

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into between the California Air Resources Board ("CARB"), with its principal location at 1001 I Street, Sacramento, California 95814; and Volkswagen AG, Volkswagen Group of America, Inc., and AUDI AG, with their principal offices at Berliner Ring 2, 38440 Wolfsburg, Germany, 2200 Woodland Pointe Avenue, Herndon Virginia 20171, and Auto-Union-Str. 1, 85057 Ingolstadt, Germany, respectively (hereinafter "VW"), (collectively, the "Parties," or individually, "Party").

LEGAL BACKGROUND

- (1) Purpose. The California Health and Safety Code mandates implementation of emission standards for new motor vehicle and motor vehicle engines to control emissions; allows CARB to certify these vehicles; and prohibits any person from selling, introducing into commerce, importing, delivering, purchasing, renting, leasing, acquiring, or receiving a new motor vehicle or new motor vehicle engine for use, registration, or resale unless it is certified. This includes attempts or assistance. (Cal. Health & Safety Code §§ 43100, 43101, 43151, 43153, 43211, and 43212.) The Health and Safety Code also mandates the reduction of emission of air pollution from motor vehicles (Cal. Health & Safety Code §§ 43000, 43000.5, 43011.), and compliance with California's anti-tampering laws (Cal. Health & Safety Code § 43008.6).
- (2) Regulations/Statutes.
 - a) Vehicle Code section 27156(c) provides that unless an exemption is obtained from CARB, "[n]o person shall install, sell, offer for sale, or advertise any device, apparatus, or mechanism intended for use with, or as a part of, a required motor vehicle pollution control device or system that alters or modifies the original design or performance of the motor vehicle pollution control device or system."
 - b) Prior to 2017, Health and Safety Code section 43212 provided that all manufacturers or distributors who did not comply with the emission standards or the test procedures adopted by CARB were subject to a civil penalty of fifty dollars (\$50) for each vehicle that did not comply.¹
 - c) CARB adopted requirements for "Approval of Motor Vehicle Pollution Control Devices (New Vehicles)" (*New Vehicle Certification Requirements*) (Cal. Code Regs., tit. 13 § 1950 et seq.) to reduce emissions of, inter alia, oxides of nitrogen (NOx) and hydrocarbons (HC) from new motor vehicles in California.

¹ California Health and Safety Code § 43212 was amended, effective January 1, 2017, to increase the penalty from \$50 per vehicle that does not comply with the standards or procedures to a maximum of \$37,500 per such vehicle. See 2017 Cal. Legis. Serv. Ch. 561 (A.B. 1516, "MAINTENANCE OF THE CODES").

(3) Regulatory Provisions.

a) With regard to Vehicle Code section 27156(c):

1. Model Years 2015-2019.

- a. The certification requirements and test procedures for determining compliance with the emission standards in this section are set forth in the "California 2015 and Subsequent Model Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2017 and Subsequent Model Greenhouse Gas Exhaust Emission Standards and Test Procedures for Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended December 19, 2018, the "California Non-Methane Organic Gas Test Procedures for 1993 through 2016 Model Year Vehicles," as amended September 2, 2015, and the "California Non-Methane Organic Gas Test Procedures for 2017 and Subsequent Model Year Vehicles," as adopted September 2, 2015, which are all incorporated herein by reference. (Cal. Code Regs, tit. 13 § 1961.2(d).)
- b. The "California 2015 and Subsequent Model Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2017 and Subsequent Model Greenhouse Gas Exhaust Emission Standards and Test Procedures for Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" incorporates 40 C.F.R. § 86.1842-01 with one change not relevant here.
- c. 40 C.F.R. § 86.1842-01(b) provides in relevant part, "A manufacturer will notify the Administrator concurrently with (or in advance of) any change or addition in production vehicles which creates a new vehicle configuration within the car lines covered in a certified test group, giving a full description of the change."

b) With regard to Health and Safety Code section 43212:

1. Evaporative Emissions.

- a. The test procedures for determining compliance with evaporative emission standards applicable to 2001 and subsequent model year vehicles are set forth in the "California Evaporative Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles," adopted by the state board on August 5, 1999, and as last amended September 2, 2015, which is incorporated herein by reference ("Evap Test Procedures"). (Cal. Code Regs, tit. 13 § 1976(c).)
- b. The fuel used for durability mileage accumulation and component aging shall be fuel set forth in 40 C.F.R. § 86.1824-08(f)(1) (April 28, 2014). (Evap Test Procedures, Part II, section A.2.6.)
- c. 40 C.F.R. § 86.1824-08(f)(1) provides in relevant part that gasoline fueled vehicles certified to meet the evaporative emission standards set forth in this subpart must employ gasoline fuel for the entire mileage accumulation period which contains ethanol in, at least, the highest concentration permissible in gasoline under federal law and that is commercially available

in any state in the United States. In addition, the manufacturer must provide acceptable information to indicate that the mileage accumulation method is of sufficient design, duration and severity to stabilize the permeability of all non-metallic fuel and evaporative system components to the fuel constituents.

2. Vehicle Configuration Tested for Model Years 2013-2014.
 - a. The test procedures for determining compliance with the vehicle configurations for the durability data vehicle and emission data vehicle are respectively set forth in 40 C.F.R. § 86.1822-01(a) and 40 C.F.R. § 86.1828-01(a), as adopted in the "California 2001 through 2014 Model Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2009 through 2016 Model Greenhouse Gas Exhaust Emission Standards and Test Procedures for Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended December 6, 2012, the "California Non-Methane Organic Gas Test Procedures," as amended December 6, 2012, which are incorporated herein by reference. (Cal Code Regs., tit. 13 § 1961(d).)
 3. Vehicle Configuration Tested for Model Year 2015.
 - a. The test procedures for determining compliance with the vehicle configurations for the durability data vehicle and emission data vehicle are respectively set forth in 40 C.F.R. § 86.1822-01(a) and 40 C.F.R. § 86.1828-01(a), as adopted in the "California 2015 and Subsequent Model Criteria Pollutant Exhaust Emission Standards and Test Procedures and 2017 and Subsequent Model Greenhouse Gas Exhaust Emission Standards and Test Procedures for Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended December 19, 2018, the "California Non-Methane Organic Gas Test Procedures for 1993 through 2016 Model Year Vehicles," as amended September 2, 2015, and the "California Non-Methane Organic Gas Test Procedures for 2017 and Subsequent Model Year Vehicles," as adopted September 2, 2015, which are all incorporated herein by reference. (Cal. Code Regs, tit. 13 § 1961.2(d).)
- c) Cal. Code Regs., tit. 13 § 1950 et seq.:
1. Prior to vehicles or engines being sold, introduced into commerce, imported, delivered, purchased, rented, leased, acquired, or received into California, they must be certified based on test data and procedures and obtain an Executive Order from CARB. The vehicles and engines must, inter alia, meet the emission standards (either through a direct standard or through a fleet wide phase-in requirement), not contain a defeat device, have an Emission Control Label, be equipped with a computer-sensed emission-related component to inform the vehicle operator of a malfunction (On-board Diagnostic [OBD] System), and come with an emission control system warranty. (Cal. Code Regs., tit. 13, §§ 1900-2048.)

(4) Penalty Provisions.

- a) Failure to comply with Vehicle Code section 27156(c) is a violation of state law that may result in penalties not to exceed one thousand five hundred dollars (\$1,500) for each violation. (Cal. Health & Safety Code § 43008.6(b).)
- b) Prior to 2017, failure to comply with Health and Safety Code section 43212 was a violation of state law that provides for a penalty of fifty dollars (\$50) for each violation. (Cal. Health & Safety Code § 43212.)
- c) Prior to 2017, failure to comply with the Cal. Code Regs., tit. 13 § 1950 et seq. requirements was a violation of state law that may result in penalties up to five thousand dollars (\$5,000) for each violation of the Vehicle Standards. (Cal. Health & Safety Code § 43154; Cal. Code Regs., tit.13, § 1900 et seq.)²
- d) The Parties agree to disagree on whether any or all of these penalty provisions apply to the violations described herein.

CASE BACKGROUND

(5) Corporate Entity. Volkswagen AG and AUDI AG are German vehicle manufacturers. Volkswagen Group of America, Inc. is a wholly owned subsidiary of Volkswagen AG and is a New Jersey corporation headquartered in Herndon, Virginia.

- (6) Allegations. This Settlement Agreement resolves self-disclosures made by VW to CARB since January 2018 that are described below. CARB alleges that VW:
- a) Released and installed or potentially installed software on 21,175 Volkswagen and Audi vehicles after they were sold to California customers that changed the electronic control unit (“ECU”) software and/or the transmission control unit (“TCU”) software without CARB approval;
 - b) Failed to comply with the New Vehicle Certification Requirements by selling, introducing into commerce, importing, delivering, purchasing, renting, leasing, acquiring, or receiving in California 372 model year 2013-2016 Audi Q5 Hybrid vehicles that contained software that permitted a secondary operation mode. VW did not disclose this secondary operation mode to CARB in its applications for certification.
 - c) Failed to comply with the test procedures for emissions testing for the Test Groups associated with model year 2014-2015 Audi R8, model year 2013-2015 Audi RS5, and model year 2015 Lamborghini Huracan, thereby affecting a total of 1,612 vehicles sold in California;
 - d) Failed to comply with the test procedures for evaporative durability testing by not using gasoline with the highest ethanol content that was commercially

² California Health and Safety Code § 43154 was amended, effective January 1, 2017, to increase the penalty from \$5,000 per vehicle that does not comply with the standards or procedures to a maximum of \$37,500 per such vehicle. See 2016 Cal. Legis. Serv. Ch. 604 (A.B. 1685, “AIR POLLUTION—MOTOR VEHICLES—FINES AND PENALTIES”).

available, thereby affecting 46,832 Volkswagen and Audi vehicles sold in California.

- e) Failed to comply with the New Vehicle Certification Requirements by selling, introducing into commerce, importing, delivering, purchasing, renting, leasing, acquiring, or receiving four new model year 2011 VW Passats in California that were not certified by CARB; and
- f) Failed to comply with the New Vehicle Certification Requirements by selling, introducing into commerce, importing, delivering, purchasing, renting, leasing, acquiring, or receiving in California one model year 2013 Bentley Continental GT and one model year 2017 Bentley Bentayga in an uncertified configuration, because the production vehicles contained software that differed from the certified configuration.

CARB asserts that if the allegations described in paragraphs (1) through (6) were proven, civil penalties could be imposed against VW for each and every vehicle involved in the violations.

- (7) Acknowledgement. VW admits the facts in paragraph (5) and acknowledges the allegations in paragraph (6), but denies any and all potential liability resulting from those allegations.
- (8) Consideration. In consideration of CARB not filing a legal action against VW for the violations alleged in paragraph (6), and in consideration of the other terms set out below, the Parties desire to settle and resolve all claims, disputes, and obligations relating to the above-listed alleged violations and voluntarily agree to resolve these matters by means of this Settlement Agreement. In order to resolve the alleged violations described herein, VW agrees to make the payments enumerated below within the Terms and Conditions. Further, CARB accepts this Settlement Agreement in termination and full settlement of these matters.

TERMS AND CONDITIONS

In consideration of CARB not filing a legal action against VW for the alleged violations referred to above in the Legal Background and Case Background, and VW's agreement to complete all terms and conditions set forth below, CARB and VW agree as follows:

- (9) Settlement Amount. VW shall pay a civil penalty of eight hundred sixty-eight thousand seven hundred four dollars (\$868,704 USD) to the California Air Pollution Control Fund, and in addition, VW agrees to fund the following two Supplemental Environmental Projects ("SEPs") in the combined amount of six hundred twenty-

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one thousand two hundred sixty-six dollars (\$621,266 USD) consistent with CARB's SEP Policy:

- a) "Coachella Valley Mitigation Project Extension 2018-2023" (see Attachment A) in the amount of five hundred thirty-six thousand ninety-two dollars (\$536,092 USD); and
- b) "Installation of Air Filtrations Systems in Schools in Oakland – Phase 3" (see Attachment B) in the amount of eighty-five thousand one hundred seventy-four dollars (\$85,174 USD).

VW shall tender all payments within 30 calendar days from the date CARB notifies VW of the full execution of the Settlement Agreement.

- (10) Civil Penalty Payment Method. VW shall pay the civil penalty by check, credit card, wire transfer, or portal, payable to CARB, using instructions provided separately by CARB in a "Settlement Agreement Payment Transmittal Form," which will accompany the fully executed Settlement Agreement. VW is responsible for all payment processing fees. Payments shall be accompanied by the Settlement Agreement Payment Transmittal Form to ensure proper application. CARB shall deposit the civil penalty amount into the California Air Pollution Control Fund for the purpose of carrying out CARB's duties and functions to ensure the integrity of its air pollution control programs. Should payment instructions change, CARB will provide notice to VW in accordance with Paragraph (15) (Notices).
- (11) SEP Payment Method(s). VW shall fund each of the SEPs listed in paragraphs (9)a through (9)b by wire transfer, credit card, or check, payable to the SEP implementer/recipient using instructions provided separately by CARB in the respective "Supplemental Environmental Project Payment Transmittal Form," which will accompany the fully executed Settlement Agreement. VW is responsible for all payment processing fees. Payments shall be accompanied by the respective Supplemental Environmental Project Payment Transmittal Form to ensure proper application. Should payment instructions change, CARB will provide notice to VW in accordance with Paragraph (15) (Notices).
- (12) Prohibition Against Financial Benefit. VW has agreed that by funding the SEPs listed in paragraphs (9)a and (9)b, VW will not receive any direct or indirect financial benefit, and that whenever VW publicizes or refers to any of the SEPs or the results of the SEP, VW will state that the SEPs are being undertaken as part of the settlement of a CARB enforcement action.
- (13) Assignment of Rights. In the event that any of the SEP implementers/recipients do not fully implement or complete the SEP in accordance with the terms of the respective SEP Agreement, CARB shall be entitled to recover the full amount of the respective SEP from the SEP implementer/recipient, less any amount expended on

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the timely and successful completion of any previously agreed upon interim milestone(s). CARB will deposit any such recovery into the Air Pollution Control Fund. Accordingly, VW assigns any and all rights against the SEP implementer/recipient to CARB.

- (14) Documents. VW shall email or mail the signed and dated Settlement Agreement to the email address or mailing address in Paragraph (15) (Notices). VW shall further email or mail a copy of proof of payment of the penalty, and SEPs, and a copy of the Payment Transmittal Forms to the email address or mailing address in Paragraph (15) (Notices).
- (15) Notices. Unless otherwise specified in this Settlement Agreement, whenever notifications, submissions, or communications are required by this Settlement Agreement, they shall be submitted in writing to the address or email below:

As to CARB:

California Air Resources Board
Enforcement Division / Settlement Agreements
Vehicle, Parts & Consumer Products Enforcement Branch / Engine and
Parts Enforcement Section
P.O. Box 2815
Sacramento, California 95812-2815
Settlement_Agreement@arb.ca.gov

As to VW:

King & Spalding, LLP
1700 Pennsylvania Avenue, NW
2nd Floor Washington, D.C. 20006
Attention: William Sauers
Email: wsauers@kslaw.com

Sullivan & Cromwell LLP
1870 Embarcadero Road
Palo Alto, California 94303
Attention: Laura Oswell
Email: oswell@sullcrom.com

Volkswagen Group of America, Inc.
2200 Woodland Pointe Avenue
Herndon, Virginia 20171
Attention: Lynn McKay
Email: Lynn.McKay@vw.com

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Any Party may, by written notice to the other Parties, change its designated notice recipient or notice address provided above. Notices submitted pursuant to this section shall be deemed submitted upon emailing or mailing.

- (16) Recovery of Costs. In the event VW fails to timely satisfy its obligations under this Settlement Agreement and CARB, or an agent acting on CARB's behalf, is the prevailing party in a civil action to enforce this Settlement Agreement, VW shall pay all costs of investigating and prosecuting the action, including without limitation expert fees, reasonable attorneys' fees and costs.
- (17) Compliance with California Laws and Regulations. VW acknowledges its obligations under California law including:
- a) VW shall submit all running changes and field fixes in accordance with 40 C.F.R. § 86.1842-01(b).
 - b) VW shall conduct all certification emission testing in compliance with the applicable test procedures.
 - c) VW shall not import, deliver, receive, acquire, sell, or offer for sale any new motor vehicle or new motor vehicle engine in violation of Health and Safety Code sections 43151-43153.

Unless an exemption is obtained from CARB, VW shall not install, sell, offer for sale, or advertise any device, apparatus, or mechanism intended for use with, or as a part of, a required motor vehicle pollution control device or system that alters or modifies the original design or performance of the motor vehicle pollution control device or system in violation of Vehicle Code section 27156(c).

- (18) Effect of Settlement/Reservation of Rights.
- a) Satisfaction of all the requirements of this Settlement Agreement shall resolve and settle all of CARB's civil and/or administrative claims against VW that arise out of or relate to the allegations described in Paragraph (6).
 - b) This Settlement Agreement does not resolve or settle any claims, rights or remedies against VW (including without limitation those that may arise out of or relate to the allegations described in Paragraph (6)) that may be held by or asserted by the State of California, by any California government agency other than CARB, or by any other person or entity.
 - c) In the event of a subsequent judicial proceeding brought by the State of California or a government agency other than CARB for injunctive relief, civil penalties, or other relief, VW shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised in the subsequent proceeding were or should have been brought in the instant case, except with respect to the claims that have been specifically released by CARB in this Settlement Agreement.

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- d) This Settlement Agreement does not limit or affect the rights of VW or of CARB against any third parties, not party to this Settlement Agreement, nor does it limit the rights of third parties, not party to this Settlement Agreement, against VW, except as otherwise provided by law.
 - e) This Settlement Agreement shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Settlement Agreement. No third party shall be entitled to enforce any aspect of this Settlement Agreement or claim any legal or equitable injury for a violation of this Settlement Agreement.
- (19) Entirety. This Settlement Agreement constitutes the entire agreement and understanding between the Parties concerning the Case Background, and supersedes and replaces any and all prior negotiations and agreements of any kind, whether written or oral, between the Parties concerning the Case Background hereof. This Settlement Agreement consists of 14 pages and 37 paragraphs.
- (20) Binding Effect. This Settlement Agreement binds VW, and any principals, officers, receivers, trustees, successors and assignees, subsidiary and parent corporations and CARB and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Settlement Agreement.
- (21) Effective Date. The effective date shall be the date upon which this Settlement Agreement is fully executed.
- (22) Modification and Termination. No agreement to modify, amend, extend, supersede, terminate, or discharge this Settlement Agreement, or any portion thereof, is valid or enforceable unless it is in writing and signed by all Parties to this Settlement Agreement.
- (23) Severability. Each provision of this Settlement Agreement is severable, and in the event that any provision of this Settlement Agreement is held to be illegal, invalid or unenforceable in any jurisdiction, the remainder of this Settlement Agreement remains in full force and effect to the extent necessary to fulfill the Settlement Agreement's purpose and the intent of the Parties.
- (24) Choice of Law. This Settlement Agreement shall be interpreted and enforced in accordance with the laws of the State of California, without regard to California's choice-of-law rules.
- (25) Non-Discharge. It is further agreed that the penalties described in this Settlement Agreement are non-dischargeable under United States Code, title 11, section 523(a)(7), which provides an exception from discharge for any debt to the extent

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such debt is for a fine, penalty, or forfeiture payable to and for the benefit of a governmental unit.

- (26) Not Tax Deductible. For purposes of this Settlement Agreement, VW shall not deduct any monies spent to comply with any provision of this Settlement Agreement in calculating and submitting its U.S. federal, state, or local income tax.
- (27) Rules of Construction. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in interpreting this Settlement Agreement.
- (28) Non-Waiver. The failure to enforce any provision of this Settlement Agreement shall not be construed as a waiver of any such provision, nor prevent such Party thereafter from enforcing such provision or any other provision of this Settlement Agreement. The rights and remedies granted all Parties herein are cumulative and the election of one right or remedy by a Party shall not constitute a waiver of such Party's right to assert all other legal remedies available under this Settlement Agreement or otherwise provided by law.
- (29) Intent to be Bound. The Parties represent that: They have participated fully in the review and drafting of this Settlement Agreement; understand and accept all terms; enter into this Settlement Agreement freely and voluntarily; have had an opportunity to consult with legal counsel; are fully informed of the terms and effect of this Settlement Agreement; have agreed to this Settlement Agreement after independent investigation and agree it was not arrived at through fraud, duress, or undue influence; and knowingly and voluntarily intend to be legally bound by this Settlement Agreement.
- (30) Venue. The Superior Court of California, located in the County of Sacramento, shall hear any dispute between the Parties arising from this Settlement Agreement.
- (31) Counterparts and Electronic Signatures. This Settlement Agreement may be executed in counterparts. Electronic, facsimile or photocopied signatures shall be considered as valid signatures.
- (32) Release. Now, therefore, in consideration of the settlement payments by VW to the California Air Pollution Control Fund and the SEPs as specified in paragraphs (9)-(11), CARB hereby releases VW and its principals, officers, shareholders, directors, receivers, trustees, employees, successors and assignees, subsidiary and parent corporations, and predecessors from any and all claims, demands, actions, or causes of action that CARB has brought or could have brought based on the facts and allegations described in paragraph (6).

- (33) Authority. The undersigned represents that he or she has full authority to enter into this Settlement Agreement.

PENALTY BASIS

- (34) Per Unit Penalty. The per unit or per vehicle penalty in this case is a combined maximum of the following: one thousand, five hundred dollars (\$1,500 USD) per alleged action under Vehicle Code section 27156, fifty dollars (\$50 USD) for alleged violations of Health and Safety Code section 43212, and five thousand dollars (\$5,000 USD) for alleged violations of the Cal. Code Regs., tit. 13 § 1950 et seq. The penalty obtained in this case under this Settlement Agreement is approximately twenty-one dollars and twenty-three cents (\$21.29 USD) per unit for 69,997 units.
- (35) Health & Safety Code § 39619.7. The provisions cited above prohibit emissions above a specified level. Without information on usage and emission rates, it is not practicable to quantify the excess emissions. However, since CARB has alleged that the vehicles did not meet the regulatory requirements, CARB alleges that all of the excess emissions were illegal.
- (36) Aggravating and Mitigating Factors. The penalties in this matter were determined in consideration of all relevant circumstances, including statutory factors as described in CARB's Enforcement Policy. CARB considered whether the violator came into compliance quickly and cooperated with the investigation; the extent of harm to public health, safety and welfare; nature and persistence of the violation, including the magnitude of the excess emissions; compliance history; preventative efforts taken; innovative nature and the magnitude of the effort required to comply, and the accuracy, reproducibility, and repeatability of the available test methods; efforts to attain, or provide for, compliance prior to violation; action taken to mitigate the violation; financial burden to the violator; and voluntary disclosure. The penalties are set at levels sufficient to deter violations, to remove any economic benefit or unfair advantage from noncompliance, to obtain swift compliance, and the potential costs, risks, and uncertainty associated with litigation. Penalties in future cases might be smaller or larger depending on the unique circumstances of the case. Mitigating factors include the following specific examples, one or more of which may apply to each specific issue:
- a) VW self-disclosed all of the alleged violations included herein to CARB and the United States Environmental Protection Agency (EPA) pursuant to "Incentives for Self-Policing; Discovery, Disclosure, Correction and Prevention of Violations, 65 Fed. Reg. 19,618 (Apr. 11, 2000) and the California Environmental Protection Agency's ("CAL/EPA") "Recommended Guidance on Incentives for Voluntary Disclosure" (October 2003);
 - b) VW promptly and completely fixed the problems identified;

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- c) VW identified and initiated necessary process changes and implemented the required improvements and other measures to prevent undisclosed running changes and field fixes in the future;
 - d) VW asserts that, based on good engineering judgment, there are no impacts on evaporative emissions and durability;
 - e) VW implemented service campaigns to correct vehicles that had received the undisclosed ECU/TCU software combinations;
 - f) VW promptly improved processes to prevent vehicles from being imported, sold, or delivered in California until it has received certification by CARB;
 - g) VW confirmed vehicle durability with gasoline containing 15% ethanol;
 - h) VW confirmed there were no significant differences in the deterioration factor determination, allowing future model year vehicles to be certified;
 - i) VW contends the alleged violations do not undermine emissions standards or cause the release of excess emissions;
 - j) These were first time occurrences by VW of these types of alleged violations;
 - k) VW fully complied with the investigation, performed substantial, additional confirmatory tests, and provided requested information in a complete and timely manner;
 - l) VW mitigated the environmental and programmatic impacts of the alleged violation by promptly correcting subject issues wherever possible;
 - m) VW met with CARB on numerous occasions to promptly respond to questions, provide clarification, present findings of testing/investigation, and provide updates; and
 - n) CARB's enforcement program has had a deterrent effect on VW, including through its agreement to enter into Consent Decrees in 2016 and 2017 with respect to emissions and testing violations by VW related to diesel vehicles.
- (37) Confidential Business Information. CARB based this penalty in part on confidential business information provided by VW and confidential settlement communications, neither of which are retained by CARB in the ordinary course of business.

ACKNOWLEDGED AND ACCEPTED BY:

California Air Resources Board

Signature: /S/

Name: Richard W. Corey

Title: Executive Officer

Date: December 20, 2021

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Volkswagen AG

Signature: /S/

Name: Dr. Manfred Döss

Title: General Counsel

Date: December 2, 2021

Signature: /S/

Name: Philip Haarmann

Title:

Date: December 3, 2021

Volkswagen Group of America, Inc.

Signature: /S/

Name: Stephan Halstrup

Title: General Counsel

Date: December 1, 2021

Signature: /S/

Name: Lynn K. McKay

Title: Assistant General Counsel, Emissions

Date: December 1, 2021

(Signatures continued on the next page.)

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AUDI AG

Signature: /S/

Name: Dr. Uta Karen Klawitter

Title: General Counsel

Date: November 29, 2021

Signature: /S/

Name: Oliver Hoffmann

Title: Member of the Board of Management Technical Development

Date: November 29, 2021