

## PARTICIPATION AGREEMENT WITH MANDATE TO NEGOTIATE AND TO LITIGATE

### Diesel Emissions Justice Foundation

This participation agreement is dated \_\_\_\_\_ 2019 and made between

1. The Foundation incorporated under the laws of the Netherlands, Stichting Diesel Emissions Justice, Herengracht 282, 1016 BX Amsterdam, the Netherlands, (email address [legal@emissionsjustice.com](mailto:legal@emissionsjustice.com)), registered in the Amsterdam Chamber of Commerce, under number 75260425, represented by its legal representative, domiciled in this capacity at said seat,

hereinafter referred to as the **Foundation**

and

2. The current or former owner or user (for example through leasing) of a car with car registration number:

Car registration number: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Zip Code and city: \_\_\_\_\_

Email: \_\_\_\_\_

hereinafter referred to as the **Participant**.

Together hereinafter referred to as the **Parties**.

### Background

- A The Participant has allegedly suffered losses (the **Losses**) by buying, owning or leasing a car manufactured by one or more of Volkswagen Group AG and other responsible parties, such as SEAT, Skoda, Porsche and Audi (the **Defendants**) who fraudulently manipulated the software of that car model in emissions testing situations and made several misrepresentations concerning the true levels of these emissions, also known as the diesel emissions scandal (the **Diesel Fraud**).
- B The Foundation is or will be pursuing actions against the Defendants for the purpose of providing compensation to (former or actual) car owners and/ or users for Losses suffered in connection with the Diesel Fraud.
- C Pursuant to its deed of incorporation, the Foundation is authorized to enter into this participation agreement.

The Parties agree as follows:

- Article 1.** The Participant supports the goal of the Foundation and will support any reasonable judgment or settlement obtained by the Foundation for the benefit of the Participant. To that end, the Participant grants an exclusive mandate to the Foundation to represent him/her and act in Court on his behalf against the Defendants, in order to obtain

compensation for the damage suffered and payment of all the sums, reimbursements, indemnities due to him, as a result of the acts alleged against the Defendants in the context of the Diesel Fraud, before any jurisdiction, to perform on his / her behalf, for this purpose, all the procedural acts, to exercise on his behalf, for the same purpose, all actions and recourses, ordinary or extraordinary, civil or criminal, to defend him/herself against the recourses exercised by the Defendants, and possibly withdraw and accept any withdrawal.

The Participant grants the Foundation the exclusive right and authorisation to discuss and negotiate on his/her behalf the terms of an agreement with the Defendants with the aim of achieving an amicable settlement with respect to any Losses and to pursue litigation (if considered appropriate) against one or more of the Defendants in the name of and on behalf of the Participant. The Participant will support any request that the Foundation makes with any court for the approval of the settlement agreement, including any fee arrangements included in such agreement.

The Participant explicitly grants permission to the Foundation to include his/her name and details about his/her Losses in procedural documents and other confidential information that the Foundation exchanges with the court and/or Defendants. At the Foundation's request, the Participant will provide any evidence about his/her ownership and/or user rights (for example lease) in relation to the respective car(s), his/her Losses and all other relevant information required in negotiations and court proceedings.

The Participant agrees that the Foundation exclusively selects, instructs and retains its own local counsels as appropriate without any interference of the Participant. The Participant hereby agrees that the rights and obligations stemming from this PA may be unilaterally transferred in their entirety by the Foundation to another organization such as a foundation or an association, provided that this organization has the same objective as the Foundation and the transfer is deemed to be in the best interest of the Participant and the Foundation by the Board. The Foundation will give the Participant proper notice of such a transfer.

The duty of cooperation which underlies the execution of this mandate requires the Foundation to carry out its duty of information with regard to the Participant, in sufficient detail, and within deadlines which effectively allow the Participant to give its consent to during decisive steps to be taken by the Foundation for the continuation of the procedures or negotiations or failing to regain control of his/her action. It also requires the Participant to respond timely to any requests from the Foundation, in particular with regard to the communication of information or relevant documents, so as not to jeopardize the continuation of procedures or negotiations. The Parties shall, unless expressly agreed otherwise or as otherwise provided herein, give notice by email to ensure such cooperation. The Foundation also engages to comply with the 2019 Claim's Code in force in the Netherlands.

The mandate will end once the procedures initiated are ended by a final decision of the Court or a settlement agreement and effective recovery of any sums due to the benefit of the Foundation and the Participant has been made.

**Article 2.** The Participant acknowledges that the Foundation can take the position that the conditions of a (proposed) settlement do not sufficiently serve the interests of the Participant. In that case the Foundation may pursue further negotiations, litigation or other actions as envisioned by the Foundation's Deed of Incorporation.

**Article 3.** The Foundation operates on the basis of 'no cure no pay'. This means that the Participant has no upfront obligation to make any payment to the Foundation or its counsel. The Parties acknowledge that the Foundation can only pursue (legal) action against the

Defendants with adequate funding by a third-party litigation funder (the Funder).

The Foundation undertakes to bear the burden of any procedural costs the Participant could be ordered to pay, as well as any compensation or fine related to the actions exercised in execution of this mandate. Conversely, in the event that the Defendants are ordered to pay any amount for procedural costs, these amounts shall be paid to the Foundation. In case any amount for procedural costs shall be paid to the Participant, the Participant agrees to pay this amount to the foundation forthwith.

**Article 4.** Only in case compensation (“Proceeds”) becomes payable and no longer subject to recourse to the Participant, the Foundation or, ultimately, the Funder, will be entitled to a contingency Fee (“Fee”) of up to 27,5% (inclusive of Value Added Tax, if any) of the Proceeds to compensate the Foundation for costs incurred for the benefit of the Participant, which include both costs for legal assistance (Legal Fee) and costs for arranging and obtaining pre-financing from the Funder (Financial Fee). The Participant irrevocably accepts and agrees with direct payment of the Fee by the Defendants or any designated third party to the Foundation or, ultimately, the Funder.

**Article 5.** The Participant hereby releases the Foundation, its board of directors, its supervisory board, its advisors and the Funder from any claims, liabilities or obligations that relate in any way to the pursuit of litigation or the negotiation, execution or implementation of any settlement agreement by the Foundation in this matter, except in case of gross negligence or wilful misconduct or, except in circumstances beyond the control of the Foundation, for the failure to perform its essential duties under this agreement. The parties are fully aware of the fact that the Foundation will exercise reasonable efforts to achieve its goals, but cannot guarantee any favourable outcome because of the uncertainties, limitations and complexities that are inherent to the matter that is the subject of this agreement, which efforts are also dependant upon the continuity of external financing.

**Article 6.** The Participant can withdraw from this agreement within fourteen (14) days, without giving any reason, from the day of the conclusion of the contract. To exercise that right of withdrawal, the Participant must inform the Foundation by e-mail ([info@emissionsjustice.com](mailto:info@emissionsjustice.com)) and the Foundation must acknowledge receipt within 30 days written notice. However, the Participant will still owe the Fee to the Foundation or, ultimately, the Funder if the Participant withdraws: (i) after the date on which a settlement with the Defendants has been announced, or (ii) in case litigation initiated by the Foundation has resulted in a positive outcome on the merits of the case for the Participant.

The withdrawal of the Participant from this agreement has no effect on the processing of their personal data by the Foundation. For more information on the legal basis for the processing of the Participant's personal data by the Foundation, or on the Participant's rights with regard to this processing, the Foundation invites the Participant to refer to the Privacy Policy and the use of Foundation cookies, available on [https://www.emissionsjustice.com/en\\_be/privacy-policy-enbe/](https://www.emissionsjustice.com/en_be/privacy-policy-enbe/).

**Article 7.** This agreement is governed by and construed in accordance with the Belgium laws. If one or more clauses of this contract were to be null or unwritten, this would not result in the nullity of the entire contract and, in this case, valid rules of ordinary law will apply or, if impossible, only the clauses concerned will remain null and void. All disputes arising out of or in connection with this agreement shall, if no amicable settlement can be reached between the Parties within ten (10) business days, be referred to the competent Belgium court in Brussels.