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13 **THE SUPERIOR COURT OF THE STATE OF ARIZONA**

14 **IN AND FOR THE COUNTY OF MARICOPA**

15 STATE OF ARIZONA, *ex rel.*
16 MARK BRNOVICH, Attorney General,

No. CV2014-014090

17 Plaintiff,

CONSENT DECREE

18 vs.

(Assigned to Hon. Randall Warner)

19 GENERAL MOTORS LLC,

20 Defendant.

21 Plaintiff State of Arizona *ex rel.* Mark Brnovich, the Attorney General ("Plaintiff")
22 having filed a complaint alleging violations of the Arizona Consumer Fraud Act ("CFA"),
23 Arizona Revised Statutes ("A.R.S.") § 44-1521, *et seq.*, and Defendant General Motors LLC
24 ("Defendant" or "New GM"), by and through its counsel, having been served with the complaint
25 and having been fully advised of the right to a trial in this matter and having waived the same,
26 and the parties having agreed to the entry of this Consent Decree by this Court without trial or
27 adjudication of any issue of fact or law and without admission or finding of any violations of
28

1 any law, in order to provide designated payments to Arizona consumers and the State, and to
2 avoid the expense and uncertainty of further investigation or litigation,

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

5 **I. RECITALS**

6 Plaintiff and Defendant are collectively referred to herein as the “Parties” and
7 individually as a “Party.”

8 The above-captioned lawsuit brought by Plaintiff against Defendant is pending in the
9 Superior Court of the State of Arizona in and for the County of Maricopa (the “Litigation”).

10 The Parties have engaged in good faith negotiations to achieve a settlement of the claims
11 brought by the Plaintiff and memorialized the terms of their agreement in this Consent Decree.

12 Plaintiff, through its counsel, has concluded, after discovery and investigation of the facts
13 and after carefully considering the circumstances of the Litigation, including the claims and
14 causes of action asserted in the Litigation and the possible legal and factual defenses thereto,
15 that it is in the best interests of Plaintiff to enter into this Consent Decree.

16 New GM likewise has concluded that it is in New GM’s best interests to enter into this
17 Consent Decree.

18 The Parties agree to entry of this Consent Decree without trial or adjudication of any
19 issue of fact or law and without admission by New GM of any wrongdoing or admission of any
20 violations of law alleged in the Litigation.

21 Defendant agrees that this Court has jurisdiction over the subject matter and the parties
22 for purposes of entry of this Consent Decree.

23 **II. ORDER**

24 NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED:

25 1. **Compliance.** Defendant shall comply with the Arizona Consumer Fraud Act,
26 A.R.S. § 44-1521 *et seq.*, as it is currently written, and as it may be amended.

27 2. **Definitions.** For purposes of this Consent Decree, the following terms (designated
28 by initial capitalization and quotation marks) shall have the meanings set forth below or in the

1 portion of this Consent Decree in which the term is first defined and designated by initial
2 capitalization and quotation marks:

3 a. **“Attorney General”** means the Office of the Arizona Attorney General.

4 b. **“Claims Administrator”** shall mean a third party selected and retained by New
5 GM with the consent of the Attorney General to conduct settlement administration activities,
6 including obtaining current address information for Eligible Consumers, mailing the Consumer
7 Letter to the Eligible Consumers, sending the E-mail Notification to Eligible Consumers for
8 whom e-mail addresses are available, receiving executed releases, creating the distribution
9 checks, and mailing the distribution checks to Eligible Consumers.

10 c. **“Consumer Letter”** means the settlement letter that must be mailed by the
11 Claims Administrator to each Eligible Consumer, a template of which is attached hereto as
12 Exhibit 1, in which (i) the minimum distribution amount is communicated to the Eligible
13 Consumer, (ii) the Eligible Consumer is informed that he or she must attest in the Consumer
14 Release that he or she satisfies the definition of Eligible Consumer, and (iii) the Eligible
15 Consumer is informed that a necessary pre-condition to being paid a distribution amount is that
16 he or she must return the enclosed Consumer Release hand-signed to the Claims Administrator
17 by the Consumer Release Deadline. The Consumer Letter will also include a postage-paid,
18 addressed envelope in which Eligible Consumers can return the Consumer Release.

19 d. **“Consumer Release”** means the release, a template of which is attached hereto as
20 Exhibit 2, in which the Eligible Consumer shall attest that he or she satisfies the definition of
21 Eligible Consumer and agrees to release the specified Released Claims against the Released
22 Parties.

23 e. **“Consumer Release Deadline”** shall mean ninety (90) business days from the
24 date the Claims Administrator mails the Consumer Letter to the Eligible Consumer.

25 f. **“Court”** means Superior Court of the State of Arizona in and for the County of
26 Maricopa.

27 g. **“Covered Recall”** means any recall initiated by New GM in the calendar year
28 2014, including without limitation the following motor vehicle recalls by New GM, each of

1 which is alleged in Plaintiff's Operative Complaint in this Litigation: National Highway Traffic
2 Safety Administration ("NHTSA") Recall Numbers 14v007, 14v047, 14v092, 14v116, 14v117,
3 14v118, 14v144, 14v151, 14v152, 14v153, 14v168, 14v171, 14v212, 14v213, 14v223, 14v224,
4 14v240, 14v246, 14v247, 14v251, 14v252, 14v253, 14v259, 14v260, 14v261, 14v265, 14v266,
5 14v298, 14v299, 14v300, 14v301, 14v315, 14v317, 14v318, 14v338, 14v339, 14v341, 14v342,
6 14v345, 14v346, 14v350, 14v355, 14v372, 14v374, 14v375, 14v377, 14v394, 14v400, 14v404,
7 14v407, 14v409, 14v417, 14v440, 14v446, 14v447, 14v450, 14v451, 14v460, 14v488, 14v489,
8 14v490, 14v500, 14v518, 14v540, 14v542, 14v543, 14v541, 14v544, 14v568, 14v570, 14v571,
9 14v593, 14v614, 14v624, 14v645, 14v755, 14v804, 14v819, 14v820, and 14v827.

10 h. **"Defendant's Counsel"** means Kirkland & Ellis LLP and Bowman and Brooke
11 LLP.

12 i. **"Effective Date"** of this Consent Decree is the date on which an Order is entered
13 by the Court approving this Consent Decree.

14 j. **"Eligible Consumers"** shall mean Arizona residents who, between July 10, 2009,
15 and July 10, 2014, purchased a Subject Vehicle sold by a GM dealer located in Arizona,
16 provided the consumer did not re-sell the Subject Vehicle prior to the announcement of the
17 recall(s) set forth in the definition of "Subject Vehicle" contained herein applicable to the
18 consumer's Subject Vehicle.

19 k. **"E-mail Notification"** shall mean an e-mail notification sent by the Claims
20 Administrator to each Eligible Consumer for whom an e-mail address is available, notifying the
21 consumer that the Consumer Letter has been sent, and providing contact information for the
22 Claims Administrator in the event the Consumer Letter is not received.

23 l. **"Maximum Payment Amount"** shall mean the maximum, full, total and sole
24 amount that New GM is obligated to pay in consideration of this Consent Decree. The
25 Maximum Payment Amount includes any and all attorneys' fees, costs and expenses, and
26 payment of the Maximum Payment Amount is subject to the terms and conditions of this
27 Consent Decree.

28 m. **"New GM Marketing and Advertising"** means New GM marketing, advertising

1 and promotional activities and materials (whether published in print, television, radio,
2 electronically or by any other means) covering the time period from July 10, 2009 to the present.

3 n. **“Operative Complaint”** means the Second Amended Complaint for Injunctive
4 and Other Relief dated April 4, 2016, and filed by Plaintiff in this Litigation.

5 o. **“Plaintiff’s Counsel”** means the Office of the Arizona Attorney General, as well
6 as the law firm of Hagens Berman Sobol Shapiro LLP.

7 p. **“Released Claims”** means any and all actual or potential, whether known or
8 unknown, civil claims, demands, actions, causes of action, suits, damages whenever incurred
9 and whether compensatory or exemplary, penalties, fines, and/or liabilities of any kind
10 whatsoever regardless of the legal or equitable theory, equitable claims, injunctive or other
11 equitable relief, restitution, fines, penalties, costs, litigation costs, and/or attorneys’ fees,
12 including any and all public enforcement claims brought by, or on behalf of, or that could have
13 been brought by or on behalf of, any Releasing Parties before or as of the Effective Date
14 regarding the subject matter of the Litigation, specifically (i) the Covered Recalls; (ii) New GM
15 Marketing and Advertising regarding the Covered Recalls; and (iii) the design, engineering,
16 manufacture, sales, service and/or safety recall practices as they relate to all vehicles subject to
17 the Covered Recalls, whether or not alleged in the Litigation. Notwithstanding any term of this
18 Judgment, the following do not comprise Released Claims: tax claims, criminal claims, or
19 claims to enforce this Judgment.

20 q. **“Released Parties”** means the following persons and entities: (1) General Motors
21 Company, General Motors LLC, General Motors Holdings LLC, and each person, company, and
22 entity identified in Exhibit 3, as well as their respective past, present and future officers,
23 directors, agents, employees, servants, subsidiaries, affiliated companies, parent companies,
24 related companies, spin-offs, holding companies, joint-ventures, partnerships, members,
25 divisions, stockholders, suppliers to GM, attorneys, predecessors, successors, heirs and assigns;
26 (2) any and all persons, firms, corporations, associations, partnerships, entities or authorized GM
27 dealers pursuant to a dealer sales and service agreement involved in the design, manufacture,
28 assembly, testing, advertising, marketing, sale, inspection, maintenance, repair, or distribution of

1 GM vehicles; (3) any and all suppliers of materials, components, and/or services used in the
2 manufacture of GM vehicles; (4) Vehicle Acquisition Holdings, LLC, NGMCO, Inc., the former
3 General Motors Corporation later known as Motors Liquidation Company, Motors Liquidation
4 Corporation, Motors Liquidation Company GUC Trust, Motors Liquidation Company
5 Avoidance Action Trust, or any other trust established by the Motors Liquidation Company
6 bankruptcy plan to hold or pay liabilities of Motors Liquidation Company or General Motors
7 Corporation; and (5) any and all past, present, and future officers, directors, agents, employees,
8 servants, subsidiaries, affiliated companies, parent companies, related companies, spin-offs,
9 holding companies, joint-ventures, partnerships, members, divisions, stockholders, suppliers to
10 GM, attorneys, predecessors, successors, heirs and assigns of any of the above.

11 r. **“Releasing Parties”** means the Arizona Attorney General and the State of
12 Arizona. All Released Claims are forever discharged, and such claims cannot be asserted by
13 any of the Releasing Parties’ future divisions, districts, departments, boards, commissions,
14 councils, agencies or affiliates, their respective future officers, directors, employees, managers,
15 mayors, presidents, commissioners, council or board members, supervisors, representatives,
16 legislators, administrators, agents, attorneys and any of their legal representatives, or any
17 successors, trustees, administrators or assigns of each of the foregoing. As used in this
18 paragraph, “affiliates” means entities controlling, controlled by or under common control with a
19 Releasing Party.

20 s. **“Subject Vehicles”** shall mean vehicles subject to one or more of the following
21 motor vehicle recalls by New GM: (i) National Highway Traffic Safety Administration
22 (“NHTSA”) Recall Number 14v047 (“Delta Ignition Switch”); (ii) NHTSA Recall Number
23 14v355 (“Impala Key Rotation”); (iii) NHTSA Recall Number 14v394 (“Cadillac CTS/SRX
24 Key Rotation”); (iv) NHTSA Recall Number 14v346 (“Camaro Knee-to-Key Rotation”); (v)
25 NHTSA Recall Number 14v118 (“Lambda Side Impact Airbag”); or (vi) NHTSA Recall
26 Number 14v153 (“Electric Power Steering”).

27 3. **Payment for Release of Claims.**

28

1 A. Subject to the terms and conditions of this Consent Decree, New GM
2 agrees to pay Seven Million Two Hundred Eighty-Seven Thousand Six Hundred U.S. Dollars
3 (\$7,287,600.00) pursuant to the terms set forth in Section II.3.B below. The Parties agree that
4 this amount, plus the total fees and costs of the Claims Administrator, is the Maximum Payment
5 Amount. New GM's payment of the Maximum Payment Amount, subject to the terms and
6 conditions of this Consent Decree, shall fully satisfy the payment obligations of New GM with
7 respect to this Consent Decree. New GM shall not be liable and no additional amount shall be
8 due for attorneys' fees, costs and expenses of any kind whatsoever incurred by Plaintiff in this
9 Litigation. Plaintiff acknowledges and agrees that neither Plaintiff nor Plaintiff's Counsel are
10 entitled to recover any separate amount for attorneys' fees, costs or expenses under, or as a
11 result of, this Consent Decree from New GM or the other Released Parties in addition to the
12 Maximum Payment Amount. The Parties agree that neither New GM nor the other Released
13 Parties shall, under any circumstances, be responsible for, or liable for, payment of any amount
14 greater than the Maximum Payment Amount.

15 B. The Maximum Payment Amount shall consist of the following:

16 (1) New GM shall pay to the Claims Administrator the amount of Six
17 Million Two Hundred Eighty-Seven Thousand Six Hundred U.S. Dollars (\$6,287,600.00) within
18 fifty (50) business days after the entry of this Judgment, to be held in escrow by the Claims
19 Administrator, and to be used by the Claims Administrator on behalf of Arizona consumers to
20 distribute as settlement monies to Eligible Consumers who return to the Claims Administrator a
21 hand-signed Consumer Release on or before the Consumer Release Deadline. Subject to the
22 procedures set forth in sections II.3.B.2 and II.3.B.3 below, Six Million Two Hundred Eighty-
23 Seven Thousand Six Hundred U.S. Dollars (\$6,287,600.00) shall be distributed by the Claims
24 Administrator to Eligible Consumers according to the following procedure. Each Eligible
25 Consumer shall be mailed by the Claims Administrator, at the most current physical address
26 available for the Eligible Consumer, the Consumer Letter, which encloses a Consumer Release,
27 and shall be sent the E-mail Notification, if applicable, within one hundred and twenty (120)
28 business days of the Effective Date. The Consumer Release must be hand-signed under penalty

1 of perjury by the Eligible Consumer and returned so it is received by the Claims Administrator
2 on or before the Consumer Release Deadline as a necessary pre-condition for the Eligible
3 Consumer to be paid a distribution by the Claims Administrator from the settlement fund held
4 by the Claims Administrator as described herein. The Claims Administrator shall timely
5 provide the Parties with a copy of each Consumer Release received by the Claims Administrator
6 that the Claims Administrator accepts as hand-signed by the Eligible Consumer on or before the
7 Consumer Release Deadline. In addition, the Claims Administrator shall provide the Parties
8 with a report confirming that each Consumer Release was mailed to the Claims Administrator
9 on or before the Consumer Release Deadline, that the Consumer Release is hand-signed, and
10 that the Claims Administrator received the Consumer Release from the Eligible Consumer prior
11 to payment to the Eligible Consumer of his or her distribution amount by the Claims
12 Administrator. Within thirty (30) days after the Consumer Release Deadline, the Claims
13 Administrator shall, using the funds transferred by New GM, send each Eligible Consumer, who
14 timely and properly executed the Consumer Release, a check in U.S. dollars, which must be
15 cashed within ninety (90) days of mailing.

16 (2) Residual Procedures. Prior to the Consumer Letter being sent, the
17 Arizona Attorney General shall calculate a minimum distribution amount to each Eligible
18 Consumer such that the total aggregate distribution amount is \$6,287,600.00. In the event
19 Eligible Consumers fail to return a Consumer Release within the time period required by this
20 Consent Decree, each such Eligible Consumer shall forfeit the ability to collect any distribution
21 amount calculated by the Arizona Attorney General. If less than seventy-five percent (75%) of
22 Eligible Consumers return a Consumer Release within the time period required by this Consent
23 Decree, the Claims Administrator shall transfer to the State One Million Dollars (\$1,000,000.00)
24 out of the \$6,287,600.00, to be deposited into the revolving fund established pursuant to A.R.S.
25 § 44-1531.01 and to be used for the purposes set forth in A.R.S. § 44-1531.01(C). The
26 \$6,287,600.00, minus the payment of \$1,000,000.00 to the State, if applicable, shall be
27 distributed by the Claims Administrator, in its entirety, to Eligible Consumers who return a
28 hand-signed Consumer Release on or before the Consumer Release Deadline. The distribution

1 amount to each Eligible Consumer who returns a hand-signed Consumer Release on or before
2 the Consumer Release Deadline will be determined in the sole discretion of the Arizona
3 Attorney General, provided that no amount distributed shall be less than the previously
4 calculated minimum distribution amount.

5 (3) Uncashed Check Procedures. Within ten (10) days after the deadline
6 for cashing checks mailed by the Claims Administrator has passed, the Claims Administrator
7 shall calculate the amount of funds remaining in the escrow account due to Eligible Consumers
8 who returned a hand-signed Consumer Release on or before the Consumer Release Deadline but
9 failed to cash a distribution check (the "Uncashed Check Amount"). The Claims Administrator
10 shall remit the Uncashed Check Amount to Plaintiff to be deposited into the revolving fund
11 established pursuant to A.R.S. § 44-1531.01 and to be used for the purposes set forth in A.R.S. §
12 44-1531.01(C). The Claims Administrator shall provide New GM with written notice of the
13 total Uncashed Check Amount remitted.

14 (4) Interest. The Claims Administrator shall calculate the amount of
15 interest earned in the escrow account between the date that New GM deposits \$6,287,600.00 and
16 the date all funds due from the escrow account under this Consent Decree are distributed. All
17 such interest shall be paid to New GM.

18 (5) New GM shall pay the Claims Administrator's total fees and costs.
19 New GM agrees to supply the Claims Administrator with the most current available physical
20 address and email address information from its records for Eligible Consumers and require the
21 Claims Administrator to conduct a search of U.S. postal record information to obtain the most
22 current physical addresses available for Eligible Consumers. New GM and Plaintiff agree to
23 consult in good faith about: (a) all communications to Eligible Consumers from the Claims
24 Administrator and (b) all methods used by New GM and the Claims Administrator to locate and
25 contact Eligible Consumers.

26 (6) New GM shall pay to the Plaintiff the amount of One Million U.S.
27 Dollars (\$1,000,000.00), as a payment recovered on behalf of the State, within five (5) business
28 days after the Effective Date and receipt of payment instructions and any needed tax reporting

1 information from the State to New GM, to be deposited into the revolving fund established
2 pursuant to A.R.S. § 44-1531.01 and to be used for the purposes set forth in A.R.S. § 44-
3 1531.01(C).

4 **C. Entry of Judgment.** Entry of this Judgment was bargained for and is a
5 material element of this Consent Decree. Plaintiff agrees that New GM shall not have any
6 obligation to pay, and shall not pay, any portion of the Maximum Payment Amount unless and
7 until the time of entry of this Judgment as provided for in this Consent Decree.

8 **4. Release of Released Claims by Releasing Parties.** Upon New GM's payment of
9 the Maximum Payment Amount for good and valuable consideration as set forth herein, the
10 Released Parties shall be released and forever discharged to the fullest extent possible by all
11 Releasing Parties from any and all Released Claims. All Releasing Parties, including the
12 Attorney General, covenant and agree that they shall not hereafter seek to establish liability
13 against, or seek any recovery from, any Released Party based, in whole or in part, on any of the
14 Released Claims. Each Releasing Party, for good and valuable consideration received,
15 expressly waives and fully, finally, and forever settles and releases all Released Claims, without
16 regard to the subsequent discovery or existence of different or additional facts.

17 **5. Covenant Not to Sue.** Upon New GM's payment of the Maximum Payment
18 Amount for good and valuable consideration as set forth herein, the Releasing Parties hereby
19 release, acquit, and forever discharge New GM and the other Released Parties of and from any
20 liability whatsoever in respect of all Released Claims and agree and covenant not to sue, or join
21 in or cooperate in any suit, against New GM or any other Released Parties, in any capacity, for
22 any Released Claims. Included in this covenant not to sue, Plaintiff, Defendant, and
23 Defendant's Counsel covenant and agree that no party or party's counsel shall be entitled to
24 make an application for an award of attorneys' fees, expenses or costs pursuant to any statute or
25 rule. Pursuant to Section II.3.A above, Plaintiff acknowledges and agrees that Plaintiff's
26 Counsel shall not be entitled to recover any separate amount of any kind whatsoever from New
27 GM or the other Released Parties arising out of or related to the Complaint or to this Consent
28 Decree.

1 **6. Release and Covenant Not to Sue as Consideration for Payment Amount.** The
2 Maximum Payment Amount paid by New GM is in consideration of the covenant not to sue, as
3 well as the release of Released Parties by the Releasing Parties from any and all Released
4 Claims set forth herein and the Consumer Release to be returned hand-signed by each Eligible
5 Consumer who elects to receive payment under this Consent Decree. The covenants not to sue,
6 the release of Released Parties by the Releasing Parties from any and all Released Claims, both
7 of which are specified herein, and receipt of a hand-signed Consumer Release, a template of
8 which is attached as Exhibit 2, from each Eligible Consumer as a condition of receiving
9 payment were bargained for and are material terms of this Consent Decree.

10 **7. Information.** The Parties acknowledge that they may hereafter discover
11 information or facts different from, in addition to, and/or contrary to those which they now
12 know to be or believe to be true with respect to any alleged damages, injuries, losses and/or
13 Released Claims, or conduct of New GM or any of the other Released Parties, arising out of or
14 relating in any way to the subject matter of the Litigation, whether or not alleged therein. This
15 specifically includes, but is not limited to, any and all information, facts, events or legal rulings
16 arising out of or relating in any way to the subject matter of the Litigation, whether or not
17 alleged therein or herein, information or facts directly or indirectly derived from information
18 New GM, any other Released Party, Plaintiff or any other Releasing Party, or any other source
19 may later produce or disclose, and any information a Party would have obtained as a result of
20 any and all past and pending discovery requests, motions, and disputes, as well as information or
21 facts derived from or obtained by any other means or from any other source whatsoever,
22 including, but not limited to, any rulings from state or federal court. The Parties agree that this
23 settlement, including payment of the Maximum Payment Amount by New GM, the covenant not
24 to sue, the release of Released Parties by the Releasing Parties from any and all Released Claims
25 set forth herein, and the Consumer Release executed by each Eligible Consumer, shall be and
26 remain effective in all respects, notwithstanding any such different, additional, contrary or
27 nondisclosed information or facts if later learned or obtained by Plaintiff and/or any of the other
28 Releasing Parties.

1 precedent or evidence in any future matter involving or against New GM or any other Released
2 Parties.

3 **2. Identification under Internal Revenue Code Section 162(f).** The Parties agree
4 and acknowledge that the Maximum Payment Amount to be paid by New GM in consideration
5 of this Consent Decree pursuant to the terms and conditions set forth herein does not constitute a
6 penalty, fine, or payment in lieu thereof, nor any other form of assessment for any alleged claim
7 or offense, including the Released Claims. The Parties further agree and acknowledge that the
8 Maximum Payment Amount to be paid by New GM is within the category of payments
9 described in section 162(f)(2) of the Internal Revenue Code of 1986, as amended (the "Code"),
10 and Plaintiff agrees that any report submitted under Code section 6050X will identify the
11 Maximum Payment Amount as such.

12 **3. Notices.** All notices and communications by and among the Parties shall be in
13 writing and shall be deemed to have been properly given when received. Any notice or other
14 communication made pursuant to this Consent Decree shall be sent, as applicable, by email
15 and/or overnight delivery to the persons set forth below:

16 For Plaintiff, to:

17 Matthew du Mee
18 Assistant Attorney General
19 Office of the Arizona Attorney General
20 2005 N. Central Ave.
 Phoenix, AZ 85004-1592

21 For New GM, to:

22 Ann Cathcart Chaplin, Esq.
23 Deputy General Counsel, Intellectual Property, Regulation & Litigation
24 General Motors LLC
25 300 Renaissance Center
26 Detroit, MI 482165
 ann.cathcartchaplin@gm.com

27 Richard C. Godfrey, P.C.
28 Kirkland & Ellis LLP

1 300 North LaSalle
2 Chicago, IL 60654
3 richard.godfrey@kirkland.com

4 4. **Exhibits.** All of the exhibits to this Consent Decree are incorporated herein by
5 reference as if set forth verbatim.

6 5. **Reasonable Best Efforts to Effectuate This Settlement.** The Parties and their
7 counsel agree to use their reasonable best efforts, including all steps and efforts contemplated by
8 this Consent Decree and any other reasonable steps and efforts that may be necessary and
9 appropriate, to carry out the terms of this Consent Decree.

10 6. **No Representations.** Except as set forth in this Consent Decree and its exhibits,
11 New GM and the other Released Parties (on the one hand) and Plaintiff and other Releasing
12 Parties (on the other hand) have not made, and do not make, any other representations,
13 warranties, promises, or agreements to or with each other concerning this Consent Decree.

14 7. **Enforcement of Settlement.** Notwithstanding the provisions of Section IV.1, this
15 Consent Decree may be pleaded as a full and complete defense to any action, suit or other
16 proceeding that has been or may be instituted, prosecuted, or attempted by any of the Releasing
17 Parties and/or any of the Eligible Consumers who receive a disbursement pursuant to Section
18 II.3.B with respect to any of the Released Claims and may be filed, offered, and received into
19 evidence and otherwise used by any of the Released Parties for such defense and/or in support of
20 injunctive relief against any such action, suit or other proceeding. Notwithstanding the
21 provisions of Section IV.1, this Consent Decree and the Consumer Release of an Eligible
22 Consumer who receives a disbursement pursuant to Section II.3.B may be pleaded as a full and
23 complete defense to any action, suit or other proceeding that has been or may be instituted,
24 prosecuted, or attempted with respect to any of the released claims set forth in the Consumer
25 Release and may be filed, offered, and received into evidence and otherwise used by any of the
26 Released Parties for such defense and/or in support of injunctive relief against any such action,
27 suit or other proceeding.

28 8. **Representation and Warranty.** The Releasing Parties represent and warrant that

1 the Maximum Payment Amount is the entire and sole amount that they are entitled to recover
2 under this Consent Decree regarding the Released Claims subject to the terms and conditions
3 specified herein, and that they shall not seek to recover by any means, directly or indirectly,
4 whether from any of the Released Parties or any other person or entity, any sums regarding the
5 Released Claims, other than the Maximum Payment Amount.

6 9. **No Obligations for Defendant's Counsel.** Plaintiff and other Releasing Parties
7 agree that they shall look only to New GM for payment of the Maximum Payment Amount and
8 other performance hereunder and not to any counsel representing New GM.

9 10. **Modification.** Except as otherwise expressly provided for herein, this Consent
10 Decree may not be rescinded, cancelled, terminated, supplemented, amended or modified in any
11 manner whatsoever without the prior written consent of both Parties hereto.

12 11. **Waiver.** The waiver by either Party of any breach of this Consent Decree by the
13 other Party must be in writing and shall not be deemed or construed as a waiver of any other
14 breach, whether prior, subsequent, or contemporaneous, of this Consent Decree.

15 12. **Headings.** The section headings in this Consent Decree are for convenience of
16 reference only and are not to be considered in construing this Consent Decree.

17 13. **Authorship.** The Parties have negotiated all of the terms and conditions of this
18 Consent Decree at arm's length. Neither Plaintiff nor Defendant, nor any of their counsel, shall
19 be considered to be the sole drafter of this Consent Decree or any of its provisions for the
20 purpose of any statute, case law, or rule of interpretation or construction that would or might
21 cause any provision to be construed against the drafter of this Consent Decree. This Consent
22 Decree shall be deemed to have been mutually prepared by the Parties and shall not be construed
23 against either of them by reason of authorship. This Consent Decree shall not be construed
24 strictly against either Party, but rather only in accordance with its language and express purpose.

25 14. **Beneficiaries.** This Consent Decree shall be binding upon and shall inure to the
26 benefit of the Parties hereto. Subject to the foregoing sentence, nothing expressed or implied in
27 this Consent Decree is intended to or shall be construed to confer upon or give any person or
28 entity other than Plaintiff and the other Releasing Parties and New GM and the other Released

1 Parties any right to enforce this Consent Decree. Unless expressly stated, no provision of this
2 Consent Decree is intended to create any third-party beneficiary or third-party beneficiary rights
3 to enforce this Consent Decree.

4 15. **Integrated Agreement.** This Consent Decree, including the exhibits hereto,
5 contain an entire, complete and integrated statement of each and every term and provision
6 agreed to in settlement by and between the Parties hereto, and cancels and supersedes all prior or
7 contemporaneous oral or written agreements, undertakings and/or understandings of any kind
8 among the Parties.

9 16. **Timing.** Plaintiff and Defendant may agree in writing to reasonable extensions of
10 time to carry out the provisions of this Consent Decree.

11 17. **Consultation.** Before filing any proceeding, claim, motion, or petition raising a
12 dispute arising out of or related to this Consent Decree, Plaintiff and Defendant shall consult
13 with each other in good faith to attempt to resolve the dispute and certify to the court or tribunal
14 that they have so consulted.

15 18. **Authority.** Each individual executing this Consent Decree represents and
16 warrants that he or she is fully authorized to do so in the capacity stated.

17 19. **Interpretation.** In this Consent Decree, unless the context requires otherwise, (a)
18 references to this Consent Decree shall include all exhibits hereto or referenced herein; (b)
19 references to any law shall include all rules and regulations promulgated thereunder; (c) unless
20 prefaced by the word “business,” references to “day” or “days” in the lower case are to calendar
21 days, but if the last day is a Saturday, Sunday or legal holiday (as defined for purposes of
22 Arizona Rule of Civil Procedure 6(a)), the period shall continue to run until the end of the next
23 day that is not a Saturday, Sunday or legal holiday; and (d) references to dollars or “\$” are to
24 United States dollars.

25 20. **Construction.** This Consent Decree shall be construed and interpreted to
26 effectuate the intent of the Parties, which is to provide, through this Consent Decree, for a
27 complete resolution of the Released Claims with respect to the Released Parties, as well as for a
28 complete resolution of released claims set forth in the Consumer Release with respect to the

1 Released Parties for each Eligible Consumer who receives a disbursement pursuant to Section
2 II.3.B.

3 21. **Recitals.** Each of the Recitals set forth above is substantive and is hereby
4 incorporated into and made part of this Consent Decree.

5 22. **Counterparts.** This Consent Decree may be executed in counterparts and by
6 different Parties hereto in separate counterparts, each of which when so executed shall be
7 deemed to be an original and all of which taken together shall constitute one and the same
8 agreement. The separate counterparts may be transmitted to any of the Parties via email in a
9 .pdf file or in hard copy via the United States postal service.

10 23. **Effectiveness.** This Consent Decree shall be effective upon the Effective Date.

11 24. **Costs.** Each Party shall bear its own costs, fees and expenses, including attorneys'
12 fees.

13 25. **Confidential Materials.** All documents or other materials that have been
14 designated as "Confidential" or "Highly Confidential" shall continue to be governed by all
15 applicable Orders of the Court, including MDL 2543 Order No. 10 as adopted by the Court, and
16 shall be treated in accordance with those Orders.

17 26. **Jurisdiction.** Jurisdiction is retained by this Court solely for the purpose of
18 enforcing this Decree.

19 27. **Final Judgment.** This judgment resolves all outstanding claims. As no further
20 matters remain pending, this is a final judgment entered pursuant to Ariz. R. Civ. P. 54(c).

21
22 DATED this _____ day of _____, 2018.

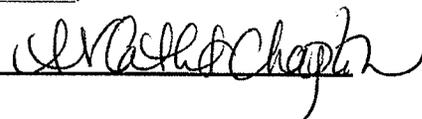
23
24 _____
25 JUDGE OF THE SUPERIOR COURT
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CONSENT TO JUDGMENT

1. Defendant acknowledges that it was served with a copy of the Summons and Complaint, has read the Consent Decree, is aware of its rights to a trial in this matter, and has waived the same.
2. Defendant admits the jurisdiction of this Court and consents to the entry of the foregoing Consent Decree.
3. Except as expressly set forth in this Consent Decree, Defendant states that no promise of any kind or nature whatsoever was made to induce it to enter into this Consent Decree and declares that it has entered into this Consent Decree voluntarily.
4. This Consent Decree is entered as a result of a compromise and a settlement agreement between the parties. Only the parties to this action may seek enforcement of this Consent Decree. Nothing herein is intended to create a private right of action by other parties.
5. Defendant General Motors LLC represents and warrants that the person signing below on its behalf is duly appointed and authorized to do so.

DATED this 16th day of March, 2018.

By: 

Ann Cathcart Chaplin, Esq.
Deputy General Counsel
Intellectual Property, Regulation & Litigation
General Motors LLC
300 Renaissance Center
Detroit, MI 48265

1 APPROVED AS TO FORM AND CONTENT:

2
3 MARK BRNOVICH
4 Attorney General

Kirkland & Ellis LLP

5
6 By: Matthew du Mée
7 Matthew du Mée
8 Assistant Attorney General
9 Attorneys for Plaintiff

Richard C. Godfrey
Richard C. Godfrey, P.C.
Kirkland & Ellis LLP
300 North LaSalle
Chicago, IL 60654
Attorneys for Defendants

10 The foregoing e-filed with the Clerk of the Court
11 for filing via AZTurboCourt this 6th day of March, 2018.

12 COPY of the foregoing e-mailed via AZTurboCourt
13 this 6th day of March, 2018, to:

14 Thomas M. Klein
15 C. Megan Fischer
16 BOWMAN AND BROOKE LLP
17 2901 North Central Avenue, Suite 1600
18 Phoenix, Arizona 85012
19 thomas.klein@bowmanandbrooke.com
20 megan.fischer@bowmanandbrooke.com

21 Leonid Feller
22 Richard C. Godfrey
23 Andrew B. Bloomer
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25 300 North LaSalle
26 Chicago, Illinois 60654
27 leonid.feller@kirkland.com
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By: /s/ Michelle Roth

eSignature Page 1 of 1

Filing ID: 9158655 Case Number: CV2014-014090
Original Filing ID: 9143688

Granted as Submitted



/S/ Randall Warner Date: 3/12/2018
Judicial Officer of Superior Court

ENDORSEMENT PAGE

CASE NUMBER: CV2014-014090

SIGNATURE DATE: 3/12/2018

E-FILING ID #: 9158655

FILED DATE: 3/13/2018 8:00:00 AM

MATTHEW B DU MEE

ROBERT B CAREY

THOMAS M KLEIN