

ONTARIO SUPERIOR COURT OF JUSTICE

B E T W E E N :

MATTHEW ROBERT QUENNEVILLE, LUCIANO TAURO,
MICHAEL JOSEPH PARE, THERESE H. GADOURY,
AMY FITZGERALD, RENEE JAMES, AL-NOOR WISSANJI,
JACK MASTROMATTEI and JAY MACDONALD

Plaintiffs

- and -

VOLKSWAGEN GROUP CANADA, INC.,
VOLKSWAGEN AKTIENGESELLSCHAFT,
VOLKSWAGEN GROUP OF AMERICA, INC., AUDI CANADA, INC.,
AUDI AKTIENGESELLSCHAFT, AUDI OF AMERICA INC., and
VW CREDIT CANADA, INC.

Defendants

SUPERIOR COURT OF QUEBEC

B E T W E E N :

OPTION CONSOMMATEURS and FRANCOIS GRONDIN

Plaintiffs

- and -

VOLKSWAGEN GROUP CANADA, INC.
VOLKSWAGEN GROUP OF AMERICA, INC.
VOLKSWAGEN AKTIENGESELLSCHAFT, AUDI CANADA INC.
AUDI OF AMERICA INC. and AUDI AKTIENGESELLSCHAFT

Defendants

SETTLEMENT AGREEMENT

Dated as of December 15, 2016

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1. INTRODUCTION

This Settlement Agreement settles, on behalf of the Settlement Class in the Actions, all claims asserted by the Settlement Class related to Volkswagen- and Audi-brand vehicles for model years 2009 to 2015 with 2.0-litre turbocharged direct-injection (“**TDI**”) diesel engines, as identified in Schedule “A”, which were sold in Canada, or leased through VW Credit Canada, Inc., as of September 18, 2015.

Following a September 18, 2015 disclosure of emissions-related issues, the Actions were commenced seeking damages and other relief on behalf of consumers with affected 2.0-litre diesel vehicles. The Actions allege that the affected 2.0-litre diesel vehicles emit nitrogen oxide (“**NOx**”) emissions up to levels that exceed the standards to which the vehicles were certified because software (“**Software**”) installed in those vehicles allowed them to operate one way when recognizing driving cycles in NOx emissions laboratory testing, and in a different way when the vehicles were in on-road operation.

Following negotiations facilitated by The Honourable Mr. François Rolland, former Chief Justice of the Superior Court of Québec, the Parties agreed on the terms and conditions set forth in this Settlement Agreement.

This Settlement Agreement does not apply to anyone who is not a Settlement Class Member, including Excluded Persons and owners and lessees of Volkswagen- and Audi-brand vehicles with 3.0-litre diesel engines.

In addition, the matters addressed herein relate solely to proceedings in Canada. Nothing contained herein shall be construed as any admission in these or other

proceedings including with respect to VW's alleged conduct outside Canada. Moreover, the Parties recognize that the matters do not relate to the enforcement of the laws of countries other than Canada, including the emission laws or regulations of those countries. Nothing in this Settlement Agreement is intended to apply to, or affect, VW's obligations under the laws or regulations of any jurisdiction outside Canada. At the same time, the laws and regulations of other countries shall not affect VW's obligations under this Settlement Agreement.

2. DEFINITIONS

As used in this Settlement Agreement, including the attached schedules and exhibits, the terms defined herein have the following meanings, unless this Settlement Agreement specifically provides otherwise. Other capitalized terms used in the Settlement Agreement that are not defined in Section 2 shall have the meanings ascribed to them elsewhere in the Settlement Agreement.

- 2.1 **"2.0-Litre Diesel Matter"** means (a) the installation or presence of any Software or auxiliary emission control device in any Eligible Vehicle; (b) the design, manufacture, assembly, testing, or development of any Software or auxiliary emission control device used or for use in the Eligible Vehicles; (c) the marketing or advertisement of Eligible Vehicles as green, environmentally friendly, and / or compliant with federal, provincial or territorial emissions regulations; (d) the alleged noncompliance of Eligible Vehicles with Canadian emissions regulations; and / or (e) the subject matter of the Actions, as well as any related events or allegations, with respect to Eligible Vehicles. For the avoidance of doubt, the 2.0-Litre

Diesel Matter does not encompass 3.0-litre diesel vehicles or claims relating to those vehicles.

- 2.2 “**Actions**” means the Quenneville Action and Option consommateurs Action, collectively.
- 2.3 “**Aftermarket Modification**” means any modification of an Eligible Vehicle from its original factory specifications, including any process by which the emissions control module in an Eligible Vehicle has been chipped, tuned or otherwise modified from original factory specifications with aftermarket components and / or software.
- 2.4 “**Approval Notice**” means the English and French notice of the Approval Orders published and disseminated to Settlement Class Members, in a form to be approved by the Courts in the Actions.
- 2.5 “**Approval Order**” means a Court’s order and / or judgment approving the Settlement Agreement.
- 2.6 “**Approved Emissions Modification**” means, if available, a change to the emissions system of an Eligible Vehicle to reduce NOx emissions, which is proposed by VW, approved by appropriate regulators and implementable in Canada. An Approved Emissions Modification may only be performed by an Authorized VW Dealer or as VW may direct.
- 2.7 “**Approved Emissions Modification Extended Warranty**” means the extended emissions warranty received in connection with an Approved Emissions Modification.

- 2.8 “**Approved Emissions Modification Option**” means, as applicable, the option available under the Settlement Agreement for Eligible Claimants’ Eligible Vehicles that are Operable to receive the Approved Emissions Modification from an Authorized VW Dealer at no cost to an Eligible Claimant, except that any costs to complete the Approved Emissions Modification that are necessitated by reason of an Aftermarket Modification to the Eligible Vehicle are not included and an Eligible Claimant is responsible to pay those costs in order to complete the Approved Emissions Modification Option and receive an applicable Damages Payment.
- 2.9 “**Arbitrator**” means one or more persons appointed to serve as an arbitrator for purposes of Section 8.
- 2.10 “**Authorized VW Dealer**” means any authorized Volkswagen- or Audi-brand dealer located in Canada as evidenced by a valid dealer sales and service agreement.
- 2.11 “**Bosch Entities**” means, individually and collectively, Robert Bosch GmbH and Robert Bosch, LLC and any of their former, present and future owners, shareholders, directors, officers, employees, lawyers, affiliates, parent companies, subsidiaries, predecessors and successors.
- 2.12 “**Buyback**” means the buyback process available under this Settlement Agreement by which an Eligible Vehicle that is Operable may be sold to

VW, or as it may direct, in exchange for Vehicle Value, as set forth in Section 4.

2.13 “**Buyback With Trade-In**” means a Buyback that incorporates a trade-in of an Eligible Vehicle, as set forth in Section 4.

2.14 “**CBB**” means Canadian Black Book, Inc.

2.15 “**CBB Wholesale Category**” is the CBB condition category applicable to an Eligible Vehicle on the date that the Eligible Vehicle is surrendered for a Buyback or Buyback With Trade-In based upon the Eligible Vehicle’s mileage no more than twenty (20) days before the surrender date, subject to proof of an odometer reading reflecting such mileage being requested with a Claim for a Buyback or Buyback With Trade-In. The CBB Wholesale Category will remain applicable to the Eligible Vehicle on the date that the Eligible Vehicle is surrendered for a Buyback or Buyback With Trade-In by having a mileage on the surrender date that is within a certain range of the Eligible Vehicle’s mileage no more than twenty (20) days before the surrender date, as further detailed in Schedule “B”. The Eligible Vehicle’s mileage on the surrender date is subject to proof of an odometer reading reflecting such mileage being requested as part of the process for a Buyback or Buyback With Trade-In.

2.16 “**CBB Wholesale Value**” is the CBB wholesale value of an Eligible Vehicle as at the relevant date based upon the CBB Wholesale Category.

- 2.17 “**Claim**” means a properly completed Claim Form submitted by or on behalf of a Settlement Class Member with Proof Of Ownership and all other required supporting documentation to the Claims Administrator on or before the Claims Submission Deadline.
- 2.18 “**Claim Form**” means the document that enables a Settlement Class Member to apply for benefits pursuant to the Settlement Agreement, the content of which will be as agreed upon by VW and Lead Class Counsel and approved by the Courts in the Actions.
- 2.19 “**Claimant**” means a Settlement Class Member, or a Settlement Class Member’s estate or legal representative, who completes and submits a Claim Form.
- 2.20 “**Claims Administration Expenses**” means the reasonable costs, plus applicable taxes, incurred for the Claims Administrator to administer the Claims Program, including but not limited to the Claims Administrator’s fees, the costs to administer the Settlement Website, Claims Portal and Settlement Phone Number, and related French-English translation costs.
- 2.21 “**Claims Administrator**” means the third-party agent agreed to by the Parties and appointed by the Courts in the Actions, to administer and oversee the Claims Program. The Parties agree that RicePoint Administration Inc. shall serve as Claims Administrator, subject to approval by the Courts in the Actions.

- 2.22 **“Claims Period”** means the time period from when Claimants can begin submitting Claims through the Claims Period Deadline.
- 2.23 **“Claims Period Deadline”** means the deadline for Eligible Claimants to obtain benefits under the Settlement Agreement, which shall be the later of December 30, 2018 or eighteen (18) months from the Effective Date, except that, in the event that, by June 15, 2018, there is not an Approved Emissions Modification Option for all Eligible Vehicles, the Claims Period Deadline may be extended by VW by up to ninety (90) days without Court approval upon notice of the extension to Lead Class Counsel, or longer with either the consent of Lead Class Counsel or approval from the Courts.
- 2.24 **“Claims Portal”** means the English and French website where a Settlement Class Member can complete and submit a Claim Form online.
- 2.25 **“Claims Program”** means the program through which Settlement Class Members may file Claims and, if eligible, obtain benefits under this Settlement Agreement, as described in Section 6.
- 2.26 **“Claims Submission Deadline”** means, except in the case of certain Eligible Owners as provided in Section 2.38, the September 1, 2018 deadline by which Settlement Class Members must submit a complete and valid Claim, unless the Claims Program starts on an Effective Date that is later than April 28, 2017, in which case the Claims Submission

Deadline will be the date one hundred twenty (120) days before the Claims Period Deadline.

2.27 “**Class Counsel**” means the law firms listed as solicitors of record in the Quenneville Action, namely, Sutts, Strosberg LLP, Siskinds LLP, McKenzie Lake Lawyers LLP, Koskie Minsky LLP, Rochon Genova LLP, Roy O’Connor LLP, Camp Fiorante Matthews Mogerma, Branch MacMaster LLP, and the other law firms that support them as identified in Schedule “F”, as well as Belleau Lapointe LLP listed as solicitors of record in the Option consommateurs Action.

2.28 “**Class Update**” means the English and French versions of the notice issued by VW after the Pre-Approval Notice Date when (a) an Approved Emissions Modification becomes available in Canada for any particular Eligible Vehicles, or (b) it is determined that an Approved Emissions Modification will not become available in Canada for any particular Eligible Vehicles. In addition, Class Updates will, where applicable, provide notice to Settlement Class Members (a) that Eligible Claimants subject to a Recall may still participate in the Settlement Agreement, and (b) of the effect of Sections 4.7.4.1 and 4.7.4.2. VW will provide advance notice of Class Updates to Lead Class Counsel for review no later than forty-eight (48) hours prior to their planned issuance. A Class Update is deemed to be issued on the date that it is posted on the Settlement Website. All Class Updates must be posted on the Settlement Website. In addition, for those Settlement Class Members who are known to have an Eligible

Vehicle that is the subject of a Class Update, the Notice Administrator will send, or cause to be sent, the Class Update by e-mail to such Settlement Class Members, except that the Notice Administrator will send, or cause to be sent, the Class Update by regular mail to a Settlement Class Member if no e-mail address is known for the Settlement Class Member, or if the Settlement Class Member has specifically advised of a preference to receive information by mail. Class Updates will be e-mailed and posted to Settlement Class Members, as provided for in this Section, within ten (10) days after being posted on the Settlement Website. Notwithstanding the foregoing, the issuance of a Class Update may be satisfied by the issuance of a notice in connection with a Recall that is also posted on the Settlement Website, so long as it provides information to Settlement Class Members consistent with this Section.

- 2.29 “**Confidentiality Order**” means the Ontario Superior Court of Justice’s Confidentiality Order, dated June 29, 2016, in the Quenneville Action, which is binding on VW, as well as all Class Counsel either because they are counsel in the Quenneville Action or executed the acknowledgement to the Confidentiality Order.
- 2.30 “**Counsel Fees**” means the reasonable legal fees and disbursements of Class Counsel, plus applicable GST, HST and / or QST taxes, incurred in connection with this Settlement Agreement and prosecuting the claims in the Actions relating to 2.0-litre diesel vehicles of the Settlement Class

Members, as approved by the Courts, or on appeal therefrom, for payment to Class Counsel.

2.31 “**Court(s)**” means, with respect to the Quenneville Action, the Ontario Superior Court of Justice and, with respect to the Option consommateurs Action, the Superior Court of Québec.

2.32 “**Damages Payment(s)**” means, subject to Section 4.7.2, the following payments applicable to Eligible Claimants:

2.32.1. Owner Damages Payment in the case of Eligible Owners;

2.32.2. Non-Owner Damages Payment in the case of Eligible Purchasers of an Eligible Vehicle that was not under lease from VCCI to a third-party as of September 18, 2015;

2.32.3. Fifty percent (50%) of the Non-Owner Damages Payment in the case of Eligible Purchasers who purchased an Eligible Vehicle that was under lease from VCCI to a third-party as of September 18, 2015;

2.32.4. Non-Owner Damages Payment in the case of Eligible Lessees, except as provided in Section 2.32.5;

2.32.5. Fifty percent (50%) of the Non-Owner Damages Payment in the case of Eligible Lessees who sell their Eligible Vehicle, which, at the time of the sale, has not been modified with any stage of the Approved Emissions Modification; and

2.32.6. Non-Owner Damages Payment in the case of Eligible Sellers.

2.33 “**Early Lease Termination**” means the process by which an Eligible Lessee of a leased Eligible Vehicle terminates the lease before its conclusion and prior to the Claims Period Deadline, without any early termination penalty, and does not purchase the Eligible Vehicle pursuant to the terms of the lease. To obtain Early Lease Termination, the Eligible Lessee must pay or resolve by the Lessee Transaction Date any delinquent balance, along with any other fees, penalties or costs due, pursuant to the terms of the lease.

2.34 “**Effective Date**” means thirty (30) days after the Settlement Approval Date, unless any appeals are taken from an Approval Order, in which case it is the date upon which all appeals have been fully disposed of on the merits in a manner that affirms the subject Approval Order, or a date after the Settlement Approval Date that is agreed to in writing by VW and Class Counsel.

2.35 “**Eligibility Checker**” means the set of information available on the Settlement Website to assist potential Settlement Class Members in identifying whether they may be an Eligible Lessee, Eligible Owner, Eligible Purchaser or Eligible Seller.

2.36 “**Eligible Claimant**” means a Claimant who has been determined by the Claims Administrator to be eligible to receive benefits under the Settlement Agreement by the Claims Period Deadline.

2.37 “**Eligible Lessee**” means the lessee or lessees of an Eligible Vehicle on September 18, 2015 with a lease issued by VCCI, including Eligible Lessees who purchase the Eligible Vehicle at the conclusion of their lease pursuant to the lease terms. For avoidance of doubt, no person will be considered an Eligible Lessee by virtue of holding a lease issued by a lessor other than VCCI.

2.38 “**Eligible Owner**” means the owner or owners of an Eligible Vehicle on September 18, 2015 and continuing through either the Owner Transaction Date or the transfer of title of the Eligible Vehicle to an insurance company because the Eligible Vehicle was totalled or appraised as a total loss, where the transfer of title occurs on a date sixty (60) or more days after the Pre-Approval Notice Date. An owner of an Eligible Vehicle will not qualify as an Eligible Owner while the Eligible Vehicle is under lease to any third-party, although any such owner, including any leasing company other than VCCI, that otherwise meets the definition of an Eligible Owner would become an Eligible Owner if such lease has been canceled or terminated and such owner has taken possession of the Eligible Vehicle. In exceptional cases, a leasing company other than VCCI may, prior to the Claims Submission Deadline, make specific arrangements with VW, in consultation with the Claims Administrator, such that (a) without canceling or terminating the lease, the leasing company may be treated as an Eligible Owner and obtain the Approved Emissions Modification Option and Owner Damages Payment during the Claims Period, and (b) a lessor that takes possession of a leased Eligible Vehicle after the Claims

Submission Deadline (or after the Claims Period Deadline) may nonetheless be entitled to submit a Claim.

- 2.39 “**Eligible Purchaser**” means the owner or owners of an Eligible Vehicle who purchased the Eligible Vehicle after September 18, 2015, but before the Claims Submission Deadline, and who continues to own the Eligible Vehicle as at the Purchaser Transaction Date. Eligible Purchasers include owners of an Eligible Vehicle that had an active lease issued by VCCI to a third-party as of September 18, 2015, if they otherwise meet the definition of an Eligible Purchaser, but does not include Eligible Lessees who acquired ownership of their leased Eligible Vehicle at the conclusion of the lease pursuant to the lease terms.
- 2.40 “**Eligible Seller**” means the owner or owners of an Eligible Vehicle on September 18, 2015, who sells their Eligible Vehicle after September 18, 2015, but before the Pre-Approval Notice Date. For avoidance of doubt, Eligible Seller includes an owner of an Eligible Vehicle on September 18, 2015 whose Eligible Vehicle was totalled or appraised as a total loss and who consequently transferred title of the Eligible Vehicle to an insurance company after September 18, 2015, but before Pre-Approval Notice Date.
- 2.41 “**Eligible Vehicle**” means a Volkswagen- or Audi-brand vehicle equipped with a 2.0-litre diesel engine that (a) is of a model type and model year listed in Schedule “A”; (b) was originally either sold, or leased from VCCI, in Canada; (c) at any point during the period from September 18, 2015 through the Pre-Approval Notice Date, was registered in Canada with a

provincial ministry of transportation or an equivalent agency, or owned by an Authorized VW Dealer or Non-VW Dealer that holds title to the vehicle or holds the vehicle by bill of sale, but excluding any of the vehicles with a VIN listed in Schedule "C"; and (d) has not been modified pursuant to the Approved Emissions Modification, including any stage thereof, during a period when VW, an Authorized VW Dealer or VCCI holds title to the vehicle, holds the vehicle by bill of sale or otherwise owns the vehicle, except if the vehicle is under lease from VCCI at the time that it is so modified. For avoidance of doubt, Eligible Vehicles do not include vehicles for which a Buyback, a Buyback With Trade-In, an Early Lease Termination or a Surrender For Inoperability has already been completed by an Eligible Claimant. In addition:

- 2.41.1. For Eligible Owners, Eligible Vehicles are those that, as provided by Section 2.68, are Operable or Inoperable on the Owner Transaction Date, except as provided in Section 4.2.7;
- 2.41.2. For Eligible Purchasers, Eligible Vehicles are those that, as provided by Section 2.74, are Operable or Inoperable on the Purchaser Transaction Date; and
- 2.41.3. For Eligible Lessees who purchase their leased Eligible Vehicle at the conclusion of the lease pursuant to the terms of the lease, Eligible Vehicles are those that, as provided by Section 2.50, are Operable or Inoperable on the Lessee Transaction Date, except for those who sell their Eligible Vehicle.

2.42 **“Excluded Persons”** means the following entities and individuals:

- 2.42.1. Owners of an Eligible Vehicle on September 18, 2015 who sell their Eligible Vehicle after Pre-Approval Notice Date other than through Buyback or Buyback With Trade-In, except for those owners who, on a date sixty (60) or more days after the Pre-Approval Notice Date, transfer title of their Eligible Vehicle to an insurance company because their Eligible Vehicle was totalled or appraised as a total loss;
- 2.42.2. Owners of an Eligible Vehicle on September 18, 2015 who, on a date between the Pre-Approval Notice Date and the period of fifty-nine (59) days immediately following the Pre-Approval Notice Date, inclusive of those dates, transfer title of their Eligible Vehicle to an insurance company because their Eligible Vehicle was totalled or appraised as a total loss;
- 2.42.3. Owners of a Totalled Vehicle, including insurance companies;
- 2.42.4. Lessees of an Eligible Vehicle leased from a leasing company other than VCCI;
- 2.42.5. Owners of an Eligible Vehicle on the Pre-Approval Notice Date whose Eligible Vehicle cannot be driven under the power of its own 2.0-litre diesel engine on the Pre-Approval Notice Date;

- 2.42.6. Owners of an Eligible Vehicle with a branded title of “Dismantled”, “Junk”, “Salvage” or “Mechanically Unfit” on September 18, 2015;
 - 2.42.7. Owners of an Eligible Vehicle that was acquired from a junkyard or salvage yard on or after September 18, 2015;
 - 2.42.8. VW’s officers, directors and employees and participants in the Internal Lease Program; VW’s affiliates and those affiliates’ officers, directors and employees; and Authorized VW Dealers and those dealers’ officers and directors;
 - 2.42.9. Presiding judges and Class Counsel; and
 - 2.42.10. All those otherwise in the Settlement Class that timely and properly opt out of the Settlement Class.
- 2.43 **“Fair Market Value”** means an Eligible Vehicle’s CBB Wholesale Value, as regionally adjusted by CBB, no more than twenty (20) days before the date on which the Eligible Vehicle is surrendered for a Buyback With Trade-In.
- 2.44 **“Filing Fee”** means the \$150.00 filing fee that is payable by an Eligible Claimant upon submission of a notice of appeal to the Claims Administrator, as described in Section 6.7.
- 2.45 **“Final Accounting Report”** means the written report produced by the Claims Administrator as soon as practicable after payments to all Eligible

Claimants are made, which will identify all monies paid out under the Claim Program.

- 2.46 “**Individual Release**” means the individual release described in Section 5.7.
- 2.47 “**Inoperable**” means an Eligible Vehicle that ceases to be Operable on a date sixty (60) or more days after the Pre-Approval Notice Date.
- 2.48 “**Internal Lease Program**” means the program through which employees and retirees of VW may lease vehicles from Volkswagen Group Canada Inc. for themselves and certain members of their families. For purposes of this Settlement Agreement, participants in the Internal Lease Program shall include anyone in whose name a vehicle is leased under the program.
- 2.49 “**Lead Class Counsel**” means the law firms of Sutts, Strosberg LLP, Siskinds LLP and Belleau Lapointe LLP, or as they may otherwise designate in writing.
- 2.50 “**Lessee Transaction Date**” means, as applicable, (a) the date on which an Eligible Lessee effects Early Lease Termination; (b) in the case of an Eligible Vehicle that is Operable, the date on which an Eligible Lessee receives the Approved Emissions Modification Option; (c) subject to Section 4.7.2, the last day of the lease where no Approved Emissions Modification Option is available for an Eligible Lessee’s Eligible Vehicle during the term of the lease, if ending before the Claims Submission

Deadline, and the Eligible Lessee has not purchased the leased Eligible Vehicle at the conclusion of the lease pursuant to the terms of the lease; (d) in the case of an Eligible Vehicle that is Inoperable, the date of the Surrender For Inoperability; or (e) in the case of an Eligible Vehicle that is Operable, and if there is no Approved Emissions Modification Option for an Eligible Lessee's Eligible Vehicle by June 15, 2018, the date on which the Buyback or Buyback With Trade-In is completed by an Eligible Lessee who purchased the leased Eligible Vehicle at the conclusion of the lease, but before the Claims Submission Deadline, pursuant to the terms of the lease.

2.51 “**Loan Forgiveness**” means that if there is no Approved Emissions Modification Option for an Eligible Owner's Eligible Vehicle by June 15, 2017, and the Eligible Owner has a Loan Obligation that exceeds the sum of the Vehicle Value and Owner Damages Payment, the Eligible Owner will qualify for a payment up to thirty percent (30%) of the sum of the Vehicle Value and Owner Damages Payment only payable to a lender towards satisfaction of the portion of the Loan Obligation exceeding the sum of the Vehicle Value and Owner Damages Payment, except that Loan Forgiveness is not available for satisfaction of any portion of the Loan Obligation that becomes delinquent after the Pre-Approval Notice Date, including any related costs and fees, or of any portion of the Loan Obligation, including new loans, incurred after the Pre-Approval Notice Date. For avoidance of doubt, if a Class Update is issued on or before June 15, 2017 identifying that there is an Approved Emissions

Modification for the Eligible Vehicle of an Eligible Owner, Loan Forgiveness will not be available to the Eligible Owner. Loan Forgiveness is also not available for a Surrender For Inoperability.

- 2.52 “**Loan Obligation**” means any debt incurred by an owner that is outstanding at the Owner Transaction Date, Purchaser Transaction Date or Lessee Transaction Date, as the case may be, and secured by the owner’s Eligible Vehicle, whether through VCCI or any other lender.
- 2.53 “**National Settlement Class**” means all Settlement Class Members who are not in the Québec Settlement Class.
- 2.54 “**Non-Owner Damages Payment**” means a payment for fifty percent (50%) of the Owner Damages Payment that would apply to an Eligible Vehicle based on its brand and model year if the Eligible Vehicle were owned by an Eligible Owner.
- 2.55 “**Non-VW Dealer**” means any automobile dealer or seller in business as of the Pre-Approval Notice Date that is located in Canada other than an Authorized VW Dealer.
- 2.56 “**Notice Administrator**” means the third-party agent or administrator agreed to by the Parties and appointed by the Courts in the Actions to implement and consult on Settlement Class Notices. The Parties agree that RicePoint Administration Inc. shall serve as Notice Administrator, subject to approval by the Courts in the Actions.

- 2.57 “**Notice Expenses**” includes all reasonable costs and expenses, plus applicable taxes, incurred to implement the Notice Program.
- 2.58 “**Notice Program**” means a reasonable notice program for distributing the Settlement Class Notices that reflects the availability of direct notice to certain Settlement Class Members.
- 2.59 “**Objection Deadline**” means the deadline by which a Settlement Class Member’s objection to the Settlement Agreement must be received by the Opt-Out / Objection Administrator in order to be timely and valid. The Objection Deadline shall be the same date as the Opt-Out Deadline.
- 2.60 “**Operable**” means a vehicle that can be driven under the power of its own 2.0-litre diesel engine. A vehicle cannot be considered Operable if it had a branded title of “Dismantled”, “Junk”, “Salvage” or “Mechanically Unfit” on September 18, 2015, or was acquired from a junkyard or salvage yard on or after September 18, 2015.
- 2.61 “**Operating Account**” means the account established, funded and managed by VW that will be used as the funding source for compensating Eligible Claimants in accordance with the provisions of the Settlement Agreement and for payment of expenses related to the implementation of the Settlement Agreement, including the expenses under Section 13.7.
- 2.62 “**Opt-Out Deadline**” means the last day that a Settlement Class Member may opt out of the Settlement Class, which date will be fifty-nine (59) days

after the Pre-Approval Notice Date. The Opt-Out Deadline shall be the same date as the Objection Deadline.

- 2.63 “**Opt-Out / Objection Administrator**” means a third-party agreed to by the Parties and appointed by the Courts to receive and report on opt-outs and objections as set forth in Section 11. The Parties agree that RicePoint Administration Inc. shall serve as the Opt-Out / Objection Administrator, subject to approval by the Courts in the Actions.
- 2.64 “**Opt-Out / Objection Expenses**” means the reasonable costs, plus applicable taxes, incurred for the Opt-Out / Objection Administrator to administer Settlement Class Members’ opt-outs from the Settlement Class and objections to the Settlement Agreement.
- 2.65 “**Option consommateurs Action**” means the action titled *Option consommateurs & Francois Grondin v. Volkswagen Group Canada Inc. et al.* with Court File No. 500-06-000761-151 (Montréal, Québec).
- 2.66 “**Original In Service Date**” means the earliest date as identified by an Authorized VW Dealer that an Eligible Vehicle was originally leased or sold to a retail customer.
- 2.67 “**Owner Damages Payment**” means the amount payable to an Eligible Owner based on the brand and model year of the Eligible Owner’s Eligible Vehicle as set out in Schedule “D”.
- 2.68 “**Owner Transaction Date**” means the date, as applicable, on which an Eligible Owner of an Eligible Vehicle (a) in the case of an Eligible Vehicle

that is Operable, completes the Buyback or Buyback With Trade-In; (b) in the case of an Eligible Vehicle that is Operable, receives the Approved Emissions Modification Option; or (c) in the case of an Eligible Vehicle that is Inoperable, completes the Surrender For Inoperability.

2.69 “**Parties**” means VW, the Settlement Class Representatives and the Related Action Plaintiffs, collectively.

2.70 “**Pre-Approval Notice**” means the English and French versions of the summary and long-form notices described in Section 10.2 and substantially in the forms attached hereto as Exhibits “2” and “3”, respectively.

2.71 “**Pre-Approval Notice Date**” means the date on which the Pre-Approval Notice in summary form is first published in a national newspaper in Canada in accordance with Section 10.2.

2.72 “**Pre-Approval Orders**” means a Court’s order certifying / authorizing the Settlement Class for settlement purposes only and approving the Pre-Approval Notice and Notice Program.

2.73 “**Proof Of Ownership**” means, except as otherwise provided by the Claims Administrator, (a) in the case of an owner of an Eligible Vehicle, a copy of the vehicle’s registration certificate or bill of sale, and (b) in the case of an Eligible Vehicle leased from VCCI, a copy of the lease agreement with VCCI relating to the vehicle.

- 2.74 “**Purchaser Transaction Date**” means, as applicable, the date on which an Eligible Purchaser of an Eligible Vehicle (a) in the case of an Eligible Vehicle that is Operable, receives the Approved Emissions Modification Option; (b) in the case of an Eligible Vehicle that is Inoperable, completes a Surrender For Inoperability; or (c) in the case of an Eligible Vehicle that is Operable, and if there is no Approved Emissions Modification Option for the Eligible Vehicle by June 15, 2018, the date on which the Eligible Purchaser completes the Buyback or Buyback With Trade-In.
- 2.75 “**Québec Settlement Class**” means all Settlement Class Members whose Eligible Vehicles are identified based on reasonably available information as having been registered in Québec on September 18, 2015.
- 2.76 “**Quenneville Action**” means the action titled *Matthew Robert Quenneville et al. v. Volkswagen Group Canada, Inc. et al.* with Court File No. CV-15-537029-00CP (Toronto, Ontario).
- 2.77 “**Recall**” means a recall campaign by VW for implementing an Approved Emissions Modification pursuant to a notice of defect under the *Canadian Environmental Protection Act, 1999*. A Recall entitles owners and lessees of vehicles subject to the Recall to receive an Approved Emissions Modification and Approved Emissions Modification Extended Warranty, but does not provide for benefits under the Settlement Agreement. Eligible Claimants subject to a Recall may still participate in this Settlement Agreement.

- 2.78 **“Related Action Plaintiffs”** means, as identified in Schedule “F”, each of the putative representative plaintiffs in the pending litigation listed therein.
- 2.79 **“Released Claims”** has the definition set forth in Section 5.3.
- 2.80 **“Released Parties”** has the definition set forth in Section 5.2.
- 2.81 **“Releasing Parties”** has the definition set forth in Section 5.3.
- 2.82 **“Second Opt-Out Period”** means, if there is no Approved Emissions Modification Option available for certain Eligible Vehicles by June 15, 2018, the period from June 15, 2018 until August 15, 2018, during which Eligible Owners, Eligible Lessees and Eligible Purchasers of such Eligible Vehicles, who have not received benefits under the Settlement Agreement, may opt out of the Settlement Class.
- 2.83 **“Settlement Agreement”** means this proposed settlement agreement, including its schedules, exhibits and any supplemental agreements, as amended and approved.
- 2.84 **“Settlement Approval Date”** means the date on which the last Approval Order is issued.
- 2.85 **“Settlement Approval Hearing”** means the hearing before a Court for the purpose of determining whether to issue an Approval Order.
- 2.86 **“Settlement Class”** means, for purposes of this Settlement Agreement only, a class of all persons (including individuals and entities), except for Excluded Persons, who (a) on September 18, 2015, were registered

owners or lessees of, or, in the case of Non-VW Dealers, held title to or held by bill of sale dated on or before September 18, 2015, an Eligible Vehicle; or (b) after September 18, 2015, but before the Claims Submission Deadline, become registered owners of, or, in the case of Non-VW Dealers, hold title to or hold by bill of sale dated after September 18, 2015, an Eligible Vehicle and continue to be the owners as at the Purchaser Transaction Date.

- 2.87 “**Settlement Class Member**” means a member of the Settlement Class.
- 2.88 “**Settlement Class Notices**” means the English and French versions of the Pre-Approval Notice, Approval Notice, Class Updates, and any other notice provided for in the Notice Program.
- 2.89 “**Settlement Class Release**” means the release and waiver by Settlement Class Members described in Section 5, not including the Individual Release, that will take effect upon entry of the Approval Orders in the Actions.
- 2.90 “**Settlement Class Representative**” means Option consommateurs and the following representative plaintiffs named in the Quenneville Action: Amy Fitzgerald, Therese H. Gadoury, Renee James, Jay MacDonald, Jack Mastromattei, Michael Joseph Pare, Matthew Robert Quenneville, Luciano Tauro and Al-Noor Wissanji.

- 2.91 **“Settlement Phone Number”** means the Canadian toll-free telephone number that potential Settlement Class Members can call to receive information about the Claims Program in English and French.
- 2.92 **“Settlement Website”** means, collectively, the public Internet websites described in Section 10.6.
- 2.93 **“Surrender For Inoperability”** means the process for surrendering an Eligible Vehicle that is Inoperable in exchange for an applicable Damages Payment, but not Vehicle Value, as set forth in Section 4.6.
- 2.94 **“Totalled Vehicle”** means an Eligible Vehicle whose title was transferred by an Eligible Owner to an insurance company because the Eligible Vehicle was totalled or appraised as a total loss.
- 2.95 **“Trust Account”** means the interest-bearing account to be established by VW and managed by the Trustee for holding and maintaining, in accordance with the terms of the Settlement Agreement and the Trust Agreement, funds deposited in trust for the benefit of Eligible Claimants and as hereinafter described in Section 7.1.
- 2.96 **“Trust Agreement”** means the separate trust agreement by and among the Parties and the Trustee which shall be kept confidential. The Trust Agreement shall not be filed with the Courts and its terms shall not be disclosed in any other manner (other than the statements herein), unless and until a Court otherwise directs or a dispute arises between the Parties, or one or more Parties and the Trustee, concerning its interpretation or

application. If submission of the Trust Agreement is required for resolution of a dispute or is otherwise ordered by a Court, the Parties will make their best efforts to have the Trust Agreement submitted to the Court *in camera* or filed under seal.

2.97 “**Trustee**” means the entity or institution agreed upon by the Parties to manage the Trust Account pursuant to the terms of the Trust Agreement. The Trustee must be appointed by the Courts.

2.98 “**Vehicle Value**” means an Eligible Vehicle’s CBB Wholesale Value on September 18, 2015, as regionally adjusted by CBB, based upon the applicable CBB Wholesale Category. In respect of an Eligible Vehicle to which the highest mileage CBB Wholesale Category applies, the Eligible Vehicle’s mileage as of September 18, 2015 will be established according to the calculation set forth in Schedule “E” to determine the Vehicle Value.

2.99 “**VIN**” means a vehicle identification number.

2.100 “**VIN Look-Up**” means the searchable function by VIN on the Settlement Website to identify potential Eligible Vehicles, and whether potential Eligible Vehicles were under active lease from VCCI as of September 18, 2015.

2.101 “**VW**” means, individually and collectively, Volkswagen Group Canada Inc., VW Credit Canada, Inc., Volkswagen Aktiengesellschaft, Volkswagen Group of America, Inc., Audi of America Inc. (not a legal entity), Audi Canada Inc. and Audi Aktiengesellschaft.

2.102 “**VW Credit Canada, Inc.**” or “**VCCI**” means the corporation incorporated under the laws of Canada as VW Credit Canada, Inc. / Crédit VW Canada, Inc., including VW Credit Canada, Inc. / Crédit VW Canada, Inc. doing business as Volkswagen Finance and Audi Finance.

3. APPROVAL OF THE SETTLEMENT AGREEMENT AND CERTIFICATION / AUTHORIZATION FOR SETTLEMENT PURPOSES

3.1 Promptly after the execution of this Settlement Agreement, Class Counsel shall submit the Settlement Agreement to the Courts pursuant to a motion for a Pre-Approval Order.

3.2 It is expressly agreed that any certification / authorization of the Settlement Class, and any motion for a Pre-Approval Order seeking same, shall be for settlement purposes only, and VW retains all rights to assert that certification / authorization of a class in the Actions for any other purpose is not appropriate.

3.3 Consistent with the Confidentiality Order, a motion for a Pre-Approval Order shall be submitted to each of the Courts in a manner that seeks to preserve the confidentiality of the motion and Settlement Agreement until such time as the hearing of the motion before a Court, and then any disclosures shall be made only as are necessary to have the motion heard. In addition, the motion for a Pre-Approval Order submitted to each Court shall seek a Pre-Approval Order that is conditional upon a complementary Pre-Approval Order being made by the other Court. If and when Pre-Approval Orders are granted in both Actions, disclosure by the

Parties of the Settlement Agreement and Pre-Approval Orders shall be consistent with Section 9.1.

3.4 The Parties and their successors, assigns and counsel agree to take all actions and steps reasonably necessary to obtain Approval Orders in the Actions. The motion for an Approval Order submitted to each Court shall seek an Approval Order that is conditional upon an Approval Order being made by the other Court.

3.5 This Settlement Agreement shall be null and void and of no force and effect unless Approval Orders are granted in the Actions and the Effective Date occurs.

4. CLAIMS TO BE COMPENSATED BY THE SETTLEMENT

4.1 VW will provide compensation to Eligible Claimants for Claims made pursuant to and in accordance with the terms of this Settlement Agreement, as further described in Exhibit "1". If the Claims Administrator or, on appeal, the Arbitrator, determines that a Settlement Class Member is an Eligible Claimant, the Settlement Class Member's Claim will be granted in accordance with Sections 4.2 through 4.10.

4.2 Eligible Owners.

4.2.1. **Buyback.** Eligible Owners that continue to be owners of Eligible Vehicles through the Owner Transaction Date may sell their Eligible Vehicle to VW and receive Vehicle Value. Eligible

Owners who choose this option will also receive the Owner Damages Payment.

4.2.2. **Buyback With Trade-In.** Eligible Owners that continue to be owners of Eligible Vehicles through the Owner Transaction Date may trade in their Eligible Vehicle to an Authorized VW Dealer and apply the Fair Market Value of the Eligible Vehicle towards the purchase price of a new or used Volkswagen- or Audi-brand vehicle from that Authorized VW Dealer. Eligible Owners who choose this option will receive the Owner Damages Payment and a payment of the remainder, if any, of the Vehicle Value after subtracting the Fair Market Value. For an Eligible Owner's purposes, the Buyback With Trade-In is intended to be functionally equivalent to a vehicle trade-in in the ordinary course of business of an automobile dealer located in Canada.

4.2.3. **Fines or Penalties Attaching to the Eligible Vehicle or Its Registration In Québec.** In order to receive a Buyback or Buyback With Trade-In, an Eligible Owner must have no fines remaining unpaid or unresolved under Québec's *Highway Safety Code*, or a municipal traffic or parking bylaw in Québec. While an Eligible Owner is responsible for paying or resolving such fines, to the extent that the Claims Administrator requests proof that no such fines remain unpaid or unresolved, VW or an

Authorized VW Dealer shall provide, or cause to be provided, such proof.

4.2.4. **Loan Obligations.** For Eligible Owners with a Loan Obligation, full satisfaction of the Loan Obligation must be arranged for an Eligible Owner to receive a Buyback or Buyback With Trade-In. Where Eligible Owners are eligible for and choose a Buyback, some or all of their Vehicle Value and Owner Damages Payment may be paid directly by VW to such Eligible Owners' lenders towards satisfaction of a Loan Obligation. Where Eligible Owners are eligible for and choose a Buyback With Trade-In, some or all of their Vehicle Value, less Fair Market Value, and Owner Damages Payment may be paid directly by VW to such Eligible Owners' lender(s) towards satisfaction of a Loan Obligation. In either case, in order to receive a Buyback or Buyback With Trade-In, an Eligible Owner is responsible for payment of any balance of a Loan Obligation not being satisfied by payments made by VW. When full satisfaction of an Eligible Owner's Loan Obligation is arranged, in the case of a Buyback, the Eligible Owner will be entitled to receive a payment of any portion of the Vehicle Value and Owner Damages Payment not being used towards satisfaction of the Loan Obligation, and in the case of a Buyback With Trade-In, the Eligible Owner will be entitled to receive a payment of any portion of the Vehicle Value,

less Fair Market Value, and Owner Damages Payment not being used towards satisfaction of the Loan Obligation.

4.2.5. **Loan Forgiveness.** In the event that there is no Approved Emissions Modification by June 15, 2017 for the Eligible Vehicle of an Eligible Owner with a Loan Obligation, and the Loan Obligation exceeds the sum of the Vehicle Value and Owner Damages Payment, the Eligible Owner will qualify for a Loan Forgiveness payment towards satisfaction of the Loan Obligation. An Eligible Owner that receives Loan Forgiveness is responsible for any balance on the Loan Obligation not satisfied by the Loan Forgiveness payment.

4.2.6. **Approved Emissions Modification Option.** Eligible Owners that continue to be owners of Eligible Vehicles through the Owner Transaction Date may choose the Approved Emissions Modification Option, and receive the Approved Emissions Modification Extended Warranty and the Owner Damages Payment, subject to Section 4.7.2.

4.2.7. **Totalled Vehicles.** An Eligible Owner that, on a date that is sixty (60) days or more after the Pre-Approval Notice Date, transfers title of an Eligible Vehicle to an insurance company because the Eligible Vehicle was totalled or appraised as a total loss, may receive the Owner Damages Payment only.

4.3 **Eligible Lessees.**

4.3.1. **Eligible Lessees with Active Leases.**

4.3.1.1. **Early Lease Termination.** Eligible Lessees with an active lease of an Eligible Vehicle on the Lessee Transaction Date may choose Early Lease Termination and receive the Non-Owner Damages Payment.

4.3.1.2. **Approved Emissions Modification.** Eligible Lessees with an active lease of an Eligible Vehicle on the Lessee Transaction Date may choose the Approved Emissions Modification Option and receive the Approved Emissions Modification Extended Warranty and Non-Owner Damages Payment, subject to Section 4.7.2. Subject to Section 4.7.2, if no Approved Emissions Modification Option is available for the Eligible Vehicle during the term of the lease and the term of the lease ends before June 15, 2018, then, provided that the Eligible Vehicle is not purchased by the Eligible Lessee pursuant to the lease terms, the Eligible Lessee may receive Non-Owner Damages Payment that is payable on the last day of the Eligible Lessee's lease.

4.3.2. **Eligible Lessees with Concluded Leases.**

4.3.2.1. **Conclusion of the Lease.** Eligible Lessees with a concluded lease before the Claims Submission Deadline, and who do not purchase their Eligible Vehicle at the conclusion of the lease pursuant to the lease terms, may receive the Non-Owner Damages Payment.

4.3.2.2. **Approved Emissions Modification.** Eligible Lessees with a concluded lease before the Claims Submission Deadline, and who purchase their Eligible Vehicle at the conclusion of the lease pursuant to the lease terms, may choose the Approved Emissions Modification Option and receive the Approved Emissions Modification Extended Warranty and the Non-Owner Damages Payment, subject to Sections 4.7.2 and 4.9.1. If such Eligible Lessees sell their Eligible Vehicle, and the Eligible Vehicle has not been modified with any stage of the Approved Emissions Modification, they may receive fifty percent (50%) of the Non-Owner Damages Payment payable on the date of the sale upon satisfactory proof of sale.

4.4 **Eligible Sellers.** A Settlement Class Member that is an Eligible Seller may receive the Non-Owner Damages Payment upon satisfactory proof of sale.

4.5 **Eligible Purchasers.**

4.5.1. **Eligible Purchasers of Eligible Vehicles that Were Not under Lease from VCCI to a Third-Party on September 18, 2015.**

Eligible Purchasers that own Eligible Vehicles that were not under lease from VCCI to a third-party on September 18, 2015 may choose the Approved Emissions Modification Option, and receive the Approved Emissions Modification Extended Warranty and Non-Owner Damages Payment, subject to Sections 4.7.2 and 4.9.1.

4.5.2. **Eligible Purchasers of Eligible Vehicles Leased from VCCI to a Third-Party on September 18, 2015.**

Eligible Purchasers that purchased Eligible Vehicles that were under lease from VCCI to a third-party on September 18, 2015, may choose the Approved Emissions Modification Option and receive the Approved Emissions Modification Extended Warranty and fifty percent (50%) of the Non-Owner Damages Payment, subject to Sections 4.7.2 and 4.9.1.

4.6 **Inoperable Vehicles.** An Eligible Claimant that on the Owner Transaction Date, Purchaser Transaction Date or Lessee Transaction Date, as the

case may be, owns an Eligible Vehicle that was Operable on the Pre-Approval Notice Date, but which became Inoperable, may surrender all right, title, and interest in, and possession of, the Eligible Vehicle to VW at an Authorized VW Dealer and receive the applicable Damages Payment, but not Vehicle Value, except that, in order to receive the benefit in this Section, (a) the Eligible Claimant must have no fines remaining unpaid or unresolved under Québec's *Highway Safety Code*, or a municipal traffic or parking bylaw in Québec, and to the extent that the Claims Administrator requests proof that no such fines remain unpaid or unresolved, VW or an Authorized VW Dealer shall provide, or cause to be provided, such proof; and (b) if the Eligible Claimant has a Loan Obligation on the Eligible Vehicle, full satisfaction of the Loan Obligation must be arranged. In the case of such Loan Obligations, some or all of the applicable Damages Payment may be paid directly by VW to such Eligible Claimants' lenders towards satisfaction of their Loan Obligation, and if that amount is not sufficient to satisfy their Loan Obligation in full, Eligible Claimants are responsible for payment of any balance of their Loan Obligation not being satisfied by payments made by VW. When full satisfaction of any Loan Obligation of an Eligible Claimant is arranged, the Eligible Claimant will be entitled to receive a payment of any portion of the applicable Damages Payment not being used towards satisfaction of the Loan Obligation. Loan Forgiveness is not available for a Surrender For Inoperability.

4.7 **Approved Emissions Modification Programs.**

4.7.1. **Approved Emissions Modification Option.** VW shall offer to Eligible Owners, Eligible Lessees and Eligible Purchasers, where applicable, an Approved Emissions Modification Option. It is possible that there may be Approved Emissions Modifications for some Eligible Vehicles, but not for others.

4.7.2. **Two-Stage Approved Emissions Modification for Generation 3 Engines.** In the event that the Approved Emissions Modification for Eligible Vehicles with a Generation 3 engine must be implemented in two separate stages, Eligible Owners, Eligible Purchasers and Eligible Lessees of such Eligible Vehicles who are eligible for and who elect the Approved Emissions Modification Option will receive a payment when they complete the first stage of the Approved Emissions Modification in the amount of fifty percent (50%) of the applicable Damages Payment. A payment of the remaining fifty percent (50%) of the applicable Damages Payment, as well as an oil change with respective engine oil filter at no charge, will be rendered to the same Eligible Owner, Eligible Purchaser or Eligible Lessee, as the case may be, upon their completion of the second stage of the Approved Emissions Modification or, in the case of the same Eligible Lessee, a payment of the remaining fifty percent (50%) of the applicable Damages Payment (but not an oil change with

respective engine oil filter) may be rendered as of the last day of the lease if the second stage of the Approved Emissions Modification is not completed by that date, provided that the Eligible Lessee has not purchased the leased Eligible Vehicle at the conclusion of the lease pursuant to the terms of the lease and the term of the lease ends before June 15, 2018. In the event that ownership of an Eligible Vehicle with a Generation 3 engine changes after the first stage of the Approved Emissions Modification is completed, and without the second stage completed, a subsequent owner of the Eligible Vehicle that completes the second stage of the Approved Emissions Modification will receive an oil change with respective engine oil filter at no charge, as well as a payment of fifty percent (50%) of the Damages Payment that would apply if the subsequent owner was the same Eligible Owner, Eligible Purchaser, or Eligible Lessee, as applicable, that completed the first stage of the Approved Emissions Modification for the Eligible Vehicle.

- 4.7.3. **Approved Emissions Modification Disclosure.** For each Approved Emissions Modification, VW shall provide a Class Update with a clear and accurate written disclosure based on the best available information (the “**Approved Emissions Modification Disclosure**”) regarding the impacts of the Approved Emissions Modification on applicable Eligible Vehicles. The Approved Emissions Modification Disclosure will describe in

plain language: (a) the Approved Emissions Modification generally; (b) any software changes required to perform the Approved Emissions Modification; (c) all hardware changes required to perform the Approved Emissions Modification; (d) for Eligible Vehicles with a Generation 3 engine, a clear explanation of any and each subsequent stage required by the Approved Emissions Modification; (e) any and all reasonably predictable changes resulting from the Approved Emissions Modification for a particular Eligible Vehicle, including but not limited to changes to reliability, durability, fuel economy, noise vibration, vehicle performance, drivability and any other vehicle attributes that may reasonably be important to vehicle customers; (f) a summary of how Eligible Claimants may receive the Approved Emissions Modification through the Approved Emissions Modification Option; and (g) any limitations of the Approved Emissions Modification that make identification and repair of any components difficult or impossible, compromise warranty coverage or may reduce the effectiveness of inspection and maintenance program vehicle inspections.

4.7.4. Approved Emissions Modification Recall.

4.7.4.1. Available Approved Emissions Modification Before Start of Claims Program. In the event that, prior to the commencement of the Claims Program, an Eligible

Claimant receives an Approved Emissions Modification, or any portion thereof, pursuant to a Recall, there will be no impact on such Eligible Claimant's choice of eligible benefits under this Settlement Agreement.

4.7.4.2. Available Approved Emissions Modification After Start of Claims Program. In the event that, after the commencement of the Claims Program, an Eligible Claimant receives an Approved Emissions Modification, or any stage thereof, pursuant to a Recall, the Eligible Claimant is only eligible to receive the Approved Emissions Modification Option, notwithstanding anything to the contrary in this Settlement Agreement. Such Eligible Claimants may only receive any further stages of the Approved Emissions Modification applicable to their Eligible Vehicle and the applicable Damages Payment, subject to Section 4.7.2.

4.8 Approved Emissions Modification Extended Warranty.

4.8.1. Each Eligible Owner, Eligible Lessee, or Eligible Purchaser who is eligible for and receives the Approved Emissions Modification Option shall also receive an Approved Emissions Modification Extended Warranty, which is a transferrable warranty.

4.8.2. **Engine Generations.** “**Generation**” means the different versions of emission control technology installed in the various brand, model and model year configurations of Eligible Vehicles as follows:

4.8.2.1. Eligible Vehicles with a “**Generation 1**” (or GEN 1) engine consist of: VW Jetta 2009-2014; VW Beetle 2013-2014; VW Jetta Wagon 2009; VW Golf 2010-2013; VW Golf Wagon 2010-2014; and Audi A3 2010-2013;

4.8.2.2. Eligible Vehicles with a “**Generation 2**” (or GEN 2) engine consist of VW Passat 2012-2014;

4.8.2.3. Eligible Vehicles with a “**Generation 3**” (or GEN 3) engine consist of: VW Jetta 2015; VW Beetle 2015; VW Golf 2015; VW Passat 2015; VW Golf Sportwagon 2015; and Audi A3 2015.

4.8.3. **Approved Emissions Modification Extended Warranty.** The Approved Emissions Modification Extended Warranty shall cover all components that are replaced as part of the Approved Emissions Modification, any component that, as determined by appropriate regulators, can reasonably be impacted by effects of the Approved Emissions Modification, as well as the engine sub-assembly that consists of the assembled block, crankshaft,

cylinder head, camshaft and valve train. The Approved Emissions Modification Extended Warranty shall cover all parts and labour related to the covered components, as well as the cost or provision of a loaner vehicle for warranty service lasting longer than three (3) hours.

4.8.4. Warranty Period.

4.8.4.1. The warranty period for the Approved Emissions Modification Extended Warranty for Generation 1 and Generation 2 engine vehicles shall be both:

- (a) 10 years or 193,000 km, whichever comes first, from the vehicle's Original In Service Date; and
- (b) 4 years or 77,000 km, whichever comes first, from the date and mileage of implementing the Approved Emissions Modification.

4.8.4.2. The warranty period for the Approved Emissions Modification Extended Warranty for Generation 3 engine vehicles shall be both:

- (a) 10 years or 240,000 km, whichever comes first, from the vehicle's Original In Service Date; and

(b) 4 years or 77,000 km, whichever comes first, from the date and mileage of implementing the second stage of the Approved Emissions Modification.

4.8.5. **No Defence.** Neither this Settlement Agreement nor the Approval Orders are a defence to liability arising out of the Approved Emissions Modification Option. Nothing herein, however, prohibits VW from relying on this Settlement Agreement in any action alleging noncompliance with the Settlement Agreement.

4.8.6. **Disclosure to Subsequent Purchasers.** For each Eligible Vehicle that is modified pursuant to the Approved Emissions Modification Option, VW shall use best efforts to cause such Eligible Vehicles to be labelled to this effect, consistent with Recall procedures. To the extent that it becomes known to VW that an Eligible Vehicle in the possession of an Eligible Claimant, which has been modified pursuant to the Approved Emissions Modification Option, was not labelled accordingly following completion of Approved Emissions Modification, VW will make available, at no cost to the Eligible Claimant, appropriate labels that can be applied to the Eligible Vehicle at the Eligible Claimant's preferred Authorized VW Dealer.

4.9 **No Approved Emissions Modification.**

4.9.1. **Owned Vehicles.** If, by June 15, 2018, there is no Approved Emissions Modification, or second stage of an Approved Emissions Modification, for Eligible Vehicles with a particular Generation of engine, Settlement Class Members who own such Eligible Vehicles will be informed by a Class Update that, if they have not already made a Claim, or if no benefits under the Settlement Agreement have been received in respect of their Eligible Vehicle, they may opt out of the Settlement Class during the Second Opt-Out Period or, if they remain in the Settlement Class, or if their Eligible Vehicle has been modified with the first stage of an Approved Emissions Modification, they may choose a Buyback or Buyback With Trade-In regardless of whether they meet the definition of an Eligible Owner, in which case Sections 4.2.3 through 4.2.5 and Schedules “B” and “E” will apply to them as if they are Eligible Owners for purposes thereof, except that they will receive their applicable Damages Payment, or fifty percent (50%) of the applicable Damages Payment if their Eligible Vehicle has been modified with the first stage of an Approved Emissions Modification. For avoidance of doubt, if a Class Update is issued on or before June 15, 2018 identifying that there is an Approved Emissions Modification, or a second stage of an Approved Emissions Modification, for Eligible Vehicles, this Section shall not be applicable to owners of such Eligible Vehicles.

4.9.2. **Active Leases.**

4.9.2.1. If, by June 15, 2018, there is no Approved Emissions Modification, or second stage of an Approved Emissions Modification, for Eligible Vehicles with a particular Generation of engine, Eligible Lessees with an active lease of such Eligible Vehicles where the term of the lease ends after June 15, 2018 but before the Claims Submission Deadline, and who do not purchase their Eligible Vehicle at the conclusion of the lease pursuant to the lease terms, may receive the Non-Owner Damages Payment payable upon the conclusion of the lease.

4.9.2.2. If, by June 15, 2018, there is no Approved Emissions Modification, or second stage of an Approved Emissions Modification, for Eligible Vehicles with a particular Generation of engine, Eligible Lessees with an active lease of such Eligible Vehicles where the term of the lease ends after June 15, 2018, including after the Claims Period Deadline, may choose Early Lease Termination and receive the Non-Owner Damages Payment, or fifty percent (50%) of the Non-Owner Damages Payment if their Eligible Vehicle has

been modified with the first stage of Approved Emissions Modification.

4.10 **Other Provisions.**

4.10.1. **Only One Claim for Each Eligible Vehicle.** Only one Claim will be granted for each Eligible Vehicle, or as divided between Eligible Claimants for the same Eligible Vehicle in the manner prescribed within this Settlement Agreement.

4.10.2. **Canadian Dollars.** All dollar amounts referred to in this Settlement Agreement are in Canadian dollars, unless expressly provided otherwise. All payments made to Eligible Claimants will be paid in Canadian dollars.

4.10.3. **No Prohibition on Other Incentives.** Nothing in this Settlement Agreement is intended to prohibit VW or its Authorized VW Dealers from offering any consumer any further incentives or trade-in options in addition to those provided herein; however, VW may not offer consumers other incentives or trade-in options in lieu of the options contained herein, in whole or in part, and the trade-in credit of an Eligible Vehicle must be its Fair Market Value for purposes of a Buyback With Trade-In. In addition, VW may not offer any incentive not to participate in the Claims Program, and shall request that Authorized VW Dealers not offer any incentive not to participate in the Claims Program.

- 4.10.4. **Joint and Several Responsibility.** VW's obligations to comply with the requirements of the Settlement Agreement are joint and several among the VW entities. Any legal successor or assign of any VW entity shall remain jointly and severally liable for the payment and other performance obligations hereunder. A VW entity shall include an agreement to so remain liable in the terms of any sale, acquisition, merger or other transaction changing the ownership or control of itself, and no change in the ownership or control of any VW entity shall affect VW's obligations hereunder.
- 4.10.5. **Tax Implications.** While there is no intended tax effect to Eligible Claimants from payments made pursuant to the Settlement Agreement, except as would apply to a vehicle trade-in in the ordinary course of business for purposes of Section 4.2.2, Settlement Class Members are encouraged to consult a tax advisor for assistance regarding any tax ramifications of this Settlement Agreement.
- 4.10.6. **Deceased, Dissolved, Incapacitated or Bankrupt Eligible Claimants.** In the event of an Eligible Claimant's death, dissolution, incapacity or bankruptcy (whether discharged or ongoing), and upon satisfactory proof thereof, the Claims Administrator shall assign, where possible and in accordance with applicable law, the Eligible Claimant's benefits to that Eligible Claimant's estate or legal representative.

4.10.7. **Military / Government Service.** In the event that an Eligible Claimant's military service or government assignment outside of Canada creates an undue burden for participating in the Claims Program, the Eligible Claimant may, upon satisfactory proof thereof, assign in writing his or her rights to benefits under the Settlement Agreement, except that any requirements in law to transfer such benefits must be satisfied by the Eligible Claimant or assignee in order for the assignee to receive such benefits.

4.10.8. **Out-of-Pocket Costs.** Eligible Claimants who choose a Buyback, a Buyback With Trade-In, the Approved Emissions Modification Option, Early Lease Termination or a Surrender For Inoperability, as applicable, must, at their own expense, bring their Eligible Vehicle to an Authorized VW Dealer to avail themselves of these options.

5. **RELEASE AND WAIVER**

5.1 The Parties agree to the following Settlement Class Release that shall take effect upon entry of the Approval Orders in the Actions.

5.2 **Released Parties.** "**Released Parties**" means any person who, or entity that, is or could be responsible or liable in any way whatsoever, whether directly or indirectly, for the 2.0-Litre Diesel Matter. The Released Parties include, without limitation, (a) Volkswagen Aktiengesellschaft, Audi Aktiengesellschaft, Volkswagen Group Canada Inc., Audi Canada Inc., Volkswagen Group of America, Inc. (d/b/a Volkswagen of America, Inc. or

Audi of America, Inc.), Volkswagen Group of America Chattanooga Operations, LLC, Audi of America, LLC, VW Credit Canada, Inc., VW Credit, Inc., VW Credit Leasing, Ltd., VCI Loan Services, LLC, and any former, present and future owners, shareholders, directors, officers, employees, affiliates, parent companies, subsidiaries, predecessors, lawyers, agents, insurers, representatives, successors, heirs and assigns (individually and collectively, “**VW Released Entities**”); (b) any and all contractors, subcontractors and suppliers of the VW Released Entities; (c) any and all persons and entities indemnified by any VW Released Entity with respect to the 2.0-Litre Diesel Matter; (d) any and all other persons and entities involved in the design, research, development, manufacture, assembly, testing, sale, leasing, repair, warranting, marketing, advertising, public relations, promotion or distribution of any Eligible Vehicle, even if such persons are not specifically named in this Section, including without limitation all Authorized VW Dealers and non-authorized dealers and sellers; (e) Claims Administrator; (f) Notice Administrator; (g) Opt-Out / Objection Administrator; (h) lenders, creditors, financial institutions or any other parties that financed any purchase or lease of an Eligible Vehicle; and (i) for each of the foregoing, their respective former, present and future affiliates, parent companies, subsidiaries, predecessors, successors, shareholders, indemnitors, subrogees, spouses, joint ventures, general or limited partners, lawyers, assigns, principals, officers, directors, employees, members, agents, representatives, trustees, insurers, reinsurers, heirs, beneficiaries, wards,

estates, executors, administrators, receivers, conservators, personal representatives, divisions, dealers and suppliers. Notwithstanding the foregoing, this Release does not release any claims against the Bosch Entities.

5.3 Settlement Class Release. In consideration of the Settlement Agreement, Settlement Class Members, on behalf of themselves and their agents, heirs, executors and administrators, successors, assigns, insurers, lawyers, representatives, shareholders, owners associations and any other legal or natural persons who may claim by, through, or under them (individually and collectively, the “**Releasing Parties**”), fully, finally, irrevocably and forever release, waive, discharge, relinquish, settle and acquit any and all claims, demands, actions or causes of action, whether known or unknown, that they may have, purport to have, or may have hereafter against any Released Party, arising out of or in any way related to the 2.0-Litre Diesel Matter. This Settlement Class Release applies to any and all claims, demands, actions or causes of action of any kind or nature whatsoever, whether in law or in equity, known or unknown, direct, indirect or consequential, liquidated or unliquidated, past, present or future, foreseen or unforeseen, developed or undeveloped, contingent or noncontingent, suspected or unsuspected, whether or not concealed or hidden, arising from or in any way related to the 2.0-Litre Diesel Matter, including without limitation (a) any claims that were or could have been asserted in the Actions; and (b) any claims for fines, penalties, criminal assessments, economic damages, punitive damages, exemplary

damages, liens, injunctive relief, counsel, expert, consultant or other litigation fees or costs other than fees and costs awarded by the Courts in connection with this Settlement Agreement, or any other liabilities, that were or could have been asserted in any civil, criminal, administrative or other proceeding, including arbitration (individually and collectively, the “**Released Claims**”). This Settlement Class Release applies without limitation to any and all such claims, demands, actions or causes of action regardless of the legal or equitable theory or nature under which they are based or advanced including without limitation legal and / or equitable theories under any federal, provincial, territorial, municipal, local, tribal, administrative or international law, statute, ordinance, code, regulation, contract, common law, equity or any other source, and whether based in strict liability, negligence, gross negligence, punitive damages, nuisance, trespass, breach of warranty, misrepresentation, breach of contract, fraud or any other legal or equitable theory, whether existing now or arising in the future, that arise from or in any way relate to the Released Claims. Notwithstanding the foregoing, this Settlement Agreement does not release any claims for wrongful death or personal injury. For the avoidance of doubt, claims relating to 3.0-litre diesel vehicles are not subject to any release in this Settlement Agreement.

- 5.4 No Settlement Class Member shall recover, directly or indirectly, any sums for Released Claims from the Released Parties, other than sums received under the Settlement Agreement, and the Released Parties shall have no

obligation to make any payments to any non-parties for liability arising out of Released Claims by operation of this Settlement Agreement.

5.5 **Possible Future Claims.** For the avoidance of doubt, Settlement Class Members expressly understand and acknowledge that they may hereafter discover claims presently unknown or unsuspected, or facts in addition to or different from those that they now know or believe to be true, related to the Released Claims, the Actions and / or the Settlement Class Release. Nevertheless, it is the intention of Class Counsel, the Settlement Class Representatives and the Related Action Plaintiffs in executing this Settlement Agreement to fully, finally, irrevocably and forever release, waive, discharge, relinquish, settle and acquit all such matters, and all claims relating thereto which exist, hereafter may exist or might have existed (whether or not previously or currently asserted in any action or proceeding) with respect to the Released Claims.

5.6 **Covenant Not to Sue.** Notwithstanding Section 5, for any Settlement Class Member resident in any province or territory where the release of one tortfeasor is a release of all other tortfeasors, the Releasing Parties do not release the Released Parties but instead irrevocably covenant not to sue the Released Parties, or any of them, including on a joint, several and / or solidary liability basis, and undertake not to make any claim in any way or to threaten, commence, participate in, or continue any proceeding in any jurisdiction against the Released Parties, or any of them for, in respect of, or in relation to the Released Claims, or any of them.

5.7 **Individual Release.** Settlement Class Members who receive a Buyback, a Buyback With Trade-In, a Surrender For Inoperability, an Early Lease Termination and / or a Damages Payment (including pursuant to Section 4.7.2) for their Eligible Vehicle shall be required to execute an Individual Release, substantially in the form attached hereto as Exhibit “4”, as a precondition to receiving such relief. Consistent with the Settlement Class Release provided in this Settlement Agreement, the Individual Release will provide that a Settlement Class Member releases all of the Released Parties from any and all present and future claims (as described in Sections 5.3 and 5.5) arising out of or related to the Released Claims. For avoidance of doubt, an Individual Release executed by a Settlement Class Member as a precondition to receiving relief for an Eligible Vehicle releases, without limitation, all of the Released Parties from any and all present and future claims (as described in Sections 5.3 and 5.5) arising out of or related to the Released Claims that such Settlement Class Member has or may have with respect to any other Eligible Vehicle; however, the Individual Release shall not preclude such Settlement Class Member from receiving relief for any other Eligible Vehicle during the Claims Period, provided that the requirements for receiving such relief are satisfied. The Individual Release shall remain effective even if any Approval Order is reversed and / or vacated on appeal, or if this Settlement Agreement is abrogated or otherwise voided in whole or in part.

5.8 Actions or Proceedings Involving Released Claims. Settlement Class Members expressly agree that the Settlement Class Release, and the Approval Orders, are, will be and may be raised as a complete defence to, and will preclude, any action or proceeding specified in, or involving claims encompassed by, this Settlement Class Release whether in Canada or elsewhere. Settlement Class Members shall not now or hereafter institute, maintain, prosecute, assert and / or cooperate in the institution, commencement, filing or prosecution of any suit, action and / or other proceeding, whether in Canada or elsewhere, against the Released Parties with respect to the claims, causes of action and / or any other matters subject to the Settlement Class Release. To the extent that they have initiated, or caused to be initiated, any suit, action or proceeding not already encompassed by the Actions, whether in Canada or elsewhere, Settlement Class Members shall cause such suit, action or proceeding to come to an end, including with prejudice where available, consistent with Section 14.1. If a Settlement Class Member commences, files, initiates or institutes any new legal action or other proceeding for any Released Claim against any Released Party in any federal, state, provincial or territorial court, arbitral tribunal, or administrative or other forum, whether in Canada or elsewhere, (a) such legal action or other proceeding shall, at that Settlement Class Member's cost, be brought to an end, including with prejudice where available, consistent with Section 14.1; and (b) the respective Released Party shall be entitled to recover any and all reasonable related costs and expenses from that Settlement Class

Member arising as a result of that Settlement Class Member's breach of his, her or its obligations under this Settlement Class Release. Notwithstanding the foregoing, this Section does not apply to preclude the continuation of any suit, action or proceeding, whether in Canada or elsewhere, as to any claim that is not a Released Claim.

5.9 Ownership of Released Claims. The Settlement Class Representatives and Related Action Plaintiffs represent and warrant that they are the sole and exclusive owners of any and all claims that they personally are releasing under this Settlement Agreement. The Settlement Class Representatives and Related Action Plaintiffs further acknowledge that, except as provided in Sections 4.10.6 and 4.10.7, they have not assigned, pledged or in any manner whatsoever, sold, transferred, assigned or encumbered any right, title, interest or claim arising out of or in any way whatsoever pertaining to the Released Claims, including without limitation, any claim for benefits, proceeds or value under the Actions, and that the Settlement Class Representatives and Related Action Plaintiffs are not aware of anyone other than themselves claiming any interest, in whole or in part, in any benefits, proceeds or values to which they may be entitled as a result of the Released Claims. Settlement Class Members submitting a Claim shall represent and warrant therein that they are the sole and exclusive owner of all claims that they personally are releasing under the Settlement Agreement and that, except as provided in Sections 4.10.6 and 4.10.7, they have not assigned, pledged or in any manner whatsoever, sold, transferred, assigned or encumbered any right, title, interest or claim

in the Actions arising out of or in any way whatsoever pertaining to the Released Claims, including without limitation, any claim for benefits, proceeds or value under the Actions, and that such Settlement Class Members are not aware of anyone other than themselves claiming any interest, in whole or in part, in any benefits, proceeds or values to which those Settlement Class Members may be entitled as a result of the Released Claims.

- 5.10 **Total Satisfaction of Released Claims.** Any benefits pursuant to the Settlement Agreement are (a) in full, complete and total satisfaction of all of the Released Claims against the Released Parties, and (b) sufficient and adequate consideration for each and every term of the Settlement Class Release. The Settlement Class Release shall be irrevocably binding upon the Settlement Class Representatives, Related Action Plaintiffs and all Settlement Class Members.
- 5.11 **Release Not Conditioned on Claim or Payment.** The Settlement Class Release shall be effective with respect to all Releasing Parties, including all Settlement Class Members, regardless of whether those Settlement Class Members ultimately file a Claim or receive compensation under this Settlement Agreement.
- 5.12 **Basis for Entering Release.** Class Counsel acknowledge that they have conducted sufficient independent investigation and discovery to recommend the approval of this Settlement Agreement to the Courts and that they execute this Settlement Agreement freely, voluntarily and without

being pressured or influenced by, or relying on any statements, representations, promises or inducements made by the Released Parties or any person or entity representing the Released Parties, other than as set forth in this Settlement Agreement. The Settlement Class Representatives and Related Action Plaintiffs agree and specifically represent and warrant that they have discussed with Class Counsel the terms of this Settlement Agreement and have received legal advice with respect to the advisability of entering into this Settlement Agreement and the Settlement Class Release, and the legal effect of this Settlement Agreement and the Settlement Class Release. The representations and warranties made throughout the Settlement Agreement shall survive the execution of the Settlement Agreement and shall be binding upon the respective heirs, representatives, successors and assigns of the Parties.

5.13 **Material Term.** The Settlement Class Representatives, Related Action Plaintiffs and Class Counsel hereby agree and acknowledge that this Section 5 was separately bargained for and constitutes a key, material term of the Settlement Agreement that shall be reflected in the Approval Orders. The failure of any Court to approve this Settlement Agreement, the Settlement Class Release, the covenant not to sue in Section 5.6, and the dismissals and other terminations of proceedings involving Released Claims contemplated in Sections 5.8 and 14.1, or if a Court approves any of them in a materially modified form from that contemplated herein, shall give rise to a right of termination by VW or the Settlement Class Representatives, through Class Counsel, pursuant to Section 13.3.

5.14 **Reservation of Claims.** This Settlement Agreement shall resolve the claims of Settlement Class Members only as they relate to the Released Claims. The Parties reserve all rights to litigate liability and equitable relief of any sort for any subset of vehicles, purchasers, or lessees not expressly covered by this Settlement Agreement. For avoidance of doubt, this carve-out includes, but is not limited to, claims related to 3.0-litre diesel vehicles.

5.15 **Released Parties' Releases of Settlement Class Representatives, Related Action Plaintiffs, the Settlement Class and Class Counsel.** Upon the Effective Date, Released Parties absolutely and unconditionally release and forever discharge the Settlement Class Representatives, Related Action Plaintiffs, Settlement Class Members and Class Counsel from any and all claims relating to (a) the institution or prosecution of the portion of the Actions pertaining to 2.0-litre diesel vehicles, and (b) any tax effect to VW and / or any Authorized VW Dealer from implementation of the Settlement Agreement.

5.16 **No Admission of Liability.** The Settlement Class Representatives, Class Counsel, the Related Action Plaintiffs, the Settlement Class and the Releasing Parties agree, whether or not this Settlement Agreement is approved, terminated or otherwise fails to take effect for any reason, that this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this

Settlement Agreement, shall not be deemed, construed or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by any of the Released Parties, or of the truth of any of the claims or allegations contained in the Actions or any other pleading filed against VW by, or on behalf of, the Settlement Class Representatives, Related Action Plaintiffs, Settlement Class or any class that may be certified or authorized in the Actions.

5.17 **Settlement Agreement Not Evidence.** The Settlement Class Representatives, Class Counsel, the Related Action Plaintiffs and the Settlement Class agree that, whether or not it is terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence or received in evidence in any present, pending or future civil, criminal or administrative action or proceeding, except in a proceeding to approve, implement and / or enforce this Settlement Agreement, or as otherwise required by law or as provided in this Settlement Agreement.

6. CLAIMS PROGRAM ADMINISTRATION

6.1 VW's obligation to implement the Claims Program in accordance with this Settlement Agreement is and shall be contingent upon each of the following:

6.1.1. Entry of the Approval Orders;

6.1.2. The occurrence of the Effective Date; and

6.1.3. The satisfaction of any other conditions set forth in this Settlement Agreement.

6.2 **Claims Program.** Subject to Section 6.1, the Claims Program will begin as soon as reasonably practicable after the Effective Date and, unless any appeals are taken from an Approval Order, no later than April 28, 2017. The Claims Program involves five steps, as further described in Schedule "H". At Step 1, Settlement Class Members will obtain information about the options available to them. At Step 2, once a Settlement Class Member is ready to submit a Claim, the Settlement Class Member will, by the Claims Submission Deadline, submit a Claim Form to the Claims Administrator, either online, by mail or by courier, that contains certain information about the Settlement Class Member's Eligible Vehicle along with required documentation. The Claim Form shall require a Claimant to sign, whether electronically or by hand, and declare that information and material submitted is true and correct based on knowledge and belief. At Step 3, the Settlement Class Member's eligibility or ineligibility to participate in the Claims Program will be determined by the Claims Administrator, and an offer will be made if the Settlement Class Member is deemed an Eligible Claimant. At Step 4, Eligible Claimants will confirm their choice of offered benefits under the Settlement Agreement, accept their offer, execute an Individual Release and, if choosing a Buyback, a Buyback With Trade-In, the Approved Emissions Modification

Option, an Early Lease Termination or a Surrender For Inoperability, schedule an appointment at an Authorized VW Dealer. At Step 5, Eligible Claimants will receive their chosen benefits under the Settlement Agreement by the Claims Period Deadline. The process for submitting a Claim is designed to be as simple and convenient to Settlement Class Members as possible, consistent with the integrity of the Claims Program.

6.3 Irrevocability of Benefits Election. Eligible Claimants who are eligible for and choose a Buyback, a Buyback With Trade-In, the Approved Emissions Modification Option, an Early Lease Termination or a Surrender For Inoperability, as the case may be, may until twenty (20) days prior to their scheduled appointment for receiving their chosen benefit, change their choice of eligible benefits under the Settlement Agreement, except that (a) in the case of an Eligible Owner whose Eligible Vehicle is totalled or appraised as a total loss during that twenty (20) day period, the Eligible Owner may receive the Owner Damages Payment only, provided that the other conditions of Section 4.2.7 are met; and (b) if an Eligible Vehicle that is owned by an Eligible Claimant becomes Inoperable during that twenty (20) day period, the Eligible Claimant will be allowed to change his, her or its choice of benefits to a Surrender For Inoperability, in which case the Eligible Claimant will not be eligible for any previously available Loan Forgiveness payment.

6.4 Role of Authorized VW Dealers. The Buyback, Buyback With Trade-In, Early Lease Termination and Surrender For Inoperability options under

this Settlement Agreement, and the Approved Emissions Modification Option, will be completed at an Authorized VW Dealer.

6.5 Prescribed Communications by Authorized VW Dealers. Authorized VW Dealers may communicate with, or send communications to, Settlement Class Members in a manner consistent with the terms of this Settlement Agreement for the purpose of: (a) providing information about the Claims Program and submitting a Claim; (b) providing information about the purchase of a new or used Volkswagen- or Audi-brand vehicle to Settlement Class Members who wish to receive information about the Buyback With Trade-In; (c) performing an Approved Emissions Modification Option on their Eligible Vehicle; and (d) completing a Buyback, a Buyback With Trade-In, an Early Lease Termination or a Surrender For Inoperability. Nothing in this Section is intended to limit any communication with Settlement Class Members by the Claims Administrator. Prior to the commencement of the Claims Program, VW will develop a program to train, assist and work with Authorized VW Dealers and their employees and representatives in order to give effect to this Section. This program shall include training materials reflecting a detailed description of the Claims Program approved by the Claims Administrator before the Claims Program commences.

6.6 Claims Administrator. The Claims Administrator will oversee the implementation and administration of the Claims Program, including verification and determination of Claim eligibility and approval of offers and

payments to Eligible Claimants. The Claims Administrator's duties include, but are not limited to (a) for the Second Opt-Out Period, receiving and maintaining on behalf of the Courts in the Actions any Settlement Class Members' correspondence regarding requests for opting out of the Settlement Class; (b) oversight of the Settlement Website; (c) administrating the Claims Portal; (d) management of communications with Settlement Class Members regarding the Claims Program, including through the use of a call centre for the Settlement Phone Number, as described in Section 10.5; (e) forwarding written inquiries to Lead Class Counsel for a response, if warranted; (f) managing the meet and confer and appeals process as set out in Section 6.7; (g) issuing and, where appropriate, reissuing payments on Claims to Eligible Claimants; and (h) monitoring the amounts of uncashed cheques paid to Eligible Claimants. The Claims Administrator shall have the authority to perform all actions, to the extent not expressly prohibited by, or otherwise inconsistent with, any provision of this Settlement Agreement, deemed by the Claims Administrator to be reasonably necessary for the efficient and timely administration of this Settlement Agreement. This shall include the authority to deny Claims that frustrate the spirit of the Settlement Agreement.

6.7 Appeal Process. For purposes of this Section, references to Claimant may include Lead Class Counsel if acting on behalf of the Claimant. Within ten (10) days after the issuance of a decision in writing to a Claimant (a) of the Claimant's eligibility to receive benefits under the

Settlement Agreement, (b) of an offer of settlement benefits, or (c) denying a request made during the Claims Period, or up to six (6) months after the Claims Period Deadline, to reissue a stale dated, non-negotiable cheque for payment of a Claim, the Claimant must notify the Claims Administrator in writing of any intent to dispute the decision, except that no appeal or other review is available for disputing Damages Payments, the reliance on CBB for determining Vehicle Value or Fair Market Value, or any other standard under this Settlement Agreement, except to the extent that a miscategorization of the Claimant's benefits or a calculation error is alleged. The Claims Administrator must deliver the particulars of the Claimant's dispute to VW and Lead Class Counsel. Lead Class Counsel must confer by conference call with VW within five (5) days after the Claims Administrator transmits the Claimant's written notice of dispute, or within such other time period as agreed to by VW and Lead Class Counsel. If the conference call does not resolve the dispute, the Claims Administrator must in writing advise the Claimant that he, she or it may appeal to the Arbitrator by requesting an appeal and setting out the basis of the appeal in writing delivered to the Claims Administrator within thirty (30) days after the date of such notification. The following procedures will govern these appeals:

6.7.1. Payment of a Filing Fee must be arranged by a Claimant to initiate an appeal. If a Claimant is an Eligible Claimant and is appealing from a decision of an offer of settlement benefits, the Claimant may, within ten (10) days after delivery of the

Claimant's written appeal, submit to the Claims Administrator a signed written agreement that, if the Claimant's appeal is denied by the Arbitrator, the Filing Fee shall be deducted from the Claimant's payment of benefits. In all other instances, unless the Filing Fee is fully paid by a Claimant with a certified cheque or money order submitted to the Claims Administrator within ten (10) days after delivery of a written appeal, the appeal shall be dismissed.

6.7.2. After the Claims Administrator receives a Claimant's written appeal and the Claimant has arranged for full payment of the Filing Fee, the Claims Administrator shall deliver the written appeal to VW and Lead Class Counsel.

6.7.3. VW must submit to the Claims Administrator VW's written response within fifteen (15) days after receipt of the Claimant's written appeal from the Claims Administrator.

6.7.4. Lead Class Counsel may submit to the Claims Administrator a written reply within ten (10) days after receipt of VW's written response from the Claims Administrator.

6.7.5. The Claims Administrator shall transmit to the Arbitrator all received documents with copies to VW, Lead Class Counsel and the Claimant. The Arbitrator's decision will be based on the written appeal record provided by the Claims Administrator.

- 6.7.6. If the Claimant is appealing from a decision of an offer of settlement benefits, the Arbitrator must choose to award the Claimant either the amount proposed by VW or Lead Class Counsel or the Claimant, but no other amount.
- 6.7.7. The Arbitrator's written decision shall be delivered in writing within thirty (30) days after the Arbitrator's receipt of the appeal record from the Claims Administrator. The Arbitrator's decision is final. The Arbitrator's decision may award costs to the Claimant only.
- 6.7.8. The Filing Fee shall be refunded if the Arbitrator finds in favour of the Claimant.
- 6.8 **Payment of Claims.** Payments of Claims made to Eligible Claimants may be made by cheque or, if offered by VW at its sole discretion and requested by an Eligible Claimant, electronic funds transfer.
- 6.9 **Reporting.** The Claims Administrator will prepare periodic reports on the progress and status of the Claims Program that will be provided to VW and Lead Class Counsel. Unless otherwise reasonably requested by VW or Lead Class Counsel, the Claims Administrator shall provide its first report one month after the commencement of the Claims Program, and every month thereafter for the next five (5) months, and every three (3) months thereafter. These reports will include information sufficient to allow VW and Lead Class Counsel to assess the Claims Program's

progress. When the Claims Program is concluded, the Claims Administrator must provide a Final Accounting Report to the Courts, VW and Lead Class Counsel. When the Claims Program is concluded, the Claims Administrator will also provide a report to VW and Lead Class Counsel concerning any cheques for payment of Claims that remain uncashed, as well as amounts, if any, owing to the *Fonds d'aide aux actions collectives* (the “**Fonds**”) as a result thereof in accordance with Section 7.4.

- 6.10 No materials submitted by any Claimant will be returned to such Claimant. The Claims Administrator shall be permitted to dispose of any materials submitted by a Claimant once it is determined that no appeal may be filed, the time limit for filing an appeal has expired or any appeal has been resolved.
- 6.11 Any personal information acquired as the result of this Settlement Agreement shall be used solely for purposes of evaluating and paying Claims under this Settlement Agreement. All information relating to the Claims Program and processing is confidential and proprietary and shall not be disclosed, except as necessary to the Claims Administrator, VW, Class Counsel, the Arbitrator and the Courts in accordance with the terms of this Settlement Agreement, and as required by legal process or by VW to comply with obligations to regulators in Canada. The Claims Administrator shall take security measures to prevent unauthorized access to personal information it obtains under this Settlement Agreement, as well

as to prevent the loss, destruction, falsification, and leakage of such personal information. VW shall respond immediately with appropriate measures when issues arise related to the confidentiality of a Settlement Class Member's information.

7. TRUST ACCOUNT AND CLAIMS PROGRAM PAYMENTS

- 7.1 The Trust Account shall be established by VW to be held and managed by the Trustee for the benefit of Eligible Claimants up to the date on which it is to be distributed pursuant to Section 7.6 or 7.7, provided that all interest generated annually on the assets of the Trust Account will accrue and be paid or payable to the benefit of VW, net of applicable taxes and the reasonable costs of administering the Trust Account.
- 7.2 Within five (5) days before the commencement of the Claims Period, VW shall fund the Trust Account (the "**Funding Amount**"). The initial Funding Amount shall be \$250,000,000.00 (the "**Initial Funding Amount**").
- 7.3 The Funding Amount may be adjusted from the Initial Funding Amount at such time as the total proportion of potential Eligible Vehicles in respect of which Claims have been paid and any appeals resolved (the "**Proportion**") reaches seventy percent (70%) (the "**Threshold**"). When the Proportion reaches the Threshold, the Funding Amount may be reduced by \$50,000,000.00 from the Initial Funding Amount to \$200,000,000.00. Thereafter, on a continuing basis until the Claims Period Deadline, the Funding Amount may be reduced by a further \$50,000,000.00 for each additional five percent (5%) increase in the

Proportion, except that the Funding Amount may not be reduced below \$100,000,000.00 at any time during the Claims Period.

- 7.4 Any cheques issued to Eligible Claimants shall become stale dated and non-negotiable no later than the sooner of six (6) months from the issuance of the cheque or six (6) months after the Claims Period Deadline. Stale dated and non-negotiable cheques, unless reissued and subsequently cashed, will constitute an unclaimed balance (the “**Balance**”) for distribution as set forth below. In no event shall VW have any obligation to reissue, or fund the Claim Administrator’s reissuance of, a cheque to an Eligible Claimant more than 6 (six) months following the Claims Period Deadline, and any right that an Eligible Claimant may have to receive a reissued cheque from VW or the Claims Administrator shall become extinguished at that time. No later than twelve (12) months following the Claims Period Deadline, the amount of the Balance will be calculated and the Fonds will be entitled to receive the percentage of the Balance resulting from stale dated and non-negotiable cheques issued to Eligible Claimants in the Québec Settlement Class, which percentage shall be determined in accordance with the *Regulation respecting the percentage withheld by the Fonds d’aide aux actions collectives*, chapter F-3.2.0.1.1, r. 2. Following the payment to the Fonds, VW and the Settlement Class Representatives, through Class Counsel, will make an application to the Courts to determine how the remaining amount of the Balance, if any, shall be distributed.

- 7.5 The Claims Administrator may reasonably request that the Trustee provide to the Claims Administrator, VW and Lead Class Counsel periodic reports on the status of the Trust Account.
- 7.6 Within thirty (30) days following the Claims Period Deadline, any amount remaining in the Trust Account, including all interest accrued, shall be distributed to VW, or as otherwise directed by VW, as the remainder beneficiary. All tax reporting and all taxes payable on any interest earned on the Trust Account shall be the responsibility of VW.
- 7.7 Subject to orders of the Courts pursuant to Section 14.4, in the event that the Settlement Agreement is terminated or invalidated for any reason prior to the Claims Period Deadline, any funds in the Trust Account, including any interest earned thereon, shall be distributed to VW after the payment of the expenses provided for in Section 13.7. All tax reporting and all taxes payable on any such interest that is distributed to VW shall be the responsibility of VW.

8. ARBITRATOR

- 8.1 The Arbitrator shall be selected by agreement of VW and Lead Class Counsel, and in the absence of such agreement, shall be appointed by the Courts.
- 8.2 In accordance with the terms of this Settlement Agreement, the Arbitrator shall have the power to make decisions resolving appeals, as set forth in Section 6.7, and any other matters if requested by agreement of VW and

Lead Class Counsel, including pursuant to Sections 9.6 and 13.2. The Arbitrator shall have a continuing obligation to be neutral and unbiased and shall inform VW and Lead Class Counsel in the event of any conflict of interest.

8.3 The Arbitrator shall be paid a reasonable hourly fee and reasonable disbursements, plus applicable taxes, by VW. Unrefunded Filing Fees shall be used to pay the Arbitrator's fees and expenses, and VW shall be responsible for any balance due to the Arbitrator after application of such amounts.

9. COOPERATION TO ANNOUNCE AND IMPLEMENT THE SETTLEMENT

9.1 The Parties will cooperate in the preparation of a joint press release announcing the Settlement Agreement. VW and Lead Class Counsel may consult with regulators regarding the preparation of this joint press release.

9.2 The Parties and their respective counsel will cooperate with each other, act in good faith and use commercially reasonable efforts to implement the Claims Program in accordance with the terms and conditions of this Settlement Agreement as soon as reasonably practicable after the Effective Date.

9.3 The Parties agree to make all reasonable efforts to ensure the timely and expeditious administration and implementation of the Settlement Agreement and to ensure that the costs and expenses incurred, including

the Claims Administration Expenses and expenses incurred by the Arbitrator to fulfil the Arbitrator's functions, are reasonable.

9.4 The Parties and their successors, assigns and counsel undertake to implement the terms of this Settlement Agreement in good faith, and to use good faith in resolving any disputes that may arise in the implementation of the terms of this Settlement Agreement. Counsel for VW and Lead Class Counsel shall, upon the request of the other, meet and confer by telephone to discuss the implementation of this Settlement Agreement and to attempt to resolve any issues raised by the Parties, Settlement Class Members or Claims Administrator.

9.5 The Parties reserve the right, subject to the Court's approval, to agree to any reasonable extensions of time that might be necessary to carry out any of the provisions of this Settlement Agreement.

9.6 In the event that the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement Agreement, or on any supplemental provisions that may become necessary to implement the terms of this Settlement Agreement, VW and Lead Class Counsel may seek the assistance of the Courts and / or, by agreement of VW and Lead Class Counsel, the Arbitrator, to resolve such matters.

10. NOTICE OF THE SETTLEMENT AGREEMENT

10.1 VW and Class Counsel agree that reasonable notice consistent with due process requirements shall be given to the Settlement Class pursuant to

orders of the Courts that so provide. To distribute such notice, VW and Class Counsel have agreed to engage the Notice Administrator to advise them with respect to the Notice Program. Settlement Class Notices shall include, but not be limited to, the dissemination of Pre-Approval Notice as set forth in Section 10.2. The Notice Program and mechanisms for distributing the Settlement Class Notices shall be subject to approval of the Courts.

- 10.2 **Pre-Approval Notice.** Summary notices in English and French, including through print media and Internet, shall be published in accordance with the directions of the Courts in their Pre-Approval Orders. Summary notices shall also be (a) e-mailed to all potential Settlement Class Members (i) for whom VW has a valid e-mail address, and (ii) who have contacted Class Counsel and provided an e-mail address; and (b) mailed, by prepaid regular mail, to all potential Settlement Class Members (i) for whom VW has only a valid mailing address, and (ii) who have contacted Class Counsel and provided only a mailing address as their contact information. These summary notices shall include details of where to access the Settlement Website on which English and French versions of a long-form notice shall be made available. The long-form notice shall: (a) state that the Settlement Agreement is contingent upon the Courts' Approval Orders; (b) advise potential Settlement Class Members that they may elect to opt out of the Settlement Class by submitting a written statement providing the information required by Section 11.3 to the Opt-Out / Objection Administrator no later than the Opt-Out Deadline;

(c) advise potential Settlement Class Members that they may object to the Settlement Agreement by submitting a written statement of objections clearly specifying the grounds for objection and providing the information required by Section 11.3 to the Opt-Out / Objection Administrator no later than the Objection Deadline; (d) advise that any Settlement Class Member may enter an appearance at the Settlement Approval Hearings, including through counsel of his or her choice, at his or her own expense; and (e) state that any Settlement Class Member who does not properly and timely give notice of his or her intention to opt out of the Settlement Class will be bound by the Approval Orders in the Actions, even if he or she has objected to the Settlement Agreement or has other claims pending against VW relating to the 2.0-Litre Diesel Matter.

- 10.3 All of the costs of the Settlement Class Notices (such as the costs of printing, mailing and postage) shall be paid by VW. VW shall have the right to monitor, inspect, and audit such costs.
- 10.4 The Notice Administrator shall, seven (7) days before the first scheduled Settlement Approval Hearing, serve on VW and Lead Class Counsel and file with the Courts proof, by affidavit, of the publications and mailings described in Section 10.2.
- 10.5 A Canadian toll-free Settlement Phone Number shall be included in the Settlement Class Notices. The Claims Administrator shall manage a call centre for the Settlement Phone Number which potential Settlement Class Members can call to receive information in English and French about

(among other things) (a) the Settlement Agreement, including information about eligibility for benefits; (b) obtaining the long-form notice of this Settlement Agreement described in Section 10.2 or any other materials described in this Section; (c) the Opt-Out Deadline and Objection Deadline; (d) submitting a Claim; and (e) the dates of relevant Court proceedings, including the Settlement Approval Hearings. The costs associated with maintaining the Settlement Phone Number shall be paid by VW.

10.6 **Settlement Website.** If Pre-Approval Orders are granted by the Courts, VW and Class Counsel shall promptly thereafter cause public Internet websites in English (www.VWCanadaSettlement.ca) and French (www.ReglementVW.ca) concerning the Settlement Agreement to be established. The websites shall be maintained during the Claims Period. The Internet addresses of the websites shall be included in published and delivered notices. The websites shall provide information in English and French about the Settlement Agreement, including (a) the Opt-Out Deadline, the Objection Deadline, submitting a Claim and the dates of relevant Court proceedings, including the Settlement Approval Hearings; (b) the Settlement Phone Number; (c) copies of the Settlement Agreement with signatures redacted, Pre-Approval Notice and other Settlement Class Notices, and Claim Form; and (d) the VIN Look-Up, Eligibility Checker and a description of the benefits available to Eligible Claimants, including, as applicable, Damages Payments and approximate and potential ranges of Vehicle Values for Eligible Vehicles by brand, model and model year. The

Settlement Website will be functional and accessible on the Pre-Approval Notice Date, except that the Settlement Website will provide access to the Claims Portal no later than the beginning of the Claims Period. The costs associated with establishing and maintaining the websites shall be paid by VW.

11. SETTLEMENT CLASS MEMBERS' RIGHT TO OPT OUT AND OBJECT

11.1 The Courts will appoint the Opt-Out / Objection Administrator to receive any written elections to opt out of the Settlement Class and objections to the Settlement Agreement.

11.2 Elections to opt out of the Settlement Class and objections to the Settlement Agreement must be received by the Opt-Out / Objection Administrator by mail, courier or e-mail on or before the Opt-Out Deadline or Objection Deadline, as applicable:

By mail or courier to: Volkswagen Class Action Administration
P.O. Box 7071
31 Adelaide Street East
Toronto, ON M5C 3H2

By e-mail to: vw@ricepoint.com

11.3 All written elections to opt out of the Settlement Class and objections to the Settlement Agreement shall be personally signed by the potential Settlement Class Member and shall include the following:

11.3.1. The potential Settlement Class Member's name, mailing address, telephone number and e-mail address (if applicable);

- 11.3.2. The brand, model, model year and VIN of the proposed Eligible Vehicle;
 - 11.3.3. A statement that the potential Settlement Class Member elects to be excluded from the Settlement Class, or a brief statement of the nature of and reason for the objection to the Settlement Agreement, as applicable;
 - 11.3.4. If the potential Settlement Class Member elects to be excluded from the Settlement Class, a copy of his, her or its Proof Of Ownership; and
 - 11.3.5. If objecting to the Settlement Agreement, whether the potential Settlement Class Member intends to appear in person or by counsel at the Settlement Approval Hearing in Toronto, Ontario or the Settlement Approval Hearing in Montréal, Québec, and if appearing by counsel, the name, address, telephone number and e-mail address of counsel.
- 11.4 Notwithstanding Section 11.3, if potential Settlement Class Members are deceased, a minor or otherwise incapable of making their own written objection to the Settlement Agreement, the information required by Section 11.3 must be provided along with the contact information of the person acting on behalf of the potential Settlement Class Member, together with a copy of the power of attorney, court order or other authorization serving as the proposed basis for permitting such person to

represent the potential Settlement Class Member. A power of attorney will not be recognized as valid by the Opt-Out / Objection Administrator in the place of a signature of a potential Settlement Class Member, except in the circumstances set out in this Section.

11.5 Potential Settlement Class Members who elect to opt out of the Settlement Class may re-elect in writing to become potential Settlement Class Members, if their re-election request is received by the Opt-Out / Objection Administrator on or before the Opt-Out Deadline or, thereafter, only by order of the applicable Court depending on whether they claim to be potential members of the National Settlement Class or the Québec Settlement Class.

11.6 Any potential Settlement Class Member who elects to opt out of the Settlement Class may not also object to the Settlement Agreement, subject to Section 11.5. If a potential Settlement Class Member elects to opt out of the Settlement Class and objects to the Settlement Agreement, the opt out election shall supersede the objection and the objection shall be deemed withdrawn.

11.7 **Consequences of Failure to Opt Out in a Timely and Proper Manner.**

All Settlement Class Members who do not timely and properly opt out of the Settlement Class will, in all respects, be bound as of the Effective Date by all terms of this Settlement Agreement, as approved by the Approval Orders.

- 11.8 The Opt-Out / Objection Administrator will provide copies of all opt-out elections and objections to VW and Lead Class Counsel within three (3) days after their receipt. Wherever reasonably possible, such copies shall be provided in electronic form and in a manner that minimizes the Opt-Out / Objection Expenses.
- 11.9 The Opt-Out / Objection Administrator shall, seven (7) days before the first scheduled Settlement Approval Hearing, serve on VW and Lead Class Counsel and file with the Courts an affidavit reporting on the number of opt-out elections and re-elections received on or before the Opt-Out Deadline, and compiling all of the written objections received on or before the Objection Deadline.
- 11.10 VW will have the unilateral right, but not the obligation, to terminate the Settlement Agreement in the event that Settlement Class Members, who validly opt out of the Settlement Agreement by the Opt-Out Deadline, meet the conditions set forth in a confidential supplemental agreement (the “**Supplemental Agreement**”) between the Parties. The Supplemental Agreement, which is being executed concurrently with this Settlement Agreement, shall not be filed with the Courts and its terms shall not be disclosed in any other manner (other than the statements herein and in the Pre-Approval Notice, to the extent necessary, or as otherwise provided in the Supplemental Agreement), unless and until a Court otherwise directs or a dispute arises between the Parties concerning its interpretation or application. If submission of the Supplemental

Agreement is required for resolution of a dispute or is otherwise ordered by a Court, the Parties will make their best efforts to have the Supplemental Agreement submitted to the Court *in camera* or filed under seal. VW shall advise the Courts and Lead Class Counsel, in writing, of any election under this Section within three (3) days after receiving the affidavit of the Opt-Out / Objection Administrator referred to in Section 11.9. In such event, the Settlement Agreement may not be offered or received into evidence or utilized for any other purpose in the Actions or in any other action, suit or proceeding.

12. CLASS COUNSEL FEES AND PAYMENTS TO CLASS REPRESENTATIVES

12.1 Class Counsel Fees and Expenses. VW agrees to pay Counsel Fees that will become payable within thirty (30) days following the later of (a) the date when the Courts' orders on Counsel Fees to be paid by VW in the Quenneville Action and Option consommateurs Action become final and non-appealable; and (b) the date when the Courts' Approval Orders in the Actions become final and non-appealable. To the extent of the amount of Counsel Fees approved by the Courts or on appeal therefrom, VW will not receive credit for such amounts against obligations to Settlement Class Members under this Settlement Agreement and the Courts' Approval Orders in the Actions. It is further acknowledged as follows:

12.1.1. VW and Class Counsel have not discussed Counsel Fees prior to agreement on the terms of this Settlement Agreement.

Recognizing Class Counsel's continuing obligation to cooperate as set forth in Section 14.1, VW and Class Counsel may attempt to negotiate the amount of Counsel Fees after the execution of either this Settlement Agreement, or this Settlement Agreement and any settlement agreement that may be reached in the Actions relating to claims involving Volkswagen- and Audi-brand vehicles with 3.0-litre diesel engines.

12.1.2. If VW and Class Counsel reach an agreement on the amount of Counsel Fees, Class Counsel except Belleau Lapointe LLP will submit the negotiated amount for approval to the Ontario Superior Court of Justice in the Quenneville Action, and Belleau Lapointe LLP will submit the negotiated amount for approval to the Superior Court of Québec in the Option consommateurs Action. VW reserves the right to challenge any request by Class Counsel for an award of counsel fees and costs that exceeds any negotiated amount of Counsel Fees that VW has agreed to pay.

12.1.3. If VW and Class Counsel do not reach an agreement as to the amount of Counsel Fees, Class Counsel will bring motions for a determination by the Ontario Superior Court of Justice in the Quenneville Action and the Superior Court of Québec in the Option consommateurs Action of the issue of Counsel Fees. VW and Class Counsel shall not object to the other's use or introduction of materials and submissions related to the issue of

Counsel Fees from either Action. Neither shall Class Counsel object to any request by VW for coordination between the Courts on the motions, consistent with the Canadian Judicial Protocol for the Management of Multi-Jurisdictional Class Actions. VW and Class Counsel agree that the Ontario Superior Court of Justice will have exclusive jurisdiction on the portion of Counsel Fees to be paid to Class Counsel except Belleau Lapointe LLP in the Quenneville Action, and the Superior Court of Québec will have exclusive jurisdiction on the portion of Counsel Fees to be paid to Belleau Lapointe LLP only in the Option consommateurs Action. Class Counsel except Belleau Lapointe LLP in the Quenneville Action shall not intervene in the motion to determine the portion of Counsel Fees to be paid in the Option consommateurs Action, and Belleau Lapointe LLP shall not intervene in the motion to determine the portion of Counsel Fees to be paid in the Quenneville Action.

- 12.1.4. Class Counsel will not seek additional counsel fees and costs after the Courts make their respective awards as to the amount of Counsel Fees; however, VW and Class Counsel shall have the right to appeal from such orders. VW reserves all rights to object to an award of Counsel Fees beyond what VW believes to be reasonable. Class Counsel reserve all rights to object to an award of Counsel Fees that they do not believe to be reasonable.

12.2 **Honorarium.** VW and Class Counsel except Belleau Lapointe LLP may confer on a reasonable honorarium in a total amount not to exceed \$50,000.00 to be paid by VW to the Related Action Plaintiffs and Settlement Class Representatives, except Option consommateurs. If no agreement is reached, Class Counsel except Belleau Lapointe LLP may ask the Court in the Quenneville Action to approve a reasonable honorarium not to exceed \$50,000.00. The payment of any reasonable honorarium shall be in addition to the compensation provided to Settlement Class Members under this Settlement Agreement. VW agrees that, subject to a Court order in the Quenneville Action, any honorarium will only become payable (in a determined amount) within thirty (30) days following the later of (a) the effective date of an agreement between VW and Class Counsel except Belleau Lapointe LLP on a reasonable honorarium, or the date when the Court's order on a reasonable honorarium becomes final and non-appealable; and (b) the date when the Courts' Approval Orders in the Actions become final and non-appealable.

13. MODIFICATION OR TERMINATION OF THE SETTLEMENT AGREEMENT

13.1 The terms and provisions of this Settlement Agreement may be amended, modified or expanded by written agreement of the Parties and approval of the Courts provided, however, that after entry of the Approval Orders, the Parties may by written agreement effect such amendments, modifications or expansions of this Settlement Agreement and its implementing documents (including all schedules and exhibits hereto) without further notice to the Settlement Class or approval by the Courts if such changes

are consistent with the Approval Orders and do not limit the rights of Settlement Class Members under this Settlement Agreement.

- 13.2 Any unintended conflicts within the Settlement Agreement shall not be held against any of the Parties, but shall instead be resolved by agreement of the Parties with, if necessary, the aid of the Courts and / or, by agreement of VW and Lead Class Counsel, the Arbitrator.
- 13.3 This Settlement Agreement shall terminate at the discretion of either VW or the Settlement Class Representatives, through Class Counsel, if: (a) a Court, or any appellate court therefrom, rejects, modifies or denies approval of any portion of this Settlement Agreement (with the exception of the timing of the Settlement Class Notices, Opt-Out Deadline or Objection Deadline); or (b) a Court, or any appellate court therefrom, does not enter or completely affirm, or alters, narrows or expands, any portion of an Approval Order (with the exception of the timing of the Settlement Class Notices, Opt-Out Deadline or Objection Deadline). The terminating party must exercise the option to withdraw from and terminate this Settlement Agreement, as provided in this Section, in writing served on the other party no later than twenty (20) days after receiving notice of the event prompting the termination. If the Settlement Agreement is terminated pursuant to this Section, the Parties will be returned to their positions *status quo ante* with respect to the Actions as if the Settlement Agreement had not been entered into.

13.4 If an option to withdraw from and terminate this Settlement Agreement arises under Section 13.3 above, neither VW nor Settlement Class Representatives are required for any reason or under any circumstance to exercise that option and any exercise of that option shall be in good faith.

13.5 If, but only if, this Settlement Agreement is terminated pursuant to Section 13.3, then:

13.5.1. This Settlement Agreement, including the Settlement Class Release, shall be null and void and shall have no force or effect, and no Party to this Settlement Agreement shall be bound by any of its terms, except for the terms of Sections 3.2, 3.5, 5.7, 5.16, 5.17, 6.11, 7.7, 13.5, 13.6, 13.7 and 15.5, and the definitions and any exhibits and schedules applicable thereto;

13.5.2. All of the provisions of this Settlement Agreement, and all negotiations, statements and proceedings relating to it, shall be without prejudice to the rights of VW, the Settlement Class Representatives, the Related Action Plaintiffs or any Settlement Class Member, all of whom shall be restored to their respective positions existing immediately before the execution of this Settlement Agreement, except that the Parties shall cooperate in requesting that the Courts set a new scheduling order such that no Party's substantive or procedural rights in the Actions are prejudiced by the settlement negotiations and proceedings;

- 13.5.3. The Released Parties expressly and affirmatively reserve all defences, arguments and motions as to all claims that have been or might later be asserted in the Actions, including, without limitation, the argument that the Actions may not be litigated as class actions;
- 13.5.4. The Settlement Class Representatives, the Related Action Plaintiffs and all Settlement Class Members, on behalf of themselves and their heirs, assigns, executors, administrators, predecessors and successors, expressly and affirmatively reserve and do not waive all motions as to, and arguments in support of, all claims, causes of action or remedies that have been or might later be asserted in the Actions including, without limitation, any argument concerning class certification / authorization, liability or damages;
- 13.5.5. VW expressly and affirmatively reserves and does not waive all motions and positions as to, and arguments in support of, all defences to the causes of action or remedies that have been sought or might be later asserted in the Actions, including without limitation, any argument or position opposing class certification / authorization, liability, damages or injunctive relief;
- 13.5.6. Neither this Settlement Agreement, the fact of its having been entered into, nor the negotiations leading to it shall be admissible or entered into evidence for any purpose whatsoever; and

- 13.5.7. Any settlement-related order(s) or judgment(s) entered in the Actions after the date of execution of this Settlement Agreement shall be deemed vacated and shall be without any force or effect.
- 13.6 If a Settlement Class Member has (a) received compensation under the Settlement Agreement prior to its termination or invalidation, and (b) executed and delivered an Individual Release, such a Settlement Class Member and VW shall be bound by the terms of the Individual Release, which terms shall survive termination or invalidation of the Settlement Agreement for any reason.
- 13.7 VW will pay all reasonable and necessary Claims Administration Expenses, Notice Expenses, Opt-Out / Objection Expenses, translation costs and, subject to Section 8.3, Arbitrator costs, whether or not the Settlement Agreement is approved and / or terminated, except that if terminated, VW shall bear any such costs in connection with the implementation of this Settlement Agreement up until its termination.
- 13.8 Notwithstanding Section 13.5, if the Settlement Agreement is terminated before payment of Counsel Fees is made pursuant to Section 12.1, and if some of the Settlement Class Members receive compensation from VW under this Settlement Agreement prior to its termination, Class Counsel are entitled to bring motions for a portion of Counsel Fees based upon the compensation received by those Settlement Class Members, which motions will be determined by the Ontario Superior Court of Justice in the

Quenneville Action and the Superior Court of Québec in the Option consommateurs Action. It is further acknowledged as follows:

13.8.1. VW and Class Counsel shall not object to the other's use or introduction of materials and submissions related to the issue of Counsel Fees from either Action. In addition, Class Counsel shall not object to any request by VW for coordination between the Courts on the motions, consistent with the Canadian Judicial Protocol for the Management of Multi-Jurisdictional Class Actions. VW and Class Counsel agree that the Ontario Superior Court of Justice will have exclusive jurisdiction on the portion of Counsel Fees to be paid to Class Counsel except Belleau Lapointe LLP in the Quenneville Action, and the Superior Court of Québec will have exclusive jurisdiction on the portion of Counsel Fees to be paid to Belleau Lapointe LLP only in the Option consommateurs Action. Class Counsel except Belleau Lapointe LLP in the Quenneville Action shall not intervene in the motion to determine the portion of Counsel Fees to be paid in the Option consommateurs Action, and Belleau Lapointe LLP shall not intervene in the motion to determine the portion of Counsel Fees to be paid in the Quenneville Action.

13.8.2. Class Counsel will not seek additional counsel fees and costs after the Courts make their respective awards as to the amount of Counsel Fees; however, VW and Class Counsel shall have the

right to appeal from such orders. VW reserves all rights to object to an award of Counsel Fees beyond what VW believes to be reasonable. Class Counsel reserve all rights to object to an award of Counsel Fees that they do not believe to be reasonable.

13.8.3. VW and Class Counsel may confer and reach agreement on an amount to be paid by VW at any point up to the time the Courts issue their respective decisions on the motions.

13.8.4. If VW and Class Counsel reach an agreement, Class Counsel except Belleau Lapointe LLP will submit the negotiated amount for approval to the Ontario Superior Court of Justice in the Quenneville Action, and Belleau Lapointe LLP will submit the negotiated amount for approval to the Superior Court of Québec in the Option consommateurs Action. VW reserves the right to challenge any request by Class Counsel for an award of counsel fees and costs that exceeds any negotiated amount of Counsel Fees that VW has agreed to pay.

13.9 If this Settlement Agreement is terminated for any reason other than pursuant to Section 13.3, the provisions of Sections 3.2, 3.5, 5.7, 5.16, 5.17, 6.11, 7.7, 13.6, 13.7, 13.8, 14.2, 14.3, 14.4, 15.5 and this Section, and the definitions and any exhibits and schedules applicable thereto, shall survive the termination and continue in full force and effect. All other provisions of this Settlement Agreement and all other obligations pursuant to this Settlement Agreement shall cease immediately.

14. TERMINATION OF CLASS ACTIONS, JURISDICTION OF THE COURTS

14.1 Approval Orders in the Actions will be sought from the Ontario Superior Court of Justice and the Superior Court of Québec. Class Counsel except Belleau Lapointe LLP will take such reasonable steps as are necessary to give effect to the Settlement Agreement and to bring an end to, without costs, without reservation and, where available, with prejudice, all Released Claims by any Settlement Class Member in the pending litigation listed in Schedule “F”. Class Counsel will further cooperate with VW’s efforts to give effect to the Settlement Agreement and to bring an end to, without costs, without reservation and, where available, with prejudice, all Released Claims by any Settlement Class Member in the pending litigation listed in Schedule “G” and in any future litigation; however, as to the litigation listed in Schedule “G” that is pending in Québec, Belleau Lapointe LLP shall so cooperate to bring an end to all Released Claims by any Settlement Class Member in that litigation when the Option consommateurs Action is finally determined and brought to an end, and, in the interim, Class Counsel shall not take any actions inconsistent with these cooperation obligations. The Parties agree that the conclusions of litigations set out in this Section shall not alter, negate or otherwise have any impact or effect on the Settlement Class Release or Individual Releases.

14.2 **Courts’ Ongoing and Exclusive Jurisdiction.** The Courts shall retain ongoing and exclusive jurisdiction over the Action commenced in their jurisdiction in order to resolve any dispute or other matters that may arise

in the implementation of the Settlement Agreement (including with respect to Counsel Fees) or their Approval Order. For clarity, the Courts shall retain jurisdiction to resolve any dispute that may arise in relation to the Action commenced in their jurisdiction, including any dispute regarding the validity, performance, interpretation, administration, enforcement, enforceability or termination of the Settlement Agreement and no Party shall oppose the reopening and reinstatement of an Action for the purposes of giving effect to this Section. No Party shall ask a Court to make any order or give a direction in respect of any matter of shared jurisdiction unless that order or direction is conditional upon a complementary order or direction being made or given by the other Court with which it shares jurisdiction over that matter.

14.3 If one Party to this Settlement Agreement considers another Party to be in material breach of its obligations under this Settlement Agreement, that Party must provide the breaching Party with written notice of the alleged material breach and provide a reasonable opportunity to cure such breach before taking any action to enforce any rights under this Settlement Agreement.

14.4 If, after the expiration of any cure period as specified in Section 14.3, VW and the Settlement Class Representatives, through Class Counsel, disagree whether there has been a default in payment of the Trust Account and / or Operating Account by VW that has failed to be cured in a timely manner (regardless of the cause for disagreement or non-payment),

then the Settlement Class Representatives, through Class Counsel, shall, subject to Section 14.2, have the right to move the Courts to terminate the Settlement Agreement. If, as a result of rulings by the Courts, VW is found to have failed to fund the Trust Account and / or Operating Account and that such failure to fund was not as a result of a good faith disagreement concerning whether VW materially breached and failed to cure in a timely manner payment obligations, then the Settlement Class Representatives, through Class Counsel, shall have the right, but not the obligation, to terminate this Settlement Agreement upon thirty (30) days' notice if during such notice period the breach is not fully cured. The termination provisions of this Section shall not apply if there is a good faith dispute between VW and the Settlement Class Representatives about the amounts due, even if the Courts should find that VW owes additional amounts as a result of that good faith dispute.

14.5 In the event any one or more of the provisions contained in this Settlement Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision if the Parties agree in writing to proceed as if such invalid, illegal or unenforceable provision had never been included in this Settlement Agreement. Any such agreement shall be reviewed and approved by the Courts before it becomes effective.

14.6 Notwithstanding Section 14.2, any matter specifically related to the Claim of a member of the National Settlement Class shall be determined by the

Ontario Superior Court of Justice, and any matter specifically related to the Claim of a member of the Québec Settlement Class shall be determined by the Superior Court of Québec.

15. OTHER TERMS AND CONDITIONS

- 15.1 This Settlement Agreement shall be binding upon, and enure to the benefit of VW, the Settlement Class Representatives, the Related Action Plaintiffs and all Settlement Class Members, and their respective agents, heirs, executors, administrators, successors, transferees and assigns.
- 15.2 Class Counsel represent that (a) Class Counsel are authorized by the Settlement Class Representatives and the Related Action Plaintiffs to enter into this Settlement Agreement; and (b) Class Counsel are seeking to protect the interests of the Settlement Class.
- 15.3 The waiver by one Party of any breach of this Settlement Agreement by another Party shall not be deemed a waiver of any prior or subsequent breach of this Settlement Agreement.
- 15.4 All time periods in this Settlement Agreement shall be computed in calendar days unless expressly provided otherwise. Also, unless otherwise provided in this Settlement Agreement, in computing any period of time in this Settlement Agreement or by order of a Court, the day of the act or event shall not be included, and the last day of the period shall be included, unless it is a Saturday, a Sunday or a Canadian statutory holiday, or, when the act to be done is a court filing, a day on which the

court is closed, in which case the period shall run until the end of the next day that is not one of the aforementioned days.

15.5 The Parties agree that confidential information made available to them solely through the settlement process was made available on the condition that it not be disclosed to third-parties (other than as provided by the Confidentiality Order). Information provided by VW, Class Counsel, any individual Settlement Class Member or counsel for any individual Settlement Class Member pursuant to the negotiation and implementation of this Settlement Agreement, including trade secrets and highly confidential and proprietary business information, shall continue to be treated as confidential "Settlement Materials or Communications" within the meaning of the Confidentiality Order and shall be subject to all of the provisions thereof. Any materials inadvertently produced shall, upon VW's request, be promptly returned to VW's counsel, and there shall be no implied or express waiver of any privileges, rights and defences.

15.6 This Settlement Agreement sets forth the entire agreement among the Parties with respect to its subject matter. Any agreement purporting to change or modify the terms of this Settlement Agreement must be executed by VW and Lead Class Counsel. The Parties expressly acknowledge that no other agreements, arrangements or understandings not expressed in this Settlement Agreement exist among or between them, and that in deciding to enter into this Settlement Agreement, they have relied solely upon their own judgment and knowledge. This

Settlement Agreement supersedes any prior agreements, understandings, or undertakings (written or oral) by and between the Parties regarding the subject matter of this Settlement Agreement.

- 15.7 In Québec, the Settlement Agreement constitutes a transaction within the meaning of Article 2631 and following of the *Civil Code of Québec*, and the Parties are hereby renouncing to any errors of fact, of law and / or of calculation.
- 15.8 The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais. A French translation of this Settlement Agreement will be prepared immediately after its execution, at the reasonable expense of VW, and filed with the Courts no later than the date that their Pre-Approval Order is granted. The Parties agree that such translation is for convenience only. In the event of any dispute as to the interpretation of this Settlement Agreement, the English language version shall govern.
- 15.9 Whenever this Settlement Agreement requires or contemplates that one of the Parties shall or may give notice to the other, notice shall be provided by e-mail and / or next-day (excluding Saturdays, Sundays and Canadian statutory holidays) express delivery service as follows:

If to VW, then to:

Cheryl Woodin
BORDEN LADNER GERVAIS LLP
22 Adelaide Street West
Bay Adelaide Centre, East Tower
Toronto, ON M5H 4E3
E-mail: cwoodin@blg.com

AND

Robert Bell
LERNERS LLP
130 Adelaide Street West
Suite 2400
Toronto, ON M5H 3P5
E-mail: rbell@lernalers.ca

If to the Settlement Class, then to Lead Class Counsel as follows:

Harvey T. Strosberg, Q.C.
SUTTS, STROSBERG LLP
600 – 251 Goyeau Street
Windsor, ON N9A 6V4
E-mail: harvey@strosbergco.com

AND

Charles M. Wright
SISKINDS LLP
680 Waterloo Street
London, ON N6A 3V8
E-mail: charles.wright@siskinds.com

AND

Daniel Belleau
BELLEAU LAPOINTE LLP
306 D'Youville Place (B-10)
Montréal, QC H2Y 2B6
E-mail: dbelleau@belleaulapointe.com

15.10 The Settlement Class, Settlement Class Representatives, Related Action Plaintiffs and / or VW shall not be deemed to be the drafter of this Settlement Agreement or of any particular provision, nor shall they argue

that any particular provision should be construed against its drafter. All Parties agree that this Settlement Agreement was drafted by counsel for the Parties during extensive arm's-length negotiations. No parol or other evidence may be offered to explain, construe, contradict or clarify its terms, the intent of the Parties or their counsel, or the circumstances under which this Settlement Agreement was made or executed.

15.11 The division of this Settlement Agreement into sections and the insertion of topic and section headings are for convenience of reference only and shall not affect the construction or interpretation of this Settlement Agreement.


15.12 The Parties agree that the Settlement Agreement was reached voluntarily after consultation with competent legal counsel.

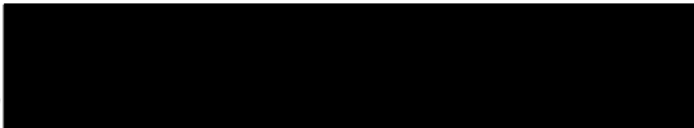
15.13 This Settlement Agreement, including the Individual Release, shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to any conflict of law rule or principle that would mandate or permit application of the substantive law of any other jurisdiction.

15.14 This Settlement Agreement may be signed with an electronic signature and in counterparts, each of which shall constitute a duplicate original.

15.15 The Parties have executed this Settlement Agreement as of the date on
the cover page.

Counsel for DAVID BLACKMORE, THEODORE CHARNISH, CHARLES CRAIK,
MARLIE DEMONTIGNY, AMY FITZGERALD, THERESE H. GADOURY,
JOSEPH GARD, MANDY GIROUX, QUINN HANSON, RON G. HUNTER,
RENEE JAMES, JAMES JENKINS, DENIS JOLICOEUR, LAURA JOLICOEUR,
ROY LOOYENGA, JAY MACDONALD, CHARLES MACKENZIE, JONATHAN MARTIN,
JACK MASTROMATTEI, JOYCE MCPHERSON, LLOYD MEEHAN, SARAH MEEHAN,
BRIAN MITCHELL-WALKER, MICHAEL JOSEPH PARE, MATTHEW ROBERT
QUENNEVILLE, TREVOR RENNER, JOHN SMITH, LUCIANO TAURO,
AL-NOOR WISSANJI and 1006123 B.C. LTD. DBA BLITZKRIEG MOTORCARS

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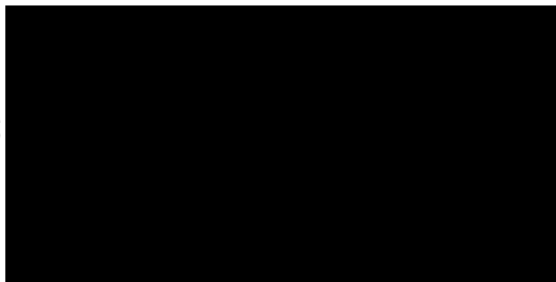
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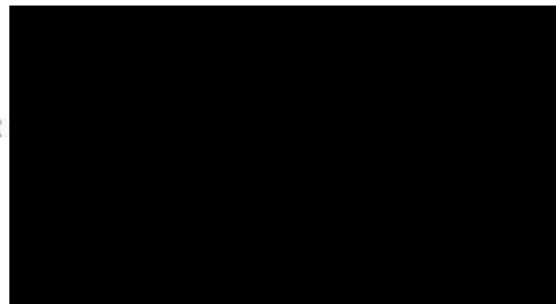
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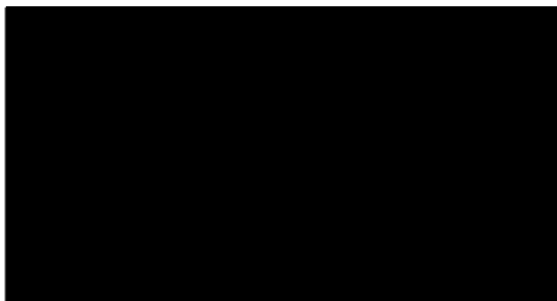


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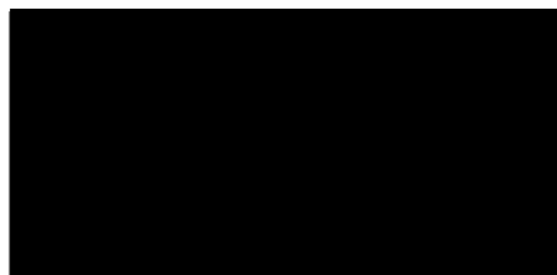


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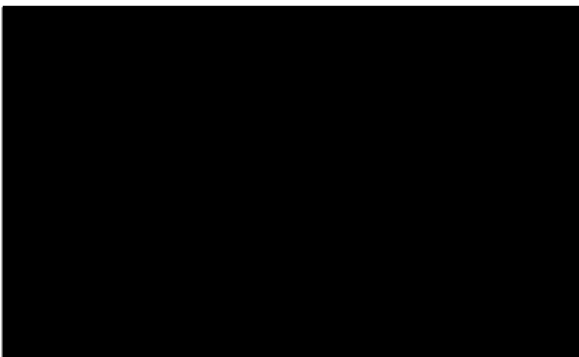


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VOLKSWAGEN GROUP CANADA INC.

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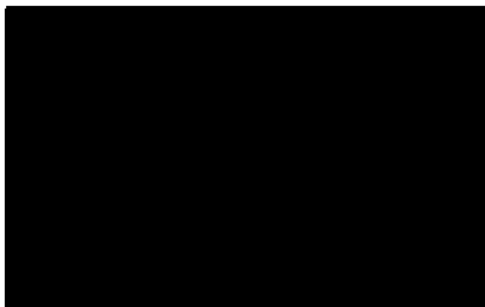
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