude yourself from the Class Actions, you cannot sue or be part of any other lawsuit against the Defendants about the issues in this case, including any existing litigation, arbitration, or proceeding, to the extent permitted by law. Unless you exclude yourself, all of the decisions and judgments by the Courts will bind you. If you file a Claim Form for benefits or do nothing at all, you will be releasing Caterpillar from all of the claims described and identified in Section 12.

The Settlement Agreement is available at www.EngineSettlement.ca. The Settlement Agreement provides more detail regarding the release and describes the released claims with specific descriptions in necessary, accurate legal terminology, so read it carefully. You can talk to the law firm representing the Class listed below in Question 17 for free, or you can, at your own expense, talk to your own lawyer if you have any questions about the released claims or what they mean.

14. If I exclude myself, can I still get a payment?

No. You will not get a payment from the Settlement Fund if you exclude yourself from the Settlement.

THE LAWYERS REPRESENTING YOU

15. Do I have a lawyer in the case?

The Courts have appointed the following lawyers as “Class Counsel” to represent all members of the Settlement Class: Consumer Law Group P.C. / Consumer Law Group Inc.

You will not be charged for these lawyers. If you want to be represented by another lawyer, you may hire one to appear in Court for you at your own expense.

16. How will the lawyers be paid?

Class Counsel intend to request thirty percent (30%) of the value of the Settlement Fund for lawyers’ fees and costs, plus applicable taxes. A Court will decide the amount of fees and expenses to award.

Class Counsel also will request that Service Awards of \$20,000 be paid from the Settlement Fund to the Class Representatives for their service as representatives on behalf of the whole Settlement Class.

OBJECTING TO THE SETTLEMENT

QUESTIONS? CALL 1-888-XXX-XXXX OR VISIT www.EngineSettlement.ca

17. How do I tell the Courts if I do not like the Settlement?

If you are a Settlement Class Member (and do not exclude yourself from the Class Actions), you can object to any part of the Settlement. To object, you must send (by prepaid first class mail) a written objection to the Settlement Administrator, with copies to counsel for the Parties, that includes the following:

- A caption that includes the name of the Class Action in which you wish to object and the case number (see Question 1 above);
- Your name, address, telephone number, email address and signature;
- The approximate date(s) of your purchase or lease (having some rights to residual purchase of vehicles at lease end) of a vehicle powered by a Subject Engine and the serial number for the Subject Engine(s);
- The make, model and VIN number of the vehicle(s) containing the Subject Engine(s);
- The name, address, bar number and telephone number of your lawyer, if represented by a lawyer;
- A statement whether you intend to appear at a Settlement Approval Hearing, either in person or through counsel;
- A detailed statement of the specific legal and factual basis for each and every objection; and
- A detailed description of any and all evidence you may offer at the Settlement Approval Hearing, and attaching copies of any and all exhibits that you may introduce at the Settlement Approval Hearing.

You must file your objection with one of the Courts by **Month Day, 2021 [15 days before Approval hearing]**. You must also send your objection to the Settlement Administrator, Class Counsel and counsel for Defendants no later than **Month Day, 2021**. The addresses are listed below.

CLASS COUNSEL	ADMINISTRATOR	DEFENDANTS' COUNSEL
Jeff Orenstein Consume Law Group P.C. 251 Laurier Ave. W., Suite 900 Ottawa, ON K1P 5J6 Andrea Grass Consumer Law Group Inc. 1030 rue Berri, Suite 102 Montréal, QC H2L 4C3	Settlement Administrator [insert contact info.]	S. Gordon McKee, Blake, Cassels & Graydon LLP 199 Bay Street, Suite 4000 Toronto, ON M5L 1A9 Francis Rouleau Blake, Cassels & Graydon LLP 1 Place Ville Marie #3000 Montréal, QC H3B 4N8

COURT ADDRESSES

QUESTIONS? CALL 1-888-XXX-XXXX OR VISIT www.EngineSettlement.ca

Ontario Superior Court of Justice Civil Division, Clerk's Office 161 Elgin St. Ottawa, ON K2P 2K1	Superior Court of Quebec Civil Division, Clerk's Office 1 Notre-Dame St. East Montreal, QC H2Y 1B6
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18. What is the difference between objecting and asking to be excluded?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object to the Settlement only if you do not exclude yourself. Excluding yourself is telling the Court that you do not want to be part of the Settlement. If you exclude yourself, you have no basis to object to the Settlement because it no longer affects you.

THE COURTS APPROVAL HEARINGS

The Ontario and Quebec Courts will hold hearings to decide whether to approve the Settlement and any requests for fees and expenses ("Settlement Approval Hearings").

19. When and where will the Court decide whether to approve the Settlement?

The Ontario Court has scheduled a Settlement Approval Hearing on **Month Day, 2021 at 10:00 a.m.** The Quebec Court has scheduled a Settlement Approval Hearing on **Month Day, 2021 at 9:30 a.m.** The Courts' addresses are listed in Question 17 above. A hearing may be moved to a different date or time without additional notice, so it is a good idea to check www.EngineSettlement.ca for updates. At these hearings, the Courts will consider whether the Settlement is fair, reasonable, and adequate. The Ontario Court will also consider the request by Class Counsel for lawyers' fees and expenses and for the Service Award to the Class Representative. It is unknown how long it will take for the Courts to render their decisions.

20. Do I have to attend the hearing?

No. Class Counsel will answer any questions the Courts may have. But, you are welcome to attend a hearing at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you submitted your written objection on time, to the proper addresses, and it complies with the other requirements set forth above, the Courts will consider it. You also may pay your own lawyer to attend a hearing, but it is not necessary.

21. May I speak at the hearing?

You may ask one of the Courts for permission to speak at a Settlement Approval Hearing. Any Class member who wishes to appear at a Settlement Approval Hearing must file with the applicable Court a "Notice of Intention to Appear," which must be received no later than 10 days before the Settlement Approval Hearing at which you intend to appear. The Notice of Intention to Appear must include copies of any papers, exhibits or other evidence that the objecting Class Member or counsel for the objecting Class Member will present to the Court at the Settlement Approval Hearing, unless already attached to a filed Notice of Objection. Only a Class Member who files a Notice of Intention to Appear may appear in person or by counsel and be heard to the extent permitted under applicable law and allowed by the

Court, in opposition to the fairness, reasonableness and adequacy of the Settlement, and on Class Counsel's application for an award of lawyers' fees and costs. The addresses for the Courts are listed in Question 17 above.

You cannot ask to speak at the hearing if you exclude yourself from the Settlement.

IF YOU DO NOTHING

22. What happens if I do nothing at all?

If you are a Class Member and do nothing, you will not get benefits from the Settlement. And, unless you exclude yourself, you will be bound by the judgment entered by the Courts. This means you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit or proceeding against Caterpillar about the statements and claims at issue in this case, to the extent permitted by law.

GETTING MORE INFORMATION

23. How do I get more information?

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. For a complete, definitive statement of the Settlement terms, refer to the Settlement Agreement at www.EngineSettlement.ca. You may also write with questions to the Settlement Administrator at **[insert address]**

**IN RE: CATERPILLAR EPA 2007 COMPLIANT C13 AND C15 DIESEL ENGINE
LITIGATION IN CANADA**

REQUEST FOR EXCLUSION / OPT-OUT FORM

Class Members are bound by the terms of the Settlement Agreement, unless they exclude themselves from the Class Actions.

If you opt out, you will not be entitled to make a Claim or to receive any Benefits pursuant to the Settlement Agreement. If you opt out, you should be aware that there are strictly enforced time limits within which you must take formal legal action to pursue your own individual claim. By opting out, you will take full responsibility for taking all necessary legal steps to protect your claim.

If you wish to opt-out, you must complete and submit by mail the present Opt-Out Form to the following address:

**CANADIAN CLAIMS ADMINISTRATOR
CATERPILLAR EPA 2007 COMPLIANT C13 & C15 DIESEL ENGINE
LITIGATION (CANADA)
Address
Ottawa, Ontario**

Class Members who want to opt out and who are residents of Quebec must IN ADDITION give notice to the Clerk of the Superior Court of Québec at:

Clerk of the Superior Court of Québec
Palais de Justice of Montreal
1, Notre-Dame Street East
Montreal (Quebec) H2Y 1B6
Court file no. 500-06-000681-144
District of Montreal

**THIS IS NOT A REGISTRATION FORM OR A CLAIM FORM.
IT EXCLUDES YOU FROM MAKING A CLAIM IN THE SETTLEMENT.
DO NOT USE THIS FORM IF YOU WANT TO RECEIVE BENEFITS UNDER THE
SETTLEMENT.**

Name:

Address:

Telephone: _____

Email: _____

A: Engine Information

Please list each Subject Engine you owned or leased, the make model and VIN number of the vehicle containing the engine, the original purchase date and date of subsequent sale, or lease period as the case may be.

Engine 1 Serial Number: _____

Make, model and VIN of the vehicle containing the Subject Engine

Date engine purchased _____ and sold _____

I leased this engine from _____ to _____.

Engine 2 Serial Number: _____

Make, model and VIN of the vehicle containing the Subject Engine

Date engine purchased _____ and sold _____

I leased this engine from _____ to _____.

Engine 3 Serial Number: _____

Make, model and VIN of the vehicle containing the Subject Engine

Date engine purchased _____ and sold _____

I leased this engine from _____ to _____.

Engine 4 Serial Number: _____

Make, model and VIN of the vehicle containing the Subject Engine

Date engine purchased _____ and sold _____

I leased this engine from _____ to _____.

*If you are providing information for more than 4 Subject Engines, you can copy this page as many times as needed and submit information for all Eligible Engines you owned/leased.

B: Request for Exclusion (please check):

I represent that I, personally or on behalf of my business, am the owner/lessee of the Subject Engine(s) identified above. I want to opt out of the Class Actions in Ontario and/or Quebec (any of which I am a member) related to EPA 2007 Compliant Caterpillar C13 and C15 Diesel Engines manufactured between 2005 and 2009. I am signing this Opt-Out Form to EXCLUDE myself from entitlement to benefits under the Settlement Agreement.

C: Purpose of Opting-Out (optional):

**I UNDERSTAND THAT BY OPTING OUT I WILL NEVER BE ELIGIBLE TO RECEIVE ANY
COMPENSATION PURSUANT TO THE CATERPILLAR EPA 2007 COMPLIANT C13 &
C15 DIESEL ENGINE SETTLEMENT AGREEMENT**

I wish to opt out of the Caterpillar EPA 2007 Compliant C13 & C15 Diesel Engine Settlement Program in Canada.

DATE: _____

Name of Class Member

Signature of Class Member

Notice of Class Certification and Settlement Approval Hearings

CANADA CLASS ACTION SETTLEMENT

**If you ever owned or leased a truck, bus or other vehicle
with
certain Caterpillar engines, you may be entitled to a
payment in a class action settlement.**

A Settlement has been reached in class action lawsuits in Canada about whether Caterpillar Inc. and Caterpillar of Canada Corp. (“Caterpillar”) brand EPA 2007 Compliant C13 and C15 diesel engines with Advanced Emissions Combustion Reduction Technology (“ACERT”) manufactured in 2005, 2006, 2007, 2008 and 2009, including the Caterpillar Regeneration System (“CRS”) [“Subject Engines”], failed to work reliably, causing them to lose horsepower and shut down, requiring Caterpillar-authorized dealer technicians to repair the Subject Engines which they supposedly could not effectively do. Caterpillar denies the allegations in the lawsuit, and a Court has not decided who is right.

Who’s Included? The Settlement Class includes all persons in Canada who are original purchasers or original lessees, subsequent purchasers or subsequent lessees, (including but not limited to those having some rights to residual purchase of vehicles at lease end) of a vehicle powered by a Subject Engine. The Quebec Class Action is for Quebec residents, while the Ontario Class Action is for residents in the rest of Canada.

What Are the Settlement Terms? The Settlement establishes an \$8 million Settlement Fund for the benefit of the Class. All Class members who submit an Approved Claim will be eligible to receive a pro rata share of the Net Settlement Fund according to the following guidelines:

- A. Class Members whose engines experienced no CRS Related Repairs are eligible to receive (but not guaranteed), \$500, for each Subject Engine, but no more under any circumstance.
- B. Class Members whose engines experienced one to five qualified CRS Related Repairs performed on or before the Execution Date are eligible to receive (but not guaranteed) an initial amount of \$5,000, up to a maximum of \$15,000 per Subject Engine.
- C. Class Members whose engines experienced six or more qualified CRS Related Repairs performed on or before the Execution Date are eligible to receive (but not guaranteed) an initial amount of \$10,000, up to a maximum of \$30,000 per Subject Engine.

Payments to eligible claimants may be adjusted pro rata (up, but not higher than the maximums described above, or down) depending on the number of Approved Claims filed and Engines represented therein, and the net amount of the Settlement Fund available to pay claims. No money will be returned to the Defendants; any excess money will be donated to charity.

How do I file a Claim? In order to receive a cash payment, you must complete and submit a valid Claim. Claim Forms are available at www.EngineSettlement.ca or by calling 1-888-593-5379. The

Exhibit “D”

deadline to file your claim will be published on the website after the Settlement is approved, but will not be earlier than **[date]**.

Your Other Options. If you do not want to be legally bound by the Settlement, and therefore not be entitled to the Settlement Benefits as described above, you must exclude yourself by **[date]**. If you do not timely exclude yourself, you will release any claims you may have against Caterpillar relating to the lawsuit. You may object to the Settlement by **[date]**. A detailed Long Form Notice available on the website explains how to exclude yourself or how to object, if you so choose.

The Courts will hold Settlement Approval Hearings on **[date]** in Ottawa, Ontario and on **[date]** in Montreal, Quebec to consider whether to approve the Settlement, and whether to approve a request for lawyers’ fees and costs up to 30% of the Settlement Fund plus applicable taxes and a Service Award of \$20,000 to the Class Representatives. You may appear at the hearing, either yourself or through an lawyer hired by you, but you don't have to. For more information, call the toll-free number or visit the website below.

www.EngineSettlement.ca

1-888-XXX-XXXX

Caterpillar EPA 2007 Compliant C13 and C15 Engine Litigation in Canada

Notice of Settlement Approval

Read this Notice Carefully as it may affect your rights

This notice is directed at Settlement Class Members in class actions in Ontario and Quebec related to Caterpillar EPA 2007 Compliant C13 and C15 Diesel Engines with ACERT manufactured between 2005 and 2009, as a follow-up to the Notice of Certification and Settlement Approval Hearings that can be found at the following link **[insert]**.

The Settlement Agreement referred to in the notice at the link above has been approved by the Ontario and Quebec Courts and is now effective. The Long Form Notice at the link above describes in sections 5-10 who is eligible to claim Settlement Benefits, the amount of the benefits and how to make a claim. The deadline for submitting Claim Forms in accordance with Section 9 of the notice is **[insert date 180 days after the Effective Date]**.

Questions related to the Settlement or the claims process should be directed to the Settlement Administrator at **[insert address, email and phone no.]**

NOTICE PROGRAM

I. The Notice of Hearing will be distributed to Class Members as follows:

A) Short Form Notice (Exhibit “D”)

i. By the Settlement Administrator:

- 1) Posted on the Settlement Website;
- 2) Via direct mail and/or by email to all potential Class Members identified by the Defendants in their warranty database as of September 25, 2017 as registered owners of Subject Engines and/or vehicles with the Subject Engines, along with a copy of the Claim Form;
- 3) 1/3 of a page advertisement of the weekday edition in the following newspaper publications: The Globe & Mail the National Post and a half screen ad in the online French newspaper publication, La Presse+;
- 4) Distribution to the following trucking associations: Canadian Truckers Association, Canadian Trucking Alliance, Ontario Trucking Association, BC Trucking Association, Toronto Trucking Association, Atlantic Provinces Trucking Association, Alberta Motor Transport Association, Association du camionnage du Québec, Saskatchewan Trucking Association and Manitoba Trucking Association;
- 5) Publications in trade magazines in a manner and size as appropriate: Today’s Trucking Magazine, Pro-Trucker Magazine, Transport Topics and Transport Routier;
- 6) Radio Advertisements on Road Dog Radio, Canada Laughs, Canada Talks and Trucker Radio.

ii. By Class Counsel:

- 1) Posted on Class Counsel’s website;
- 2) By email to all persons who have given their contact information to Class Counsel, along with a copy of the Claim Form;
- 3) A summary posting on Class Counsel’s Facebook, Twitter, and Instagram pages;
- 4) Facebook advertisement campaign.

B) Long Form Notice (Exhibit “C”)

1. Posted on the Settlement Website and Class Counsel’s website;
2. Via direct mail and/or email to all potential Class Members who request it.

II. The Notice of Settlement Approval (Exhibit “E”) will be distributed to Class Members as follows:

1. Via direct mail and/or by email to all potential Class Members identified by the Defendants in their warranty database as of September 25, 2017 as registered owners of Subject Engines and/or vehicles with the Subject Engines, along with a copy of the Claim Form;
2. By email to all Persons who have given their contact information to Class Counsel;
3. Posted on the Settlement Website, Class Counsel’s website, and a summary posting on Class Counsel’s Facebook, Twitter, and Instagram page;
4. A CNW News Release;
5. An additional round of outreach to Trucking Associations;
6. Select Trade Magazines i.e. 1/3 page in each of Transport Routier and Today’s Trucking Magazine.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE) , THE DAY
JUSTICE M. Z. CHARBONNEAU) OF , 2021
)

B E T W E E N :

SUKHVIR PABLA

Plaintiff

- and -

**CATERPILLAR OF CANADA CORPORATION and
CATERPILLAR, INC.**

Defendants

Proceeding under the *Class Proceedings Act, 1992*, as amended

ORDER

(SETTLEMENT APPROVAL)

THIS MOTION made by the Representative Plaintiff for an Order approving the Settlement Agreement and notice of the approval, was heard this day at the Court House, 161 Elgin St., Ottawa, Ontario, K2P 2K1.

ON READING the materials filed, including the Settlement Agreement entered into by the Parties dated [insert date] 2021 and on hearing the submissions of counsel for the Representative Plaintiff and counsel for the Defendants [and any objectors], fair and

adequate notice of the within hearing having been provided to Class members in accordance with the Order of this Court dated [insert], 2021;

1. **THIS COURT ORDERS** that the definitions set out in the Settlement Agreement shall apply to and are incorporated into this Order.
2. **THIS COURT ORDERS** that the Settlement Agreement is valid, fair, reasonable and in the best interests of the Class.
3. **THIS COURT ORDERS** that the Settlement Agreement is approved pursuant to section 29 of the *Class Proceedings Act, 1992*, S.O. 1992, c. 6 and shall be implemented in accordance with its terms.
4. **THIS COURT ORDERS** that the Settlement Agreement is incorporated by reference into and forms part of this Order, and is binding upon the Representative Plaintiff and all Class Members; where any term of this Order and the Settlement Agreement conflict, the term contained in this Order shall govern.
5. **THIS COURT ORDERS** that the establishment of the Settlement Fund for the benefit of the Class as set forth in the Settlement Agreement shall be provided in full satisfaction of the obligations of the Defendants under the Settlement Agreement.
6. **THIS COURT ORDERS** that that [insert name] is appointed as Settlement Administrator who shall perform all of the duties and responsibilities as set out in the Settlement Agreement.

7. **THIS COURT ORDERS** that, in accordance with the terms of the Settlement Agreement, the Settlement Administrator's fees and expenses shall be paid from the Settlement Fund.
8. **THIS COURT ORDERS** that, upon the Effective Date, each Class Member shall be deemed to have consented to the dismissal as against the Released Persons, without costs and with prejudice, of any and all proceedings asserting the Class members' Released Claims.
9. **THIS COURT ORDERS** that, upon the Effective Date, any and all proceedings asserting the Class Members' Released Claims commenced in Ontario by any Class Member shall be dismissed against the Released Persons, without costs and with prejudice.
10. **THIS COURT ORDERS** that, upon the Effective Date, the Releasing Parties shall be deemed to, and do hereby, release and forever discharge the Released Persons of and from any and all Released Claims.
11. **THIS COURT ORDERS** that, upon the Effective Date, the Releasing Parties shall not then or thereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, any action, suit, cause of action, claim or demand against any Released Person, or against any other Person is entitled to claim contribution or indemnity from any Released Person, in respect of any Released Claim.
12. **THIS COURT ORDERS** that for the purposes of assisting in the administration of the Settlement, the Defendants may share warranty claims information, including personal

information of Settlement Class members with the Settlement Administrator, and hereby approves, now for then, the provision of any such information that has already occurred in relation to this Settlement.

13. **THIS COURT ORDERS** that for purposes of enforcement of this Order, this Court will retain an ongoing supervisory role and the Parties will attorn to the jurisdiction of this Court for this purpose.
14. **THIS COURT ORDERS** that this Order shall be declared null and void in the event that the Settlement Agreement is terminated in accordance with its terms.
15. **THIS COURT ORDERS** that, except for the forgoing, this Action shall be and is hereby dismissed against the Defendants without costs and with prejudice.
16. **THIS COURT ORDERS and DECLARES** that the Notice of Approval substantially in the form attached hereto as Schedule “A” and published in accordance with the Notice Program attached as Schedule “B” hereto as it relates to the Notice of Approval, represents fair and adequate notice to the Class and is hereby approved.
17. **THIS COURT ORDERS** that the Notice of Approval shall be disseminated by the Settlement Administrator in accordance with the Notice Program.
18. **THIS COURT ORDERS** that, in accordance with the terms of the Settlement Agreement, all costs associated with the dissemination of the Notice of Approval pursuant to the Notice Program shall be paid from the Settlement Fund.
19. **THIS COURT ORDERS** that all information provided to the Settlement Administrator by or about Class Members as part of the settlement claims process

shall be collected, used and retained by the Settlement Administrator and its agents pursuant to the applicable privacy laws for the purposes of administering the Settlement Agreement, including evaluating Class Members' eligibility status under the Settlement Agreement; the information provided shall be treated as private and confidential and shall not be disclosed without the express written consent of the relevant Class Member, except in accordance with the Settlement Agreement and/or orders of this Court.

20. **THIS COURT ORDERS** that it hereby reserves continuing jurisdiction over the administration of the Settlement Agreement as required and consistent with the terms of the Settlement Agreement.
21. **THIS COURT ORDERS** that this Order is contingent upon a parallel order (judgment) being made by the Superior Court of Quebec and the terms of this Order shall not be effective unless and until such an order (judgment) is made by the Superior Court of Quebec.
22. **THIS COURT ORDERS** that Class Counsel's fees and expenses in the amount of _____ are hereby approved.
23. **THIS COURT ORDERS** that the Representative Plaintiff's Service Award in the amount of _____ is hereby approved.
24. There will be no costs of this motion.

Justice Charbonneau

Caterpillar EPA 2007 Compliant C13 and C15 Engine Litigation in Canada

Notice of Settlement Approval

Read this Notice Carefully as it may affect your rights

This notice is directed at Settlement Class Members in class actions in Ontario and Quebec related to Caterpillar EPA 2007 Compliant C13 and C15 Diesel Engines with ACERT manufactured between 2005 and 2009, as a follow-up to the Notice of Certification and Settlement Approval Hearings that can be found at the following link **[insert]**.

The Settlement Agreement referred to in the notice at the link above has been approved by the Ontario and Quebec Courts and is now effective. The Long Form Notice at the link above describes in sections 5-10 who is eligible to claim Settlement Benefits, the amount of the benefits and how to make a claim. The deadline for submitting Claim Forms in accordance with Section 9 of the notice is **[insert date 180 days after the Effective Date]**.

Questions related to the Settlement or the claims process should be directed to the Settlement Administrator at **[insert address, email and phone no.]**

NOTICE PROGRAM

I. The Notice of Hearing will be distributed to Class Members as follows:

A) Short Form Notice (Exhibit “D”)

i. By the Settlement Administrator:

- 1) Posted on the Settlement Website;
- 2) Via direct mail and/or by email to all potential Class Members identified by the Defendants in their warranty database as of September 25, 2017 as registered owners of Subject Engines and/or vehicles with the Subject Engines, along with a copy of the Claim Form;
- 3) 1/3 of a page advertisement of the weekday edition in the following newspaper publications: The Globe & Mail the National Post and a half screen ad in the online French newspaper publication, La Presse+;
- 4) Distribution to the following trucking associations: Canadian Truckers Association, Canadian Trucking Alliance, Ontario Trucking Association, BC Trucking Association, Toronto Trucking Association, Atlantic Provinces Trucking Association, Alberta Motor Transport Association, Association du camionnage du Québec, Saskatchewan Trucking Association and Manitoba Trucking Association;
- 5) Publications in trade magazines in a manner and size as appropriate: Today’s Trucking Magazine, Pro-Trucker Magazine, Transport Topics and Transport Routier;
- 6) Radio Advertisements on Road Dog Radio, Canada Laughs, Canada Talks and Trucker Radio.

ii. By Class Counsel:

- 1) Posted on Class Counsel’s website;
- 2) By email to all persons who have given their contact information to Class Counsel, along with a copy of the Claim Form;
- 3) A summary posting on Class Counsel’s Facebook, Twitter, and Instagram pages;
- 4) Facebook advertisement campaign.

B) Long Form Notice (Exhibit "C")

1. Posted on the Settlement Website and Class Counsel's website;
2. Via direct mail and/or email to all potential Class Members who request it.

II. The Notice of Settlement Approval (Exhibit "E") will be distributed to Class Members as follows:

1. Via direct mail and/or by email to all potential Class Members identified by the Defendants in their warranty database as of September 25, 2017 as registered owners of Subject Engines and/or vehicles with the Subject Engines, along with a copy of the Claim Form;
2. By email to all Persons who have given their contact information to Class Counsel;
3. Posted on the Settlement Website, Class Counsel's website, and a summary posting on Class Counsel's Facebook, Twitter, and Instagram page;
4. A CNW News Release;
5. An additional round of outreach to Trucking Associations;
6. Select Trade Magazines i.e. 1/3 page in each of Transport Routier and Today's Trucking Magazine.

SUPERIOR COURT
(Class Action)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

N°: 500-06-000681-144

DATE: _____, 2021

PRESIDING: THE HONOURABLE

J.S.C.

9157-4863 QUEBEC INC.

Plaintiff

v.

CATERPILLAR OF CANADA CORPORATION

and

CATERPILLAR, INC.

Defendants

JUDGMENT FOR APPROVAL OF A SETTLEMENT

- [1] **CONSIDERING** Plaintiff's Application for the Approval of a Class Action Settlement;
- [2] **CONSIDERING** the materials filed, including the Settlement Agreement entered into by the Parties dated ____, 2021;
- [3] **CONSIDERING** the submissions of counsel for the Plaintiff and counsel for the Defendants;
- [4] **CONSIDERING** that by Judgment rendered on ●, this Court approved the Long Form Notice and the Notice of Hearings (collectively the "Notices of Certification"), both in English and in French, and the said notices were disseminated and published as ordered by this Court;
- [5] **CONSIDERING** that the time for opting out has passed and there were ● opt-outs;

- [6] **CONSIDERING** that the deadline for objecting to the Settlement Agreement has passed and there were • objections to the Settlement Agreement;
- [7] **CONSIDERING** that no member of the Class presented itself before this Court to object to the approval of the Settlement Agreement;
- [8] **CONSIDERING** article 590 of the *Code of Civil Procedure*;
- [9] **CONSIDERING** that the Application for the Approval of the Settlement Agreement has been notified to the *Fonds d'aide aux actions collectives*;
- [10] **CONSIDERING** that the Parties all consent to this Judgment;

FOR THESE REASONS, THE COURT:

- [11] **GRANTS** the present Application;
- [12] **DECLARES** that the definitions set out in the Settlement Agreement shall apply to and are incorporated into this Judgment;
- [13] **APPROVES** the Settlement Agreement pursuant to article 590 of the *Code of Civil Procedure* and **DECLARES** that the Settlement Agreement is valid, fair, reasonable, and in the best interest of the Quebec Class Members, and constitutes a transaction within the meaning of article 2631 of the *Civil Code of Quebec*, binding all parties and all members described therein;
- [14] **DECLARES** that the Settlement Agreement shall be implemented in accordance with its terms, but subject to the terms of this Judgment;
- [15] **DECLARES** that that the Settlement Agreement is incorporated by reference into and forms part of this Judgment and **DECLARES** that where any term of this Judgment and the Settlement Agreement conflict, the term contained in this Judgment shall govern;
- [16] **DECLARES** that the establishment of the Settlement Fund for the benefit of the Quebec Class as set forth in the Settlement Agreement shall be provided in full satisfaction of the obligations of the Defendants under the Settlement Agreement;
- [17] **APPOINTS** [insert name] as Settlement Administrator who shall perform all of the duties and responsibilities as set out in the Settlement Agreement;
- [18] **ORDERS** that, in accordance with the terms of the Settlement Agreement, the Settlement Administrator's fees and expenses shall be paid from the Settlement Fund;
- [19] **ORDERS** and **DECLARES** that, upon the Effective Date, and in consideration of payment of the Settlement Fund, and for other valuable consideration set forth in

the Settlement Agreement, the Releasing Parties forever and absolutely release the Released Persons and forever discharge the Released Persons from the Released Claims that any of the Releasing Parties, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have;

- [20] **ORDERS** that, upon the Effective Date, the Releasing Parties shall not then or thereafter, institute or assert, either directly or indirectly, in Quebec, on their own behalf or on behalf of any class or any other Person, any action, suit, cause of action, claim or demand against any Released Persons, or against any other Person entitled to claim contribution or indemnity from any Releasing Persons, in respect of any Released Claim;
- [21] **ORDERS** and **DECLARES** that this Judgment, including the Settlement Agreement, shall be binding on every Quebec Class Member who has not validly opted-out of the Quebec Class Action;
- [22] **ORDERS** that each Quebec Class Member shall consent to and shall be deemed to have consented to the dismissal of any action that would be barred by the release provided herein;
- [23] **ORDERS** that for the purposes of assisting in the administration of the Settlement, the Defendants may share warranty claims information, including personal information of Quebec Class Members with the Settlement Administrator, and hereby approves, now for then, the provision of any such information that has already occurred in relation to this Settlement;
- [24] **ORDERS** that for purposes of enforcement of this Judgment, this Court will retain an ongoing supervisory role and the Parties will attorn to the jurisdiction of this Court for this purpose;
- [25] **ORDERS** that this Judgment shall be declared null and void in the event that the Settlement Agreement is terminated in accordance with its terms;
- [26] **APPROVES** the Notice of Approval substantially in the form attached hereto as Schedule "A" and published in accordance with the Notice Program attached as Schedule "B" hereto as it relates to the Notice of Approval and **DECLARES** that it represents fair and adequate notice to the Quebec Class;
- [27] **ORDERS** that the Notice of Approval shall be disseminated by the Settlement Administrator in accordance with the Notice Program;
- [28] **ORDERS** that, in accordance with the terms of the Settlement Agreement, all costs associated with the dissemination of the Notice of Approval pursuant to the Notice Program shall be paid from the Settlement Fund;

- [29] **ORDERS** that all information provided to the Settlement Administrator by or about Quebec Class Members as part of the settlement claims process shall be collected, used and retained by the Settlement Administrator and its agents pursuant to the applicable privacy laws for the purposes of administering the Settlement Agreement, including evaluating Quebec Class Members' eligibility status under the Settlement Agreement; the information provided shall be treated as private and confidential and shall not be disclosed without the express written consent of the relevant Quebec Class Member, except in accordance with the Settlement Agreement and/or orders of this Court.
- [30] **ORDERS** that this Court hereby reserves continuing jurisdiction over the administration of the Settlement Agreement as required and consistent with the terms of the Settlement Agreement;
- [31] **ORDERS** that this Judgment is contingent upon a parallel order being made by the Ontario Superior Court of Justice and the terms of this Judgment shall not be effective unless and until such an order is made by the Ontario Superior Court of Justice;
- [32] **THE WHOLE** without legal costs.

J.S.C.

Mtre Andrea Grass
Consumer Law Group Inc.
Attorneys for the Plaintiff

Mtre Francis Rouleau
Blake, Cassels & Graydon L.L.P.
Attorneys for the Defendants

Date of hearing: Insert date

Caterpillar EPA 2007 Compliant C13 and C15 Engine Litigation in Canada

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