

Court File No.: CV-15-537029-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

MATHEW ROBERT QUENNEVILLE, LUCIANO TAURO, MICHAEL
JOSEPH PARE, THERESE H. GADOURY, AMY FITZGERALD,
RENEE JAMES, AL-NOOR WISSANJI, JACK MASTROMATTEI, JAY
MACDONALD, JOSEPH SISSINONS CHIROPRACTIC P.C., ANDREW
JAMES BOWDEN, and CHRISTINA LYN VICKERY

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

Court File No.: CV-15-543402 CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

JUDITH ANNE BECKETT

Plaintiff

- and -

PORSCHE CARS CANADA LTD.,
PORSCHE FINANCIAL SERVICES CANADA,
PORSCHE CARS NORTH AMERICA, INC. and
DR. ING. H.C.F. PORSCHE AKTIENGESELLSCHAFT

Defendants

Court File No.: 500-06-000761-151

SUPERIOR COURT OF QUEBEC

B E T W E E N :

OPTION CONSOMMATEURS

Plaintiff

- and -

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

Defendants

Court File No.: 540-06-000012-155

SUPERIOR COURT OF QUEBEC

B E T W E E N :

FRANK-FORT CONSTRUCTION INC.

Petitioner

- and -

**PORSCHE CARS CANADA, LTD.,
PORSCHE ENTERPRISES INCORPORATED,
PORSCHE CARS NORTH AMERICA, INC. and PORSCHE AG**

Respondents

**VOLKSWAGEN/AUDI/PORSCHE
3.0-LITRE DIESEL SETTLEMENT AGREEMENT**

Dated as of January 9, 2018

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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-, Audi- and Porsche-brand vehicles for model years 2009 to 2016 with 3.0-litre diesel engines, as identified in Schedule “A”, which were originally sold in Canada or leased through VW Credit Canada, Inc. or Porsche Financial Services Canada, Inc. as of November 2, 2015.

The Actions are seeking damages and other relief on behalf of consumers with these affected 3.0-litre diesel vehicles. They allege that these vehicles emit nitrogen oxide emissions up to levels that exceed the standards to which the vehicles were originally certified because software installed in those vehicles allowed them to operate one way when recognizing driving cycles in nitrogen oxide 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.

The matters addressed in this Settlement Agreement relate solely to proceedings in Canada. 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 or Porsche’s obligations under the laws or regulations of any jurisdiction outside Canada. In addition, this Settlement Agreement makes no factual findings or conclusions of law. Nothing in this Settlement Agreement is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any of the Released Claims, or of any wrongdoing or liability of any Released Parties in any civil, criminal, regulatory or administrative proceeding in any court, administrative agency or other tribunal. Nor shall this Settlement Agreement be deemed an admission by any Party as to the merits of any claim or defense.

2. DEFINITIONS

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

- 2.1 “**3.0-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 any 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 and any related events or allegations with respect to Eligible Vehicles. For the avoidance of doubt, the 3.0-Litre Diesel Matter does not encompass 2.0-litre diesel vehicles or claims relating to those vehicles.
- 2.2 “**Actions**” means the Quenneville Action, Beckett Action, Option consommateurs Action, and Frank-Fort 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 “**Amended Confidentiality Order**” means the Ontario Superior Court of Justice’s Amended Confidentiality Order dated March 24, 2017 in the Quenneville Action and the Beckett Action, which has been adopted by acknowledgement in the Option consommateurs Action and Frank-Fort Action.

- 2.5 “**Approval Notice**” means the English and French notice of the Approval Orders published and disseminated to Settlement Class Members, substantially in a form to be approved by the Courts in the Actions.
- 2.6 “**Approval Order**” means a Court’s order and/or judgment approving this Settlement Agreement.
- 2.7 “**Approved Emissions Modification**” means, in the case of a Generation Two Eligible Vehicle, an Emissions Compliant Repair, or, in the case of a Generation One Eligible Vehicle, a Reduced Emissions Modification.
- 2.8 “**Arbitrator**” means one or more persons appointed to serve as an arbitrator for the purposes of Section 8.
- 2.9 “**Authorized Dealer**” means any authorized Volkswagen-, Audi- or Porsche-brand dealer located in Canada and, where explicitly specified, in the United States, as evidenced by a valid dealer sales and service agreement.
- 2.10 “**Beckett Action**” means the action in the Ontario Superior Court of Justice titled *Beckett v. Porsche Cars Canada Ltd. et al.*, with court file number CV-15-543402CP (Toronto, Ontario).
- 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 a Generation One 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 a Generation One Eligible Vehicle, as set forth in Section 4.
- 2.14 “**CBB**” means Canadian Black Book, Inc.

- 2.15 **“CBB Condition Category”** means the CBB condition category applicable to a Generation One 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. For purposes of the Settlement Agreement, all CBB condition categories, with no exclusions, are available for all model year Generation One Eligible Vehicles for the entire Claims Period. The CBB Condition 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 **“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.
- 2.17 **“Claim Form”** means the document that enables a Settlement Class Member to apply for benefits pursuant to this Settlement Agreement, the content of which will be as agreed upon by VW, Porsche and Lead Class Counsel and approved by the Courts in the Actions.
- 2.18 **“Claimant”** means a Settlement Class Member, or a Settlement Class Member’s estate or legal representative, who completes and submits a Claim Form.
- 2.19 **“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.

- 2.20 “**Claims Administrator**” means the third-party agreed to by the Parties and appointed by the Courts in the Actions to administer and oversee the Claims Program.
- 2.21 “**Claims Period**” means the time period from when Claimants can begin submitting Claims through the Claims Period Deadline.
- 2.22 “**Claims Period Deadline**” means the deadline for Eligible Claimants to obtain benefits under this Settlement Agreement, which, subject to Section 15.4, shall be the later of August 31, 2019 or fifteen (15) months from the Effective Date, except that, in the event that by September 14, 2018 there is no Reduced Emissions Modification for all Generation One Eligible Vehicles, the Claims Period Deadline may be extended by VW by up to sixty (60) 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.
- 2.23 “**Claims Portal**” means the English and French website, which is designed and operated by Volkswagen Group Canada Inc. and administered by the Claims Administrator, using a logic for the determination of a Claimant’s eligibility for benefits that is approved by VW and Lead Class Counsel.
- 2.24 “**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.
- 2.25 “**Claims Submission Deadline**” means, except in the case of certain Eligible Owners as provided in Section 2.36, the May 31, 2019 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 May 31, 2018, in which case the Claims Submission Deadline will be the date ninety (90) days before the Claims Period Deadline.
- 2.26 “**Class Counsel**” means the law firms listed as solicitors of record in the Quenneville Action and Beckett Action, namely Camp Fiorante Matthews Mogerma LLP, McKenzie Lake Lawyers LLP, Siskinds LLP, Koskie Minsky LLP, Strosberg Sasso Sutts LLP, Rochon Genova LLP, Roy O’Connor LLP, Branch MacMaster LLP, and the

other law firms that support them as identified in Schedule “G”, as well as the Option consommateurs Counsel, listed as solicitors of record in the Option consommateurs Action, and the Frank-Fort Counsel, listed as solicitors of record in the Frank-Fort Action.

- 2.27 **“Class Update”** means the English and French versions of the notice issued by VW (a) when there is an Emissions Compliant Repair or Reduced Emissions Modification, or (b) when it is determined that there will be no Reduced Emissions Modification for particular Generation One Eligible Vehicles. In addition, Class Updates will, where applicable, provide notice to Settlement Class Members (a) that Eligible Claimants whose Eligible Vehicles are subject to a Recall may still participate in this Settlement Agreement, and (b) of the effect of Sections 4.1.9.1 and 4.1.9.2. VW will provide notice of Class Updates to Lead Class Counsel for review at least two (2) business days prior to their planned issuance, except upon VW showing good cause that is not attributable to its own conduct to the Arbitrator that a reduced time period should apply. A Class Update is deemed to have been issued on the date that it is posted on the Settlement Website. All Class Updates must be posted on the Settlement Website. 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 Recall notice that is posted on the Settlement Website, so long as it provides information to Settlement Class Members consistent with this Section. For the avoidance of doubt, nothing herein prevents VW from providing separate notice to Settlement Class Members of the U.S. EPA’s approval of a Reduced Emissions Modification that will be made available in Canada by Recall.

- 2.28 “**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 3.0-litre diesel vehicles of the Settlement Class Members, as approved by the Courts, or on appeal therefrom, for payment to Class Counsel.
- 2.29 “**Court(s)**” means, with respect to the Quenneville Action and Beckett Action, the Ontario Superior Court of Justice and, with respect to the Option consommateurs Action and Frank-Fort Action, the Superior Court of Québec.
- 2.30 “**Damages Payment(s)**” means the following payments applicable to Eligible Claimants receiving benefits in respect of Generation One Eligible Vehicles:
- 2.30.1 Owner Damages Payment in the case of Eligible Owners of a Generation One Eligible Vehicle;
- 2.30.2 Non-Owner Damages Payment in the case of Eligible Sellers of a Generation One Eligible Vehicle;
- 2.30.3 Non-Owner Damages Payment in the case of Eligible Purchasers of a Generation One Eligible Vehicle that was not under lease from VCCI to a third-party as of November 2, 2015;
- 2.30.4 Fifty percent (50%) of the Non-Owner Damages Payment in the case of Eligible Purchasers who purchased a Generation One Eligible Vehicle that was under lease from VCCI to a third-party as of November 2, 2015;
- 2.30.5 Non-Owner Damages Payment in the case of Eligible Lessees of a Generation One Eligible Vehicle, except as provided in Section 2.30.6; and
- 2.30.6 Fifty percent (50%) of the Non-Owner Damages Payment in the case of Eligible Lessees who sell their Generation One Eligible Vehicle, which, at the time of the sale, has not received the Reduced Emissions Modification.

- 2.31 **“Early Lease Termination”** means the process by which an Eligible Lessee in possession of a leased Generation One 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.
- 2.32 **“Effective Date”** means thirty (30) days after the Settlement Approval Date, unless any appeals are taken from an Approval Order, in which case it means the date upon which all appeals have been fully disposed of 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, Porsche and Class Counsel.
- 2.33 **“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 Owner, Eligible Purchaser, Eligible Seller, or Eligible Lessee.
- 2.34 **“Eligible Claimant”** means a Claimant who has been determined by the Claims Administrator to be eligible to receive benefits under this Settlement Agreement by the Claims Period Deadline.
- 2.35 **“Eligible Lessee”** means the lessee or lessees of an Eligible Vehicle on November 2, 2015 with, in the case of a Generation One Eligible Vehicle, a lease issued by VCCI, and, in the case of a Generation Two Eligible Vehicle, a lease issued by VCCI or PFSC, including Eligible Lessees who purchase the Eligible Vehicle at the conclusion of their lease pursuant to the lease terms, and including Eligible Lessees who transfer their lease to someone else before its conclusion. 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 or PFSC. Nor will a person be considered an Eligible Lessee if they are the transferee of a lease that was active by someone else on November 2, 2015.

- 2.36 “**Eligible Owner**” means the owner or owners of an Eligible Vehicle on November 2, 2015 and continuing through either the Owner Transaction Date or the date of 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 or 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 or PFSC, 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 or PFSC may, prior to the Claims Submission Deadline, make specific arrangements with VW or Porsche, as applicable, 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, during the Claims Period, the Owner Damages Payment or Owner Repair Payment, as the case may be, by receiving the Approved Emissions Modification for their Eligible Vehicle, 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.
- 2.37 “**Eligible Purchaser**” means the owner or owners of an Eligible Vehicle who purchased the Eligible Vehicle after November 2, 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, in the case of Generation One Eligible Vehicles, VCCI, or, in the case of Generation Two Eligible Vehicles, VCCI or PFSC, to a third-party as of November 2, 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.
- 2.38 “**Eligible Seller**” means the owner or owners of an Eligible Vehicle on November 2, 2015, who sells, or otherwise transfers ownership of their Eligible Vehicle after November 2, 2015, but before the Pre-Approval Notice Date. For avoidance of doubt,

Eligible Seller includes an owner of an Eligible Vehicle on November 2, 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 November 2, 2015 but before the Pre-Approval Notice Date.

2.39 “**Eligible Vehicle**” means a Volkswagen-, Audi-, or Porsche-brand vehicle equipped with a 3.0-litre diesel engine, excluding any of the vehicles with a VIN listed in Schedule “C”, that (a) is of a model type and model year listed in Schedule “A”; (b) was originally sold, or leased from VCCI or PFSC, in Canada; (c) is either (i) at any point during the period from November 2, 2015 through the Pre-Approval Notice Date registered in Canada with a provincial ministry of transportation or an equivalent agency, or owned by a dealer in Canada that holds title to the vehicle or holds the vehicle by bill of sale, or (ii) during the entire period from November 2, 2015 through the Pre-Approval Notice Date is registered in a U.S. state Department of Motor Vehicles or equivalent agency; and (d) has not received the Approved Emissions Modification during a period when VW, Porsche, an Authorized Dealer, VCCI, or PFSC 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 or PFSC at the time it received the Approved Emissions Modification. 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:

2.39.1 For Eligible Owners, Eligible Vehicles are those that, as provided by Section 2.80, are Operable or Inoperable on the Owner Transaction Date, except as provided in Section 4.1.1.9;

2.39.2 For Eligible Purchasers, Eligible Vehicles are those that, as provided by Section 2.89, are Operable or Inoperable on the Purchaser Transaction Date; and

2.39.3 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 2.57, are Operable or Inoperable on the Lessee Transaction Date, except for those who sell their Eligible Vehicle.

2.40 **“Emissions Compliant Repair”** means the repair to the emissions system of a Generation Two Eligible Vehicle that brings it into full compliance with the originally certified emissions standards, which repair has been approved by the U.S EPA and is available by Recall in Canada and the United States. The Recall for the Emissions Compliant Repair may only be performed by an Authorized Dealer of the same brand as a Generation Two Eligible Vehicle.

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

2.41.1 Owners of a Totalled Vehicle, including insurance companies;

2.41.2 Lessees of an Eligible Vehicle leased from a leasing company other than VCCI or PFSC;

2.41.3 Owners of an Eligible Vehicle on November 2, 2015 who sell or otherwise transfer their Eligible Vehicle after the Pre-Approval Notice Date other than through a Buyback or Buyback With Trade-In, except for those owners who, on or 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;

2.41.4 Owners of an Eligible Vehicle with a branded title of “Dismantled”, “Junk”, “Salvage”, or “Mechanically Unfit” on November 2, 2015;

2.41.5 Owners of an Eligible Vehicle that was acquired from a junkyard or salvage yard on or after November 2, 2015;

2.41.6 VW’s and Porsche’s officers, directors and employees; participants in VW’s Internal Lease Program and the Porsche Associate Lease Program; VW’s and Porsche’s affiliates and those affiliates’ officers, directors and employees; and Authorized Dealers and those dealers’ officers and directors;

- 2.41.7 Presiding judges in the Actions and Class Counsel; and
- 2.41.8 All those otherwise in the Settlement Class that timely and properly opt out of the Settlement Class.
- 2.42 “**Extended Emissions Warranty**” means the extended emissions warranty received in connection with obtaining an Approved Emissions Modification by Recall.
- 2.43 “**Fair Market Value**” means an Eligible Vehicle’s Wholesale Value 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 Claims Program.
- 2.46 “**Frank-Fort Action**” means the action in the Superior Court of Québec titled *Frank-Fort Construction Inc. v .Porsche Cars Canada, Ltd. et al.*, with court file number 540-06-000012-155 (Laval, Québec).
- 2.47 “**Frank-Fort Counsel**” means Lex Group Inc.
- 2.48 “**Frank-Fort Settlement Class**” means all Settlement Class Members whose Porsche-brand Eligible Vehicles are identified based on reasonably available information as having been registered in Québec on November 2, 2015.
- 2.49 “**Generation One Eligible Vehicle**” refers to Eligible Vehicles of the following makes, models and model years: Volkswagen Touareg (2009-2012) and Audi Q7 (2009-2012). Generation One includes two Sub-Generations, consisting of:

- 2.49.1 “**Generation 1.1**” – Volkswagen Touareg (2009-2010) and Audi Q7 (2009-2010); and
- 2.49.2 “**Generation 1.2**” – Volkswagen Touareg (2011-2012) and Audi Q7 (2011-2012).
- 2.50 “**Generation Two Eligible Vehicle**” refers to Eligible Vehicles of the following makes, models and model years: Volkswagen Touareg (2013-2016), Porsche Cayenne (2013-2016), Audi Q7 (2013-2015), Audi A6 (2014-2016), Audi A7 (2014-2016), Audi A8 (2014-2016), Audi A8L (2014-2015), and Audi Q5 (2014-2016). Generation Two includes three Sub-Generations, consisting of:
- 2.50.1 “**Generation 2 PC**” – Audi A6 (2014-2016), Audi A7 (2014-2016), Audi A8 (2014-2016), Audi A8L (2014-2015), and Audi Q5 (2014-2016);
- 2.50.2 “**Generation 2.1 SUV**” – Volkswagen Touareg (2013-2014), Porsche Cayenne (2013-2014), and Audi Q7 (2013-2015); and
- 2.50.3 “**Generation 2.2 SUV**” – Volkswagen Touareg (2015-2016) and Porsche Cayenne (2015-2016).
- 2.51 “**Individual Release**” means the individual release described in Section 5.7.
- 2.52 “**Inoperable**” means, in relation to an Eligible Vehicle, one that ceases to be Operable and that is not repaired at a Settlement Class Member’s expense to make it Operable.
- 2.53 “**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.
- 2.54 “**Issuing Bank**” means the bank authorized under Schedule I or Schedule II of the *Bank Act*, S.C. 1991, c. 46, which is issuing the Letter of Credit.

- 2.55 “**Lead Class Counsel**” means the law firms of Camp Fiorante Matthews Mogerman LLP, McKenzie Lake Lawyers LLP, Option consommateurs Counsel, and Frank-Fort Counsel, or as those firms may otherwise designate in writing.
- 2.56 “**Leased Vehicle Repair Payment**” means a cash payment of \$2,000.00.
- 2.57 “**Lessee Transaction Date**” means, as applicable, (a) the date on which an Eligible Lessee of a Generation One Eligible Vehicle effects Early Lease Termination; (b) in the case of an Eligible Vehicle that is Operable, the date on which an Eligible Lessee is an Eligible Claimant that has received the Approved Emissions Modification for their Eligible Vehicle; (c) the last day of the lease where there is no Approved Emissions Modification 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 a Generation One Eligible Vehicle that is Operable, and if, by September 14, 2018, there is no Reduced Emissions Modification for the Eligible Vehicle, the date on which the Buyback or Buyback With Trade-In is completed by an Eligible Lessee who purchased the leased Generation One Eligible Vehicle at the conclusion of the lease, but before the Claims Submission Deadline, pursuant to the terms of the lease.
- 2.58 “**Letter of Credit**” means one or more irrevocable standby letters of credit, denominated in Canadian Dollars, issued by the Issuing Bank in favour of the Claims Administrator for the benefit of Eligible Claimants, for the purpose of providing for payment of Claims in accordance with the terms of this Settlement Agreement, in the event of an L/C Trigger Ruling under Section 14.4. The Letter of Credit shall be kept confidential and shall not be filed with a Court, or its terms disclosed in any other manner, unless and until a Court otherwise directs or a dispute arises between the Parties concerning its interpretation or application. If submission of the Letter of Credit is required for resolution of a dispute or is otherwise ordered by a Court, the Parties will

make their best efforts to have the Letter of Credit submitted to the Court in camera or filed under seal.

- 2.59 “**Loan Forgiveness**” means that if, by September 14, 2018, there is no Reduced Emissions Modification for an Eligible Owner’s Generation One Eligible Vehicle, 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 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 September 14, 2018 identifying that there is a Reduced Emissions Modification for the Generation One 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.
- 2.60 “**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, PFSC, or any other lender.
- 2.61 “**National Settlement Class**” means all Settlement Class Members who are not in the Option consommateurs Settlement Class or the Frank-Fort Settlement Class.
- 2.62 “**Non-Authorized Dealer**” means any automobile dealer or seller in business as of the Pre-Approval Notice Date that is located in Canada and that is not an Authorized Dealer.
- 2.63 “**Non-Owner Damages Payment**” means a payment for fifty percent (50%) of the Owner Damages Payment that would apply to a Generation One Eligible Vehicle based

on its make, model and model year if the Eligible Vehicle was owned by an Eligible Owner.

- 2.64 “**Non-Owner Repair Payment**” means a payment for fifty percent (50%) of the Owner Repair Payment that would apply to a Generation Two Eligible Vehicle based on its make, model and model year if the Eligible Vehicle was owned by an Eligible Owner.
- 2.65 “**Notice Administrator**” means the third-party 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.
- 2.66 “**Notice Expenses**” means all reasonable costs and expenses, plus applicable taxes, incurred to implement the Notice Program.
- 2.67 “**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.
- 2.68 “**Objection Deadline**” means the deadline by which a Settlement Class Member’s objection to this 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.
- 2.69 “**Operable**” means an Eligible Vehicle that is currently capable of being driven under the power of its own 3.0-litre diesel engine and, subject to mechanical issues that can be repaired, currently capable of being driven lawfully and safely on public roads. A vehicle cannot be considered Operable if it had a branded title of “Dismantled”, “Junk”, “Salvage”, or “Mechanically Unfit” on November 2, 2015, or was acquired from a junkyard or salvage yard on or after November 2, 2015.
- 2.70 “**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 this Settlement Agreement and for payment of expenses related to the implementation of this Settlement Agreement.

- 2.71 “**Opt-Out Deadline**” means the last day that a Settlement Class Member may opt out of the Settlement Class, which date will be sixty (60) days after the Pre-Approval Notice Date. The Opt-Out Deadline shall be the same date as the Objection Deadline.
- 2.72 “**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.
- 2.73 “**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 this Settlement Agreement.
- 2.74 “**Option consommateurs Action**” means the action in the Superior Court of Québec titled *Option consommateurs v. Volkswagen Group Canada Inc. et al.*, with court file number 500-06-000761-151 (Montreal, Québec).
- 2.75 “**Option consommateurs Counsel**” means Belleau Lapointe LLP.
- 2.76 “**Option consommateurs Settlement Class**” means all Settlement Class Members whose Volkswagen- or Audi-brand Eligible Vehicles are identified based on reasonably available information as having been registered in Québec on November 2, 2015.
- 2.77 “**Original In Service Date**” means the earliest date as identified by an Authorized Dealer that an Eligible Vehicle was originally leased or sold to a retail customer.
- 2.78 “**Owner Damages Payment**” means the amount payable to an Eligible Owner based on the make, model and model year of the Eligible Owner’s Generation One Eligible Vehicle as set out in Schedule “D”.

- 2.79 “**Owner Repair Payment**” means the amount payable to an Eligible Owner based on the make, model and model year of the Eligible Owner’s Generation Two Eligible Vehicle as set out in Schedule “E”.
- 2.80 “**Owner Transaction Date**” means, as applicable, (a) the date on which an Eligible Owner of a Generation One Eligible Vehicle that is Operable, completes the Buyback, or Buyback With Trade-In or; (b) in the case of an Eligible Vehicle that is Operable, the date on which an Eligible Owner is an Eligible Claimant that has received the Approved Emissions Modification for their Eligible Vehicle; or (c) in the case of an Eligible Vehicle that is Inoperable, the date on which an Eligible Owner completes the Surrender For Inoperability.
- 2.81 “**Parties**” means VW, Porsche, the Settlement Class Representatives and the Related Action Plaintiffs, collectively.
- 2.82 “**PFSC**” means Porsche Financial Services Canada, Inc.
- 2.83 “**Porsche**” means Porsche Cars Canada, Ltd., Porsche Cars North America Inc., PFSC, Porsche Enterprises Incorporated, and Dr. Ing h.c.F. Porsche Aktiengesellschaft.
- 2.84 “**Porsche Associate Lease Program**” means the program through which employees may lease vehicles from Porsche for themselves and certain members of their families. For purposes of this Settlement Agreement, participants in the Porsche Associate Lease Program shall include anyone in whose name a vehicle is leased under the program.
- 2.85 “**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.
- 2.86 “**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.

- 2.87 “**Pre-Approval Order**” means a Court’s order certifying/authorizing the Settlement Class for settlement purposes only and approving the Pre-Approval Notice and Notice Program.
- 2.88 “**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 or PFSC, a copy of the lease agreement with VCCI or PFSC relating to the vehicle.
- 2.89 “**Purchaser Transaction Date**” means, as applicable, (a) in the case of an Eligible Vehicle that is Operable, the date on which an Eligible Purchaser is an Eligible Claimant that has received the Approved Emissions Modification for their Eligible Vehicle; (b) in the case of an Eligible Vehicle that is Inoperable, the date on which an Eligible Purchaser completes the Surrender For Inoperability; or (c) in the case of a Generation One Eligible Vehicle that is Operable, and if, by September 14, 2018, there is no Reduced Emissions Modification for the Eligible Vehicle, the date on which the Eligible Purchaser completes the Buyback or Buyback With Trade-In.
- 2.90 “**Québec Settlement Class**” means the Option consommateurs Settlement Class and the Frank-Fort Settlement Class.
- 2.91 “**Quenneville Action**” means the action in the Ontario Superior Court of Justice titled *Matthew Robert Quenneville et al. v. Volkswagen Group Canada Inc. et al.*, with court file number CV-15-537029-00CP (Toronto, Ontario).
- 2.92 “**Recall**” means a recall campaign by VW or Porsche, as applicable, for implementing an Approved Emissions Modification. A Recall entitles owners and lessees of vehicles subject to the Recall to receive an Approved Emissions Modification and an Extended Emissions Warranty, but does not provide for benefits under this Settlement Agreement. A Recall will launch in Canada following the launch of the same Recall in the United States. Eligible Claimants subject to a Recall may still participate in this Settlement Agreement.

- 2.93 “**Reduced Emissions Modification**” means, if proposed by VW and approved by the U.S. EPA, a change to the emissions system of a Generation One Eligible Vehicle to reduce nitrogen oxide emissions, which is available by Recall in Canada and the United States. A Recall for a Reduced Emissions Modification may only be performed by an Authorized Dealer of the same brand as a Generation One Eligible Vehicle.
- 2.94 “**Reduced Performance**” means any of the following changes to the performance of a Generation Two vehicle that has received the Emissions Compliant Repair: (a) a reduction in calculated fuel economy using the U.S. EPA formula of more than three (3) miles per gallon; (b) a decrease of greater than five percent (5%) in peak horsepower; or (c) a decrease of greater than five percent (5%) in peak torque. These performance attributes are being measured by VW pursuant to industry standards in connection with the submission of the Emissions Compliant Repair to the U.S. EPA. VW and/or Porsche, as applicable, shall disclose any impact to these performance attributes in the relevant Class Update pursuant to Section 4.2.4.
- 2.95 “**Related Action Plaintiffs**” means, as identified in Schedule “G”, each of the putative representative plaintiffs in the pending litigation listed therein.
- 2.96 “**Released Claims**” has the definition set forth in Section 5.
- 2.97 “**Released Parties**” has the definition set forth in Section 5.
- 2.98 “**Releasing Parties**” has the definition set forth in Section 5.
- 2.99 “**Repair Payment(s)**” means the following payments applicable to Eligible Claimants receiving benefits in respect of Generation Two Eligible Vehicles:
- 2.99.1 Owner Repair Payment in the case of Eligible Owners of a Generation Two Eligible Vehicle;
- 2.99.2 Non-Owner Repair Payment in the case of Eligible Sellers of a Generation Two Eligible Vehicle;

- 2.99.3 Non-Owner Repair Payment in the case of Eligible Purchasers of a Generation Two Eligible Vehicle that was not under lease from VCCI or PFSC to a third-party as of November 2, 2015;
- 2.99.4 Fifty percent (50%) of the Leased Vehicle Repair Payment in the case of Eligible Purchasers who purchased a Generation Two Eligible Vehicle that was under lease from VCCI or PFSC to a third-party as of November 2, 2015;
- 2.99.5 Leased Vehicle Repair Payment in the case of Eligible Lessees of a Generation Two Eligible Vehicle, except as provided in Section 2.99.6; and
- 2.99.6 Fifty percent (50%) of the Leased Vehicle Repair Payment in the case of Eligible Lessees who sell their Generation Two Eligible Vehicle, which, at the time of the sale, has not received the Emissions Complaint Repair.
- 2.100 “**Second Opt-Out Period**” means, if, by September 14, 2018, there is no Reduced Emissions Modification for certain Generation One Eligible Vehicles, the period from September 15, 2018 until November 15, 2018, during which Eligible Owners, Eligible Lessees and Eligible Purchasers who own such Generation One Eligible Vehicles, and who have not received benefits under this Settlement Agreement, may opt out of the Settlement Class.
- 2.101 “**Settlement Agreement**” means this proposed settlement agreement, including its schedules, exhibits, and any supplemental agreements, as amended and approved.
- 2.102 “**Settlement Approval Date**” means the date on which the last Approval Order is issued.
- 2.103 “**Settlement Approval Hearing**” means the hearing before a Court for the purpose of determining whether to issue an Approval Order.
- 2.104 “**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 November 2, 2015, were owners or lessees of, or, in the case of Non-Authorized

Dealers, held title to or held by bill of sale dated on or before November 2, 2015, an Eligible Vehicle; or (b) after November 2, 2015, but before the Claims Submission Deadline, become owners of, or, in the case of Non-Authorized Dealers, hold title to or hold by bill of sale dated after November 2, 2015, an Eligible Vehicle and continue to be the owners as at the Purchaser Transaction Date.

- 2.105 “**Settlement Class Member**” means a member of the Settlement Class.
- 2.106 “**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.
- 2.107 “**Settlement Class Release**” means the release and waiver by Settlement Class Members described in Section 5, not including the Individual Release, which will take effect upon entry of the Approval Orders in the Actions.
- 2.108 “**Settlement Class Representatives**” means Option consommateurs, Judith Anne Beckett, Frank-Fort Construction Inc., and the following representative plaintiffs named in the Quenneville Action: Joseph Sissinons Chiropractic P.C., Andrew James Bowden, and Christina Lyn Vickery.
- 2.109 “**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.
- 2.110 “**Settlement Website**” means, collectively, the public Internet websites described in Section 10.6.
- 2.111 “**Surrender For Inoperability**” means the process for surrendering an Eligible Vehicle that is Inoperable in exchange for an applicable Damages Payment or Repair Payment, but not Vehicle Value, as set forth in Sections 4.1.6 or 4.2.4.
- 2.112 “**Totalled Vehicle**” means an Eligible Vehicle whose title was transferred by an Eligible Owner to an insurance company because it was totalled or appraised as a total loss.

- 2.113 “**U.S. EPA**” means the United States Environmental Protection Agency.
- 2.114 “**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.
- 2.115 “**Vehicle Value**” means, for purposes of a Buyback and Buyback With Trade-In, a Generation One Eligible Vehicle’s Wholesale Value as of November 2, 2015. In respect of a Generation One Eligible Vehicle to which the highest mileage CBB Condition Category applies, the Eligible Vehicle’s mileage as of November 2, 2015 will be established according to the calculation set forth in Schedule “F” to determine the Vehicle Value.
- 2.116 “**VIN**” means a vehicle identification number.
- 2.117 “**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 or PFSC as of November 2, 2015.
- 2.118 “**VW**”, “**VW Entity**” or “**VW Entities**” mean, individually and collectively, Volkswagen Group Canada Inc., VCCI, Volkswagen Aktiengesellschaft, Volkswagen Group of America, Inc., Audi of America Inc. (not a legal entity), Audi Canada, Inc. and Audi Aktiengesellschaft.
- 2.119 “**Wholesale Value**” means CBB’s wholesale value for a Generation One Eligible Vehicle, with no regional adjustment, as at the relevant date based upon the vehicle’s CBB Condition Category on the date of surrender.

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

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

- 3.2 Any certification/authorization of the Settlement Class, and any motion for a Pre-Approval Order seeking certification/authorization of the Settlement Class, shall be for settlement purposes only, and VW and Porsche retain all rights to assert that certification/authorization of a class in the Actions for any other purpose is not appropriate.
- 3.3 Except as otherwise agreed to by the Parties, 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 all of the Actions, disclosure by the Parties of this Settlement Agreement and Pre-Approval Orders shall be consistent with Section 9.
- 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

VW will, through the Claims Administrator, 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". For the avoidance of doubt, VW will not pay more for a single Generation One Eligible Vehicle than the applicable Buyback, Buyback With Trade-In, or Early Lease Termination and Damages Payment(s), and will not pay more for a single Generation Two Eligible Vehicle than the applicable Repair Payment(s), provided for under this Settlement Agreement.

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 this section.

4.1 **Benefits in Relation to Generation One Eligible Vehicles**

4.1.1 **Eligible Owners of Generation One Eligible Vehicles.**

4.1.1.1 **Buyback.** An Eligible Owner of a Generation One Eligible Vehicle that continues to be the owner of the Eligible Vehicle through the Owner Transaction Date may sell the Eligible Vehicle to VW and receive Vehicle Value. Eligible Owners that choose this option will also receive the Owner Damages Payment.

4.1.1.2 **Buyback With Trade-In.** An Eligible Owner of a Generation One Eligible Vehicle that continues to be the owner of the Eligible Vehicle through the Owner Transaction Date may trade in the Eligible Vehicle to an Authorized Dealer in Canada and apply the Fair Market Value of the Eligible Vehicle towards the purchase price of a new Volkswagen- or Audi-brand vehicle, or any used Volkswagen Group-brand vehicle, from that Authorized Dealer. Eligible Owners that 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.

4.1.1.3 **Extended Vehicle Warranty or Service Plan Reimbursement.** An Eligible Owner of a Generation One Eligible Vehicle that completes a Buyback or Buyback With Trade-In may receive from VW a reimbursement on any unused and otherwise nonrefundable portion of the purchase price of the following extended vehicle warranties and/or vehicle service contracts or plans purchased prior to the Pre-Approval

Notice Date from Authorized Dealers in Canada, including any termination fees: (a) mechanical breakdown protection contracts, and (b) Audi Care Prepaid Maintenance contracts (the “**Extended Vehicle Warranties**”). The reimbursement, if any, shall be prorated to account for any unused months (if the Extended Vehicle Warranty is time-based), service/maintenance events (if the Extended Vehicle Warranty is based on service events), and/or mileage (if the Extended Vehicle Warranty is mileage-based), as applicable. The process for making a claim for reimbursement of an Extended Vehicle Warranty is set forth in Schedule “I”.

4.1.1.4 **Physical Condition.** Generation One Eligible Vehicles that have (a) undergone intentional physical or mechanical stripping or removal of any Original Equipment Manufacturer (“**OEM**”) equipment or parts accounted for in the Buyback or Buyback With Trade-In, or (b) been damaged, vandalized, or otherwise altered for no legitimate purpose in a manner that reduces the vehicle’s value as calculated for the Buyback or Buyback With Trade-In, shall be deemed ineligible for the Buyback or Buyback With Trade-In, or eligible for reduced compensation, which decision by the Claims Administrator shall be subject to the appeal process set out in Section 6.7. The following acts, among others, may prevent owners of a Generation One Eligible Vehicle from obtaining some or all of the Buyback and Buyback With Trade-In benefits: (1) removal of any OEM equipment or parts including, but not limited to, removal of lights, wheel covers, navigation systems or radios, (2) permanent alteration of the vehicle’s appearance, such as by painting, keying or drawing in a manner that negatively affects the vehicle’s resale value, and/or (3) modification of the vehicle’s components in a way that alters or affects the vehicle’s performance.

4.1.1.5 **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 Dealer shall provide, or cause to be provided, such proof.

4.1.1.6 Loan Obligations. For Eligible Owners of a Generation One Eligible Vehicle 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.

4.1.1.7 Loan Forgiveness. In the event that, by September 14, 2018, there is no Reduced Emissions Modification for the Generation One 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.

4.1.1.8 **Reduced Emissions Modification Option.** An Eligible Owner that continues to be the owner of the Generation One Eligible Vehicle through the Owner Transaction Date may receive the Owner Damages Payment by getting, if available, the Reduced Emissions Modification with Extended Emissions Warranty.

4.1.1.9 **Totalled Vehicles.** An Eligible Owner that, on or after the Pre-Approval Notice Date, transfers title of their Generation One 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.

4.1.2 **Eligible Lessees of Generation One Eligible Vehicles with Active Leases.**

4.1.2.1 **Early Lease Termination.** An Eligible Lessee with an active lease of a Generation One Eligible Vehicle on the Lessee Transaction Date may choose Early Lease Termination and receive the Non-Owner Damages Payment.

4.1.2.2 **Reduced Emissions Modification.** An Eligible Lessee with an active lease of a Generation One Eligible Vehicle on the Lessee Transaction Date may receive the Non-Owner Damages Payment by getting, if available, the Reduced Emissions Modification with Extended Emissions Warranty. If there is no Reduced Emissions Modification for the Eligible Vehicle during the term of the lease and the term of the lease ends before September 14, 2018, then, provided that the Eligible Vehicle is not purchased by the Eligible Lessee pursuant to the lease terms, the Eligible

Lessee may receive the Non-Owner Damages Payment, which is payable on the last day of the Eligible Lessee's lease.

4.1.3 Eligible Lessees of Generation One Eligible Vehicles with Concluded Leases.

4.1.3.1 Transfer or Conclusion of the Lease. An Eligible Lessee of a Generation One Eligible Vehicle who transfers their lease before the Claims Submission Deadline or with a concluded lease before the Claims Submission Deadline, and who does not purchase the Eligible Vehicle at the conclusion of the lease pursuant to the lease terms, may receive the Non-Owner Damages Payment.

4.1.3.2 Reduced Emissions Modification. An Eligible Lessee of a Generation One Eligible Vehicle with a concluded lease before the Claims Submission Deadline, and who purchases the Eligible Vehicle at the conclusion of the lease pursuant to the lease terms, may receive the Non-Owner Damages Payment by getting, if available, the Reduced Emissions Modification with Extended Emissions Warranty, subject to Section 4.1.14.1. If such Eligible Lessee sells the Eligible Vehicle, and the Eligible Vehicle has not received the Reduced Emissions Modification, such Eligible Lessee may receive fifty percent (50%) of the Non-Owner Damages Payment payable on the date of the sale upon satisfactory proof of sale.

4.1.4 Eligible Sellers of Generation One Eligible Vehicles. An Eligible Seller of a Generation One Eligible Vehicle may receive the Non-Owner Damages Payment upon satisfactory proof of sale.

4.1.5 Eligible Purchasers of Generation One Eligible Vehicles.

4.1.5.1 Eligible Purchasers of Generation One Eligible Vehicles that Were Not under Lease from VCCI to a Third-Party on November 2, 2015. An Eligible Purchaser that owns a Generation One Eligible Vehicle that

was not under lease from VCCI to a third-party on November 2, 2015 may receive the Non-Owner Damages Payment by getting, if available, the Reduced Emissions Modification with Extended Emissions Warranty, subject to Section 4.1.14.1.

4.1.5.2 Eligible Purchasers of Generation One Eligible Vehicles Leased from VCCI to a Third-Party on November 2, 2015. An Eligible Purchaser that owns a Generation One Eligible Vehicle that was under lease from VCCI to a third-party on November 2, 2015, may receive fifty percent (50%) of the Non-Owner Damages Payment by getting, if available, the Reduced Emissions Modification with Extended Emissions Warranty, subject to Section 4.1.14.1.

4.1.6 Surrender For Inoperability. An Eligible Claimant that on the Owner Transaction Date, Purchaser Transaction Date or Lessee Transaction Date, as the case may be, owns a Generation One Eligible Vehicle that is Inoperable may surrender all right, title, and interest in, and possession of, the Eligible Vehicle to VW at an Authorized Dealer of the same brand as the Eligible Vehicle 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 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 Claimant's lenders towards satisfaction of their Loan Obligation, and if that amount is not sufficient to satisfy their Loan Obligation in full, the Eligible Claimant is 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.

4.1.7 **Free AdBlue[®] Refill and Oil Change.** An Eligible Claimant in possession of an Generation One Eligible Vehicle at the time of receiving an offer for benefits shall be entitled to one AdBlue[®] refill and one oil change (including motor oil, motor oil filter, and associated labor) free of charge for that Eligible Vehicle, if Operable, at a participating Authorized Dealer of the same brand as the Eligible Vehicle. An Eligible Claimant who obtains a Buyback, Buyback With Trade-In, Early Lease Termination or Surrender For Inoperability prior to claiming the AdBlue[®] refill and oil change shall no longer be entitled to that AdBlue refill and oil change. The process for claiming the AdBlue[®] refill and oil change is set forth in Schedule “I”.

4.1.8 **Reduced Emissions Modification Programs.**

4.1.8.1 **Reduced Emissions Modification Option.** If there is a Reduced Emissions Modification for Generation One Eligible Vehicles, it will be performed at no cost to a Settlement Class Member, except that any costs to complete the Reduced Emissions Modification that are necessitated by reason of an Aftermarket Modification to a Generation One Eligible Vehicle are not included and a Settlement Class Member is responsible to pay those costs in order to receive the Reduced Emissions Modification. It is possible that there may be Reduced Emissions Modifications for some Generation One Eligible Vehicles but not for others.

4.1.8.2 **Reduced Emissions Modification Disclosure.** When there is a Reduced Emissions Modification for a particular Generation One Eligible Vehicle, VW shall provide a Class Update with clear and accurate written disclosure based on the best available information regarding the impacts of the Reduced Emissions Modification on applicable Generation One

Eligible Vehicles (the “**REM Disclosure**”). The REM Disclosure will describe in plain language: (a) the Reduced Emissions Modification generally; (b) any software changes required to perform the Reduced Emissions Modification; (c) all hardware changes required to perform the Reduced Emissions Modification; (d) to the extent VW elects not to retain original parts associated with the calibration of the emissions control systems for future service of vehicles that do not receive a Reduced Emissions Modification, an explanation in plain language that such parts may not be available after a certain time; (e) any and all reasonably predictable changes resulting from the Reduced 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 Reduced Emissions Modification by Recall; and (g) any limitations of the Reduced 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.

4.1.9 **Reduced Emissions Modification Recall.**

4.1.9.1 **Available Reduced Emissions Modification Before Start of Claims**

Program. In the event that, prior to the commencement of the Claims Program, an Eligible Claimant receives a Reduced Emissions Modification pursuant to a Recall, there will be no impact on such Eligible Claimant’s choice of eligible benefits under this Settlement Agreement.

4.1.9.2 **Available Reduced Emissions Modification After Start of Claims**

Program. In the event that, after the commencement of the Claims Program, an Eligible Claimant receives a Reduced Emissions

Modification pursuant to a Recall, the Eligible Claimant is only eligible to receive the applicable Damages Payment, notwithstanding anything to the contrary in this Settlement Agreement.

4.1.10 **Extended Emissions Warranty.** Each Eligible Owner, Eligible Lessee, or Eligible Purchaser who is eligible for and receives the Reduced Emissions Modification shall also, pursuant to the Recall, receive an Extended Emissions Warranty, which is a transferrable warranty. The Extended Emissions Warranty shall cover all components that are replaced as part of the Reduced Emissions Modification, any component that, as determined by the U.S. EPA, can reasonably be impacted by effects of the Reduced Emissions Modification, as well as the engine sub-assembly that consists of the assembled block, crankshaft, cylinder head, camshaft, and valve train. The Extended Emissions 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. All existing warranty provisions remain in effect. The Extended Emissions Warranty shall not void or supersede any existing warranty covering the Generation One Eligible Vehicle.

4.1.11 **Warranty Period.** The warranty period for the Extended Emissions Warranty for Generation One Eligible Vehicles shall be the greater of:

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

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

4.1.13 Disclosure to Subsequent Purchasers. For each Generation One Eligible Vehicle that receives the Reduced Emissions Modification, 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 a Generation One Eligible Vehicle in the possession of an Eligible Claimant, which has received the Reduced Emissions Modification, was not labelled accordingly following completion of the Reduced 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 Dealer.

4.1.14 No Reduced Emissions Modification.

4.1.14.1 Owned Vehicles. If, by September 14, 2018, there is no Reduced Emissions Modification for any particular Generation One Eligible Vehicle, 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 this 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, 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 4.1.1.1 through 4.1.1.7 and Schedules "B" and "F" will apply to them as if they are Eligible Owners for purposes thereof, except that they will receive their applicable Damages Payment. For avoidance of doubt, if a Class Update is issued on or before September 14, 2018 identifying that there is a Reduced Emissions Modification for Generation One Eligible Vehicles, this Section shall not be applicable to owners of such Eligible Vehicles.

4.1.14.2 Active Leases.

- (a) If, by September 14, 2018, there is no Reduced Emissions Modification for particular Generation One Eligible Vehicles, Eligible Lessees with an active lease of such Eligible Vehicles where the term of the lease ends after September 14, 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.
- (b) If, by September 14, 2018, there is no Reduced Emissions Modification for particular Generation One Eligible Vehicles, Eligible Lessees with an active lease of such Eligible Vehicles where the term of the lease ends after September 14, 2018, including after the Claims Period Deadline, may choose Early Lease Termination and receive the Non-Owner Damages Payment.

4.2 **Benefits in Relation to Generation Two Eligible Vehicles.**

4.2.1 **Eligible Owners of Generation Two Eligible Vehicles.**

4.2.1.1 **Emissions Compliant Repair Option.** An Eligible Owner that continues to be the owner of the Generation Two Eligible Vehicle through the Owner Transaction Date may receive the Owner Repair Payment by getting the Emissions Compliant Repair with Extended Emissions Warranty.

4.2.1.2 **Totalled Vehicles.** An Eligible Owner that, on or after the Pre-Approval Notice Date, transfers title of a Generation Two Eligible Vehicle to an insurance company because the Eligible Vehicle was totalled or appraised as a total loss, may receive the Owner Repair Payment only.

4.2.2 **Eligible Lessees of Generation Two Eligible Vehicles with Active Leases.**

4.2.2.1 **Emissions Compliant Repair.** An Eligible Lessee with an active lease of a Generation Two Eligible Vehicle on the Lessee Transaction Date may receive the Leased Vehicle Repair Payment by getting the Emissions Compliant Repair with Extended Emissions Warranty.

4.2.3 **Eligible Lessees of Generation Two Eligible Vehicles with Concluded Leases.**

4.2.3.1 **Transfer or Conclusion of the Lease.** An Eligible Lessee of a Generation Two Eligible Vehicle who transfers their lease before the Claims Submission Deadline or with a concluded lease before the Claims Submission Deadline, and who does not purchase the Eligible Vehicle at the conclusion of the lease pursuant to the lease terms, may receive the Leased Vehicle Repair Payment.

4.2.3.2 **Emissions Compliant Repair.** An Eligible Lessee of a Generation Two Eligible Vehicle with a concluded lease before the Claims Submission Deadline, and who purchases the Eligible Vehicle at the conclusion of the lease pursuant to the lease terms, may receive the Leased Vehicle Repair Payment by getting the Emissions Compliant Repair with Extended Emissions Warranty. If such Eligible Lessee sells the Eligible Vehicle, and the Eligible Vehicle has not been repaired with the Emissions Compliant Repair, such Eligible Lessee may receive fifty percent (50%) of the Leased Vehicle Repair Payment payable on the date of the sale upon satisfactory proof of sale.

4.2.4 **Eligible Sellers of Generation Two Eligible Vehicles.** An Eligible Seller of a Generation Two Eligible Vehicle may receive the Non-Owner Repair Payment upon satisfactory proof of sale.

4.2.5 **Eligible Purchasers of Generation Two Eligible Vehicles.**

4.2.5.1 **Eligible Purchasers of Generation Two Eligible Vehicles that Were Not under Lease from VCCI or PFSC to a Third-Party on**

November 2, 2015. An Eligible Purchaser that owns a Generation Two Eligible Vehicle that was not under lease from VCCI or PFSC to a third-party on November 2, 2015 may receive the Non-Owner Repair Payment by getting the Emissions Compliant Repair with Extended Emissions Warranty.

4.2.5.2 Eligible Purchasers of Generation Two Eligible Vehicles Leased from VCCI or PFSC to a Third-Party on November 2, 2015. An Eligible Purchaser that owns a Generation Two Eligible Vehicle that was under lease from VCCI or PFSC to a third-party on November 2, 2015, may receive fifty percent (50%) of the Leased Vehicle Repair Payment by getting the Emissions Compliant Repair with Extended Emissions Warranty.

4.2.6 Surrender for Inoperability. An Eligible Claimant that on the Owner Transaction Date, Purchaser Transaction Date or Lessee Transaction Date, as the case may be, owns a Generation Two Eligible Vehicle that is Inoperable may surrender all right, title, and interest in, and possession of, the Eligible Vehicle to VW or Porsche, as applicable, at an Authorized Dealer of the same brand as their Eligible Vehicle and receive the applicable Repair 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 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 Repair Payment may be paid directly by VW to such Eligible Claimant's lenders towards satisfaction of their Loan Obligation, and if that amount is not sufficient to satisfy their Loan Obligation in full, the Eligible Claimant is 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 Repair Payment not being used towards satisfaction of the Loan Obligation. Loan Forgiveness is not available for a Surrender For Inoperability.

4.2.7 **Emissions Compliant Repair Programs.**

4.2.7.1 **Emissions Compliant Repair.** There will be an Emissions Compliant Repair for Generation Two Eligible Vehicles made available by VW and Porsche, as applicable, that will be performed at no cost to a Settlement Class Member, except that any costs to complete the Emissions Compliant Repair that are necessitated by reason of an Aftermarket Modification to a Generation Two Eligible Vehicle are not included and a Settlement Class Member is responsible to pay those costs in order to receive the Emissions Compliant Repair.

4.2.7.2 **Emissions Compliant Repair Disclosure.** For each Emissions Compliant Repair for a particular Generation Two Eligible Vehicle, but no later than seven (7) business days after the Pre-Approval Notice Date, VW and/or Porsche shall provide a Class Update with clear and accurate written disclosure based on the best available information regarding the impacts of the Emissions Compliant Repair on applicable Generation Two Eligible Vehicles (the “**ECR Disclosure**”). The ECR Disclosure will describe in plain language: (a) the Emissions Compliant Repair generally; (b) any software changes required to perform the Emissions Compliant Repair; (c) all hardware changes required to perform the Emissions Compliant Repair; (d) to the extent VW or Porsche elects not to retain original parts associated with the calibration of the emissions control systems for future service of vehicles that do not receive an Emissions Compliant Repair, an explanation in plain language that such parts may not be available after a certain time; (e) any and all reasonably

predictable changes resulting from the Emissions Compliant Repair for a particular Generation Two 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 Emissions Compliant Repair by Recall; and (f) any limitations of the Emissions Compliant Repair 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.

4.2.8 **Emissions Compliant Repair Recall.** In the event that, prior to the commencement of the Claims Program or at any time during the Claims Program, an Eligible Claimant receives an Emissions Compliant Repair pursuant to a Recall, there will be no impact on the eligible benefits the Eligible Claimant is entitled to recover under this Settlement Agreement.

4.2.9 **Emissions Compliant Repair with Extended Emissions Warranty.** Each Eligible Owner, Eligible Lessee, or Eligible Purchaser who is eligible for and receives the Emissions Compliant Repair shall also, pursuant to the Recall, receive an Extended Emissions Warranty, which is a transferrable warranty. The Extended Emissions Warranty shall cover all components that are replaced as part of the Emissions Compliant Repair, any component that, as determined by the U.S. EPA, can reasonably be impacted by effects of the Emissions Compliant Repair, as well as the engine sub-assembly that consists of the assembled block, crankshaft, cylinder head, camshaft, and valve train. The Extended Emissions 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. All existing warranty provisions remain in effect. The Extended Emissions Warranty shall not void or supersede any existing warranty covering the Generation Two Eligible Vehicle.

4.2.10 **Reduced Performance Payment.** VW and Porsche represent that the Emissions Compliant Repair shall not result in Reduced Performance. In the event that the Emissions Compliant Repair causes Reduced Performance of Generation Two Eligible Vehicles, VW shall make an additional payment of \$500 for each affected Generation Two Eligible Vehicle. In the event that the Emissions Compliant Repair causes a substantial, material adverse degradation, above and beyond the specified Reduced Performance levels, Plaintiffs and affected Settlement Class Members reserve their right to seek, and VW and Porsche reserve their right to oppose, additional remedies through motions to the Courts.

4.2.11 **Warranty Period.** The warranty period for the Extended Emissions Warranty for Generation Two Eligible Vehicles shall be the greater of:

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

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

4.2.13 **Disclosure to Subsequent Purchasers.** For each Generation Two Eligible Vehicle that receives the Emissions Compliant Repair, VW and/or Porsche 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 and/or Porsche that a Generation Two Eligible Vehicle in the possession of an Eligible Claimant, which has received the Emissions Compliant Repair, was not labelled accordingly following completion of the Emissions Compliant Repair, VW and/or Porsche 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 Dealer.

4.3 **Other Provisions.**

4.3.1 **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.

4.3.2 **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.

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

4.3.4 **Joint and Several Responsibility.** VW's and Porsche's obligations to comply with the requirements of this Settlement Agreement are joint and several among the VW Entities. Any legal successor or assign of VW 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.

- 4.3.5 **Responsibility for Required Payments.** Volkswagen Aktiengesellschaft shall bear the ultimate responsibility for all required payments under this Settlement Agreement, including but not limited to, Damages Payments, Repair Payments, Reduced Performance Payments, Early Lease Termination, Buyback, and Buyback With Trade-In. The obligations set out in this Settlement Agreement apply to, and are binding upon, VW and any of VW's successors, assigns, or other entities or persons otherwise bound by law. The VW Entities are jointly and severally liable and bear the ultimate responsibility for making all required payments and taking all steps required under this Settlement Agreement. VW 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 any of its successors or assigns. In no event shall Porsche or PFSC be responsible for any obligation under this Settlement Agreement that relates to any non-Porsche Eligible Vehicles. In the event that VW is unable to fund any option or benefit required under this Settlement Agreement for Porsche-brand Generation Two Eligible Vehicles covered under this Settlement Agreement, then Porsche shall be responsible, but only with respect to Porsche-brand Generation Two Eligible Vehicles covered under this Settlement Agreement in accordance with the provisions applicable to such vehicles as described herein.
- 4.3.6 **Tax Implications.** While there is no intended tax effect to Eligible Claimants from payments made pursuant to this Settlement Agreement, except as would apply to a vehicle trade-in in the ordinary course of business for purposes of Section 4.1.1.2, Settlement Class Members are encouraged to consult a tax advisor for assistance regarding any tax ramifications of this Settlement Agreement.
- 4.3.7 **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.

4.3.8 **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 this 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.

4.3.9 **Out-of-Pocket Costs.** Eligible Claimants who choose a Buyback, Buyback With Trade-In, Emissions Compliant Repair, Reduced Emissions Modification, Early Lease Termination, or Surrender For Inoperability, as applicable, must, at their own expense, bring their Eligible Vehicle to an Authorized Dealer to avail themselves of these options. However, Eligible Claimants with Eligible Vehicles registered in the U.S., may, at their own expense, bring the vehicle to an Authorized Dealer in the U.S. to obtain a Buyback, Emissions Compliant Repair, Reduced Emissions Modification, Early Lease Termination, or Surrender For Inoperability, but not a Buyback With Trade-In.

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 3.0-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) Porsche Cars Canada, Ltd., Porsche Cars North America Inc., Dr. Ing h.c.F. Porsche Aktiengesellschaft, Porsche Enterprises Incorporated, Porsche Financial Services Canada, Inc., 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, “**Porsche Released Entities**”, and together with the VW Released Entities, the “**Released Entities**”); (c) any and all contractors, subcontractors, and suppliers of the Released Entities; (d) any and all persons and entities indemnified by any Released Entity with respect to the 3.0-Litre Diesel Matter; (e) 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 Dealers and non-authorized dealers and sellers; (f) Claims Administrator; (g) Notice Administrator; (h) Opt-Out/Objection Administrator; (i) lenders, creditors, financial institutions, or any other parties that financed any purchase or lease of an Eligible Vehicle; and (j) 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 this 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 3.0-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 3.0-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 2.0-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 this 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 or Repair Payment 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, 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, with prejudice where available, consistent with Section 14.1; and (b) if permitted by law, 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 4.3.7 and 4.3.8, 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 this Settlement Agreement and that, except as provided in Sections 4.3.7 and 4.3.8, 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 this 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 this Settlement Agreement shall survive the execution of this 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 this 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, Porsche, 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 2.0-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, the 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 3.0-litre diesel vehicles, and (b) any tax effect to VW, Porsche, and/or any Authorized Dealer from implementation of this 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 or Porsche 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.

5.18 Each Releasing Party agrees not to enter into any agreement to settle any claim that the Releasing Party may have against any Bosch Entity, unless such agreement expressly provides that the Released Parties shall be released from any claim for indemnification or contribution by a Bosch Entity against any Released Party that relates to the Releasing Party's claim against the Bosch Entity.

6. CLAIMS PROGRAM ADMINISTRATION

6.1 VW's and Porsche'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 May 31, 2018. The Claims Program is implemented by the Claims Administrator, working with Volkswagen Group Canada Inc., and supervised by the Claims Administrator. The Claims Program involves six (6) steps, as further described in Schedule "I". At Step 1, the Settlement Class Member 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, once all of the documents have been received, the Claims Administrator will obtain the Claimant's loan payoff information (if applicable), and will verify the documents sent by the Claimant, and separately audit such documents using a process approved by VW and Lead Class Counsel, in order to determine the Claimant's eligibility or ineligibility to participate in the Claims Program. At Step 4, if the Claimant is an Eligible Claimant, an offer describing the benefits available to the Eligible Claimant will be generated by the Claims Portal and verified by the Claims Administrator, which will also separately audit such offer using a process approved by VW and Lead Class Counsel. Once verified and audited, the offer will then be extended to the Eligible Claimant. The offer extended to an Eligible Claimant who makes a Claim in respect of, and is in possession of, a Generation One Eligible Vehicle, will include a voucher for one AdBlue[®] refill and one oil change to the Eligible Claimant. At Step 5, the Eligible Claimant will confirm their choice of offered benefits under this Settlement Agreement, will accept their offer, will execute an Individual Release, will schedule an appointment at an Authorized Dealer if choosing the Buyback, Buyback With Trade-In, Early Lease Termination, Surrender for Inoperability, or Approved Emissions Modification in the case where the Approved Emissions Modification has not yet been completed, and, in the case of a Buyback or Buyback With Trade-In, have the pre-surrender confirmation call no more than twenty (20) days prior to their scheduled appointment, and receive any adjustment to their offer. At Step 6, the Eligible Claimant

will receive their chosen benefits under this 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 the Buyback, Buyback With Trade-In, Approved Emissions Modification, Early Lease Termination, or 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 this 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 or Owner Repair Payment, as the case may be, only, provided that the other conditions of Sections 4.1.1.9 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 their 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 Dealers.** The Buyback, Buyback With Trade-In, Early Lease Termination, and Surrender For Inoperability options under this Settlement Agreement, and the Approved Emissions Modification, will be completed at an Authorized Dealer as set forth in Schedule “I”.
- 6.5 **Prescribed Communications by Authorized Dealers.** Authorized 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) performing an Emissions Compliant Repair; (c) performing a Reduced Emissions Modification; (d) providing information about the purchase of a new Volkswagen- or Audi-brand vehicle, or any used Volkswagen Group brand vehicle, to Settlement Class Members who wish to receive information about the Buyback With Trade-In; and (e) 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 or Notice Administrator. Prior to the commencement of the Claims Program, VW will develop a program to train, assist, and work with Authorized 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 this Settlement Agreement.
- 6.7 **Appeal Process.** For purposes of this Section, references to a 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 regarding (a) the Claimant's eligibility to

receive benefits under this Settlement Agreement, (b) the Claimant's settlement benefit entitlement, (c) the Inoperability of a Claimant's Eligible Vehicle and, if applicable, the ineligibility of the Claimant's Eligible Vehicle for a Buyback or Buyback With Trade-In, or its eligibility for reduced compensation only, or (d) the denial of 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 or Repair Payments, the reliance on CBB data 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, Lead Class Counsel, and, if applicable, Porsche.

6.8 The Claims Administrator, Lead Class Counsel, VW and, if applicable, Porsche, must confer by conference call within thirty (30) days after the Claims Administrator transmits the Claimant's written notice of dispute, or within such other time period as agreed to by Lead Class Counsel, VW and, if applicable, Porsche. 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:

6.8.1 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.

- 6.8.2 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 Lead Class Counsel, VW and, if applicable, Porsche.
- 6.8.3 VW must submit to the Claims Administrator VW's or Porsche's, as applicable, written response within fifteen (15) days after receipt of the Claimant's written appeal from the Claims Administrator.
- 6.8.4 Lead Class Counsel may submit to the Claims Administrator a written reply within ten (10) days after receipt of VW's or Porsche's written response from the Claims Administrator.
- 6.8.5 The Claims Administrator shall transmit to the Arbitrator all received documents with copies to VW, Porsche (if applicable), Lead Class Counsel, and the Claimant. The Arbitrator's decision will be based on the written appeal record provided by the Claims Administrator.
- 6.8.6 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/Porsche or Lead Class Counsel or the Claimant, but no other amount.
- 6.8.7 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.
- 6.8.8 The Filing Fee shall be refunded if the Arbitrator finds in favour of the Claimant.

- 6.9 **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.
- 6.10 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 six (6) 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 d’aide aux actions collectives* (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.
- 6.11 **Reporting.** The Claims Administrator will prepare periodic reports on the progress and status of the Claims Program that will be provided to VW, Porsche, and Lead Class Counsel. Unless otherwise reasonably requested by VW, Porsche, or Lead Class Counsel, the Claims Administrator shall provide its first report one (1) 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, Porsche, 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, Porsche, and Lead Class

Counsel. When the Claims Program is concluded, the Claims Administrator will also provide a report to VW, Porsche, and Lead Class Counsel concerning any cheques for payment of Claims that remain uncashed.

6.12 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.

6.13 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, Porsche, Authorized Dealers, 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 and/or Porsche 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. LETTER OF CREDIT AND CLAIMS PROGRAM PAYMENTS

7.1 The Letter of Credit shall secure payment of Claims in accordance with the terms of this Settlement Agreement in the event of an L/C Trigger Ruling under Section 14.4.

7.2 The Letter of Credit shall provide that draws thereunder be permitted only upon receipt by the Issuing Bank of a notice signed by Lead Class Counsel certifying that an L/C Trigger Ruling has occurred and that the Claims Administrator is entitled, for the benefit of Eligible Claimants, to draw upon the Letter of Credit in accordance with the terms of the L/C Trigger Ruling and this Settlement Agreement.

- 7.3 VW shall cause the Issuing Bank to deliver a Letter of Credit in the aggregate amount of \$35,000,000.00 to the Claims Administrator at least five (5) days before the commencement of the Claims Period.
- 7.4 At such time as the total proportion of potential Eligible Vehicles in respect of which Claims have been paid and any appeals resolved reaches seventy percent (70%), the Claims Administrator shall cause the Issuing Bank to amend the Letter of Credit to be in the aggregate amount of \$20,000,000.00.
- 7.5 Within thirty (30) days following the Claims Period Deadline, the Claims Administrator shall return the Letter of Credit to the Issuing Bank for cancellation and shall promptly provide evidence of such cancellation to VW.
- 7.6 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, the Claims Administrator shall return the Letter of Credit to the Issuing Bank for cancellation and shall promptly provide evidence of such cancellation to VW.

8. ARBITRATOR

- 8.1 The Arbitrator shall be selected by agreement of VW, Porsche, 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, Porsche, 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, Porsche, 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 this Settlement Agreement. VW, Porsche, 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 this 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, Porsche, 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 this Settlement Agreement, or on any supplemental provisions that may become necessary to implement the terms of this Settlement Agreement, VW, Porsche, and Lead Class Counsel may seek the assistance of the Courts and/or, by agreement of VW, Porsche, and Lead Class Counsel, the Arbitrator, to resolve such matters.

10. NOTICE OF THIS SETTLEMENT AGREEMENT

10.1 VW, Porsche, 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, Porsche, 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 or Porsche 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 or Porsche 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 this 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 this 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 their choice, at their own expense; and (e) state that any Settlement Class Member who does not give proper and timely 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 this Settlement Agreement or, in the case of a National Settlement Class member, has other claims pending against VW or Porsche relating to the 3.0-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, Porsche, 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) this 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, Porsche, and Class Counsel shall cause public Internet websites in English (www.VWCanadaSettlement.ca) and French (www.ReglementVW.ca) concerning this Settlement Agreement to be established by the Pre-Approval Notice Date. VW shall maintain the websites throughout the Claims Period, subject to exceptional circumstances that result in or require the website to be taken down, or Lead Class Counsel consents to the website being taken down, such consent not to be unreasonably withheld. The Internet addresses of the websites shall be included in published and delivered notices. The websites shall provide information in English and French about

this Settlement Agreement, including (a) the Opt-Out Deadline, the Objection Deadline, how to submit a Claim, and the dates of relevant Court proceedings, including the Settlement Approval Hearings; (b) the Settlement Phone Number; (c) copies of this Settlement Agreement with signatures redacted, Pre-Approval Notice and other Settlement Class Notices, and the Claim Form; (d) the VIN Look-Up, Eligibility Checker, and a description of the benefits available to Eligible Claimants, including, as applicable, Damages Payments and Repair Payments, and approximate and potential ranges of Vehicle Values for Generation One Eligible Vehicles by make, model, and model year; and (e) a Vehicle Value estimator that will enable Settlement Class Members to estimate the Vehicle Values for their Generation One Eligible Vehicles at the time they consult the estimator and according to the entered mileage of the vehicle. 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' RIGHTS 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 this Settlement Agreement.
- 11.2 Elections to opt out of the Settlement Class and objections to this 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/Audi/Porsche 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 this 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 available);
 - 11.3.2 The make, 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 this 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 this 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 Montreal, Québec, and if appearing by counsel, the name, address, telephone number, and e-mail address of counsel.
- 11.4 Notwithstanding Section 11.3, if the potential Settlement Class Member is deceased, a minor, or otherwise incapable of making their own election to opt out or their own written objection to this 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 Option consommateurs Settlement Class or the Frank-Fort Settlement Class.
- 11.6 Any potential Settlement Class Member who elects to opt out of the Settlement Class may not also object to this Settlement Agreement, subject to Section 11.5. If a potential Settlement Class Member elects to opt out of the Settlement Class and objects to this 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 potential Settlement Class Members who do not opt out in a timely and proper manner 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, Porsche, 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, provide to VW, Porsche, 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, and to the extent possible, detailing the number of opt-outs and written objections by brand of Eligible Vehicle and differentiating between the National Settlement Class, the Option consommateurs Settlement Class and the Frank-Fort Settlement Class.

11.10 VW will have the unilateral right, but not the obligation, to terminate this Settlement Agreement in the event that Settlement Class Members, who validly opt out of this Settlement Agreement by the Opt-Out Deadline, meet the conditions set forth in a confidential supplemental agreement between the Parties (the “**Supplemental Agreement**”). 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, Lead Class Counsel, and Porsche, 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, this 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 Court’s order on Counsel Fees to be paid by VW and/or Porsche in the Actions 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, Porsche 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, Porsche and Class Counsel may attempt to negotiate the amount of Counsel Fees after the execution of this Settlement Agreement.

12.1.2 If VW, Porsche, and Class Counsel reach an agreement on the amount of Counsel Fees, Class Counsel except Option consommateurs Counsel and Frank-Fort Counsel will submit the negotiated amount for approval to the Ontario Superior Court of Justice in the Quenneville Action and Beckett Action, and Option consommateurs Counsel will submit the negotiated amount for approval to the Superior Court of Québec in the Option consommateurs Action, and Frank-Fort Counsel will submit the negotiated amount for approval to the Superior Court of Québec in the Frank-Fort Action. VW and Porsche reserve 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 and/or Porsche have agreed to pay.

12.1.3 If VW, Porsche, and Class Counsel do not reach an agreement as to the amount of Counsel Fees, Class Counsel will bring motions for a determination of the issue of Counsel Fees by the Ontario Superior Court of Justice in the Quenneville Action and Beckett Action, and the Superior Court of Québec in the Option consommateurs Action and the Frank-Fort Action. VW, Porsche 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 the Actions. Neither shall Class Counsel object to any request by VW or Porsche for coordination between the Courts on the motions, consistent with the Canadian Judicial Protocol for the Management of Multi-Jurisdictional Class Actions. VW, Porsche, 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 Option consommateurs Counsel and Frank-Fort, in the Quenneville Action and Beckett Action, and the Superior Court of Québec will have exclusive jurisdiction on the portion of Counsel Fees to be paid to Option consommateurs Counsel in the Option consommateurs Action, and to Frank-Fort Counsel in the

Frank-Fort Action. Class Counsel, except Option consommateurs Counsel and Frank-Fort Counsel, shall not intervene in the motion to determine the portion of Counsel Fees to be paid in the Option consommateurs Action or in the motion to determine the portion of Counsel Fees to be paid in the Frank-Fort Action, and Option consommateurs Counsel and Frank-Fort Counsel shall not intervene in the motion to determine the portion of Counsel Fees to be paid in the Quenneville Action and Beckett 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, Class Counsel and VW and/or Porsche, as applicable, shall have the right to appeal from such orders. VW and/or Porsche reserve all rights to object to an award of Counsel Fees beyond what VW and/or Porsche believe 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, Porsche and Class Counsel except Option consommateurs Counsel may confer on a reasonable honorarium in a total amount not to exceed \$15,000.00 to be paid by VW to the Related Action Plaintiffs and Settlement Class Representatives who did not receive an honorarium payment in connection with the settlement reached in the 2.0-litre diesel matter, except Option consommateurs. If no agreement is reached, Class Counsel except Option consommateurs Counsel may ask the Courts in the Quenneville Action, Beckett Action and Frank-Fort Action to approve a reasonable honorarium not to exceed \$15,000.00 in total. The payment of any reasonable honorarium shall be in addition to the compensation provided to Settlement Class Members under this Settlement Agreement. VW and Porsche agree that, subject to Court orders in the Quenneville Action, Beckett Action, and Frank-Fort 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 Option consommateurs Counsel on a reasonable honorarium, or the date when the Courts' orders on a reasonable honorarium become 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 THIS 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 this 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, Porsche, Lead Class Counsel, and the Arbitrator.
- 13.3 This Settlement Agreement shall terminate at the discretion of VW, Porsche, 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 Parties no later than two (2) business days after receiving notice of the event prompting the termination. If this 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 this 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, none of VW, Porsche, nor the 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, 6.13, 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, Porsche, 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 and Porsche expressly and affirmatively reserve and do 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 this Settlement Agreement prior to its termination or invalidation, and (b) executed and delivered an Individual Release, such Settlement Class Member, VW, and Porsche shall be bound by the terms of the Individual Release, which terms shall survive termination or invalidation of this 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 this 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 this 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 Beckett Action and the Superior Court of Québec

in the Option consommateurs Action and the Frank-Fort Action. It is further acknowledged as follows:

13.8.1 VW, Porsche, 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 any Action. In addition, Class Counsel shall not object to any request by VW and/or Porsche for coordination between the Courts on the motions, consistent with the Canadian Judicial Protocol for the Management of Multi-Jurisdictional Class Actions. VW, Porsche, 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 Option consommateurs Counsel and Frank-Fort Counsel, in the Quenneville Action and Beckett Action, and the Superior Court of Québec will have exclusive jurisdiction on the portion of Counsel Fees to be paid to Option consommateurs Counsel in the Option consommateurs Action, and to Frank-Fort Counsel in the Frank-Fort Action. Class Counsel, except Option consommateurs Counsel and Frank-Fort Counsel, in the Quenneville Action and Beckett Action shall not intervene in the motion to determine the portion of Counsel Fees to be paid in the Option consommateurs Action or in the motion to determine the portion of Counsel Fees to be paid in the Frank-Fort Action, and Option consommateurs Counsel and Frank-Fort Counsel shall not intervene in the motion to determine the portion of Counsel Fees to be paid in the Quenneville Action and Beckett 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/or Porsche and Class Counsel shall have the right to appeal from such orders. VW and/or Porsche reserves all rights to object to an award of Counsel Fees beyond what VW and/or Porsche 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, Porsche 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, Porsche and Class Counsel reach an agreement, Class Counsel except Option consommateurs Counsel and Frank-Fort Counsel will submit the negotiated amount for approval to the Ontario Superior Court of Justice in the Quenneville Action and Beckett Action, and Option consommateurs Counsel will submit the negotiated amount for approval to the Superior Court of Québec in the Option consommateurs Action and Frank-Fort Counsel will submit the negotiated amount for approval to the Superior Court of Québec in the Frank-Fort Action. VW and/or Porsche 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, 4.3.4, 4.3.5, 5.7, 5.16, 5.17, 6.13, 13.6, 13.7, 13.8, 14.2, 14.3, 14.4, and 15.5, 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 Option consommateurs Counsel and Frank-Fort Counsel will take such reasonable steps as are necessary to give effect to this 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”. Class Counsel will further cooperate with VW’s and Porsche’s efforts to give effect to this 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 “H” and in any future litigation; however, as to the litigation listed in Schedule “H” that is pending in Québec, Option consommateurs Counsel and Frank-Fort Counsel shall so cooperate to bring an end to all Released Claims by any Settlement Class Member in that litigation when the Option consommateurs Action and the Frank-Fort Action is finally determined and brought to an end, and, in the interim, Class Counsel shall not take any actions inconsistent with this cooperation and their obligations. The Parties agree that the conclusions of the actions 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 Actions commenced in their jurisdiction in order to resolve any dispute or other matters that may arise in the implementation of this 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 this 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 about whether there

has been a default in payment from the 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 this Settlement Agreement. If, as a result of rulings by the Courts, VW is found to have failed to pay an amount owing to an Eligible Claimant, and that such failure was not as a result of a good faith disagreement concerning whether the amount was due and payable and VW failed to cure the payment obligation in a timely manner (such rulings by the Courts constituting a “**L/C Trigger Ruling**”), then the Settlement Class Representatives, through Class Counsel, shall have the right, but not the obligation, to draw on the Letter of Credit in accordance with the provisions in Section 7 or terminate this Settlement Agreement upon thirty (30) days’ notice if during such notice period the breach is not fully cured. The Claims Period Deadline shall be extended for any Eligible Claimant affected by an alleged breach, for the period from the filing date of motions seeking an L/C Trigger Ruling until either the Letter of Credit is drawn upon or such motions are finally resolved. 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 Option consommateurs Settlement Class or of the Frank-Fort 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, Porsche, 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 Amended Confidentiality Order). Information provided by VW, Porsche, 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 Amended Confidentiality Order and shall be subject to all of the provisions thereof. Any materials inadvertently produced shall, upon VW's or Porsche's request, be promptly returned to VW's counsel or Porsche's counsel, as applicable, 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, Porsche, 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, this 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
BENNETT JONES LLP
3400 One First Canadian Place
100 King Street West
Toronto, ON M5X 1A4
E-mail: woodinc@bennettjones.com

If to Porsche, then to:

Glenn Zakaib
BORDEN LADNER GERVAIS LLP
Bay Adelaide Centre, East Tower
22 Adelaide Street West
Suite 3400
Toronto, ON M5H 4E3
E-mail: gzakaib@blg.com

If to the Settlement Class, then to:

Reidar Mogerman
CAMP FIORANTE MATTHEWS
MOGERMAN LLP
#400-856 Homer Street
Vancouver, BC V6B 2W5
E-mail: rmogerman@cfmlawyers.ca

AND

Michael J. Peerless
MCKENZIE LAKE LAWYERS LLP
1800-140 Fullarton Street
London, ON N6A 5P2
E-mail: peerless@mckenzielake.com

AND

Daniel Belleau
BELLEAU LAPOINTE
BARRISTERS AND SOLICITORS
306, Place d'Youville
Office B-10
Montréal, QC H2Y 2B6
E-mail: dbelleau@belleaulapointe.com

AND

David Assor
LEX GROUP INC.
4101 Sherbrooke Street West
Westmount, QC H3Z 1A7
E-mail: davidassor@lexgroup.ca

15.11 The Settlement Class, Settlement Class Representatives, Related Action Plaintiffs, VW, and/or Porsche 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.

- 15.12 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.
- 15.13 The Parties agree that this Settlement Agreement was reached voluntarily after consultation with competent legal counsel.
- 15.14 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.
- 15.15 This Settlement Agreement may be signed with an electronic signature and in counterparts, each of which shall constitute a duplicate original.
- 15.16 The Parties have executed this Settlement Agreement as of the date on the cover page.

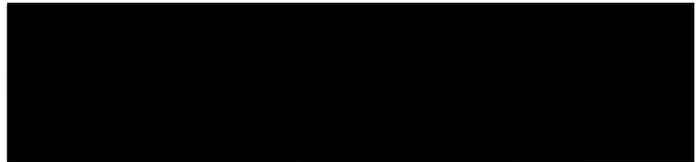
Counsel for JOSEPH SISSINONS CHIROPRACTIC P.C., ANDREW JAMES BOWDEN,
AND CHRISTINA LYN VICKERY

By:



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By:



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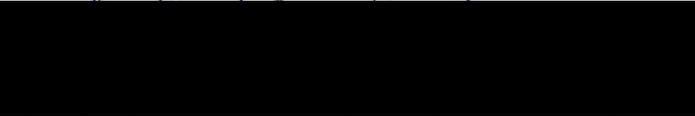
Counsel for JUDITH ANNE BECKETT

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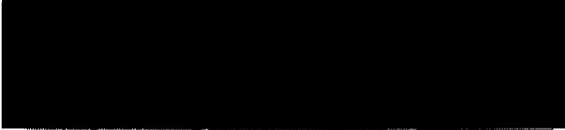
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Westmount, QC H3Z 1A7
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VOLKSWAGEN AKTIENGESELLSCHAFT

By:

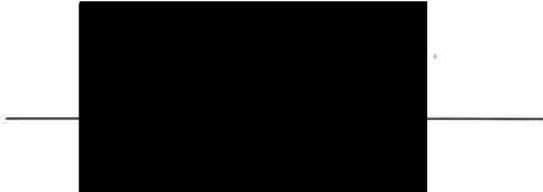
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AUDI AKTIENGESELLSCHAFT

By:

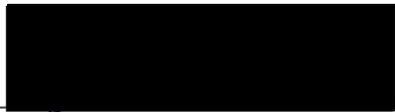


By:



VOLKSWAGEN GROUP OF AMERICA, INC.

By: _____

By:  _____

VOLKSWAGEN GROUP OF AMERICA, INC.

By:



By: _____

VOLKSWAGEN GROUP CANADA INC.

By:



By:

AUDI CANADA INC.

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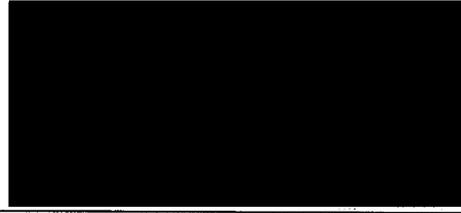


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VW CREDIT CANADA, INC.

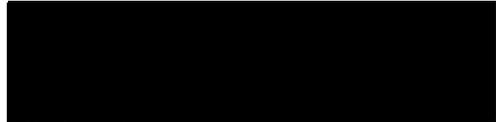
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Counsel for VOLKSWAGEN AKTIENGESELLSCHAFT, AUDI
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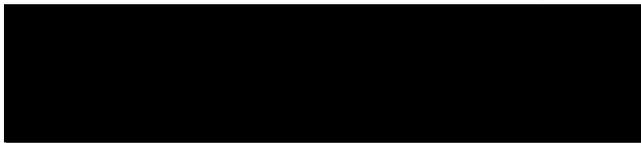
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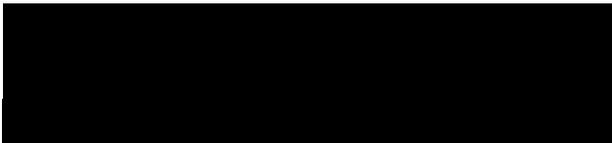
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PORSCHE CARS CANADA LTD.

By:



By:



PORSCHE FINANCIAL SERVICES CANADA, INC.

By:



PORSCHE CARS NORTH AMERICA, INC.

By:  _____

By: _____

DR. ING. H.C.F. PORSCHE AKTIENGESELLSCHAFT

By:  _____

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