

COPY

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MONTANA FIRST JUDICIAL DISTRICT  
LEWIS AND CLARK COUNTY

STATE OF MONTANA,

Plaintiff,

v.

GENERAL MOTORS COMPANY,

Defendant.

No. \_\_\_\_\_

**AGREED CONSENT JUDGMENT  
ENTRY AND ORDER**

Plaintiff, the State of Montana, acting by and through Attorney General Timothy C. Fox, has brought this action pursuant to provisions of the Montana Unfair Trade Practices and Consumer Protection Act (Montana Consumer Protection Act), Mont. Code Ann. § 30-14-101, et. seq., having filed a complaint against General Motors Company (“GM”).

Plaintiff and GM, by their counsel, have agreed to the entry of this Agreed Consent Judgment (“Consent Judgment”) without trial or adjudication of any issue of fact or law and without admission by GM of any wrongdoing or admission of any of the violations of the Montana Consumer Protection Act, or any other law as alleged by Plaintiff.

Contemporaneous with the filing of this Consent Judgment, GM is entering into similar agreements with the Attorneys General of Alabama, Alaska, Arkansas, California, Colorado,

Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Mississippi, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Vermont, Washington, West Virginia, Wisconsin, and Wyoming (hereinafter collectively referred to as “Attorneys General” or “Signatory Attorneys General”).

## **1 PRELIMINARY STATEMENT**

1.1 In 2014, an Attorneys General Multistate Working Group (“MSWG”)—of which Montana is a member—initiated an investigation (the “Investigation”) into certain business practices of GM<sup>1</sup> concerning GM’s issuance of the following Recalls: NHTSA Recall Nos. 14V047, 14V346, 14V355, 14V394, 14V400, 14V490, and 14V540.

1.2 The MSWG was led by a Multistate Executive Committee (“MSEC”) comprised of Connecticut, Florida, Maryland, Michigan, New Jersey, Ohio, Pennsylvania, South Carolina, and Texas.

1.3 The Investigation was prompted by reports of unintended key rotation-related and/or ignition switch-related Recalls in several models and model years of GM vehicles.

1.4 The Investigation focused on the “Covered Conduct,” as that term is defined herein.

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<sup>1</sup> The Investigation sought information about events that preceded the bankruptcy of General Motors Corporation (“Old GM”). GM does not admit any wrongdoing or accept any liability for conduct allegedly involving or relating to the activities of Old GM. Nothing in this Consent Judgment is intended to imply or suggest that GM is responsible for any acts, conduct, or knowledge of Old GM, or that such acts, conduct, or knowledge, can be imputed to GM. Nor is anything in this Consent Judgment intended to alter, modify, expand, or otherwise affect any provision of the July 5, 2009 Sale Order issued by the U.S. Bankruptcy Court for the Southern District of New York, or the rights, protections, and responsibilities of GM under the Sale Order or pertinent law.

1.5 This Investigation was based upon, and has proceeded under, the Attorney General of the State of Montana's authority to act on behalf of, and to protect, the people of Montana against alleged harms to Consumers pursuant to Mont. Code Ann. § 30-14-111 and other law.

1.6 On or about May 16, 2014, GM agreed to a Consent Order with NHTSA related to the NHTSA 14V047 Recall that included, among other provisions, certain improvements GM agreed to make to its Recall process and its handling of issues related to the safety of GM Motor Vehicles (the "NHTSA Consent Order").

1.7 GM represents, and by entering into this Consent Judgment, the Attorneys General rely upon, that in compliance with the requirements set by NHTSA under the Federal Motor Vehicle Safety Act, GM does and shall timely notify GM Motor Vehicle owners of a known defect related to Motor Vehicle safety in GM Motor Vehicles.

1.8 On or about September 16, 2015, GM agreed to a Deferred Prosecution Agreement with the U.S. Department of Justice (the "DPA"). Pursuant to the DPA, the U.S. Department of Justice appointed a Monitor to assess GM's compliance with the DPA and to make recommendations for additional improvements that GM is required by the DPA to adopt unless it objects to a recommendation and the U.S. Department of Justice agrees that adoption of such recommendation is not required.

1.9 The Signatory Attorneys General recognize that GM has cooperated with the Investigation and has, prior to the Effective Date, voluntarily implemented improvements to its safety organization and to its safety processes.

1.10 The Parties have reached an amicable agreement resolving the issues in controversy and concluding the Investigation by filing/entering this Consent Judgment. The Parties agree that this Consent Judgment resolves the Signatory Attorneys' General claims and potential claims

under their UDAP Laws as defined in Paragraph 5.27 and as set forth in Section 8 of this Consent Judgment.

NOW THEREFORE, upon the consent of the Parties hereto, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

## **2 PARTIES**

2.1 Plaintiff is the State of Montana. "Montana" or "Attorney General" shall refer to the Attorney General of the State of Montana.

2.2 Defendant is General Motors Company or "GM," which is headquartered in Detroit, Michigan.

## **3 JURISDICTION**

3.1 Pursuant to Mont. Code Ann. § 3-5-302, jurisdiction of this Court over the subject matter and over the Defendant for the purpose of entering into and enforcing this Consent Judgment is admitted. Jurisdiction is retained by this Court for the purpose of enabling the Attorney General or the Defendant to apply for such further orders and directions as may be necessary or appropriate for the construction and modification of the injunctive provisions herein, or execution of this Consent Judgment, including enforcement of this Consent Judgment and punishment for any violation of this Consent Judgment. The Defendant waives any defect associated with service of Plaintiff's Complaint and this Consent Judgment and does not require issuance or service of a Summons.

## **4 VENUE**

4.1 Pursuant to the provisions of Mont. Code Ann. § 30-14-111 (3), venue as to all matters between the Parties relating to or arising out of this Consent Judgment shall lie exclusively in the First Judicial District Court of Lewis and Clark County.

## 5 DEFINITIONS

In this Consent Judgment, the following words or terms shall have these meanings:

5.1 “Advertise,” “Advertisement,” or “Advertising” means any written, oral, or electronic statement, illustration, or depiction intended for Consumers and designed to create interest among Consumers in the purchase of, impart information about the attributes of, publicize the availability of, or effect the sale or use of, goods or services, whether the statement appears in a brochure, certification, newspaper, magazine, free-standing insert, marketing kit, leaflet, circular, mailer, book insert, letter, catalogue, poster, chart, billboard, public-transit card, point-of-purchase display, package insert, package label, product instructions, electronic mail, website, mobile application, homepage, film, slide, radio, television, cable television, program-length commercial or “infomercial,” or any other medium whether in print or electronic form.

5.2 “Affected Vehicles” means the vehicles included in the Investigation Recalls defined in Paragraph 5.14, below.

5.3 “Affiliates” means those individuals, corporations, partnerships, joint ventures, trusts, associations, or unincorporated associations specifically listed on Exhibit A and including Vehicle Acquisition Holdings, LLC, and NGMCO, Inc.

5.4 “Attorney General” or “Signatory Attorney General” means the Attorney General of Montana and/or the Office of the Attorney General of Montana.

5.5 “Clear and Conspicuous” or “Clearly and Conspicuously” when referring to a statement or disclosure, means that such statement or disclosure is disclosed in such size, color, contrast, location, duration, and audibility that it is readily noticeable, readable, understandable, or, if applicable, capable of being heard. A statement may not contradict or be inconsistent with any other information with which it is presented. If a statement modifies, explains, or clarifies other information with which it is presented, it must be presented in proximity to the information

it modifies, in a manner that is likely to be noticed, readable, and understandable, and it must not be obscured in any manner. Audio disclosures shall be delivered in a volume and cadence sufficient for a Consumer to hear and comprehend. Visual disclosures shall be of a size and shade and appear on the screen for a duration sufficient for a Consumer to read and comprehend. In a print Advertisement or promotional material, including, without limitation, point of sale display or brochure materials directed to Consumers, the disclosures shall be in a type, size, and location sufficiently noticeable for a Consumer to read and comprehend, in a print that contrasts with the background against which it appears.

5.6 “Confidentiality Agreement” means the Confidentiality Agreement executed on or about June 29, 2015.

5.7 “Consent Judgment” refers to this document entitled Agreed Consent Judgment Entry and Order in the matter of State of Montana v. General Motors Company.

5.8 “Consumer” means any person, a natural person, individual, governmental agency or entity, partnership, corporation, limited liability company or corporation, trust, estate, incorporated or unincorporated association, or any other legal or commercial entity, however organized, to whom GM directly or indirectly offered its vehicles, products, or services for sale or lease.

5.9 “Covered Conduct” means the engineering, manufacturing, marketing, sales, and maintenance of the Affected Vehicles arising from the unintended key rotation-related and/or ignition-switch-related Recalls including (1) when Old GM or GM became aware of an ignition switch problem and whether Old GM or GM made timely disclosures of known defects to Consumers and regulators; (2) whether Old GM or GM misrepresented, expressly, impliedly or by omission, the safety, reliability or resale value of the Affected Vehicles to Consumers and

regulators; (3) whether Old GM or GM engaged in deceptive Advertising of the Affected Vehicles; and (4) whether Old GM or GM engaged in the resale or offering for resale of any Affected Vehicles with alleged ignition switch safety problems.

5.10 “Effective Date” means the date on which this Consent Judgment has been signed by both Parties and entered as an order by the Court.

5.11 “Fantasy Advertising” means Advertising that uses special effects or fictional characters.

5.12 “GM” means General Motors Company and its present parents, subsidiaries (whether or not wholly owned), and Affiliates. For the avoidance of doubt, undertakings by GM in this Consent Judgment do not include or extend to GM dealers or distributors.

5.13 For purposes of this Consent Judgment only, “Ignition Switch” refers to any defective ignition switch in any of the Affected Vehicles that is the subject of any of the Recalls that are the subject of the multistate Investigation.

5.14 “Investigation Recalls” means NHTSA Recall Nos. 14V047, 14V346, 14V355, 14V394, 14V400, 14V490, and 14V540.

5.15 “Monitor” means the Monitor appointed by the U.S. Department of Justice, pursuant to the DPA, as referenced in Paragraph 1.8.

5.16 “Motor Vehicle,” as used herein, means a self-propelled vehicle manufactured for use on public streets, roads, or highways, but not on railroads.

5.17 “NHTSA” means the National Highway Traffic Safety Administration. If any obligations, duties, or the jurisdiction of NHTSA should be transferred, consolidated, or merged with the obligations, duties, or jurisdiction of any other federal governmental agency or entity

during the term of this Consent Judgment, then all references to “NHTSA” in this Consent Judgment shall apply to that other governmental agency or entity.

5.18 “Recall 14V047” means NHTSA Recall No. 14V047, which includes these Motor Vehicles: Model Year (“MY”) 2005-2010 Chevrolet Cobalt, MY 2006-2011 Chevrolet HHR, MY 2005-2006 Pontiac Pursuit, MY 2006-2010 Pontiac Solstice, MY 2007-2010 Pontiac G5, MY 2003-2007 Saturn Ion, and MY 2007-2010 Saturn Sky.

5.19 “Recall 14V346” means NHTSA Recall No. 14V346, which includes these Motor Vehicles: MY 2010-2014 Chevrolet Camaro.

5.20 “Recall 14V355” means NHTSA Recall No. 14V355, which includes these Motor Vehicles: MY 2005-2009 Buick LaCrosse, MY 2006-2011 Buick Lucerne, MY 2000-2005 Cadillac DeVille, MY 2006-2011 Cadillac DTS, MY 2006-2014 Chevrolet Impala, and MY 2006-2007 Chevrolet Monte Carlo.

5.21 “Recall 14V394” means NHTSA Recall No. 14V394, which includes these Motor Vehicles: MY 2003-2014 Cadillac CTS and MY 2004-2006 Cadillac SRX.

5.22 “Recall 14V400” means NHTSA Recall No. 14V400, which includes these Motor Vehicles: MY 2000-2005 Chevrolet Impala, MY 1997-2003 Chevrolet Malibu, MY 2004-2005 Chevrolet Malibu Classic, MY 2000-2005 Chevrolet Monte Carlo, MY 1999-2004 Oldsmobile Alero, MY 1998-2002 Oldsmobile Intrigue, MY 1999-2005 Pontiac Grand Am, and MY 2004-2008 Pontiac Grand Prix.

5.23 “Recall 14V490” means NHTSA Recall No. 14V490, which includes the Motor Vehicle MY 2002-2004 Saturn Vue.

5.24 “Recall 14V540” means NHTSA Recall No. 14V540, which includes these Motor Vehicles: MY 2011-2013 Chevrolet Caprice and MY 2008-2009 Pontiac G8.

5.25 "Recall" or "Recalls" means a Motor Vehicle manufacturer's field action to remedy a safety-related defect or non-compliance pursuant to the Federal Motor Vehicle Safety Act, 49 U.S.C. §§ 30116-30120.

5.26 "Represent," "Representation," or "Representations" shall mean to communicate through certifications, claims, statements, questions, conduct, graphics, symbols, lettering, formats, devices, language, documents, messages, or any other manner or means by which meaning might be conveyed.

5.27 "UDAP Laws" means all applicable consumer protection and unfair trade and deceptive acts and practices laws, including, without limitation, the Montana Consumer Protection Act, Mont. Code Ann. § 30-14-101, et.seq., as well as common law and equitable claims.

## **6 CONDUCT PROVISIONS**

6.1 For the avoidance of doubt, the Conduct Provisions in this Section shall apply exclusively to Motor Vehicles sold in the United States, and the obligations shall extend and relate solely to GM's conduct with respect to such Motor Vehicles.

6.2 GM, in connection with the marketing or Advertising of certified pre-owned Motor Vehicles shall not, in any manner, expressly or by implication:

6.2.1 Represent that certified pre-owned Motor Vehicles that GM Advertises are safe, have been repaired for safety issues, or have been subject to a rigorous inspection, unless the certified pre-owned Motor Vehicles are, based on dealer reports to GM, either not subject to any open Recalls relating to safety or repaired pursuant to such a Recall, and the Representation is otherwise not misleading. As provided in Paragraph 6.9, GM will continue to instruct its dealers that certified pre-owned Motor Vehicles shall not be

certified or delivered to a customer until all Recall repairs have been completed.

6.2.2 Misrepresent the following:

6.2.2.1 Whether there is or is not an open Recall for safety issues on any certified pre-owned Motor Vehicle;

6.2.2.2 Whether GM, or GM dealers to GM's knowledge, have repaired certified pre-owned Motor Vehicles for open safety Recalls; and

6.2.2.3 Any other material fact about the safety of the certified pre-owned Motor Vehicle GM Advertises for sale.

6.3 For a reasonable time after announcement of a Recall, in order to allow GM sufficient time to administratively and promptly modify its offering or Advertising to comply with Paragraph 6.2 of this Consent Judgment, GM will not be held in violation of Paragraph 6.2 of this Consent Judgment. In recognition that the Recall repairs and the certification is done by GM's dealers, GM may rely on its dealers' reported certification of a Motor Vehicle in its Advertising and marketing materials pursuant to this Consent Judgment.

6.4 GM shall comply with Montana's UDAP Laws that apply to GM and the Motor Vehicles it manufactures, markets, and sells in the United States.

6.5 **Notice to Consumers.**

6.5.1 GM will maintain a Vehicle Safety Owner Engagement Team (or its functional equivalent), which uses data analytics and customer research to analyze and, where appropriate in GM's discretion, develop and execute communications and outreach tactics to enhance Recall awareness by impacted customers in the U.S.

6.5.2 Within 60 days after one year after the Effective Date of this Consent Judgment, GM will provide the Signatory Attorneys General with a report that summarizes GM's activities relative to Paragraph 6.5.1 above.

**6.6 Advertising.**

6.6.1 With respect to Advertisements in Montana concerning the product safety of GM Motor Vehicles, GM will not engage in misleading or false Advertising in violation of Mont. Code Ann. § 30-14-103. When determining whether a particular Advertisement complies with the provisions in Section 6.6, the entire Advertisement shall be considered, including the context of the particular depiction or phrase(s) at issue, any limitations, warnings, or disclosures in the Advertisement, and any limitations, warnings, or disclosures in the Motor Vehicle's owner's manual. Nothing herein shall preclude GM from (a) demonstrating the ordinary use of vehicle components, systems, or features, (b) demonstrating the performance of safety features, (c) depicting a Motor Vehicle being driven by a professional driver on a closed course, provided that any necessary and appropriate disclosures are Clearly and Conspicuously disclosed in the Advertisement, or (d) using Fantasy Advertising.

6.6.2 GM shall not Represent that a Motor Vehicle is "safe," "safest," "safer," or use a term or phrase of similar superlative or comparative meaning regarding safety, unless they have complied with those Federal Motor Vehicle Safety standards applicable to the Motor Vehicle at issue, and, if necessary, GM Clearly and Conspicuously discloses the information necessary to place the Representation in an accurate context, including by way of example: (a) the Motor Vehicle for which the claim is made; and (b) the design, feature, equipment or aspect of performance for which the claim is being made. The mere fact of a subsequent safety Recall of a

Motor Vehicle by itself does not render a prior Advertisement of that Motor Vehicle misleading or otherwise state a violation of this Consent Judgment.

6.6.3 Notwithstanding Paragraph 6.6.2, GM may (a) make truthful Representations about the receipt of awards, ratings, or rankings from third parties (*e.g.*, NHTSA's New Car Assessment Program, J.D. Power & Associates, or the Insurance Institute for Highway Safety), including those relating to safety; (b) make truthful Representations about any Motor Vehicle and/or its systems and components which a Consumer should reasonably understand are statements of opinion or statements not easily and objectively verifiable as factually correct or incorrect; or (c) make truthful Representations that a Motor Vehicle has specific safety features.

**6.7 Safety-Related Organizational Restructuring and Data Analytics.**

6.7.1 GM will maintain a Global Vehicle Safety organization (or its functional equivalent) to identify and investigate issues related to the safety of GM Motor Vehicles.

6.7.2 GM will maintain a Global Product Integrity organization (or its functional equivalent). Among its other functions, the Global Product Integrity organization will establish processes to identify and resolve potential safety issues in the design of GM Motor Vehicles using Design for Failure Mode and Effects Analysis (or its functional equivalent) and/or other strategies selected by GM to achieve the same or similar results.

6.7.3 GM will maintain a Safety and Field Action Decision Authority (or its functional equivalent) responsible for making decisions with respect to Recalls of GM Motor Vehicles sold in the U.S.

6.7.4 GM will use advanced data analytics to identify, review, and analyze product anomalies and events in support of the Motor Vehicle safety field investigation process.

## **6.8 Internal Reporting of Safety Issues.**

6.8.1 GM will establish or maintain a “Speak Up for Safety” program (or its functional equivalent) for its employees and GM dealer employees to report safety-related issues concerning GM Motor Vehicles.

6.8.2 GM will require its U.S. salaried employees, as appropriate, to confirm annually that they have reported any issues related to the safety of GM Motor Vehicles to the “Speak Up for Safety” program (or its functional equivalent) or to appropriate GM personnel consistent with GM’s policies.

6.8.3 GM will establish or maintain a non-retaliation policy to protect employees who report an issue related to the safety of GM Motor Vehicles, and GM will not retaliate or tolerate retaliation in any form against an employee because that employee reports an issue related to the safety of GM Motor Vehicles.

## **6.9 Certified Pre-Owned Vehicles.**

6.9.1 GM will instruct its dealers that (i) all applicable Recall repairs must be completed, and reflected as such in GM’s systems, before any GM Motor Vehicle sold in the U.S. and included in such Recall is eligible for certification, and (ii) if there is a Recall on any Certified Pre-Owned GM Motor Vehicle sold in the U.S., the required remedy or repair must be completed before such Motor Vehicle is delivered to a customer.

## **6.10 Motor Vehicle Parts.**

6.10.1 GM will establish or maintain appropriate processes and/or policies to determine whether a change in a part for a GM Motor Vehicle sold in the U.S. affects the part’s “Fit, Form, or Function,” such that the part number should be changed.

6.10.2 GM will train employees whose responsibilities include evaluating whether a part change affects the part's "Fit, Form, or Function" to follow the processes that GM will establish and maintain per Paragraph 6.10.1.

#### **6.11 Consumer Complaint Resolution**

6.11.1 Within 30 days of the Effective Date, GM shall appoint a person or persons to act as a direct contact for the Signatory Attorney General's office for the resolution of Consumer complaints arising from the subject matter of the Covered Conduct. GM shall provide the Signatory Attorney General's office with the name(s), title(s), address(es), telephone number(s), facsimile number(s), and electronic mail address(es) of the person(s) designated, within 30 days of the Effective Date.

### **7 PAYMENT TO THE STATES**

7.1 Within 30 days of the Effective Date of the Montana Consent Judgment, GM shall pay One Hundred Twenty Million Dollars (\$120,000,000.00) total, to be divided and paid by GM directly to each Signatory Attorney General of the MSWG in an amount to be designated in writing by and in the sole discretion of the MSEC. The MSEC will provide GM with instructions for the payments to be distributed to each Signatory Attorney General under this Paragraph. Said payment shall be used by the Montana Attorney General for such purposes that may include, but are not limited to, attorneys' fees and other costs incurred in pursuing this Investigation, future public protection and education purposes, a consumer protection enforcement fund, or other purposes, including without limitation future consumer protection enforcement, consumer education, litigation funds, local consumer aid funds, public protection or consumer protection purposes or other purposes as allowed by state law at the sole discretion of each Signatory Attorney General. GM shall have no property right, interest, claim, control over, or title to any monies paid by GM

to the MSWG after the payment is made by GM under this Consent Judgment. The parties acknowledge that the payment described herein is not a fine, penalty, or payment in lieu thereof.

## **8 RELEASE**

8.1 Upon full and complete payment of the amount(s) designated in Section 7, above, the Attorney General of the State of Montana releases and forever discharges to the fullest extent possible that the Attorney General is authorized under the law, (i) GM and its present and former parents, subsidiaries (whether or not wholly owned), and Affiliates (including but not limited to Vehicle Acquisition Holdings, LLC, and NGMCO, Inc.), and (ii) the respective divisions, organizational units, officers, directors, employees, agents, representatives, and in-house attorneys of those entities in Section (i) of this Paragraph (the "Released Parties") from the following: all civil claims (including claims for diminution in value), demands, causes of action, damages, equitable claims, injunctive relief, restitution, fines, costs, attorneys' fees and penalties, arising from the subject matter of the Covered Conduct, that the Montana Attorney General, whether directly, indirectly, representatively, derivatively, in their sovereign enforcement capacity, or as *parens patriae* on behalf of state citizens or in any other capacity, could have asserted, before or as of the Effective Date, against the Released Parties under all UDAP Laws (collectively, the "Released Claims").

8.2 Notwithstanding any term of this Consent Judgment, the following do not comprise Released Claims:

- (A) Private rights of action;
- (B) Claims of environmental or tax liability;
- (C) Criminal liability;
- (D) Claims for actual physical damage to real or personal property;

- (E) Claims alleging violations of state or federal securities laws;
- (F) Claims alleging violations of state or federal antitrust laws;
- (G) Any obligations created under this Consent Judgment;
- (H) Any other civil or administrative liability that any person or entity, including the Released Parties, has or may have to the State of Montana, and any subdivision thereof, not expressly covered by the release in Paragraph 8.1 above; and
- (I) Any claims, other than claims under the UDAP Laws, related to the Covered Conduct.

## 9 ENFORCEMENT

9.1 For a period of five years after the Effective Date, for the purpose of resolving disputes with respect to compliance with this Consent Judgment, duly authorized representatives of the Office of the Attorney General of the State of Montana shall, if they believe that GM has engaged in a practice that violates any provision of this Consent Judgment, notify GM in writing of the Attorney General's belief that a violation has occurred. The Attorney General's notice shall include:

9.1.1 the specific basis for the belief;

9.1.2 the provision of the Consent Judgment that the practice appears to violate;

and

9.1.3 a date by which GM must respond to the notification, provided, however, that the response date shall be at least 60 days after the date of notification.

9.2 Upon receipt of written notice, GM shall provide a written response to the Attorney General either explaining why GM believes that it is in compliance with this Consent Judgment or

explaining how the alleged violation occurred and how GM intends to address it. Specifically when explaining how the alleged violation occurred, GM may offer and the Attorney General may, but is not required to, consider whether the alleged violation resulted from an honest mistake or inadvertent error.

9.3 In the event that GM's response to the written notice does not address the Attorney General's concerns, the Attorney General may assert that GM has violated this Consent Judgment in a separate civil action to enforce this Consent Judgment, or seek any other relief afforded by law for such violation(s), only after providing GM with at least 60 days to respond to the notification as set forth in Paragraph 9.1 above. However, such Attorney General may take any action authorized by state or federal law without prior notice, except where such notice is required under state law, where the Attorney General reasonably concludes that, because of a specific practice, a threat to the health or safety of the public requires immediate action. Nothing in this paragraph shall be interpreted to create for the Attorney General new authority or right to take action that does not exist already under state or federal law, or to limit or remove the rights of GM under existing law to object to such action or otherwise to respond appropriately.

9.4 Nothing in this Section shall be construed to limit the Attorney General's authority provided under Mont. Code Ann. § 30-14-101, et seq.

9.5 It is the Parties' intent that nothing in this Consent Judgment shall create a conflict with (i) federal, state, or local law applicable to GM, (ii) any provision of the NHTSA Consent Order or other orders or instructions issued by NHTSA, (iii) any provision of the DPA, (iv) any recommendation made by the Monitor and adopted by GM pursuant to the DPA, or (v) any provision of the December 8, 2016 Decision and Order and the related Consent Agreement with the Federal Trade Commission ("FTC Order"). The Parties agree that the requirements of law, or

the applicable provisions of the DPA, FTC Order, or NHTSA Consent Order, or the applicable recommendations made by the Monitor and adopted by GM, shall take precedence over the requirements of this Consent Judgment.

9.6 In the event that GM believes such a conflict exists, GM must notify the Attorney General of the alleged conflict, stating with specificity the provision of this Consent Judgment they believe conflicts with the item(s) outlined in Paragraph 9.5 (i)-(v) above. The Attorney General shall respond to GM's notification of alleged conflict within 30 days. In the interim, GM shall continue to comply with the terms of this Consent Judgment to the extent possible.

## **10 NOTICES UNDER THIS CONSENT JUDGMENT**

10.1 Any notices required to be sent to the Attorney General or to GM under this Consent Judgment shall be sent by certified mail, return-receipt requested. The documents shall be sent to the following addresses:

For the Attorney General of Montana:

Kelley L. Hubbard  
Montana Office of Consumer Protection  
Assistant Attorney General  
P.O. Box 200151  
Helena, MT 59620-0151

For GM:

Craig Glidden, Esq.  
Executive Vice President, Legal and Public Policy and General Counsel  
General Motors Co.  
300 Renaissance Center  
Detroit, MI 48226

Any party may change its designated notice recipient(s) by written notice to the other party.

## 11 GENERAL PROVISIONS

11.1 This Consent Judgment Represents the full and complete terms of the Parties' settlement.

11.2 This Consent Judgment shall be binding upon the Parties and their successors and assigns. In no event shall assignment of any right, power, or authority under this Consent Judgment void a duty to comply with this Consent Judgment.

11.3 Paragraphs 6.3, 6.5, 6.6.2, 6.6.3, 6.7, 6.8 and 6.11 of this Consent Judgment will expire on Effective Date plus five years. Paragraphs 6.2, 6.6.1, 6.9 and 6.10 of this Consent Judgment will expire on Effective Date plus ten years. These expirations are contingent upon GM not having been adjudged by a court in any MSWG state to have violated any provision of Section 6 of any MSWG Consent Judgment with respect to any act or omission by GM related to the Covered Conduct. If, prior to Effective Date plus five years, GM is adjudged by a court in any MSWG state to have violated any provision of Section 6 of any MSWG Consent Judgment with respect to any act or omission by GM related to the Covered Conduct, GM shall continue to be subject to Paragraphs 6.3, 6.5, 6.6.2, 6.6.3, 6.7, 6.8 and 6.11 of this Consent Judgment until Effective Date plus seven years in all MSWG states. If, prior to Effective Date plus ten years, GM is adjudged by a court to have violated any provision of Section 6 of any MSWG Consent Judgment with respect to any act or omission by GM related to the Covered Conduct, GM shall continue to be subject to Paragraphs 6.2, 6.6.1, 6.9 and 6.10 of this Consent Judgment until Effective Date plus twelve years in all MSWG states. This Paragraph is in addition to all other remedies available to the Attorney General in law and equity.

11.4 Nothing in this Consent Judgment shall be construed to waive, limit, or expand any claim of sovereign immunity the State of Montana may have in any action or proceeding.

11.5 Any failure of the Attorney General or GM to exercise its rights under this Consent Judgment shall not constitute a waiver of its rights.

11.6 Unless otherwise prohibited by law, any signatures by the Parties required for entry of this Consent Judgment may be executed in counterparts and by different signatories on separate counterparts, each of which shall be deemed an original, but all of which shall together be one and the same Consent Judgment. One or more counterparts of this Consent Judgment may be delivered by facsimile or electronic transmission with the intent that it or they shall constitute an original counterpart hereof.

11.7 Nothing in this Consent Judgment shall be construed to create, waive, or limit any private right of action.

11.8 GM is entering into this Judgment solely for the purpose of settlement, and nothing contained herein may be taken as or construed to be an admission, concession, finding, or conclusion of any violation of law, rule, or regulation, or of any other matter of fact or law, or of any liability or wrongdoing, all of which GM expressly denies. This Consent Judgment is not intended to constitute evidence or precedent of any kind except in any action or proceeding by one of the Parties (a) to enforce, rescind, or otherwise implement or affirm any or all of the terms of this Consent Judgment, or (b) to support a defense of res judicata, collateral estoppel, release, or other theory of claim preclusion, issue preclusion, or similar defense. The Released Parties' agreement to entry of this Consent Judgment is not an admission of liability. Nothing in this Consent Judgment affects the Released Parties' right to take or adopt any legal or factual position or defense in any other litigation or proceeding, or to cite or enforce the terms of the Release in Section 8.

11.9 The Attorney General of the State of Montana, for the consideration set forth in this Consent Judgment, hereby agrees and covenants not to sue Motors Liquidation Company, General

Motors Corporation, Motors Liquidation Company GUC Trust, Motors Liquidation Company Avoidance Action Trust, or any other trust established by the Motors Liquidation Company bankruptcy plan to hold or pay liabilities of Motors Liquidation Company or General Motors Corporation for any and all civil claims (including claims for diminution in value), demands, causes of action, damages, equitable claims, injunctive relief, restitution, fines, costs, attorneys' fees and penalties, arising from the subject matter of the Covered Conduct that the Attorney General is authorized under the law to bring and which the Attorney General could have asserted, before or as of the Effective Date, against the entities named in this covenant not to sue under all UDAP laws. This paragraph and covenant is limited, to the extent applicable, by Paragraph 8.2 of this Consent Judgment. This covenant not to sue includes the agreement by the Attorney General of the State of Montana not to file a claim or seek any payment related to violations of all UDAP Laws related to the Covered Conduct in the bankruptcy case entitled *In re Motors Liquidation Company, et al.*, Case No. 09-50026 (MG) (Bankr. S.D.N.Y.).

11.10 GM waives any claim for fees, costs, or expenses incurred before the entry of this Consent Judgment against the Signatory Attorney General, or against any of his agents or employees related in any way to this Consent Judgment, whether arising under common law or under the terms of any statute. Likewise, except as otherwise provided in this Consent Judgment, the Signatory Attorney General waives any claims for fees, costs, or expenses incurred before the entry of this Consent Judgment against GM related in any way to this Consent Judgment, whether arising under common law or under the terms of any statute. For these purposes, GM and the Signatory Attorney General each agree that they are not the prevailing party in this action because the Parties have reached a good faith settlement. GM and the Signatory Attorney General further waive any other right to challenge or contest the validity of this Consent Judgment.

11.11 GM further agrees to execute and deliver such authorizations, documents, and instruments as are required under the various judicial procedures for acceptance of this Consent Judgment in the jurisdiction in which it is being filed.

## **12 COMPLIANCE WITH ALL LAWS**

12.1 Nothing in this Consent Judgment shall be construed as relieving GM of its obligations to comply with all state and federal laws, regulations, or rules, or as granting GM permission to engage in any acts or practices prohibited by such law, regulation, or rule.

12.2 The Plaintiff and the Defendant hereby stipulate and agree that the Order of this Court to be issued pursuant to this Consent Judgment shall act as an injunction issued under Mont. Code Ann. § 30-14-111(4).

## **13 REPRESENTATIONS AND WARRANTIES**

13.1 GM warrants and Represents that it manufactured, sold, and distributed Motor Vehicles in the U.S. and further acknowledges that it is the proper party to this Consent Judgment and that General Motors Company is its true legal name.

13.2 The undersigned counsel for the State of Montana warrants and Represents that he is fully authorized to execute this Consent Judgment on behalf of the Attorney General of the State of Montana.

13.3 Counsel for GM shall provide a corporate resolution authorizing the execution of this Consent Judgment on its behalf and warrants and Represents that they are fully authorized to execute this Consent Judgment on behalf of GM.

13.4 Each of the Parties warrants and Represents that it negotiated the terms of this Consent Judgment in good faith.

13.5 Each of the Parties and signatories to this Consent Judgment warrants and Represents that it freely and voluntarily enters into this Consent Judgment without any degree of duress or compulsion.

13.6 GM shall not Represent or imply that the Signatory Attorneys General acquiesce in or approve of GM's past or current business practices, efforts to improve its practices, or any future practices that GM may adopt or consider adopting.

13.7 All Parties consent to the disclosure to the public of this Consent Judgment by GM and the Signatory Attorneys General.

13.8 Nothing in this Consent Judgment constitutes an agreement by the Attorneys General concerning the characterization of the payment to the Signatory Attorneys General, as outlined in Section 7, for the purpose of the Internal Revenue laws, Title 26 of the United States Code, or similar state tax codes or laws.

13.9 For purposes of construing this Consent Judgment, the Consent Judgment shall be deemed to have been drafted by all Parties and shall not, therefore, be construed against any Party for that reason in any dispute.

13.10 The Parties state that no promise of any kind or nature whatsoever (other than the written terms of this Consent Judgment) was made to them to induce them to enter into this Consent Judgment, and that they have entered into this Consent Judgment voluntarily.

13.11 This Consent Judgment constitutes the entire, complete, and integrated agreement between the Parties pertaining to the settlement and supersedes all prior and contemporaneous undertakings of the Parties in connection herewith except the Confidentiality Agreement. This Consent Judgment may not be modified or amended except by written consent of all the Parties.

**14 PAYMENT OF FILING FEES**

14.1 All filing fees associated with commencing this action and obtaining the Court's approval and entry of this Consent Judgment shall be borne by GM.

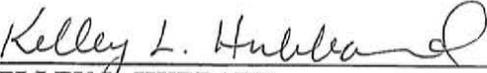
**IT IS SO ORDERED, ADJUDGED AND DECREED.**

This \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
**DISTRICT COURT JUDGE**

**JOINTLY APPROVED BY:**

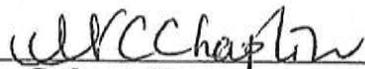
**FOR MONTANA ATTORNEY GENERAL, TIMOTHY C. FOX:**

  
\_\_\_\_\_  
**KELLEY L. HUBBARD**  
Assistant Attorney General  
P.O. Box 200151  
Helena, MT 59620-0151  
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Fax: 406-442-1894

10/19/2017

**FOR DEFENDANT:**

**GENERAL MOTORS COMPANY**

  
\_\_\_\_\_  
**Ann Cathcart Chaplin**  
Deputy General Counsel, Litigation  
General Motors LLC  
300 Renaissance Center  
Detroit, Michigan 48265

10/2/17  
**DATE**

**APPROVED AS TO FORM FOR ENTRY:**

  
\_\_\_\_\_  
**Thomas J. Perrelli**  
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1099 New York Avenue, N.W. Suite 900  
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(202) 639-6004  
TPerrelli@jenner.com

10/4/17  
**DATE**

**Counsel for General Motors Company**

APPROVED AS TO FORM FOR ENTRY:

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10-9-2017  
DATE