



**RECITALS**

WHEREAS, the Complaint and First Amended Complaint allege that Autovest violated the Fair Debt Collection Practices Act (“FDCPA”) and the Ohio Consumer Sales Practices Act (“OCSPA”) by bringing time-barred actions against debtors; and,

WHEREAS, the Complaint and First Amended Complaint seek money damages, attorney fees and other relief; and,

WHEREAS, Class Counsel believe settlement to be in the best interests of Named Plaintiffs and the Class agreed to be certified in this action whom they represent; and,

WHEREAS, Autovest denies liability, has raised defenses to the allegations of the Complaint and the First Amended Complaint, and maintains that it would ultimately prevail in this Action, but also agrees that settlement is in its best interests; and,

WHEREAS, the Parties have concluded that it is desirable for this matter to be settled on a class basis to avoid further inconvenience, delay, and expense; to dispose of potentially burdensome and protracted litigation; and to put to rest all claims that have been, or might be, asserted by the Class Members against Autovest arising out of or related to the subject matter of the Complaint and First Amended Complaint; and

WHEREAS, the Parties to this Agreement make no admissions or concessions on these substantive issues; and

WHEREAS, the Parties have engaged in extensive discovery and arms-length settlement negotiations, and have determined that the terms of this Settlement Agreement

constitute a fair, reasonable and adequate compromise of the claims and defenses of all Parties; and,

WHEREAS, the Parties fully and finally negotiated each and all of the foregoing terms of this class action settlement without the reference to the fees to be paid to class counsel. Only after the Parties reached an agreement on the class settlement did they begin to negotiate the fees to be paid to class counsel.

NOW, THEREFORE, Autovest and the Named Plaintiffs, for and on behalf of themselves and the Class, stipulate and agree that in consideration of the material benefits secured for the members of the Class under the terms of the Settlement provided herein, and subject to the Court's approval, the Action shall be dismissed in its entirety, with prejudice and without costs, upon the terms and conditions set forth herein.

### **DEFINITIONS**

1. Accessible Contact Information. "Accessible Contact Information" means the names and last-known addresses of Class Members as presently contained in the records of Autovest updated through the Coding Accuracy Support System and National Change of Address Database. If, as a result of any mailing, the Postal Service provides a forwarding address, but the mailed notice was not forwarded by the Postal Service, the Claims Administrator will re-mail the mailed notice to the forwarding address.

2. Action. "Action" means the above-captioned action currently pending in the United States District Court for the Southern District of Ohio, Western Division, Case No. 1:15cv107.

3. Class Counsel. “Class Counsel” means counsel for the Named Plaintiffs and the Class Members:

Steven C. Shane, Esq.  
P.O. Box 73067  
Bellevue, KY 41073  
(859) 431-7800  
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shanelaw@fuse.net

Stephen R. Felson, Esq.  
220 Loraine Ave.,  
Suite 2  
Cincinnati, Ohio 45220  
(513) 520-6348  
Stevef8953@aol.com

4. Class or Class Members. The “Class” consists of all persons who were sued by Autovest in Ohio between February 12, 2013 and August 31, 2015 on a retail installment sales contract (“Contract(s)”) more than 4 years after the date of the last voluntary payment made by a party obligated under the Contracts and where the Contracts were secured by a lien on a motor vehicle, the Contracts were assigned to a predecessor of Wells Fargo Bank, N.A. (“Wells Fargo”), and Wells Fargo assigned the Contracts to Autovest. Excluded from this definition are individuals who filed for bankruptcy and whose debts under the Contracts were discharged, and individuals who already settled any such claims with Autovest. Based on Autovest’s review of its records, it believes the Class is comprised of 151 Class Members.

5. Subclasses. The Class is composed of two subclasses, a “Judgment Subclass” and a “Non-Judgment Subclass.” The Judgment Subclass is comprised of Class Members against whom Autovest obtained a judgment before August 31, 2015. Based on Autovest’s review of its records, it believes the Judgment Subclass is comprised of 134 Class Members. The “Non-Judgment Subclass” is comprised of Class Members against whom Autovest had not taken a judgment as of August 31, 2015. Based on Autovest’s review of its records, it believes the “Non-Judgment Subclass” is comprised of 17 Class Members.

6. Court. The “Court” means the United States District Court for the Southern District of Ohio, Western Division.

7. Cy Pres. “Cy Pres” means a gift of all Unclaimed Funds to be paid to the Southeastern Ohio Legal Services (SEOLS), Portsmouth Office.

8. Defendant’s Counsel. “Defendant’s Counsel” means:

Scott King  
Jessica E. Salisbury-Copper  
Thompson Hine LLP.  
10050 Innovation Dr., Suite 400  
Suite 400  
Miamisburg, Ohio 45342  
(937) 443-6560  
Fax: (937) 443-6635  
Scott.King@Thompsonhine.com  
Jessica.Salisbury-Copper@Thompsonhine.com

9. Distribution Date. “Distribution Date” shall refer to the date on which Settlement Funds are issued to the Settlement Class Members.

10. Effective Date. “Effective Date” means the first business day on which (i) the Final Judgment becomes final and non-appealable, having been neither withdrawn, rescinded, vacated, reversed, nor substantially modified on appeal, and is no longer subject to any appellate review, including rehearing or re-argument or review *en banc* or on *certiorari*; and (ii) no party is entitled to terminate the Settlement pursuant to paragraph 51-52 below.

11. Final Entry Date/Final Judgment. “Final Entry Date” and/or “Final Judgment” means the date on which the Court signs and enters the Final Order of Judgment of the Class Action Settlement.

12. Named Plaintiffs. “Named Plaintiffs” refers to Brittany Folchi and Antonio Akins.

13. Notice. “Notice” means the Notice of Proposed Class Action Settlement in the form attached hereto and incorporated herein as “Exhibit A.”

14. Notice Date. “Notice Date” means the date that Notice is mailed to Class Members, as provided in paragraph 43.

15. Opt-Out Date. “Opt-Out Date” means the deadline set by the Court for Class Members to postmark requests for exclusion from the Settlement.

16. Preliminary Approval Order. “Preliminary Approval Order” means the order signed by the Court conditionally approving this Settlement Agreement, approving the Class Notice, setting a date for a Settlement Hearing to determine the fairness of the

Settlement and setting deadlines for Class Members to opt-out and to object to the settlement, as provided in paragraphs 48 and 49 of this Settlement Agreement, in a form of which is attached hereto and incorporated herein as “Exhibit B.”

17. Related Parties. “Related Parties” shall mean each of a Party’s past or present officers, directors, trustees, members, employers, employees, partners, member firms, affiliates, principals, agents, shareholders, attorneys, accountants, auditors, advisors, personal and legal representatives, heirs, beneficiaries, assigns, predecessors, successors, parents, subsidiaries, divisions, associates, related or affiliated entities, any members of their immediate families, and all Related Parties’ and Parties’ insurers and their reinsurers. Notwithstanding the above, “Related Parties” does not include Wells Fargo Bank N.A., Wells Fargo & Company or their subsidiaries.

18. Released Claims. “Released Claims” means the claims and liabilities released and discharged under paragraph 45.

19. Unclaimed Funds. “Unclaimed Funds” means the funds or share of each Settlement Class Member whose check remains un-cashed after 90 days from the date upon which they were mailed.

20. Settlement. “Settlement” means the terms and conditions set forth in this Agreement, including all Exhibits.

21. Settlement Account. “Settlement Account” means a checking account, set-up by Class Counsel using Class Counsel’s social security number or a separate EIN

obtained by Class Counsel, in which the Settlement Funds will be deposited to be distributed to the Settlement Class Members and to the Cy Pres recipient, which can be monitored online by all Parties. Class Counsel are acting as a fiduciary for the Class with regard to the Settlement Account.

22. Settlement Administration Costs and Expenses. “Settlement Administration Costs and Expenses” means the costs and expenses reasonably necessary to facilitate and consummate the Settlement, including, but not limited to, the costs of printing and mailing Notice to the Class, mailing Settlement Checks to eligible Settlement Class Members, costs of fees and other related charges for setting-up banking for the payment and distribution to Settlement Class Members and any payment to the Settlement Administrator.

23. Settlement Administrator. “Settlement Administrator” means the entity chosen by the Parties to administer the class action settlement subject to any and all limitations placed on them by the Parties.

24. Settlement Amount. “Settlement Amount” means the amounts paid to each Settlement Class Member, including the Named Plaintiffs.

25. Settlement Checks. “Settlement Checks” are the checks used to pay the Settlement Class Members and the Cy Pres recipient issued from the Settlement Account.

26. Settlement Class Members. “Settlement Class Members” mean all Class Members whose Notice was not returned and who have not effectively opted out in



accordance with the procedures provided below. They are also referenced below as “Non-Judgment Settlement Class Members” and “Judgment Settlement Class Members.”

27. Settlement Funds. “Settlement Funds” are all monies to be paid to the Settlement Class Members and the Cy Pres recipient.

28. Fairness Hearing. “Fairness Hearing” means the final hearing for the Court to determine whether the Settlement of the Class Action is fair and reasonable and should be given final approval, and whether the applications of Class Counsel for attorneys’ fees, cost and expenses should be approved.

29. Parties. “Parties” means and refers to the Parties to this Settlement Agreement who are Named Plaintiffs, the Class Members who do not opt out, and Autovest.

### **TERMS OF SETTLEMENT**

30. Conditional Certification of Class. Solely for the purposes of settlement, providing Class Notice, and implementing this Settlement Agreement, the Parties agree to conditional certification of the Class as defined in paragraph 4, which shall be certified for settlement purposes only.

31. Class Member List. Within 7 days following preliminary approval of the Agreement, Autovest will provide Class Counsel with a declaration verifying the list of Class Members, which shall be divided into the Judgment Subclass and the Non-Judgment Subclass.

- a. For each Class Member, Autovest shall provide the: (a) name; (b) last known address; (c) date of the contract; (d) date of the last voluntary payment made by a person obligated under the contract; (e) date of sale of the collateral; (f) date of suit filed, if any, court and case number. Autovest shall use reasonable, good faith efforts to identify Class Members.
- b. Up to 3 days prior to the Notice Date, Class Counsel may suggest that other persons should be considered Class Members. Autovest shall either include those persons as Class Members, or provide Class Counsel with the reasons why they are not included.

32. Monetary Relief to Settlement Class Members. Within five (5) business days of the Effective Date, Autovest shall provide Class Counsel the Settlement Funds for deposit into the Settlement Account. Autovest's obligation for making this payment shall be satisfied upon receipt by Class Counsel of the Settlement Funds. Within 10 days from deposit of the monies into the Settlement Account, the Settlement Administrator shall then pay from the Settlement Account:

- a. each Non-Judgment Settlement Subclass Member the sum of \$500.00; and
- b. each Judgment Settlement Subclass Member the sum of \$100.00.

Each check issued to a Settlement Class Member pursuant to this Agreement shall conspicuously state "VOID AFTER 90 DAYS FROM DATE ISSUED."

33. Dismissal of Actions Pending Against Non-Judgment Settlement Subclass Members. Within ten (10) days after the Effective Date, Autovest will either dismiss or move to dismiss, with prejudice, all actions pending against Non-Judgment Settlement Subclass Members in which Autovest is the Plaintiff.

34. Waiver of Outstanding Balances for Non-Judgment Settlement Subclass Members. Within ten (10) days after the Effective Date, Autovest will waive, by means of a document transmitted to Class Counsel, any outstanding balances owed by the Non-Judgment Settlement Subclass Members. As of August 28, 2015, the amount being waived is believed to be \$296,903.13.

35. Monetary Relief to the Named Plaintiffs. Within 10 days after the Effective Date, Autovest will pay Two Thousand Dollars (\$2,000) to each Named Plaintiff, Brittany Folchi and Antonio Akins (the total sum of Four Thousand Dollars (\$4,000.00)), for substantial services performed throughout this Action on behalf of the Class. The payment to Named Plaintiffs shall be made by sending a check made payable to each Named Plaintiff to Class Counsel.

36. Waiver of Outstanding Balances for Named Plaintiffs. Upon the Effective Date, Autovest will waive any outstanding balances owed by the Named Plaintiffs. As of August 28, 2015, the amount being waived for Brittany Folchi is \$13,872.53, and the amount being waived for Antonio Akins is \$16,876.98, for a total of \$30,749.51.

37. Dismissal of Action Pending Against Antonio Akins. Within ten (10) days after the Effective Date, Autovest will submit an agreed entry of dismissal, with prejudice, of the action pending against Antonio Akins in the Hamilton County Municipal Court.

38. Disbursement of Settlement Funds. The Class Members will be mailed a “Notice” (as explained in Paragraph 43). All Settlement Class Members whose Notice is not returned as undeliverable by the U.S. Postal Service will be mailed a check for their share of the Settlement Funds as outlined in paragraph 32. A Class Member whose Notice was returned as undeliverable will not receive a share of the Settlement Fund, and will not be bound by the Release. No Settlement Class Member need submit a claim to receive a payment.

39. Uncashed/Unclaimed Checks. In the event a check becomes void or is returned, the Settlement Class Member shall forfeit his/her right to payment, but this Agreement shall in all other respects be fully enforceable against that Settlement Class Member. In the event that a Settlement Class Member requests that the Settlement Administrator reissue a check that the Settlement Class Member had been issued, the Settlement Administrator shall reissue a check if the originally-issued check is lost or damaged, but not if the originally-issued check is expired. Any Settlement Class Member who does not cash the check sent to them shall nonetheless remain a Settlement Class Member and be bound by this Agreement and the Release herein. However, if a

check is returned upon mailing with a corrected address, the Settlement Administrator shall resend the check to the updated address.

40. Payment Report. Within 120 days after the Distribution Date, the Settlement Administrator will provide to Class Counsel a report (“Payment Report”) detailing what payments were made and what checks were not cashed. We don’t need a report if we are able to monitor the account online. We can see for ourselves

41. Settlement Administration Costs and Expenses. Autovest will pay all Settlement Administration Costs and Expenses. Autovest will deposit an initial \$250.00 into the Settlement Account on the Effective Date. That \$250.00 will be used to fund the administrative cost of the Settlement Account, and any of the funds remaining once all Settlement Funds have been distributed to Settlement Class Members and the cy pres recipient will be returned to Autovest by Class Counsel within seven (7) days.

42. Attorney Fees, Costs & Expenses. Class Counsel has represented that prior to the mediation which led to this Agreement, they had spent in excess of 130 hours on this matter, and that since that time they have incurred additional time in the mediation and in the preparation of this Agreement and will continue to incur additional time, and that their rates for their services is \$300 per hour. Based on these representations, Autovest agrees not to oppose any application for fees and expenses by Class Counsel up to \$40,000.00, which will include reimbursement for all time spent as well as all costs and expenses incurred through the conclusion of the Action. Class Counsel must submit a

fee petition no later than five (5) business days prior to the Settlement Hearing. Within 10 days of the Effective Date, Autovest will pay Class Counsel the attorney fees approved by the Court, up to \$40,000.00.

43. Class Notice. The Parties agree that Autovest can reasonably identify all of the individual Class Members, making individual notice practical. Notice, in a form substantially equivalent to “Exhibit A,” will be sent to the Class Members via regular U.S. Mail by the Settlement Administrator within fourteen (14) days after entry of the Preliminary Approval Order. The Settlement Administrator will file a declaration of mailing of such notices with the Court within seven (7) days of mailing the last of the notices. Before addressing and mailing the envelopes containing the Notice, the Settlement Administrator will update the addresses by means of the National Change of Address databank (NCOA) maintained by the U.S. Postal Service. In the event a Class Notice is returned undeliverable, either Autovest or the Settlement Administrator will attempt locate an updated address for re-mailing using accessible contact information as defined herein..

44. Class Members’ Right of Exclusion. Any Class Member may seek to be excluded from this Settlement Agreement and from the Class within the time and in the manner provided in paragraph 49 of this Agreement and as approved by the Court. Any Class Member so excluded shall not be bound by the terms of this Settlement Agreement nor entitled to any of its benefits.

**RELEASED CLAIMS**

45. Upon entry of Final Judgment, each Named Plaintiff and each Settlement Class Member, and their respective Related Parties, shall be deemed to have, and by operation of this Settlement Agreement to have fully, finally, and forever released, relinquished, discharged, and waived, against Autovest and its Related Parties, any and all claims of whatever kind or nature, from the beginning of time to the date of Final Entry of Judgment, on account of any and all loss or damages of any kind whatsoever, known or unknown, arising out of, resulting from or relating to all allegations, claims or defenses that were or could have been raised in the Complaint or First Amended Complaint. Named Plaintiffs and the Settlement Class Members specifically release any and all claims against Autovest and its Related Parties, which claims relate to the actions alleged to have violated the FDCPA and OCSPA, including pre-litigation, litigation, and post-litigation activities. This Settlement does not prevent Autovest from continuing to properly attempt to collect the debts owed to Defendant by Judgment Class Members.

**NOTICE AND APPROVAL OF SETTLEMENT**

46. Preliminary Approval Motion. Immediately upon execution of this Agreement, and in accordance with the procedures and time schedules below, counsel for all Parties shall prepare and file all appropriate notices, motions, and proposed order forms, as reasonably necessary to obtain both preliminary and final approval of this

Settlement Agreement from the Court. All Parties shall cooperate, and as appropriate, shall join with their respective Counsel in seeking to accomplish the following:

- a. Immediately upon the execution of this Agreement by the Parties, counsel for the Parties shall either submit or file this Agreement in a manner consistent with the Court's procedures, along with any and all attachments, requesting preliminary approval from the Court which shall include a request that the Court approve the mailing of the Class Notice within fourteen (14) days of the entry of an order granting preliminary and/or conditional approval of this Agreement. All Parties shall join in that request, and shall support any order approving this Agreement through any appeal, if necessary; and
- b. The Preliminary Approval Order shall require and the Notice shall set forth that any objections to this Settlement Agreement must be made in writing, filed with the Court, and served upon Class Counsel as more fully described in paragraph 48, below. The Notice shall further provide that any objection that is not received within the time set by the Court is deemed waived. Class Counsel shall maintain a telephone number that may be called by Class Members who may have questions regarding this Settlement Agreement; and,



- c. Within ten (10) days after the filing of the Preliminary Approval Motion with the Court, Autovest shall serve upon the appropriate state official of each state in which a Class Member resides and the appropriate federal official a notice of the proposed Settlement, in accordance with the requirements of 28 U.S.C. § 1715, the Class Action Fairness Act (“CAFA”) (the “CAFA Notice”); and,
- d. The Parties shall jointly request a Settlement Hearing date, which shall be no less than 90 days after the CAFA Notice is served.

47. Preliminary Approval Order. The Preliminary Approval Order entered by the Court shall be substantially in the same form as “Exhibit B” attached hereto, but as a condition of this Settlement Agreement shall at a minimum contain the following provisions:

- a. Preliminary certification of the Class and approval of the Settlement Agreement set forth herein, and subject to any objections that may be presented to the Court prior to the Settlement Hearing, a finding that the Settlement Agreement is fair, adequate, reasonable, and in the best interests of the Class; and
- b. Approval of the form of a Notice of Settlement that includes the general terms of the settlement set forth in the Settlement Agreement (substantially in the form of “Exhibit A” attached hereto) and the procedures for

Objections and opt-outs described below, and directing the Settlement Administrator to cause to be mailed by first class mail the Notice to all Class Members at their respective addresses as derived from the Accessible Contact Information and as provided above within its files within fourteen (14) days from the date of execution of said order; and

- c. A finding that the mailing of the Notice by regular first class mail to all Class Members whose last known address has been identified, constitutes valid, due and sufficient notice to the Class Members and their Related Parties, and constitutes the best notice practicable under the circumstances, complying fully with the requirements of Rule 23 of the Federal Rules of Civil Procedure, the Constitution of the United States, and any other applicable law; and,
- d. Provide for the Parties to designate a Settlement Administrator.

48. Objections to Settlement. Any Class Member who does not opt-out and who objects to the Settlement contemplated by this Agreement shall have a right to appear and be heard at the Settlement Hearing provided that such Class Member mails a written notice of objection, including: (1) proof that the objector is a Class Member as defined in this Agreement; and (2) a statement of each objection being made. Any Class Member may appear in person or through counsel, at his or her own expense, at the Final Approval Hearing, to present any evidence or argument that may be proper and relevant.

If an objector wishes to be heard at the fairness hearing, the objector must also provide a list of witnesses (including each witness' mailing address and daytime telephone numbers) who may be called to testify at the Settlement Hearing, either live or by deposition or by affidavit, if any; and a list of exhibits, along with copies of those exhibits, that the objector may offer during the Settlement Hearing, if any (collectively, "the Objection"). The Objection shall be filed with the Court, via the Office of the Clerk, United States District Court for the Southern District of Ohio, Western (Cincinnati) Division, Room 103, Potter Stewart U.S. Courthouse, 100 E. Fifth St., Cincinnati, Ohio 45202, and delivered to both Class Counsel and Defendant's Counsel no later than twenty (20) days before the Settlement Hearing. Class Counsel and/or Defendant's Counsel may, but need not, respond to the Objections, if any, by means of a memorandum of law of no more than 15 pages filed and served no later than five (5) business days prior to the Settlement Hearing. The manner in which a notice of Objection should be prepared, filed and delivered shall be stated in the Notice. Only Class Members who have filed and delivered valid and timely written Objections will be entitled to be heard at the Settlement Hearing, unless the Court orders otherwise. Any Class Member who does not make his or her objection in the manner provided herein shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the Settlement or award of Attorney Fees to Class Counsel, unless otherwise ordered by the Court.

49. Exclusion from the Class. Any Class Member may seek to be excluded, or “opt-out,” from the Settlement. Any Class Member so excluded shall not be bound by the Settlement and shall not be entitled to any of its benefits. To be timely and effective, a request for exclusion must be mailed to the Office of the Clerk, United States District Court for the Southern District of Ohio, Western (Cincinnati) Division, Room 103, Potter Stewart U.S. Courthouse, 100 E. Fifth St., Cincinnati, Ohio 45202, and be post-marked no later than the Opt-Out Date set forth in the Class Notice. The Opt-Out Date will be the deadline set by the Court for posting opt-outs by Class Members. Any requests for exclusion postmarked after that date will have no legal effect. To be effective, the request for exclusion must make clear that the Class Member wants to be excluded from the settlement class in this Action. The request for exclusion must contain the excluded Class Member’s name, current address and signature.

### **FINAL JUDGMENT**

50. Final Judgment. The Final Judgment entered upon the Settlement Hearing by the Court shall include, at a minimum, the following provisions:

- a. A finding certifying the Class for settlement purposes only, as provided for in this Settlement; and,
- b. A finding that the distribution of the Notice fully and accurately informed all Class Members and Related Parties entitled to notice of the material elements of the Settlement, constituted the best notice practicable under the

circumstances, constituted valid, due and sufficient notice, and complied fully with Rule 23 of the Federal Rules of Civil Procedure, the United States Constitution and any other applicable law; and

- c. A finding that after proper notice to the Class Members and after sufficient opportunity to object, no timely Objections to this Settlement Agreement have been made, or that all timely Objections have been considered and denied; and
- d. Approval of the Settlement, as set forth in the Settlement Agreement, as fair, reasonable, adequate, and in the best interests of the Settlement Class Members, under Rule 23 of the Federal Rules of Civil Procedure, and a finding that the Settlement is in good faith, and ordering the Parties to perform the Settlement in accordance with the terms of this Settlement Agreement; and
- e. Subject to reservation of jurisdiction for matters discussed in subparagraph (g), below, dismisses with prejudice the Action, including the Amended Complaint; and
- f. A finding that all Settlement Class Members and their Related Parties shall, as of the entry of Final Judgment, conclusively be deemed to have released and forever discharged Autovest and its Related Parties from all Released Claims, and forever enjoining and barring all Settlement Class Members

and their Related Parties from asserting, instituting or prosecuting in any capacity, before any court or governmental agency, any action or proceedings against Autovest and its Related Parties that asserts any Released Claims; and

- g. A reservation of exclusive and continuing jurisdiction over the Action and the Parties for the purposes of, among other things: (i) supervising the implementation, enforcement, construction, and interpretation of the Settlement Agreement, the Preliminary Approval Order, and the Final Judgment; (ii) the determination of the award of attorney fees to class counsel; and (iii) supervising the administration and distribution of the relief to the Settlement Class Members and resolving any disputes that may arise with regard to any of the foregoing.

**CONDITIONS OF SETTLEMENT, EFFECT OF  
DISAPPROVAL, RESCISSION OR TERMINATION**

51. This Settlement Agreement, including the release herein, shall be null and void, and the provisions of paragraph 52 below shall apply, if any of the following conditions fail to occur or be satisfied prior to the date of the Final Judgment Entry:

- a. All non-Settlement related activities regarding the First Amended Class Action Complaint shall be, and shall remain, stayed by the Court pending Final Judgment approving this Settlement Agreement; and

- b. All Parties shall approve, execute, and perform all such acts or obligations that are required by this Settlement Agreement to be performed prior to the entry of Final Judgment; and
- c. A Preliminary Approval Order, in a form as described by paragraph 47 above and attached as “Exhibit B,” shall be entered by the Court; and
- d. A Final Judgment, substantially in a form as described as paragraph 50 above, shall be entered by the Court; and
- e. Subject to the reservation of jurisdiction for matters described in paragraph 50(g), the Action must be dismissed with prejudice.

52. In the event of the failure of any of the conditions set forth in paragraph 51, or this Settlement Agreement is finally rejected upon the Settlement Hearing, or in the event a Final Judgment is not entered, or does not become final, then the terms of this Agreement shall be null and void:

- a. The terms of this Agreement shall have no further force and effect with respect to the Parties; and,
- b. This Agreement shall not be used in any litigation for any purpose; provided, however, this Agreement may be used for bringing an action for failure of a Party to take steps required by this Agreement; and,

- c. The Parties shall be restored to their respective positions in the litigation as of the date of the Settlement Agreement and nothing in this Settlement shall be deemed to prejudice the position of the Parties with respect to the Action or otherwise, or deemed to be a presumption, concession or admission by Autovest or any waiver of any affirmative defense, nor of any fault, liability or wrongdoing,
- d. The Parties waive and release any and all claims they may have as a result of any proper and effective termination of the Settlement.

**MISCELLANEOUS PROVISIONS**

53. Named Plaintiffs' Representations. The Named Plaintiffs represent and certify that: (i) they qualify as Class Members, and have not sold, assigned, nor encumbered any claim they may have against Autovest arising out of or relating to the allegations made in the Action; (ii) they have agreed to serve as the representatives of the Class proposed to be certified herein; (iii) they are willing, able and ready to perform all of the duties and obligations of a representative of the Class; (iv) they have read this Settlement Agreement, including its Exhibits, and that they agree to the terms of the settlement set forth herein; (v) they have been provided with the opportunity to consult with counsel of their choice about the Action, this Settlement Agreement, and the obligations of a representative of the Class; (vi) they have consulted Class Counsel about the Action, the settlement, and the obligations of a representative of the Class; (vii) they



have authorized Class Counsel to execute this Agreement on their behalf; and (viii) they will remain and serve as representatives of the Class until the terms of this Settlement are effectuated, this Settlement is terminated in accordance with its terms, or the Court at any time determines that either or both of the Named Plaintiffs cannot represent the Class.

54. Conditions to Void Settlement. The Settlement herein shall become voidable at the option of either Party if ten (10) percent or more of the total number of Class Members choose to exclude themselves from the Settlement.

55. Enforcement. The Parties acknowledge that any misrepresentation made herein or violation of the Settlement Agreement or any of the releases will cause immediate irreparable injury for which no remedy at law is adequate. If any Party fails to perform his, her or its obligations hereunder, any other Party shall be entitled to specific performance, including through mandatory preliminary and injunctive relief, in addition to such other remedies as provided herein. Nothing contained herein shall be construed to preclude any Party from applying for contempt or other remedy or sanction provided by the Federal Rules of Civil Procedure for breach of this Settlement Agreement.

56. Agreement to Cooperate. The Parties: (a) acknowledge that it is their intent to execute the Settlement; and (b) agree to cooperate to the extent necessary to effectuate and implement all terms and conditions of the Settlement and to exercise their best efforts to accomplish the foregoing terms and conditions of the Settlement.

57. Good Faith Settlement and Advice of Counsel. The Parties agree that the terms of the Settlement reflect a good-faith settlement of the Named Plaintiffs' and other Class Members' claims in the Action, reached voluntarily after consultation with experienced legal counsel.

58. Incorporation. All of the Exhibits to the Settlement are material and integral parts of the Settlement and are fully incorporated herein by this reference.

59. No Waiver. The waiver of one Party of any breach of this Settlement Agreement by any other Party shall not be deemed a waiver of any other prior or subsequent breach of this Settlement Agreement; nor shall such a waiver be deemed a waiver by any other Party of that breach or a waiver by that Party of any other Party's breach.

60. Modification. The Agreement may be amended or modified only by a written instrument signed by or on behalf of all Parties or their successors-in-interest.

61. Tax Issues. The amounts that Autovest claims are owed by Settlement Class Members are disputed. The Named Plaintiffs allege that Autovest's entitlement to any alleged deficiencies is barred by operation of law. Autovest disputes this contention. Neither Party has made representations regarding any potential tax liability.

62. Headings. The heading of the paragraphs herein are for convenience only and do not define, limit, or construe the contents of this Settlement.

63. Entire Agreement. Except as provided herein, the Settlement and the Exhibits attached hereto constitute the entire agreement among the Parties, and no representations, warranties, or inducements have been made to any Party concerning the Agreement or its Exhibits other than the representations, warranties and inducements contained and memorialized in the Agreement and the Exhibits.

64. Authority to Settle. Class Counsel warrant that they are expressly authorized by the Named Plaintiffs to take all appropriate action to effectuate the terms and conditions of the Settlement and also are expressly authorized to enter into any modifications of, or amendments to, the Settlement on behalf of the Class which they deem appropriate.

65. Authority to Execute. Each counselor or other person executing the Settlement or any of its Exhibits on behalf of any Party hereto hereby warrants that he or she has the full authority to do so.

66. Counterparts. The Settlement may be executed in one or more counterparts, each of which shall be deemed to be one and the same instrument. Counsel for all the Parties shall exchange among themselves signed counterparts, and a complete set of executed counterparts shall be filed with the Court.

67. Binding Effect. The Settlement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto. All Parties waive the right to appeal or collaterally attack the Final Judgment entered under this Settlement Agreement.

68. Exclusive Jurisdiction and Venue for Enforcement. Any dispute relating to this Settlement and/or Final Judgment shall be resolved exclusively in the United States District Court for the Southern District of Ohio, Western Division, which shall retain exclusive jurisdiction and venue with respect to the consummation, implementation, enforcement, construction, interpretation, performance, and administration of the Settlement and/or Final Judgment. The Parties agree to submit to the Court's exclusive jurisdiction and venue for the purposes described above.

69. Choice of Law. This Agreement and any document executed in furtherance of the Settlement shall be governed by, subject to, and construed in accordance with the laws of the state of Ohio.

70. Drafting. The Settlement shall be deemed to have been jointly prepared by the Parties and shall not be construed against any of them by reason of authorship.

71. No Liability or Admission of Wrongdoing. Autovest denies having engaged in any improper, wrongful or illegal activity or having violated any law or regulation or that any person or entity has suffered any harm or damages as a result of any conduct alleged in the action. Autovest has agreed to the terms of the Settlement solely in the interest of avoiding costly and protracted litigation and the risk of an uncertain outcome in the Action. This Settlement and all negotiations, papers, writings, statements and/or proceedings in connection therewith are not, and shall not in any way be construed or used as or deemed to be evidence of an admission or concession on the

part of Autovest of fact, law or otherwise, including but not limited to: (i) an admission or concession of any liability or wrongdoing; (ii) an admission or concession that any or all of the Class Members have suffered damage; or (iii) an admission or concession that this case is properly maintainable as a class action apart from this Settlement. Neither this Settlement Agreement nor any document associated with it shall be deemed to be or construed as an admission by any Party of any act, matter, proposition, or as reflecting any merit or lack of merit of any claim or defense, including but not limited to the appropriateness of class treatment of this Action.

72. Timetable of Events.

Task/Event	Description	Time Period	Planned Dates
<b><u>Preliminary Approval Motion</u></b>	The Parties will request that the Court enter the Preliminary Approval Order.	Immediately upon execution of the Settlement Agreement	X/X/2015
<b><u>Notice Period</u></b>	Period during which the Settlement Administrator will disseminate the Notice to Class Members.	Within 14 days of entry of the Preliminary Approval Order	X/X/2015
<b><u>Mailing Declaration</u></b>	The Settlement Administrator to provide Declaration that the Notice to Class Members has been disseminated	Within 7 days after the Notice to Class Members is mailed	X/X/2015

<b><u>CAFA Notice</u></b>	Deadline for Autovest to serve upon the appropriate state official of each state in which a Class Member resides and the appropriate federal official a notice of the proposed Settlement, in accordance with the requirements of 28 U.S.C. § 1715, the Class Action Fairness Act	Within 10 days of entry of the filing of the Preliminary Approval Motion	X/X/2015
<b><u>Exclusion, Objection, Notice of Intent to Appear Deadline</u></b>	Deadline for Class Members to: (a) opt out of the Settlement Agreement by serving written opt-out request, and/or (b) object to proposed settlement by filing written objection	20 days prior to Settlement Hearing	X/X/2015
<b><u>Deadline for Attorney Fee Petition, Motion to Approve Incentive Award</u></b>	Class Counsel must submit fee petition and motion to approve incentive award	5 business days prior to the Settlement Hearing	X/X/2015
<b><u>Settlement Hearing</u></b>	At the conclusion of the Settlement Hearing, the Parties will request the Court to enter the Final Approval Order and Judgment	Not earlier than 90 days after the CAFA Notice is served	X/X/2015
<b><u>Effective Date</u></b>	Date upon which Agreement is deemed final and effective	Assuming no appeal has been filed, 35 days following the Final Judgment	X/X/2015
<b><u>Deadline for Return or Destruction of Discovery and/or Confidential Documents</u></b>	All originals and copies of documents produced in discovery or subject to a confidentiality agreement or protective order shall be returned or destroyed	Within 35 days after the Effective Date	X/X/2015

<b><u>Distribution Date</u></b>	Date for payments to Settlement Class Members	10 days after the Effective Date	X/X/2015
<b><u>Dismissal of Pending Actions</u></b>	Deadline to dismiss actions pending against Antonio Akins and Non-Judgment Settlement Subclass Members	10 days the Effective Date	X/X/2015
<b><u>Payment Report</u></b>	The Settlement Administrator will determine the total amount of claims actually paid out on negotiated checks and parties in writing	Within 120 days of Distribution Date	X/X/2015

IN WITNESS WHEREOF, the Parties and their counsel have executed this Settlement, intending to be legally bound hereby.

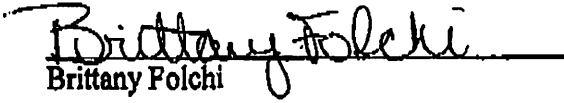
For Named Plaintiffs and Class Members:

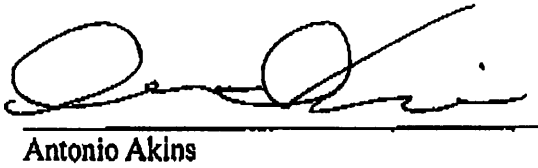
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