

## CLASS ACTION SETTLEMENT AGREEMENT

This class action settlement agreement (the “Settlement Agreement” or the “Agreement”) is entered into as of August 28, 2017, by and among James F. Pauley (“Plaintiff”), individually and on behalf of the class of persons he seeks to represent (the “Settlement Class” defined below), and The Hertz Corporation (“Hertz”) (Plaintiff and Hertz are collectively referred to as the “Parties”). This Settlement Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, and settle the Released Claims (defined below), upon and subject to the terms and conditions of the Agreement, and subject to the final approval of the Court.

### RECITALS

A. On November 4, 2013, Plaintiff filed a putative class action complaint against Defendants Hertz, Hertz Global Holdings, Inc., Hertz Investors, Inc., and Dollar Thrifty Automotive Group, Inc. (collectively, “Defendants”) in the Circuit Court of Wayne County, West Virginia (the “Court”), captioned *Pauley v. Hertz Global Holdings, Inc., et al.*, Civil Action No. 13-C-236 (the “Action”). In the Action, Plaintiff alleges, among other things, that, in August 2013, he rented a car from Hertz in Atlanta, Georgia, received a parking citation with respect to his use of that rental car from the City of Atlanta, paid the parking citation before the due date, and was charged an administrative fee by Hertz’s parking violations processor, American Traffic Solutions, Inc. (collectively with its affiliates, “ATS”). Plaintiff alleges, on his own behalf, and on behalf of a putative class of similarly-situated persons, that charging administrative fees to customers who timely pay their parking violations is a breach of Hertz’s rental agreements with its customers.

B. On December 5, 2013, Defendants timely removed the Action to the United States District Court for the Southern District of West Virginia under the Class Action Fairness Act, 28 U.S.C. § 1453 (“CAFA”). CAFA authorizes removal of class actions to federal court where, among other things, the amount in controversy exceeds \$5 million, exclusive of interest and costs. The

notice of removal asserted that, between 2010 and the end of November 2013, “transfer of liability” administrative fees associated with customer parking tickets had been billed to and collected from Hertz customers in an aggregate amount exceeding \$5 million.

C. On March 5, 2014, Plaintiff dismissed his claims as against Dollar Thrifty Automotive Group, Inc. without prejudice.

D. On March 20, 2014, Hertz, Hertz Global Holdings, Inc., and Hertz Investors, Inc. (collectively, the “Hertz Defendants”) filed a motion to dismiss Plaintiff’s complaint.

E. On April 14, 2014, Plaintiff moved to remand, arguing that the Hertz Defendants had failed to demonstrate that the amount in controversy exceeds \$5 million because, according to Plaintiff, although the notice of removal characterized the class as including all customers who had paid the \$30 administrative fee, the putative class in fact includes only those Hertz customers who timely paid parking violations before they were charged administrative fees.

F. On May 19, 2014, the federal district court granted Plaintiff’s motion to remand, finding that the Hertz Defendants had not demonstrated that more than \$5 million is in controversy because “the class of individuals who may recover based on Plaintiff’s allegations is explicitly limited to those individuals who incurred handling fees after paying their parking citations.” The Action thereafter returned to the Court.

G. On August 19, 2014, the Court held a hearing on the Hertz Defendants’ motion to dismiss. The Court denied the motion to dismiss directed to Plaintiff’s breach of contract claim, and granted the motion to dismiss directed to Plaintiff’s unjust enrichment claim. Prior to the hearing, Plaintiff voluntarily dismissed his conversion claim.

H. On September 15, 2014, the Hertz Defendants filed their answer and affirmative defenses in the Action. On September 25, 2014, the Hertz Defendants filed an amended answer

and affirmative defenses. In those pleadings, the Hertz Defendants deny that they breached the rental agreements with Plaintiff and the putative class members, or committed any other wrongful act.

I. The Parties thereafter engaged in discovery relating to the alleged class claims, including written discovery and numerous depositions.

J. The Parties, through their counsel, participated in an all-day mediation in September 2016, with S. Douglas Adkins serving as mediator, during which the Parties reached tentative agreement on some but not all terms of a settlement. Following the mediation, the Parties, through their counsel, continued their discussions regarding the issues that needed to be resolved to reach a resolution of the Action.

K. As a result of the mediation, the subsequent discussions, and good faith, arm's length negotiations, the Parties reached an agreement in principle on the key terms of a class settlement.

L. The Hertz Defendants at all times have denied and continue to deny any wrongdoing whatsoever and have denied and continue to deny that they breached the rental agreements with Plaintiff and the putative class members, or committed any other wrongful act or violation of law.

M. Plaintiff believes that the claims asserted in the Action have merit. Nonetheless, Plaintiff and Plaintiff's counsel recognize and acknowledge the expense, time, and risk associated with continued prosecution of the Action through class certification, trial, and any subsequent appeals. Plaintiff and Plaintiff's counsel also have taken into account the uncertainty, difficulties, and delays inherent in litigation, especially in complex actions. Therefore, Plaintiff and Plaintiff's counsel believe that it is desirable that the Released Claims be fully and finally compromised,

settled, dismissed with prejudice, and barred pursuant to the terms set forth herein. Based on their evaluation, Plaintiff and Plaintiff's counsel have concluded that the terms and conditions of this Agreement are fair, reasonable, and adequate for the Settlement Class, and that it is in the best interests of the Settlement Class to settle the Released Claims pursuant to the terms and provisions of this Agreement.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the Parties, by and through their respective counsel, subject to final approval by the Court after a hearing or hearings as provided for in this Settlement Agreement, and in consideration of the benefits flowing from the Settlement Agreement set forth herein, that the Action and the Released Claims shall be finally and fully compromised, settled, and released, and the Action shall be dismissed with prejudice, upon and subject to the terms and conditions of this Agreement.

## **AGREEMENT**

### **1. DEFINITIONS**

As used in this Settlement Agreement, the following terms have the meanings specified below:

1.1 "Approved Claim" means a Claim Form submitted by a Settlement Class Member that: (a) is received by the Settlement Administrator or postmarked on or before the Claims Deadline; (b) is fully completed by a Settlement Class Member, with all of the information requested in the Claim Form, and in accordance with the directions on the Claim Form; (c) is signed by the Settlement Class Member, physically or electronically, under penalty of perjury; and (d) is verified by the Settlement Administrator pursuant to the provisions of this Agreement as a valid claim eligible to receive payment from the Settlement Funding under the Agreement and the Final Approval Order and Judgment.

1.2 “Claim Form” means a document substantially in the form attached hereto as Exhibit 1, as approved by the Court. The Claim Form, to be completed by all Settlement Class Members who wish to file a claim to receive payment from the Settlement Funding under the terms of the Settlement, shall be available in electronic and paper format.

1.3 “Claims Deadline” means the date by which all Claims Forms must be postmarked or received by the Settlement Administrator to be considered timely. The Claims Deadline shall be clearly set forth in the Preliminary Approval Order as well as in the Notice and the Claim Form.

1.4 “Class Counsel” means:

Anthony J. Majestro  
POWELL & MAJESTRO, PLLC  
405 Capitol Street, Suite P1200  
Charleston, West Virginia 25301  
(304) 346-2889

and

Timothy C. Bailey  
BAILEY, JAVINS & CARTER, LC  
213 Hale Street  
P.O. Box 3712  
Charleston, West Virginia 25337  
(304) 932-4639

1.5 “Class Representative” means Plaintiff James F. Pauley.

1.6 “Court” means the Circuit Court of Wayne County, West Virginia.

1.7 “Effective Date” means the date on which all appellate rights with respect to a Final Approval Order and Judgment have expired or have been exhausted in such a manner as to affirm the Final Approval Order and Judgment, and when no further appeals are possible, not including any appeal relating only to a Fee Award, which shall not delay the Effective Date.

1.8 “Fee Award” means the amount of attorneys’ fees and reimbursement of expenses awarded by the Court to Class Counsel.

1.9 “Final Approval Hearing” means the hearing before the Court where the Parties will request that the Court approve the Settlement Agreement, approve the Fee Award, and enter the Final Approval Order and Judgment.

1.10 “Final Approval Order and Judgment” means a document substantially in the form of Exhibit 2, to be entered by the Court following the Final Approval Hearing.

1.11 “Hertz Counsel” means:

Michael J. Farrell  
FARRELL, WHITE & LEGG, PLLC  
914 Fifth Avenue  
Post Office Box 6457  
Huntington, West Virginia 25772-6457  
(304) 522-9100

and

Ross B. Bricker  
John F. Ward, Jr.  
David C. Layden  
JENNER & BLOCK LLP  
353 N. Clark Street  
Chicago, Illinois 60654  
(312) 222-9350

1.12 “Notice” means the notice of this Settlement Agreement and Final Approval Hearing, which shall be made to the Notice Population, in accordance with this Agreement and substantially in the form of Exhibits 3, 4, and 5 hereto.

1.13 “Notice Consultant” mean Kinsella Media, LLC. The Notice Consultant shall consult with the Parties regarding the content of the Notice, subject to the terms of the Settlement Agreement. All fees and expenses of the Notice Consultant shall be borne by Class Counsel, and shall not constitute Settlement Administration Expenses, or otherwise be paid from the Settlement Funding or borne by Hertz.

1.14 “Notice Plan” means the plan, as set forth in Paragraph 5.2 and as executed and administered by the Settlement Administrator, for disseminating Notice to the Notice Population.

1.15 “Notice Population” means all persons who (a) rented a vehicle in the United States from Hertz; (b) were invoiced by between April 1, 2008 and April 30, 2017 for an administrative or handling fee relating to a parking ticket or notice of violation issued to the rental vehicle; (c) paid that administrative or handling fee; and (d) did not receive any form of refund or adjustment of that fee.

1.16 “Objection/Exclusion Deadline” means the date by which a written objection to this Settlement Agreement or a Request for Exclusion submitted by a person within the Settlement Class must be postmarked, which shall be no later than forty-five (45) days after entry of the Preliminary Approval Order, or such other date as ordered by the Court, which deadline shall be posted to the Settlement Website listed in Paragraph 5.2(b).

1.17 “Preliminary Approval Order” means the document substantially in the form of Exhibit 6, to be entered by the Court for purposes of preliminarily approving the Settlement Agreement, certifying the Settlement Class solely for settlement purposes, and approving the form of the Notice and the Notice Plan.

1.18 “Released Claims” means any and all actual, potential, filed, known or unknown (including Unknown Claims), fixed or contingent, claimed or unclaimed, asserted or unasserted, suspected or unsuspected, claims, demands, liabilities, rights, causes of action, contracts or agreements, extra-contractual claims, damages, punitive, exemplary, or multiplied damages, expenses, costs, attorneys’ fees and or obligations, whether in law or in equity, accrued or unaccrued, direct, individual or representative, of every nature and description whatsoever, whether based on federal, state, or local statutory or common law, or any other law, rule, or

regulation, against the Released Parties, or any of them, arising from or relating to parking violations issued to rental cars, Hertz's and/or ATS's actions to process such violations, and administrative or handling fees charged by Hertz and/or ATS. The Released Claims include any and all claims that were brought or could have been brought in the Action arising from or relating to parking violations issued to rental cars, Hertz's and/or ATS's actions to process such violations, and administrative or handling fees charged by Hertz and/or ATS.

1.19 "Released Parties" means The Hertz Corporation, its present, former, and future parents, subsidiaries, and affiliates (including but not limited to Herc Holdings Inc., f/k/a Hertz Global Holdings, Inc., and Hertz Investors, Inc.), and the predecessors, successors, assigns, employees, agents, representatives, consultants, independent contractors, vendors (including but not limited to American Traffic Solutions, Inc. and its affiliates), insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, investment bankers, underwriters, shareholders, lenders, and auditors of any of the foregoing.

1.20 "Releasing Parties" means: (a) Plaintiff; (b) Settlement Class Members (whether or not such members submit claims); (c) to the extent that a Settlement Class Member is not an individual, all of its present, former, and future predecessors, successors, assigns, parents, subsidiaries, and affiliates, and all employees, agents, representatives, consultants, independent contractors, insurers, directors, managing directors, officers, partners, principals, and members of any of the foregoing; and (d) to the extent the Settlement Class Member is an individual, any present, former, and future spouses, as well as the present, former, and future heirs, executors, estates, administrators, representatives, agents, attorneys, partners, successors, predecessors, and assigns of each of them, and any other representatives of any of the foregoing.

1.21 “Request for Exclusion” means a written request to be excluded from the Settlement Class, as described in Paragraph 5.4 below.

1.22 “Settlement Administration Expenses” means the expenses incurred by the Settlement Administrator in providing Notice, processing and validating claims, and mailing checks for Approved Claims; provided, however, that Settlement Administration Expenses shall not include any fees or expenses of the Notice Consultant. Settlement Administration Expenses shall be paid from the Settlement Funding.

1.23 “Settlement Administrator” means Dahl Administration, LLC. The Settlement Administrator shall be responsible for providing Notice of the proposed settlement embodied in this Agreement to the Notice Population, responding to requests for information and inquiries from the Notice Population, receiving, processing, and validating claims, and making payment, following the Effective Date, to members of the Settlement Class who have submitted valid and approved claims. The Settlement Administrator shall cooperate equally with both Class Counsel and Hertz Counsel in the provision of information and shall be jointly directed in matters not specifically governed by the Settlement Agreement.

1.24 “Settlement Class” means all persons who (a) rented a vehicle in the United States from Hertz; (b) were invoiced between April 1, 2008 and April 30, 2017 for an administrative or handling fee relating to a parking ticket and/or notice of violation issued to the rental vehicle; (c) paid the administrative or handling fee; (d) paid the amount due for the parking ticket or notice of violation on or before the due date; and (e) did not receive any form of refund or adjustment of the administrative or handling fee. The following persons and entities are excluded from the Settlement Class: Defendants, any parent, subsidiary, or affiliate of any of the Defendants, the officers, directors, agents, servants, or employees of any of the foregoing as of the entry of the

Preliminary Approval Order, Class Counsel, the Notice Consultant, the Settlement Administrator, and any judge presiding over the Action.

1.25 “Settlement Class Member” means a person who falls within the definition of the Settlement Class and who has not submitted a valid Request for Exclusion.

1.26 “Settlement Funding” means funds to be made available by Hertz, as provided in Paragraph 2.1 below, in a total amount not to exceed Two Million Dollars (\$2,000,000.00) for the sole purpose of paying: (a) Settlement Administration Expenses; (b) Approved Claims of Settlement Class Members; and (c) the Fee Award. Hertz shall be obligated to advance funds only as needed for the foregoing purposes, and any unused portion of the maximum settlement funding amount shall remain with Hertz. Under no circumstance shall Hertz’s liability in connection with the Settlement Agreement exceed \$2,000,000.00.

1.27 “Unknown Claims” means claims that could have been raised in the Action and that the Plaintiff or any or all other Releasing Parties, or any of them, do not know or suspect to exist, which, if known by him, her or it, might affect his, her or its agreement to release the Released Parties pursuant to the provisions of this Agreement, or might affect his, her, or its decision to agree, object or not to object to the Settlement. Upon the Effective Date, Plaintiff and all other Releasing Parties shall be deemed to have, and shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of § 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Upon the Effective Date, Plaintiff and all other Releasing Parties also shall be deemed to have, and shall have, waived any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable or equivalent to § 1542 of the California Civil Code. Plaintiff and the other Releasing Parties acknowledge that they may discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of this release, but that it is their intention to finally and forever to settle and release the Released Claims pursuant to the provisions of this Agreement, notwithstanding any Unknown Claims they may have, as that term is defined in this paragraph.

## 2. SETTLEMENT RELIEF

2.1 **Relief to Plaintiff and the Settlement Class.** Hertz agrees to make available the Settlement Funding to (a) compensate Settlement Class Members who submit a claim that is determined to be an Approved Claim; (b) pay Settlement Administration Expenses; and (c) pay the Fee Award to Class Counsel. Hertz need not segregate funds or otherwise create special accounts. Hertz will not have any obligation to advance or provide Settlement Funding unless and until such time as funding is due pursuant to the terms and conditions herein. The Settlement Funding represents the limit and total extent of Hertz's monetary obligations under this Agreement. In no event shall Hertz's total financial liability with respect to this Agreement and the Settlement exceed the amount of the Settlement Funding. Hertz shall not be responsible for any payments or obligations other than as specified in this Agreement. Hertz shall provide Settlement Funding as follows:

a. **Initial Advance of Settlement Administration Expenses.** Within ten (10) business days following entry of the Preliminary Approval Order, Hertz shall make an initial

advance of funds from the Settlement Funding by transmitting Two Hundred Fifty Thousand Dollars (\$250,000.00) to the Settlement Administrator, for the purpose of funding the costs of providing Notice and the other Settlement Administration Expenses actually incurred by the Settlement Administrator prior to a Final Approval Order and Judgment becoming Final. Any unused funds will be held by the Settlement Administrator in escrow and used for the purposes set forth in Paragraph 2.1(b).

b. **Payment of Approved Claims and Additional Claims Administration Expenses.** Within seven (7) business days after the later of: (i) the Effective Date; or (ii) receiving from the Settlement Administrator the written notice(s) described in Paragraph 6.3 describing the total amount of funds required to pay all Approved Claims and any unpaid Settlement Administration Expenses, Hertz shall transmit funds from the Settlement Funding to the Settlement Administrator in an amount that, when taken together with any unused funds being held in escrow under Paragraph 2.1(a), are sufficient to pay: (i) all Approved Claims; and (ii) any unpaid Settlement Administration Expenses actually incurred by the Settlement Administrator.

c. **Payment of Fee Award.** The Parties understand that Class Counsel will submit to the Court an application for an award of attorneys' fees and costs not to exceed the amount of \$666,666.66, which represents 33.3% of the maximum Settlement Funding. Hertz reserves the right to object to Class Counsel's application. Class Counsel agrees that under no circumstances will they seek or accept an award of attorneys' fees and costs to be paid from the Settlement Funding that would exceed \$666,666.66. Hertz shall pay the Fee Award from the Settlement Funding within seven (7) business days after the later of the following: (i) the Effective Date; (ii) the date on which all appellate rights with respect to such Fee Award have expired or have been exhausted in such a manner as to affirm the Fee Award, and when no further appeals

are possible with respect to the Fee Award; or (iii) Hertz's receipt from the Settlement Administrator the written notice(s) described in Paragraph 6.3 describing the total amount of funds required to pay all Approved Claims and any unpaid Settlement Administration Expenses. The Parties acknowledge that they did not address the issue of attorneys' fees and expenses until after reaching agreement on the material terms of the Settlement Agreement.

d. **Unused Funds.** In the event that there are any unused funds in the possession or control of the Settlement Administrator after payment of all Approved Claims and Settlement Administration Expenses, including but not limited to funds associated with checks transmitted by the Settlement Administrator but not cashed by the recipients, the Parties shall reach agreement on the disposition of those funds in accordance with applicable law, seeking the Court's guidance if necessary.

## 2.2 **Monetary Payments on Approved Claims.**

a. **Validation of Claim Forms.** In order for a Claim Form to be eligible to be deemed valid and approved by the Settlement Administrator: (i) the Claim Form must be postmarked or received by the Settlement Administrator by the Claims Deadline; and (ii) the Settlement Class Member submitting the Claim Form must fully complete the Claim Form (providing all information requested on the Claim Form), sign the Claim Form under penalty of perjury, and provide either:

- (1) some form of documentation (*e.g.*, a cancelled check, bank statement, credit card receipt, credit card statement, or similar third-party documentation) sufficient to demonstrate that the Settlement Class Member submitting the Claim Form paid the amount due for the parking ticket or notice of parking violation to the issuing city,

county, or other jurisdiction, and that such payment was timely (a “Category 1 Claim”); or

- (2) a statement by the Settlement Class Member submitting the claim that he or she made reasonable efforts to obtain such documentation from the issuing city, county, or other jurisdiction, but was unsuccessful, and describing the efforts to obtain documentation, including, for example, the name and telephone number of the person at the issuing authority that he or she spoke with (a “Category 2 Claim”).

b. **Incomplete or Defective Claim Forms**. If the Settlement Administrator determines that a Claim Form is incomplete or, in the sole discretion of the Settlement Administrator, has a defect that is potentially curable, the Settlement Administrator will notify the person that submitted the Claim Form, and provide that person an opportunity to complete the Claim Form or cure the defect. The person who submitted such a Claim Form shall have fifteen (15) days from the date of such notice to submit a completed and/or corrected Claim Form.

c. **Settlement Administrator’s Review and Validation of Claims**. The Settlement Administrator shall determine, in its sole discretion, whether a Claim Form satisfies the requirements of the foregoing Paragraph 2.2(a), has been sufficiently verified, and therefore constitutes an Approved Claim. This will be based upon the Settlement Administrator’s review of the Claim Form and the information supplied therein, any documentation submitted with the Claim Form, communications with the Settlement Class Member who submitted the Claim Form, and/or communications with the issuing authority. The Settlement Administrator shall not determine that a Category 2 Claim does not constitute an Approved Claim unless the Settlement Administrator

has attempted, using reasonable efforts, to contact the issuing authority, by mail or telephone, to verify the Claim Form; provided, however, that the Settlement Administrator shall not be required to attempt to contact the issuing authority where, based upon the Settlement Administrator's review of the Claim Form and/or the Settlement Administrator's communications with the person submitting the Claim Form, the Settlement Administrator concludes, in its sole discretion, that the Claim Form does not satisfy the requirements of Paragraph 2.2(a) and/or the Settlement Administrator has a sufficient basis to verify or deny the claim. The Settlement Administrator shall make available for inspection by Class Counsel and/or Hertz Counsel, upon request, all Claim Forms and supporting documentation received by the Settlement Administrator.

d. **Payments on Approved Claims.** As soon as practicable after receiving funds from Hertz in response to the notice described in Paragraph 6.3, the Settlement Administrator shall pay from the Settlement Funding all Approved Claims as follows: (i) the Settlement Administrator shall pay \$20.00 to each Settlement Class Member who submitted a valid and approved Category 1 Claim; and (ii) the Settlement Administrator shall pay \$10.00 to Settlement Class Member who submitted a valid and approved Category 2 Claim. In the event that there are insufficient funds available to the Settlement Administrator to pay such amounts with respect to each Approved Claim, the Settlement Administrator shall make a distribution of the available funds by reducing *pro rata* the applicable amounts payable on account of each Approved Claim until to the total amount required to pay all Approved Claims is equal to the funds available. All payments on account of Approved Claims shall be made by check made payable to the Settlement Class Member submitting each Approved Claim, which shall be mailed to those Settlement Class Members via first-class mail.

e. All payments issued to Settlement Class Members via check will state on the face of the check that the check will expire and become null and void unless cashed within ninety (90) days after the date of issuance.

### 3. **RELEASES**

3.1 The Parties intend that this Settlement Agreement will fully and finally dispose of the Action and any and all Released Claims against the Released Parties.

3.2 On the Effective Date, the Releasing Parties, and each of them, shall be deemed to have, and by operation of the Final Approval Order and Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Parties, and each of them.

3.3 On the Effective Date, the Releasing Parties, and each of them, will be forever barred and permanently enjoined from directly, indirectly, representatively or in any other capacity, filing, commencing, prosecuting, continuing, litigating, intervening in, participating in as class members or otherwise, or receiving any benefits or other relief from any lawsuit, any arbitration, or any administrative, regulatory, or other proceeding against any of the Released Parties in any jurisdiction based on or relating in any way to the Released Claims, and the Releasing Parties, and each of them, shall be forever barred and permanently enjoined from filing, commencing, or prosecuting any lawsuit individually or as a class action against any of the Released Parties (including by seeking to amend a pending complaint to include class allegations or by seeking class certification in a pending action in any jurisdiction) based on or relating in any way to the Released Claims on behalf of members of the Settlement Class who have not timely excluded themselves from the Settlement Class.

**4. PRELIMINARY APPROVAL ORDER.**

4.1 Promptly after the execution of this Agreement, Plaintiff's counsel shall submit this Agreement together with its Exhibits to the Court and shall move the Court for entry of the Preliminary Approval Order, which shall, among other things, certify the Settlement Class for settlement purposes only, appoint Plaintiff's counsel as Class Counsel and Plaintiff as the Class Representative, shall set a Final Approval Hearing date, and approve the Claim Form and Notice for dissemination in accordance with the Notice Plan, substantially in the form of Exhibits 1, 3, 4 and 5 hereto. Such Preliminary Approval Order shall also authorize the Parties, without further approval from the Court, to agree to and adopt such amendments, modifications and expansions of the Settlement Agreement and its implementing documents (including all exhibits to this Agreement) so long as they are consistent in all material respects with the terms of the Final Approval Order and Judgment set forth in Paragraph 8.1 below.

4.2 At the time of the submission of this Agreement to the Court as described above, Plaintiff's counsel and Hertz Counsel shall request that, after Notice is disseminated to members of the Settlement Class in accordance with the Notice Plan, the Court hold a Final Approval Hearing and approve the Settlement as set forth herein.

**5. NOTICE TO THE NOTICE POPULATION.**

5.1 Upon entry of the Preliminary Approval Order, the Settlement Administrator shall cause the Notice to be disseminated to the Notice Population. Such Notice shall comport with Rule 23 of the West Virginia Rules of Civil Procedure, and be effectuated pursuant to the Notice Plan, the costs of which shall be Settlement Administration Expenses, and which shall be paid from the Settlement Funding.

5.2 The Notice Plan, which was developed in consultation with the Notice Consultant and the Settlement Administrator, includes:

(a) *Direct Notice.* Subject to the approval of the Court, the Settlement Administrator shall send direct notice to the Notice Population, within 10 days after entry of the Preliminary Approval Order, substantially in the forms provided in Exhibit 3 and 4, as follows: (i) by electronic mail notice, to the extent that Hertz has an email address or addresses in its records for that customer; and (ii) by mail (postcard) notice, in the event that Hertz does not have an email address or addresses on file for that customer, or in the event that email communication to the customer is returned as undeliverable or the Settlement Administrator has other reason to believe that the email communication was not delivered. A subsequent email notice shall be sent to the portion of the Notice Population referenced in the foregoing subparagraph (i) to remind them of the claims submission deadline.

(b) *Settlement Website.* Within ten (10) days after entry of the Preliminary Approval Order, Notice shall be provided on a website at [www.HertzParkingViolationFeeSettlement.com](http://www.HertzParkingViolationFeeSettlement.com), which shall be administered by the Settlement Administrator and shall include the ability to file Claim Forms online. The Notice on the Settlement Website shall be substantially in the form of Exhibit 5 hereto.

5.3 Any member of the Settlement Class who intends to object to this Agreement must mail to the Settlement Administrator, Class Counsel, and Hertz Counsel, at the addresses identified in the Notice, a written statement that includes: his or her full name; address; all grounds for the objection, with factual and legal support for each stated ground; the identity of any witnesses he or she may call to testify; copies of any exhibits that he or she intends to introduce into evidence at the Final Approval Hearing; and a statement of whether he or she intends to appear at the Final

Approval Hearing with or without counsel. Any member of the Settlement Class who fails to mail a written objection in accordance with the terms of this paragraph and as detailed in the Notice shall not be permitted to object to this Agreement at the Final Approval Hearing, and shall be foreclosed from seeking any review of this Agreement by appeal or other means and shall be deemed to have waived his or her objections and be forever barred from making any such objections in the Action or any other action or proceeding. To be timely, the objection must be mailed to the Settlement Administrator, Class Counsel, and Hertz Counsel, and postmarked on or before the Objection/Exclusion Deadline approved by the Court and specified in the Notice.

5.4 Any member of the Settlement Class may request to be excluded from the Settlement Class by sending a written request for exclusion to the Settlement Administrator postmarked on or before the Objection/Exclusion Deadline approved by the Court and specified in the Notice. In order to exercise the right to be excluded, a member of the Settlement Class must timely send a written request for exclusion to the Settlement Administrator providing his or her full name, address, and telephone numbers. Further, the written request for exclusion must include a statement that the member of the Settlement Class submitting the request wishes to be excluded from the Settlement, and the personal signature of the member of the Settlement Class submitting the request. A request to be excluded that does not include all of the foregoing information, or that is sent to an address other than that designated in the Notice, or that is not postmarked within the time specified, shall be invalid, and any person serving such a request shall be a Settlement Class Member and shall be bound as a Settlement Class Member by the Agreement, if approved. Any member of the Settlement Class who elects to be excluded shall not: (i) be bound by the Final Approval Order and Judgment; (ii) be entitled to relief under this Settlement Agreement; (iii) gain

any rights by virtue of this Agreement; or (iv) be entitled to object to any aspect of this Agreement. So-called “mass” or “class” opt-outs shall not be allowed.

## 6. SETTLEMENT ADMINISTRATION

6.1 The Settlement Administrator shall, under the supervision of the Court, administer the relief provided by this Settlement Agreement by processing Claim Forms in a rational, responsive, cost effective, and timely manner. The Settlement Administrator shall maintain reasonably detailed records of its activities under this Agreement. The Settlement Administrator shall maintain all such records as are required by applicable law in accordance with its normal business practices, and such records will be made available to Class Counsel and Hertz Counsel upon request. The Settlement Administrator shall provide reports and other information to the Court as the Court may require. Without limiting the foregoing, the Settlement Administrator shall:

(a) Receive exclusion forms and other requests from members of the Settlement Class to exclude themselves from the Settlement Agreement and promptly provide to Class Counsel and Hertz Counsel copies thereof. If the Settlement Administrator receives any exclusion forms or other requests from members of the Settlement Class after the deadline for the submission of such forms and requests, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and Hertz Counsel; and

(b) Make available to Class Counsel and Hertz Counsel the Claim Forms received by the Settlement Administrator, and any information received in connection with the Settlement Administrator’s validation of claims at any time upon reasonable notice, and provide Class Counsel and Hertz Counsel with information about the status of the Settlement Administrator’s review and validation of Claim Forms at any time upon reasonable notice.

6.2 The Settlement Administrator shall apply the terms of this Settlement Agreement and the requirements set forth in the Claim Form, it being understood and agreed that any Claim Form submitted that does not meet the requirements of this Agreement or of the Claim Form is not eligible to be an Approved Claim. The Settlement Administrator also shall employ reasonable procedures to screen claims for abuse, fraud, or duplication, and shall deny Claim Forms where there is evidence of abuse, fraud, or duplication.

6.3 Within forty-five (45) days after the Claims Deadline, the Settlement Administrator shall transmit to Class Counsel and Hertz Counsel a written notice that (a) identifies all of the Claim Forms received by the Settlement Administrator; (b) with respect to each Claim Form, indicates whether the Settlement Administrator has determined that the Claim Form qualifies as an Approved Claim or has rejected the Claim Form; and (c) describes the total amount of funds that, when taken together with any unused funds being held by the Settlement Administrator in escrow under Paragraph 2.1(a), is required to pay all Approved Claims and any unpaid Settlement Administration Expenses.

6.4 In the exercise of its duties outlined in this Agreement, the Settlement Administrator shall have the right to reasonably request additional information from the Parties or any Settlement Class Member.

## 7. **TERMINATION OF SETTLEMENT**

7.1 *Termination Notice by the Class Representative or Hertz.* Subject to Paragraph 9.1 below, Hertz, or the Class Representative, on behalf of the Settlement Class, shall have the right to terminate this Agreement by filing written notice of the election to do so (“Termination Notice”) with the Court and serving that Termination Notice on all other Parties hereto within twenty (20) business days after any of the following events: (i) the Court’s refusal to enter the Preliminary

Approval Order; (ii) the Court's refusal to enter the Final Approval Order and Judgment; or (iii) the modification or reversal of the Final Approval Order and Judgment in any material respect by any court (except with respect to modification or reversal of the Fee Award). In the event that this Agreement is terminated, any portion of the Settlement Funding that Hertz has provided to the Settlement Administrator, but which has not been expended by the Settlement Administrator in accordance with this Agreement, shall be returned to Hertz.

7.2 *Termination Notice by Hertz.* If, prior to the Final Approval Hearing, the number of members of the Settlement Class who have timely submitted Requests for Exclusion from the Settlement Class in accordance with the provisions of the Preliminary Approval Order and the Notice given pursuant thereto exceeds one percent (1%) of the Notice Population, Hertz shall have, in its sole and absolute discretion, the option to terminate this Agreement. Hertz may terminate the Agreement by filing a Termination Notice with the Court and serving such Termination Notice on Class Counsel by hand delivery or overnight courier within ten (10) business days after being informed in writing by the Settlement Administrator that requests for exclusion have been timely filed in a number that exceeds one percent (1%) of the Notice Population. In the event that this Agreement is terminated, any portion of the Settlement Funding that Hertz has provided to the Settlement Administrator, but which has not been expended by the Settlement Administrator in accordance with this Agreement, shall be returned to Hertz.

## 8. **FINAL APPROVAL ORDER AND JUDGMENT.**

8.1 After Notice is disseminated in accordance with the Notice Plan, the Parties shall request and seek to obtain from the Court a Final Approval Order and Judgment, which will (among other things):

(a) find that the Court has personal jurisdiction over the Notice Population and all Settlement Class Members and that the Court has subject matter jurisdiction to approve the Agreement, including all exhibits hereto;

(b) approve the Settlement Agreement and the proposed Settlement as fair, reasonable and adequate as to, and in the best interests of, Settlement Class Members; direct the Parties and their counsel to implement and consummate the Agreement according to its terms and provisions; and declare the Agreement to be binding on, and have preclusive effect on all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiffs and the Releasing Parties;

(c) find that the Notice and the Notice Plan implemented pursuant to the Agreement (1) constitute the best practicable notice under the circumstances; (2) constitute notice that is reasonably calculated, under the circumstances, to apprise members of the Settlement Class of the pendency of the Action, their right to object to or exclude themselves from the proposed Settlement, and to appear at the Final Approval Hearing; (3) are reasonable and constitute due, adequate, and sufficient notice to all persons entitled to receive notice; and (4) meet all applicable requirements of the West Virginia Rules of Civil Procedure, the Due Process Clauses of the United States and West Virginia Constitutions, and the rules of the Court;

(d) find that the Class Representative and Class Counsel adequately represented the Settlement Class for purposes of entering into and implementing the Agreement;

(e) dismiss the Action (including all individual claims and Settlement Class Member claims asserted therein) on the merits and with prejudice, without fees or costs to any Party except as provided in the Settlement Agreement;

(f) incorporate the releases set forth above in Paragraph 3.1-3.3, make those releases effective as of the date of the Final Approval Order and Judgment, and forever discharge the Released Parties as set forth herein;

(g) permanently bar and enjoin all Settlement Class Members from filing, commencing, prosecuting, intervening in, or participating (as class members or otherwise) in, any lawsuit or other action in any jurisdiction based on the Released Claims;

(h) without affecting the finality of the Final Approval Order and Judgment for purposes of appeal, retain jurisdiction as to all matters relating to administration, consummation, enforcement, and interpretation of the Settlement Agreement and the Final Approval Order and Judgment, and for any other necessary purpose; and

(i) incorporate any other provisions, as the Court deems necessary and just.

## **9. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL, CANCELLATION OR TERMINATION.**

9.1 If this Agreement is terminated or fails to become effective, the Parties shall be restored to their respective positions in the Action as of the date of the signing of this Agreement. In such event, any Final Approval Order and Judgment or other order entered by the Court in accordance with the terms of this Agreement shall be treated as vacated, *nunc pro tunc*, and the Parties shall be returned to the *status quo ante* with respect to the Action as if this Agreement had never been entered into.

## **10. MISCELLANEOUS PROVISIONS**

10.1 The Parties (a) acknowledge that it is their intent to consummate this Settlement Agreement; and (b) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Agreement and to exercise their reasonable best efforts to accomplish the foregoing terms and conditions of this Agreement. Plaintiff's counsel and Hertz

agree to cooperate with one another in seeking Court approval of the Preliminary Approval Order, the Settlement Agreement, and the Final Approval Order and Judgment, and promptly to agree upon and execute all such other documentation as may be reasonably required to obtain final approval of the Agreement.

10.2 The Parties intend this Settlement Agreement to be a final and complete resolution of all disputes between them with respect to the Released Claims by Plaintiff and the Settlement Class, and each or any of them, on the one hand, against the Released Parties, and each or any of the Released Parties, on the other hand.

10.3 The Parties have relied upon the advice and representation of counsel, selected by them, concerning their respective legal liability for the claims hereby released. The Parties have read and understand fully the above and foregoing Agreement and have been fully advised as to the legal effect thereof by counsel of their own selection and intend to be legally bound by the same.

10.4 The Settlement Agreement represents a negotiated compromise, and regardless whether the Effective Date occurs or the Settlement Agreement is terminated, neither this Agreement nor any act performed or document executed pursuant to or in furtherance of this Agreement:

(a) is, may be deemed, or shall be used, offered or received against the Released Parties, or each or any of them, as an admission, concession, or evidence of the validity of any Released Claims, the truth of any fact alleged by the Class Representative, the deficiency of any defense that has been or could have been asserted in the Action, the violation of any law or statute, the reasonableness of either the Settlement Funding or the Fee Award, or of any alleged wrongdoing, liability, negligence, or fault of the Released Parties, or any of them;

(b) is, may be deemed, or shall be used, offered, or received against the Released Parties, or each or any of them, as an admission, concession, or evidence of any fault, misrepresentation or omission with respect to any statement or written document approved or made by the Released Parties, or any of them;

(c) is, may be deemed, or shall be used, offered, or received against the Released Parties, or each or any of them, as an admission, concession, or evidence with respect to any liability, negligence, fault, or wrongdoing as against any of the Released Parties, in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal. However, the Settlement, this Agreement, and any acts performed and/or documents executed in furtherance of or pursuant to this Agreement and/or Settlement may be used in any proceedings as may be necessary to effectuate the provisions of this Agreement. Further, if this Settlement Agreement is approved by the Court, any Party or any of the Released Parties may file this Agreement and/or the Final Approval Order and Judgment in any action that may be brought against such Released Parties in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar, or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim;

(d) is, may be deemed, or shall be construed against Plaintiff and the Settlement Class, or each or any of them, or against the Released Parties, or each or any of them, as an admission, concession, or evidence that the consideration to be given hereunder represents an amount equal to, less than or greater than that amount that could have or would have been recovered after trial; and

(e) is, may be deemed, or shall be construed against Plaintiff and the Settlement Class, or each or any of them, or against the Released Parties, or each or any of them, as an

admission, concession, or evidence that any of Plaintiff's or the Settlement Class's claims are with or without merit or that damages recoverable in the Action would have exceeded or would have been less than any particular amount.

10.5 Unless the context of this Agreement requires otherwise, the plural includes the singular, the singular includes the plural, and "including" has the inclusive meaning of "including without limitation." The words "hereof", "herein", "hereby", "hereunder", and other similar terms of this Agreement refer to this Agreement as a whole and not exclusively to any particular provision of this Agreement. All pronouns and any variations thereof will be deemed to refer to masculine, feminine, or neuter, singular, or plural, as the identity of the person or persons may require.

10.6 The headings used herein are used for the purpose of convenience only and are not meant to have legal effect.

10.7 The waiver by one Party of any breach of this Agreement by any other Party shall not be deemed as a waiver of any other prior or subsequent breaches of this Agreement.

10.8 All of the Exhibits to this Settlement Agreement are material and integral parts thereof and are fully incorporated herein by this reference.

10.9 This Agreement and its Exhibits set forth the entire agreement and understanding of the Parties with respect to the matters set forth herein, and supersede all prior negotiations, agreements, arrangements and undertakings with respect to such matters. No representations, warranties or inducements have been made to any Party concerning this Settlement Agreement or its Exhibits other than the representations, warranties and covenants contained and memorialized in such documents. This Agreement may be amended or modified only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest.

10.10 Except as otherwise provided herein, each Party shall bear its own costs and attorneys' fees.

10.11 Plaintiff represents and warrants that he has not assigned any claim or right or interest therein as against the Released Parties to any other person and that he is fully entitled to release the same.

10.12 Each counsel or other person or entity executing this Settlement Agreement, any of its Exhibits, or any related settlement documents on behalf of any Party hereto hereby warrants and represents that such person or entity has the full authority to do so and has the authority to take appropriate action required or permitted to be taken pursuant to the Agreement to effectuate its terms.

10.13 This Agreement may be executed by the Parties in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Facsimile signatures or scanned and e-mailed signatures shall be treated as original signatures and shall be binding.

10.14 This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto and the Released Parties.

10.15 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Agreement, and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the Agreement.

10.16 This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of West Virginia.

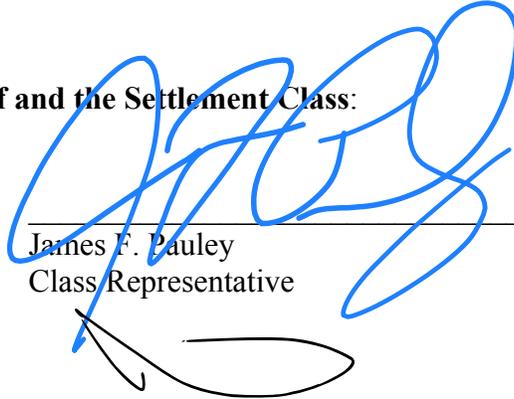
10.17 This Agreement is deemed to have been prepared by counsel for all Parties, as a result of arms' length negotiations among the Parties with the aid of a neutral mediator. Whereas

all Parties have contributed substantially and materially to the preparation of this Agreement, it shall not be construed more strictly against one Party than another.

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK. SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement to be executed.

**For Plaintiff and the Settlement Class:**



James F. Pauley  
Class Representative

Date: 08/27/2017

Anthony J. Majestro  
POWELL & MAJESTRO, PLLC  
405 Capitol Street, Suite P1200  
Charleston, West Virginia 25301  
(304) 346-2889

Date: **08/27/2017**

and

Timothy C. Bailey  
BAILEY, JAVINS & CARTER, LC  
213 Hale Street  
P.O. Box 3712  
Charleston, West Virginia 25337  
(304) 932-4639

**For The Hertz Corporation**

\_\_\_\_\_

Date: \_\_\_\_\_

Michael J. Farrell  
FARRELL, WHITE & LEGG, PLLC  
914 Fifth Avenue  
Post Office Box 6457  
Huntington, West Virginia 25772-6457  
(304) 522-9100

Date: \_\_\_\_\_

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement to be executed.

**For Plaintiff and the Settlement Class:**

\_\_\_\_\_  
James F. Pauley  
Class Representative

Date: \_\_\_\_\_

\_\_\_\_\_  
Anthony J. Majestro  
POWELL & MAJESTRO, PLLC  
405 Capitol Street, Suite P1200  
Charleston, West Virginia 25301  
(304) 346-2889

Date: \_\_\_\_\_

and

Timothy C. Bailey  
BAILEY, JAVINS & CARTER, LC  
213 Hale Street  
P.O. Box 3712  
Charleston, West Virginia 25337  
(304) 932-4639

**For The Hertz Corporation**

  
\_\_\_\_\_  
Richard Frecker  
Executive Vice President & General Counsel

Date: 8/28/17

  
\_\_\_\_\_  
Michael J. Farrell  
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Date: 8/29/17

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