



National Programs

Arbitration Under Class
Action Settlements

BBB NATIONAL PROGRAMS INFORMATION AND RULES FOR APPEALS OF CLAIMS DENIED BY SETTLEMENT ADMINISTRATOR UNDER HYUNDAI AND KIA ENGINE CLASS ACTION SETTLEMENT

IMPORTANT INFORMATION

BBB National Programs (“BBB National Programs”) is a nonprofit organization providing independent and impartial dispute resolution services to resolve disputes between a business and its customers.

Hyundai Motor America (“HMA”) has agreed to participate in an arbitration process administered by BBB National Programs to resolve appeals from claims denied by the Settlement Administrator as provided by the class action settlement in the case of *In re: Hyundai and Kia Engine Litigation*, Civil Action No. 8:17-cv-00838-JLS-JDE (C.D. Cal.).

You can find more information about the class action and settlement agreement at the following link: HyundaiThetaEngineSettlement.com.

Arbitration in this program is available only to settlement class members who have been denied compensation or benefits by HMA under the class action settlement. The arbitrator’s authority is limited to deciding whether a claimant is entitled to compensation or benefits under the terms of the class action settlement, and the decision of the arbitrator is **final** and **binding** on both parties. This document describes the arbitration process and includes the arbitration rules.

Attached you will find:

- A *Summary of Eligibility and Remedies* that provides an overview of arbitration eligibility and remedies that may be awarded by the arbitrator under the class action settlement. This summary also identifies documents that you need to submit in support of your claim. Please review the class action settlement for full details as to eligibility, remedies and required documentation.
- An arbitration request form with instructions.

Required notice to HMA before filing for arbitration

The class action settlement requires that claimants must provide written notice to HMA's Claims Administrator prior to filing for arbitration. After receipt of written notice, HMA will have a 30-day good faith period in which HMA can confer with the claimant in an attempt to resolve the claim. If the claim is not resolved, the claimant can file for arbitration at the end of the 30-day period. You may file the required notice by contacting HMA's Claims Administrator at HyundaiThetaEngineSettlement.com or sending the notice to:

HMA Claims Administrator
c/o JNR
P.O. Box 10759
Newport Beach, CA

How do I contact BBB National Programs?

You can reach BBB National programs by calling 1.800.246.2808 or through our website at <https://bbbprograms.org/programs/all-programs/arbitration-under-class-action-settlements-program>. All documents, correspondence, notices and requests for records should be sent to BBB National Programs, Inc. at 1676 International Drive, Suite 550, McLean, VA 22102. Documents and case-related information also may be faxed to BBB National Programs at 703-247-9700. Please include your case number on all documents submitted.

Beginning the process

You must complete the arbitration request form and submit it to BBB National Programs with any required documentation. It is important that you submit complete information about your request for compensation or benefits as required by the class action settlement. Should you encounter difficulty obtaining information, please let us know.

What is arbitration?

Arbitration under this program is an informal process in which a settlement class member and HMA present their positions to an impartial third party, an arbitrator. The specific issues the arbitrator is asked to consider will be outlined in a document called the Agreement to Arbitrate, which will be drafted by BBB National Programs as described in the attached arbitration rules.

The arbitration will take place by written submission from the parties unless the arbitrator determines that a telephonic hearing is also needed to decide the case.

The arbitrator will review the written testimony and evidence, and oral testimony if there is a telephone/video hearing and will issue a written decision that the arbitrator deems fair and falls within the arbitrator's authority under the arbitration rules and the terms of the class action settlement. As noted above, the arbitrator's decision is binding on both HMA and the settlement class member.

Who is the arbitrator?

Arbitrators are attorneys or other persons with arbitration experience who are interested in the fair and expeditious resolution of consumer disputes. They are trained and certified by BBB National Programs. A single arbitrator will be assigned to decide your claim. Your arbitrator will be neutral and will be selected in a manner to avoid any conflict of interest. Prior to the arbitration we will provide you with a biography with the arbitrator's qualifications and background.

What will happen at the hearing?

For hearings conducted by document review—the arbitrator will issue a decision based only on the written submissions of the parties. Initial positions will be exchanged between the parties for rebuttal comments prior to being sent to the arbitrator.

For hearings conducted by telephone conference call, both parties will have the opportunity to present their positions orally and may also submit written evidence to the arbitrator.

Suggestions for preparing your case:

Any written submissions should be clear, concise, and supported by relevant documentation. Please submit to BBB National Programs a copy of all documents and testimony you wish the arbitrator to consider. **Please include all documents that are required to support your claim under the terms of the class action settlement.**

If you have relevant witnesses, please contact them and ask them to provide a written statement or oral testimony (for telephone hearings). You are responsible for your witnesses' submission of evidence.

Documentation and testimony from both parties should provide the arbitrator with all arguments and evidence you believe are relevant to the disputed compensation or benefit you are seeking under the settlement.

**BBB NATIONAL PROGRAMS
ARBITRATION RULES FOR APPEALS OF CLAIMS DENIED BY
SETTLEMENT ADMINISTRATOR UNDER HYUNDAI AND
KIA ENGINE CLASS ACTION SETTLEMENT**

1. DEFINITIONS

The following list defines key words as they are used in these *Rules*:

- A. "Arbitration" means the process in which an impartial person hears and decides disputes between a Settlement Class Member and HMA relating to the denial of compensation or benefits under the terms of the Class Action Settlement.
 - B. "BBB National Programs" means BBB National Programs, Inc., administrator of the Arbitration.
 - C. "Claimant" means a Settlement Class Member whose claim for compensation or benefits under the terms of the Class Action Settlement has been denied b HMA.
 - D. "Class Action Settlement" means the agreement by the parties in resolution of *In re: Hyundai and Kia Engine Litigation*, Civil Action No. 8:17-cv-00838-JLS-JDE (C.D. Cal.)
 - E. "Class Vehicles" include all 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, and certain 2019 model year Hyundai Sonata vehicles, 2013, 2014, 2015, 2016, 2017, 2018, and certain 2019 model year Hyundai Santa Fe Sport vehicles, and all 2014, 2015, 2018, and certain 2019 model year Hyundai Tucson vehicles, originally equipped with or replaced with a genuine Theta II 2.0 liter or 2.4 liter gasoline direct injection engine within OEM specifications, that were purchased or leased in the United States, excluding the territories, and including those that may have been purchased while the owner was abroad on active U.S. military duty. For 2019 model year vehicles listed above, the Class shall include those vehicles that were manufactured before the Knock Sensor Detection System technology described in this agreement was incorporated into their production.
 - F. "Dispute Resolution Specialist" means the BBB National Programs staff person assigned to help you resolve your dispute.
 - G. "HMA" means Hyundai Motor America.
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- H. “Parties” refers to the Claimant and HMA.
- I. “Settlement Class Member(s)” has the same meaning as that term is defined in the Class Action Settlement.
- J. “Rules” refers to Arbitration Rules for Appeals of Claims Denied by Settlement Administrator Under Hyundai and Kia Engine Class Action Settlement.
- K. “We” and “Us” refers to BBB National Programs.
- L. “You” refers to the Parties involved in the dispute being arbitrated.

2. SCOPE OF ARBITRATION

Arbitration is limited to disputes filed by or on behalf of a Claimant to appeal the denial of the following under the terms of the Class Action Settlement:

- A. Reimbursement for a “Qualifying Repair” as that term is defined by the Class Action Settlement
- B. Goodwill payment for a previously denied warranty repair
- C. Reimbursement for repair-related expenses such as rental car or towing
- D. Compensation for inconvenience due to repair delays exceeding 60 days
- E. Reimbursement for a Class Vehicle sold or traded-in after vehicle was diagnosed as requiring a “Qualifying Repair” but before repair was performed
- F. Reimbursement for Class Vehicle experiencing engine fire
- G. Compensation for lost faith and sale of Class Vehicle and purchase of replacement Hyundai vehicle¹

3. SETTLEMENT

The Dispute Resolution Specialist may assist in efforts to resolve your dispute prior to arbitration if requested by the parties. If you and the HMA representative agree to a settlement, please inform your Dispute Resolution Specialist as soon as possible.

¹ Claimant is eligible for this remedy only if Claimant lost faith in Class Vehicle upon or after receipt of the Settlement Notice. Settlement Notices were sent on August 29, 2020. (Footnote added July 26, 2021.)

If both parties voluntarily decide to settle the dispute at any time before a decision is made by the arbitrator, the settlement will end the dispute and no decision will be made by the arbitrator. The Dispute Resolution Specialist will send each party a letter detailing the terms of the settlement.

4. AGREEMENT TO ARBITRATE

The Dispute Resolution Specialist shall prepare an Agreement to Arbitrate that lists the remedy sought by the Claimant. The Agreement to Arbitrate shall include only the issues that fall within the scope of the Class Action Settlement and these *Rules*.

The Agreement to Arbitrate shall be sent to the parties along with the notice setting the initial deadline by which parties should submit their initial written positions, documentation, and any other evidence. If the Agreement to Arbitrate does not correctly describe the dispute you wish to address at the arbitration, immediately inform your Dispute Resolution Specialist.

The compensation sought by the Claimant must be within the scope of the Class Action Settlement, as outlined in these *Rules*. Remedies not provided for in the Class Action Settlement, such as punitive damages, allegations of fraud or claims for personal injury or mental anguish, shall not be arbitrated.

5. SELECTING YOUR ARBITRATOR

BBB National Programs maintains a pool of arbitrators who have been trained and certified by BBB National Programs. Arbitrators do not necessarily have mechanical or legal expertise.

BBB National Programs shall select the arbitrator in a procedure designed to avoid any conflict of interest and provide the parties with a neutral arbitrator. If a known financial, competitive, professional, family, or social relationship exists with any party (even if the arbitrator believes the relationship is so minor that it will have no effect on the decision), it shall be revealed to the parties and either party may request an alternative arbitrator.

If the arbitrator believes he or she cannot make an impartial decision in your case, he or she shall refuse to serve as an arbitrator. BBB National Programs reserves the right to reject an arbitrator for any reason(s) it believes will affect the credibility of the program.

6. COMMUNICATING WITH THE ARBITRATOR

You or anyone representing you shall not communicate in any way with the arbitrator about the dispute. All communication with the arbitrator must be sent through the Dispute Resolution Specialist.

Violation of this rule compromises the impartiality of the arbitration process and may result in your case being discontinued.

7. REPRESENTATION

You may present your own case or have someone represent you at your own expense (including Class Counsel representing the Plaintiffs in the Class Action Settlement).

If your representative is a lawyer, you must give the lawyer's name, address and telephone number to BBB National Programs at least 10 days before the telephonic hearing, if one is scheduled. Your Dispute Resolution Specialist will notify the other party to give it an opportunity to obtain a lawyer.

8. HEARING FORMAT

Most hearings will be conducted by document review. Hearings may also be conducted by telephone conference if the arbitrator determines that one is needed. We will set a date and a time (during normal business hours) for a telephone hearing and will send you notice of that date at least 10 days in advance of the hearing.

If an emergency prevents you from attending the hearing, call BBB National Programs at 1.800.246.2808 prior to the scheduled hearing time. We will decide if it can be rescheduled.

We reserve the right to make a final determination as to the time and date for the hearing.

9. PROCEDURES FOR DOCUMENT REVIEW HEARINGS

For hearings conducted by document review, the arbitrator will issue a decision based on written information that the parties have provided. We will send a notice setting an **initial deadline** for the parties to submit their initial written positions, documentation, and any other evidence they wish the arbitrator to consider. We will exchange both parties' initial written submissions and provide the parties with an opportunity to submit responses. We will send a notice setting a **final deadline** for responses to the initial submissions.

You will be sent notice of final deadline at least 10 days in advance of the deadline date. After the final deadline date, no further information will be accepted or provided to the arbitrator.

10. PROCEDURES FOR TELEPHONE HEARINGS

Oath of participants

The parties and witnesses shall be placed under oath. Attorney representatives are not required to be placed under oath.

Presentation of case

Each party will be given an opportunity to make a presentation of its case and hear the other party's presentation. Parties may present witnesses and evidence in support of their case and shall have the opportunity to explain or rebut information presented by the other party. Parties may also question the other parties, their witnesses and their evidence. After everyone has presented his or her case, each party will be given an opportunity to make a closing statement.

You may present your case without being restricted by courtroom rules of evidence. However, you should be sure your evidence is relevant to the case.

The arbitrator may limit a party's presentation if the arbitrator believes it is repetitious or irrelevant. No new or additional evidence may be submitted after the hearing unless requested by the arbitrator.

Submission of documents and taped/recorded evidence

Parties should submit any written documents or evidence they wish to rely on to the Dispute Resolution Specialist **at least three days** before the hearing. If submitted timely, we will make every effort to provide this information to the other party and the arbitrator before the hearing

If you have a witness who cannot attend the hearing, you may present that person's written statement to the arbitrator. You must submit a copy to your Dispute Resolution Specialist to share with the other party and the arbitrator.

Please inform the Dispute Resolution Specialist at least five days prior to the hearing if you will submit any taped or digitally recorded evidence for the hearing. The Dispute Resolution Specialist will make arrangements for this information to be provided to the other party and the arbitrator.

Before the arbitrator makes a decision, a party may ask the arbitrator for a reasonable number of days to respond to a written statement or document or taped/recorded evidence presented by the other party that was not shared prior to the telephone hearing. The arbitrator may grant the request at his or her discretion.

Failure to appear at telephonic hearing

If one party does not attend a hearing after receiving proper notice, the arbitrator will proceed with the hearing and receive evidence from the other party. The party who did not attend the hearing will be given the opportunity to present a position in writing within the time limits set by the Dispute Resolution Specialist. If that party's position is received in a timely manner, the Dispute Resolution Specialist will send a copy to the other party for comments before providing it to the arbitrator.

If the absent party does not submit a response within the set time limits, the arbitrator may make a decision without that party's position.

11. RECORD OF HEARING

BBB National Programs will maintain basic file information including documents and other evidence presented by the Parties. Copies of these materials and official arbitration forms relating to your case will be given to you upon request. A reasonable copying fee may be charged.

12. ARBITRATOR REQUEST FOR NEW OR ADDITIONAL EVIDENCE

The arbitrator may request new or additional evidence at any time before a decision is made. The arbitrator will specify a deadline for submission of that evidence to BBB National Programs. The arbitrator may also request that new/additional evidence be presented at a telephone hearing, if necessary.

New or additional evidence requested by the arbitrator must be received by BBB National Programs within the time period specified by the arbitrator. The Dispute Resolution Specialist will send a copy of any new/additional evidence submitted by one party to the other party with a request for a response within a specified time period. Both the new/additional evidence and any timely response shall be submitted by the Dispute Resolution Specialist to the arbitrator.

When the arbitrator is satisfied that all testimony and evidence have been presented, your hearing will be closed.

13. TIME LIMITS

We shall make every effort to obtain a decision in your case within 60 days from the time your claim is filed.

14. THE DECISION

When the arbitrator has reached a decision in your case, all parties will receive a written decision accompanied by the arbitrator's reasons for the decision.

We will not read a decision to a party over the phone.

A. **Scope of Decision**

A decision shall be one that the arbitrator considers fair and falls within the arbitrator's authority under these *Rules* and the terms of the Class Action Settlement. **The arbitrator's decision shall be binding on both parties.**

B. **Relief That May Be Awarded**

The arbitrator may award to the Claimant any compensation or benefits to which the Claimant is entitled under the terms of the Class Action Settlement and the Agreement to Arbitrate. If the decision requires that HMA provide compensation or benefits to the Claimant, performance shall be required as set forth in the class action settlement.

C. **Clarifying the Decision**

You may request that the arbitrator clarify a decision if you do not understand what action is required by the decision, or if you and the other party disagree about what action is required by the decision.

You may not ask the arbitrator to clarify the reasons for a decision. A request for clarification will not be accepted if it attempts only to challenge the conclusions of the arbitrator or reargue your case. A request for clarification must be in writing and received by BBB National Programs before the time performance is required under the decision.

An appropriate request for clarification of the decision will be sent to the other party for response. We will send your clarification request and any response to the arbitrator, who may either clarify the decision or let the decision stand as written. Before making a decision on the clarification request, the arbitrator may request a telephone conference with all parties.

D. Correcting the decision or reasons for decision

You may request correction of the decision or reasons for decision only if the decision or reasons contain a mistake of fact, contain a miscalculation of figures, or exceed the arbitrator's authority, as defined below.

A mistake of fact is not a conclusion of the arbitrator with which you disagree; it is a true error in an objective fact such as a date, time, place or name, and may justify correction only if it concerns the essence of the decision. A miscalculation of figures is not a dollar figure you consider to be unfair; it is an arithmetic error.

The arbitrator has exceeded his or her authority if the award does not fall within the arbitrator's authority under these *Rules* or the terms of the Class Action Settlement.

A request for correction of a decision must be in writing and received by BBB National Programs before the time performance is required by the decision. If your written statement to us is an appropriate request for correction, it will be handled in the same manner as a clarification request.

E. Decision is impossible to perform or to perform on time

If any party believes the arbitrator's decision cannot be performed within the established time limit or at all, that party should immediately inform us in writing. We will process your submission in the same manner as a request for clarification.

The arbitrator may request additional evidence or do anything necessary to confirm or deny the claim of impossibility of performance. If the arbitrator confirms such impossibility, the original decision may then be changed to include any remedy falling within the scope of these *Rules*.

If HMA has exceeded the time for performance specified in the decision, the Claimant should notify us in writing. We will immediately contact HMA and attempt to determine the reasons for its noncompliance.

F. Mathematical errors/correction

BBB National Programs reserves the right to correct obvious mathematical errors in the decision and/or obvious errors in the description of any person, thing or monetary amount.

G. Suspending the time to perform

If a party submits to us a written statement relating to clarification, correction or impossibility of performing the decision, the time for performance of the decision shall be suspended until the issue is resolved.

H. **After decision is issued**

BBB National Programs will send the arbitrator's decision to the Claimant and HMA. Once the decision has been issued:

- The parties will be bound to abide by the decision and comply with its terms.
- If HMA fails to perform according to the arbitrator's decision, the Claimant should notify BBB National Programs, who will then notify Class Counsel and HMA's Counsel.

15. TIMELY OBJECTIONS

Any failure to follow these *Rules* that may significantly affect the independence, impartiality or fairness of the arbitration process should be brought to the attention of the BBB National Programs at the earliest opportunity.

Any party raising such objections should attempt to document the specific harm caused by the failure to follow these *Rules*. We may request that party put its objection in writing. We will make a final decision on the appropriate action to be taken if we determine a failure to follow these *Rules* has significantly affected the independence, impartiality, or fairness of the arbitration process.

16. CONFIDENTIALITY OF RECORDS

It is our policy that records of the dispute resolution process are private and confidential.

BBB National Programs will not release the results of an individual case to any person or group that is not a party to the arbitration unless all parties agree or unless such release is required by state law or regulation or pertinent to judicial or governmental administrative proceedings. This provision shall not apply to Class Counsel, as the class action settlement requires HMA to provide Class Counsel with copies of all communications concerning any arbitration review.

BBB National Programs may use information in our records to conduct general research, which may lead to the publication of aggregate data but will not result in the reporting or publication of any personal information provided to us by a party.

17. LEGAL PROCEEDINGS/EXCLUSION OF LIABILITY

In submitting to arbitration under these *Rules*, the parties agree that the arbitrator shall not be

subpoenaed by either party in any subsequent legal proceeding.

The parties further agree that BBB National Programs (including its employees) and/or the arbitrator shall not be liable for any act or omission in connection with any Arbitration.

18. INTERPRETATION OF RULES/RIGHT TO DISCONTINUE ARBITRATION

BBB National Programs reserves the right, consistent with applicable state or federal law and the Class Action Settlement, to make the final decision on procedural questions, the scope of the issues to be arbitrated, eligibility of a claim for arbitration, and any other questions concerning the application and interpretation of these *Rules*.

BBB National Programs at all times reserves the right to discontinue or decline administration of arbitration for any case(s) due to the behavior of a party or a conflict with the Class Action Settlement or any state or federal law or Regulation.

SUMMARY OF ELIGIBILITY AND REMEDIES

APPEALS OF CLAIMS DENIED BY SETTLEMENT ADMINISTRATOR HYUNDAI AND KIA ENGINE CLASS ACTION SETTLEMENT

In re: Hyundai and Kia Engine Litigation
No. 8:17-cv-00838-JLS-JDE (C.D. Cal)

ELIGIBLE CLAIMANTS

Eligible claimants must meet all of the following requirements:

- The claimant must be a Settlement Class member as that term is defined by the class action settlement.²
- The claimant must have submitted a claim directly to the Settlement Administrator.
- **Within 60 days** after receiving the Settlement Administrator's final determination of the claim (i.e., awarding less than full reimbursement or denying the claim), the claimant must notify Hyundai's Claims Administrator **in writing** that the claimant would like to pursue the claim in arbitration. Hyundai is then permitted a 30-day good faith period to attempt to resolve the dispute.
- **For disputes not resolved within the 30-day good faith period, the claimant must initiate arbitration proceedings with BBB National Programs within 60 days after the claimant receives HMA's final determination denying the claim during the meet and confer process.**

² **Settlement Class members** are defined as all owners and lessees of a Class Vehicle who purchased or leased a Class Vehicle in the United States, including those that were purchased while the owner was abroad on active U.S. military duty, but excluding those purchased in U.S. territories and/or abroad. Also excluded from this class are Hyundai Motor America (HMA); any affiliate, parent, or subsidiary of H; any entity in which HMA has a controlling interest; any officer, director, or employee of KMA; any judge to whom *In re: Hyundai and Kia Engine Litigation*, No. 8:17-cv-00838-JLS-JDE (C.D. Cal.) is assigned, his or her spouse, and all persons within the third degree of relationship to either of them, as well as the spouses of such persons.

ELIGIBLE VEHICLES

- Vehicles must be a Class Vehicle as that term is defined in the class action settlement.³

REMEDIES THAT MAY BE AWARDED

A. REPAIR REIMBURSEMENT

CLAIMANTS MUST MEET THE FOLLOWING TIME DEADLINES TO BE AWARDED ANY REPAIR REIMBURSEMENT:

- The repair must have been completed prior to April 12, 2021; and
- a claim for the repair must have been submitted to the Settlement Administrator no later than April 12, 2021.
- A claim is **not eligible** for reimbursement if the vehicle is subject to “**Exceptional Neglect**”⁴ as defined in the class action settlement.

³ **Class Vehicles** include all 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, and certain 2019 model year Hyundai Sonata vehicles, 2013, 2014, 2015, 2016, 2017, 2018, and certain 2019 model year Hyundai Santa Fe Sport vehicles, and all 2014, 2015, 2018, and certain 2019 model year Hyundai Tucson vehicles, originally equipped with or replaced with a genuine Theta II 2.0 liter or 2.4 liter gasoline direct injection engine within OEM specifications, that were purchased or leased in the United States, excluding the territories, and including those that may have been purchased while the owner was abroad on active U.S. military duty. For 2019 model year vehicles listed above, the Class shall include those vehicles that were manufactured before the Knock Sensor Detection System technology described in this agreement was incorporated into their production.

⁴**Exceptional Neglect** is defined as a vehicle clearly evidences a lack of maintenance or care for a significant period of time of not less than one year, such that the vehicle appears dilapidated, abandoned, and/or beyond repair unless such lack of maintenance was due to a “Loss Event” as defined by the class action settlement⁴; **or** Failure of a Settlement Class member to have the KSDS installed by an HMA dealer pursuant to HMA’s KSDS Product Improvement Campaign, in cases of disputes regarding coverage under the extended warranty.

CLAIMANTS ARE REQUIRED TO SUBMIT THE FOLLOWING PROOF OF REPAIR EXPENSE THAT REFLECTS THE REPAIR WORK WAS CONDUCTED IN AN ATTEMPT TO ADDRESS A “QUALIFYING REPAIR”:

- For repairs at an HMA dealership, the claimant must substantiate the cost paid for the Qualifying Repair in a manner consistent with the method of payment used.
- For any other repairs, the claimant must submit the original or a copy of any document(s) generated at or around the time expense was incurred for a Qualifying Repair that identifies the Qualifying Repair’s nature, date performed, and cost incurred for the Qualifying Repair.

1. Reimbursement for Qualifying Repairs

Claimants may be awarded reimbursement for the following repairs:

- Any repair to the engine short block assembly (which includes the engine block, crankshaft and bearings, connecting rods and bearings, and pistons, due to a connecting rod bearing failure or symptoms associated with connecting rod bearing failure, but excluding Exceptional Neglect).
 - Repairs to any other components (such as the long block assembly, battery, or starter) if paperwork shows the work was an attempt to address (i) engine seizure, (ii) engine stalling, (iii) engine noise, (iv) engine compartment fire, (v) illumination of the oil lamp, or (vi) otherwise repair mechanical or cosmetic damage to the Class Vehicle that are the natural and probable consequence of a connecting rod bearing failure or symptoms associated with connecting rod bearing failure. (Repair costs will not be reimbursed if the paperwork reflects Exceptional Neglect or that the repairs were plainly unrelated to the short block assembly).
 - Any replacement of a Class Vehicle oil filter in an attempt to address engine seizure, engine stall, engine noise, or illumination of the oil lamp, caused by a connecting rod bearing failure, but excluding Exceptional Neglect.
 - Repairs caused by a collision involving a Class Vehicle are **not** included unless the collision was directly caused by a Class Vehicle failure otherwise subject to a Qualifying Repair, such as engine fire.
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2. Goodwill payment for previously denied warranty repairs

Claimants may be awarded an additional \$140 goodwill payment if the claimant:

- Presented a “Qualifying Repair” to an HMA dealership,
- was denied an in-warranty repair,
- subsequently obtained the repair elsewhere, and
- submits a claim by April 12, 2021.

3. Compensation for inconvenience due to repair delays

Claimants may be awarded additional compensation if they experienced prolonged delays obtaining a “Qualifying Repair” from an authorized HMA dealership. Based on the length of the delay, claimants have two options:

- For delays between 61 and 90 days, the claimant may receive \$50. For each additional 30-day period, the claimant may receive an additional \$25;
- or**
- the claimant may elect to receive the above compensation in the form of a dealer service card valued at 150% of the amount that would otherwise be paid.

A claimant must choose between the above options. The claimant cannot receive both.

B. REIMBURSEMENT FOR RENTAL CARS, TOWING, AND SIMILAR SERVICES

Money spent by claimants on rental cars, towing services, and similar services will also be reimbursed in full if:

- The expense was reasonably related to obtaining a “Qualifying Repair”;
- the “Qualifying Repair” occurred within 30 days of the incurred rental car, towing service, or similar service;
and
- the claim was submitted to the Settlement Administrator within the later:
 - April 12, 2021
 - the date on which the expense was incurred, or
 - the date the expense was paid.

C. COMPENSATION IF A CLASS MEMBER SOLD OR TRADED-IN A CLASS VEHICLE

Claimants may be awarded this compensation if the following occurred before August 28, 2020 (notice date of Class Action Settlement):

- A Class Vehicle experienced an engine seizure, engine stall, engine noise, engine compartment fire, or illumination of the oil lamp diagnosed as requiring repair of the engine block;
and
- The claimant sold or traded-in the Class Vehicle without first procuring the recommended repair.

The claimant may be awarded the following compensation:

- The amount of the baseline Black Book value (i.e., wholesale used value) of the sold or traded-in Class Vehicle plus \$140 at the time of loss minus the actual amount received from the sale or trade-in; **and, if applicable,**
 - Actual damages incurred by the Claimant, if any, exceeds the reimbursement amount, including any actual damages due to a repossession or other financing-based damages.
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To the extent a Class member contends that the actual damages incurred exceed the reimbursement amount as provided in this section or include damages due to a repossession or other financing-based damages, the Class member must have provided written notice to requesting alternative dispute resolution and attempted to resolve the claim with KMA during the 30-day meet and confer process. If not resolved, the Class member may proceed with BBB National Programs. Repossession or other financing-based damages may include charges associated with:

- The repossession itself (administrative charges & the cost of the actual repossession which is usually handled by a third party)
- Daily vehicle storage fees (range \$20 to \$40/day or more)
- Daily storage fees for any personal property in the vehicle (separate from the vehicle storage fees)
- Any legal expenses incurred by the finance company as part of the repossession
- If the vehicle is ultimately re-sold at a loss vs. the loan balance, that amount could also be charged to the customer
- Law enforcement fees related to the repossession process

A claimant's maintenance history or lack thereof before the repair diagnosis (except Exceptional Neglect) shall not be a basis for denying or limiting compensation.

Claims for compensation for a sold or traded-in Class Vehicle must:

- Be submitted no later than April 12, 2021; and
- contain a proof of sale or trade-in and value received for the sale or trade-in.

D. COMPENSATION FOR CLASS VEHICLE INVOLVED IN ENGINE FIRE

Class members may be awarded this compensation if their Class Vehicle suffered an engine fire that would have otherwise been addressed by a "Qualifying Repair" but caused the Class member to lose the vehicle because either the cost of the repair was too high or the Class member disposed of the vehicle at a loss.

The Class member may receive the following reimbursement:

- The amount of the maximum Black Book value (i.e., private party/very good) of the Class Vehicle at the time of loss minus the actual value received (if any), if any, plus an additional \$140 goodwill payment; **and, if applicable,**
- actual damages incurred by the Claimant, if any, in excess of the reimbursement amount calculated above⁵.

Claims for compensation for a class vehicle involved in an engine fire must:

- For loss of vehicle by engine fire incurred before August 28, 2020 (notice date), be submitted no later than April 12, 2021
- For loss of vehicle by engine fire occurring after August 28, 2020 (notice date), no later than 90 days after engine compartment fire occurred; **and**
- contain documentation establishing that the fire originated from the engine compartment and was unrelated to any sort of collision.

E. REBATE ENTITLEMENT

Claimants may be awarded a rebate if they:

- Sold or traded-in a Class Vehicle in an arm's length transaction after losing faith in the vehicle as a result of an engine failure or engine compartment fire,
- Purchased a replacement HMA vehicle,
- Provide proof of sale and value received for the sale/trade-in; and
- Provide proof of purchase of a replacement HMA vehicle.

⁵ To the extent a Class member contends that the actual damages incurred exceed the total reimbursement amount as provided in this section the Class member must have provided written notice requesting alternative dispute resolution and attempted to resolve the claim with KMA during the 30-day meet and confer process. If not resolved, the Class member may proceed with BBB National Programs.

Rebate claims must be submitted to the Settlement Administrator:

- By April 12, 2021 if the vehicle suffered an engine failure or engine fire *before* August 28, 2020 (Notice date); **or**
- within 90 days of the engine failure or fire if the vehicle suffered an engine failure or engine fire *after* August 28, 2020 (notice date).
- The amount of the rebate shall be calculated as actual loss by comparing sales documentation to the maximum Black Book value (i.e., private party/very good) of the Class Vehicle at the time of the Knock Sensor Detection System campaign launch up to the following amounts:
 - For model year 2011-2012 Class Vehicles: \$2,000
 - For model year 2013-2014 Class Vehicles: \$1,500
 - For model year 2015-2016 Class Vehicles: \$1,000
 - For model year 2017-2019 Class Vehicles: \$500

19. DEFINITIONS

The following list defines key words as they are used in these *Rules*:

- A. “Arbitration” means the process in which an impartial person hears and decides disputes between a Claimant and HMA over coverage under the Warranty Extension.
 - B. “BBB NP” means BBB National Programs, Inc., administrator of the Arbitration.
 - C. “Claimant” means a Settlement Class member or any other person whose claim for coverage under the Warranty Extension has been denied by HMA.
 - D. “Class Action Settlement” means the agreement by the parties in resolution of *In re: Hyundai and Kia Engine Litigation*, Civil Action No. 8:17-cv-00838-JLS-JDE (C.D. Cal.)
 - E. “Dispute Resolution Specialist” means the BBB National Programs staff person assigned to help you resolve your dispute.
 - F. “HMA” means Hyundai Motor America.
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- G. "Parties" refers to the Claimant and HMA.
- H. "Rules" refers to Arbitration Rules for Disputes Over Coverage Under Warranty Extension Provided by Hyundai and Kia Engine Class Action Settlement.
- I. "Settlement Class" has the same meaning as that term is defined in the Class Action Settlement.
- J. "Warranty Extension" means the Lifetime Warranty provided under the terms of the Class Action Settlement that extends the Powertrain Warranty in Class Vehicles⁶ to cover the (1) short block assembly (engine block, crankshaft and bearings, connecting rods and bearings, and pistons) and (2) damage caused to the long block assembly due to connecting rod bearing failure.⁷

⁶ "Class Vehicles" include all 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, and certain 2019 model year Hyundai Sonata vehicles, 2013, 2014, 2015, 2016, 2017, 2018, and certain 2019 model year Hyundai Santa Fe Sport vehicles, and all 2014, 2015, 2018, and 2019 model year Hyundai Tucson vehicles, originally equipped with or replaced with a genuine Theta II 2.0 liter or 2.4 liter gasoline direct injection engine within OEM specifications, that were purchased or leased in the United States, excluding the territories, and including those that may have been purchased while the owner was abroad on active U.S. military duty. For 2019 model year vehicles listed above, the Class shall include those vehicles that were manufactured before the Knock Sensor Detection System technology described in this agreement was incorporated into their production.

⁷ The Class Action Settlement requires that HMA provide a Lifetime Warranty for all eligible Class Vehicles that extends their existing Powertrain Warranty to cover the short block assembly (consisting of the engine block, crankshaft and bearings, connecting rods and bearings, and pistons) in vehicles owned by individual consumers that have completed the Knock Sensor Detection Software (KSDS) update in connection with HMA's product improvement campaigns. This warranty extension also applies to any damage caused to the long block assembly due to connecting rod bearing failure and/or symptoms associated with connecting rod bearing failure. With the exception of cases of Exceptional Neglect (as that term is defined by the Class Action Settlement), and subject to the existing terms, limitations, and condition of the Class Vehicles' original Powertrain Warranty, the Lifetime Warranty otherwise endures irrespective of the Class Vehicle's mileage or duration of ownership.

The Lifetime Warranty does not apply and is not available to commercial entities such as used car dealers, franchisees, or automobile auction houses. The Lifetime Warranty covers all costs associated with inspections and repairs at an authorized dealer including, without limitation, the costs associated with replacement parts, labor, diagnoses, and mechanical or cosmetic damage to the Class Vehicle caused by the engine malfunction (e.g., engine failure or fire). Notwithstanding Exceptional Neglect and any provision(s) to the contrary in any express warranty provided by HMA in conjunction with the sale or lease of Class Vehicles, the Lifetime Warranty persists in its full duration regardless of any transfer in ownership or lease of a Class Vehicle. The Class Action Settlement provides that no Lifetime Warranty inspection or repairs shall be denied for a Class Vehicle on the grounds that the Qualifying Repair was necessitated by the owner or lessor failing to properly service or maintain the vehicle, except in instances of Exceptional Neglect (in which case, repair shall be denied).

K. “We” and “Us” refers to BBB National Programs.

L. “You” refers to the Parties involved in the dispute being arbitrated.

20. SCOPE OF ARBITRATION

Arbitration is limited to disputes filed by or on behalf of a Claimant over coverage under the class action settlement Warranty Extension.

21. SETTLEMENT

The Dispute Resolution Specialist may assist in efforts to resolve your dispute prior to arbitration if requested by the parties. If you and the HMA representative agree to a settlement, please inform your Dispute Resolution Specialist as soon as possible.

If both parties voluntarily decide to settle the dispute at any time before a decision is made by the arbitrator, the settlement will end the dispute and no decision will be made by the arbitrator. The Dispute Resolution Specialist will send each party a letter detailing the terms of the settlement.

22. AGREEMENT TO ARBITRATE

The Dispute Resolution Specialist shall prepare an Agreement to Arbitrate that lists the remedy sought by the Claimant.

The Agreement to Arbitrate shall include only the issues that fall within the scope of the Class Action Settlement and these *Rules*.

HMA is not required to provide new engines under the Lifetime Warranty or provide any other compensation or reimbursement for otherwise inoperative vehicles (e.g., branded, salvage, or junkyard vehicles not otherwise roadworthy) unless such inoperability is directly caused by a connecting rod bearing failure.

The Agreement to Arbitrate shall be sent to the parties along with the notice setting the initial deadline by which parties should submit their initial written positions, documentation, and any other evidence. If the Agreement to Arbitrate does not correctly describe the dispute you wish to address at the arbitration, immediately inform your Dispute Resolution Specialist.

23. SELECTING YOUR ARBITRATOR

BBB National Programs maintains a pool of arbitrators who have been trained and certified by BBB National Programs. Arbitrators do not necessarily have mechanical or legal expertise.

BBB National Programs shall select the arbitrator in a procedure designed to avoid any conflict of interest and provide the parties with a neutral arbitrator. If a known financial, competitive, professional, family, or social relationship exists with any party (even if the arbitrator believes the relationship is so minor that it will have no effect on the decision), it shall be revealed to the parties and either party may request an alternative arbitrator.

If the arbitrator believes he or she cannot make an impartial decision in your case, he or she shall refuse to serve as an arbitrator. BBB National Programs reserves the right to reject an arbitrator for any reason(s) it believes will affect the credibility of the program.

24. COMMUNICATING WITH THE ARBITRATOR

You or anyone representing you shall not communicate in any way with the arbitrator about the dispute.

All communication with the arbitrator must be sent through the Dispute Resolution Specialist.

Violation of this rule compromises the impartiality of the arbitration process and may result in your case being discontinued.

25. REPRESENTATION

You may present your own case or have someone represent you at your own expense (including Class Counsel representing the Plaintiffs in the Class Action Settlement).

If your representative is a lawyer, you must give the lawyer's name, address and telephone number to BBB National Programs at least 10 days before the telephonic hearing, if one is scheduled. Your Dispute Resolution Specialist will notify the other party to give it an opportunity to obtain a lawyer.

26. HEARING FORMAT

Most hearings will be conducted by document review.

Hearings may also be conducted by telephone if the arbitrator determines that one is needed. We will set a date and time for the telephone hearing and will send you notice of that date at least 10 days in advance of the hearing.

If an emergency prevents you from attending the hearing, call BBB National Programs at 1.800.246.2808 prior to the scheduled hearing time. We will decide if it can be rescheduled.

We reserve the right to make a final determination as to the time and date for the hearing.

27. PROCEDURES FOR DOCUMENT REVIEW HEARINGS

For hearings conducted by document review, the arbitrator will issue a decision based on written information that the parties have provided. We will send a notice setting an **initial deadline** for the parties to submit their initial written positions, documentation, and any other evidence they wish the arbitrator to consider. We will exchange both parties' initial written submissions and provide the parties with an opportunity to submit responses. We will send a notice setting a **final deadline** for responses to the initial submissions. You will be sent notice of final deadline at least 10 days in advance of the deadline date. After the final deadline date, no further information will be accepted or provided to the arbitrator.

28. PROCEDURES FOR TELEPHONE HEARINGS

Oath of participants

The parties and witnesses shall be placed under oath. Attorney representatives are not required to be placed under oath.

Presentation of case

Each party will be given an opportunity to make a presentation of its case and hear the other party's presentation. Parties may present witnesses and evidence in support of their case and shall have the opportunity to explain or rebut information presented by the other party. Parties may also question the other parties, their witnesses and their evidence. After everyone has presented his or her case, each party will be given an opportunity to make a closing statement.

You may present your case without being restricted by courtroom rules of evidence. However, you should be sure your evidence is relevant to the case.

The arbitrator may limit a party's presentation if the arbitrator believes it is repetitious or irrelevant.

No new or additional evidence may be submitted after the hearing unless requested by the arbitrator.

Submission of documents and taped/recorded evidence

Parties should submit any written documents or evidence they wish to rely on to the Dispute Resolution Specialist **at least three days** before the hearing. If submitted timely, we will make every effort to provide this information to the other party and the arbitrator before the hearing.

If you have a witness who cannot attend the hearing, you may present that person's written statement to the arbitrator. You must submit a copy to the Dispute Resolution Specialist to share with the other party and the arbitrator.

Please inform the Dispute Resolution Specialist at least five days prior to the hearing if you will submit any taped or digitally recorded evidence for the hearing. The Dispute Resolution Specialist will make arrangements for this information to be provided to the other party and the arbitrator.

Before the arbitrator makes a decision, a party may ask the arbitrator for a reasonable number of days to respond to a written statement, document or taped/recorded evidence presented by the other party that was not shared prior to the telephone hearing. The arbitrator may grant the request at his or her discretion.

Failure to appear at telephonic hearing

If one party does not attend a hearing after receiving proper notice, the arbitrator will proceed with the hearing and receive evidence from the other party. The party who did not attend the hearing will be given the opportunity to present a position in writing within the time limits set by the Dispute Resolution Specialist. If that party's position is received in a timely manner, the Dispute Resolution Specialist will send a copy to the other party for comments before providing it to the arbitrator. If the absent party does not submit a response within the set time limits, the arbitrator may make a decision without that party's position.

29. RECORD OF HEARING

BBB National Programs will maintain basic file information including documents and other evidence presented by the Parties. Copies of these materials and official arbitration forms relating to your case will be given to you upon request. A reasonable copying fee may be charged.

30. ARBITRATOR REQUEST FOR NEW OR ADDITIONAL EVIDENCE

The arbitrator may request new or additional evidence at any time before a decision is made. The arbitrator will specify a deadline for submission of that evidence to BBB National Programs. The arbitrator may also request that new/additional evidence be presented at a telephone hearing, if necessary.

New or additional evidence requested by the arbitrator must be received by BBB National Programs within the time period specified by the arbitrator. The Dispute Resolution Specialist will send a copy of any new/additional evidence submitted by one party to the other party with a request for a response within a specified time period. Both the new/additional evidence and any timely response shall be submitted by the Dispute Resolution Specialist to the arbitrator.

When the arbitrator is satisfied that all testimony and evidence have been presented, your hearing will be closed.

31. TIME LIMITS

We shall make every effort to obtain a decision in your case within 60 days from the time your claim is filed.

32. THE DECISION

When the arbitrator has reached a decision in your case, all parties will receive a written decision accompanied by the arbitrator's reasons for the decision. We will not read a decision to a party over the phone.

The following list defines key words as they are used in these *Rules*:

A. Scope of Decision

A decision shall be one that the arbitrator considers fair and falls within the arbitrator's authority under these *Rules* and the terms of the Class Action Settlement. **The arbitrator's decision shall be binding on both parties.**

B. Relief That May Be Awarded

The arbitrator may award the following remedies:

- Inspection and/or repair by HMA at an authorized dealer for defects or damage determined by the arbitrator to be covered by the Warranty Extension.⁸ At the consumer's request, HMA will provide a comparable class of loaner vehicle (subject to availability at dealer location) at no cost. If no loaner vehicle is available at the dealership at the time of the request, HMA shall provide reimbursement of reasonable rental car expenses not to exceed \$40 per day until the repair is completed.
- Payment for costs associated with inspections and repairs at an authorized HMA dealer for defects or damage covered by the Warranty Extension.
- Compensation or reimbursement for inoperative vehicles (e.g., branded, salvage, or junkyard vehicles not otherwise roadworthy) if the arbitrator determines such inoperability is directly caused by a connecting rod bearing failure.

⁸ LIMITATIONS FOR VEHICLES IN NEED OF AN ENGINE REPLACEMENT

Under the terms of the Class Action Settlement, HMA is not required to provide new engines under the Warranty Extension or provide any compensation or reimbursement for otherwise inoperative vehicles (e.g., branded, salvage, or junkyard vehicles not otherwise roadworthy) unless such inoperability is directly caused by a connecting rod bearing failure.

For vehicles that may otherwise need a new engine pursuant to the Warranty Extension at or above 150,000 miles and more than eight (8) years from the original in-service date, HMA shall have the option, in lieu of replacing the engine under warranty, to either of the following at the vehicle owner's election:

- Repurchase the vehicle at Bluebook value (very good/private party) or
 - Pay the owner \$2,000.00 in lieu of an engine replacement, provided that the owner has installed the KSDS; payment will require that the owner agree in writing to assume all risk going forward and to void the vehicle's remaining Warranty Extension.
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C. Clarifying the Decision

You may request that the arbitrator clarify a decision if you do not understand what action is required by the decision, or if you and the other party disagree about what action is required by the decision.

You may not ask the arbitrator to clarify the reasons for a decision. A request for clarification will not be accepted if it attempts only to challenge the conclusions of the arbitrator or reargue your case.

A request for clarification must be in writing and received by the BBB National Programs before the time performance is required under the decision.

An appropriate request for clarification of the decision will be sent to the other party for response. We will send your clarification request and any response to the arbitrator, who may either clarify the decision or let the decision stand as written. Before making a decision on the clarification request, the arbitrator may request a telephone conference with all parties.

D. Correcting the decision or reasons for decision

You may request correction of the decision or reasons for decision only if the decision or reasons contain a mistake of fact, contain a miscalculation of figures, or exceed the arbitrator's authority—as defined below.

A mistake of fact is not a conclusion of the arbitrator with which you disagree; it is a true error in an objective fact such as a date, time, place, or name, and may justify correction only if it concerns the essence of the decision.

A miscalculation of figures is not a dollar figure you consider to be unfair; it is an arithmetic error.

The arbitrator has exceeded his or her authority if the award does not fall within the arbitrator's authority under these *Rules* or the terms of the Class Action Settlement.

A request for correction of a decision must be in writing and received by BBB National Programs before the time performance is required by the decision.

If your written statement to us is an appropriate request for correction, it will be handled in the same manner as a clarification request.

E. Decision is impossible to perform or to perform on time

If any party believes the arbitrator's decision cannot be performed within the established time limit or at all, that party should immediately inform us in writing. We will process your submission in the same manner as a request for clarification.

The arbitrator may request additional evidence or do anything necessary to confirm or deny the claim of impossibility of performance. If the arbitrator confirms such impossibility, the original decision may then be changed to include any remedy falling within the scope of these *Rules*.

If HMA has exceeded the time for performance specified in the decision, the Claimant should notify us in writing. We will immediately contact HMA and attempt to determine the reasons for its noncompliance.

F. Mathematical errors/correction

BBB National Programs reserves the right to correct obvious mathematical errors in the decision and/or obvious errors in the description of any person, thing or monetary amount.

G. Suspending the time to perform

If a party submits to us a written statement relating to clarification, correction or impossibility of performing the decision, the time for performance of the decision shall be suspended until the issue is resolved.

H. After decision is issued

BBB National Programs will send the arbitrator's decision to the Claimant and HMA. Once the decision has been issued:

- The parties will be bound to abide by the decision and comply with its terms.
- If HMA fails to perform according to the arbitrator's decision, the Claimant should notify BBB National Programs, who will then notify Class Counsel and HMA's Counsel.

33. TIMELY OBJECTIONS

Any failure to follow these *Rules* that may significantly affect the independence, impartiality or fairness of the arbitration process should be brought to the attention of the BBB National Programs at the earliest opportunity.

Any party raising such objections should attempt to document the specific harm caused by the failure to follow these *Rules*. We may request that party put its objection in writing. We will make a final decision on the appropriate action to be taken if we determine a failure to follow these *Rules* has significantly affected the independence, impartiality or fairness of the arbitration process.

34. CONFIDENTIALITY OF RECORDS

It is our policy that records of the dispute resolution process are private and confidential. BBB National Programs will not release the results of an individual case to any person or group that is not a party to the arbitration unless all parties agree or unless such release is required by state law or regulation or pertinent to judicial or governmental administrative proceedings. This provision shall not apply to Class Counsel, as the class action settlement requires HMA to provide Class Counsel with copies of all communications concerning any arbitration review.

BBB National Programs may use information in our records to conduct general research, which may lead to the publication of aggregate data but will not result in the reporting or publication of any personal information provided to us by a party.

35. LEGAL PROCEEDINGS/EXCLUSIONS OF LIABILITY

In submitting to arbitration under these *Rules*, the parties agree that the arbitrator shall not be subpoenaed by either party in any subsequent legal proceeding.

The parties further agree that BBB National Programs (including its employees) and/or the arbitrator shall not be liable for any act or omission in connection with any Arbitration.

36. INTERPRETATION OF RULES/RIGHTS TO DISCONTINUE ARBITRATION

BBB National Programs reserves the right, consistent with applicable state or federal law and the Class Action Settlement, to make the final decision on procedural questions, the scope of the issues to be arbitrated, eligibility of a claim for arbitration, and any other questions concerning the application and interpretation of these *Rules*.

BBB National Programs at all times reserves the right to discontinue or decline administration of arbitration for any case(s) due to the behavior of a party or a conflict with the Class Action Settlement or any state or federal law or regulation.
