



PARTICIPATION AGREEMENT
Stichting Diesel Emissions Justice

This participation agreement is dated _____ 2020 and made between

1. The foundation incorporated under the laws of the Netherlands, Stichting Diesel Emissions Justice, Herengracht 282, 1016 BX Amsterdam, the Netherlands (the Foundation) and
2. The following current or former owner or user (for example through leasing) of a car with car registration/VIN number:

Car registration number/VIN: _____

Name: _____

Address: _____

Zip Code and city: _____

Country: _____

Email: _____

hereinafter referred to as the **Participant**.

Background

- A The Participant has allegedly suffered losses by buying, owning or leasing a car manufactured by Daimler AG and/or one of its subsidiary companies who fraudulently manipulated the software of that car model in order to influence vehicle emissions during testing situations and made several misrepresentations concerning the true levels of these emissions, also known as the diesel emissions scandal (the **Diesel Fraud**). The Participant alleges to have a claim against Daimler AG and/or other responsible parties (the **Defendants**), which has its root cause in the Diesel Fraud and the resulting non-conformity of the car with the applicable type approval regulations (the **Claim**).
- B The Foundation has initiated collective action proceedings in the Netherlands before the Amsterdam district court against the Defendants, and may be pursuing collective settlement proceedings in the Netherlands before the Amsterdam District Court or the Amsterdam Court of Appeals, in order to obtain compensation for the participants of the Foundation, including the Participant, for losses suffered in connection with the Diesel Fraud and enforce the Claim vis-à-vis the Defendants for the benefit of the Participant.
- 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 supports the litigation efforts of the Foundation in the Netherlands. The Participant grants the Foundation the exclusive right and authorisation to opt in to or opt out of proceedings pursued in the Netherlands on his/her behalf, and to perform any act which the Foundation deems necessary in relation to the proceedings in the Netherlands. The Participant will support any reasonable judgment or settlement obtained by the Foundation for the benefit of the Participant. Also, 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 the Claim and, on his/her behalf, to opt in to or opt out from any collective settlement that may be achieved. The Participant explicitly grants permission to the Foundation to include his/her name and details about his/her Claim 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.
- Article 2 The Participant authorizes any relevant party, including the national vehicle registration authority, his bank and the claims administrator, to communicate with the Foundation and/or other representatives of the Foundation upon their request, and to provide the Foundation or its representatives with any relevant document or information that party may have that the Foundation or their representatives reasonably deem relevant in view of the Participant's claims.
- Article 3. 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 in the Foundation's deed of Incorporation. However, if a settlement agreement can be executed by the Foundation for the benefit of all, or part of, its Participants, 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.
- Article 4. 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).
- Article 5. Only in case compensation (the **Proceeds**) becomes irrevocably payable to the Participant, the Foundation or, ultimately, the Funder, will be entitled to a contingency Fee (the **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 (the **Legal Fee**) and costs for arranging and obtaining pre-financing from the Funder (the **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 6. The Participant acknowledges that:

- concluding this participation agreement does not interrupt the statute of limitations of the Participant's claims and that the responsibility for a timely interruption of the statute of limitation under the applicable law rests solely with him/her. The Foundation may undertake measures available to do so on behalf of the Participant to the extent this can be done on a collective basis in the relevant jurisdiction. However, the Participant agrees that this does not relieve the Participant from his/her own responsibility to effect all necessary steps to preserve the validity of his/her own claim;
- the efforts and furtherance of any action of and by the Foundation on behalf of the Participant to obtain compensation, shall not create an attorney-client relationship with the Participant, are not intended as a solicitation, do not convey or constitute legal advice, and are not a substitute for obtaining independent legal advice from a qualified attorney. Participants should contact their attorney to obtain advice with respect to any particular legal matter.

Article 7. This agreement is entered into under the condition precedent that the Participant has not already engaged actions against the same Defendants (all or any of them) unless the Participant has withdrawn from those proceedings. The Participant hereby declares he/she has no pending or parallel proceedings against any or all of the Defendants related to the Diesel Fraud.

Article 8. 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. Therefore, 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.

Article 9. The Participant agrees that the rights and obligations granted and accepted under this Participation agreement 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 that 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.

Article 10. 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) and the Foundation must acknowledge receipt within 30 days written notice. The Participant can also withdraw from this agreement at any time upon 30 (thirty) days written notice without giving any reason (e-mail to info@emissionsjustice.com). 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 performance of this agreement, the Foundation will process personal data of the Participant as described in the Privacy Policy of the Foundation, available on: https://www.emissionsjustice.com/en_eu/.

- Article 11. The Foundation will communicate with the Participants exclusively through its website and by email, and in the English language. The Participant acknowledges and accepts that all exchanges of information will be held in this language. Various language versions of this Agreement are available to enable the participants to review this agreement. In case of linguistical differences, for participants who signed the Dutch version, the wording and meaning of the Dutch text will prevail. For participants who signed the English version of this agreement or any other language version than the Dutch version, the wording and meaning of the English version will prevail.
- Article 12 If at any time any provision of this deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, this will not affect the legality, validity or enforceability of the remaining provisions, nor will this affect or impair the legality, validity or enforceability of such provision under the law of any other jurisdiction. Moreover, in such case, the clause that is illegal, invalid or unenforceable will be substituted with a valid clause that differs as little as possible from the original clause.
- Article 13. This agreement is governed by and construed in accordance with the laws of the Netherlands. 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 district court of Amsterdam the Netherlands.