

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL
NO: 500-06-000720-140

(Class Action)
SUPERIOR COURT

**4037308 CANADA INC. d.b.a. M. SAREM
TRANSPORT**

Plaintiff

v.

**NAVISTAR CANADA INC.
and
NAVISTAR, INC.
and
NAVISTAR INTERNATIONAL
CORPORATION**

Defendants

**MODIFICATION TO THE
SETTLEMENT AGREEMENT, TRANSACTION, AND RELEASE
Dated September 10, 2021**

PREAMBLE

- A. WHEREAS** the Settling Parties executed the Settlement Agreement as of May 6, 2021;
- B. WHEREAS** Sections 1.02(f) and (ee), 4.01(1) and 4.02(1) of the Settlement Agreement provide that the Defendants agree to make an all-inclusive common fund payment of \$2,614,486 to the Cash Fund and commit to making available to the Settlement Class in the Rebate Fund rebates with a face value in the aggregate of \$145,360;
- C. WHEREAS** the Authorization and Notice Approval Hearing took place on June 18, 2021, and the Authorization and Notice Approval Order was issued on June 22, 2021 by Justice Pierre-C. Gagnon of the Superior Court of Québec;
- D. WHEREAS** the First Class Notice has been transmitted to class members within the August 15, 2021, deadline imposed by the Court and the Settlement Approval Hearing has been set on October 20, 2021;

- E. WHEREAS** the claims administration process of a similar settlement in the United States of America brought an increase in the amounts on which payment to the Cash Fund and the commitment to the Rebate Fund provided in the Settlement Agreement were calculated;
- F. WHEREAS** the Settling Parties agree to modify the Settlement Agreement for the sole purpose of increasing the payment to the Cash Fund and the commitment to the Rebate Fund provided in the Settlement Agreement to reflect the change in the amounts on which these were based;
- G. WHEREAS** the Settling Parties also agree to adjust accordingly the maximum amount of Class Counsel Fees and Costs for which Class Counsel can apply;
- H. WHEREAS** except as herein below modified, all terms and conditions of the Settlement Agreement shall remain unchanged and in full force and effect;
- I. WHEREAS** the Settling Parties are of the opinion that the modifications made to the Settlement Agreement through this Modification Agreement are minor and in the interest of the class members, and therefore shall neither require a modification to the First Class Notice, nor have an impact on the scheduled Settlement Approval Hearing;
- J. WHEREAS** the Settling Parties intend to make representations to this effect to the Court.

NOW, THEREFORE, THE SETTLING PARTIES AGREE TO THE FOLLOWING:

- 1. Sections 1.02(f) and (ee), 4.01(1) and 4.02(1) of the Settlement Agreement are modified as follows:

 - (a) the all-inclusive common fund payment to the Cash Fund is \$3,002,280; and
 - (b) the commitment to the Rebate Fund is \$160,122.
- 2. Section 9.01(1) of the Settlement Agreement is modified as follows:

 - (a) Class Counsel's request for Class Counsel Fees and Costs will not exceed \$790,600.50 plus applicable taxes.

3. This Modification Agreement must be interpreted as if its provisions were part of the Settlement Agreement. Without limiting the generality of the foregoing and unless provided otherwise in this Modification Agreement, (1) the defined terms used herein have the same meanings as in the Settlement Agreement and (2) all of the provisions of the Settlement Agreement apply to this Agreement.

IN WITNESS HEREOF, the Settling Parties have caused this Modification Agreement to be executed, effective as of the date on the cover page.


Class Counsel



JEFF ORENSTEIN

September 14, 2021
Date


Navistar Canada ULC



Name: JILL YATES

September 15, 2021
Date


Navistar, Inc.



Name: JILL YATES

September 15, 2021
Date

Navistar International Corporation



Name: JILL YATES

September 15, 2021
Date