

SETTLEMENT AGREEMENT

Plaintiffs Meghan Gioffe, Melissa Anido, and Alan Wurzelbacher (“Plaintiffs”), and Defendant Volkswagen Group of America, Inc. (“VWGoA”), (collectively, the “Parties”), by and through their undersigned counsel, enter into this Settlement Agreement (“Settlement Agreement” or “Agreement”), providing for a nationwide class settlement (“Settlement”) of all claims that were asserted or that could have been asserted in the Action described below, pursuant to the terms and conditions set forth below and subject to the Court’s approval.

RECITALS

WHEREAS, Plaintiffs filed a putative class action on January 14, 2022 entitled *Meghan Gioffe, Melissa Anido, and Alan Wurzelbacher, individually, and on behalf of a class of similarly situated individuals v. Volkswagen Group of America, Inc., a New Jersey corporation, d/b/a Audi of America, Inc., Audi AG, a German corporation, and Volkswagen AG, a German corporation*, Civil Action No. 1:22-cv-00193, in the United States District Court for the District of New Jersey (hereinafter, the “Action”), asserting individual and putative nationwide and statewide class claims alleging that the Gateway Control Modules in certain Settlement Class Vehicles could potentially malfunction if exposed to liquid ingress or intrusion from certain alleged sources;

WHEREAS, service of process was effectuated upon VWGoA, but has not yet been effectuated upon Defendants Volkswagen AG or Audi AG;

WHEREAS, VWGoA denies Plaintiffs’ allegations and claims, and maintains, *inter alia*, that no applicable warranties were breached, no applicable statutes, laws, rules or regulations were violated, and that no wrongdoing occurred with respect to the design, manufacture, testing, inspection, distribution, marketing, advertising, warranting, sale and servicing of the Gateway Control Module of the Settlement Class Vehicles;

WHEREAS, the Parties, following certain proceedings, exchanges of information, investigation and careful analysis of their respective claims and defenses, and with full understanding of the risks, expense and uncertainty of continued litigation, desire to compromise and settle all issues and claims that were or could have been brought in the Action by or on behalf of Plaintiffs and members of the Settlement Class based upon the terms set forth in this Settlement Agreement;

WHEREAS, the Parties agree that neither this Settlement Agreement, the underlying Settlement negotiations, nor anything else, shall constitute or, in any way be construed as, any admission of liability or wrongdoing on the part of Defendants or any Released Party, which is expressly denied, or that the Plaintiffs' claims or similar claims would be suitable for class treatment if the Action proceeded through litigation and trial; and

WHEREAS, this Settlement Agreement is the result of vigorous arm's length negotiations between the Parties of highly disputed claims, and the Parties maintain that the Settlement is fair, reasonable, and adequate, and in all respects satisfies the requirements for a class action settlement under Fed. R. Civ. P. 23.

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth below, the Parties hereby agree as follows:

I. DEFINITIONS

A. "Action" or "Lawsuit"

"Action" or "Lawsuit" means Civil Action No. 1:22-cv-00193, entitled *Meghan Gioffe, Melissa Anido, and Alan Wurzelbacher, individually, and on behalf of a class of similarly situated individuals v. Volkswagen Group of America, Inc., a New Jersey corporation, d/b/a Audi of*

America, Inc., Audi AG, a German corporation, and Volkswagen AG, a German corporation,
pending in the United States District Court for the District of New Jersey.

B. “Claim Administrator”

The “Claim Administrator” shall be Angeion Group.

C. “Claim” or “Claim for Reimbursement”

“Claim” or “Claim for Reimbursement” means the timely and proper submission of the required fully completed, dated and signed Claim Form, together with the required Proof of Repair Expense documents (as defined in Section I.(M) of this Agreement) and any other required documents and/or Declarations (see Sections II.(A) and II.(B) of this Agreement), in which a Settlement Class Member seeks to claim reimbursement, pursuant to the terms of this Settlement Agreement, for past paid and unreimbursed out-of-pocket expenses for a Covered Repair that was performed on a Settlement Class Vehicle prior to the Notice Date.

D. “Claim Form”

“Claim Form” means the form that must be fully completed, dated, signed, and timely submitted to the Claim Administrator in order to make a Claim for Reimbursement under the terms of this Settlement Agreement, which Claim Form shall be substantially in the form attached hereto as Exhibit A.

E. “Class Counsel” or “Settlement Class Counsel”

“Class Counsel” or “Settlement Class Counsel” means Lawrence Deutsch, Esq. and Abigail Gertner, Esq. of Berger Montague PC, collectively.

F. “Class Notice Plan” or “Notice Plan”

“Class Notice Plan” or “Notice Plan” means the plan for disseminating notice of this Settlement to the Settlement Class as set forth in Section IV.(B), and includes any further notice provisions that may be agreed upon by the Parties in writing.

G. “Covered Repair”

“Covered Repair” means a repair or replacement (parts and labor) of the Gateway Control Module of a Settlement Class Vehicle, performed prior to the Notice Date, based upon a diagnosed condition of failure or malfunction of the Gateway Control Module resulting from liquid ingress or intrusion.

H. “Court”

“Court” refers to the United States District Court for the District of New Jersey.

I. “Defense Counsel”

“Defense Counsel” means Michael B. Gallub, Esq. and Homer B. Ramsey, Esq. of Herzfeld & Rubin, P.C.

J. “Effective Date”

“Effective Date” means the third business day after (1) the Court enters a Final Order and Judgment approving this Settlement Agreement, substantially in a form to be agreed upon by counsel for the Parties, and (2) all appellate rights with respect to said Final Order and Judgment, other than those related solely to any award of attorneys’ fees, costs/expenses or class representative service awards, have expired or been exhausted in such a manner as to fully affirm the Final Order and Judgment.

K. “Final Order and Judgment”

“Final Order and Judgment” means the Final Order and Judgment approving this Settlement Agreement and dismissing the Action with prejudice as to all Defendants.

L. “Notice Date”

“Notice Date” means the date by which notice of this Settlement is to be mailed to the Settlement Class. The Notice Date shall be within one hundred twenty (120) days after the Court enters a Preliminary Approval Order, substantially in the form attached hereto as Exhibit B.

M. “Proof of Repair Expense”

“Proof of Repair Expense” means the documents required to be submitted in support of a Settlement Class Member’s Claim for Reimbursement of past out-of-pocket expenses, paid prior to the Notice Date, for a Covered Repair (parts and labor) of a Settlement Class Vehicle. Such Proof of Repair Expense shall take the form of an original or legible copy(ies) of a repair invoice, receipt or similar records containing the Settlement Class Member’s name; the make, model, year and vehicle identification number (VIN) of the Settlement Class Vehicle; the name and address of the authorized Audi dealer or other repair entity/facility that performed the Covered Repair; a description of the repair work (parts and labor) performed that establishes that it was a Covered Repair; the cost of the Covered Repair (parts and labor); the Settlement Class Vehicle’s mileage at the time of the Covered Repair; and proof of the Settlement Class Member’s payment for the Covered Repair and the amount of that payment.

N. “Recall 90S9”

“Recall 90S9” means Safety Recall 90S9 entitled “Gateway Control Module,” applicable to Settlement Class Vehicles and issued on January 18, 2022, a copy of which is annexed as Exhibit D to this Settlement Agreement.

O. “Released Claims” or “Settled Claims”

“Released Claims” or “Settled Claims” means any and all claims, causes of action, demands, debts, suits, liabilities, obligations, damages, entitlements, losses, actions, rights of action, costs, expenses, and remedies of any kind, nature and description, whether known or unknown, asserted or unasserted, foreseen or unforeseen, and regardless of any legal or equitable theory, existing now or arising in the future, by Plaintiffs and any and all Settlement Class Members (including their successors, heirs, assigns and representatives) which, in any way, relate to any actual or potential liquid ingress or intrusion into the Gateway Control Module of a

Settlement Class Vehicle, and/or recalls, service actions, and other campaigns addressing same, including but not limited to all matters that were asserted or could have been asserted in the Action and all claims, causes of action, demands, debts, suits, liabilities, obligations, damages, entitlements, losses, actions, rights of action and remedies of any kind, nature and description, arising under any state, federal or local statute, law, rule and/or regulation, under any federal, state or local consumer protection, consumer fraud, unfair business practices, deceptive trade practices, false or misleading advertising, and other sales, marketing and/or consumer statutes or laws, under any common law cause of action or theory, and under any legal or equitable causes of action or theories whatsoever, and on any basis whatsoever including tort, contract, products liability, express warranty, implied warranty, negligence, fraud, misrepresentation, concealment, false or misleading advertising or marketing, consumer protection, express or implied covenants, restitution, quasi-contract, unjust enrichment, injunctive relief of any kind and nature, the Magnuson-Moss Warranty Act, Connecticut Unlawful Trade Practices Act, Florida Deceptive and Unfair Trade Practices Act, Illinois Consumer Fraud and Deceptive Business Practices Act, Uniform Commercial Code and any and all other or similar federal, state or local statutes, laws, rules or derivations thereof, any state Lemon Laws, secret warranty, and/or any other theory of liability and/or recovery whether in law or in equity, and for any and all injuries, losses, damages, remedies, costs, recoveries or entitlements of any kind, nature and description, in law or in equity, under statutory and/or common law, and including, but not limited to, compensatory damages, economic losses or damages, exemplary damages, punitive damages, statutory damages, statutory penalties or rights, restitution, unjust enrichment, injunctive relief, costs, expenses and/or counsel fees, and any other legal or equitable relief or theory of relief. This Settlement Agreement

expressly exempts claims for personal injuries and property damage (other than damage to the Settlement Class Vehicle itself).

P. “Released Parties”

“Released Parties” means Volkswagen Group of America, Inc., Volkswagen AG, Audi AG, Audi of America, Inc., Volkswagen Credit, Inc., Audi of America, LLC, Volkswagen de México S.A. de C.V., Volkswagen Group of America Chattanooga Operations LLC, all designers, manufacturers, assemblers, distributors, importers, retailers, marketers, advertisers, testers, inspectors, sellers, suppliers, component suppliers, lessors, warrantors, dealers, repairers and servicers of the Settlement Class Vehicles and each of their component parts and systems, all of their past and present directors, officers, shareholders, principals, partners, employees, agents, servants, assigns and representatives, and all of the aforementioned persons’ and entities’ attorneys, insurers, trustees, vendors, contractors, heirs, executors, administrators, successor companies, parent companies, subsidiary companies, affiliated companies, divisions, trustees and representatives.

Q. “Settlement Class Vehicle”

“Settlement Class Vehicle” means (a) any model year 2018, 2019, 2020 or 2021 Audi Q5 or Audi SQ5 vehicle, (b) any model year 2021 Audi Q5 Sportback or Audi SQ5 Sportback vehicle, and (c) certain model year 2022 Audi Q5, SQ5, Q5 Sportback or SQ5 Sportback vehicles delineated in the VIN list attached hereto as Exhibit C, that was/were imported and distributed by VWGoA for sale or lease in the United States or Puerto Rico.

R. “Settlement Class” or “Settlement Class Members”

“Settlement Class” or “Settlement Class Members” means all persons and entities who purchased or leased a Settlement Class Vehicle, as defined in Section I.(Q) of this Agreement, in the United States of America and Puerto Rico.

Excluded from the Settlement Class are (a) all Judges who have presided over the Action and their spouses; (b) all current employees, officers, directors, agents and representatives of Defendants, and their family members; (c) any affiliate, parent or subsidiary of Defendants and any entity in which any Defendant has a controlling interest; (d) anyone acting as a used car dealer; (e) anyone who purchased a Settlement Class Vehicle for the purpose of commercial resale; (f) anyone who purchased a Settlement Class Vehicle with salvaged title and/or any insurance company who acquired a Settlement Class Vehicle as a result of a total loss; (g) any insurer of a Settlement Class Vehicle; (h) issuers of extended vehicle warranties and service contracts; (i) any Settlement Class Member who, prior to the date of this Agreement, settled with and released any Defendant or Released Party from any Released Claims, and (j) any Settlement Class Member who files a timely and proper Request for Exclusion from the Settlement Class.

S. “Settlement Class Representatives”

“Settlement Class Representatives” means Meghan Gioffe, Melissa Anido, and Alan Wurzelbacher.

II. SETTLEMENT CONSIDERATION

In consideration for the full and complete release of all Released Claims against all Released Parties, and the dismissal of the Action with prejudice, Defendant VWGoA agrees to provide the following consideration to the Settlement Class:

A. **Reimbursement for Past Unreimbursed Out-of-Pocket Expenses Paid for a Covered Repair Prior to the Notice Date.**

Subject to the limitations set forth in Section II.(B) below, if, prior to the Notice Date, a Settlement Class Member incurred and paid out-of-pocket expenses for a Covered Repair of a Settlement Class Vehicle, and timely submits a valid, complete, signed and dated Claim Form, together with the required Proof of Repair Expense, the Settlement Class Member shall be entitled

to reimbursement of their documented unreimbursed out-of-pocket expenses (parts and labor) for the Covered Repair as follows:

(1) If the Covered Repair was performed prior to March 18, 2022, the Settlement Class Member shall be entitled to 100% of their paid out-of-pocket expenses (parts and labor) for the Covered Repair.

(2) If the Covered Repair was performed on or after March 18, 2022, the Settlement Class Member shall be entitled to receive 100% of their paid out-of-pocket expenses (parts and labor) for the Covered Repair, provided that the Settlement Class Member submits, in addition to the Claim Form and Proof of Repair Expense, either (i) proof that Recall 90S9 was performed on the vehicle prior to the Covered Repair, or (ii) a signed declaration attesting, under penalty of perjury, that Recall 90S9 was not performed prior to the Covered Repair because that Settlement Class Member was not notified of Recall 90S9 prior to the Covered Repair, and VWGoA's/Audi of America, Inc.'s records do not show otherwise. Proof that Recall 90S9 was performed shall take the form of an original or legible copy of an invoice, receipt, or similar record confirming that Recall 90S9 was performed on the Settlement Class Vehicle, the date that it was performed, and the Audi dealership that performed it.

(3) Subject to sub-sections (1) and (2) above, if the Covered Repair was performed by a service entity or facility that is not an authorized Audi dealer, the Settlement Class Member must also submit, together with the other proof and submission requirements set forth in this Section II.A., documentation (such as a written estimate or invoice), or if documents are not available after a good-faith effort to obtain them, a Declaration signed under penalty of perjury, confirming that the Settlement Class Member first attempted to have the Covered Repair performed by an authorized Audi dealer, but the dealer declined or was unable to perform the repair free of charge.

Reimbursement for a Covered Repair performed by a service entity or facility that is not an authorized Audi dealer shall not exceed a maximum reimbursement amount (parts and labor) of \$1,450.

B. Requirements for and Limitations on Entitlement to Reimbursement Set Forth in Section II.(A).

(1) To qualify for reimbursement of past paid and unreimbursed out-of-pocket expenses for a Covered Repair under Section II.(A) above, the Settlement Class Member must mail to the Claim Administrator, by first-class mail post-marked no later than seventy-five (75) days from the Notice Date, a fully completed and dated Claim Form, signed under penalty of perjury, together with the required Proof of Repair Expense defined in Section I.(M) of this Agreement, and, if applicable, the documentation or Declaration required in Sections II.A.(2) and/or II.A.(3) of this Agreement, demonstrating that the Claim for Reimbursement is valid and complies in all respects with the terms of this Settlement Agreement.

(2) Any damage to or malfunction of the Gateway Control Module resulting from misuse, abuse, accident or crash, improper operation, lack of or improper maintenance, and/or damage from an external source, does not qualify for reimbursement, with the exception of unintentional spillage of liquid inside the vehicle which directly caused a failure of the Gateway Control Module.

(3) If the claimant is not a person to whom the Claim Form was addressed, and/or the vehicle with respect to which a Claim is made is not the vehicle identified by VIN number on the mailed Claim Form, the Claim shall contain proof that the claimant is a Settlement Class Member, that the vehicle is a Settlement Class Vehicle and that the Settlement Class Member paid for the Covered Repair.

(4) Any Claim for Reimbursement shall be reduced by the amount of any payment, concession or goodwill accommodation or discount(s) already received, from any other source (including VWGoA/Audi of America, Inc., an Audi dealer, an insurer, service contract provider, or extended warranty provider, or any other person or entity), for all or part of the amount of the Covered Repair that is the subject of the Claim for Reimbursement. The Claim Form shall contain a statement in which the Settlement Class Member must verify either that no such payment, concession or goodwill accommodation or discount(s) was received from another source, or if it was, the amount of the payment received and from whom/what source it was received.

(5) The Claim Administrator's denial of all or part of any Claim shall be binding and non-appealable, except that a Settlement Class Member may seek attorney review of said denial by so requesting it from the Claim Administrator within fourteen (14) days of the date of the letter or notice of the denial of that Claim. If attorney review is timely requested, Class Counsel and Defense Counsel shall confer and attempt to resolve any disputed denial by the Claim Administrator in good faith.

III. CLAIMS ADMINISTRATION

A. Claims for Reimbursement Shall Be Administered by the Claim Administrator.

VWGoA shall be responsible for the costs of Class Notice and Claim Administration under this Settlement Agreement. The Parties retain the right to audit and review the claims handling by the Claim Administrator, and the Claim Administrator shall report to both Parties jointly.

B. Administration.

(1) For each approved Claim for Reimbursement, the Claim Administrator, on behalf of VWGoA, shall mail to the Settlement Class Member, at the address listed on the Claim Form, a reimbursement check in the amount properly approved under the Settlement terms, within one

hundred (100) days of either the date of receipt of the completed Claim (i.e., a fully completed, dated and signed Claim Form with all required supporting documentation), or one hundred (100) days of the Effective Date, whichever is later.

(2) Disputes as to the sufficiency of the Claim Form, Proof of Repair Expense and other documentation submitted in support of a Claim for Reimbursement shall be submitted to and resolved by the Claim Administrator, with the assistance of the counsel for the Parties, if needed. In the event the Claim Administrator makes a preliminary determination that the Claim Form, Proof of Repair Expense and/or other required documentation submitted is insufficient, the Claim Administrator shall mail the Settlement Class Member a letter or notice advising of the deficiency(ies). The Settlement Class Member shall have thirty (30) days from the date of said letter or notice to cure all such deficiencies, or the claim shall be denied.

IV. NOTICE

A. To Attorneys General:

In compliance with the Attorney General notification provision of the Class Action Fairness Act, 28 U.S.C. § 1715, the Claim Administrator shall provide notice of this proposed Settlement to the Attorney General of the United States, and the Attorneys General of each state in which a known Settlement Class Member resides.

B. To the Settlement Class (the Notice Plan):

The Claim Administrator shall be responsible for implementing the following Notice Plan for disseminating notice of this Settlement to the Settlement Class:

(1) On an agreed-upon date with the Claim Administrator within one hundred twenty (120) days after entry of the Preliminary Approval Order, the Claim Administrator shall cause individual Class Notice, substantially in the form attached hereto as Exhibit E, together with the

Claim Form, substantially in the form attached hereto as Exhibit A, to be mailed, by first class mail, to the current or last known addresses of all reasonably identifiable Settlement Class Members. Defendant may format the Class Notice in such a way as to minimize the cost of the mailing, so long as Settlement Class Members can reasonably read it and Class Counsel approves such changes and formatting. The Claim Administrator shall be responsible for dissemination of the Class Notice.

(2) For purposes of identifying Settlement Class Members, the Claim Administrator shall obtain from IHS/Polk, Experian or a similar source, the names and current or last known addresses of Settlement Class Vehicle owners and lessees that can reasonably be obtained, based upon the VINs of Settlement Class Vehicles to be provided by VWGoA pursuant to a Confidentiality Stipulation and Order.

(3) Prior to mailing the Class Notice, an address search through the United States Postal Service's National Change of Address database shall be conducted to update the address information for Settlement Class Vehicle owners and lessees. For each individual mailed Class Notice that is returned as undeliverable, the Claim Administrator shall re-mail the Class Notice where a forwarding address has been provided. For the remaining undeliverable Class Notices where no forwarding address is provided, the Claim Administrator shall perform an advanced address search (e.g., a skip trace) and re-mail any undeliverable Class Notices to the extent any new and current addresses are located.

(4) The Claim Administrator shall diligently, and/or as reasonably requested by Class Counsel or Defense Counsel, report to Class Counsel and Defense Counsel the number of individual Class Notices originally mailed to Settlement Class Members, the number of individual Class Notices initially returned as undeliverable, the number of additional individual Class Notices

mailed after receipt of a forwarding address, and the number of those additional individual Class Notices returned as undeliverable.

(5) The Claim Administrator shall, upon request, provide Class Counsel and Defense Counsel with the names and addresses of all Settlement Class Members to whom the Claim Administrator sent a Class Notice pursuant to this section.

(6) The Claim Administrator shall, with the input and agreement of the Parties, implement a settlement website containing:

- (a) instructions on how to submit a Claim for Reimbursement;
- (b) instructions on how to contact the Claim Administrator, Defense Counsel and Class Counsel for assistance;
- (c) Copies of the Claim Form, Class Notice, this Settlement Agreement, the Preliminary Approval Order, the motion for Final Approval, the motion for Class Counsel Fees and Expenses and Class Representative service awards, and any other pertinent orders and documents that are agreed upon by the Parties; and
- (d) relevant deadlines and procedures for any objections, requests for exclusion, and submission of Claims for Reimbursement; and
- (e) the date, time and location of the final fairness hearing, and any other relevant dates and/or information agreed upon by the Parties.

(7) No later than ten (10) days after the Notice Date, the Claim Administrator shall provide an affidavit or declaration to Class Counsel and Defense Counsel, attesting that the Class Notice was disseminated in a manner consistent with the Notice Plan of this Agreement and the Preliminary Approval Order.

V. RESPONSE TO NOTICE

A. Objection to Settlement.

(1) Any Settlement Class Member that intends to object to the fairness of this Settlement Agreement or the requested amount of Class Counsel Fees and Expenses and/or

Settlement Class Representative service awards must, by the date specified in the Preliminary Approval Order and recited in the Class Notice, which date shall be thirty (30) days after the Notice Date, file any such objection with the Court in person or via the Court's electronic filing system, or, if not filed with the Court by either method, mail the objection to the Court and to the following persons, by first-class mail postmarked no later than thirty (30) days after the Notice Date: Lawrence Deutsch, Esq., Berger Montague PC, 1818 Market Street, Suite 3600, Philadelphia, PA 19103 on behalf of Class Counsel; Michael B. Gallub, Esq., Herzfeld & Rubin, P.C., 125 Broad Street, New York, NY 10004 on behalf of Defendant; and the Claim Administrator, Angeion Group, at the address specified in the Class Notice.

- (2) Any objecting Settlement Class Member must include with his/her/its objection:
 - (a) the objector's full name, address, and telephone number;
 - (b) the model, model year and Vehicle Identification Number of the objector's Settlement Class Vehicle, along with proof that the objector has owned or leased the Settlement Class Vehicle (i.e., a true copy of a vehicle title, registration, or license receipt);
 - (c) a written statement of all grounds and arguments for the objection accompanied by any legal support for such objection;
 - (d) copies of any papers, briefs, or other documents upon which the objection is based and are pertinent to the objection;
 - (e) the name, address and telephone number of any counsel representing said objector; and
 - (f) a list of all other objections submitted by the objector, or the objector's counsel, to any class action settlements submitted in any court in the United States in the previous five (5) years, including the full case name with jurisdiction in which it was filed and the docket number. If the Settlement Class Member or his, her, their or its counsel has not objected to any other class action settlement in the United States in the previous five years, he/she/they/it shall affirmatively so state in the objection.

(3) Any Settlement Class Member who has not timely and properly filed an objection in accordance with the deadlines and requirements set forth herein shall be deemed to have waived

and relinquished his/her/its right to object to any aspect of the Settlement, or any adjudication or review of the Settlement, by appeal or otherwise.

(4) In addition, subject to the approval of the Court, any Settlement Class Member that timely and properly objected may appear, in person or by counsel, at the final fairness hearing to explain why the proposed Settlement should not be approved as fair, reasonable and adequate, or to object to any motion for Class Counsel Fees and Expenses or Settlement Class representative service award. In order to appear, the objecting Settlement Class Member must, by the objection deadline, file with the Clerk of the Court and serve upon all counsel designated in the Class Notice, a Notice of Intention to Appear at the fairness hearing. The Notice of Intention to Appear must include copies of any papers, exhibits or other evidence and the identity of witnesses that the objecting Settlement Class Member (or the objecting Settlement Class Member's counsel) intends to present to the Court in connection with the Final Fairness Hearing. Any Settlement Class Member who does not provide a Notice of Intention to Appear in accordance with the deadline and other requirements set forth in this Settlement Agreement and Class Notice shall be deemed to have waived any right to appear, in person or by counsel, at the Final Fairness Hearing.

B. Request for Exclusion from the Settlement.

(1) Any Settlement Class Member that wishes to be excluded from the Settlement Class must, by first-class mail postmarked no later than thirty (30) days after the Notice Date, mail a written request for exclusion ("Request for Exclusion") to each of the following: (a) the Claim Administrator, Angeion Group, at the address specified in the Class Notice; (b) Lawrence Deutsch, Esq., Berger Montague PC, 1818 Market Street, Suite 3600, Philadelphia, PA 19103 on behalf of Class Counsel; and (c) Michael B. Gallub, Esq., Herzfeld & Ruben, P.C., 125 Broad Street, New York, NY 10004 on behalf of Defendant.

(2) To be effective, the Request for Exclusion must:

- (a) include the Settlement Class Member's full name, address and telephone number;
- (b) identify the model, model year and VIN of the Settlement Class Vehicle;
- (c) state that he/she/it is or was a present or former owner or lessee of a Settlement Class Vehicle; and
- (d) specifically and unambiguously state his/her/its desire to be excluded from the Settlement Class.

(3) Any Settlement Class Member who fails to submit a timely and complete Request for Exclusion in accordance with the requirements set forth above, shall remain in, and not be excluded from, the Settlement Class, and shall be subject to and bound by this Settlement Agreement, the Release of Claims, and every order or judgment entered relating to this Settlement Agreement.

(4) Any Settlement Class Member who submits a timely and proper Request for Exclusion cannot also submit an objection to the Settlement.

(5) The Claim Administrator will receive purported Requests for Exclusion and shall consult with Class Counsel and Defense Counsel in determining whether they meet the requirements of a Request for Exclusion. Any communications from Settlement Class Members (whether styled as an exclusion request, an objection or a comment) as to which it is not readily apparent whether the Settlement Class Member intended to be excluded from the Settlement Class shall be evaluated jointly by counsel for the Parties, who shall make a good faith evaluation. Any uncertainties about whether a Settlement Class Member is requesting exclusion from the Settlement Class shall be submitted to the Court for resolution. The Claim Administrator shall maintain a database of all Requests for Exclusion, and shall send written communications

memorializing those Requests for Exclusion to Class Counsel and Defense Counsel. The Claim Administrator shall report the names and addresses of all such persons and entities that submitted timely and proper Requests for Exclusion to the Court, Class Counsel and Defense Counsel within eighteen (18) days prior to the Final Fairness Hearing, and the list of persons and entities deemed by the Court to have properly and timely excluded themselves from the Settlement Class shall be attached as an exhibit to the Final Approval Order and Judgment.

VI. WITHDRAWAL FROM SETTLEMENT

A. Plaintiffs or Defendant VWGoA shall have the option to withdraw from this Settlement Agreement, and to render it null and void, if any of the following occurs:

(1) Any objection to the proposed Settlement is sustained and such objection results in changes to this Agreement that the withdrawing party deems in good faith to be material (e.g., because it substantially increases the costs of the Settlement, or deprives the withdrawing party of a material benefit of the Settlement; a mere delay of the approval and/or implementation of the Settlement including a delay due to an appeal procedure, if any, shall not in itself be deemed material);

(2) The preliminary or final approval of this Settlement Agreement is not obtained without modification, and any modification required by the Court for approval is not agreed to by both parties, and the withdrawing party deems any required modification in good faith to be material (e.g., because it increases the cost of the Settlement, or deprives the withdrawing party of a benefit of the Settlement; a mere delay of the approval and/or implementation of the Settlement including a delay due to an appeal procedure, if any, shall not in itself be deemed material); or

(3) Entry of the Final Order and Judgment described in this Agreement is vacated by the Court or reversed or substantially modified by an appellate court, except that a reversal or

modification of an order awarding reasonable attorneys' fees and costs and expenses, if any, shall not be a basis for withdrawal from the Settlement.

B. Defendant VWGoA shall, in addition, have the option to withdraw from this Settlement Agreement, and to render it null and void, if more than five percent (5%) of the persons and entities identified as being members of the Settlement Class exclude themselves from the Settlement Class in accordance with the provisions of Section V.B. of this Settlement Agreement.

C. To withdraw from this Settlement Agreement under this section, the withdrawing party must provide written notice to the other party's counsel and to the Court within ten (10) business days of receipt of any order or notice of the Court modifying, adding or altering any of the material terms or conditions of this Agreement or, if applicable, the time that Defendant determines that 5% or more of the Settlement Class Members have excluded themselves from the Settlement.

D. In the event either party withdraws from the Settlement, this Settlement Agreement shall be null and void, shall have no force and effect with respect to any party in the Action, and shall not be offered in evidence or used in the Action or any other litigation or proceeding for any purpose, including the existence, certification or maintenance of any purported class or as evidence or argument with respect to any allegation, claim, defense, matter, or issue in the Action. In the event of such withdrawal, this Settlement Agreement and all negotiations, proceedings, and documents prepared and statements made in connection herewith shall be inadmissible as evidence and without prejudice to the Defendant and Plaintiffs, and shall not be deemed or construed to be an admission or confession by any party of any fact, matter, claim, issue, or proposition of law, and shall not be used in any manner for any purpose, and all parties to the Action shall be restored to the same position as if this Settlement Agreement had not been negotiated, made or filed with

the Court. Upon withdrawal, either party may elect to move the Court to vacate any and all orders entered pursuant to the provisions of this Settlement Agreement.

D. A change in law, or change of interpretation of present law, that affects this Settlement shall not be grounds for withdrawal from the Settlement.

VII. ADMINISTRATIVE OBLIGATIONS

A. In connection with the administration of the Settlement, the Claim Administrator shall maintain a record of all contacts from Settlement Class Members regarding the Settlement, any Claims submitted pursuant to this Settlement Agreement and any responses thereto. The Claim Administrator, on a weekly basis, shall provide to Class Counsel and Defense Counsel a summary information concerning the number of claims made, number of claims validated, number of returned claims for incompleteness or deficiencies, and total dollar amount of payouts on claims made, the number of claims rejected and the total dollar amount of claims rejected, such that Class Counsel and Defense Counsel may inspect and monitor the claims process.

B. Except as otherwise stated herein, all reasonable expenses of the Claim Administrator incurred in administering this Settlement Agreement, including, without limitation, the cost of the Class Notice and Claim administration, shall be paid by VWGoA.

VIII. SETTLEMENT APPROVAL PROCESS

A. Preliminary Approval of Settlement.

Promptly after the execution of this Settlement Agreement, Class Counsel shall present this Settlement Agreement to the Court, along with a motion requesting that the Court issue a Preliminary Approval Order substantially in the form attached as Exhibit B.

B. Final Approval of Settlement.

(1) If this Settlement Agreement is preliminarily approved by the Court, Class Counsel shall, at a time agreed by the Parties and directed by the Court, file a motion requesting that the Court grant final approval of this Settlement and issue a Final Order and Judgment pursuant to Fed. R. Civ. P. 54(b), substantially in the form agreed by the Parties and submitted to the Court, approving the terms of this Settlement Agreement and directing its implementation.

(2) The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement Agreement and the terms set forth herein. Such best efforts shall include taking all reasonable steps to secure entry of a Final Order and Judgment of the Settlement terms contained herein, as well as supporting the Settlement and the terms of this Settlement Agreement through any appeal.

C. Plaintiffs' Application for Attorney Fees and Service Awards.

(1) Based upon negotiations which did not commence until agreement was reached on the material terms of this Settlement, the Parties agree that Class Counsel may apply to the Court for a combined award of reasonable attorneys' fees and costs and expenses (hereinafter, collectively, "Class Counsel Fees and Expenses") in an amount up to, and not exceeding, the total combined sum of four hundred and twenty-five thousand dollars (\$425,000.00). VWGoA shall not oppose Class Counsel's application for Class Counsel Fees and Expenses in the total combined amount up to and not exceeding \$425,000.00 (hereinafter, the "Fee and Expense Application"), and Class Counsel shall neither seek nor accept any award of Class Counsel Fees and Expenses

exceeding said total combined amount. VWGoA's payment of Class Counsel Fees and Expenses awarded by the Court shall be separate and apart from, and shall not reduce, any benefits to which Settlement Class Members may be entitled pursuant to this Agreement. Each party shall have the right to appeal any award of Class Counsel Fees and Expenses that is inconsistent with this Agreement.

(2) Plaintiffs Meghan Gioffe, Melissa Anido, and Alan Wurzelbacher (the "Settlement Class Representatives"), intend to request that the Court grant them a service award for serving as named Plaintiffs and putative class representatives in the Action. Based on negotiations which did not commence until agreement was reached on the material terms of this Settlement, the Parties have agreed that VWGoA shall not oppose Plaintiffs' request, made as part of the Fee and Expense Application, for a service award of five thousand dollars (\$5,000.00) to each of the aforesaid three Settlement Class Representatives.

(3) The Class Counsel Fees and Expenses and Settlement Class Representative service awards shall be paid by VWGoA as directed by the Court by wire transfer, check or other mutually agreeable fashion to Berger Montague PC within the later of (a) thirty (30) days after the Effective Date of the Settlement, or (b) assuming the Effective Date of the Settlement has occurred, thirty (30) days after entry of the Final Order and Judgment for reasonable attorney fees, expenses and Settlement Class Representative service awards, including final termination or disposition of any appeals relating thereto. Said payments shall fully satisfy, release and discharge any and all obligations of VWGoA and all Released Parties with respect to payment of Class Counsel Fees and Expenses, any other counsel fees and/or expenses in connection with the Action, and the Settlement Class Representatives' service awards.

(4) The procedure for and the grant or denial or allowance or disallowance by the Court of the Fee and Expense Application are not part of this Settlement Agreement, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness and adequacy of this Settlement Agreement. Any order or proceedings relating solely to the Fee and Expense Application, or any appeal from any order related thereto or reversal or modification thereof, shall not operate to terminate or cancel this Agreement, or affect or delay the Effective Date of this Agreement. Payment of Class Counsel Fees and Expenses and the Settlement Class Representative's service award shall not reduce any benefit being made available to Settlement Class Members, and the Settlement Class Members shall not be required to pay any portion of the Settlement Class Representative's service award or Class Counsel Fees and Expenses.

D. Release of Plaintiffs' and Settlement Class Members' Claims.

(1) Upon the Effective Date, the Plaintiffs and each Settlement Class Member shall be deemed to have, and by operation of the Final Order and Judgment shall have, fully, completely and forever released, acquitted and discharged the Released Parties from all Released Claims.

(2) Upon the Effective Date, with respect to the Released Claims, the Plaintiffs and all Settlement Class Members to whom such statute or rule is applicable, expressly waive and relinquish, to the fullest extent permitted by law, the provisions, rights, and benefits of § 1542 of the California Civil Code, which provides: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

(3) Upon the Effective Date, the Action shall be deemed dismissed with prejudice.

IX. MISCELLANEOUS PROVISIONS

A. Effect of Exhibits.

The exhibits to this Agreement are an integral part of the Settlement and are expressly incorporated in and made a part of this Agreement.

B. No Admission of Liability.

Neither the fact and existence of, nor any term or provision contained in, this Agreement, nor any action taken hereunder, shall constitute, be construed as or be admitted as evidence of, any admission of the validity or merits of any claim or fact alleged in the Action, or of any wrongdoing, fault, violation of law or liability of any kind on the part of VWGoA and the Released Parties, or any admission by VWGoA and the Released Parties of any claim or allegation made in any action or proceeding against them. The Parties understand and agree that neither this Agreement, nor the negotiations that preceded it, shall be offered or be admissible in evidence against VWGoA, the Released Parties, the Plaintiffs or the Settlement Class Members, or cited or referred to in the Action or any action or proceeding, except in an action or proceeding brought to enforce, or in defense of an action commenced or maintained in violation of, the terms of this Agreement and/or the Final Order and Judgment.

C. Entire Agreement.

This Settlement Agreement represents the entire agreement and understanding among the Parties and supersedes all prior proposals, negotiations, agreements and understandings relating to the subject matter of this Settlement Agreement. The Parties acknowledge, stipulate and agree that no covenant, obligation, condition, representation, warranty, inducement, negotiation or understanding concerning any part or all of the subject matter of this Settlement Agreement has been made or relied on except as expressly set forth in this Settlement Agreement. No modification or waiver of any provision of this Settlement Agreement shall in any event be effective unless the

same shall be in writing and signed by the person or party against whom enforcement of this Settlement Agreement is sought.

D. Arm's-Length Negotiations and Good Faith.

The Parties have negotiated all of the terms and conditions of this Settlement Agreement at arm's length. All terms, conditions and exhibits in their exact form are material and necessary to this Settlement Agreement and have been relied upon by the Parties in entering into this Settlement Agreement.

E. Continuing Jurisdiction.

The Parties agree that the Court may retain continuing and exclusive jurisdiction over them, including all Settlement Class Members, for the purpose of the administration and enforcement of this Agreement.

F. Binding Effect of Settlement Agreement.

This Agreement shall be binding upon and inure to the benefit of the Parties and their representatives, attorneys, heirs, successors and assigns.

G. Extensions of Time.

The Parties may agree upon a reasonable extension of time for deadlines and dates reflected in this Agreement without further notice (subject to Court approval as to Court dates).

H. Service of Notice.

Whenever, under the terms of this Settlement Agreement, a person is required to provide service or written notice to Defense Counsel or Class Counsel, such service or notice shall be directed to the individuals and addresses specified below, unless those individuals or their successors give notice to the other parties in writing, of a successor individual or address:

As to Plaintiffs: BERGER MONTAGUE PC
Lawrence Deutsch, Esq.
Abigail Gertner, Esq.
1818 Market Street, Suite 3600
Philadelphia, PA 19103

As to Defendant: HERZFELD & RUBIN, P.C.
Michael B. Gallub, Esq.
Homer B. Ramsey, Esq.
125 Broad Street
New York, NY 10004

I. Authority to Execute Settlement Agreement.

Each counsel or other person executing this Settlement Agreement or any of its exhibits on behalf of any Party hereto warrants that such person has the authority to do so.

J. Discovery.

VWGoA shall cooperate and participate in reasonable confirmatory discovery, to the extent reasonably deemed necessary by Plaintiffs and agreed by the Parties.

K. Return of Confidential Materials.

All documents and information designated as “confidential” and produced or exchanged in the Action, shall be returned or destroyed in accordance with the terms of the stipulated Confidentiality Order entered in the Action.

L. No Assignment.

The Parties represent and warrant that they have not assigned, transferred or encumbered, or purported to assign, transfer or encumber, to any person or entity, any claim or any portion thereof or interest therein, including, but not limited to, any interest in the claims made and/or relief sought in the Action or any related action.

M. No Third-Party Beneficiaries.

This Agreement shall not be construed to create rights in, or to grant remedies to, or delegate any duty, obligation or undertaking established herein to any third party (other than Settlement Class Members themselves) as a beneficiary of this Agreement.

N. Construction.

The determination of the terms and conditions of this Agreement has been by mutual agreement of the Parties. Each Party participated jointly in the drafting of this Agreement and, therefore, the terms and conditions of this Agreement are not intended to be, and shall not be, construed against any Party by virtue of draftsmanship.

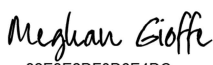
O. Captions.

The captions or headings of the sections and paragraphs of this Agreement have been inserted for convenience of reference only and shall have no effect upon the construction or interpretation of any part of this Agreement.

IN WITNESS HEREOF, the parties have caused this Agreement to be executed, by their duly authorized attorneys, as of the date(s) indicated on the lines below.

ON BEHALF OF PLAINTIFFS:

Dated: July 13, 2022

DocuSigned by:

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Meghan Gioffe

Dated: July ¹³____, 2022

DocuSigned by:
Melissa Anido
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Melissa Anido

Dated: July ¹²____, 2022

DocuSigned by:
Alan Wurzelbacher
AABC48A00FEB4CC

Alan Wurzelbacher


Dated: July ¹³____, 2022

DocuSigned by:
LAWRENCE DEUTSCH
547E1187653A102

BERGER MONTAGUE P.C.
Lawrence Deutsch, Esq.
Abigail Gertner, Esq.
1818 Market Street, Suite 3600
Philadelphia, PA 19103

ON BEHALF OF DEFENDANT:

Dated: July 13, 2022



HERZFELD & RUBIN, P.C.
Michael B. Gallub, Esq.
Homer B. Ramsey, Esq.
125 Broad Street
New York, New York 10004