

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

N° : 500-06-000180-022

(CLASS ACTION)
SUPERIOR COURT

MICHEL TARDIF

-and-

DOMINIC DESBIENS

Plaintiffs

v.

HYUNDAI MOTOR AMERICA

Defendant

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

N° : 500-06-000196-036

(CLASS ACTION)
SUPERIOR COURT

PAUL MILLER

Plaintiffs

v.

KIA CANADA INC.

Defendant

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into by and between, on the one hand, the Representative Plaintiffs, on behalf of themselves and their respective Classes, and, on the other, the Settling Defendants, to settle and compromise the Litigation and settle, resolve, and discharge the Released Claims (as those terms are defined below), in accordance with the terms and conditions herein.

1. **Definitions**

As used herein, the following terms have the meanings set forth below:

- a) **“Approval Notice”** means the notice which will be (a) substantially in the form of Appendix A hereto and (b) approved by the Court;
- b) **“Approval Notice Date”** means the date on which the Approval Notice is first published, which shall be no more than thirty (30) days following the date of entry of the Approval Order or such other period as may be approved by the Court;

- c) “**Approval Order**” means the order of the Court which will approve this Settlement Agreement;
- d) “**Claim Deadline**” means 90 days from the Approval Notice Date;
- e) “**Claim Form**” means a document, substantially in the form of Appendix B hereto, that an Eligible Class Member must complete and submit to receive compensation hereunder;
- f) “**Class Counsel**” means the law firms of Trudel & Johnston s.e.n.c. and Belleau Lapointe s.a.;
- g) “**Classes**” means the Hyundai Class and the Kia Class;
- h) “**Class Member**” means a member of the Hyundai Class and/or the Kia Class that did not exclude his, her or itself in accordance with the provisions of sections 1007 and 1008 of the *Code of Civil Procedure*;
- i) “**Consumer**” means an individual who purchased or leased his or her vehicle from a merchant and for personal use;
- j) “**Court**” means the Superior Court of Quebec;
- k) “**Eligible Class Member**” means a Class Member who was the owner and/or lessee of a Subject Vehicle on September 9, 2002;
- l) “**Final**” means, when used in relation to the Approval Order, the time at which the Approval Order has been entered and all rights of appeal therefrom have been exhausted;
- m) “**Group A Vehicles**” means all vehicles with respect to which the Horsepower Disparity exceeded seven percent (7%), which are listed in the 6th column of the Horsepower Disparity table found at Appendix C hereto, and consists of the Accent 1.5 litre DOHC (1996), Santa Fe 2.4 litre (2002), Sonata 2.4 litre (2001-2002), Sonata 2.0 litre (1997-1998) and KIA Magentis 2.4 Litre (2002);
- n) “**Group B Vehicles**” means all vehicles with respect to which the Horsepower Disparity was between five percent (5.0%) and seven percent (7.0%), which are listed in the 6th column of the Horsepower Disparity table found at Appendix C hereto, and consists of the Accent 1.5 litre DOHC (1997), Sonata 2.7 litre (2002), Tiburon 2.7 litre (2003) and KIA Magentis 2.4 Litre (2001);
- o) “**Group C Vehicles**” means all vehicles with respect to which the Horsepower Disparity was between four percent (4.0%) and five percent (5.0%), which are listed in the 6th column of the Horsepower Disparity table found at Appendix C hereto, and consists of the Accent 1.5 litre (1999), Santa Fe 2.7 litre (2001-2002), Sonata 2.5 litre (2000), Tiburon 2.0 litre (2003), Elantra 1.8 litre (1997), XG300 3.0 litre (2001) and KIA Magentis 2.7 Litre V6 (2002);
- p) “**Group D Vehicles**” means all vehicles with respect to which the Horsepower Disparity was between two and one-half percent (2.5%) and four percent (4%), which are listed in the 6th column of the Horsepower Disparity table found at Appendix C hereto, and consists of the Elantra 2.0 litre (2000-2002), Tiburon 2.0 litre (1997-

- 2001), Accent 1.5 litre (2001-2002), Sonata 2.5 litre (2001), Accent 1.6 litre (2002) and KIA Magentis 2.5 Litre V6 (2001);
- q) “**Group E Vehicles**” means all vehicles with respect to which the Horsepower Disparity was less than two and one-half percent (2.5%), which are listed in the 6th column of the Horsepower Disparity table found at Appendix C hereto, and consists of the Accent 1.5 litre (1998, 2000), Accent 1.5 litre SOHC (1995-1997), Scoupe 1.5 litre Turbo (1993-1994), Scoupe 1.5 litre (1993-1995), Elantra 1.8 litre (1998), Tiburon 1.8 litre (1997), Sonata 2.0 litre (1995-1996), and Sonata 2.4 litre (2000);
 - r) “**Horsepower Disparity**” means the difference between (i) a Subject Vehicle's horsepower rating as originally published by the Settling Defendants and as set out in the 4th column of the table at Appendix C hereto, and (ii) a Subject Vehicle's horsepower rating as restated by the Settling Defendants on September 9, 2002 and as set out in the 5th column of the table at Appendix C hereto, expressed as a percentage as set out in the 6th column of the table at Appendix C hereto;
 - s) “**Hyundai**” means Hyundai Motor America;
 - t) “**Hyundai Class**” means all Consumers who have ever purchased and/or leased a Hyundai Subject Vehicle in the Province of Quebec;
 - u) “**Hyundai Goodwill Program**” means the program announced by Hyundai concurrently with the disclosure of Horsepower Disparities, in September 2002, under which program Hyundai offered (a) to owners of 1999 and earlier model-year Subject Vehicles with respect to which the Horsepower Disparity exceeded four percent (4%), a three-year, unlimited kilometres, roadside assistance plan and, (b) to owners of 2000 and later model-year Subject Vehicles with respect to which the Horsepower Disparity exceeded four percent (4%), their choice of (i) an extra three years of roadside assistance, (ii) an extension of the three-year/60,000-kilometre, new vehicle warranty to four years/80,000 kilometres, or (iii) an extension of the five-year/100,000-kilometre power train warranty to six years/120,000 kilometres;
 - v) “**Information Letter**” means a letter substantially in the form as set out in Appendix D hereto;
 - w) “**Kia**” means Kia Canada Inc.;
 - x) “**Kia Class**” means every Person who has ever purchased and/or leased a Kia Subject Vehicle in the Province of Quebec;
 - y) “**Litigation**” means *Michel Tardif and Dominic Desbiens v. Hyundai Motor America* (Court File No.: 500-06-000180-022), pending in the Superior Court of Quebec, district of Montreal, and *Paul Miller v. KIA Canada Inc.* (Court File No.: 500-06-000196-036) pending in the Superior Court of Quebec, district of Montreal;
 - z) “**Long Form Pre-Approval Notice**” means the notice which will be (a) substantially in the form of Appendix E hereto and (b) approved by the Court;
 - aa) “**Newspapers**” means La Presse, Le Soleil, The Gazette, Le Journal de Montréal and Le Journal de Québec;

- bb) **"Notice of Denial"** means a notice substantially in the form as set out in Appendix F hereto;
- cc) **"Parties"** means the Representative Plaintiffs and Settling Defendants;
- dd) **"Person"** means an individual, corporation, general partnership, limited partnership, association, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, any business or legal entity, and such individual's or entity's spouse, heirs, predecessors, successors, representatives, and assignees;
- ee) **"Pre-Approval Order"** means the order of the Court which will approve the Short Form Pre-Approval Notice and the Long Form Pre-Approval Notice;
- ff) **"Proof of Ownership"** means (i) a copy of the vehicle's registration certificate, (ii) a copy of the vehicle's purchase agreement, (iii) a copy of the vehicle's lease agreement, or (iv) an affidavit, duly sworn, attesting to the fact that the Class Member owned the Subject Vehicle, or (v) an affidavit, duly sworn, attesting to the fact that the Class Member was the lessee of the Subject Vehicle;
- gg) **"Released Claims"** means any and all claims, demands, rights, liabilities, and causes of action of every nature and description whatsoever, known or unknown, matured or un-matured, at law, whether in delict, contract or under any other right at law, existing under federal or provincial law, that either of the Representative Plaintiffs, or any Class Member, has or may have against the Released Persons arising out of or in any way related to an alleged or actual Horsepower Disparity, however they might be described, including but not limited to the claims asserted in the Litigation;
- hh) **"Released Persons"** means Hyundai Auto Canada, Hyundai, KIA and their past and present partners, affiliates and predecessors, successors, assigns, parents, subsidiaries, insurers, officers, directors, employees and dealers, and all Persons who could claim contribution and indemnity, with respect to Released Claims, from any of the foregoing Persons;
- ii) **"Representative Plaintiffs"** means Michel Tardif, Dominic Desbiens and Paul Miller;
- jj) **"Settling Defendants"** means Hyundai and KIA;
- kk) **"Settling Defendants' Counsel"** means Nicholl Paskell-Mede, SENC;
- ll) **"Settling Parties"** means, collectively, the Released Persons, the Representative Plaintiffs, and all Class Members;
- mm) **"Short Form Pre-Approval Notice"** means the notice which will be (a) substantially in the form of Appendix G hereto and (b) approved by the Court;
- nn) **"Subject Vehicles"** means all Group A, Group B, Group C, Group D and Group E vehicles;
- oo) **"Valid Claim"** means a Claim Form properly completed and signed by an Eligible Class Member, submitted with Proof of Ownership, postmarked no later than the

Claim Deadline and posted to either Hyundai Auto Canada at 75 Frontenac Drive, Markham, Ontario L3R 6H2 or Kia Canada Inc., Customer Service, 180 Foster Crescent, Mississauga, Ontario L5R 4J5. For more certainty, a Claim Form submitted to Kia by a Member of the Hyundai Class, or a Claim Form submitted to Hyundai by a Member of the Kia Class, is a Valid Claim if properly completed and signed by an Eligible Class Member, submitted with Proof of Ownership and postmarked no later than the Claim Deadline;

pp) “**Websites**” means www.trudeljohnston.com and www.recourscollectif.info;

2. **Denial of Liability and Fault**

- a) The Settling Defendants deny the material factual allegations and legal claims asserted by the Representative Plaintiffs in the Litigation, including any and all charges of wrongdoing or liability arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Litigation. Nonetheless, the Settling Defendants have concluded that further conduct of the Litigation would be protracted and expensive, and that it is desirable that the Litigation be fully and finally settled in the manner and upon the terms and conditions set forth in this Settlement Agreement.
- b) If this Settlement Agreement is not approved by the Court in accordance with its terms, or if the Approval Order does not become Final following its entry, the Litigation between the parties will continue.

3. **Benefits of Settlement Agreement**

The Representative Plaintiffs believe that the Released Claims have merit. The Representative Plaintiffs recognize and acknowledge, however, the expense and duration of continued proceedings that would be necessary to prosecute the Released Claims against the Settling Defendants through trial and appeals. The Representative Plaintiffs also have taken into account the uncertain outcome and the risk of any litigation, especially in complex actions such as this Litigation, as well as the difficulties and delays inherent in such litigation. The Representative Plaintiffs are mindful of the inherent problems of proof of, and possible defences to, the Released Claims. The Representative Plaintiffs believe that the proposed Settlement Agreement confers substantial benefits upon the Classes. Based on their evaluation of all of these factors, the Representative Plaintiffs have determined that this Settlement Agreement is in the best interests of the Classes.

4. **Pre-Approval Order**

Promptly after execution of this Settlement Agreement, the Representative Plaintiffs, on consent of the Settling Defendants, will move before the Court for entry of the Pre-Approval Order.

5. **Dissemination of Pre-Approval Notices**

The Parties will cooperate and do all that is reasonably necessary to ensure that the Long Form and Short Form Pre-Approval Notices are disseminated on a timely basis and in conformity with the Pre-Approval Order. The Short Form Pre-Approval Notice will be published as soon as practicable following the Pre-Approval Order and at least 30 days prior to the approval hearing in La Presse, Le Soleil and The Gazette in a size of at least 1/8 page. As for the Long Form Pre-Approval Notice it will be posted on the Websites prior to the first publication of the Short Form Pre-Approval Notice.

6. **Scheduling Approval Hearing**

Contemporaneously with their motion for entry of the Pre-Approval Order, the Representative Plaintiffs, on consent of the Settling Defendants, will request that the Court, after dissemination of the Pre-Approval Notice to the Class in accordance with the Pre-Approval Order, hold a hearing on whether this Settlement Agreement should be granted final approval.

7. **Motion for Approval Order**

Promptly following entry of the Pre-Approval Order, the Representative Plaintiffs, on consent of the Settling Defendants, will bring a motion for approval of the Approval Notice and entry of the Approval Order. Subject to the Court's approval, the Approval Order will:

- a) declare that this Settlement Agreement is fair, reasonable and in the best interests of the Class Members;
- b) approve this Settlement Agreement and order the Parties and the Class Members to comply with it;
- c) require that the Approval Notice be provided to the Class Members by the Approval Notice Date;
- d) declare that the claim must be postmarked no later than the Claim Deadline;
- e) declare that the Litigation be settled out of Court ; and
- f) make such further and other orders as to the approval, implementation and administration of this Settlement Agreement as the Court may deem just.

8. **Dissemination of Approval Notice**

The Parties will cooperate and do all that is reasonably necessary to ensure that the Approval Notice is disseminated on a timely basis and in conformity with the Approval Order. The Approval Notice will be (a) published as soon as practicable following the Approval Order, a Saturday, in the "News" section of the Newspapers in a size of at least ½ page in the Journal de Montréal and the Journal de Québec and in a size of at least 3/8 page in La Presse, Le Soleil and The Gazette, (b) posted on the Websites and (c) mailed by the Settling Defendants together with the Claim Form and at least 10 days prior to its first publication in the Newspapers to all Class Members, at their last known address, who, according to Settling Defendants records, owned or leased a Group A, B, C, or D Subject Vehicle as of September 9, 2002.

9. **Releases**

Upon the Approval Order becoming Final, the Representative Plaintiffs and each of the Class Members will be deemed to have, and by operation of the Approval Order will have, fully, finally, and forever released, relinquished, and discharged the Released Persons from all Released Claims.

10. **Eligibility**

Only Eligible Class Members are entitled to compensation under this Settlement Agreement.

11. **Fonds d'aide aux recours collectifs**

Every payment made by the Settling Defendants to an Eligible Class Member is subject to the *Regulation respecting the percentage withheld by the Fonds d'aide aux recours collectifs*. The Settling Defendants hereby undertake to withhold the amount provided for in said *Regulation* from every compensation paid to an Eligible Class Member. The Settling Defendants also hereby undertake jointly and severally to pay the totality of said withheld amounts to the Fonds d'aide aux recours collectifs in one instalment, no later than 45 days after the Claim Deadline, such payment to discharge Class Counsel, Representative Plaintiffs and/or Class Members from any obligation under the Regulation. Class Counsel hereby undertake to reimburse the *Fonds d'aide aux recours collectifs* for all financial assistance provided to them.

12. **Administration of Claims**

The Settling Defendants will be responsible for administering the claims and Claim Forms with respect to their respective Classes and will take all actions reasonably necessary to ensure that such claims and Claim Forms are correctly processed in a timely manner. The Settling Defendants hereby undertake to cooperate with each other in the administration of the claims and Claim Forms. Hyundai also hereby undertakes to promptly forward to Kia any claim, Claim Form and supporting documentation that should be dealt with by Kia, and Kia hereby undertakes to promptly forward to Hyundai any claim, Claim Form and supporting documentation that should be dealt with by Hyundai.

13. **Compensation to the Hyundai Class**

To all Eligible Class Members of the Hyundai Class who submit a Valid Claim, Hyundai will pay the following amounts, less the amount withheld to the benefit of the Fonds d'aide aux recours collectifs as provided for herein:

- a) As for a Subject Vehicle with respect to which the offer of the Hyundai Goodwill Program was not accepted or was not available, the amount set out under the applicable row of Column 3 in Appendix H hereto;
- b) As for a Subject Vehicle with respect to which the offer of the Hyundai Goodwill Program was accepted, the amount set out under the applicable row of Column 4 in Appendix H hereto;

14. **Compensation to the Kia Class**

To all Eligible Class Members of the Kia Class who submit a Valid Claim, Kia will pay the amount set out under the applicable row of Column 3 in Appendix H hereto, less the amount withheld to the benefit of the Fonds d'aide aux recours collectifs as provided for herein.

15. **Payment of Compensation**

No later than 45 days after the Claim Deadline, each Settling Defendant will mail or cause to be mailed the Information Letter together with a cheque in the amount provided for at sections 13 and 14 herein to each Eligible Class Member of their respective Classes who submits a Valid Claim.

16. **Denied Claims**

No later than 45 days after the Claim Deadline, each Settling Defendant will mail or cause to be mailed a Notice of Denial to each Person who has filed a Claim Form, who they consider in good faith not to have a Valid Claim or who, for any reason, is not entitled to any compensation. The Settling Defendants will also provide Class Counsel with a summary list (which shall include the name of each Person who was sent a Notice of Denial, the coordinates of each of those Persons and the reason for each denial) of all such Notice of Denial within the same time limit.

17. **Right to Dispute Settling Defendants' Disposition of a Claim**

Each Class Member may dispute the Settling Defendants' disposition of his, her or its claim by submitting to Class Counsel a written statement of the reasons why such Class Member believes his, her or its claim is a Valid Claim or is entitled to a higher compensation amount than the amount paid by the Settling Defendants. Such written statement must be postmarked no later than one-hundred-and-fifteen (115) days after the Claim Deadline. Within one-hundred-and-forty-five (145) days following the Claim Deadline, Class Counsel and Settling Defendants' Counsel will confer and consult in good faith for the purpose of resolving all the disputed claims and the Settling Defendants will then re-evaluate said disputed claims in good faith. If after a further thirty (30) days any such disputed claim remain unresolved, then the Class Members whose disputed claims remain unresolved may apply in writing to the Court for an order compelling the Settling Defendants to pay such compensation as such Class Members consider themselves to be entitled to under this Settlement Agreement. The decision of the Court with respect to such dispute will be final and not subject to appeal.

18. **Accounting**

No later than ninety (90) days after the Claim Deadline, the Settling Defendants will render an accounting to Class Counsel. Such accounting will include at least the following information:

- a) For all Subject Vehicles, the total number of claims received;
- b) For all Subject Vehicles, the total number of claims received for which the Hyundai Goodwill Offer was accepted;
- c) For all Subject Vehicles, the total number of claims accepted and the total amount paid therefore;
- d) For all Subject Vehicles, the total number of claims accepted for which claim the Hyundai Goodwill Offer was accepted and the total amount paid therefore;
- e) For all Subject Vehicles, the total number of claims denied;
- f) The number of Approval Notices and Claim Forms that were mailed;
- g) The number of Approval Notices and Claim Forms that were not delivered and returned to Settling Defendants;

19. **Post Settlement Work**

Class Counsel will monitor the administration of the claims by the Settling Defendants on a best efforts basis and may also assist Class Members in the exercise of their right to dispute Settling Defendants' disposition of their claim. For such post settlement work, the Settling Defendants agree to jointly and severally pay to Class Counsel reasonable fees at their usual hourly-rates and their reasonable expenses in an amount not to exceed twenty-five thousand dollars (\$25,000.00), plus applicable taxes, on presentation of a detailed invoice showing the time, duration and nature of professional services rendered and the applicable hourly rate in each case. Class Counsel will provide the Settling Defendants with a table showing their usual hourly rates for the calendar years 2006 and 2007 at the time of signature of this Settlement Agreement. Settling Defendants will make this payment within thirty (30) days of presentation of said invoice.

20. **Indemnity**

In addition to the Compensation set out above, Hyundai will pay an indemnity in the amount of five thousand dollars (\$5,000.00) to each of the Representative Plaintiffs of the Hyundai Class, Michel Tardif and Dominic Desbiens, and Kia will pay an indemnity in the amount of two thousand five hundred dollars (\$2,500.00) to the Representative Plaintiff of the KIA Class, Paul Miller. On same business day as the present Settlement Agreement is signed, the Settling Defendants will deposit the total amount of twelve thousand five hundred dollars (\$12,500.00) into a dedicated and separately identifiable interest-bearing trust account held by Settling Defendants' Counsel at a recognized Canadian banking institution. Within five business days of such deposit, Settling Defendants' Counsel will provide Class Counsel with a notice of such deposit. Once the Approval Order becomes Final, Settling Defendants' Counsel will remit the deposit of twelve thousand five hundred dollars (\$12,500.00) and all interest accumulated on these amounts to Class Counsel, for the benefit of the Representative Plaintiffs in the proportion set out herein. In the event this Settlement Agreement is not finally approved, the deposited funds and all interest thereon shall be returned no more than five (5) days later to the Settling Defendants.

21. **Administration Costs**

The Settling Defendants will jointly and severally bear (a) all costs and expenses of disseminating the Long-Form and Short Form Pre-Approval Notices and the Approval Notice and Claim Form, in accordance, respectively, with the Pre-Approval Order and the Approval Order, and (b) all costs and expenses of administering the Settlement Agreement, including, but not limited to, the costs and expenses associated with receiving, processing and responding to Claim Forms and issuing and mailing cheques. Under no circumstances will the Class Counsel, Representative Plaintiffs and/or the Class Members have any liability to the Settling Defendants for any of the costs or expenses referred to in the first sentence of this Section or any other fees, costs, expenses, or charges of the Settling Defendants in connection with the Litigation or the Settlement Agreement.

22. **Class Counsel's Expenses**

The Settling Defendants jointly and severally agree to reimburse Class Counsel's reasonable expenses directly related to the conduct of the Litigation and incurred prior to the Approval Notice Date (i.e. experts, photocopies, faxes, transcripts, bailiffs, etc.) up to a maximum of forty five thousand dollars (\$45,000.00) plus applicable taxes, the whole on presentation of proper receipts. Settling Defendants will make this payment within thirty (30) days of presentation of said receipts, which will be all sent at one time.

23. **Class Counsel's Fees**

The Settling Defendants agree to jointly and severally pay fees to Class Counsel in the amount of one million two hundred and fifty thousand dollars (\$1,250,000.00), plus applicable taxes. On same business day as the present Settlement Agreement is signed, the Settling Defendants will deposit one million two hundred and fifty thousand dollars (\$1,250,000.00), plus applicable taxes, into a dedicated and separately identifiable interest-bearing trust account held by Settling Defendants' Counsel at a recognized Canadian banking institution. Within five business days of such deposit, Settling Defendants' Counsel will provide Class Counsel with notice of such deposit. Once the Approval Order becomes Final, Settling Defendants' Counsel will remit the deposit of one million two hundred and fifty thousand dollars (\$1,250,000.00), plus applicable taxes and all interest accumulated on these amounts to Class Counsel. In the event this Settlement Agreement is not finally approved, the deposited funds and all interest thereon shall be returned no more than five (5) days later to the Settling Defendants.

24. **Allocation of Fees**

The Class Counsel fees will be allocated among Class Counsel in proportions mutually agreed between them and at their sole discretion.

25. **Other Costs**

The Settling Defendants will not be liable to pay any other costs or fees to the Representative Plaintiffs or to Class Counsel, other than the compensation as provided for at sections 13 and 14 herein, post settlement work as provided for at section 19 herein, the indemnity as provided for at section 20 herein, Class Counsel's expenses as provided for at section 22 herein and Class Counsel's fees as provided for at section 23 herein.

26. **The Settling Defendants' Right to Set Aside Settlement Agreement**

The Settling Defendants will have the right to set aside or rescind this Settlement Agreement, in their sole discretion, if any of the following events occur:

- a) **Objection(s) to Settlement Agreement Sustained.** If any objection to the Settlement Agreement is sustained and the Approval Order is not rendered; or
- b) **Modification(s) by Court.** If there are any modifications to this Settlement Agreement (including its Appendices) by the Court that increase the costs or legal exposure to the Settling Defendants of entering into, or carrying out, this Settlement Agreement.

27. **Non-Approval**

If this Settlement Agreement is not approved by the Court, or the Settlement Agreement is terminated or fails to become effective in accordance with its terms, the Settling Parties will be restored to their respective positions in the Litigation as of September 18, 2006. In such event, the terms and provisions of this Settlement Agreement, with the exception of sections 2(b), 21, 28 and 29 (e), (g), (i) and (j), will have no further force and effect with respect to the Settling Parties and will not be used in this Litigation or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of this Settlement Agreement will be treated as vacated, *nunc pro tunc*. No order of the Court or modification or reversal on appeal of any order of the Court concerning any award of counsel fees, expenses, or costs to Class Counsel will constitute grounds for cancellation or termination of this

Settlement Agreement, unless the order increases the Settling Defendants' financial responsibility in connection with the Settlement Agreement or imposes responsibilities on the Settling Defendants that increase the costs or legal exposure to the Settling Defendants.

28. **Notices**

Any notification, request, instruction or other document to be given by any Party to any other Party to this Settlement Agreement (other than Class-wide notification) shall be in writing and,

- a) if to the Settling Defendants, delivered to Nicholl Paskell-Mede, 630 Blvd. René-Lévesque, Suite 1700, Montreal, Quebec H3B 1S6 Attention: Mtre. John Nicholl; and
- b) if to the Representative Plaintiffs or the Class Members, delivered to Trudel & Johnston, 85 de la Commune Street East, 3rd Floor, Montreal, Quebec H2Y 1J1 Attention: Mtre. Philippe Trudel and to Belleau Lapointe, 306, Place D'Youville, Suite B-10, Montreal, Quebec, H2Y 2B6 Attention: Mtre. Daniel Belleau.

29. **Miscellaneous Provisions**

- a) The plural of any defined term in this Settlement Agreement includes the singular, and the singular of any defined term in this Settlement Agreement includes the plural, as the case may be;
- b) No Class Member shall be considered ineligible to receive a payment pursuant to this Settlement Agreement on the basis of any statute of limitation or repose, prescription period or any other limitation or prescription defence, except as regards the Claim Deadline and/or appeals;
- c) The Parties acknowledge that it is their intent to consummate this Settlement Agreement, and they agree to cooperate to the extent reasonably necessary to give effect to and implement all terms and conditions of this Settlement Agreement and to exercise their best efforts to accomplish the foregoing terms and conditions of this Settlement Agreement;
- d) The Parties intend the Settlement Agreement to be a final and complete resolution of all disputes between them with respect to the Litigation. The Settlement Agreement compromises claims that are contested and will not be deemed an admission by any Settling Party as to the merits of any claim or defence. The Parties agree that the consideration provided to the Class and the other terms of the Settlement Agreement were negotiated in good faith by the Parties, and reflect a Settlement Agreement that was reached voluntarily after consultation with competent legal counsel;
- e) Neither this Settlement Agreement nor any act performed or document executed pursuant to or in furtherance of this Settlement Agreement is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claims, or of any wrongdoing or liability of the Settling Defendants; or is or may be deemed to be or may be used as an admission of, or evidence of, any fault, omission, wrongdoing or liability of the Settling Defendants in any civil, criminal, or administrative proceeding in any court, administrative agency or other tribunal;
- f) The Settling Defendants may file this Settlement Agreement and/or the Approval Order in any action that may be brought against them in order to support any

- defence or counterclaim, including without limitation those based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defence or counterclaim;
- g) All agreements made and orders entered during the course of the Litigation relating to the confidentiality of information will survive this Settlement Agreement;
 - h) All of the Appendices to this Settlement Agreement are material and integral parts hereof and are fully incorporated herein by this reference;
 - i) This Settlement Agreement may be amended or modified only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest;
 - j) This Settlement Agreement and the Appendices attached hereto constitute the entire agreement among the Parties, and supersedes the letters exchanged between the Settling Defendants' Counsel and Class Counsel on September 28th, September 29th, October 3rd, and October 6th, 2006, and no representations, warranties, or inducements have been made to any Party concerning this Settlement Agreement or its Appendices other than the representations, warranties, and covenants covered and memorialized herein. Except as otherwise provided herein, the Parties will bear their own respective costs;
 - k) Class Counsel, on behalf of the Class, are expressly authorized by the Representative Plaintiffs to take all appropriate action required or permitted to be taken by the Class pursuant to this Settlement Agreement to give effect to its terms;
 - l) Each counsel or other Person executing this Settlement Agreement or any of its Appendices on behalf of any Party hereby warrants that such Person has the full authority to do so;
 - m) This Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them will be deemed to be one and the same instrument. A complete set of original counterparts will be filed with the Court;
 - n) This Settlement Agreement will be binding upon, and inure to the benefit of, the successors and assigns of the Settling Parties, but for greater certainty it is expressly acknowledged that there can only be a single Eligible Class Member with a Valid Claim for any one Subject Vehicle;
 - o) The Court will retain jurisdiction with respect to implementation and enforcement of the terms of this Settlement Agreement and all parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement Agreement;
 - p) None of the Settling Parties, or their respective counsel, will be deemed the drafter of this Settlement Agreement or its Appendices for purposes of construing the provisions thereof. The language in all parts of this Settlement Agreement and its Appendices will be interpreted according to its fair meaning, and will not be interpreted for or against any of the Settling Parties as the drafter thereof;

- q) This Settlement Agreement and the Appendices hereto is a transaction pursuant to sections 2631 and following of *Quebec Civil Code* and will be construed and enforced in accordance with, and governed by, the internal, substantive laws of the Province of Quebec without giving effect to that province's choice-of-law principles;
- r) The Settling Defendants hereby undertake to provide the Representative Plaintiffs with a French translation of the Settlement Agreement and its Appendices within 10 business days of the signature of this Settlement Agreement;
- s) The Parties hereby acknowledge that they have requested that this Settlement Agreement be drawn in English. Les Parties reconnaissent avoir exigé que la présente transaction soit rédigée en anglais.

IN WITNESS WHEREOF, the Parties have executed and caused this Settlement Agreement to be executed by their duly authorized attorneys, dated as of November _____, 2006.

Trudel & Johnston, s.e.n.c.

(s) Trudel & Johnston, s.e.n.c.

Per: Philippe Trudel

Belleau Lapointe, s.a.

(s) Belleau Lapointe, s.a.

Per: Daniel Belleau

Nicholl Paskell-Mede, s.e.n.c.

(s) Nicholl Paskell-Mede, s.e.n.c.

Per: André Lepage

**Appendix A to Settlement Agreement
SUPERIOR COURT OF QUEBEC
Notice of Settlement of Hyundai and Kia Class Actions
concerning the Horsepower Discrepancies**

TO: All consumers who have ever purchased and/or leased a Hyundai vehicle listed below in the Province of Quebec.

1997-1998 Sonata 2.0 Litre, 2002 Santa Fe 2.4 Litre, 2001-2002 Sonata 2.4 Litre, 1996 Accent 1.5 Litre DOHC, 2002 Sonata 2.7 Litre, 2003 Tiburon 2.7 Litre, 1997 Accent 1.5 Litre DOHC, 1997 Elantra 1.8 Litre, 2001-2002 Santa Fe 2.7 Litre, 1999 Accent 1.5 Litre, 2003 Tiburon 2.0 Litre, 2001 XG300 3.0 Litre, 2000 Sonata 2.5 Litre, 2001-2002 Elantra 2.0 Litre, 2001-2002 Accent 1.5 Litre, 2001 Sonata 2.5 Litre, 2002 Accent 1.6 Litre, 2000 Elantra 2.0 Litre, 1997-2001 Tiburon 2.0 Litre, 2000 Accent 1.5 Litre, 1995-1997 Accent 1.5 Litre SOHC, 1993-1994 Scoupe 1.5 Litre Turbo, 1998 Elantra 1.8 Litre, 1997 Tiburon 1.8 Litre, 1995-1996 Sonata 2.0 Litre, 1998 Accent 1.5 Litre, 1993-1995 Scoupe 1.5 Litre, 2000 Sonata 2.4 Litre, and/or 1992-1993 Sonata 2.0 Litre.

AND TO: Every person who has ever purchased and/or leased a KIA vehicle listed below in the Province of Quebec.

2001-2002 Magentis 2.4 Litre, 2002 Magentis 2.7 Litre V6 and/or 2001 Magentis 2.5 Litre V6.

On September 9, 2002, Hyundai and KIA announced that there was a discrepancy between previously published horsepower ratings and restated horsepower ratings. At that time, Hyundai offered to owners or lessees of 1999 and earlier model-year vehicles with respect to which the horsepower discrepancy exceeded 4%, a three-year, unlimited kilometers, roadside assistance plan, and to owners or lessees of 2000 and later model-year vehicles with respect to which the horsepower discrepancy exceeded 4%, their choice of (i) an extra three years of roadside assistance, (ii) an extension of the three-year/60,000-kilometre, new vehicle warranty to four years/80,000 kilometers, or (iii) an extension of the five-year/100,000-kilometre power train warranty to six years/120,000 kilometers (the "Hyundai Offer").

Following that announcement, two separate class actions were authorized against Hyundai Motor America and Kia Canada Inc. The settlement of those two class actions was recently approved by the Superior Court of Quebec (500-06-000180-022 and 500-06-000196-036).

The settlement provides that Class Members who, on September 9, 2002, were the owners or lessees of a vehicle listed in the table below are eligible to receive compensation. The amount of that compensation depends on (a) the magnitude of the discrepancy between the published horsepower rating of the vehicle and the restated rating as disclosed on September 9, 2002, (b) the model year of the vehicle and (c) whether the Hyundai Offer was accepted. The amounts of compensation are shown in the table below.

| VEHICLE MODEL AND YEAR | HYUNDAI OFFER NOT ACCEPTED OR NOT AVAILABLE | HYUNDAI OFFER ACCEPTED |
|--|--|------------------------|
| Sonata 2.4 litre (2001, 2002) Santa Fe 2.4 litre (2002) | \$285 | \$220 |
| KIA Magentis 2.4 litre (2002) KIA Magentis 2.4 litre (2001, 2002) | \$285 | N/A |
| Accent 1.5 litre DOHC (1996) Sonata 2.0 litre (1997, 1998) | \$180 | \$116 |
| Sonata 2.7 litre (2002) Tiburon 2.7 litre (2003) | \$190 | \$135 |
| KIA Magentis 2.4 (2001) | \$190 | N/A |
| Accent 1.5 litre (1997) | \$120 | \$66 |
| Santa Fe 2.7 litre (2001, 2002) Sonata 2.5 litre (2000) Tiburon 2.0 litre (2003) XG300 3.0 litre (2001) | \$95 | \$50 |
| KIA Magentis 2.7 litre V6 (2002) | \$95 | N/A |
| Elantra 1.8 litre (1997) Accent 1.5 litre (1999) | \$60 | \$17 |
| Elantra 2.0 litre (2000, 2001, 2002) Accent 1.5 litre (2001, 2002) Accent 1.6 litre (2002) Sonata 2.5 litre (2001) Tiburon 2.0 litre (2000, 2001) KIA Magentis 2.5 litre V6 (2001) | \$50 | N/A |
| Tiburon 2.0 litre (1997, 1998, 1999) | \$40 | N/A |
| Accent 1.5 litre (2000) Sonata 2.4 litre (2000) | \$30 | N/A |
| Accent 1.5 litre (1998) Accent 1.5 litre SOHC (1995, 1996, 1997) Scoupe 1.5 litre Turbo (1993, 1994) Scoupe 1.5 litre (1993, 1994, 1995) Elantra 1.8 litre (1998) Tiburon 1.8 litre (1997) Sonata 2.0 litre (1992, 1993, 1995, 1996) | \$20 | N/A |

The amounts set forth in this table are subject to a 2% reduction in accordance with the Regulation respecting the percentage withheld by the Fonds d'aide aux recours collectifs. No other deduction will be made from these amounts as Hyundai and Kia agreed to pay for Class Counsel's fees and expenses.

ONLY Class Members who were owners or lessees of a listed vehicle as of September 9, 2002 are eligible for compensation. If you are eligible for compensation, you must complete and mail a claim form. The claim form MUST be received by Hyundai or Kia no later than 60 days after newspaper notice 2007] at the following address.

(For Hyundai vehicles)
Hyundai Auto Canada,
c/o : Horsepower Settlement
75 Frontenac Drive,
Markham, Ontario
L3R 6H2

(For Kia vehicles)
Kia Canada Inc.
c/o : Horsepower Settlement
Customer Service
180 Foster Crescent
Mississauga, Ontario
L5R 4J5

Eligible Class Members who submit timely claims will receive their compensation by way of cheque mailed to the address shown in the claim form. If you do not file a claim within the deadline, you will no longer be entitled to compensation.

[for notices to be mailed only] An appropriate claim form is attached herewith for your convenience.

In your claim form, you must provide (a) your full name and address, (b) the model and (c) model year of the vehicle, and (d) the vehicle identification number (VIN) (as found on the proof of ownership or leasing), (e) a declaration that as of September 9, 2002, you were the owner or the lessee of the vehicle and (f) proof of ownership or lease. Such proof can be in the form a photocopy of either (i) the registration certificate for the vehicle, or (ii) the purchase agreement for the vehicle (contract), or (iii) the lease agreement for the vehicle. DO NOT send original documents.

ONLY if you no longer possess such proof of ownership or leasing but are entitled to compensation, you must provide a solemn declaration executed before a commissioner of oaths, a lawyer, or a notary stating that all the facts alleged in the claim form are true. ONLY if you do not submit a proof of ownership or lease AND you do not know the VIN of your vehicle, you must also provide your license plate number of your Hyundai or KIA vehicle (if known) and your driver's license number together with a signed authorization for Hyundai Auto Canada or Kia Canada Inc. to search public records, entirely at it's own expense, for the sole purpose of determining if you owned or leased the vehicle on September 9, 2002.

If you would like a copy of a claim form or of the settlement agreement, they are available on the web at www.recourscollectif.info or at www.trudeljohnston.com. A hard copy can also be sent to you by contacting Class Counsel.

For further information about this settlement, you may contact Class Counsel without cost:

TRUDEL & JOHNSTON
85 de la Commune East
3rd Floor
Montreal, Quebec
H2Y 1J1
514-871-8385

BELLEAU LAPOINTE
306, Place D'Youville
Suite B-10
Montreal, Quebec
H2Y 2B6
514-987-6700

If there is a conflict between the provisions of this notice and the settlement agreement, the terms of the settlement agreement shall prevail.

Notice published under Article 1030 of the Quebec Code of Civil Procedure

_____, 2007

Appendix B to Settlement Agreement

THIS CLAIM FORM TOGETHER WITH SUPPORTING DOCUMENTATION MUST BE SENT TO HYUNDAI AUTO CANADA OR TO KIA CANADA INC. AT THE ADDRESSES BELOW AND POSTMARKED NO LATER THAN [INSERT CLAIM DEADLINE]:

(For Hyundai vehicles)

**Hyundai Auto Canada,
c/o : Horsepower Settlement
75 Frontenac Drive,
Markham, Ontario
L3R 6H2**

(For Kia vehicles)

**Kia Canada Inc.
c/o : Horsepower Settlement
Customer Service,
180 Foster Crescent
Mississauga, Ontario
L5R 4J5**

IT IS A SERIOUS OFFENCE TO MAKE A FALSE STATEMENT KNOWINGLY.

Please provide the following information.

Full Name of claimant:

Address:

Vehicle Model:

Year of vehicle:

Vehicle Identification Number (VIN) (if known)

See the proof of ownership or leasing:

IMPORTANT: Attach a copy of an ownership or a leasing document

You must provide a photocopy of a proof of ownership or leasing of the vehicle in the form of either (a) the registration certificate for the vehicle, or (b), the vehicle's proof of insurance, or (c) the purchase agreement for the vehicle (contract), or (d) the lease agreement for the vehicle. **DO NOT** send original documents. *ONLY if you no longer possess such proof of ownership or leasing, please use the form of affidavit attached to this claim form.*

You must read, date and sign the statement below in order to make a valid claim.

I HEREBY DECLARE:

On September 9, 2002, I was the owner or lessee of the vehicle identified above.

Date

Signature

ONLY if you no longer possess a proof of ownership or leasing as described in the claim form, the following solemn declaration is required. This declaration must be executed before a commissioner of oath, a lawyer, or a notary.

AFFIDAVIT

I, _____ solemnly declare that the information contained in the attached claim form is true.
(write your full name)

AND I HAVE SIGNED

Signature

Solemnly declared before me in the City of _____
On this day of _____

Commissioner of Oaths

*[This section applies to you only if you are unable to provide the Vehicle Identification Number (VIN) of your vehicle **AND** have signed the affidavit above]*

ONLY if you do not submit a proof of ownership or leasing as described in the claim form **AND** you do not know the VIN of your Hyundai or KIA vehicle, then please state:

| |
|---|
| The license plate number of your Hyundai or KIA vehicle (if known) : |
| Your Driver's License number : |

I hereby authorize Hyundai Auto Canada or Kia Canada Inc. to search public records, entirely at it's own expense, for the sole purpose of determining if I owned or leased my vehicle on September 9, 2002.

Date

Signature

APPENDIX C: Horsepower Disparity table

| | Model Year | Model | Published HP | Restated HP | % Disparity |
|----------------|-------------------|----------------------------------|---------------------|--------------------|--------------------|
| Group A | 1997-1998 | Hyundai Sonata 2.0 Litre | 137 | 125 | 9.6% |
| | 2002 | Hyundai Santa Fe 2.4 Litre | 149 | 138 | 8.0% |
| | 2001-2002 | Hyundai Sonata 2.4 Litre | 149 | 138 | 8.0% |
| | 2002 | KIA Magentis 2.4 Litre | 149 | 138 | 8.0% |
| | 1996 | Hyundai Accent 1.5 Litre DOHC | 105 | 98 | 7.1% |
| | | | | | |
| Group B | 2002 | Hyundai Sonata 2.7 Litre | 181 | 170 | 6.5% |
| | 2003 | Hyundai Tiburon 2.7 Litre | 181 | 170 | 6.5% |
| | 1997 | Hyundai Accent 1.5 Litre DOHC | 105 | 99 | 6.1% |
| | 2001 | KIA Magentis 2.4 Litre | 149 | 140 | 6.4% |
| Group C | 1997 | Hyundai Elantra 1.8 Litre | 130 | 124 | 4.8% |
| | 2002 | KIA Magentis 2.7 Litre V6 | 178 | 170 | 4.7% |
| | 2001-2002 | Hyundai Santa Fe 2.7 Litre | 181 | 173 | 4.6% |
| | 1999 | Hyundai Accent 1.5 Litre | 92 | 88 | 4.5% |
| | 2003 | Hyundai Tiburon 2.0 Litre | 140 | 134 | 4.5% |
| | 2001 | Hyundai XG300 3.0 Litre | 190 | 182 | 4.4% |
| | 2000 | Hyundai Sonata 2.5 Litre | 170 | 163 | 4.3% |
| Group D | 2001-2002 | Hyundai Elantra 2.0 Litre | 140 | 135 | 3.7% |
| | 2001-2002 | Hyundai Accent 1.5 Litre | 92 | 89 | 3.4% |
| | 2001 | Hyundai Sonata 2.5 Litre | 170 | 165 | 3.0% |
| | 2001 | KIA Magentis 2.5 Litre V6 | 170 | 165 | 3% |
| | 2002 | Hyundai Accent 1.6 Litre | 106 | 103 | 2.9% |

| | | | | | |
|----------------|-----------|-----------------------------------|-----|-----|------|
| | 2000 | Hyundai Elantra 2.0 Litre | 140 | 136 | 2.9% |
| | 1997-2001 | Tiburon 2.0 Litre | 140 | 136 | 2.9% |
| Group E | 2000 | Hyundai Accent 1.5 Litre | 92 | 90 | 2.2% |
| | 1995-1997 | Hyundai Accent 1.5 Litre SOHC | 92 | 90 | 2.2% |
| | 1993-1994 | Hyundai Scoupe 1.5 Litre Turbo | 115 | 113 | 1.8% |
| | 1998 | Hyundai Elantra 1.8 Litre | 130 | 128 | 1.6% |
| | 1997 | Hyundai Tiburon 1.8 Litre | 130 | 128 | 1.6% |
| | 1995-1996 | Hyundai Sonata 2.0 Litre | 137 | 135 | 1.5% |
| | 1998 | Hyundai Accent 1.5 Litre | 92 | 91 | 1.1% |
| | 1993-1995 | Hyundai Scoupe 1.5 Litre | 92 | 91 | 1.1% |
| | 2000 | Hyundai Sonata 2.4 Litre | 149 | 148 | 0.7% |

Appendix D to Settlement Agreement

INFORMATION LETTER

[insert mailing date]_2007

To: [name and address of claimant]

[Hyundai Auto Canada or KIA Canada Inc.] has reviewed the Claim Form you filed under the court approved settlement in the *Michel Tardif and Dominic Desbiens v. Hyundai Motor America* as well as *Paul Miller v. KIA Canada Inc.* class actions (the "Settlement") and has found that you are entitled to compensation under the Settlement.

As a result, you will find attached herewith a cheque in payment of the compensation owed to you. We also attach herewith a table detailing the compensation payable for each listed vehicle. Please note that a 2% reduction of the amounts set forth in this table was applied in accordance with the *Regulation respecting the percentage withheld by the Fonds d'aide aux recours collectifs*.

If you believe the compensation hereby paid to you is less than the amount showed in the table attached herewith (less the 2% reduction), you have the right to submit a written request to Class Counsel to consider the matter. After reviewing your written request, Class Counsel will make a preliminary determination as to whether your disagreement is well founded. If Class Counsel determines that your disagreement is well founded, Class Counsel will consult with Hyundai or KIA for the purpose of resolving your dispute. If such consultation does not result in your request for compensation being granted, or if Class Counsel is of the opinion that your disagreement is ill founded, you may seek an order from the Court requiring Hyundai or KIA to pay to you the total compensation you requested. **Class Counsel services will be provided to you at no charge, as Hyundai and Kia have agreed to pay for their fees and expenses.**

In your written request to Class Counsel, you must state that you believe the compensation paid to you is less than the amount showed in the table attached herewith. Class Counsel's address is Belleau Lapointe / Trudel & Johnston, Hyundai / Kia Class Action, 306, Place d'Youville, Montreal, Quebec, H2Y 2B6.

Your written request to Class Counsel must be postmarked no later than [insert date 115 days after Claim Deadline]. If you do not meet that deadline, you will lose your right to dispute Hyundai's or KIA's decision regarding your claim.

HYUNDAI AUTO CANADA,
A division of Hyundai Motor America
Per:

or

KIA CANADA INC.
Per:

Table of Specified Vehicles

| VEHICLE MODEL AND YEAR | HYUNDAI OFFER NOT ACCEPTED OR NOT AVAILABLE | HYUNDAI OFFER ACCEPTED |
|--|--|---------------------------|
| Sonata 2.4 litre (2001, 2002) Santa Fe 2.4 litre (2002) | \$285 | \$220 |
| KIA Magentis 2.4 litre (2002) | \$285 | N/A |
| Accent 1.5 litre DOHC (1996) Sonata 2.0 litre (1997, 1998) | \$180 | \$116 |
| Sonata 2.7 litre (2002) Tiburon 2.7 litre (2003) | \$190 | \$135 |
| KIA Magentis 2.4 litre (2001) | \$190 | N/A |
| Accent 1.5 litre (1997) | \$120 | \$66 |
| Santa Fe 2.7 litre (2001, 2002) Sonata 2.5 litre (2000) Tiburon 2.0 litre (2003) XG300 3.0 litre (2001) | \$95 | \$50 |
| KIA Magentis 2.7 litre V6 (2002) | \$95 | N/A |
| Elantra 1.8 litre (1997) Accent 1.5 litre (1999) | \$60 | \$17 |
| Elantra 2.0 litre (2000, 2001, 2002) Accent 1.5 litre (2001,2002) Accent 1.6 litre (2002) Sonata 2.5 litre (2001) Tiburon 2.0 litre (2000, 2001) KIA Magentis 2.5 litre V6 (2001) | \$50 | N/A |
| Tiburon 2.0 litre (1997, 1998, 1999) | \$40 | N/A |
| Accent 1.5 litre (2000) Sonata 2.4 litre (2000) | \$30 | N/A |
| Accent 1.5 litre (1998) Accent 1.5 litre SOHC (1995, 1996, 1997) Scoupe 1.5 litre Turbo (1993, 1994) Scoupe 1.5 litre (1993, 1994, 1995) Elantra 1.8 litre (1998) Tiburon 1.8 litre (1997) Sonata 2.0 litre (1992, 1993, 1995, 1996) | \$20 | N/A |

The amounts set forth in this table are subject to a 2% reduction in accordance with the Regulation respecting the percentage withheld by the Fonds d'aide aux recours collectifs.

APPENDIX E TO SETTLEMENT AGREEMENT

SUPERIOR COURT OF QUEBEC

**Notice of Hearing for Approval of Proposed Settlement
Hyundai and Kia Class Actions
concerning the
Horsepower Discrepancies**

PLEASE READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS.

**TO CLASS
MEMBERS:**

TO: All consumers who have ever purchased and/or leased a Hyundai vehicle listed below in the Province of Quebec.

1997-1998 Sonata 2.0 Litre, 2002 Santa Fe 2.4 Litre, 2001-2002 Sonata 2.4 Litre, 1996 Accent 1.5 Litre DOHC, 2002 Sonata 2.7 Litre, 2003 Tiburon 2.7 Litre, 1997 Accent 1.5 Litre DOHC, 1997 Elantra 1.8 Litre, 2001-2002 Santa Fe 2.7 Litre, 1999 Accent 1.5 Litre, 2003 Tiburon 2.0 Litre, 2001 XG300 3.0 Litre, 2000 Sonata 2.5 Litre, 2001-2002 Elantra 2.0 Litre, 2001-2002 Accent 1.5 Litre, 2001 Sonata 2.5 Litre, 2002 Accent 1.6 Litre, 2000 Elantra 2.0 Litre, 1997-2001 Tiburon 2.0 Litre, 2000 Accent 1.5 Litre, 1995-1997 Accent 1.5 Litre SOHC, 1993-1994 Scoupe 1.5 Litre Turbo, 1998 Elantra 1.8 Litre, 1997 Tiburon 1.8 Litre, 1995-1996 Sonata 2.0 Litre, 1998 Accent 1.5 Litre, 1993-1995 Scoupe 1.5 Litre, 2000 Sonata 2.4 Litre, and/or 1992-1993 Sonata 2.0 Litre.

AND TO: Every person who has ever purchased and/or leased a KIA vehicle listed below in the Province of Quebec.

2001-2002 Magentis 2.4 Litre, 2002 Magentis 2.7 Litre V6 and/or 2001 Magentis 2.5 Litre V6.

**1. PURPOSE
OF THIS
NOTICE**

On September 9, 2002, Hyundai and KIA announced that there was a discrepancy between previously published horsepower ratings and restated horsepower ratings. At that time, Hyundai offered to owners or lessees of 1999 and earlier model-year vehicles with respect to which the horsepower discrepancy exceeded 4%, a three-year, unlimited kilometers, roadside assistance plan, and to owners or lessees of 2000 and later model-year vehicles with respect to which the horsepower discrepancy exceeded 4%, their choice of (i) an extra three years of roadside assistance, (ii) an extension of the three-year/60,000-kilometre, new vehicle warranty to four years/80,000 kilometers, or (iii) an extension of the five-year/100,000-kilometre power train warranty to six years/120,000 kilometers (the "Hyundai Offer").

Following that announcement, two separate class actions were authorized by the Superior Court of Quebec against Hyundai Motor America and Kia Canada inc. (500-06-000180-022 and 500-06-000196-036).

A Settlement Agreement has been reached between the Plaintiffs, on one hand, and Hyundai and KIA, on the other, with settlement benefits up to approximately \$5,662,493.00 to be paid to settle the claims of all Class Members. If you would like a copy of the Settlement Agreement, it is available on the web at www.recourscollectif.info or at www.trudeljohnston.com. You can have a hard copy sent to you by contacting Class Counsel.

Hyundai and KIA will pay Class Counsel's legal fees of \$1,250,000.00, plus applicable taxes and their expenses. These legal fees and expenses will be in addition to the total amount of the settlement fund, and therefore will not reduce the fund.

A settlement approval hearing in these Class Actions has been scheduled for **January 30, 2007, 9:30 AM** at the Montreal Courthouse before the Superior Court of Quebec, located at 1 Notre Dame Street East, Montreal, Quebec, Room 6.02. At this hearing, the Court will determine whether the Settlement Agreement is fair, reasonable, and in the best interests of Class Members. All timely filed written submissions from Class Members will be considered at this time.

If you wish to comment on, or make an objection to the Settlement Agreement, you must deliver a written submission to Class Counsel at the address listed below, no later than January 23, 2007. Class Counsel will forward all such submissions to the Court.

If you do not deliver a written submission to Class Counsel by January 23, 2007, you will not be entitled to participate in the hearing and you will have no standing to later file an appeal should the Settlement Agreement be approved. **Should the Settlement Agreement receive final approval from the Court, further notices will be published on the websites listed above, and in such media as are directed by the Court.**

2. DISTRIBUTION PROTOCOL

If the Settlement Agreement receives Court approval, the settlement payments will be made in accordance with the distribution protocol to be approved by the Court. If you owned or leased a vehicle listed in the table below on September 9, 2002, and if you are a Class Member, you will be eligible to make a claim under this settlement, **whether or not you still own or lease the vehicle**. To qualify for a claim, you will be required to submit documents confirming that you were the owner or lessee of the vehicle on September 9, 2002.

Each Class Member who is eligible for compensation and submits a valid and timely claim form will be entitled to receive the compensation set out below. Each Class Member's compensation will be based upon the magnitude of the difference between the published horsepower and the restated horsepower, as announced by Hyundai and KIA on September 9, 2002.

| VEHICLE MODEL AND YEAR | HYUNDAI OFFER <u>NOT</u> ACCEPTED OR NOT AVAILABLE | HYUNDAI OFFER ACCEPTED | <i>The amounts set forth in this table are subject to a 2% reduction in accordance with the Regulation respecting the percentage withheld by the Fonds d'aide aux recours collectifs. No other deduction will be made from these amounts as Hyundai and Kia agreed to pay for Class Counsel's fees and expenses.</i> |
|--|---|---------------------------|--|
| Sonata 2.4 litre (2001, 2002) Santa Fe 2.4 litre (2002) | \$285 | \$220 | |
| KIA Magentis 2.4 litre (2002) | \$285 | N/A | |
| Accent 1.5 litre DOHC (1996) Sonata 2.0 litre (1997, 1998) | \$180 | \$116 | |
| Sonata 2.7 litre (2002) Tiburon 2.7 litre (2003) | \$190 | \$135 | |
| KIA Magentis 2.4 (2001) | \$190 | N/A | |
| Accent 1.5 litre (1997) | \$120 | \$66 | |
| Santa Fe 2.7 litre (2001, 2002) Sonata 2.5 litre (2000) Tiburon 2.0 litre (2003) XG300 3.0 litre (2001) | \$95 | \$50 | |
| KIA Magentis 2.7 litre V6 (2002) | \$95 | N/A | |
| Elantra 1.8 litre (1997) Accent 1.5 litre (1999) | \$60 | \$17 | |
| Elantra 2.0 litre (2000, 2001, 2002) Accent 1.5 litre (2001,2002) Accent 1.6 litre (2002) Sonata 2.5 litre (2001) Tiburon 2.0 litre (2000, 2001) KIA Magentis 2.5 litre V6 (2001) | \$50 | N/A | |
| Tiburon 2.0 litre (1997, 1998, 1999) | \$40 | N/A | |
| Accent 1.5 litre (2000) Sonata 2.4 litre (2000) | \$30 | N/A | |
| Accent 1.5 litre (1998) Accent 1.5 litre SOHC (1995, 1996, 1997) Scoupe 1.5 litre Turbo (1993, 1994) Scoupe 1.5 litre (1993, 1994, 1995) Elantra 1.8 litre (1998) Tiburon 1.8 litre (1997) Sonata 2.0 litre (1992, 1993, 1995, 1996) | \$20 | N/A | |

3. **CLASS COUNSEL** **TRUDEL & JOHNSTON**, 85 de la Commune East, 3rd Floor, Montreal, Quebec H2Y 1J1 - 514-871-8385

BELLEAU LAPOINTE, 306, Place D'Youville Suite B-10 Montreal, Quebec H2Y 2B6 - 514-987-6700

4. **INTERPRETATION** If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

PUBLICATION OF THIS NOTICE HAS BEEN AUTHORIZED BY THE SUPERIOR COURT OF QUEBEC.

Appendix F to Settlement Agreement

NOTICE OF DENIAL

[insert mailing date]_2007

To: [name and address of claimant]

TAKE NOTICE that _____ [Hyundai Auto Canada or KIA Canada Inc.), has reviewed the Claim Form you filed under the court approved settlement in the *Michel Tardif and Dominic Desbiens v. Hyundai Motor America* as well as *Paul Miller v. KIA Canada Inc.* class actions (the "Settlement") and has found that you are not entitled to compensation under the Settlement. The applicable reasons (indicated by an "X") are as follows:

- It appears the vehicle you have identified does not qualify you for compensation under the Settlement. (The Settlement provides compensation only regarding certain specified vehicles listed in the table annexed herewith.)
- It appears you did not own or lease a specified vehicle on September 9, 2002. (The Settlement provides that only the persons who owned or leased one of the specified vehicles on September 9, 2002 are entitled to compensation.)
- You did not provide proof that you were the owner of a specified vehicle listed in the table annexed herewith.
- You did not provide proof that you were the lessee of a specified vehicle listed in the table annexed herewith.
- Your Claim Form was late. (The Settlement required all claims to be postmarked no later than [insert Claim Deadline].)
- It appears you bought or leased the vehicle in a province other than Quebec. (The Settlement only provides compensation for vehicles that were purchased/leased in the province of Quebec.)
- It appears you already excluded yourself from the class actions.
- Other _____

As a result, your claim has been denied.

IF **YOU DISAGREE** with this decision, you have the right to submit a written request to Class Counsel to consider the matter. After reviewing your written request, Class Counsel will make a preliminary determination as to whether your disagreement is well founded. If Class Counsel determines that your disagreement is well founded, Class Counsel will consult with Hyundai or KIA for the purpose of resolving your dispute. If such consultation does not result in

your request for compensation being granted, or if Class Counsel is of the opinion that your disagreement is ill founded, you may seek an order from the Court requiring Hyundai or KIA to pay to you the compensation you requested. **Class Counsel services will be provided to you at no charge, as Hyundai and Kia have agreed to pay for their fees and expenses.**

In your written request to Class Counsel, you must state why you believe your claim for compensation ought to have been granted. Class Counsel's address is Belleau Lapointe / Trudel & Johnston, Recours collectif Hyundai / Kia, 306, Place d'Youville, Montreal, Quebec, H2Y 2B6.

Your written request to Class Counsel must be postmarked no later than [insert date 115 days after Claim Deadline]. If you do not meet that deadline, you will lose your right to dispute Hyundai's or KIA's decision regarding your claim.

HYUNDAI AUTO CANADA,
A division of Hyundai Motor America
Per:

or

KIA CANADA INC.
Per:

Table of Specified Vehicles

| VEHICLE MODEL AND YEAR | HYUNDAI OFFER NOT ACCEPTED OR NOT AVAILABLE | HYUNDAI OFFER ACCEPTED |
|--|--|---------------------------|
| Sonata 2.4 litre (2001, 2002) Santa Fe 2.4 litre (2002) | \$285 | \$220 |
| KIA Magentis 2.4 litre (2002) | \$285 | N/A |
| Accent 1.5 litre DOHC (1996) Sonata 2.0 litre (1997, 1998) | \$180 | \$116 |
| Sonata 2.7 litre (2002) Tiburon 2.7 litre (2003) | \$190 | \$135 |
| KIA Magentis 2.4 (2001) | \$190 | N/A |
| Accent 1.5 litre (1997) | \$120 | \$66 |
| Santa Fe 2.7 litre (2001, 2002) Sonata 2.5 litre (2000) Tiburon 2.0 litre (2003) XG300 3.0 litre (2001) | \$95 | \$50 |
| KIA Magentis 2.7 litre V6 (2002) | \$95 | N/A |
| Elantra 1.8 litre (1997) Accent 1.5 litre (1999) | \$60 | \$17 |
| Elantra 2.0 litre (2000, 2001, 2002) Accent 1.5 litre (2001,2002) Accent 1.6 litre (2002) Sonata 2.5 litre (2001) Tiburon 2.0 litre (2000, 2001) KIA Magentis 2.5 litre V6 (2001) | \$50 | N/A |
| Tiburon 2.0 litre (1997, 1998, 1999) | \$40 | N/A |
| Accent 1.5 litre (2000) Sonata 2.4 litre (2000) | \$30 | N/A |
| Accent 1.5 litre (1998) Accent 1.5 litre SOHC (1995, 1996, 1997) Scoupe 1.5 litre Turbo (1993, 1994) Scoupe 1.5 litre (1993, 1994, 1995) Elantra 1.8 litre (1998) Tiburon 1.8 litre (1997) Sonata 2.0 litre (1992, 1993, 1995, 1996) | \$20 | N/A |

The amounts set forth in this table are subject to a 2% reduction in accordance with the Regulation respecting the percentage withheld by the Fonds d'aide aux recours collectifs. No other deduction will be made from these amounts as Hyundai and Kia agreed to pay for Class Counsel's fees and expenses.

APPENDIX G TO SETTLEMENT AGREEMENT

SUPERIOR COURT OF QUEBEC

**Notice of Hearing for Approval of Proposed Settlement
Hyundai and Kia Class Actions
concerning the
Horsepower Discrepancies**

PLEASE READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS.

TO: All consumers who have ever purchased and/or leased a Hyundai vehicle listed below in the Province of Quebec.

1997-1998 Sonata 2.0 Litre, 2002 Santa Fe 2.4 Litre, 2001-2002 Sonata 2.4 Litre, 1996 Accent 1.5 Litre DOHC, 2002 Sonata 2.7 Litre, 2003 Tiburon 2.7 Litre, 1997 Accent 1.5 Litre DOHC, 1997 Elantra 1.8 Litre, 2001-2002 Santa Fe 2.7 Litre, 1999 Accent 1.5 Litre, 2003 Tiburon 2.0 Litre, 2001 XG300 3.0 Litre, 2000 Sonata 2.5 Litre, 2001-2002 Elantra 2.0 Litre, 2001-2002 Accent 1.5 Litre, 2001 Sonata 2.5 Litre, 2002 Accent 1.6 Litre, 2000 Elantra 2.0 Litre, 1997-2001 Tiburon 2.0 Litre, 2000 Accent 1.5 Litre, 1995-1997 Accent 1.5 Litre SOHC, 1993-1994 Scoupe 1.5 Litre Turbo, 1998 Elantra 1.8 Litre, 1997 Tiburon 1.8 Litre, 1995-1996 Sonata 2.0 Litre, 1998 Accent 1.5 Litre, 1993-1995 Scoupe 1.5 Litre, 2000 Sonata 2.4 Litre, and/or 1992-1993 Sonata 2.0 Litre.

AND TO: Every person who has ever purchased and/or leased a KIA vehicle listed below in the Province of Quebec.

2001-2002 Magentis 2.4 Litre, 2002 Magentis 2.7 Litre V6 and/or 2001 Magentis 2.5 Litre V6.

On September 9, 2002, Hyundai and KIA announced that there was a discrepancy between previously published horsepower ratings and restated horsepower ratings. Following that announcement, two separate class actions were authorized by the Superior Court of Quebec against Hyundai Motor America and Kia Canada inc. (500-06-000180-022 and 500-06-000196-036).

A Settlement Agreement has been reached between the Plaintiffs, on one hand, and Hyundai and KIA, on the other, with settlement benefits up to approximately \$5,662,493.00 to be paid to settle the claims of all Class Members. A settlement approval hearing in these Class Actions has been scheduled for **December _____, 2006 at 1:00 pm** at the Montreal Courthouse before the Superior Court of Quebec, located at 1 Notre Dame Street East, Montreal, Quebec, Room _____.

If you are a Class Member, **you should immediately review the full legal notice** in this matter to ensure you understand your legal rights. A copy of the full legal notice can be viewed at www.recourscollectif.info or at www.trudeljohnston.com. You can have a hard copy sent to you by contacting Class Counsel.

For further information about this settlement, you may contact Class Counsel without cost:

TRUDEL & JOHNSTON

85 de la Commune East
3rd Floor
Montreal, Quebec
H2Y 1J1
514-871-8385

BELLEAU LAPOINTE

306, Place D'Youville
Suite B-10
Montreal, Quebec
H2Y 2B6
514-987-6700

If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

PUBLICATION OF THIS NOTICE HAS BEEN AUTHORIZED BY THE SUPERIOR COURT OF QUEBEC.

APPENDIX H: List of Subject Vehicles

| VEHICLE MODEL AND YEAR | HYUNDAI OFFER NOT ACCEPTED OR NOT AVAILABLE | HYUNDAI OFFER ACCEPTED |
|--|--|------------------------|
| Sonata 2.4 litre (2001, 2002) Santa Fe 2.4 litre (2002) | \$285 | \$220 |
| KIA Magentis 2.4 litre (2002) | \$285 | N/A |
| Accent 1.5 litre DOHC (1996) Sonata 2.0 litre (1997, 1998) | \$180 | \$116 |
| Sonata 2.7 litre (2002) Tiburon 2.7 litre (2003) | \$190 | \$135 |
| KIA Magentis 2.4 (2001) | \$190 | N/A |
| Accent 1.5 litre (1997) | \$120 | \$66 |
| Santa Fe 2.7 litre (2001, 2002) Sonata 2.5 litre (2000) Tiburon 2.0 litre (2003) XG300 3.0 litre (2001) | \$95 | \$50 |
| KIA Magentis 2.7 litre V6 (2002) | \$95 | N/A |
| Elantra 1.8 litre (1997) Accent 1.5 litre (1999) | \$60 | \$17 |
| Elantra 2.0 litre (2000, 2001, 2002) Accent 1.5 litre (2001,2002) Accent 1.6 litre (2002) Sonata 2.5 litre (2001) Tiburon 2.0 litre (2000, 2001) KIA Magentis 2.5 litre V6 (2001) | \$50 | N/A |
| Tiburon 2.0 litre (1997, 1998, 1999) | \$40 | N/A |
| Accent 1.5 litre (2000) Sonata 2.4 litre (2000) | \$30 | N/A |
| Accent 1.5 litre (1998) Accent 1.5 litre SOHC (1995, 1996, 1997) Scoupe 1.5 litre Turbo (1993, 1994) Scoupe 1.5 litre (1993, 1994, 1995) Elantra 1.8 litre (1998) Tiburon 1.8 litre (1997) Sonata 2.0 litre (1992, 1993, 1995, 1996) | \$20 | N/A |

The amounts set forth in this table are subject to a 2% reduction in accordance with the Regulation respecting the percentage withheld by the Fonds d'aide aux recours collectifs. No other deduction will be made from these amounts as Hyundai and Kia agreed to pay for Class Counsel's fees and expenses.