

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: VOLKSWAGEN “CLEAN DIESEL”
MARKETING, SALES PRACTICES, AND
PRODUCTS LIABILITY LITIGATION

Relates to: *FTC v. Volkswagen Group of
America, Inc.*, No. 3:16-cv-1534 (N.D. Cal).

MDL No. 2672 CRB (JSC)

**[PROPOSED] SECOND PARTIAL
STIPULATED ORDER FOR
PERMANENT INJUNCTION AND
MONETARY JUDGMENT**

Hon. Charles R. Breyer

Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), filed its Amended Complaint for Permanent Injunction and Other Equitable Relief (“Complaint”) in this matter against Defendants Volkswagen Group of America, Inc. and Porsche Cars North America, Inc., pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b). The FTC and Defendants stipulate to the entry of this Stipulated Order for Permanent Injunction and Monetary Judgment (“Order”), which resolves the FTC’s allegations in its Complaint.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants participated in deceptive and/or unfair acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), through the advertising, marketing, offering for sale, sale, offering for lease, lease, and distribution of certain Volkswagen, Audi, and Porsche 3.0-liter TDI vehicles in the United States and its territories.
3. Defendants neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendants admit the facts necessary to establish jurisdiction.

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2 4. This Order resolves all of the FTC’s allegations related to Defendants’ TDI
3 vehicles, except that if the condition in Section II(F) is triggered, then this Order only resolves
4 the FTC’s allegations in its Complaint against Defendants.

5 5. Defendants waive any claim that they may have under the Equal Access to Justice
6 Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order,
7 and agree to bear their own costs and attorney fees.
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9 6. Defendants and the FTC waive all rights to appeal or otherwise challenge or
10 contest the validity of this Order.

11 **DEFINITIONS**

12 For the purpose of this Order, the following definitions apply:

13 A. **“3.0L Class Action Settlement Agreement”** means the proposed Consumer
14 Class Action Settlement Agreement and Release filed on January 31, 2017, by the attorneys
15 representing certain current and former owners and lessees of certain Volkswagen, Audi, and
16 Porsche branded vehicles with 3.0-liter TDI engines in this action, *In re: Volkswagen “Clean*
17 *Diesel” Marketing, Sales Practices, and Products Liability Litigation*, No. 3:15-md-2672-CRB
18 (N.D. Cal.). If the Court approves the proposed Consumer Class Action Settlement Agreement
19 and Release, “3.0L Class Action Settlement Agreement” shall refer to that agreement as, and in
20 the form it is, ultimately approved and entered by the Court.
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23 B. **“3.0L Settlement Program”** means the overall program, rights, and obligations
24 created under this Order and the related 3.0L Class Action Settlement Agreement to provide
25 notice and restitution to Eligible Consumers.
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2 C. **“Approved Emissions Modification”** or **“AEM”** means a modification to an
3 Eligible Vehicle approved by the EPA and CARB in accordance with Appendix B of the DOJ
4 3.0L Consent Decree.

5 D. **“Approved Emissions Modification Restitution”** or **“AEM Restitution”** means
6 either Generation 1 Approved Emissions Modification Restitution or Generation 2 Approved
7 Emissions Modification Restitution, depending on the Eligible Vehicle.

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9 E. **“Bosch”** means Bosch GmbH, Bosch LLC, and any entity controlled by or
10 affiliated with the foregoing.

11 F. **“Bosch Consumer Class Action Settlement Agreement”** means the proposed
12 Consumer Class Action Settlement Agreement and Release filed on January 31, 2017 in this
13 action, *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability*
14 *Litigation*, No. 3:15-md-2672-CRB (N.D. Cal.) that (1) resolves disputes between consumer
15 class members and Bosch, and (2) obligates Bosch to pay consumers at least \$276,531,850.

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17 G. **“Buyback”** means the process by which an Eligible Owner may sell an Eligible
18 Vehicle to Defendants (or other entity authorized by Defendants) under the 3.0L Settlement
19 Program in exchange for the applicable Generation 1 Buyback Restitution or Generation 2
20 Buyback Restitution. If an Eligible Owner does not possess title to the Eligible Vehicle, for
21 Defendants to acquire title and the Buyback to occur, Defendants and the Eligible Owner must
22 complete the steps required by Section IV(G)(1) or Section X(G)(1) and the claim application
23 pursuant to Section XVI.
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26 H. **“CARB”** means the California Air Resources Board.

27 I. **“Certified Emissions Repair”** means an alteration to a Generation 2 Eligible
28 Vehicle emissions system such that it: (1) meets Tier 2, Bin 5 pursuant to 40 C.F.R. § 1811-

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2 04(c)(6), (f) and (j); (2) meets LEV II/ULEV pursuant to Cal. Code Regs. tit. 13, § 1961; and (3)
3 has obtained final EPA and CARB approval.

4 J. “**Claims Supervisor**” means Ankura Consulting Group, LLC.

5 K. “**Claims Website**” is the website Volkswagen must operate pursuant to Section
6 XVI of this Order and the 3.0L Class Action Settlement Agreement. Volkswagen may
7 consolidate the Claims Website this Order requires with the website required by the FTC’s
8 Partial Stipulated Order for Permanent Injunction and Monetary Judgment, filed on October 25,
9 2016 (Docket No. 2104) (“2.0L FTC Order”), as long as the requirements of both Orders are
10 met.
11

12 L. “**Class Action**” means certain coordinated class, mass, and individual actions,
13 however named, that are coordinated pursuant to 28 U.S.C. § 1407 in the United States District
14 Court for the Northern District of California in *In re: Volkswagen “Clean Diesel” Marketing,*
15 *Sales Practices, and Products Liability Litigation*, No. 3:15-md-2672-CRB (N.D. Cal.) and
16 reflected in the Consolidated Consumer Class Action Complaint filed in this action on
17 February 22, 2016 (Docket No. 1230).
18

19 M. “**Consumer Payment**” means any payment under the 3.0L Settlement Program
20 made directly to an Eligible Consumer or to a lender on behalf of an Eligible Owner for the
21 purpose of satisfying an outstanding Loan Obligation related to an Eligible Vehicle.
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23 N. “**Covered Lessor**” means VW Credit, Inc., Audi Financial Services, Inc., and
24 Porsche Financial Services, Inc.
25

26 O. “**Dealer**” means any of Defendants’ authorized Volkswagen, Audi, or Porsche
27 dealers located in the United States or its territories as evidenced by a current and valid
28 Volkswagen Dealer Agreement, Audi Dealer Agreement, or Porsche Dealer Agreement.

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2 P. “**Defendants**” means collectively Volkswagen and Porsche, as defined herein.

3 Q. “**DOJ 3.0L Consent Decree**” means the Proposed Second Partial Consent Decree
4 filed in this action, *In re Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products*
5 *Liability Litigation*, No. 3:15-md-02672-CRB (N.D. Cal.), by the United States on December 20,
6 2016. If the Court approves the Proposed Second Partial Consent Decree, “DOJ 3.0L Consent
7 Decree” shall refer to that decree as, and in the form it is, ultimately approved and entered by the
8 Court.
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10 R. “**DOJ Emissions Modification Notice**” means the notice(s) required by
11 Subsections 3.1.2, 3.2.1, and 3.2.3 of Appendix A to the DOJ 3.0L Consent Decree to notify
12 affected Eligible Owners and Eligible Lessees, for whom Defendants have a mailing or email
13 address, of the availability or non-availability of an Approved Emissions Modification or
14 Certified Emissions Repair for certain Eligible Vehicles.
15

16 S. “**Effective Date**” means the date the Court approves and enters this Order, the
17 DOJ 3.0L Consent Decree, or the 3.0L Class Action Settlement Agreement, whichever is latest.
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19 T. “**Eligible Consumer**” means any Eligible Owner, Eligible Lessee, Eligible
20 Former Owner, or Post-September 2015 Purchaser, as defined by this Order, who has not
21 excluded himself or herself from the 3.0L Settlement Program. Consumers who exclude
22 themselves from the 3.0L Settlement Program are eligible for the remedies set forth in
23 Subsections 5.1, 6.1, or 8.1 of Appendix A to the DOJ 3.0L Consent Decree.
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25 U. “**Eligible Former Lessee**” means the lessee who leased an Eligible Vehicle from
26 a Covered Lessor as of September 18, 2015, and/or November 2, 2015, and who surrendered the
27 Leased Eligible Vehicle on or before January 31, 2017.
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2 V. “**Eligible Former Owner**” means a person who (a) purchased or otherwise
3 acquired an Eligible Vehicle on or before September 18, 2015, and sold or otherwise transferred
4 ownership of such vehicle after September 18, 2015, but on or before January 31, 2017, or
5 (b) purchased or otherwise acquired an Eligible Vehicle on or before November 2, 2015, and
6 sold or otherwise transferred ownership of such vehicle after November 2, 2015, but on or before
7 January 31, 2017. For avoidance of doubt, Eligible Former Owner includes any owner whose
8 Eligible Vehicle was Totaled on or after September 18, 2015, but on or before January 31, 2017,
9 and who consequently transferred title of their vehicle to an insurance company.
10

11 W. “**Eligible Lessee**” means (1) the current lessee or lessees of an Eligible Vehicle
12 with a lease issued by a Covered Lessor; (2) the former lessee or lessees of an Eligible Vehicle
13 who had an active lease issued by a Covered Lessor at any point between September 18, 2015,
14 and November 2, 2015, (inclusive) and who surrendered or surrenders the leased Eligible
15 Vehicle to Defendants after January 31, 2017, but before the Program End Date; (3) the current
16 owner of an Eligible Vehicle who had an active lease issued by a Covered Lessor at any point
17 between September 18, 2015, and November 2, 2015, (inclusive) and who acquired ownership of
18 the previously leased Eligible Vehicle at the conclusion of the lease after January 31, 2017; or
19 (4) an Eligible Former Lessee. For avoidance of doubt, no person shall be considered an Eligible
20 Lessee by virtue of holding a lease issued by a lessor other than a Covered Lessor.
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23 X. “**Eligible Owner**” means the owner or owners of an Eligible Vehicle after
24 January 31, 2017, or the owner or owners who acquire an Eligible Vehicle after January 31,
25 2017, but before the deadline to submit a claim under the 3.0L Settlement Program, except that
26 the owner of an Eligible Vehicle who had an active lease issued by a Covered Lessor at any point
27 between September 18, 2015, and November 2, 2015, (inclusive) and purchased the Eligible
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2 Vehicle previously leased by that owner after January 31, 2017, shall be an Eligible Lessee. For
3 avoidance of doubt, an Eligible Owner ceases to be an Eligible Owner if he transfers ownership
4 of the Eligible Vehicle to a third party after January 31, 2017; and a third party who acquires
5 ownership of an Eligible Vehicle after January 31, 2017, thereby becomes an Eligible Owner if
6 that third party otherwise meets the definition of an Eligible Owner. An owner of an Eligible
7 Vehicle will not qualify as an Eligible Owner while the Eligible Vehicle is under lease to any
8 third party, although any such owner, including any leasing company other than a Covered
9 Lessor, who otherwise meets the definition of an Eligible Owner would become an Eligible
10 Owner if such lease has been canceled or terminated and the owner has taken possession of the
11 vehicle. In exceptional cases, specific arrangements may be made with the leasing company, in
12 consultation with the Claims Supervisor, such that, without canceling or terminating the lease,
13 the leasing company may be treated as an Eligible Owner and obtain an Approved Emissions
14 Modification and Approved Emissions Modification Restitution or, if applicable, a Certified
15 Emissions Repair and Repair Restitution.
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18 Y. **“Eligible Vehicle”** means Model Year 2009 through 2016 Volkswagen, Audi, or
19 Porsche-branded light-duty vehicles equipped with 3.0-liter TDI engines that (1) are in the table
20 immediately below this paragraph; (2) are registered with a state Department of Motor Vehicles
21 or equivalent agency or held by bill of sale by a non-Volkswagen Dealer, non-Audi Dealer, or
22 non-Porsche Dealer in the United States or its territories as of January 31, 2017; and (3) have not
23 been modified pursuant to an Approved Emissions Modification or Certified Emissions Repair.
24 Eligible Vehicle excludes any Volkswagen, Audi, or Porsche vehicle that was never sold or
25 registered in the United States or its territories. A vehicle must be Operable to be considered an
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2 Eligible Vehicle for the purpose of the Buyback, Approved Emissions Modification, or Certified
3 Emissions Repair.

4 Vehicle Make and Model	Model Year
5 VW Touareg	2009-2016
6 Audi A6 quattro	2014-2016
7 Audi A7 quattro	2014-2016
8 Audi A8	2014-2016
9 Audi A8L	2014-2016
10 Audi Q5	2014-2016
11 Audi Q7	2009-2015
12 Porsche Cayenne	2013-2016

13 Z. **“EPA”** means the United States Environmental Protection Agency.

14 AA. **“Extension Payment”** means monetary compensation in the amount of \$500
15 Volkswagen will pay pursuant to Section VIII(C) in addition to any other restitution under this
16 Order. Extension Payments may not be credited against any other obligation Volkswagen has
17 under this Order.

18 BB. **“Generation 1”** means the following Eligible Vehicles with model years:
19 Volkswagen Touareg (2009-2012) and Audi Q7 (2009-2012).

20 CC. **“Generation 1 Approved Emissions Modification Restitution”** means the
21 monetary compensation that Volkswagen will pay to Generation 1 Eligible Owners who elect an
22 Approved Emissions Modification under the 3.0L Settlement Program, as specified in column B
23 of Attachment 1, and modified by any Mileage Adjustment in Attachment 5.

24 DD. **“Generation 1 Buyback Restitution”** means the monetary compensation that
25 Volkswagen will pay to Generation 1 Eligible Owners who elect a Buyback under the 3.0L
26 Settlement Program, as specified in column A of Attachment 1, and modified by any Mileage
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2 Adjustment in Attachment 5. Provided, however, that if that amount is less than the amount
3 required by Appendix A of the DOJ 3.0L Consent Decree, then the Generation 1 Buyback
4 Restitution shall be the amount required by the DOJ 3.0L Consent Decree.

5 EE. **“Generation 1 Eligible Lessee”** means an Eligible Lessee whose Eligible Vehicle
6 is Generation 1.

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8 FF. **“Generation 1 Eligible Owner”** means an Eligible Owner whose Eligible
9 Vehicle is Generation 1.

10 GG. **“Generation 1 Former Owner Restitution”** means the monetary compensation
11 that Volkswagen will pay to Eligible Former Owners of a Generation 1 Eligible Vehicle who
12 timely file a claim application under and participate in the 3.0L Settlement Program, in
13 accordance with Section XIV, as specified in column C of Attachment 1.

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15 HH. **“Generation 1 Lessee Restitution”** means the monetary compensation that
16 Volkswagen will pay to Generation 1 Eligible Lessees under the 3.0L Settlement Program, in
17 addition to a Lease Termination or an Approved Emissions Modification, as specified in
18 Attachment 2.

19
20 II. **“Generation 1 Totaled Vehicle Restitution”** means the monetary compensation
21 that Volkswagen will pay to Generation 1 Eligible Owners under the 3.0L Settlement Program
22 whose vehicle is (i) Totaled; and (ii) transferred to an insurance company, as specified in column
23 B of Attachment 1.

24
25 JJ. **“Generation 2”** means the following Eligible Vehicles with model years:
26 Volkswagen Touareg (2013-2016), Audi A6 Quattro (2014-2016), Audi A7 Quattro (2014-
27 2016), Audi A8 (2014-2016), Audi A8L (2014-2016), Audi Q5 (2014-2016), Audi Q7 (2013-
28 2015), and Porsche Cayenne (2013-2016).

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2 KK. “**Generation 2 Adjustment**” means the monetary compensation that, if required
3 under Section XIV, Volkswagen will pay to Eligible Former Owners of Generation 2 Eligible
4 Vehicles. The Generation 2 Adjustment amount will be the difference between the amount
5 specified in column D of Attachment 3 and 50% of the Repair Restitution.

6 LL. “**Generation 2 Approved Emissions Modification Restitution**” means the
7 monetary compensation that, if triggered by Section VIII(D), Volkswagen will pay to
8 Generation 2 Eligible Owners who elect an Approved Emissions Modification under the 3.0L
9 Settlement Program, as specified in column C of Attachment 3, and modified by any Mileage
10 Adjustment in Attachment 5.

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12 MM. “**Generation 2 Buyback Restitution**” means the monetary compensation that, if
13 triggered by Section VIII(D), Volkswagen will pay to Generation 2 Eligible Owners who elect a
14 Buyback under the 3.0L Settlement Program, as specified in column B of Attachment 3, and
15 modified by any Mileage Adjustment in Attachment 5. Provided, however, that if the total
16 Generation 2 Buyback Restitution is less than the amount required by Appendix A of the DOJ
17 3.0L Consent Decree, it shall be the amount required by the DOJ 3.0L Consent Decree.
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20 NN. “**Generation 2 Eligible Lessee**” means an Eligible Lessee whose Eligible Vehicle
21 is Generation 2.

22 OO. “**Generation 2 Eligible Owner**” means an Eligible Owner whose Eligible
23 Vehicle is Generation 2.

24 PP. “**Generation 2 Lessee Restitution**” means the monetary compensation, that, if
25 triggered by Section VIII(D), Volkswagen will pay to Generation 2 Eligible Lessees, in addition
26 to a Lease Termination or an Approved Emissions Modification, as specified in column B of
27 Attachment 4.
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2 QQ. “**Generation 2 Participation Payment**” means 50% of the Repair Restitution or
3 Lessee Repair Restitution, whichever is applicable.

4 RR. “**Generation 2 Totaled Vehicle Restitution**” means the monetary compensation
5 that Volkswagen will pay to Generation 2 Eligible Owners under the 3.0L Settlement Program
6 whose vehicle is Totaled and cannot be brought in for a Certified Emissions Repair, AEM, or a
7 Buyback. If the Eligible Vehicle would have otherwise qualified for a Buyback, AEM, or
8 Certified Emissions Repair, the Generation 2 Totaled Vehicle Restitution is the amount specified
9 in column C of Attachment 3. If the Eligible Vehicle would have otherwise received a Certified
10 Emissions Repair if it had not been Totaled, the Generation 2 Eligible Owner will still receive
11 Repair Restitution.
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13 SS. “**Holidays**” means the following days: New Year’s Day; Martin Luther King, Jr.
14 Day; Easter Sunday; Memorial Day; Independence Day; Labor Day; day before Thanksgiving;
15 Thanksgiving Day; day after Thanksgiving; Christmas Eve; Christmas Day; day after Christmas;
16 and New Year’s Eve.
17

18 TT. “**Lease Termination**” means the process by which an Eligible Lessee may have
19 the lease for that lessee’s Eligible Vehicle terminated, without paying an early termination
20 penalty, as described in Section VI(A) and Section XIII(A).
21

22 UU. “**Lessee Repair Restitution**” means the monetary compensation Volkswagen will
23 pay to Generation 2 Eligible Lessees who receive a Certified Emissions Repair, as specified in
24 column A of Attachment 4.
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26 VV. “**Lessee Restitution Adjustment**” means any fees charged upon termination of a
27 lease for excess wear and use and excess mileage at the point of vehicle surrender, and other
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2 amounts due, such as delinquent lease payments and related late payment fees, or costs
3 associated with tickets and tolls, pursuant to the lease contract.

4 WW. **“Loan Obligation”** means any debt incurred by an Eligible Owner and secured
5 by an Eligible Vehicle, regardless of the lender.

6 XX. **“Mileage Adjustment”** means the positive or negative dollar adjustment
7 specified in Attachment 5.
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9 YY. **“Operable”** means that the vehicle so described can be legally driven on a public
10 road under its own 3.0-liter TDI engine power. A vehicle is not Operable if: (a) it has a branded
11 title of “Assembled,” “Dismantled,” “Flood,” “Junk,” “Rebuilt,” “Reconstructed,” or “Salvaged”
12 on September 18, 2015, and was acquired by any person or entity from a junkyard, salvage yard,
13 or salvage dealer after September 18, 2015; or (b) has undergone intentional physical or
14 mechanical stripping or removal of any OEM equipment or parts accounted for in the Buyback
15 Amount, including, but not limited to, removal of lights, wheels, wheel covers, seats, radios, or
16 navigation systems; or (c) has been intentionally damaged, vandalized, or otherwise altered for
17 no legitimate purpose in a manner that reduces the vehicle’s value as calculated in the Buyback
18 Amount, prior to participation in the Settlement Program.
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21 ZZ. **“Porsche”** means Porsche Cars North America, Inc., as well as its successors and
22 assigns.

23 AAA. **“Post-September 2015 Purchaser”** means an owner who purchased a used
24 vehicle after September 18, 2015, and remains the owner at the time of electing a Buyback,
25 Certified Emissions Repair, or Approved Emissions Modification, except that former lessee
26 owners of an Eligible Vehicle who purchased that Eligible Vehicle off lease on or before January
27 31, 2017, will be considered Eligible Owners.
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2 **BBB. “Post-September 2015 Purchaser Restitution”** means the monetary
3 compensation that Volkswagen will pay to Post-September 2015 Purchasers who elect a
4 Buyback, Certified Emissions Repair, or Approved Emissions Modification under the 3.0L
5 Settlement Program. If an Eligible Former Owner files a claim, the Post-September 2015
6 Purchaser Restitution is equal to the Buyback Restitution less 50% of: (1) the Approved
7 Emission Modification Restitution for a Buyback; (2) the Repair Restitution for a Certified
8 Emissions Repair; or (3) the Approved Emissions Modification Restitution for an AEM, for the
9 Eligible Vehicle, modified by any Mileage Adjustment in Attachment 5. If an Eligible Former
10 Lessee timely files a valid claim, the Post-September 2015 Purchaser Restitution is equal to:
11 (1) the Buyback Restitution less 50% of the Approved Emission Modification Restitution for a
12 Buyback; (2) the Repair Restitution less \$2,750 for a Certified Emissions Repair; or (3) 50% of
13 the Approved Emission Modification Restitution for an AEM, for the Eligible Vehicle, modified
14 by any Mileage adjustment in Attachment 5. If neither an Eligible Former Owner nor an Eligible
15 Former Lessee timely files a valid claim, the Post-September Purchaser Restitution is equal to
16 100% of: (1) the Buyback Restitution for a Buyback; (2) the Repair Restitution for a Certified
17 Emissions Repair; or (3) the Approved Emissions Modification Restitution for an AEM, for the
18 Eligible Vehicle, modified by any Mileage Adjustment in Attachment 5.
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22 **CCC.** Provided, however, that if the total Post-September 2015 Purchaser Restitution is
23 less than the amount required by Appendix A of the DOJ 3.0L Consent Decree, it shall be the
24 amount required by the DOJ 3.0L Consent Decree.
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26 **DDD. “Program End Date”** means two years after the last Repair Approval Date or the
27 Effective Date, whichever comes earlier.
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2 EEE. **“Reduced Performance”** means a change in any of the following performance
3 attributes: (1) a reduction in calculated fuel economy using the EPA formula of over 3 MPG;
4 (2) a decrease of greater than 5% in peak horsepower; or (3) a decrease of greater than 5% in
5 peak torque.

6 FFF. **“Related Orders”** means the DOJ 3.0L Consent Decree and 3.0L Class Action
7 Settlement Agreement.
8

9 GGG. **“Repair Approval Date”** means October 23, 2017, for Subgroup Generation 2.2
10 SUV; November 8, 2017, for Subgroup Generation 2.1 SUV; and December 20, 2017, for
11 Subgroup 2 PC, except that a Repair Approval Date may be extended in accordance with Section
12 VIII(B) or (C).
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14 HHH. **“Repair Restitution”** means the monetary compensation that Volkswagen will
15 pay to Generation 2 Eligible Owners who receive a Certified Emissions Repair, as specified in
16 column A of Attachment 3.

17 III. **“Subgroup”** means the following subdivisions of Eligible Vehicle within
18 Generation 2:
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Subgroup	Make and Model	Model Year
2.1 SUV	VW Touareg, Porsche Cayenne	2013-2014
	Audi Q7	2013-2015
2.2 SUV	VW Touareg, Porsche Cayenne	2015-2016
2 PC	Audi Q5; Audi A6 quattro; Audi A7 quattro; Audi A8; Audi A8L	2014-2016

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25 JJJ. **“Totaled”** means damaged after January 31, 2017, in a manner that renders it a
26 total loss.
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2 KKK. “Volkswagen” means Volkswagen Group of America, Inc. d/b/a Volkswagen of
3 America and Audi of America, as well as each of their successors and assigns.

4 LLL. “VIN” means Vehicle Identification Number.

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6 **ORDER**

7 **I. MONETARY JUDGMENT**

8 IT IS FURTHER ORDERED that the Court enters Judgment in the amount of four
9 billion, thirty-nine million, two hundred forty-six thousand, seven hundred seventy-three dollars
10 (\$4,039,246,773.00) against Volkswagen and in favor of the FTC. The Judgment amount is the
11 maximum amount Volkswagen would pay based on the following assumptions: (1) a 100%
12 participation rate by Eligible Consumers; (2) a 100% Buyback of all purchased Generation 1
13 Eligible Vehicles; (3) a 100% Buyback of all purchased Generation 2 Eligible Vehicles; and
14 (4) a 100% Lease Termination of all leased Eligible Vehicles. The Judgment amount represents
15 Volkswagen’s maximum potential exposure based on the assumptions stated above. If the
16 Certified Emissions Repair is timely available for the Generation 2 vehicles and 100% of
17 Eligible Consumers with Generation 1 and Generation 2 vehicles participate in the Settlement,
18 the maximum amount Volkswagen would pay to satisfy its obligations under this Order is
19 approximately \$1.2 billion in combined compensation. Additionally, the total payments
20 Volkswagen must make to satisfy its obligations under this Order will vary depending on the
21 level of Eligible Consumer participation in the 3.0L Settlement Program, remedies available to
22 Eligible Consumers, and remedy elections Eligible Consumers make. Volkswagen shall satisfy
23 its obligations under the Judgment by making the payments to consumers required by Section II
24 and Sections IV through XIV of this Order. Volkswagen may use satisfaction of this Order to
25 meet its obligations under the 3.0L Class Action Settlement Agreement to the extent provided for
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2 in that settlement. Volkswagen also may credit against its obligations under this Order any
3 payment by any third party made directly to an Eligible Consumer as compensation for an
4 Eligible Vehicle as required by this Order.

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6 **II. ADDITIONAL MONETARY PROVISIONS**

7 IT IS FURTHER ORDERED that:

8 A. Volkswagen relinquishes dominion and all legal and equitable right, title, and
9 interest in all assets transferred pursuant to this Order to any Eligible Consumer, and may not
10 seek the return of any assets.

11 B. The facts alleged in the Complaint will be taken as true, without further proof, in
12 any subsequent civil litigation by or on behalf of the FTC to enforce its rights to any payment or
13 monetary judgment pursuant to this Order, such as a nondischargeability complaint in any
14 bankruptcy case.

15 C. The facts alleged in the Complaint establish all elements necessary to sustain an
16 action by the FTC pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C.
17 § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

18 D. Upon the filing of a petition for relief under the Bankruptcy Code by or against
19 Volkswagen, or the filing of any similar federal or state insolvency proceeding by or against
20 Volkswagen, the amount of \$4,039,246,773.00 shall become immediately due and payable, less:
21 (i) \$6,000,000 earmarked for payments to Generation 1 Eligible Owners who cancel extended
22 warranties and service plans (but only to the extent of payments actually made); (ii) \$10,000
23 earmarked for payment (on behalf of Generation 1 Eligible Owners) of loan balances with excess
24 negative equity as of the Effective Date (but only to the extent of payments actually made);
25 (iii) \$30,000,000 earmarked for payments to Generation 2 Eligible Owners who cancel extended
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2 warranties and service plans during a Generation 2 Buyback (but only to the extent of payments
3 actually made); (iv) \$50,000 earmarked for payment (on behalf of Generation 2 Eligible Owners)
4 of loan balances with excess negative equity as of the date of the preliminary approval of this
5 Order (but only to the extent of payments actually made); (v) the amount Volkswagen is
6 obligated to pay for any Extension Payments pursuant to Section VIII(C) (but only to the extent
7 of payments actually made); (vi) the difference between Generation 2 Buyback Restitution and
8 the Generation 2 Repair Restitution for each Eligible Vehicle for which the Generation 2
9 Buyback has not been triggered pursuant to Section VIII(D); and (vii) the sum of the total
10 amount of all Consumer Payments Volkswagen or any third party has made to benefit Eligible
11 Consumers pursuant to the 3.0L Settlement Program.
12

13
14 E. Volkswagen must make all payments in accordance with this Order, and all
15 payments required by the 3.0L Class Action Settlement Agreement, provided that Volkswagen
16 need not make these payments to those consumers who elect not to participate in the 3.0L
17 Settlement Program and are therefore eligible for the remedies set forth in Subsections 5.1, 6.1,
18 or 8.1 of Appendix A to the DOJ 3.0L Consent Decree.
19

20 F. If, for any reason, Bosch fails to pay the required amounts into escrow in
21 accordance with the terms of the Bosch Consumer Class Action Agreement prior to the Effective
22 Date, the monetary compensation amounts in Attachments 1-4 will be reduced for each Eligible
23 Vehicle by the following amounts: Attachment 1, \$1,500 (Buyback and AEM), \$750 (Eligible
24 Former Owner); Attachment 2, \$1,200 (all amounts); Attachment 3, \$1,500 (Buyback and
25 AEM), \$750 (Eligible Former Owner); and Attachment 4, \$1,200 (all amounts).
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2 **III. NOTICE**

3 IT IS FURTHER ORDERED that Defendants shall provide notice to Eligible Consumers
4 of their rights under this Order as follows:

5 A. Defendants shall make every reasonable effort to obtain mailing and email
6 addresses of all Eligible Consumers, including by requesting available data from third parties.

7
8 B. Within five business days of the Effective Date, Defendants shall send Eligible
9 Consumers a notice as agreed to in writing by the FTC informing them of their rights under this
10 Order. Defendants shall send such notice to each Eligible Consumer for whom Defendants have
11 a mailing address by First-Class postage pre-paid mail.

12 C. Within five business days of the Effective Date, Defendants shall send by email
13 an html version of the notice in Subsection B in the body of an email (not as an attachment) to
14 each Eligible Consumer for whom Defendants have an email address. The email notice shall be
15 substantially the same in text, format, and font as the notice in Subsection B, and shall not
16 contain any other information.

17
18 D. Within five business days of the Effective Date, Defendants shall distribute to all
19 Dealers a notice regarding the 3.0L Settlement Program.

20
21 E. Immediately upon the Effective Date, Defendants shall post links to the websites
22 created pursuant to Section XVI on the landing pages of www.vw.com, www.audiusa.com, and
23 www.porsche.com. The link must appear on the top portion of the webpage (so that no scrolling
24 is required to view the text) and must state “Visit VWCourtSettlement.com (or
25 AudiCourtSettlement.com) for information on the TDI Settlement” or “TDI Settlement.” Any
26 intermediate webpages, disclosures, or text related to the TDI Settlement between the landing
27 pages of www.vw.com, www.audiusa.com, and www.porsche.com and the websites pursuant to
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2 Section XVI shall be approved by the FTC. The links shall remain posted for the duration of the
3 3.0L Settlement Program.

4 F. Defendants shall place advertisements in major national media outlets reasonably
5 calculated to notify Eligible Consumers of their eligibility for compensation.

6 G. At least 180 days prior to the Program End Date, Defendants shall send every
7 Eligible Consumer that has not elected a remedy or scheduled an appointment pursuant to
8 Section XVI a notice by at least 2 different means reasonably calculated to reach the consumer
9 (such as mail and email, or email and phone) (“Reminder Notice”). The Reminder Notice shall
10 inform such Eligible Consumers of the deadlines to file a claim application and/or schedule an
11 appointment in order to receive compensation pursuant to this Order and shall direct them to the
12 Claims Website governed by Section XVI. At least 150 days prior to the Program End Date,
13 Defendants shall send a second Reminder Notice to those Eligible Consumers who have not yet
14 submitted a claim application or scheduled an appointment pursuant to Section XVI following
15 the first Reminder Notice.
16
17

18 H. Within ten business days of Defendants receiving EPA and CARB approval of
19 any Approved Emissions Modification or Certified Emissions Repair in accordance with
20 Appendix B of the DOJ 3.0L Consent Decree, Defendants shall send, by First-Class postage pre-
21 paid mail, notice to those Eligible Owners and Eligible Lessees whose Eligible Vehicles have an
22 Approved Emissions Modification or Certified Emissions Repair informing them that there is an
23 Approved Emissions Modification or Certified Emissions Repair available for their Eligible
24 Vehicle. Such notice shall be in a form approved by EPA and CARB pursuant to Section 3 of
25 Appendix A to the DOJ 3.0L Consent Decree. Such notice shall disclose the impacts of the
26 Approved Emissions Modification or Certified Emissions Repair on an Eligible Vehicle. For
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2 Generation 1 Eligible Owners and Generation 1 Eligible Lessees, the notice shall inform them
3 that they still have a right to elect a Buyback or Lease Termination, as described in Sections IV
4 and VI.

5 I. Within ten business days of Defendants (a) receiving a final notice of disapproval
6 of a proposed Approved Emissions Modification or proposed Certified Emissions Repair from
7 EPA or CARB, (b) withdrawing any application for an Approved Emissions Modification or
8 Certified Emissions Repair, or (c) declining to submit any such application in accordance with
9 Appendix B of the DOJ 3.0L Consent Decree, Defendants shall send by First-Class postage pre-
10 paid mail notice to those Eligible Owners and Eligible Lessees whose Eligible Vehicles were
11 affected by the disapproval, withdrawal, or declination described above that the proposed
12 Approved Emissions Modification or proposed Certified Emissions Repair for the affected
13 Eligible Vehicles is not available. Such notice shall be in a form approved by EPA and CARB
14 pursuant to Section 3 of Appendix A to the DOJ 3.0L Consent Decree. Such notice shall inform
15 affected Eligible Consumers that they still have a right to elect a Buyback or Lease Termination,
16 as described in Sections VII and VIII.

17 J. Notwithstanding any other provision of this Order, with respect to all consumer-
18 facing written, published, or online notices, internet content, disclosures, and disclaimers
19 required under this Order, except those with substance uniquely tailored to an individual
20 consumer (such as an email response to a particular consumer's question), those sent pursuant to
21 Federal Rule of Civil Procedure 23, or a DOJ Emissions Modification Notice, Defendants must
22 ensure that the communications: (a) are accurate, complete, and non-misleading, and convey all
23 material information; (b) convey all material information clearly and conspicuously;
24 (c) emphasize (through underscoring, bolding, or other attention-getting devices) any deadlines
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2 that the consumer must meet; (d) use plain language; and (e) include a web location and
3 telephone number where consumers can have questions answered.

4 **IV. COMPENSATION FOR BUYBACK OF GENERATION 1 ELIGIBLE VEHICLES**

5 IT IS FURTHER ORDERED that for each Generation 1 Eligible Owner who elects a
6 Buyback, Volkswagen shall provide compensation as follows:

7
8 A. Upon submission of a Generation 1 Eligible Owner's complete and valid claim
9 application pursuant to Section XVI and surrender of the right, title, and interest in, and
10 possession of, an Eligible Vehicle to Volkswagen at a Dealer (or other entity authorized by
11 Volkswagen), Volkswagen shall pay to the Generation 1 Eligible Owner all amounts required by
12 Subsections D, E, and F. If a Generation 1 Eligible Owner elects a Buyback but does not possess
13 title to the Eligible Vehicle, for title to the Eligible Vehicle to be transferred to Volkswagen, the
14 Eligible Owner and Volkswagen must complete the steps required by Subsection G.1 and the
15 claim application pursuant to Section XVI.

16
17 B. Except as provided in Section XV, Volkswagen will complete a Buyback of an
18 Eligible Vehicle within 60 days of a Generation 1 Eligible Owner's scheduling of an
19 appointment for an approved Buyback.

20
21 C. Each Generation 1 Eligible Owner may, in the alternative, elect to receive an
22 Approved Emissions Modification and obtain Generation 1 Approved Emissions Modification
23 Restitution pursuant to Section VII at any time before Volkswagen takes possession, title, and
24 ownership of the Eligible Vehicle.

25
26 D. Except as provided in Subsections F and G, and except for Post-September 2015
27 Purchasers, Volkswagen shall pay each Generation 1 Eligible Owner who elects to participate in
28 the Buyback the sum of:

- 1
- 2 1. The Generation 1 Buyback Restitution;
- 3 2. Less any amounts paid to a lender in satisfaction of a Loan Obligation on
- 4 the Eligible Vehicle pursuant to Subsection G, if applicable.

5 E. For Generation 1 Post-September 2015 Purchasers, Volkswagen shall pay each
6 Eligible Owner who elects to participate in the Buyback the sum of:

- 7
- 8 1. The Post-September 2015 Purchaser Restitution;
- 9 2. Less any amounts paid to a lender in satisfaction of a Loan Obligation on
- 10 the Eligible Vehicle pursuant to Subsection G, if applicable.

11 F. For any Generation 1 Eligible Owner with an Eligible Vehicle that is (i) damaged
12 after January 31, 2017, and (ii) transferred to an insurance company or otherwise permanently
13 removed from commerce, upon submission of an Eligible Owner's complete and valid claim
14 application pursuant to Section XVI, Volkswagen shall pay Generation 1 Totaled Vehicle
15 Restitution to the Eligible Owner.

16 G. For any Eligible Owner with an outstanding Loan Obligation for an Eligible
17 Vehicle who elects a Buyback:

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- 20 1. Upon submission of an Eligible Owner's complete and valid claim
- 21 application pursuant to Section XVI and surrender of all right, title, and
- 22 interest in, and possession of, an Eligible Vehicle to an entity authorized
- 23 by Volkswagen, Volkswagen shall pay that Eligible Owner's lender the
- 24 full amount required to pay off the outstanding Loan Obligation for the
- 25 Eligible Vehicle, excluding any portion of the Loan Obligation that
- 26 became delinquent after June 28, 2016, (and any related costs and fees), or
- 27 any portion of the Loan Obligation, including new loans, incurred after
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2 June 28, 2016, up to 130% of the total compensation due to an Eligible
3 Owner pursuant to Subsections D or E. If the amount paid to the lender by
4 Volkswagen under this provision is not sufficient to satisfy the outstanding
5 Loan Obligation, the Eligible Owner must, at the time of the transfer of
6 ownership and possession, pay any remaining balance of the Loan
7 Obligation required to transfer all interest in, title to, and ownership and
8 possession of the Eligible Vehicle to Volkswagen to elect the Buyback.

9
10 2. If the outstanding Loan Obligation is less than or equal to the total
11 compensation to an Eligible Owner pursuant to Subsections D or E, upon
12 submission of an Eligible Owner's complete and valid claim application
13 pursuant to Section XVI and surrender of all right, title, and interest in,
14 and possession of, an Eligible Vehicle to Volkswagen at a Volkswagen or
15 Audi Dealer (or other entity authorized by Volkswagen), Volkswagen
16 shall pay that Eligible Owner's lender the full amount required to pay off
17 the outstanding Loan Obligation for the Eligible Vehicle, and shall pay the
18 Eligible Owner the difference between the Loan Obligation and the
19 compensation under Subsections D or E.
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22 3. Volkswagen shall not charge Eligible Owners any consideration, including
23 transactional or other fees, costs, or penalties, for making the payments
24 required by this Subsection. Early termination or similar fees pursuant to
25 or permitted by any Eligible Owner's contract with an affiliate of
26 Volkswagen, including VW Credit, Inc. and Audi Financial Services, Inc.,
27 are not part of the Loan Obligation for purposes of Subsections G.1 and
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2 G.2 above, and Volkswagen may not use them as a basis to reduce the
3 payments due to an Eligible Owner under this Section.

4 H. Nothing herein precludes any Generation 1 Eligible Owner from entering into a
5 private transaction outside the claims process, including a trade-in to a branded or non-branded
6 dealer for an amount less than, equal to, or more than the amount to which they are entitled under
7 the 3.0L Settlement Program; provided, however, that nothing in this Order or the 3.0L
8 Settlement Program authorizes any branded or non-branded dealer to engage in any deceptive
9 practice, unfair trade practice, or other practice prohibited by law, and nothing in this Order or
10 the 3.0L Settlement Program limits the FTC's authority or the authority of any other law
11 enforcement agency. If a Generation 1 Eligible Owner sells, transfers, or trades in an Eligible
12 Vehicle after January 31, 2017, to any person or entity other than through the Order, that Eligible
13 Owner forfeits his, her, or its benefits under this Order. This includes all private sales and
14 transfers, all trade-ins to Volkswagen, Audi, or Porsche Dealers that are transacted outside the
15 official 3.0L Settlement Program, and all trade-ins to unaffiliated dealers.
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18 **V. COMPENSATION FOR GENERATION 1 ELIGIBLE LESSEES WHOSE**
19 **LEASES TERMINATED AFTER SEPTEMBER 18, 2015**

20 IT IS FURTHER ORDERED that for any Generation 1 Eligible Lessee who had an
21 active lease at any time between September 18, 2015, and November 2, 2015, but whose lease
22 has since terminated and who returns or returned the Eligible Vehicle at the conclusion of the
23 lease, upon submission of the Generation 1 Eligible Lessee's complete and valid claim
24 application pursuant to Section XVI, Volkswagen shall pay Generation 1 Lessee Restitution to
25 such a Generation 1 Eligible Lessee.
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2 **VI. COMPENSATION AND LEASE TERMINATION FOR GENERATION 1**
3 **ELIGIBLE LESSEES WITH ACTIVE LEASES**

4 IT IS FURTHER ORDERED that for each Generation 1 Eligible Lessee who has an
5 active lease and who elects a Lease Termination, Volkswagen shall provide compensation as
6 follows:

7 A. Upon submission of a Generation 1 Eligible Lessee's complete and valid claim
8 application pursuant to Section XVI and surrender of an Eligible Vehicle to Volkswagen at a
9 Volkswagen or Audi Dealer (or other entity authorized by Volkswagen), Volkswagen shall pay
10 Generation 1 Lessee Restitution to the Generation 1 Eligible Lessee. Volkswagen shall pay all
11 amounts necessary to achieve a Lease Termination without penalty to the Generation 1 Eligible
12 Lessee, including, without limitation, early termination fees owed to third parties. Provided,
13 however, that Volkswagen shall not be obligated to pay any Generation 1 Lessee Restitution
14 Adjustments and may deduct any such amounts from the Generation 1 Lessee Restitution. When
15 calculating excess mileage fees, Volkswagen cannot prorate the actual mileage on the Eligible
16 Vehicle on the day of vehicle surrender, but must compare such actual mileage to that allowed
17 under the full lease term.

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20 B. Except as provided in Section XV, Volkswagen shall complete a Lease
21 Termination of an Eligible Vehicle within 45 days of a Generation 1 Eligible Lessee's election to
22 schedule an appointment for an approved Lease Termination.

23
24 C. Volkswagen will assume any remaining lease payments from the date of the
25 completion of the process in Subsection A through the end of the lease agreement.
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2 **VII. COMPENSATION FOR APPROVED EMISSIONS MODIFICATIONS OF**
3 **GENERATION 1 ELIGIBLE VEHICLES**

4 IT IS FURTHER ORDERED that for each Eligible Owner or Eligible Lessee who is
5 entitled to elect and elects an Approved Emissions Modification, Volkswagen shall provide free
6 Approved Emissions Modifications that fully comply with this Order and Appendix B of the
7 DOJ 3.0L Consent Decree, and shall provide compensation as follows:

8 A. Upon submission of an Eligible Owner's or Eligible Lessee's complete and valid
9 claim application pursuant to Section XVI and completion of an Approved Emissions
10 Modification by a Volkswagen or Audi Dealer (or other entity authorized by Volkswagen),
11 Volkswagen shall pay the amounts required by Subsections B through E.

12 B. Except for Post-September 2015 Purchasers of Generation 1 Eligible Vehicles,
13 Volkswagen shall pay Generation 1 Approved Emissions Modification Restitution to each
14 Eligible Owner who elects to receive an Approved Emissions Modification.

15 C. For Post-September 2015 Purchasers of Generation 1 Eligible Vehicles,
16 Volkswagen shall pay Generation 1 Post-September 2015 Purchaser Restitution to each Post-
17 September 2015 Purchaser who elects to receive an Approved Emissions Modification.

18 D. Volkswagen shall pay Generation 1 Lessee Restitution to each Generation 1
19 Eligible Lessee who elects to receive an Approved Emissions Modification and at the time the
20 Eligible Vehicle is brought in for an Approved Emissions Modification (a) is the current lessee
21 of an Eligible Vehicle and elects to continue an active lease for an Eligible Vehicle or (b)
22 formerly leased and now owns the Eligible Vehicle but did not acquire ownership of the Eligible
23 Vehicle until after January 31, 2017.

24 E. Except as provided in Section XV, Volkswagen shall complete an Approved
25 Emissions Modification within 60 days of an Eligible Owner's or Eligible Lessee's scheduling of
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2 an appointment for an Approved Emissions Modification, following approval by EPA and
3 CARB of an Approved Emissions Modification.

4 F. Volkswagen shall provide a loaner vehicle at no cost to the consumer for any
5 Approved Emissions Modification that is scheduled to take longer than 3 hours or that is not
6 complete within 3 hours of the scheduled start of the appointment. Volkswagen shall provide
7 consumers receiving an Approved Emissions Modification such loaner vehicles at no cost for 24
8 hours after Volkswagen notifies them that the Approved Emissions Modification is complete.
9 This provision is in addition to the alternative availability of a concierge service (picking up and
10 dropping off of a consumer's vehicle).
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12 **VIII. COMPENSATION ALTERNATIVES FOR GENERATION 2 ELIGIBLE**
13 **OWNERS AND LESSEES**

14 IT IS FURTHER ORDERED that Defendants must offer each Generation 2 Owner a
15 Certified Emissions Repair, or if a Certified Emissions Repair is not timely available, the choice
16 between a Buyback and an Approved Emissions Modification, in accordance with the terms set
17 forth in this Order:
18

19 A. If, on or before the applicable Repair Approval Date, Defendants have a Certified
20 Emissions Repair for an Eligible Vehicle, then Defendants must offer each Eligible Owner of
21 such Eligible Vehicle a free Certified Emissions Repair and Repair Restitution, and each Eligible
22 Lessee of such Eligible Vehicle a free Certified Emissions Repair and Lessee Repair Restitution,
23 in accordance with Section IX.
24

25 B. Defendants represent that the Certified Emissions Repair shall not result in
26 Reduced Performance. In the event that the Certified Emissions Repair causes Reduced
27 Performance of the Eligible Vehicle, Volkswagen shall make an additional payment of \$500 for
28 each affected Eligible Vehicle. The performance impacts of a Certified Emissions Repair shall

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2 be measured by Volkswagen pursuant to industry standards in connection with its submission of
3 an Emissions Modification Proposal to EPA and CARB and, upon approval of such Emissions
4 Modification Proposal, Defendants shall disclose the extent of any Reduced Performance in a
5 notice to each impacted Generation 2 Eligible Owner or Generation 2 Eligible Lessee, which
6 may be satisfied by the mailing of a notice under the 3.0L Class Action Settlement Agreement.
7
8 In the event that the Certified Emissions Repair causes a substantial, material adverse
9 degradation above and beyond the Reduced Performance levels specified in Paragraph EEE, the
10 FTC reserves the right to seek, and Defendants reserve the right to oppose, additional remedies
11 through motion to the Court.

12
13 C. If, after the Repair Approval Date for a given Subgroup, EPA and CARB have not
14 rendered a final decision for a proposed Certified Emissions Repair for any Subgroup, the FTC
15 may move the Court to require Defendants to offer a Buyback for the Subgroup for which EPA
16 and CARB have not rendered a decision by the Repair Approval Date, on the basis that good
17 cause does not exist for further delay in offering the option of a Buyback (regardless of whether
18 any appeals are pending). Within 15 days of that motion, unless the parties agree to a longer
19 period, the parties will fully brief and argue whether good cause exists for offering the option of
20 the Buyback and whether some additional time should be permitted before the Buyback is
21 ordered. The Court will determine whether to allow testimony at the hearing, and no discovery
22 will be allowed unless ordered by the Court. Defendants and the FTC agree that the Court's
23 decision on whether good cause exists for further delay in offering the option of a Buyback is
24 final and not appealable.
25

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27 D. If the Court rules that good cause does not exist to delay ordering the Buyback,
28 Defendants may extend the Repair Approval Date for the relevant Subgroup(s) by paying an

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2 Extension Payment for each thirty (30) day period from the day the Court issues its ruling on
3 FTC's motion, up to a maximum of ninety (90) days. Any Extension Payment will be in
4 addition to the compensation otherwise owed to the Eligible Owner or Eligible Lessee (including
5 any Generation 2 Participation Payment). Extension Payments will be paid by Volkswagen at
6 the time the Eligible Owner or Eligible Lessee receives other restitution payments under this
7 Order, excluding any Generation 2 Participation Payment.
8

9 E. If Defendants have not satisfied the conditions in Section VIII(A) for a given
10 Generation 2 Eligible Vehicle and (a) the Court finds that good cause does not exist for
11 extending a Repair Approval Date and Defendants do not extend the Repair Approval Date, or
12 (b) the Repair Approval Date has been extended by the maximum ninety (90) days, then, within
13 ten business days, Defendants must offer Eligible Owners of such Eligible Vehicles either (1) the
14 choice of a Buyback and Generation 2 Buyback Restitution in accordance with Section X or an
15 Approved Emissions Modification and Generation 2 Approved Emissions Modification
16 Restitution, or (2) for Post-September 2015 Purchasers only, Generation 2 Post-September 2015
17 Purchaser Restitution in accordance with Section XI, and offer Eligible Lessees of such Eligible
18 Vehicles Generation 2 Lessee Restitution and the choice of a Lease Termination or an Approved
19 Emissions Modification in accordance with Sections XI and XII.
20
21

22 **IX. COMPENSATION FOR GENERATION 2 CERTIFIED EMISSIONS REPAIRS**

23 IT IS FURTHER ORDERED that, if Defendants have a Certified Emissions Repair
24 pursuant to Section VIII(A), Defendants shall make Certified Emissions Repairs and
25 Volkswagen shall provide compensation as follows:
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27 A. Volkswagen shall make a Generation 2 Participation Payment to each Generation
28 2 Eligible Owner, Generation 2 Post-September 2015 Purchaser, and Generation 2 Eligible

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2 Lessee who elects to participate in the 3.0L Settlement Program and receive a Certified
3 Emissions Repair within 120 days of the Effective Date, provided, however, that in
4 communications notifying Generation 2 Eligible Consumers about the availability of Generation
5 2 Participation Payments, Defendants must clearly and conspicuously disclose: (1) that the
6 Generation 2 Eligible Consumer will receive the same total amount through the 3.0L Settlement
7 Program whether or not he or she accepts a Generation 2 Participation Payment; (2) a description
8 of the terms, conditions, and process associated with the determination of eligibility for, and
9 receipt of, a Generation 2 Participation Payment.
10

11 B. Upon submission of a Generation 2 Eligible Owner's complete and valid claim
12 application pursuant to Section XVI and completion of a Certified Emissions Repair by a Dealer
13 (or other entity authorized by Defendants) Volkswagen shall pay each such Generation 2 Eligible
14 Owner Repair Restitution, minus any Generation 2 Participation Payment actually made, at the
15 time the Eligible Vehicle receives the Certified Emissions Repair or upon proof that an Eligible
16 Vehicle was Totaled after January 31, 2017. Except as provided for in Section XV, Repair
17 Restitution and a Certified Emissions Repair shall be in lieu of Generation 2 Buyback Restitution
18 and a Buyback or Generation 2 Approved Emissions Modification Restitution and an Approved
19 Emissions Modification.
20
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22 C. Upon submission of a Generation 2 Eligible Lessee's complete and valid claim
23 application pursuant to Section XVI and completion of a Certified Emissions Repair by an
24 appropriate brand authorized Dealer (or other entity authorized by Defendants), Volkswagen
25 shall pay the Lessee Repair Restitution at the time the Eligible Vehicle receives the Certified
26 Emissions Repair. The Lessee Repair Restitution and Certified Emissions Repair shall be in lieu
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2 of the Generation 2 Lessee Restitution and Approved Emissions Modification or Lease
3 Termination.

4 D. Defendants shall complete Certified Emissions Repairs within 60 days of an
5 Eligible Owner's or Eligible Lessee's scheduling of an appointment for a Certified Emissions
6 Repair, following approval by EPA and CARB of a Certified Emissions Repair.

7
8 E. Volkswagen shall provide a loaner vehicle at no cost to the consumer for any
9 Certified Emissions Repair that is scheduled to take longer than 3 hours or that is not complete
10 within 3 hours of the scheduled start of the appointment. Volkswagen shall provide consumers
11 receiving a Certified Emissions Repair such loaner vehicles at no cost for 24 hours after
12 Defendants notify them that the Certified Emissions Repair is complete. This provision is in
13 addition to the alternative availability of a concierge service (picking up and dropping off of a
14 consumer's vehicle).
15

16 **X. COMPENSATION FOR BUYBACK OF GENERATION 2 ELIGIBLE VEHICLES**

17 IT IS FURTHER ORDERED that, if Generation 2 Eligible Owners are eligible for a
18 Buyback pursuant to Section VIII(D), Volkswagen shall provide compensation as follows:

19 A. Upon submission of a Generation 2 Eligible Owner's complete and valid claim
20 application pursuant to Section XVI and surrender of the right, title, and interest in, and
21 possession of, an Eligible Vehicle to Defendants at a Dealer (or other entity authorized by
22 Defendants), Volkswagen shall pay to the Generation 2 Eligible Owner all amounts required by
23 Subsections D, E, and F. If a Generation 2 Eligible Owner elects a Buyback but does not possess
24 title to the Eligible Vehicle, for title to the Eligible Vehicle to be transferred to Defendants, the
25 Eligible Owner and Defendants must complete the steps required by Subsection G.1 and the
26 claim application pursuant to Section XVI.
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2 B. Except as provided in Section XV, Defendants will complete a Buyback of an
3 Eligible Vehicle within 60 days of a Generation 2 Eligible Owner's scheduling of an
4 appointment for an approved Buyback.

5 C. Each Generation 2 Eligible Owner may, in the alternative, elect to receive an
6 Approved Emissions Modification and obtain Generation 2 Approved Emissions Modification
7 Restitution pursuant to Section XI at any time before Defendants take possession, title, and
8 ownership of the Eligible Vehicle.
9

10 D. Except as provided in Subsection F and G, and with the exception of Post-
11 September 2015 Purchasers, Volkswagen shall pay each Generation 2 Eligible Owner who elects
12 to participate in the Buyback the sum of:

- 13 1. The Generation 2 Buyback Restitution;
- 14 2. Less any Generation 2 Participation Payment, if applicable;
- 15 3. Less any amounts paid to a lender in satisfaction of a Loan Obligation on
16 the Eligible Vehicle pursuant to Subsection G, if applicable.
17

18 E. For Generation 2 Post-September 2015 Purchasers, Volkswagen shall pay each
19 Eligible Owner who elects to participate in the Buyback the sum of:

- 20 1. The Post-September 2015 Purchaser Restitution;
- 21 2. Less any Generation 2 Participation Payment, if applicable;
- 22 3. Less any amounts paid to a lender in satisfaction of a Loan Obligation on
23 the Eligible Vehicle pursuant to Subsection G, if applicable.
24

25 F. For any Generation 2 Eligible Owner with an Eligible Vehicle that is damaged
26 after January 31, 2017, in a manner that renders it a total loss and transferred to an insurance
27 company, upon submission of an Eligible Owner's complete and valid claim application
28

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2 pursuant to Section XVI, Volkswagen shall pay Generation 2 Totaled Vehicle Restitution to the
3 Eligible Owner.

4 G. For any Generation 2 Eligible Owner with an outstanding Loan Obligation for an
5 Eligible Vehicle who elects a Buyback:

6 1. Upon submission of an Eligible Owner's complete and valid claim
7 application pursuant to Section XVI and surrender of all right, title, and
8 interest in, and possession of, an Eligible Vehicle to Defendants or an
9 entity authorized by Defendants, Volkswagen shall pay that Eligible
10 Owner's lender the full amount required to pay off the outstanding Loan
11 Obligation for the Eligible Vehicle, excluding any portion of the Loan
12 Obligation that became delinquent after June 28, 2016 (and any related
13 costs and fees), or any portion of the Loan Obligation, including new
14 loans, incurred after June 28, 2016, up to 130% of the total compensation
15 due to an Eligible Owner pursuant to Subsections D or E. If the amount
16 paid to the lender by Volkswagen under this provision is not sufficient to
17 satisfy the outstanding Loan Obligation, the Eligible Owner must, at the
18 time of the transfer of ownership and possession, pay any remaining
19 balance of the Loan Obligation required to transfer all interest in, title to,
20 and ownership and possession of the Eligible Vehicle to Defendants to
21 elect the Buyback.

22 2. If the outstanding Loan Obligation is less than or equal to the total
23 compensation to an Eligible Owner pursuant to Subsections D or E, upon
24 submission of an Eligible Owner's complete and valid claim application
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2 pursuant to Section XVI and surrender of all right, title, and interest in,
3 and possession of, an Eligible Vehicle to Defendants at a Dealer (or other
4 entity authorized by Defendants), Volkswagen shall pay that Eligible
5 Owner's lender the full amount required to pay off the outstanding Loan
6 Obligation for the Eligible Vehicle, and shall pay the Eligible Owner the
7 difference between the Loan Obligation and the compensation under
8 Subsections D or E.

9
10 3. Defendants shall not charge Eligible Owners any consideration, including
11 transactional or other fees, costs, or penalties for making the payments
12 required by this Subsection. Early termination or similar fees pursuant to
13 or permitted by any Eligible Owner's contract with an affiliate of any of
14 the Defendants, including VW Credit, Inc., Audi Financial Services, Inc.,
15 and Porsche Financial Services, Inc., are not part of the Loan Obligation
16 for purposes of Subsections G.1 and G.2 above, and Defendants may not
17 use them as a basis to reduce the payments due to an Eligible Owner under
18 this Section.
19
20

21 H. Nothing herein precludes any Generation 2 Eligible Owner from entering into a
22 private transaction outside the claims process, including a trade-in to a branded or non-branded
23 dealer for an amount less than, equal to, or more than the amount to which they are entitled under
24 the 3.0L Settlement Program; provided, however, that nothing in this Order or the 3.0L
25 Settlement Program authorizes any branded or non-branded dealer to engage in any deceptive
26 practice, unfair trade practice, or other practice prohibited by law, and nothing in this Order or
27 the 3.0L Settlement Program limits the FTC's authority or the authority of any other law
28

1 enforcement agency. If a Generation 2 Eligible Owner sells, transfers or trades in an Eligible
2 Vehicle after January 31, 2017, to any person or entity other than through this Order, that
3 Eligible Owner forfeits his, her, or its benefits under this Order. This includes all private sales
4 and transfers, and all trade-ins to VW, Audi, or Porsche branded dealers that are transacted
5 outside the official 3.0L Settlement Program, and all trade-ins to unaffiliated dealers.
6

7
8 **XI. COMPENSATION FOR APPROVED EMISSIONS MODIFICATIONS OF
9 GENERATION 2 ELIGIBLE VEHICLES**

10 IT IS FURTHER ORDERED that if Eligible Owners and Eligible Lessees are eligible for
11 an Approved Emissions Modification pursuant to Section VIII(D) and elect to receive an
12 Approved Emissions Modification, Defendants shall provide free Approved Emissions
13 Modifications that fully comply with this Order and Appendix B of the DOJ 3.0L Consent
14 Decree, and Volkswagen shall provide compensation as follows:

15 A. Upon submission of an Eligible Owner's or Eligible Lessee's complete and valid
16 claim application pursuant to Section XVI and completion of an Approved Emissions
17 Modification by a Dealer (or other entity authorized by Defendants), Volkswagen shall pay the
18 amounts required by Subsections B through E.

19 B. Except for Post-September 2015 Purchasers of Generation 2 Eligible Vehicles,
20 Volkswagen shall pay Generation 2 Approved Emissions Modification Restitution to each
21 Eligible Owner who elects to receive an Approved Emissions Modification.
22

23 C. For Post-September 2015 Purchasers of Generation 2 Eligible Vehicles
24 Volkswagen shall pay Generation 2 Post-September 2015 Purchaser Restitution to each Post-
25 September 2015 Purchaser who elects to receive an Approved Emissions Modification.
26

27 D. Volkswagen shall pay Generation 2 Lessee Restitution to each Eligible Lessee
28 who elects to receive an Approved Emissions Modification and at the time the Eligible Vehicle

1
2 is brought in for an Approved Emissions Modification: (a) is the current lessee of an Eligible
3 Vehicle and elects to continue an active lease for an Eligible Vehicle, or (b) owns the Eligible
4 Vehicle but did not acquire ownership of the Eligible Vehicle until after January 31, 2017.

5 E. Except as provided in Section XV, Defendants shall complete an Approved
6 Emissions Modification within 60 days of a Generation 2 Eligible Owner's or a Generation 2
7 Eligible Lessee's scheduling of an appointment for an Approved Emissions Modification,
8 following approval by EPA and CARB of an Approved Emissions Modification.
9

10 F. Volkswagen shall provide a loaner vehicle at no cost to the consumer for any
11 Approved Emissions Modification that is scheduled to take longer than 3 hours or that is not
12 complete within 3 hours of the scheduled start of the appointment. Volkswagen shall provide
13 consumers receiving an Approved Emissions Modification such loaner vehicles at no cost for 24
14 hours after Defendants notify them that the Approved Emissions Modification is complete.
15 This provision is in addition to the alternative availability of a concierge service (picking up and
16 dropping off of a consumer's vehicle).
17

18 **XII. COMPENSATION FOR GENERATION 2 ELIGIBLE LESSEES WHOSE**
19 **LEASES TERMINATED AT ANY POINT AFTER SEPTEMBER 18, 2015,**

20 IT IS FURTHER ORDERED that for any Generation 2 Eligible Lessee who had an
21 active lease as of September 18, 2015, and/or November 2, 2015, but whose lease has since
22 terminated and who returned the Eligible Vehicle at the conclusion of the lease, upon submission
23 of the Generation 2 Eligible Lessee's complete and valid claim application pursuant to Section
24 XVI, Volkswagen shall pay Generation 2 Lessee Restitution to such Generation 2 Eligible
25 Lessee.
26

27 **XIII. COMPENSATION AND LEASE TERMINATION FOR GENERATION 2**
28 **ELIGIBLE LESSEES WITH ACTIVE LEASES**

1
2 IT IS FURTHER ORDERED that if Generation 2 Eligible Lessees with active leases are
3 eligible for a Lease Termination pursuant to Section VIII(D) and elect a Lease Termination,
4 Volkswagen shall provide compensation as follows:

5 A. Upon submission of a Generation 2 Eligible Lessee's complete and valid claim
6 application pursuant to Section XVI and surrender of an Eligible Vehicle to Defendants at a
7 Dealer (or other entity authorized by Defendants), Volkswagen shall pay Generation 2 Lessee
8 Restitution to the Eligible Lessee. Volkswagen shall pay all amounts necessary to achieve a
9 Lease Termination without penalty to the Eligible Lessee, including, without limitation, early
10 termination fees owed to third parties, provided, however, that Volkswagen shall not be
11 obligated to pay any Generation 2 Lessee Restitution Adjustments and may deduct any such
12 amounts from the Generation 2 Lessee Restitution. When calculating excess mileage fees,
13 Defendants cannot prorate the actual mileage on the Eligible Vehicle on the day of vehicle
14 surrender, but must compare such actual mileage to that allowed under the full lease term.

15
16
17 B. Except as provided in Section XV, Defendants shall complete a Lease
18 Termination of an Eligible Vehicle within 45 days of a Generation 2 Eligible Lessee's
19 scheduling of an appointment for an approved Lease Termination.

20
21 C. Volkswagen will assume any remaining lease payments from the date of the
22 completion of the process in Subsection A through the end of the lease agreement.

23 **XIV. COMPENSATION FOR ELIGIBLE FORMER OWNERS**

24 IT IS FURTHER ORDERED that upon submission of an Eligible Former Owner's
25 complete and valid claim application pursuant to Section XVI for an Eligible Vehicle,
26 Volkswagen shall pay restitution to each Eligible Former Owner who elects to participate in the
27 3.0L Settlement Program as follows:
28

1
2 A. If there is one Eligible Former Owner for a Generation 1 Eligible Vehicle who
3 submits a complete and valid claim, then that Eligible Former Owner shall receive Generation 1
4 Former Owner Restitution for the Eligible Vehicle.

5 B. If there are two Eligible Former Owners for a Generation 1 Eligible Vehicle who
6 submit complete and valid claims, then each Eligible Former Owner shall receive Generation 1
7 Former Owner Restitution for the Eligible Vehicle.

8 C. If there is one Eligible Former Owner for a Generation 2 Eligible Vehicle who
9 submits a complete and valid claim, then that Eligible Former Owner shall receive 50% of the
10 Generation 2 Repair Restitution for the Generation 2 Eligible Vehicle. Provided, however, that
11 if a Buyback of Generation 2 Eligible Vehicles is triggered pursuant to Section VII(D), the
12 Eligible Former Owner for a Generation 2 Eligible Vehicle shall receive a Generation 2
13 Adjustment within ninety days of the date a Buyback is offered to Generation 2 Eligible Owners.
14

15 D. If there are two Eligible Former Owners for a Generation 2 Eligible Vehicle who
16 submit complete and valid claims, then the amount of Eligible Former Owner Restitution for
17 each Eligible Former Owner shall be 25% of the Generation 2 Repair Restitution for the Eligible
18 Vehicle. Provided, however, that if a Buyback of Generation 2 Eligible Vehicles is triggered
19 pursuant to Section VII(D), each Eligible Former Owner for a Generation 2 Eligible Vehicle
20 shall receive 50% of the Generation 2 Adjustment within ninety days of the date a Buyback is
21 offered to Generation 2 Eligible Owners.
22

23 E. Eligible Former Owners shall have until May 1, 2017, to identify themselves by
24 electronic registration on the Claims Website or by submission of an identification form by mail
25 or fax, provided, however, that if the Court grants preliminary approval of the 3.0L Settlement
26 Agreement after February 14, 2017, Eligible Former Owners shall have 75 days from the date of
27
28

1 preliminary approval to register. Eligible Former Owners that have timely identified themselves
2 and Eligible Former Lessees shall have sixty (60) days from the Effective Date to submit a
3 complete and valid claim.
4

5 F. Volkswagen will not pay more for a single vehicle than the amount allocated to
6 that vehicle for a Buyback, if the Eligible Owner chooses a Buyback, an Approved Emissions
7 Modification, if the Eligible Owner chooses an Approved Emissions Modification, or Certified
8 Emissions Repair, if the Eligible Owner chooses a Certified Emissions Repair, except as
9 necessary to satisfy their obligations to pay loan forgiveness pursuant to section VI(G) and X(G)
10 and to pay the minimum amounts required by the DOJ 3.0L Consent Decree. No additional
11 funds will be made available by Volkswagen to compensate Eligible Former Owners.
12

13 **XV. WARRANTY AND LEMON LAW PROTECTION FOR MODIFIED VEHICLES**
14

15 IT IS FURTHER ORDERED that Defendants must provide an emissions control system
16 warranty and an engine long block warranty (collectively, the “Extended Emissions Warranty”)
17 for each Eligible Vehicle that undergoes an Approved Emissions Modification or a Certified
18 Emissions Repair (“Modified or Repaired Vehicles”). The Extended Emissions Warranty shall
19 cover all parts and labor, as well as the cost or provision of a loaner vehicle for warranty service
20 lasting longer than 3 hours. Defendants must not impose on consumers any fees or charges, and
21 must pay any fees or charges imposed by Dealers related to the warranty service. The Extended
22 Emissions Warranty shall provide warranty coverage as follows:
23

24 A. The emissions control system warranty must cover the entire emissions control
25 system including (a) all components that are replaced, repaired, installed upgraded, or otherwise
26 modified as part of the Approved Emissions Modification or Certified Emissions Repair; (b) all
27 components listed in sections 3.9.1 and 3.9.2 of Appendix B of the DOJ 3.0L Consent Decree;
28

1
2 and (c) an any other component that can reasonably be impacted by effects of the Approved
3 Emissions Modification or Certified Emissions Repair. The emissions control system warranty
4 must cover, at a minimum, the following parts:

- 5 1. The entire exhaust after treatment system including, the diesel oxidation
6 catalyst, the diesel particulate filter, the SCR catalyst, the dosing injector
7 and other diesel exhaust fluid system components, all sensors and
8 actuators, and any exhaust flap;
- 9 2. The entire fuel system, including the fuel pumps, high pressure common
10 rail, fuel injectors, and all sensors and actuators;
- 11 3. The exhaust gas recirculation system including the exhaust gas
12 recirculation valve, exhaust gas recirculation bypass valve, exhaust gas
13 recirculation cooler, exhaust gas recirculation filter, all related hoses and
14 pipes, and all sensors and actuators;
- 15 4. The turbocharger system including all related hoses and pipes, all sensors
16 and actuators;
- 17 5. The on-board diagnostics system and any malfunctions detected by the
18 on-board diagnostics system;
- 19 6. The engine control unit and transmission control unit.

20
21
22
23 B. The engine long block warranty must cover the engine sub-assembly that consists
24 of the assembled block, crankshaft, cylinder head, camshaft, and valve train.

25
26 C. The warranty period for the Extended Emissions Warranty shall be the longer of:

- 27 1. Measured from the Eligible Vehicle's initial sale or lease: 10 years or
28 120,000 miles, whichever comes first;

- 1
- 2 2. Measured from the date and mileage when an Approved Emissions
- 3 Modification is implemented prior to any resale of the Eligible Vehicle: 4
- 4 years or 48,000 miles, whichever comes first; or
- 5 3. Measured from the date and mileage of the time of the first resale
- 6 transaction after an Approved Emissions Modification: 4 years or 48,000
- 7 miles, whichever comes first; provided, however, that Subsection C.3
- 8 applies only to the first resale transaction after the modification to the first
- 9 person who in good faith purchases the vehicle for purposes other than
- 10 resale.
- 11

12 D. Defendants must extend the Extended Emissions Warranty periods in Section

13 XV(C) by 6 months and 6,000 miles for each additional OBD noncompliance beyond what is

14 required in Sections 3.1.6 to 3.1.8 of Appendix B of the DOJ 3.0L Consent Decree.

15

16 E. Defendants shall make available online a searchable database in accordance with

17 Section 3.9.4 of Appendix B of the DOJ 3.0L Consent Decree that includes all Eligible Vehicles,

18 and that includes all 3.0-liter vehicles possessed by Defendants or Dealers, by which users,

19 including Eligible Owners, Eligible Lessees, and prospective purchasers, may conduct a free-of-

20 charge search by vehicle VIN to determine whether the Extended Emissions Warranty, and any

21 additional warranty extensions, apply to a specific vehicle.

22

23 F. Defendants must also maintain a database in accordance with Section 3.9.5 of

24 Appendix B of the DOJ 3.0L Consent Decree that includes all Eligible Vehicles, and that

25 includes all 3.0-liter vehicles possessed by Defendants or Dealers, by which Defendants' Dealers

26 and Defendants' authorized service facilities shall search by vehicle VIN to determine whether

27

28

1
2 the Extended Emissions Warranty and any additional warranty extensions, apply to a specific
3 Eligible Vehicle.

4 G. The Extended Emissions Warranty is associated with the vehicle, and remains
5 available to any and all subsequent owners and operators.

6 H. The Extended Emissions Warranty shall not supersede or void any outstanding
7 warranty. To the extent there is a conflict in any provision(s) of this warranty and any
8 outstanding warranty, that conflict shall be resolved to the benefit of the consumer.
9

10 I. The Extended Emissions Warranty shall not modify, limit, or affect any state,
11 local, or federal legal rights available to the owners.

12 J. Any waiver of any provision of the Extended Emissions Warranty by an owner is
13 null and void.
14

15 K. For Eligible Owners and Eligible Lessees who decline to receive the Approved
16 Emissions Modification or Certified Emissions Repair for an Eligible Vehicle, Defendants must
17 continue to service such Eligible Vehicle in accordance with existing applicable warranty
18 provisions, provided that if service of the engine control unit is needed, in no event may
19 Defendants install the master series calibration. Such requirements, and the potential effect on
20 Eligible Owners and Eligible Lessees must be clearly described in the Emissions Modification
21 Disclosure statement in accordance with Section 4.3.10 of Appendix B of the DOJ 3.0L Consent
22 Decree.
23

24 L. Defendants must offer (for Repaired Vehicles) or reoffer (for Modified Vehicles)
25 and provide a Buyback or Lease Termination to any Eligible Owner or Eligible Lessee of a
26 Modified or Repaired Vehicle, in the event that, during the 18 months or 18,000 miles
27
28

1
2 (whichever occurs first) following the completion of the Approved Emissions Modification (the
3 “Reoffer Period”):

- 4
5 1. Defendants fail to repair or remedy (at Volkswagen’s expense) a
6 confirmed mechanical failure or malfunction covered by the Extended
7 Emissions Warranty and associated with the Approved Emissions
8 Modification or Certified Emissions Repair (a “Warrantable Failure”) after
9 the Eligible Owner or Eligible Lessee physically presents the Modified or
10 Repaired Vehicle to a Dealer for repair of the Warrantable Failure and:
11
12 a. the Warrantable Failure is unable to be remedied after making four
13 (4) separate service visits for the same Warrantable Failure during
14 the Reoffer Period; or
15
16 b. the Modified or Repaired Vehicle with the Warrantable Failure is
17 out of service due to the Warrantable Failure for a cumulative total
18 of 30 days during the Reoffer Period. For avoidance of doubt, a
19 Modified or Repaired Vehicle shall not be deemed “out of service”
20 when, after diagnosing the Warrantable Failure, the Dealer returns
21 or tenders the Modified or Repaired Vehicle to the customer while
22 the Dealer awaits necessary parts for the Warrantable Failure and
23 the Modified or Repaired Vehicle remains Operable.
24

25 M. If any such consumer is entitled to elect and elects a Buyback or Lease
26 Termination pursuant to Subsection L, the owner or lessee shall receive the Consumer Payments
27 that he or she would have received under a Buyback or Lease Termination at the time the
28 Eligible Owner or Eligible Lessee first requested the Approved Emissions Modification, less any

1
2 Consumer Payments already received; or in the case of a Certified Emissions Repair, the Eligible
3 Owner or Eligible Lessee shall receive the Generation 2 Buyback Restitution or Generation 2
4 Lessee Restitution payments, less any Consumer Payments made, with the exception of any
5 Generation 2 Participation Payments. No Eligible Owner or Eligible Lessee shall receive double
6 recovery of any portion of any Consumer Payment.
7

8 N. For Eligible Owners and Eligible Lessees with Generation 2 Eligible Vehicles
9 (i) whose original New Vehicle Limited Warranty and/or Powertrain Limited Warranty
10 expired/expires prior to the timely availability of a Certified Emissions Repair as outlined in
11 Section IX, and (ii) which are not covered by another warranty and/or service contract (provided
12 through Volkswagen, Porsche, or any third-party), Volkswagen agrees to provide a Bridge
13 Warranty providing coverage and terms mirroring the coverage previously provided by the
14 expired New Vehicle Limited Warranty or Powertrain Limited Warranty. The Bridge Warranty
15 shall exclusively apply to covered repairs performed by a Dealer based on conditions that arose
16 between (a) January 31, 2017, or the expiration date of the New Vehicle Limited Warranty or
17 Powertrain Limited Warranty, whichever is later, and (b) the date that a Certified Emissions
18 Repair is approved. For avoidance of doubt, the benefits set forth in this provision are available
19 only to consumers who participate in the 3.0L Settlement Program.
20
21

22 O. Any Eligible Consumer who receives a Buyback, and who has a warranty,
23 extended warranty, or vehicle service plan purchased from a Dealer and valid at the time of
24 Buyback, is entitled to a prorated refund of any unused, otherwise nonrefundable portion of the
25 purchase price of the warranty, extended warranty, or vehicle service plan, including termination
26 fees, provided that the contract was purchased on or prior to January 31, 2017. The prorated
27
28

1
2 refund shall account for any unused months (if the warranty or plan is time-based) or
3 service/maintenance events (if the warranty or contract is based on service events), as applicable.

4 **XVI. CLAIMS PROCESSING**

5 IT IS FURTHER ORDERED that in implementing the remedies for consumers described
6 by this Order:

7
8 A. On the Effective Date, Volkswagen shall maintain claims administration websites
9 with URLs: VWCourtSettlement.com and AudiCourtSettlement.com. The websites shall have
10 an “En Español” link to a Spanish website that consists of a fully translated version of
11 VWCourtSettlement.com and AudiCourtSettlement.com. The website must be publicly
12 available on the Effective Date, and remain available for 5 years thereafter, or until all consumer
13 relief under this Order is complete, whichever is earlier. In maintaining this website,
14 Volkswagen shall make all reasonable efforts to cause the purchase of the rights to all websites
15 whose URLs are common misspellings of these URLs to re-direct consumers to
16 VWCourtSettlement.com and AudiCourtSettlement.com. The website shall:

- 17
18
- 19 1. Be promoted by Defendants online, such as through banner ads, search
20 engine ads, or social media;
 - 21 2. Include a copy of this Order, the DOJ 3.0L Consent Decree and all
22 consumer notices required by this Order, except for the DOJ Emissions
23 Modification Notices, which must be made available pursuant to
24 Subsection 5;
 - 25 3. Include plain language descriptions of the options available to consumers
26 under this Order, including the information needed for Eligible Consumers
27 to make informed decisions about their election of remedies and all
28

1
2 deadlines related to the election of any remedy under this Order and the
3 Related Orders;

4 4. Include information sufficient for consumers to determine if they may be
5 Eligible Former Owners;

6 5. Include a copy of or link to the DOJ Emissions Modification Notices
7 within ten business days of receiving EPA/CARB notice of approval or
8 disapproval, withdrawing any application for an Approved Emissions
9 Modification or declining to submit an application for an Approved
10 Emissions Modification. Provided, however, that nothing herein
11 precludes Defendants from providing additional information concerning
12 the effect an Approved Emissions Modification will have on an Eligible
13 Vehicle;
14

15 6. List the information and documentation that Eligible Consumers must
16 submit to establish eligibility for a remedy under the 3.0L Settlement
17 Program, including instructions for obtaining and providing such
18 information and submitting such documentation by electronic upload, fax,
19 or mail;
20

21 7. Explain to consumers how and where to locate a VIN for their vehicle;
22

23 8. Provide a simple, easy-to-use mechanism for consumers to determine
24 whether their vehicle is eligible for the 3.0L Settlement Program by
25 entering a VIN, and to determine the compensation to which they are
26 entitled under each available option by entering their name, contact
27 information (including mailing address, telephone number, and email),
28

1 address of vehicle registration, VIN, current Eligible Vehicle mileage, and
2 other information necessary to process the claim;

3
4 9. Explain the specific effect that additional mileage will have on an Eligible
5 Consumer's compensation;

6
7 10. Provide a simple, easy-to-use mechanism for consumers to elect to receive
8 updates by email about the availability of, and reminders about,
9 appointments for any remedy; the availability (or non-availability) of an
10 Approved Emissions Modification for their vehicle; and the status of any
11 claim, including additional documentation or other information needed to
12 process the claim;

13
14 11. Provide consumers with a simple mechanism to elect and apply for any
15 remedy available to them, and for Eligible Consumers to schedule an
16 appointment pursuant to Subsection C.4, below; and

17
18 12. Not contain any promotional materials, any information other than that
19 needed to comply with this Order, or anything that contradicts, mitigates,
20 or is inconsistent with, the information required by this Section.

21 B. On the Effective Date, Volkswagen shall establish a toll-free telephone number
22 that shall remain available until all consumer relief under this Order is complete. With the
23 exception of Holidays, Volkswagen shall ensure that the toll-free number is promptly answered
24 seven days a week from 7:00 am eastern time to 11:00 pm eastern time by representatives that
25 Volkswagen has adequately trained to accurately and clearly answer all reasonable consumer
26 questions regarding the 3.0L Settlement Program.
27
28

1
2 C. Volkswagen shall administer the claims administration process efficiently,
3 expeditiously, and transparently, including by:

- 4 1. Accepting claim applications and documentation submitted by mail, fax,
5 and via the Claims Website;
- 6 2. Processing all claims applications and, within ten business days, or more
7 quickly if reasonable, either (a) notifying consumers that their claim
8 application is complete and has been transferred to the Claims Supervisor
9 for verification of eligibility, or (b) notifying consumers of any claim
10 application that is deemed deficient, the reasons for the deficiency, and
11 providing clear instructions on how to cure it. If Defendants notify a
12 consumer that their claim application is deficient, Defendants shall have
13 ten business days from resubmission of the claims application to notify
14 such consumer whether his or her application is complete;
- 15 3. Within ten business days, or more quickly if reasonable, of receiving a
16 completed application, notifying consumers whether they are eligible for
17 their elected remedy, and providing consumers with offer letters as
18 appropriate, provided, however, that if there is an existing lienholder other
19 than VW Credit, Inc. or Audi Financial Services, Inc. then the ten-day
20 period will not begin until the lienholder has provided the required lien
21 payoff information;
- 22 4. Within five business days of receiving a signed offer letter from an
23 Eligible Consumer, allowing that Eligible Consumer to schedule a
24 Buyback, Lease Termination, or Approved Emissions Modification or
25
26
27
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1
2 Certified Emissions Repair at any Dealer (or other entity authorized by
3 Defendants) of the Eligible Consumer's choosing. Defendants shall
4 provide Eligible Consumers the ability to choose from at least three
5 appointment dates, at different times of the day, on different days of the
6 week, each of which is within 60 days of the date the Eligible Consumer
7 schedules an appointment or the Effective Date, whichever is later.

8
9 Defendants shall provide consumers with the ability to reschedule their
10 appointment within 60 days of the rescheduling date using the same
11 process;

12 5. Providing consumers with at least one reminder prior to their scheduled
13 appointment;

14 6. Allowing consumers with a choice of remedies to change their elected
15 remedy at any time before the Eligible Consumer's appointment for a
16 Buyback or Lease Termination or service visit for an Approved Emissions
17 Modification. If an Eligible Consumer changes their elected remedy
18 Defendants shall provide consumers with the ability to schedule their
19 appointment for the newly chosen remedy within 90 days of the consumer
20 notifying Defendants of the change in elected remedy using the process in
21 Subsection C.4 and providing any additional documents necessary to
22 confirm eligibility for the alternative remedy;

23 7. Establishing reasonable procedures designed to assist certain Eligible
24 Consumers whose public service or geographic location creates an undue
25 burden to participate in the claims process including Eligible Consumers
26
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2 serving with the government or military overseas, Eligible Consumers
3 whose distance from the nearest Dealer substantially impedes their
4 participation, and Eligible Consumers who reside on an island in the
5 United States or its territories without a Dealer; such procedures must
6 include, at minimum, a means for such Eligible Consumers to obtain every
7 benefit under this Order to which they would otherwise be entitled, or the
8 substantial equivalent of such benefit(s), with Volkswagen responsible for
9 any associated additional costs.
10

11 8. Upon completion of any buyback, early lease termination, Certified
12 Emissions Repair or Approved Emissions Modification appointment,
13 providing an itemized receipt showing the amount paid or to be paid to the
14 consumer and any applicable adjustments pursuant to this Order as well as
15 an explanation of any such adjustments;
16

17 9. Not requesting any information from any consumer beyond what is
18 necessary to process a claim application; and
19

20 10. Taking all reasonable efforts to protect data consumers provide for any
21 purpose related to this Order. Defendants cannot use data provided by
22 consumers for participation in the 3.0L Settlement Program for any
23 purpose other than implementing the 3.0L Settlement Program.
24

25 D. Volkswagen shall offer each Eligible Consumer who elects to participate in the
26 3.0L Settlement Program the option to receive payment by check or by Electronic Funds
27 Transfer (“EFT”). Defendants shall notify Eligible Consumers of the timing of each payment
28

1
2 method as well as the specific impact that a positive or negative mileage adjustment will have on
3 the timing of such payment.

4 E. For Eligible Owners with an outstanding Loan Obligation, payment shall be sent
5 to that Eligible Owner's lender within five business days of completion of the Eligible Owner's
6 Buyback.

7
8 F. For Eligible Owners who elect a Buyback, upon receipt of the title to the Eligible
9 Vehicle by Defendants and the surrender of the Eligible Vehicle to Defendants, (i) an EFT shall
10 be submitted within three banking days or (ii) a check shall be provided immediately at the time
11 of the Buyback. Provided, however, for an Eligible Owner who has elected to receive payment
12 by check, (a) if the vehicle is subject to a positive Mileage Adjustment, Volkswagen shall send
13 an additional check within five banking days for the amount of the positive adjustment or (b) if
14 the Eligible Vehicle is subject to a negative Mileage Adjustment, a check will not be provided
15 immediately and instead Volkswagen will issue and send a new check within five banking days
16 for the adjusted amount.

17
18 G. For Eligible Lessees who elect a Lease Termination, upon surrender of the
19 Eligible Vehicle to Defendants, (i) an EFT shall be submitted within three banking days or (ii) a
20 check shall be provided immediately at the time of surrender. If the vehicle is subject to a
21 negative mileage adjustment pursuant to the lease contract, a check will not be provided
22 immediately and instead Volkswagen will issue and send a new check within five banking days
23 for the adjusted amount.

24
25
26 H. For Eligible Owners or Eligible Lessees who elect an Approved Emissions
27 Modification, upon completion of the Approved Emissions Modification by a Dealer, (i) an EFT
28

1 shall be submitted within three banking days or (ii) a check shall be mailed within five banking
2 days.
3

4 I. Through the claims administration process implemented pursuant to this Order,
5 Defendants may not favor a remedy under this Order over any other remedy in any of the
6 following ways:

- 7 1. by presenting alternative remedies in a manner that discourages the
8 selection of one remedy (or remedies); or
- 9 2. by making the process to obtain a remedy unnecessarily difficult relative
10 to others.
11

12 J. Notwithstanding anything else in this Order, the Generation 1 Buyback and Lease
13 Termination offers required under Sections IV and VI of this Order shall be available to Eligible
14 Owners and Eligible Lessees beginning within fifteen business days from the Effective Date and
15 shall remain open until the Program End Date. The Generation 2 Buyback and Lease
16 Termination offers under Sections X and XIII of this Order, if triggered pursuant to Section
17 VIII(D) shall remain open until the Program End Date. Provided however, that an Eligible
18 Consumer must complete a claims application no later than 120 days before the Program End
19 Date to participate in the 3.0L Settlement Program.
20
21

22 **XVII. COURT-APPOINTED CLAIMS SUPERVISOR**

23 IT IS FURTHER ORDERED that based upon recommendations submitted to this Court
24 by Defendants and the FTC, the Court hereby appoints Ankura Consulting Group, LLC as the
25 Claims Supervisor for Defendants. In acting under this Order, the Claims Supervisor is an agent
26 of this Court, and solely the agent of this Court, and shall be accountable directly to this Court.
27
28 With the exception of review of claims pursuant to Subsection A below, the Claims Supervisor

1 shall not perform any of the claims processing functions set forth in Section XVI, however, the
2 Claims Supervisor may consult with Defendants on how to process claims in compliance with
3 this Order. The Claims Supervisor has the following power and authority to monitor
4 Defendants' compliance with the 3.0L Settlement Program.
5

6 A. The Claims Supervisor shall review claims for compensation under this Order and
7 shall review the claims administration process to ensure that it is conducted in accord with this
8 Order, including ensuring that:
9

- 10 1. Compensation is calculated and paid in compliance with this Order;
- 11 2. Claims are processed in an efficient and consistent manner;
- 12 3. The calculations of approved payments to Eligible Consumers comply
13 with the 3.0L Settlement Program; and
- 14 4. Determinations that claims are "ineligible" are proper under the 3.0L
15 Settlement Program.
16

17 B. Within one month from the date of entry of this Order and every 3 months
18 thereafter for 3 years (until such time determined pursuant to Subsection C below), the Claims
19 Supervisor shall submit a report to the Court, with copies to the FTC and Defendants, concerning
20 Defendants' performance of its obligations under this Order, including:
21

- 22 1. The progress of the 3.0L Settlement Program, including but not limited to
23 the participation rate in any Buyback, Lease Termination, Approved
24 Emissions Modification, and Certified Emissions Repair;
- 25 2. The length of time for Eligible Consumers to receive any Consumer
26 Payment;
27
28

1
2 3. Any complaints regarding Eligible Consumers' efforts to elect or
3 participate in any 3.0L Settlement Program option; and

4 4. The Claims Supervisor's review of ineligible claims.

5 C. The Claims Supervisor shall serve until two months after the Program End Date,
6 unless ordered by this Court to continue.

7
8 D. Defendants shall in a timely manner provide the Claims Supervisor full access to
9 all documents and information necessary for the Claims Supervisor to fulfill the Claims
10 Supervisor's duties pursuant to this Order.

11 E. Defendants shall fully cooperate with any reasonable request of the Claims
12 Supervisor and shall take no action to interfere with or impede the Claims Supervisor's ability to
13 monitor Defendants' compliance with this Order.

14 F. The Claims Supervisor shall provide the FTC with accounting or other
15 information related to compliance with Sections IV-XVI within ten business days of a request,
16 unless a longer time is agreed to by an FTC representative in writing.

17
18 G. Volkswagen is responsible for all costs and fees relating to the Claims Supervisor.
19 Defendants and the FTC may agree, or the Claims Supervisor may seek Court approval to
20 employ, at Volkswagen's expense, such consultants, accountants, attorneys, and other
21 representatives and assistants as are reasonably necessary to carry out the Claims Supervisor's
22 duties and responsibilities.
23

24 **XVIII. ORDER ACKNOWLEDGMENTS**

25
26 IT IS FURTHER ORDERED that Defendants obtain acknowledgments of receipt of this
27 Order:
28

1
2 A. Defendants, within seven days of entry of this Order, must submit to the FTC an
3 acknowledgment of receipt of this Order sworn under penalty of perjury.

4 B. For five years after entry of this Order, Defendants must deliver a copy of this
5 Order to: (1) all principals, officers, directors; (2) all employees, agents, and representatives
6 involved in carrying out the Settlement Program as described in Sections VI through XVI; and
7 (3) any business entity resulting from any change in structure as set forth in Section XX.
8 Delivery must occur within seven days of entry of this Order for current personnel. For all
9 others, delivery must occur before they assume their responsibilities.
10

11 C. From each individual or entity that Defendants employs and to which Defendants
12 delivered a copy of this Order, Defendants will request, within 30 days, a signed and dated
13 acknowledgment of receipt of this Order and Defendants shall create and maintain records
14 sufficient to establish that the Order was sent in a way reasonably calculated to effect delivery.
15 For all other individuals or entities to which Defendants delivered a copy of this Order pursuant
16 to Subsection B, Defendants shall create and maintain records sufficient to establish that the
17 Order was sent in a way reasonably calculated to effect delivery.
18
19

20 **XIX. COMPLIANCE REPORTING**

21 IT IS FURTHER ORDERED that Defendants make timely submissions to the FTC:

22 A. One year after entry of this Order, Defendants must submit a compliance report,
23 sworn under penalty of perjury:

- 24
- 25 1. Defendants must: (a) identify the primary physical, postal, and email
26 address and telephone number, as designated points of contact, which
27 representatives of the FTC may use to communicate with Defendants;
28 (b) describe in detail whether and how Defendants are in compliance with

1
2 each Section of this Order; and (c) provide a copy of each order
3 acknowledgment obtained pursuant to this Order, unless previously
4 submitted to the FTC.

5 B. For 10 years after entry of this Order, Defendants must submit a compliance
6 notice, sworn under penalty of perjury, within 14 days of any change in the following: (a) any
7 designated point of contact; or (b) the structure of any entity that Defendants have any ownership
8 interest in or control directly or indirectly that may affect compliance obligations arising under
9 this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary that
10 engages in any acts or practices subject to this Order.
11

12 C. Defendants must submit to the FTC notice of the filing of any bankruptcy
13 petition, insolvency proceeding, or similar proceeding by or against such Defendants within 14
14 days of its filing.
15

16 D. Any submission to the FTC required by this Order to be sworn under penalty of
17 perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I
18 declare under penalty of perjury under the laws of the United States of America that the
19 foregoing is true and correct. Executed on: _____” and supplying the date, signatory’s full
20 name, title (if applicable), and signature.
21

22 E. Any information Defendants submit pursuant to this section will be treated in
23 accordance with Section 21 of the FTC Act.
24

25 F. Unless otherwise directed by an FTC representative in writing, all submissions to
26 the FTC pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier
27 (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer
28

1 Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

2
3 The subject line must begin: FTC v. Volkswagen Group of America, Inc., X160039.

4 **XX. COMPLIANCE MONITORING**

5 IT IS FURTHER ORDERED that, for the purpose of monitoring Defendants' compliance
6 with this Order:

7
8 A. Within 30 days of receipt of a written request from a representative of the FTC,
9 Defendants must: submit additional compliance reports or other requested information, which
10 must be sworn under penalty of perjury; appear for depositions; and produce documents for
11 inspection and copying. The FTC also is authorized without further leave of court, to use any of
12 the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic
13 depositions), 31, 33, 34, 36, 45, and 69, provided that Defendants, after attempting to resolve a
14 dispute without court action and for good cause shown, may file a motion with this Court
15 seeking an order including one or more of the protections set forth in Federal Rule of Civil
16 Procedure 26(c). Defendants may assert any and all rights or privileges in the Federal Rules of
17 Civil Procedure, the Federal Rules of Evidence, or any other applicable law.

18
19 B. For matters concerning this Order, the FTC is authorized to communicate directly
20 with Defendants. Defendants must permit representatives of the FTC to interview any employee
21 or other person affiliated with any Defendants who have agreed to such an interview. The
22 person interviewed may have counsel present.

23
24 C. The FTC may use all other lawful means, including posing, through its
25 representatives, as consumers, suppliers, or other individuals or entities, to Defendants or any
26 individual or entity affiliated with Defendants, without the necessity of identification or prior
27 notice. Nothing in this Order limits the FTC's lawful use of compulsory process, pursuant to
28

1
2 Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1. Defendants may assert any and all
3 available defenses, rights, or privileges.

4 **XXI. RETENTION OF JURISDICTION**

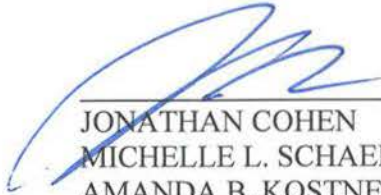
5 IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for
6 purposes of construction, modification, and enforcement of this Order.
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SO STIPULATED AND AGREED:

**FOR PLAINTIFF
FEDERAL TRADE COMMISSION**

Dated: January 31, 2017

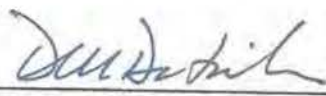


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MICHELLE L. SCHAEFER
AMANDA B. KOSTNER
SANGJOON HAN
MEGAN A. BARTLEY
FEDERAL TRADE COMMISSION
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jcohen2@ftc.gov; mschaefer@ftc.gov;
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Counsel for Federal Trade Commission

1
2 **SO STIPULATED AND AGREED:**

3 **FOR DEFENDANT VOLKSWAGEN GROUP**
4 **OF AMERICA, INC. (ALSO D/B/A**
5 **VOLKSWAGEN OF AMERICA, INC., ALSO**
6 **D/B/A AUDI OF AMERICA, INC.)**

7 Dated: January 31, 2017

8 
9 DAVID DETWEILER
10 VOLKSWAGEN GROUP OF AMERICA, INC.
11 2200 Ferdinand Porsche Drive
12 Herndon, Virginia 20171
13 *As an Officer of Volkswagen Group of America, Inc.*

14 Dated: January 31, 2017

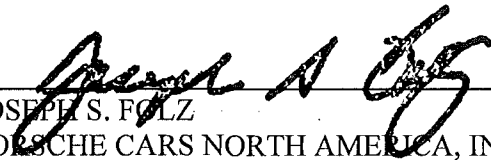
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Counsel for Volkswagen Group of America, Inc.

1 **SO STIPULATED AND AGREED:**

2
3 **FOR DEFENDANT PORSCHE CARS NORTH**
4 **AMERICA, INC.**

5
6 
7 JOSEPH S. FOLZ
8 PORSCHE CARS NORTH AMERICA, INC.
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11 *As an Officer of Porsche Cars North America, Inc.*

12 Dated: January 31, 2017

13 **FOR DEFENDANT PORSCHE CARS NORTH**
14 **AMERICA, INC.**

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Dated: January 31, 2017

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1 SO STIPULATED AND AGREED:
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11 **AMERICA, INC.**

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25 Dated: January 31, 2017

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4 **AMERICA, INC.**

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8 Dated: January 31, 2017

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