

**UNITED STATES DEPARTMENT OF TRANSPORTATION  
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION**

1200 New Jersey Avenue, SE  
West Building, W41-326  
Washington, DC 20590

**In re:** \_\_\_\_\_ )  
 )  
**Hyundai Motor America, Inc.** )  
RQ17-004 )  
NHTSA Recall No. 15V-568 )  
NHTSA Recall No. 17V-226 )  
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\_\_\_\_\_ )

**CONSENT ORDER**

This Consent Order is issued pursuant to the authority of the National Highway Traffic Safety Administration (“NHTSA”), an operating administration of the U.S. Department of Transportation. This Consent Order sets forth the requirements and performance obligations agreed to by Hyundai Motor America, Inc. (“Hyundai”), under the following terms and conditions.

**I. NATURE OF THE ACTION**

1. The National Traffic and Motor Vehicle Safety Act of 1966 as amended and recodified (the “Safety Act”), 49 U.S.C. Chapter 301, provides for regulation of motor vehicles and motor vehicle equipment by the Secretary of Transportation. The Secretary has delegated her authorities under the Safety Act to the NHTSA Administrator. *See* 49 C.F.R. § 1.95(a). All authorities lawfully vested and reserved to the NHTSA Administrator may be exercised by the NHTSA Deputy Administrator. *See* 49 C.F.R. § 501.5(a).

2. A manufacturer of a motor vehicle that decides in good faith that the vehicle contains a defect related to motor vehicle safety or does not comply with an applicable federal motor vehicle safety standard (“FMVSS”) must notify NHTSA by submitting a Defect and

Noncompliance Information Report (“DIR”). 49 U.S.C. § 30118(c); 49 C.F.R. § 573.6. A manufacturer must submit the DIR not more than five working days after it knew or should have known of a safety-related defect or noncompliance in its vehicles. *See* 49 C.F.R. § 573.6(b).

3. A manufacturer must amend its DIR within five working days after it has new information that updates or corrects information previously reported relating to identification of the vehicles or items of motor vehicle equipment potentially containing the defect or noncompliance, including a description of the manufacturer’s basis for its determination of the recall population and a description of how the vehicles or items of equipment to be recalled differ from similar vehicles or items of equipment that the manufacturer has not included in the recall. 49 C.F.R. § 573.6(b).

4. On September 10, 2015, Hyundai filed a DIR with NHTSA. This recall was assigned NHTSA recall number 15V-568. Hyundai recalled certain Model Year 2011-2012 Sonata vehicles equipped with 2.4L and 2.0L Theta II Gasoline Direct Injection (“GDI”) engines. The chronology in the DIR stated:

The 2011 Hyundai Sonata was the first Hyundai vehicle to use an engine manufactured in Hyundai’s Alabama engine factory. As is the case with any production process, revisions were made to the manufacturing processes. Of note, Hyundai initially used a mechanical deburring process to remove machining debris from the crankshaft. In April of 2012, Hyundai incorporated a high pressure “wet blast” process to remove metallic debris from the component.

As the subject vehicles gained field experience, Hyundai became aware of engine-related warranty claims in the field. The vast majority of those claims evidenced that customers were responding to substantial noise, or the vehicle’s check engine light, and bringing their vehicles to service as a result of those warnings. Many customers also complained after the warranty was no longer available. In a relatively smaller number of instances, customers reported stalling events. However, the majority of those customers did not mention the speed at which the vehicle was moving at the time of the reported stalling event. These customers were also able to restart their vehicles and/or move the vehicles to the side of the road.

In June, 2015, NHTSA raised the issue with Hyundai. Hyundai explained that, as of that time, it did not consider the issue to be safety-related due to the substantial warnings and the evidence that customers were responding to the warnings, among other reasons. Upon reviewing Hyundai's information, the Office of Defects Investigation informed Hyundai of its concern over the potential for higher speed stalling events. These discussions occurred throughout August, 2015. On September 2, 2015, this issue was discussed at HMA's Technical Committee meeting. At that time, Hyundai decided [to] conduct the field action as a safety recall and to file this Defect Information Report.

To date, there have been no reports of accidents or injuries attributed to this condition.

5. The description of the defect in the DIR stated:

Hyundai has determined that metal debris may have been generated from factory machining operations as part of the manufacturing of the engine crankshaft during the subject production period. As part of the machining processes, the engine crankshaft is cleaned to remove metallic debris. If the debris is not completely removed from the crankshaft's oil passages, it can be forced into the connecting rod oiling passages restricting oil flow to the bearings. Since bearings are cooled by oil flow between the bearing and journal, a reduction in the flow of oil may raise bearing temperatures increasing the potential of premature bearing wear. A worn connecting rod bearing will produce a metallic, cyclic knocking noise from the engine which increases in frequency as the engine rpm increases. A worn connecting rod bearing may also result in illumination of the oil pressure lamp in the instrument cluster. If the vehicle continues to be driven with a worn connecting rod bearing, the bearing can fail, and the vehicle could stall while in motion.

6. On March 31, 2017, Hyundai filed a DIR with NHTSA. This recall was assigned NHTSA recall number 17V-226. Hyundai recalled certain Model Year 2013-2014 Santa Fe Sport and 2013-2014 Sonata vehicles equipped with 2.4L and 2.0L Theta II GDI engines. In its chronology, Hyundai stated:

In September, 2015 Hyundai initiated a recall for Model Year 2011 and 2012 Hyundai Sonata vehicles manufactured at Hyundai Motor Manufacturing Alabama (HMMA) equipped with 2.0 liter and 2.4 liter Gasoline Direct injection engines based on the number of engine replacements in those model years. At the same time, Hyundai initiated a warranty extension for the engine short block assembly for all 2011 through 2014 MY Sonata ("YF" platform) vehicles manufactured at HMMA. Hyundai continued to monitor engine-related field data during 2016 and into 2017, noting an increase in claims relating to the subsequent model years. Although the majority of the claims for engine replacement indicated that

customers were responding to substantial noise or the vehicle's check engine or oil pressure warning lights (and bringing their vehicles to service as a result of those warnings), in certain instances customers reported stalling events, including some at higher speeds. Some customers mention being able to restart their vehicles and/or to move the vehicles to the side of the road.

After further discussions, on March 24, 2017, Hyundai decided to convert the extended warranty for the remaining 2013 and 2014 Model Year Sonatas to a safety recall, and to add the corresponding population of "AN" platform Santa Fe Sport vehicles manufactured at HMMA, which have exhibited a similar field experience.

There have been no reports of accidents or injuries attributed to this condition.

7. The description of the defect contained in NHTSA Recall number 17V-226 stated:

The subject engines may contain residual debris from factory machining operations, potentially restricting oil flow to the main bearings and leading to premature bearing wear. A worn connecting rod bearing will produce a cyclic knocking noise from the engine and may also result in the illumination of the oil pressure lamp in the instrument panel. Over time, the bearing may fail and the vehicle could lose motive power while in motion.

8. On May 18, 2017, NHTSA opened Recall Query ("RQ") 17-004 to investigate both the timeliness and scope of Hyundai's Theta II GDI engine recalls (Recall Nos. 15V-568 and 17V-226), and Hyundai's compliance with reporting requirements.

9. Based on Hyundai's responses to NHTSA's RQ17-004 investigation, and other information provided to NHTSA by Hyundai beginning in 2015, NHTSA asserted that Hyundai may be liable for civil penalties under 49 U.S.C. §§ 30165(a)(1) and (3) on multiple grounds, including the untimeliness of the recalls (Recall Nos. 15V-568 and 17V-226), inaccuracies in Hyundai's DIRs, and that a required report describing potential safety-related issues contained certain inaccuracies or omissions. Hyundai disagreed with these assertions. To administratively resolve these issues, NHTSA and Hyundai have mutually agreed to this Consent Order.

10. NHTSA issues this Consent Order pursuant to its authority under the Safety Act, 49 U.S.C. Chapter 301, consistent with U.S. Department of Transportation enforcement procedures, 49 C.F.R. Part 5, Subpart D, and in accordance with the delegations at 49 C.F.R. §§ 1.95, 501.5(a), to compromise the amount of civil penalties, 49 U.S.C. § 30165(b), to inspect and investigate, 49 U.S.C. § 30166(b)(1), to ensure that defective vehicles and equipment are recalled, 49 U.S.C. §§ 30118-30120, and to require reports or answers to specific questions, 49 U.S.C. § 30166(e).

It is **AGREED** by Hyundai and **ORDERED** by NHTSA that the following provisions shall apply.

## **II. TERMS AND CONDITIONS OF CONSENT ORDER**

### **Civil Penalty**

11. In determining an appropriate civil penalty amount, NHTSA considered the civil penalty factors set forth in 49 U.S.C. § 30165(c) and Hyundai's views of how those factors should be applied. NHTSA has also taken into account Hyundai's cooperation with NHTSA's RQ17-004 investigation.

12. Subject to the terms in the remainder of this Paragraph, Hyundai shall pay a civil penalty in the sum of one hundred forty million dollars (\$140,000,000) ("Total Civil Penalty").

- a. Of the Total Civil Penalty, the sum of fifty-four million dollars (\$54,000,000) ("Non-Deferred Amount") shall be paid within sixty (60) calendar days of the Effective Date of this Consent Order in accordance with instructions provided by NHTSA.
- b. Of the Total Civil Penalty, the sum of forty-six million dollars (\$46,000,000) ("Abeyance Amount") shall be deferred and held in abeyance by NHTSA

pending Hyundai's satisfactory completion, as reasonably determined by NHTSA, of the requirements of this Consent Order. In the event that Hyundai commits material violations of the Safety Act, regulations thereunder, or this Consent Order, during the term of this Consent Order, Hyundai may be obligated to pay the Abeyance Amount or a portion thereof in accordance with Paragraph 19 below, and may be liable for additional civil penalties beyond the Abeyance Amount for those violations of the Safety Act and regulations thereunder.

- c. Of the Total Civil Penalty, forty million dollars (\$40,000,000) ("Performance Obligation Amount") shall be expended by Hyundai during the term of this Consent Order to fulfill the Safety Data Analytics infrastructure obligations and the Test and Inspection Laboratory obligations as identified in Paragraphs 22 and 23.

13. Pursuant to this agreement, Hyundai admits that it owes a debt in the amount of one hundred forty million dollars (\$140,000,000), as provided for in Paragraph 12, arising from activities under the jurisdiction of the U.S. Department of Transportation, due and owing to the United States under the Federal Claims Collection Act of 1966, as amended and codified at 31 U.S.C. § 3701, *et seq.* (hereinafter the "Claims Collection Act").

14. If Hyundai fails to make the payment of the Non-Deferred Amount as set forth in Paragraph 12a above, or any payments of the Abeyance Amount as may be imposed in accordance with this Consent Order, on or before their respective due dates, Hyundai shall be in default of this Consent Order and the remaining balance of the Total Civil Penalty shall become due immediately. In that event: (i) Hyundai agrees not to contest any collection action undertaken

by NHTSA or the United States pursuant to applicable law, including the Claims Collection Act and the U.S. Department of Transportation's regulations, 49 C.F.R. Part 89, either administratively or in any court and (ii) Hyundai affirmatively waives any and all defenses or rights that would otherwise be available to it in any such proceeding. In addition, in such a proceeding, Hyundai shall pay the United States all reasonable costs of collection and enforcement, including attorneys' fees and expenses. This provision does not preclude Hyundai from contesting the imposition of any of the Abeyance Amount in accordance with Paragraph 19 below.

15. Upon receipt of the Non-Deferred Amount and upon expiration of the Consent Order (including any extensions), Hyundai, including its current and former directors, officers, employees, agents, successors, and assigns will be deemed released from liability for civil penalties pursuant to 49 U.S.C. § 30165 in connection with any and all violations of the Safety Act or regulations thereunder relating to RQ17-004, including the timeliness and reporting of Recall Nos. 15V-568 and 17V-226, from the inception of the Safety Act through the Effective Date of this Consent Order.

16. Nothing in this Consent Order discharges Hyundai from any obligation to comply with the Safety Act or regulations thereunder, including the obligation to carry out recalls in accordance with law, and to initiate a recall upon any future determination by Hyundai, or upon any finally adjudicated order from NHTSA, that vehicles equipped with Theta II GDI engines contain a defect related to motor vehicle safety or do not comply with an applicable FMVSS. Likewise, other than RQ17-004, this Consent Order is not intended to affect any other current or future investigation of NHTSA, DOT, or the United States, which may involve vehicles

equipped with Theta II GDI engines, expressly including but not limited to NHTSA Preliminary Evaluation (“PE”) 19-003.

17. This Consent Order does not release Hyundai from liabilities, if any, that may be asserted by the United States, the U.S. Department of Transportation, NHTSA, or any governmental entity, other than the civil penalty liability under 49 U.S.C. § 30165 as described in Paragraph 15.

***Abeyance Amount***

18. The Abeyance Amount is subject to release on the following schedule:
- a. If NHTSA does not make a determination that Hyundai has materially violated the Safety Act, regulations thereunder, or the terms of this Consent Order by the end of the first year of the Consent Order, eleven million dollars (\$11,000,000) will be deemed released.
  - b. If NHTSA does not make a determination that Hyundai has materially violated the Safety Act, regulations thereunder, or the terms of this Consent Order by the end of the second year of the Consent Order, eleven million dollars (\$11,000,000) will be deemed released.
  - c. If NHTSA does not make a determination that Hyundai has materially violated the Safety Act, regulations thereunder, or the terms of this Consent Order by the end of the third year of the Consent Order, and does not exercise its option for an additional year pursuant to Paragraph 41, the remainder of the Abeyance Amount (twenty-four million dollars (\$24,000,000)) will be deemed released.



- d. If NHTSA exercises its option for an additional year pursuant to Paragraph 41, and if NHTSA does not make a determination that Hyundai has materially violated the Safety Act, regulations thereunder, or the terms of this Consent Order by the end of the third year of the Consent Order, twelve million dollars (\$12,000,000) will be deemed released.
- e. If NHTSA exercises its option for an additional year pursuant to Paragraph 41, and if NHTSA does not make a determination that Hyundai has materially violated the Safety Act, regulations thereunder, or the terms of this Consent Order by the end of the fourth year of the Consent Order, the remainder of the Abeyance Amount (twelve million dollars (\$12,000,000)) will be deemed released.

19. Should NHTSA receive notice or reasonably believe that Hyundai has materially violated the Safety Act, regulations thereunder, or the terms of this Consent Order, NHTSA shall provide written notice to Hyundai, including a statement regarding the Abeyance Amount that will be due if NHTSA makes a determination in accordance with this Paragraph. Hyundai will have thirty (30) calendar days or such other time as mutually agreed by NHTSA and Hyundai, from the date on which the issue was communicated to Hyundai by NHTSA (“Evaluation Period”) to respond to the notice in writing. Hyundai’s response will provide its views, along with any supporting information and documentation. Should there be a reasonable dispute, the parties agree to reasonably discuss the alleged violation. If no mutually agreeable resolution is reached after discussion and NHTSA reasonably determines that Hyundai has materially violated the Safety Act, regulations thereunder, or the terms of this Consent Order, then Hyundai will be

liable for the Abeyance Amount determined by NHTSA, to be paid in accordance with instructions from NHTSA within thirty (30) calendar days of such determination.

20. Hyundai shall only be liable for the payment of the Abeyance Amount in accordance with the conditions in Paragraph 19. Hyundai will be deemed released from any portion of the Abeyance Amount remaining at the expiration of this Consent Order.

***Performance Obligation Amount***

21. This Consent Order requires Hyundai to expend forty million dollars (\$40,000,000) (“Performance Obligation Amount”), pursuant to the timeline set forth in Paragraphs 24, 25, and 30, with fifteen million dollars (\$15,000,000) of the Performance Obligation Amount dedicated to Safety Data Analytics infrastructure and with twenty-five million dollars (\$25,000,000) of the Performance Obligation Amount dedicated to the Test and Inspection Laboratory. In implementing these measures, to the extent any of Hyundai’s actual expenditures on Safety Data Analytics infrastructure or the Test and Inspection Laboratory exceed the amounts described herein, such additional expenditures shall be at the sole cost and discretion of Hyundai and will not result in additional Performance Obligation credit to any monetary obligation under this Consent Order, unless agreed to in writing by NHTSA.

**Performance Obligations**

22. *Safety Data Analytics Infrastructure:* Hyundai will invest in advanced data analytics capabilities to enhance its ability to detect and study emerging safety-related defect trends on its vehicles (the “Safety Data Analytics infrastructure”). This infrastructure will encompass, *inter alia*, assessing the potential of integrating machine learning and predictive analytics and sensing methodologies into Hyundai’s existing processes to identify and investigate potential defect trends.

23. *Test and Inspection Laboratory*: Hyundai will build and develop a fully-functioning United States-based outdoor test laboratory and vehicle tear down facilities. The test laboratory will focus on safety field issues, vehicle inspections, and defect investigations.

24. Hyundai shall meet with NHTSA, either virtually or in person, no later than ninety (90) calendar days after the Effective Date of this Consent Order to discuss an initial plan for the Safety Data Analytics infrastructure, along with an estimated timeline for its implementation and cost. Hyundai shall notify NHTSA of any material changes to this information, and shall reasonably consider any feedback from NHTSA on its Safety Data Analytics infrastructure. Hyundai shall update NHTSA on the progress of implementing the Safety Data Analytics infrastructure during its meetings with the agency pursuant to Paragraph 40.

25. Hyundai shall meet with NHTSA, either virtually or in person, no later than ninety (90) calendar days after the Effective Date of this Consent Order to discuss an initial plan for the Test and Inspection Laboratory, along with an estimated timeline for its implementation and cost. Hyundai shall notify NHTSA of any material changes to this information, and shall reasonably consider any feedback from NHTSA on its Test and Inspection Laboratory. Hyundai shall update NHTSA on the progress of implementing the Test and Inspection Laboratory during its meetings with the agency pursuant to Paragraph 38f.

**Third-Party Auditor**

26. No later than twenty-one (21) calendar days after the Effective Date of this Consent Order, Hyundai shall provide to NHTSA the names of three (3) individuals with expertise in motor vehicle safety and the requirements of the Safety Act and qualified to serve as an independent, Third-Party Auditor for NHTSA to select.

27. Hyundai shall retain, at its sole cost and expense, the independent, Third-Party Auditor selected by NHTSA no later than fourteen (14) calendar days after NHTSA notifies Hyundai in writing of its selection. Hyundai shall pay the compensation and expenses of the Third-Party Auditor, including any persons hired by the Third-Party Auditor as is reasonably necessary to carry out the duties of the Third-Party Auditor, after consultation with Hyundai.

28. Hyundai agrees to cooperate with the Third-Party Auditor to ensure that the Third-Party Auditor has access to the information that is reasonably necessary for it to carry out its duties under the Consent Order.

29. The Third-Party Auditor shall report to NHTSA directly, and shall be responsible for reviewing and assessing Hyundai's compliance with this Consent Order, the Safety Act, and regulations thereunder, including but not limited to Hyundai's Performance Obligation expenditures, the implementation and efficacy of the Safety Data Analytics infrastructure and Hyundai's Test and Inspection Laboratory, Hyundai's recall decision-making and processes (including as exercised for United States Hyundai recalls), Hyundai's independent recall authority, HMA's North American Safety Decision Authority ("NASDA") inputs and outputs, Safety Evaluation List ("SEL") item openings and investigations, and the implementation and efficacy of Hyundai's Safety Office (including but not limited to Hyundai Motor Company ("HMC") engineering support and HMC data sharing). In carrying out the responsibilities herein, the Third-Party Auditor may interview Hyundai personnel, request to attend meetings, review non-privileged documents and other materials, and make other reasonable requests to Hyundai to allow it to carry out its responsibilities. To the extent the Third-Party Auditor reasonably seeks access to information contained in privileged documents, Hyundai will use best efforts to provide the Third-Party Auditor with access to information without compromising the

privilege. The Third-Party Auditor must notify NHTSA if not provided the access or assistance from Hyundai it believes it needs to carry out its responsibilities under this Consent Order.

30. To substantiate completion and satisfaction of the Performance Obligation amounts for the Safety Data Analytics infrastructure and Test and Inspection Laboratory, Hyundai shall provide the Third-Party Auditor documentation with sufficient detail to enable the Third-Party Auditor to prepare a report to NHTSA confirming the amount that Hyundai expended in furtherance of its obligations to invest in Safety Data Analytics infrastructure and the Test and Inspection Laboratory. If Hyundai has not expended the full Performance Obligation Amount no later than thirty-five (35) months after the Effective Date of this Consent Order, or forty-seven (47) months if the Consent Order is extended for a fourth year, the unexpended portion of the Performance Obligation Amount shall become immediately due and owing to the U.S. Treasury, except that NHTSA, in its sole discretion, may count a reasonable amount of Hyundai's future costs in implementing the Performance Obligation Amounts toward the required investment.

31. No later than sixty (60) calendar days after the Third-Party Auditor is retained by Hyundai, the Third-Party Auditor will submit to NHTSA an initial work plan and schedule for the completion of the assessments required by Paragraph 29. The Third-Party Auditor shall periodically continue to assess Hyundai's compliance with this Consent Order, the Safety Act, and regulations thereunder, and make such reports to NHTSA as required by Paragraph 33.

32. The Third-Party Auditor shall make recommendations to Hyundai for improvements to align with industry best practices ("Best Practices"). No later than sixty (60) calendar days after the Third-Party Auditor is retained by Hyundai, the Third-Party Auditor will submit to NHTSA an initial work plan and schedule for providing the recommendations required

by this Paragraph. The Third-Party Auditor shall periodically continue to review Best Practices for the duration of the Consent Order and make additional recommendations as warranted.

33. The Third-Party Auditor shall provide reports to NHTSA detailing its findings regarding Hyundai's compliance with the terms of this Consent Order, the Safety Act, and regulations thereunder, including but not limited to Hyundai's Performance Obligation Amount expenditures, the implementation and efficacy of the Safety Data Analytics infrastructure, the implementation and efficacy of the Test and Inspection Laboratory, the efficacy of Hyundai's Safety Office (including but not limited to HMC engineering support, HMC data sharing, and appropriate staffing within the organization), Hyundai's recall decision-making process (including as exercised for United States Hyundai recalls), Hyundai's independent recall authority, NASDA inputs and outputs, SEL item openings and investigations, as well as its recommendations on Best Practices. The reports will also provide an assessment of the extent to which Hyundai has accepted or adopted each of the Third-Party Auditor's recommended Best Practices. No less than seven (7) calendar days prior to providing any such report to NHTSA, the Third-Party Auditor shall provide a draft of the report to Hyundai, and Hyundai shall have the opportunity to provide technical corrections and comments on the draft to the Third-Party Auditor prior to submission to NHTSA. The Third-Party Auditor may, based on independent judgment, accept or reject such technical corrections or comments from Hyundai. These reports will be provided to NHTSA and Hyundai on the following schedule: the first report is due at the end of the first full calendar quarter after the Effective Date of this Consent Order, and the next nine (9) reports are due by the end of each subsequent calendar quarter. If NHTSA does not elect to extend the term of this Consent Order, the final report will be due thirty-three (33) months after the Effective Date of this Consent Order. If NHTSA elects to extend the term of

this Consent Order by one year, an additional four (4) reports are due by the end of each calendar quarter and the final report will be due forty-five (45) months after the Effective Date of this Consent Order.

34. On a recurring quarterly basis, the Third-Party Auditor shall meet with NHTSA, either virtually or in person, to discuss Hyundai's performance under this Consent Order, compliance with the Safety Act and regulations thereunder, and Hyundai's acceptance and adoption of the Third-Party Auditor's recommended Best Practices. Hyundai may participate in these meetings if it elects to do so.

35. To the extent that Hyundai does not accept and adopt all of the Third-Party Auditor's recommended Best Practices on or before thirty-three (33) months after the Effective Date of this Consent Order, Hyundai must submit a report to NHTSA detailing why it has not accepted the recommended Best Practices.

36. Nothing in the reporting or meeting structure established herein is intended to restrict the ability for the Third-Party Auditor to otherwise raise issues to NHTSA, at any time during the Consent Order, as the Third-Party Auditor reasonably deems warranted.

37. Likewise, nothing herein is intended to limit NHTSA's ability to contact the Third-Party Auditor or Hyundai or request additional information from the Third-Party Auditor or Hyundai about any matter within the scope of this Consent Order outside of the reporting structure specified herein, as NHTSA reasonably deems warranted. Any failure of the Third-Party Auditor to meet the specifications of this Consent Order shall not be deemed a violation of the Consent Order by Hyundai.

**Hyundai's Safety Office and Hyundai's Independent Recall Decision-Making Authority**

38. Hyundai commits and agrees to the following corporate organizational and process improvements:

- a. *Fully Functional Chief Safety Officer.* Hyundai will have a fully functional Chief Safety Officer (“CSO”) in the United States, reporting to the Chief Executive Officer (“CEO”) of the Hyundai entity directly responsible for the United States operations and Hyundai Motor North America (“HMNA”). The CSO will also report directly to a HMC corporate officer responsible for global safety.
- b. *Independent Recall Authority.* The CSO will lead the HMNA North American Safety Office (“NASO”) and will also chair NASDA, which is authorized to exercise all safety recall decision-making for the North American region, including the United States market, independently and without approval from HMC, the parent company in Korea, or any other entities. Hyundai and its CSO will establish a transparent process to investigate potential safety issues. The CSO has independent authority to review and investigate all potential safety issues, including SEL openings and investigations, NASDA inputs and outputs, and all other such information as may be reasonably necessary for the CSO to make an informed decision regarding safety recalls.
- c. *Fully Functional Safety Office.* Hyundai and its CSO will establish a dedicated safety office with sufficient staff and resources to execute investigations and launch effective remedies.
  - i. *Access to Data.* In reviewing safety issues, the Hyundai NASO will have immediate access to global claims/complaints data on



vehicles or components that are common to Hyundai vehicles in the United States.

- ii. The CSO is authorized to request engineering and investigative support from HMC and Hyundai represents that HMC has committed to supporting such requests.
  - iii. The CSO will have a formal liaison with Kia Motors America (“KMA”), Kia Motors Corporation (“KMC”), and HMC to review emerging issues with common components on a regular basis and share information about field inputs or reports regarding common platforms and/or components.
  - iv. The CSO will have a formal liaison with Hyundai’s Office of General Counsel and will meet regularly to review new claims and lawsuits, evidence that may have been developed by litigation experts, and developments in existing cases.
- d. *Semi-Annual Executive-Level Reviews.* The CSO, the HMNA CEO, and the HMC corporate officer that the CSO reports to will meet, either virtually or in person, with the NHTSA Administrator, or designate, on a semi-annual basis to discuss Hyundai’s safety recall efforts and process. Hyundai may designate the CSO and HMNA CEO to represent the HMC corporate officer that the CSO reports to with NHTSA’s permission.
- e. *Table-Top Exercise.* The CSO will conduct a safety defect tabletop simulation with NHTSA, either virtually or in person, to demonstrate HMA’s investigation process, within six (6) months of the Effective Date of the

Consent Order, and will report to NHTSA on the implementation of any measures responsive to NHTSA's comments and observations. To the extent that such additional improvements and/or simulations are warranted, at NHTSA's request, Hyundai shall conduct an additional simulation(s) no later than thirty (30) calendar days after NHTSA's request(s).

- f. *Quarterly Enforcement Reviews.* Hyundai and its CSO will hold quarterly meetings, either virtually or in person, with NHTSA's Office of Defects Investigation ("ODI") and Office of Vehicle Safety Compliance ("OVSC") Directors, the Associate Administrator for Enforcement, and the Assistant Chief Counsel for Litigation and Enforcement, or their designates, to discuss Hyundai's active investigations and related safety field actions.
- g. *Quarterly Legal Meetings.* Legal representative(s) of Hyundai will meet, either virtually or in person, with representative(s) from NHTSA's Office of Chief Counsel ("NCC") on a quarterly basis to discuss matters of interest to NCC.
- h. *Field Data Analytics Department.* Hyundai and its CSO will establish a field data analytics department dedicated to identifying potential safety defects.
- i. *Investigation Department.* Hyundai and its CSO will establish an investigation department dedicated to investigating potential safety defects.
- j. *Recall Execution Department.* Hyundai and its CSO will establish a recall execution department dedicated to maximizing recall completion rates, monitoring the performance of field remedies and potential remedy scope matters.

k. *Re-imagined Internal Safety Reporting Program.* Hyundai and its CSO will review and, if warranted, revamp and improve its program to facilitate and encourage all Hyundai employees to identify and internally report potential safety issues to be investigated and documented by the company. The program will provide employees with the ability to report information anonymously, and guarantee that any employee reporting information will not face retaliation. This program will involve Hyundai efforts in both the United States and Korea, including within manufacturing plants, to enhance through training, employee understanding of safety requirements and to encourage employees to “Speak Up” when encountering a potential safety issue. Hyundai will review these efforts with the Third-Party Auditor and with NHTSA, as requested by NHTSA.

39. Hyundai shall submit a SEL report to NHTSA on a monthly basis. The SEL will be compiled in a form, manner, and scope agreed to by NHTSA and Hyundai, and shall include potential safety-related defects or noncompliances, including issues related to existing recalls, regardless of whether those issues are being investigated or reviewed by NHTSA. The first report is due within sixty (60) calendar days after reaching agreement on the form and manner of the SEL. In addition to the SEL reports being required under this Consent Order, the SEL reports are also considered required reports under 49 U.S.C. § 30166(e).

40. Members from Hyundai’s Safety Office, including the CSO, will continue to meet with NHTSA, either virtually or in person, on at least a monthly basis during the term of this Consent Order, and will include in those meetings a discussion of the SEL list (as referenced in Paragraph 39), as well as any open issues, recent Technical Service Bulletins (“TSBs”),

Vehicle Owner Questionnaires (“VOQs”), Hyundai’s recall decision-making (including decisions not to recall), or other issues of interest to NHTSA’s ODI. If one or more monthly meetings fails to occur due to circumstances beyond Hyundai’s control, the meeting omission shall not be deemed a violation of this Consent Order by Hyundai.

### **III. TERM OF THE CONSENT ORDER**

41. Unless otherwise specified, the term of this Consent Order and Hyundai’s performance obligations is three years from the Effective Date; provided, however, that NHTSA may extend the term of this Consent Order for an additional year if NHTSA reasonably finds that an extension is warranted.

### **IV. AMENDMENT**

42. This Consent Order cannot be modified, amended, or waived except by an instrument in writing signed by all parties, and no provision may be modified, amended, or waived other than by a writing setting forth such modification, amendment or waiver.

43. The parties may agree, without need for an amendment as specified in Paragraph 42, to reasonable changes to specified report or meeting dates, schedules, or meeting cadences.

### **V. MISCELLANEOUS**

44. Hyundai shall use its best efforts to take all actions and to do all things necessary to comply with this Consent Order, and to cooperate with NHTSA in carrying out the requirements of this Consent Order.

45. Nothing in this Consent Order shall be interpreted or construed in a manner inconsistent with, or contravening, any federal law, rule, or regulation at the time of the execution of this Consent Order, or as amended thereafter.

46. None of the specific reporting obligations described in this Consent Order relieve Hyundai of its obligation to submit any other reports required by the Safety Act or its corresponding regulations, or otherwise comply with existing laws and regulations.

47. The parties shall each bear their own respective attorneys' fees, costs, and expenses, except as provided in Paragraph 14 above.

48. This Consent Order shall be effective upon its full execution by all individuals and parties listed as signatories below ("Effective Date"). Any breach of the obligations under this Consent Order, may, at NHTSA's option, be immediately enforceable in any United States District Court. Hyundai agrees that it will not raise any objection as to venue.

49. In the event of Hyundai's breach of, or failure to perform, any term of this Consent Order, NHTSA reserves the right to pursue any and all appropriate administrative and/or judicial remedies, including, but not limited to, assessing interest for untimely civil penalty payments and/or commencing litigation to enforce this Consent Order in any United States District Court.

50. This Consent Order was negotiated and prepared by both NHTSA and Hyundai. If any of the provisions in this Consent Order require a court's interpretation, no ambiguity shall be construed against the drafter.

51. The parties who are the signatories to this Consent Order have the legal authority to enter into this Consent Order, and each party has authorized its undersigned to execute this Consent Order on its behalf.

52. In any legal action between the parties concerning the enforceability of this Consent Order, Hyundai expressly waives any and all defenses and agrees not to plead, argue, or otherwise raise any defenses other than (i) that the payment of the Non-Deferred Amount, set

forth in Paragraph 12a, was made, if applicable, and/or (ii) that Hyundai has substantially complied with the terms of this Consent Order.

53. This Consent Order shall be binding upon, and inure to the benefit of, Hyundai and its current and former directors, officers, employees, agents, parents, subsidiaries, affiliates, successors, and assigns. Hyundai agrees to waive any and all defenses that may exist or arise in connection with any person or entity succeeding to the interests or obligations herein, including as a result of any changes to the corporate structure or relationships among or between Hyundai and any of its parents, subsidiaries, or affiliates.

54. Should any condition or other provision contained herein be held invalid, void, or illegal by any court of competent jurisdiction, it shall be deemed severable from the remainder of this Consent Order and shall in no way affect, impair, or invalidate any other provision of this Consent Order.

55. This Consent Order shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Consent Order.

56. This Consent Order may be executed in counterparts, each of which shall be considered effective as an original signature.

57. This Consent Order is a fully integrated agreement and shall in all respects be interpreted, enforced, and governed under the federal law of the United States. This Consent Order, which is fully incorporated hereto by reference, sets forth the entire agreement between the parties with regard to the subject matter hereof. There are no promises, agreements, or conditions, express or implied, other than those set forth in this Consent Order.

[SIGNATURE PAGES FOLLOW]

APPROVED AND SO ORDERED:

NATIONAL HIGHWAY TRAFFIC SAFETY  
ADMINISTRATION,  
U.S. DEPARTMENT OF TRANSPORTATION

Dated: November 23, 2020

By: James Owens Digitally signed by James Owens  
DN: cn=James Owens, o, ou=NHTSA,  
email=james.owens@dot.gov, c=US  
Date: 2020.11.23 17:00:55 -05'00'

James C. Owens  
Deputy Administrator

Dated: November 23, 2020

By: JONATHAN CHARLES MORRISON Digitally signed by JONATHAN  
CHARLES MORRISON  
Date: 2020.11.23 16:56:32 -05'00'

Jonathan C. Morrison  
Chief Counsel

Dated: November 23, 2020

By: KERRY E KOLODZIEJ Digitally signed by KERRY E  
KOLODZIEJ  
Date: 2020.11.23 16:34:52 -05'00'

Kerry E. Kolodziej  
Assistant Chief Counsel  
for Litigation and Enforcement

Dated: November 23, 2020

By: SARAH E SORG Digitally signed by SARAH E  
SORG  
Date: 2020.11.23 16:32:59 -05'00'

Sarah E. Sorg  
Senior Trial Attorney

Dated: November 23, 2020

By: HUNTER BRADLEY OLIVER Digitally signed by HUNTER  
BRADLEY OLIVER  
Date: 2020.11.23 16:28:25 -05'00'

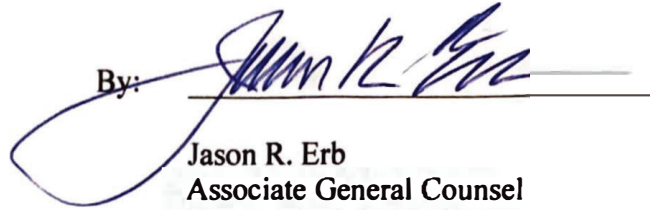
Hunter B. Oliver  
Trial Attorney

AGREED:

HYUNDAI

Dated: 11/23/20

By: \_\_\_\_\_



Jason R. Erb  
Associate General Counsel  
Hyundai Motor America, Inc.

Dated: 11/23/20

By: \_\_\_\_\_



Jacqueline Glassman  
King & Spalding LLP  
Counsel for Hyundai Motor America, Inc.