

## **SETTLEMENT AND RELEASE AGREEMENT**

This Settlement and Release Agreement (the “Agreement”), dated as of August 31, 2022, is made and entered into by and among the following individuals and entities: (1) Ricardo Villalobos, John Hajny, Anthony Service, and Jeremy Adams (collectively, “Named Plaintiffs”), individually and on behalf of the Settlement Class,<sup>1</sup> and (2) Volkswagen Group of America, Inc. (“VWGoA”), Audi of America, LLC (“Audi”), and Sanctus, LLC d/b/a Shift Digital (“Shift Digital”) (collectively, “Defendants,” and together with Named Plaintiffs, the “Settling Parties”), by and through their respective counsel.

### **I. Factual Background**

1.1 On June 28, 2021, Mr. Villalobos commenced a class action in the U.S. District Court for the District of New Jersey captioned *Villalobos v. Volkswagen Group of America, Inc., et al.*, Case No. 2:21-cv-13049 (the “*Villalobos Action*”). On July 8, 2021, Mr. Hajny commenced a related class action in the same court captioned *Hajny v. Volkswagen Group of America, Inc. et al.*, Case No. 2:21-cv-13442 (the “*Hajny Action*”). On August 9, 2021, Mr. Villalobos filed an amended complaint in the *Villalobos Action* in which Mr. Adams joined as a plaintiff.

1.2 On September 9, 2021, Mr. Villalobos, Mr. Adams, Mr. Hajny, and Defendants filed a Stipulation and Proposed Order Consolidating Related Actions and Setting Scheduling Deadlines (the “Stipulation to Consolidate”), requesting that the court consolidate the *Villalobos* and *Hajny* Actions. On September 14, 2021, the court approved the Settling Parties’ Stipulation to Consolidate and consolidated the *Villalobos* and *Hajny* Actions into a single action captioned *In Re: Volkswagen Data Incident Litigation*, Case No. 4:21-cv-08518 (the “Action”).

1.3 On October 14, 2021, Mr. Villalobos, Mr. Adams, and Mr. Hajny filed a Consolidated Class Action Complaint (the “Operative Complaint”) in the Action in which Mr. Service joined as a plaintiff. The Operative Complaint asserts claims against one or more Defendants for: (1) negligence; (2) unjust enrichment; (3) breach of confidence; (4) breach of implied contract; (5) declaratory and injunctive relief; (6) violation of the Drivers’ Privacy Protection Act, 18 U.S.C. § 2724; (7) violation of the California Consumer Privacy Act, California Civil Code § 1798.150; (8) violation of the California Unfair Competition Law - Unlawful Business Practices, California Business & Professions Code § 17200, *et seq.*; (9) violation of the California Unfair Competition Law - Unfair Business Practices, California Business & Professions Code § 17200, *et seq.*; (10) breach of contracts to which Plaintiffs and the Class are third-party beneficiaries; and (11) violation of the Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. § 501.201, *et seq.*, arising from the Incident.

1.4 On November 24, 2021, the Settling Parties filed a Stipulation and Proposed Order to Transfer the Consolidated Action (the “Stipulation to Transfer”) to the U.S. District Court for the Northern District of California. The Settling Parties’ Stipulation to Transfer was granted on November 29, 2021.

1.5 After the transfer of the Action to the U.S. District Court for the Northern District of California, the Settling Parties agreed to mediate their dispute with the assistance of the Honorable Wayne Andersen (Ret.) of JAMS. Ahead of the mediation, the Settling Parties engaged

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<sup>1</sup> All undefined capitalized terms have the definitions set forth in § III hereof.

in significant, informal discovery regarding the Incident. On May 16, 2022, the Settling Parties participated in arm's-length settlement discussions during a day-long, in-person mediation session with Judge Andersen in Chicago, Illinois. Over the next four days, the Settling Parties continued to mediate virtually with Judge Andersen's assistance. On May 20, 2022, the Settling Parties agreed to have Judge Andersen give a mediator's recommendation as to the settlement amount, and Judge Andersen recommended that the Action settle for \$3.5 million.

1.6 On May 20, 2022, the Settling Parties accepted Judge Andersen's recommendation, thereby reaching a settlement in principle. Over the following two months, the Settling Parties negotiated additional settlement terms. On July 13, 2022, the Settling Parties agreed to a Term Sheet, which set forth the material terms of this Agreement. On August 31, 2022, the Settling Parties agreed to settle the Action on the terms and conditions set forth herein.

## **II. Recitals**

2.1 The Settling Parties have determined that continued prosecution and defense of this Action would be burdensome, protracted, and expensive and that the outcome is uncertain. To avoid the risk and expense of further litigation, the Settling Parties have agreed to settle the Action on the terms and conditions set forth herein.

2.2 Class Counsel have conducted a thorough examination and evaluation of the relevant law and facts to assess the merits of the claims to be resolved in this settlement and how best to serve the interests of the Settlement Class. Based on this investigation and the negotiations described above, Class Counsel have concluded, taking into account (1) the sharply contested issues involved; (2) the risks, uncertainty, and cost of further prosecution of this Action; and (3) the benefits to be received by the Settlement Class pursuant to this Agreement, that a settlement with Defendants on the terms set forth herein is fair, reasonable, adequate, and in the best interests of the Settlement Class.

2.3 Defendants deny all allegations of wrongdoing and disclaim all liability with respect to all claims. Neither this Agreement nor any actions taken to carry out the settlement are intended to be, nor may they be deemed or construed to be, an admission or concession of liability, or of the validity of any claim, defense, or of any point of fact or law on the part of any party. Defendants deny the material allegations of the Operative Complaint in this Action. Neither this Agreement, nor the fact of settlement, nor settlement proceedings, nor the settlement negotiations, nor any related document, shall be used as an admission of any fault or omission by Defendants, or be offered or received in evidence as an admission, concession, presumption, or inference of any wrongdoing by Defendants in any proceeding. Defendants further deny that the Action satisfies the requirements to be tried as a class action under federal and/or state law.

2.4 This Agreement is intended to fully, finally, and forever resolve all claims and causes of action asserted, or that could have been asserted based upon the facts alleged in the Operative Complaint, against Defendants and the Released Parties, by and on behalf of the Named Plaintiffs and the Settlement Class.

2.5 It is hereby agreed, by and between the Named Plaintiffs, Class Counsel, and Defendants, that, subject to the approval of the Court as provided for in this Agreement, the Action and Released Claims shall be fully and finally settled, compromised and released, and the Action shall be dismissed with prejudice, on the terms and conditions herein.

### **III. Definitions**

As used in this Agreement, the following terms have the meanings specified below:

3.1 “Attorneys’ Fees and Expenses Award” means the amount awarded by the Court to be paid to Class Counsel solely from the Settlement Fund, such amount to be in full and complete satisfaction of Class Counsel’s claim or request for payment of attorneys’ fees and reimbursement for litigation expenses.

3.2 “California SPI Subclass” means all Settlement Class Members residing in California at the time of the Incident to whom VWGoA and/or Audi sent notice that their SPI may have been exposed as a result of the Incident.

3.3 “California SPI Subclass Cash Payment” means a cash payment of \$350, subject to upward or downward proration, for which members of the California SPI Subclass may submit a Settlement Claim, regardless of whether they experienced any Out-of-Pocket Losses.

3.4 “Claim Form” means the claim form attached hereto as Exhibit A, or a claim form approved by the Court that is substantially similar to Exhibit A.

3.5 “Claims Deadline” means the date by which Settlement Class Members must submit Settlement Claims in order to be eligible to receive Settlement Awards. The Claims Deadline shall be set by the Court in the Preliminary Approval Order. The Settling Parties propose a Claims Deadline that is the 120th day after the entry of the Preliminary Approval Order.

3.6 “Claims Period” means the time for Settlement Class Members to submit Settlement Claims, running from the date of entry of the Preliminary Approval Order through the Claims Deadline.

3.7 “Class Counsel” means M. Anderson Berry of Clayco C. Arnold, A Professional Law Corp; Gayle M. Blatt of Casey Gerry Schenk Francavilla Blatt & Penfield LLP; Rachele R. Byrd of Wolf Haldenstein Adler Freeman & Herz LLP; and Karen Hanson Riebel of Lockridge Grindal Nauen P.L.L.P.

3.8 “Class Notice” means the notice of this settlement that is contemplated by this Agreement, and which shall include the Long Notice and Summary Notice, substantially in the form attached hereto as Exhibits B and C, respectively.

3.9 “Class Representative Awards” means such funds as may be awarded by the Court to be paid solely from the Settlement Fund to the Named Plaintiffs in recognition of their time, effort, and service to the Settlement Class, expended in pursuing the Action and in fulfilling their obligations and responsibilities as representatives of the Settlement Class.

3.10 “Court” means the court in which the Settling Parties jointly agree to seek judicial approval of this Agreement.

3.11 “Effective Date” means one (1) business day after all of the following conditions have been satisfied: (a) the Final Approval Order has been entered; and (b)(i) if reconsideration and/or appellate review is not sought from the Final Approval Order, the expiration of the time for

the filing or noticing of any motion for reconsideration, appeal, petition, and/or writ; or (b)(ii) if reconsideration and/or appellate review is sought from the Final Approval Order: (A) the date on which the Final Approval Order is affirmed and is no longer subject to judicial review, or (B) the date on which the motion for reconsideration, appeal, petition, or writ is dismissed or denied and the Final Judgment is no longer subject to judicial review.

3.12 “Fairly Traceable” means (1) the timing of the Out-of-Pocket Loss occurred on or after August 17, 2019, and (2) in the sole determination of the Settlement Administrator, exercising reasonable discretion, the Out-of-Pocket Loss could reasonably be a result of the Incident.

3.13 “Final Approval Hearing” means the final hearing to be conducted by the Court in connection with the determination of the fairness, adequacy, and reasonableness of this Agreement and the proposed settlement of the Action.

3.14 “Final Approval Order” means the Court’s Final Approval Order and Judgment, substantially in the forms attached hereto as Exhibits D and F, which, among other things, approve this Agreement and the settlement as fair, adequate, and reasonable and confirm the final certification of the Settlement Class.

3.15 “Incident” means the data security incident that VWGoA and Audi disclosed on June 15, 2021, whereby unauthorized third parties may have accessed VWGoA’s and Audi’s customers’ Personal Information between August 17, 2019 and June 15, 2021.

3.16 “Nationwide PI Subclass” means all Settlement Class Members residing in the United States at the time of the Incident to whom VWGoA and/or Audi sent notice that their PI may have been exposed as a result of the Incident and who are not members of the California SPI or Nationwide SPI Subclasses.

3.17 “Nationwide PI Subclass Cash Payment” means a cash payment of \$20, subject to upward proration of up to \$35 or downward proration, for which members of the Nationwide PI Subclass may submit a Settlement Claim, regardless of whether they experienced any Out-of-Pocket Losses.

3.18 “Nationwide SPI Subclass” means all Settlement Class Members residing in the United States (but not in California) at the time of the Incident to whom VWGoA and/or Audi sent notice that their SPI may have been exposed as a result of the Incident.

3.19 “Nationwide SPI Subclass Cash Payment” means a cash payment of \$80, subject to upward or downward proration, for which members of the Nationwide SPI Subclass may submit a Settlement Claim, regardless of whether they experienced any Out-of-Pocket Losses.

3.20 “Notice Program” means steps taken by the Settlement Administrator to notify Settlement Class Members of the settlement as set forth in Section VI.

3.21 “Objection Deadline” means the date by which Settlement Class Members must object to the settlement. The Objection Deadline shall be set by the Court in the Preliminary Approval Order. The Settling Parties propose that Objection Deadline is the 90th day after the entry of the Preliminary Approval Order.

3.22 “Opt Out” means a Settlement Class Member (i) who timely submits a properly completed and executed Request for Exclusion, and (ii) who does not rescind that Request for Exclusion before the end of the Opt Out Period.

3.23 “Opt Out Deadline” means the date by which Settlement Class Members must mail or submit online their Requests for Exclusion in order for them to be effective. The postmark date shall constitute evidence of the date of mailing for this purpose. The Opt Out Deadline shall be 90 days after the date of entry of the Preliminary Approval Order.

3.24 “Opt Out Period” means the period commencing on the date of entry of the Preliminary Approval Order and ending on the Opt Out Deadline, during which Settlement Class Members may submit timely Requests for Exclusion.

3.25 “Out-of-Pocket Losses” means the unreimbursed costs or expenditures incurred by a Settlement Class Member that are Fairly Traceable to the Incident. Out-of-Pocket Losses may include, without limitation, the following: (1) unreimbursed costs, expenses, losses, or charges incurred as a result of identity theft or identity fraud, falsified tax returns, or other possible misuse of Settlement Class Members’ SPI; (2) costs associated with accessing or freezing/unfreezing credit reports with any credit reporting agency; (3) other miscellaneous expenses incurred related to any Out-of-Pocket Loss such as notary, fax, postage, copying, mileage, and long-distance telephone charges; and (4) unpaid time off work to address issues Fairly Traceable to the Incident at the actual hourly rate of that Settlement Class Member (i.e., hourly wage or annual salary divided by estimated number of hours worked per year), up to \$50 per hour, for up to four hours. A Settlement Class Member seeking Out-of-Pocket Losses must include a narrative description of the activities performed during the time claimed and their connection to the Incident.

3.26 “Person” means an individual, corporation, partnership, limited partnership, limited liability company or partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity, and their respective spouses, heirs, predecessors, successors, representatives, or assignees.

3.27 “Personal Information” or “PI” means information that is or could be used, whether on its own or in combination with other information, to identify, locate, or contact a person. For purposes of this agreement, Personal Information or PI, does not include driver’s license numbers, Social Security numbers, credit or debit card numbers, bank account or routing numbers, social insurance numbers, dates of birth, and/or tax identification numbers.

3.28 “Preliminary Approval Order” means the Court’s order, substantially in the form attached hereto as Exhibit E, granting, among other things, conditional certification of the Settlement Class, preliminary approval of this Agreement, and approval of the form and method of Class Notice.

3.29 “Released Claims” means any and all claims, causes of action, suits, obligations, debts, demands, agreements, promises, liabilities, damages, losses, controversies, costs, expenses and attorneys’ fees of any nature whatsoever, whether based on any law (including federal law, state law, common law, contract, rule, or regulation) or equity, whether known or unknown, suspected or unsuspected, asserted or unasserted, foreseen or unforeseen actual or contingent,

liquidated or unliquidated, punitive or compensatory, monetary or nonmonetary, that have been pled in the Operative Complaint, or that could have been pled in the Operative Complaint and that arise out of or relate to the causes of action, allegations, practices, or conduct at issue in the Operative Complaint related to Defendants with respect to the Incident.

3.30 “Released Parties” means Defendants and any and all of their present or past affiliates, divisions, predecessors, successors, assignees, parents, or subsidiaries and the associates, employers, employees, agents, consultants, dealers, contractors, independent contractors, vendors, insurers, directors, managers, managing directors, officers, partners, principals, members, attorneys, accountants, administrators, financial and other advisors, investment bankers, underwriters, shareholders, lenders, auditors, investment advisors, sellers, distributors, legal representatives, successors in interest, assigns and persons, firms, trustees, trusts, corporations, officers, directors, general or limited partners of Defendants, and any and all other individuals or entities in which Defendants have a controlling interest or which are affiliated with them, or any other representatives of any of these persons and entities.

3.31 “Reminder Notice” means one or more short-form, summary notices, substantially similar to the Summary Notice and agreed upon by the Settling Parties, to be emailed and/or mailed to Settlement Class Members who have not yet submitted a claim, thirty (30) days or more before the Claims Deadline.

3.32 “Request for Exclusion” means a fully completed and properly executed written request for exclusion from the settlement that is timely delivered to the Settlement Administrator by a Settlement Class Member under Section VIII of this Agreement.

3.33 “Sensitive Personal Information” or “SPI” means the following types of Personal Information: driver’s license numbers, Social Security numbers, credit or debit card numbers, bank account or routing numbers, social insurance numbers, dates of birth, and/or tax identification numbers.

3.34 “Settlement Administration” means the Settlement Administrator’s provision of notice of the settlement to the Settlement Class, processing of Settlement Claims, Requests for Exclusion and Objection Notices received from Settlement Class Members, and the distribution of Attorneys’ Fees and Expenses Award and Settlement Awards.

3.35 “Settlement Administrator” means Epiq, or such other company experienced in administering class action claims generally and specifically those of the type provided for in this Action, as may be jointly agreed upon by the Settling Parties.

3.36 “Settlement Award” means the amount remitted by the Settlement Administrator out of the Settlement Fund to a Settlement Class Member who submits a Valid Settlement Claim.

3.37 “Settlement Claim” means a claim for settlement benefits made under the terms of this Agreement.

3.38 “Settlement Class” means all persons residing in the United States to whom VWGoA and/or Audi sent notice that their SPI and/or PI may have been exposed as a result of the Incident.

3.39 “Settlement Class Member” means a member of the Settlement Class.

3.40 “Settlement Fund” means the three-tiered, non-reversionary settlement fund into which the Settlement Sum will be paid and from which the Settlement Administrator will distribute the Settlement Awards, Class Representative Awards, and the Attorneys’ Fees and Expenses Award and Settlement Administration fees.

3.41 “Settlement Sum” means three million five hundred thousand dollars (\$3,500,000.00).

3.42 “Unknown Claims” means any of the Released Claims that any Settlement Class Member, including any Named Plaintiff, does not know or suspect to exist in his or her favor at the time of the release of the Released Parties that, if known by him or her, might have affected his or her settlement with, and release of, the Released Parties, or might have affected his or her decision to participate in this Agreement. With respect to any and all Released Claims, the Settling Parties stipulate and agree that upon the Effective Date, the Settlement Class Members, including the Named Plaintiffs, expressly shall have and by operation of the Judgment shall have, released any and all Released Claims, including Unknown Claims, and waived the provisions, rights, and benefits conferred by California Civil Code § 1542, and also any and all provisions, rights, and benefits conferred by any law of any state, province, or territory of the United States which is similar, comparable, or equivalent to California Civil Code § 1542, which provides:

A general release does not extend to claims which the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Settlement Class Members, including the Named Plaintiffs, may hereafter discover facts in addition to, or different from, those that they now know or believe to be true with respect to the subject matter of the Released Claims, but the Named Plaintiffs expressly shall have, and by operation of the Final Approval Order shall have, upon the Effective Date, fully, finally and forever settled and released any and all Released Claims, including Unknown Claims.

3.43 “Valid Settlement Claim” means a Settlement Claim approved by the Settlement Administrator.

3.44 All time periods herein stated in terms of “days” shall be in calendar days unless otherwise expressly stated.

#### **IV. Settlement Consideration**

4.1 In consideration for the settlement and releases provided herein, Defendants will pay the Settlement Sum into the Settlement Fund, and Shift Digital will provide the non-monetary consideration described in Paragraph 4.5.

4.2 The Settlement Sum shall be the only source of payment for all costs of the settlement, including: (a) Settlement Awards; (b) costs of Settlement Administration; (c) the Attorneys’ Fees and Expenses Award (if any); and (d) Class Representative Awards (if any).

4.3 The Settlement Sum will be initially allocated across the Settlement Fund's three tiers, each of which corresponds to one of the three subclasses. Specifically, \$2,000,000 of the Settlement Sum will be initially allocated to Tier 1 of the Settlement Fund and will be available to pay Settlement Awards to the California SPI Subclass members; \$800,000 of the Settlement Sum will be allocated to Tier 2 and will be available to pay Settlement Awards to Nationwide SPI Subclass members; and \$700,000 will be allocated to Tier 3 and will be available to pay Settlement Awards to Nationwide PI Subclass members.

4.4 Settlement Class Members must file Settlement Claims to be eligible to receive Settlement Awards from the Settlement Fund. California SPI and Nationwide SPI Subclass Members may file Settlement Claims for either reimbursement for Out-of-Pocket Losses or for cash payments, but not for both. Nationwide PI Subclass Members may only file Settlement Claims for cash payments.

(a) **Reimbursement of Out-of-Pocket Losses.** California SPI and Nationwide SPI Subclass members may submit Settlement Claims for reimbursement of Out-of-Pocket Losses up to five thousand dollars (\$5,000.00) per Person. Valid claims will be paid out of Tier 1 and Tier 2 of the Settlement Fund, respectively. To the extent that the total dollar amount of Settlement Awards for reimbursement of Out-of-Pocket Losses exceeds the amount of funds available to pay said Settlement Awards, the Settlement Awards will be reduced *pro rata*.

(i) **Payment of the Largest Eligible Settlement Award.** California SPI Subclass and Nationwide SPI Subclass members who submit Valid Settlement Claims for reimbursement of Out-of-Pocket Losses which would entitle them to less than the amount of a California SPI Subclass or Nationwide SPI Subclass Cash Payment will receive a California SPI Subclass or Nationwide SPI Subclass Cash Payment.

(ii) **Possible Pro Rata Increase after Pro Rata Reduction.** Any funds remaining in Tier 3 after the allocation of funds for Nationwide PI Subclass Cash Payments (the "Tier 3 Remainder") will be first used to increase any Settlement Awards for reimbursement for Out-of-Pocket Losses up to 100% (if they were otherwise decreased *pro rata*).

(b) **Cash Payments.** Settlement Class Members may submit Settlement Claims for cash payments in specified amounts regardless of whether they have experienced any Out-of-Pocket Losses. California SPI Subclass and Nationwide SPI Subclass members who submit Settlement Claims for reimbursement of Out-of-Pocket Losses may not also submit Settlement Claims for cash payments. The amount of the cash payment depends on the subclass to which the Settlement Class Member belongs:

(i) **California SPI Subclass Cash Payments.** California SPI Subclass members may submit Settlement Claims for cash payments of \$350 ("California SPI Subclass Cash Payments"). If the total dollar amount of all Valid Settlement Claims for California SPI Subclass Payments exceeds the amount available to pay said claims, the payment amount will be reduced *pro rata*.

(ii) **Nationwide SPI Subclass Cash Payments.** Nationwide SPI Subclass members may submit Settlement Claims for cash payments of \$80. If the total dollar amount of Valid Settlement Claims for Nationwide SPI Subclass Cash Payments exceeds the amount available to pay said claims, the payment amount will be reduced *pro rata*.

(iii) **Nationwide PI Subclass Cash Payments.** Nationwide PI Subclass members may submit Settlement Claims for cash payments of \$20 (“Nationwide PI Subclass Cash Payments”). If the total dollar amount of Valid Settlement Claims for Nationwide PI Subclass Cash Payments does not exceed the amount available to pay said claims, the payment amount shall be increased *pro rata* to a maximum of \$35. If the total dollar amount of Valid Settlement Claims for Nationwide PI Subclass Cash Payments exceeds the amount available to pay said claims, the payment amount will be reduced *pro rata*.

(iv) **Possible Pro Rata Increase of Cash Payments.** The Tier 3 Remainder will first be used to increase any Settlement Awards for reimbursement of Out-of-Pocket Losses up to 100% (if they were otherwise decreased *pro rata*) and then to increase all Settlement Awards of cash payments *pro rata*.

4.5 **Business Practice Commitments.** As further consideration for the settlement and releases provided herein, Shift Digital agrees to take reasonable measures to further secure personal information within its custody and control and to maintain such measures already taken. Specifically, Shift Digital agrees that it has or will implement the following: (1) ensure that the default setting for all Microsoft Azure data storage containers is private; (2) conduct frequent enterprise-wide automated scans across its cloud computing platform to confirm that the access settings of all data storage containers are correct; (3) conduct periodic manual reviews of all Microsoft Azure data storage containers to ensure they are set to the correct access settings; (4) maintain role-based security protocols that limit permission to create Microsoft Azure data storage containers to a small number of designated users; (5) encrypt all application data within its control in Microsoft Azure at-rest and in-transit; (6) use Microsoft Azure Security Center tools, such as constant vulnerability scans, to proactively monitor security threats; (7) conduct annual third-party penetration testing of its applications and address any vulnerabilities as appropriate; (8) commission annual third-party assessments of its security programs and practices and update its programs and practices to address threats and vulnerabilities; (9) engage an outside service provider for Virtual Chief Information Security Officer Services and work to build a dedicated data security team; and (10) further develop and formalize its data classification protocols, risk management operations, and incident response procedures.

4.6 Shift Digital is responsible for all costs associated with implementing and maintaining its Business Practice Commitments. These costs will not be paid out of, or reimbursed from, the Settlement Fund. The Business Practice Commitments shall remain in place for at least three (3) years following the date the court approves the settlement. Shift Digital retains the right to supersede the Business Practice Commitments with measures that are as protective or more protective of the personal information within its custody and control.

**V. Preliminary and Final Approval of the Settlement**

5.1 Plaintiffs shall file the Agreement in the Court and move for preliminary approval of the settlement, requesting entry of a Preliminary Approval Order in the form attached hereto as Exhibit E, or an order substantially similar to such form, which shall, *inter alia*:

- (a) Stay all proceedings in the Court other than those related to approval of the settlement;
- (b) Preliminarily certify the Settlement Class for settlement purposes only and preliminarily approve this Agreement for purposes of issuing the Class Notice;
- (c) Appoint Named Plaintiffs as the Class Representatives for settlement purposes only;
- (d) Appoint Class Counsel as counsel of the Settlement Class, for settlement purposes only;
- (e) Approve the Notice Program;
- (f) Approve the form and contents of a long-form notice (the “Long Notice”) to be posted on the settlement website substantially similar to the one attached hereto as Exhibit B, and a short-form, summary notice to be emailed or mailed to Settlement Class Members (the “Summary Notice”) substantially similar to the one attached hereto as Exhibit C, which together shall include a fair summary of the Settling Parties’ respective litigation positions, the general terms of the settlement set forth in this Agreement, instructions for how to object to or submit a Request for Exclusion from the settlement, the process and instructions for making Settlement Claims to the extent contemplated herein, and the date, time and place of the Final Approval Hearing;
- (g) Approve a Claim Form substantially similar to that attached hereto as Exhibit A;
- (h) Appoint the Settlement Administrator;
- (i) Schedule an appropriate Opt Out Deadline, Objection Deadline, and other settlement-related dates and deadlines to be included in the Class Notice; and
- (j) Schedule the Final Approval Hearing.

5.2 Defendants will not oppose entry of the Preliminary Approval Order so long as it is substantially in the form attached to this Agreement as Exhibit E and is otherwise consistent with this Agreement.

5.3 Class Counsel and Defendants’ counsel shall request that the Court hold a Final Approval Hearing after notice is completed and at least 35 days after the Opt Out Deadline and grant Final Approval of the settlement set forth herein.

5.4 The proposed Final Approval Order that shall be filed with the motion for final approval shall be in the form set forth in Exhibit D as agreed upon by Defendants and Class Counsel and shall, among other things:

- (a) Determine that the Agreement is fair, adequate, and reasonable;
- (b) Finally certify the Settlement Class for settlement purposes only;
- (c) Determine that the Notice Program satisfies due process requirements;
- (d) Bar and enjoin any Settlement Class Members who did not timely Opt Out in accordance with the requirements of the Agreement from asserting any of the Released Claims;
- (e) Release and forever discharge Defendants and the Released Parties from the Released Claims, as provided for in this Agreement; and
- (f) Determine whether and to what extent to approve Class Counsel's application for an Attorneys' Fees and Expenses Award and for Class Representative Awards to the Named Plaintiffs.

## **VI. Notice Program**

6.1 Within three (3) business days of an order directing Class Notice, Defendants will advance to the Settlement Administrator the costs of notice.

6.2 Within five (5) business days after entry of the Preliminary Approval Order, Defendants will provide the Settlement Administrator with a list of Settlement Class Members in an Excel spreadsheet that includes, to the extent available, the name, email address, and mailing address of each Settlement Class Member as reflected in VWGoA's and/or Audi's business records. The Settlement Administrator shall cause notice to be disseminated to the Settlement Class pursuant to the Preliminary Approval Order and the Notice Program as described below, and be effectuated pursuant to the provisions set forth below, the costs of which shall be costs of Settlement Administration.

6.3 Within thirty (30) days of the Settlement Administrator's receiving the Settlement Class Member data from VWGoA and/or Audi described in Paragraph 6.2, notice shall be provided to the Settlement Class as follows:

- (a) The Settlement Administrator shall email the Summary Notice to Settlement Class Members who have valid email addresses.
- (b) The Settlement Administrator shall mail the Summary Notice to Settlement Class Members who do not have valid email addresses.
- (c) The Settlement Administrator shall establish a dedicated settlement website. The Settlement Administrator shall post on the website copies of the Summary Notice, the Long Notice, and the Claim Form approved by the Court. The Settlement Administrator shall also post this Agreement, the Motion for Preliminary Approval of the

Settlement, the Motion for Final Approval of the Settlement and the Motion for the Attorneys' Fees and Expenses Award and Class Representative Awards. The Settlement Administrator shall maintain and update the website throughout the Claims Period.

(d) The Settlement Administrator shall make available a toll-free number with interactive voice recognition, FAQs, and an option to speak to a live operator to address Settlement Class Members' inquiries.

(e) The Settlement Administrator shall publish notice of the settlement in an appropriate media outlet.

(f) The Settlement Administrator shall create an internet notice campaign and internet sponsored search listings.

(g) The Settlement Administrator shall distribute the Reminder Notice(s) to Settlement Class Members as directed by proposed Class Counsel.

6.4 The Notice Program shall be subject to approval by the Court. The Long Notice, Summary Notice, and Claim Form approved by the Court may be adjusted by the Settlement Administrator in consultation and agreement with the Settling Parties, as may be reasonable and necessary and not inconsistent with such approval. Prior to the Final Approval Hearing, Class Counsel shall cause to be filed with the Court an appropriate declaration from the Settlement Administrator demonstrating compliance with the court-approved Notice Program.

6.5 The Notice Program shall commence within thirty-seven (37) days of entry of the Preliminary Approval Order and shall be completed within ninety-five (95) days of the Preliminary Approval Order, except as otherwise specifically provided above.

## **VII. Claims Submission and Processing**

7.1 Any Person seeking a Settlement Award under this Agreement must submit a Settlement Claim by completing, signing, and submitting a Claim Form to the Settlement Administrator on or before the Claims Deadline. A Settlement Claim is submitted on or before the Claims Deadline if the Claim Form is postmarked or submitted electronically in accordance with the direction for electronic submission of a Claim Form on or before the Claims Deadline.

A California SPI Subclass member or Nationwide SPI Subclass member who elects to submit a Settlement Claim for reimbursement of Out-of-Pocket Losses must also provide to the Settlement Administrator information required to evaluate said claim, including: (1) documentation reasonably supporting his or her claim, and (2) a brief description of the nature of the loss, if the nature of the loss is not apparent from the documentation alone. Documentation supporting Out-of-Pocket Losses can include receipts or other documentation not "self-prepared" by the class member that documents the costs incurred. "Self-prepared" documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to add clarity to or support other submitted documentation.

7.2 The Settlement Administrator shall either approve or deny each Settlement Claim. The Settlement Administrator shall approve a Settlement Claim if the Settlement Administrator determines that (1) the claimant is a Settlement Class Member; (2) the claimant has provided all

information required to complete the Claim Form by the Claims Deadline, including the information required under Paragraph 7.1 (if applicable); and (3) the Out-of-Pocket Losses for which reimbursement is sought are Fairly Traceable to the Incident (if applicable).

(a) Upon receipt of an incomplete or unsigned Claim Form or a Claim Form that is not accompanied by sufficient information or documentation to determine the validity of the Settlement Claim, the Settlement Administrator shall, within thirty (30) days after the Claims Deadline, request additional information from the claimant. The claimant shall have thirty (30) days to cure the defect. If the defect is not cured, then the Settlement Administrator shall deny the Settlement Claim.

(b) Following receipt of additional information requested by the Settlement Administrator pursuant to Paragraph 7.2(a), the Settlement Administrator shall have thirty (30) days to accept, in whole or lesser amount, or reject each Settlement Claim. If after review of the Settlement Claim and all documentation submitted by the claimant, the Settlement Administrator approves the Settlement Claim, then the Settlement Award shall be distributed to the extent that the Settlement Administrator approves the Settlement Claim. If the Settlement Claim remains invalid because the claimant does not provide the requested information needed to complete the Claim Form and evaluate the Settlement Claim, then the Settlement Administrator shall deny the Settlement Claim without any further action apart from providing a notice of denial of the Settlement Claim.

7.3 The Settlement Administrator's approval or denial of a Settlement Claim shall be final and binding, except that upon receipt of a denial of part of a claim or an entire claim, a Settlement Class Member shall have one opportunity to request reconsideration of the denial so long as it is made within 30 days of the determination of the claim. The Settlement Administrator may consult with Class Counsel and Defendants' Counsel in evaluating any request for reconsideration and any accompanying information. The Settlement Administrator's decision on the request for reconsideration will be final and binding.

7.4 Information submitted by Settlement Class Members pursuant to this Agreement and in connection with a Settlement Claim shall be deemed confidential and protected as such by the Settling Parties and the Settlement Administrator.

7.5 The Settlement Administrator will periodically provide Class Counsel and Defendants' counsel with reports as to Settlement Claims. The Settling Parties have the right to review and challenge the reports if they believe them to be inaccurate or inadequate.

7.6 All Settlement Class Members who fail to timely submit a Valid Settlement Claim for any benefits hereunder within the time frames set forth herein, or such other period as may be ordered by the Court, or otherwise allowed, shall be forever barred from receiving any payments or benefits pursuant to the settlement set forth herein, but will in all other respects be subject to, and bound by, the provisions of the Agreement, the releases contained herein, and the Final Approval Order.

## **VIII. Exclusions**

8.1 Each Settlement Class Member wishing to exclude themselves from the Settlement Class must individually sign and timely mail to the address designated by the Settlement

Administrator or submit electronically through the settlement website a written Request for Exclusion.

8.2 For a Request for Exclusion to be properly completed and executed, it must: (a) state the Settlement Class Member's full name, address, telephone number, and email address (if applicable); (b) contain the Settlement Class Member's personal signature or the signature of a person authorized by law to act on the Settlement Class Member's behalf with respect to a claim or right such as those asserted in the Action, such as a trustee, guardian, or person acting under a power of attorney; and (c) state unequivocally the Settlement Class Member's intent to be excluded from the settlement. All Requests for Exclusion must be submitted individually in connection with a Settlement Class Member; i.e., one request is required for every Settlement Class Member seeking exclusion.

8.3 To be effective, a Request for Exclusion must be postmarked or submitted electronically to the Settlement Administrator no later than the Opt Out Deadline.

8.4 Within fourteen (14) days after the Opt Out Deadline, the Settlement Administrator shall provide the Settling Parties with a complete and final list of all Opt Outs who have timely and validly excluded themselves from the Settlement Class and, upon request, copies of all completed Requests for Exclusion. Class Counsel may file these materials with the Court, with any Personal Information other than names and cities and states of residence redacted, no later than seven (7) days prior to the Final Approval Hearing.

8.5 All Persons who Opt Out from the Settlement Class shall not receive any benefits of or be bound by the terms of this Agreement. All Persons falling within the definition of the Settlement Class who do not Opt Out shall be bound by the terms of this Agreement and the Final Approval Order entered thereon.

8.6 If a Settlement Class Member returns both a Claim Form and a written Request for Exclusion, the Settlement Administrator shall attempt to contact the Settlement Class Member at least one time by email or, if no email address is available, by telephone where a telephone number is available or regular U.S. mail to give the Settlement Class Member an opportunity to clarify whether they choose to exclude themselves or claim their award. The Settlement Class Member shall have until twenty-one (21) days prior to the Final Approval Hearing to inform the Settlement Administrator regarding his or her final choice. Any Settlement Class Member who attempts to file both a Claim Form and exclude themselves from this Agreement and fails to follow up regarding their final choice will be deemed to have forfeited their request for exclusion and the Claim Form shall be processed under the terms of this Agreement.

## **IX. Objections**

9.1 Each Settlement Class Member who does not file a timely Request for Exclusion may send a notice of intent to object to the settlement (an "Objection Notice") or may appear at the Final Approval Hearing to state an objection. The Class Notice shall instruct Settlement Class Members who wish to object to the Agreement to send their Objection Notices to the Settlement Administrator or appear at the Final Approval Hearing. The Class Notice shall make clear that the Court can only approve or deny the Agreement and cannot change the terms. The Class Notice shall advise Settlement Class Members of the Objection Deadline to submit Objection Notices.

9.2 Any Settlement Class Member who submits an Objection Notice must include in any such Notice: (i) his/her full name, address, telephone number, and e-mail address; (ii) the case name and number of the Action; (iii) the reason for the objection and (iv) the objector's signature or the signature of someone authorized to sign on the objector's behalf. If represented by counsel, the objecting Settlement Class Member must also provide the name and telephone number of his/her counsel.

9.3 Any Settlement Class Member who fails to timely submit an Objection Notice or appear at the Final Approval Hearing shall not be permitted to object to the approval of the Settlement and shall be foreclosed from seeking any review of the Settlement or the terms of the Agreement by appeal or other means. To be timely submitted, an Objection Notice must be electronically submitted or postmarked no later than the Objection Deadline.

9.4 Settlement Class Members cannot both object to and exclude themselves from this Agreement. The Settlement Administrator shall attempt to contact any Settlement Class Members who submit both a request for exclusion and an objection at least one time by email or, if no email address is available, by telephone where a telephone number is available, or by regular U.S. mail to give the Settlement Class Members an opportunity to clarify whether they choose to exclude themselves or proceed with their objection. The Settlement Class Member shall have until twenty-one (21) days prior to the Final Approval Hearing to inform the Settlement Administrator regarding his or her final choice. Any Settlement Class Members who attempt to both object to and exclude themselves from this Agreement and fail to follow up regarding their final choice will be deemed to have excluded themselves and will be considered to have forfeited their objection.

## **X. Administration of the Settlement Fund**

10.1 The Settlement Administrator shall establish the Settlement Fund in a non-interest-bearing account. The Settlement Administrator shall administer the Settlement Fund, subject to the continuing jurisdiction of the Court and from the earliest possible date, as a qualified settlement fund as defined in Treasury Regulation § 1.468B-1, *et seq.* Any taxes owed by the Settlement Fund shall be paid by the Settlement Administrator out of the Settlement Fund. Defendants shall not have any other financial obligation under the Agreement, other than, to the extent required, costs of serving notices under the Class Action Fairness Act of 2005, 28 U.S.C. § 1715. In addition, under no circumstances will Defendants have any liability for taxes or tax expenses under the Agreement.

10.2 Within thirty (30) days of an order directing Class Notice, Defendants will pay the Settlement Sum, less the costs of Class Notice previously advanced to the Settlement Administrator, into the Settlement Fund.

10.3 The Settlement Administrator shall pay any additional Notice and Administration Costs, Class Representative Awards (if any), and the Attorneys' Fees and Expenses Awards (if any) out of the Settlement Fund within thirty (30) days of the Effective Date, or within thirty (30) days after the Court awards such Attorneys' Fees and Expenses Award and Class Representative Awards, whichever is later. The amounts available in each of the Settlement Fund's three tiers will be reduced proportionately to reflect these distributions.

10.4 The Settlement Administrator shall then determine the Settlement Awards to be paid to the Settlement Class Members who submitted Valid Settlement Claims according to the procedure set forth below:

(a) First, the Settlement Administrator shall determine the Settlement Awards to California SPI Subclass members who submitted Valid Settlement Claims for reimbursement for Out-of-Pocket Expenses or California SPI Subclass Cash Payments based on the available funds in Tier 1 of the Settlement Fund (\$2,000,000 less proportionate share of Notice and Administration Costs, Class Representative Awards (if any), and Attorneys' Fees and Expenses Award (if any)). Any remaining funds in Tier 1 (the "Tier 1 Remainder") will be added to Tier 2.

(b) Second, the Settlement Administrator shall determine the Settlement Awards to Nationwide SPI Subclass members who submitted Valid Settlement Claims for reimbursement for Out-of-Pocket Expenses or Nationwide SPI Subclass Cash Payments based on the available funds in Tier 2 of the Settlement Fund (\$800,000 less proportionate share of Notice and Administration Costs, Class Representative Awards (if any), and Attorneys' Fees and Expenses Award (if any) plus the Tier 1 Remainder). Any remaining funds in Tier 2 (the "Tier 2 Remainder") will be added to Tier 3.

(c) Third, the Settlement Administrator shall determine the Settlement Awards to Nationwide PI Subclass members who submitted Valid Settlement Claims for Nationwide PI Subclass Cash Payments based on the available funds in Tier 3 (\$700,000 less proportionate share of Notice and Administration Costs, Class Representative Awards (if any), and Attorneys' Fees and Expenses Award (if any) plus the Tier 2 Remainder). Any remaining funds in Tier 3 will first be used to increase any Settlement Awards for reimbursement of Out-of-Pocket Losses up to 100% (if they were otherwise decreased *pro rata*) and then to increase all cash payments *pro rata*.

10.5 Settlement Class Members will be given the option to receive digital payment (such as Venmo, PayPal, Digital Mastercard, or other options) on the Claim Form. Settlement Class Members will be able to elect to receive a traditional paper check. The Settlement Administrator shall distribute Settlement Awards by electronically transferring funds or mailing checks within the later of ninety (90) days after the Effective Date or thirty (30) days after all disputed claims have been resolved. No Settlement Awards will be distributed without authorization from the Settling Parties. Settlement Award checks shall be valid for a period of one hundred and fifty (150) days from issuance, and shall state, in words or substance, that the check must be cashed within 150 days, after which time it will become void. To the extent that a Settlement Check is not cashed within the specified time period after the date of issue, the Settlement Administrator shall undertake the following actions: (1) attempt to contact the Settlement Class Member by e-mail and/or telephone to discuss how to obtain a reissued check; (2) if those efforts are unsuccessful, make reasonable efforts to locate an updated address for the Settlement Class Member using advanced address searches or other reasonable methods; and (3) reissuing a check or mailing the Settlement Class Member a postcard (either to an updated address if located or the original address if not) providing information regarding how to obtain a reissued check. Any reissued settlement checks issued to Settlement Class Members shall remain valid and negotiable for sixty (60) days from the date of their issuance and may thereafter automatically be canceled if not cashed by the Participating Settlement Class Members within that time.

10.6 If there is any balance remaining in the Settlement Fund Account ninety (90) days after the Settlement Administrator completes the process for stopping payment on any Settlement Award checks that remain uncashed, the remaining funds will be distributed to a *cy pres* recipient approved by the Court. The Settling Parties will work cooperatively to identify and to jointly recommend to the Court a suitable *cy pres* recipient.

10.7 No Person shall have any claim against the Settlement Administrator, Defendants, Defendants' counsel, Class Counsel, and/or the Named Plaintiffs based on distributions of benefits to Settlement Class Members.

## **XI. Releases**

11.1 Upon the Effective Date, and in consideration of the settlement benefits described herein, each Settlement Class Member, including each Named Plaintiff, whether or not they received a Settlement Award, will be deemed by this Agreement and by operation of the Final Approval Order to have completely and unconditionally released, forever discharged, and acquitted the Released Parties from any and all of the Released Claims, and each Settlement Class Member, including each Named Plaintiff, will be deemed to have also released Unknown Claims.

11.2 The Agreement shall be the sole and exclusive remedy for any and all Released Claims, including Unknown Claims, of Settlement Class Members. Upon entry of the Final Approval Order, each Settlement Class Member shall be barred from initiating, asserting, or prosecuting against any Released Party any claims that are released by operation of the Agreement and the Final Approval Order.

11.3 Upon entry of the Final Approval Order, Defendants shall have fully, finally, and forever released, relinquished, and discharged as against Named Plaintiffs, all claims arising out of, relating to or in connection with the institution, prosecution, assertion, defense, settlement, or resolution of the Action.

## **XII. Attorneys' Fees and Class Representative Awards**

12.1 Class Counsel shall apply to the Court for an Attorneys' Fees and Expenses Award. Class counsel will seek attorneys' fees in an amount not to exceed one million fifty thousand dollars (\$1,050,000.00) and for reimbursement of their reasonable costs and litigation expenses incurred up to fifty thousand dollars (\$50,000). The Attorneys' Fees and Expenses Award will be payable solely from the Settlement Fund. Class Counsel will serve Defendants' counsel with such application no later than thirty-five (35) days prior to the Objection Deadline. Defendants shall take no position with regard to Class Counsel's application for an Attorneys' Fees and Expenses Award if the application complies with the provisions of this section.

12.2 Class Counsel shall apply to the Court for Class Representative Awards of \$5,000 for each of the Named Plaintiffs payable solely from the Settlement Fund. Class Counsel will serve Defendants' counsel with such application no later than thirty-five (35) days prior to the Objection Deadline. Defendants shall take no position with regard to Class Counsel's application for Class Representative Awards to the extent they do not exceed these amounts.

12.3 The Settlement Administrator shall pay through wired deposits the Attorneys' Fees and Expenses Award (if any) and Class Representative Awards (if any) from the Settlement Fund

to Class Counsel within thirty (30) days of the Effective Date, or within thirty (30) days after the Court awards such Attorneys' Fees and Expenses Award and Class Representative Awards, whichever is later. Attorneys Gayle M. Blatt of Casey Gerry Schenk Francavilla Blatt & Penfield LLP and Rachele R. Byrd of Wolf Haldenstein Adler Freeman & Herz LLP will instruct the Settlement Administrator as to the allocation of the Attorneys' Fees and Expenses Award among Class Counsel.

12.4 The finality or effectiveness of this Agreement shall not depend upon the Court awarding any particular Attorneys' Fees and Expenses Award or Class Representative Awards. No order of the Court, or modification or reversal or appeal of any order of the Court concerning the amount(s) of the Attorneys' Fees and Expenses Award and/or Class Representative Awards shall affect whether the Judgment is final or constitute grounds for cancellation or termination of this Agreement.

### **XIII. Conditions of Settlement, Cancellation, or Termination**

13.1 This Agreement is subject to and conditioned upon the occurrence of all of the following events:

- (a) The Court's entry of a Preliminary Approval Order;
- (b) The Court's entry of a Final Approval Order; and
- (c) The occurrence of the Effective Date.

13.2 If any of the conditions in Paragraph 13.1 do not occur, the Agreement shall, without notice, be automatically terminated unless the Settling Parties mutually agree in writing to proceed with the Agreement.

13.3 In the event the Agreement is not preliminarily or finally approved by the Court, or if final approval is reversed on appeal, the Settling Parties shall negotiate in good faith a new settlement agreement that as closely as possible approximates the provisions contained in this Agreement while addressing the issues that prompted the denial or reversal.

13.4 In the event of termination, this Agreement shall have no further force or effect regarding the Settling Parties' rights.

13.5 Defendants conditionally agree and consent to certification of the Settlement Class for settlement purposes only, and within the context of the Agreement only. If the Agreement, for any reason, is not finally approved or is otherwise terminated, Defendants reserve the right to assert any and all objections and defenses to certification of a class, and neither the Agreement nor any Order or other action relating to the Agreement shall be offered by any Person as evidence in support of a motion to certify a class for a purpose other than this Settlement.

13.6 Defendants shall have the unilateral right to terminate the Agreement and all of its payment obligations hereunder, except notice and settlement administration costs actually incurred, if, in the aggregate, more than five percent (5%) of Persons in the Settlement Class, or in any subclass, elect to exclude themselves from the Settlement Class pursuant to this Agreement. Defendants may exercise this right only by delivering written notice of intention to terminate to

Class Counsel no later than ten (10) days following Defendants' receipt from the Settlement Administrator of the list containing all Opt Outs referred to in Paragraph 8.4.

#### **XIV. Miscellaneous Provisions**

14.1 The Settling Parties and their counsel agree to undertake their best efforts and mutually cooperate to effectuate this Agreement and the terms of the proposed settlement set forth herein, including taking all steps and efforts contemplated by this Agreement, and any other steps and efforts which may become necessary by order of the Court or otherwise.

14.2 The Settling Parties intend this Agreement to be a final and complete resolution of all disputes between them with respect to the Action. The Agreement compromises claims that are contested and shall not be deemed an admission by any of the Settling Parties as to the merits of any claim or defense. The Settling Parties each agree that the settlement and this Agreement were negotiated in good faith and at arm's-length by the Settling Parties and reflects a settlement that was reached voluntarily after consultation with competent legal counsel.

14.3 This Agreement may be amended only by a written instrument signed by or on behalf of all Settling Parties or their respective successors-in-interest. Amendments may be made without additional notice to the Settlement Class Members unless such notice is required by the Court.

14.4 Except as otherwise provided, this Agreement contains the entire agreement between the Settling Parties and supersedes any prior agreements or understandings between them. All terms of this Agreement are contractual and not mere recitals and shall be construed as if drafted by all Settling Parties to this Agreement. The terms of this Agreement are and shall be binding upon each of the Settling Parties to this Agreement, their agents, attorneys, employees, successors, and assigns, and upon all other Persons or entities claiming any interest in the subject matter hereof, including any Settlement Class Member.

14.5 This Agreement shall be subject to, governed by, construed, and enforced pursuant to the laws of California.

14.6 Any individual signing this Agreement on behalf of any Person represents and warrants that he or she has full authority to execute and enter into the terms and conditions of this Agreement on behalf of such Person.

14.7 The Settling Parties agree to submit to the jurisdiction of the Court for any suit, action, proceeding, or dispute arising out of or relating to this Agreement or the applicability of the Agreement and its exhibits, but for no other purpose.

14.8 All agreements made and orders entered during the course of the Action relating to the confidentiality of information shall survive this Agreement, including but not limited to those relating to all information exchanged for purposes of mediation or under the auspices of Federal Rule of Evidence 408 and its state law equivalents.

14.9 Any notice, instruction, application for Court approval, or application for Court orders sought in connection with this Agreement or other document to be given by any Settling Party to any other Settling Party shall be in writing and delivered by email, if to Defendants to the

attention of the Defendants' counsel, or if to the Named Plaintiffs or the Settlement Class to Class Counsel, or to other recipients as the Court may specify.

14.10 This Agreement may be executed by the Settling Parties or their authorized representatives in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Scanned signatures or signatures sent by email or facsimile shall be as effective as original signatures.

IT IS SO AGREED.

**[THIS SECTION INTENTIONALLY LEFT BLANK]**

RICARDO VILLALOBOS, individually and as a Class Representative

Signature: Ricardo Villalobos

Date: 9/1/2022

JOHN HAJNY, individually and as a Class Representative

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

ANTHONY SERVICE, individually and as a Class Representative

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

JEREMY ADAMS, individually and as a Class Representative

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

M. Anderson Berry  
CLAYEO C. ARNOLD,  
A PROFESSIONAL LAW CORP.  
Class Counsel

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Gayle M. Blatt  
CASEY GERRY SCHENK  
FRANCAVILLA BLATT  
& PENFIELD, LLP  
Class Counsel

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Rachele R. Byrd  
WOLF HALDENSTEIN ADLER  
FREEMAN & HERTZ LLP  
Class Counsel

Signature: Rachele R. Byrd

Date: August 31, 2022

Karen H. Riebel  
LOCKRIDGE GRINDAL NAUEN P.L.L.P.  
Class Counsel

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

VOLKSWAGEN GROUP OF AMERICA,  
Inc.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

AUDI OF AMERICA, LLC

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

SQUIRE PATTON BOGGS (US) LLP  
Attorney for Defendants VWGoA and Audi

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

SANCTUS LLC d/b/a SHIFT DIGITAL

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

WINSTON & STRAWN LLP  
Attorney for Shift Digital

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

RICARDO VILLALOBOS, individually and  
as a Class Representative

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

JOHN HAJNY, individually and as a Class  
Representative

Signature: John Hajny

Date: 09/01/2022

ANTHONY SERVICE, individually and as  
a Class Representative

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

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CLAYEO C. ARNOLD,  
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Class Counsel

Signature: MAB

Date: 09/01/2022

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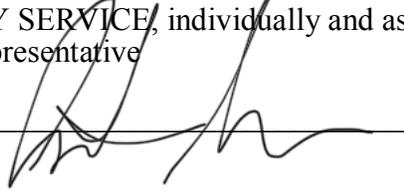
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Class Counsel

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Date: August 31, 2022 \_\_\_\_\_

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Date: 1 SEP 22 \_\_\_\_\_

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Class Counsel

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Date: \_\_\_\_\_

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Date: \_\_\_\_\_

Gayle M. Blatt  
CASEY GERRY SCHENK  
FRANCAVILLA BLATT  
& PENFIELD, LLP  
Class Counsel

Signature: Gay M Blatt

Date: September 1, 2022

Rachele R. Byrd  
WOLF HALDENSTEIN ADLER  
FREEMAN & HERTZ LLP  
Class Counsel

Signature: Rachele R. Byrd

Date: August 31, 2022

Karen H. Riebel  
LOCKRIDGE GRINDAL NAUEN P.L.L.P.  
Class Counsel

Signature: \_\_\_\_\_

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Attorney for Shift Digital

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FREEMAN & HERTZ LLP  
Class Counsel

Signature: Rachele R. Byrd

Date: August 31, 2022

Karen H. Riebel  
LOCKRIDGE GRINDAL NAUEN P.L.L.P.  
Class Counsel

Signature: Karen H. Riebel

Date: August 31, 2022

VOLKSWAGEN GROUP OF AMERICA, Inc.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

AUDI OF AMERICA, LLC

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

SQUIRE PATTON BOGGS (US) LLP  
Attorney for Defendants VWGoA and Audi

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

SANCTUS LLC d/b/a SHIFT DIGITAL

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

WINSTON & STRAWN LLP  
Attorney for Shift Digital

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

RICARDO VILLALOBOS, individually and as a Class Representative

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

JOHN HAJNY, individually and as a Class Representative

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

ANTHONY SERVICE, individually and as a Class Representative

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

JEREMY ADAMS, individually and as a Class Representative

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

M. Anderson Berry  
CLAYEO C. ARNOLD,  
A PROFESSIONAL LAW CORP.  
Class Counsel

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Gayle M. Blatt  
CASEY GERRY SCHENK  
FRANCAVILLA BLATT  
& PENFIELD, LLP  
Class Counsel

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Rachele R. Byrd  
WOLF HALDENSTEIN ADLER  
FREEMAN & HERTZ LLP  
Class Counsel

Signature: 

Date: August 31, 2022

Karen H. Riebel  
LOCKRIDGE GRINDAL NAUEN P.L.L.P.  
Class Counsel

Signature: \_\_\_\_\_

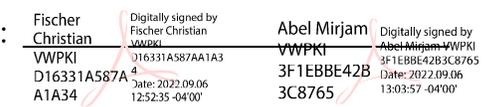
Date: \_\_\_\_\_

VOLKSWAGEN GROUP OF AMERICA,  
Inc.

Signature:   
Zaluzec Rachael VWPKI  
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Date: 2022.09.06 13:10:42 -04'00'

Date: \_\_\_\_\_

AUDI OF AMERICA, LLC

Signature:   
Fischer Christian VWPKI  
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D16331A587A  
A1A34  
Abel Mirjam VWPKI  
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Date: 2022.09.06 12:52:35 -04'00'  
Digitally signed by Abel Mirjam VWPKI  
Date: 2022.09.06 13:03:57 -04'00'

Date: \_\_\_\_\_

SQUIRE PATTON BOGGS (US) LLP  
Attorney for Defendants VWGoA and Audi

Signature: 

Date: September 6, 2022

SANCTUS LLC d/b/a SHIFT DIGITAL

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

WINSTON & STRAWN LLP  
Attorney for Shift Digital

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

RICARDO VILLALOBOS, individually and as a Class Representative

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

JOHN HAJNY, individually and as a Class Representative

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

ANTHONY SERVICE, individually and as a Class Representative

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

JEREMY ADAMS, individually and as a Class Representative

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

M. Anderson Berry  
CLAYEO C. ARNOLD,  
A PROFESSIONAL LAW CORP.  
Class Counsel

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Gayle M. Blatt  
CASEY GERRY SCHENK  
FRANCAVILLA BLATT  
& PENFIELD, LLP  
Class Counsel

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Rachele R. Byrd  
WOLF HALDENSTEIN ADLER  
FREEMAN & HERTZ LLP  
Class Counsel

Signature: Rachele R. Byrd

Date: August 31, 2022

Karen H. Riebel  
LOCKRIDGE GRINDAL NAUEN P.L.L.P.  
Class Counsel

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

VOLKSWAGEN GROUP OF AMERICA,  
Inc.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

AUDI OF AMERICA, LLC

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

SQUIRE PATTON BOGGS (US) LLP  
Attorney for Defendants VWGoA and Audi

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

SANCTUS LLC d/b/a SHIFT DIGITAL

Signature: Adam Rubin - VP Legal

Date: September 1, 2022

WINSTON & STRAWN LLP  
Attorney for Shift Digital

Signature: Franklin

Date: September 1, 2022

# **EXHIBIT A**

**Must be postmarked  
or submitted electronically  
NO LATER THAN  
[DATE]**

VOLKSWAGEN DATA INCIDENT  
SETTLEMENT ADMINISTRATOR  
[MAIL ADDRESS]  
[MAIL ADDRESS]  
[WEBSITE]

## Volkswagen Data Incident Claim Form

### SETTLEMENT BENEFITS - WHAT YOU MAY GET

Our records indicate that you are a U.S. resident who received notice from Volkswagen Group of America, Inc. (“Volkswagen”) and/or Audi of America, LLC (“Audi”) in June of 2021 that your personal information (“PI”) or sensitive personal information (“SPI”) may have been exposed as a result of a data security incident involving one of Volkswagen and Audi’s vendors. If so, you are a class member in a lawsuit filed against Volkswagen, Audi, and Sanctus LLC d/b/a Shift Digital. The parties have decided to settle the lawsuit. As part of the settlement, the defendants have agreed pay \$3.5 million dollars into a settlement fund, from which class members may receive monetary awards. If you decided not to opt out of the settlement, you are eligible to receive a settlement award. The settlement award to which you are entitled depends on the subclass to which you belong. Our records indicate that you may be a member of the subclass checked below:

California SPI subclass     Nationwide SPI subclass     Nationwide PI subclass

The following settlement awards are available:

1. **Cash Payments.** You may seek a cash payment regardless of whether you have incurred any out-of-pocket losses. California SPI Subclass members are eligible for a cash payment of \$350. Nationwide SPI Subclass members are eligible for a cash payment of \$80. And Nationwide PI Subclass members are eligible for a cash payment of \$20. All cash payments are subject to an upward or downward proration depending on how much money is available to disburse settlement awards.
2. **Reimbursement for Out-of-Pocket Loss(es).** If you are a member of the California SPI or Nationwide SPI subclass and spent money monitoring for and/or mitigating identity theft or other fraud fairly traceable to the data security incident, you may seek reimbursement of up to \$5,000 for any unreimbursed expenses. You must submit documents supporting your reimbursement request. Reimbursement payments are subject to downward proration, depending on how much money is available to disburse settlement awards.

California SPI and Nationwide SPI Subclass Members may file Settlement Claims for either reimbursement for Out-of-Pocket Losses or for Cash Payments, but not for both.

More information is available at [website]. **Claims must be submitted online or postmarked by [date].**

*Please note: the Settlement Administrator may contact you to request additional documents to process your claim. Your settlement award may decrease depending on the number of claims filed.*

For more information and complete instructions, visit [website].

**Please note that settlement awards will be distributed only after the settlement is finally approved by the Court and becomes effective.**

## Your Information

We will use this information to contact you and process your claim. It will not be used for any other purpose. If any of the following information changes, you must promptly notify us by emailing [[email](#)].

\_\_\_\_\_

First Name

\_\_\_\_\_

Middle Initial

\_\_\_\_\_

Last Name

Name of Business: \_\_\_\_\_

Alternative Name(s) (If Any): \_\_\_\_\_

Unique ID (As shown on the notice you received): \_\_\_\_\_

Mailing Address (Required): \_\_\_\_\_

\_\_\_\_\_

City

\_\_\_\_\_

State

\_\_\_\_\_

ZIP

Phone Number: \_\_\_\_\_

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

Year of Birth (Required): \_\_\_\_\_

**[INSERT PAYMENT METHOD INFORMATION]**

## Option 1: Cash Payment

Every class member is eligible for a cash payment. The amount of such payment depends on the subclass to which you belong:

- Members of the California SPI Class are eligible for a cash payment of **\$350**
- Members of the Nationwide SPI Class are eligible for a cash payment of **\$80**
- Members of the Nationwide PI Class are eligible for a cash payment of **\$20**

All cash payments are subject to an upward or downward proration depending on how much money is available to disburse settlement awards.

*Please select Option 1 if you want the cash payment for which you are eligible.*

**Option 1:** I want to receive the cash payment I am eligible for.

### Option 2: Reimbursement for Out-of-Pocket Losses

If you (a) are a member of the California SPI or Nationwide SPI subclass and (b) spent money monitoring for and/or mitigating identity theft or other fraud fairly traceable to the data security incident, you may seek reimbursement of up to \$5,000 for any unreimbursed expenses. Please visit [\[website\]](#) or call toll-free [\[number\]](#). You will find more information about the types of costs and losses that can be paid back to you, what documents you need to attach, and how the settlement administrator decides whether to approve your payment.

Please select Option 2 if you want to receive reimbursement for your out-of-pocket losses.

**Option 2:** I want to receive reimbursement for my out-of-pocket losses

You may make as many copies of the claim form pages as necessary to list all of your expenses.

Description of Loss	Approximate Date of Loss	Amount of Loss
_____	_____	\$ _____
_____	_____	
_____	_____	
_____	_____	
_____	_____	

#### Identification and Explanation of Supporting Documents

(Identify what you are attaching, and why it's related to the Volkswagen/Audi data incident)

*Examples: Receipts, notices, or account statements reflecting payment for a credit freeze*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Description of Loss	Approximate Date of Loss	Amount of Loss
_____	_____	\$ _____
_____	_____	
_____	_____	
_____	_____	
_____	_____	

#### Identification and Explanation of Supporting Documents

(Identify what you are attaching, and why it's related to the Volkswagen/Audi data incident)

*Examples: Receipts, notices, or account statements reflecting payment for a credit freeze*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

---

---

---

**Signature**

I affirm under the laws of the United States that the information I have supplied in this claim form and any copies of documents that I am sending to support my claim are true and correct to the best of my knowledge.

I understand that I may be asked to provide more information by the settlement administrator before my claim is complete.

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_  
MM DD YYYY

\_\_\_\_\_  
Print Name

# **EXHIBIT B**

# NOTICE OF CLASS ACTION SETTLEMENT

SUPERIOR COURT OF CALIFORNIA, [NAME] COUNTY  
[Case Title], Case No. [Number]

**If you are a former, current, or prospective Volkswagen or Audi customer who received notice in June 2021 that your personal information may have been compromised in a data security incident, you are eligible for a monetary award from a class action settlement.**

***A court has authorized this notice. This is not a solicitation from a lawyer.***

A settlement has been reached in a class action lawsuit arising from an alleged data security incident involving the personal information (“PI”) and sensitive personal information (“SPI”) of certain current, former, and prospective customers of Volkswagen Group of America, Inc. (“Volkswagen”) and Audi of America, LLC (“Audi”). The class action is brought against Volkswagen, Audi, and Sanctus LLC d/b/a Shift Digital (“Shift Digital”) (collectively, “Defendants”) by named plaintiffs Ricardo Villalobos, John Hajny, Anthony Service and Jeremy Adams, individually and on behalf of a settlement class of persons residing in the United States to whom Volkswagen and/or Audi sent notice that their PI or SPI may have been exposed as a result of the data security incident.

Defendants dispute that they have violated any laws, deny all of the plaintiffs’ allegations of wrongdoing, and disclaim all liability with respect to all claims. However, to avoid the risk and expense of further litigation, the parties have agreed to settle the lawsuit on the terms and conditions set forth in a settlement agreement between the parties, which is available here: [website]. If the court gives final approval of the settlement, Defendants will pay \$3.5 million into a settlement fund, which will be used to provide monetary awards to settlement class members as described in this notice. Settlement administration expenses, an award of attorneys’ fees and costs to class counsel, and service awards to the named plaintiffs will also be paid from the settlement fund.

If you are a settlement class member, you should have already received a notice from the settlement administrator in the mail or by email. That notice included a unique code for you to verify your identity to receive certain settlement benefits described in this notice. If for some reason you have not received a notice, but believe you are a member of the settlement class, please call [number] to verify your identity and receive further information. You must submit a claim form to receive a settlement award. You can file a claim online on this website, [website], download a claim form and mail it, or call [number] and ask that a claim form be mailed to you. **The claim deadline is [DATE].**

***Your legal rights are affected even if you do nothing. Please read this notice carefully and completely.***

**Questions? Call [PHONE NUMBER] or visit [www.casewebsitename.com](http://www.casewebsitename.com)**

## YOUR OPTIONS WITH RESPECT TO THIS SETTLEMENT

<p><b><u>Option 1: Claim a settlement award</u></b></p> <p><b>Deadline:</b> Electronically submitted or postmarked by [DATE]</p>	<p>You may claim a settlement award by submitting a timely claim form. This is the only way to receive a monetary payment from the settlement fund. You can submit a claim form online at [website], download a claim form from the website and mail it, or call [phone number] and ask that a claim form be mailed to you. For more detailed information on how to submit a claim form, see Questions 9 through 11 below.</p>
<p><b><u>Option 2: Opt out of the settlement</u></b></p> <p><b>Deadline:</b> Electronically submitted or postmarked by [DATE]</p>	<p>You may opt out of the settlement by submitting a timely request for exclusion. By opting out, you will not receive a monetary benefit from this settlement, but you will retain the right to bring your own lawsuit against Defendants related to the data security incident. This is the only option that allows you to bring a separate action against Defendants. For more detailed information on how to opt out from the settlement, see Questions 13 through 15 below.</p>
<p><b><u>Option 3: Object to the settlement</u></b></p> <p><b>Deadline:</b> Electronically submitted or postmarked by [DATE]</p>	<p>You may object to the terms of the settlement by submitting a timely objection. In the objection, you may explain why you do not like the settlement. For more detailed information on how to object to the settlement, see Questions 18 and 19 below.</p>
<p><b><u>Option 4: Do nothing</u></b></p>	<p>If you do nothing, you will not get a monetary payment from this settlement. You will give up rights to submit a claim in this settlement or to bring a separate action against Defendants related to the data security incident.</p>

## WHAT THIS NOTICE CONTAINS

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2. What is this lawsuit about?	
3. What is a class action?	
4. Why have the parties settled?	
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6. What if I am not sure whether I am included in the settlement?	
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8. What benefits are available?	
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17. How will Class Counsel be paid?	
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## BASIC INFORMATION

### 1. What is this notice about?

---

The purpose of this notice is to inform you about the terms of the settlement and your rights and obligations as a settlement class member so that you can make an informed decision to participate in, object to, or opt out of the settlement. The parties are currently seeking judicial approval of their settlement in the Superior Court of California, [County]. The Court has granted preliminary approval of the settlement. The Court has also approved the form and content of this notice and the parties' plan to notify the settlement class members of the settlement. After the settlement class members decide to participate in, object to, or opt out of the settlement, the Court will decide whether to grant final approval of the settlement.

### 2. What is this lawsuit about?

---

This class action lawsuit arose from an alleged data security incident involving the personal information of certain current and former Volkswagen and Audi customers and prospective customers. The personal information involved includes SPI, which is generally considered to be more sensitive and includes data such as Social Security numbers and driver's license numbers, and PI, which is generally considered to be less sensitive, such as addresses. The lawsuit was filed against Volkswagen, Audi, and Shift Digital by named plaintiffs Ricardo Villalobos, John Hajny, Anthony Service and Jeremy Adams, individually and on behalf of a class of other customers and prospective customers potentially affected by the data security incident.

The named plaintiffs raise five legal claims against one or more of the Defendants in connection with the alleged failure to properly secure the PI and SPI at issue: (1) negligence; (2) breach of implied contract; (3) violation of the California Consumer Privacy Act, California Civil Code § 1798.150; (4) violation of the California Unfair Competition Law - Unlawful and Unfair Business Practices, California Business & Professions Code § 17200, *et seq.*; and (5) breach of contracts to which Plaintiffs and the class are third-party beneficiaries. The Defendants deny all of the plaintiffs' allegations of wrongdoing and disclaim all liability with respect to all claims.

### 3. What is a class action?

---

A class action is a type of lawsuit in which one or more plaintiffs, known as named plaintiffs or class representatives, sue on behalf of themselves and a group of similarly situated persons, known as the "class." Although class members do not participate directly in the lawsuit, class members may be entitled to money or other relief if the lawsuit is successful. Class members are also bound by the judgment in the case, which means that they cannot file their own individual lawsuits if they choose to remain part of the class.

Ricardo Villalobos, John Hajny, Anthony Service and Jeremy Adams are the named plaintiffs in this lawsuit, and the settlement class is composed of persons residing in the United States to whom Volkswagen and/or Audi sent notice that their PI or SPI may have been exposed as a result of the Incident.

### 4. Why have the parties settled?

---

The parties have agreed to settle because they believe it is in the best interests of the named plaintiffs, the Defendants, and the class. Further litigation carries significant risk and imposes substantial costs on both sides. By agreeing to settle, the parties avoid this uncertainty and additional

expense. Furthermore, an early resolution allows class members to receive compensation more promptly. The named plaintiffs and their attorneys believe the settlement is fair, reasonable, and adequate and that final approval of the settlement is in the best interests of the class.

## WHO IS IN THE SETTLEMENT?

### 5. Who is included in the settlement?

---

You are included in the settlement if you reside in the United States and were sent notice by Volkswagen and/or Audi that your information may have been exposed as a result of the data security incident. If you are a member of the settlement class, you should have already received a notice of the settlement from the settlement administrator by mail or email. That notice included a unique code for you to verify your identity to receive certain settlement benefits described in this notice. If for some reason you have not received a unique code, but believe you are a settlement class member, please call [number] to verify your identity and receive further information.

The settlement class is composed of three subclasses. Each settlement class member belongs to only one subclass. The **California SPI Subclass** consists of settlement class members residing in California at the time of the data security incident to whom Volkswagen and/or Audi sent notice that their SPI may have been exposed as a result of the incident. The **Nationwide SPI Subclass** consists of settlement class members residing in the United States (but not California) at the time of the data security incident to whom Volkswagen and/or Audi sent notice that their SPI may have been exposed as a result of the incident. The **Nationwide PI Subclass** consists of settlement class members residing in the United States at the time of the data security incident to whom Volkswagen and/or Audi sent notice that their PI may have been exposed as a result of the incident.

Specifically excluded from the settlement class are settlement class members who timely and validly request exclusion from the settlement class (for more information about requesting exclusion see Questions 13–15).

### 6. What if I am not sure whether I am included in the settlement?

---

If you are not sure whether you are included in the settlement or the settlement class, or have any other questions related to the settlement, you may contact the settlement administrator by phone at [phone number] or by email at [email address]. You may also write a letter to the settlement administrator at [address]. Please do not contact the Court with questions.

## THE SETTLEMENT BENEFITS

### 7. What does the settlement provide?

---

To fully settle and release the claims of the settlement class members related to the data security incident, Defendants have agreed to pay \$3.5 million into a settlement fund, which will be used to pay (1) settlement awards to settlement class members, as described in response to Question 8 below; (2) settlement administration expenses; (3) an award to class counsel for their reasonable attorneys' fees and costs; and (4) service awards for the named plaintiffs. In addition, Shift Digital has agreed to implement and maintain certain measures to further secure the personal information in its possession.

## 8. What monetary benefits are available?

---

All settlement class members are eligible for monetary awards from the settlement fund. There are two types of awards: (1) cash payments, and (2) reimbursement for out-of-pocket losses. California SPI and Nationwide SPI subclass members may file claims for either cash payments or for reimbursement for Out-of-Pocket Losses, but not for both.

**Cash Payments:** All settlement class members are eligible for cash payments. The amount of the cash payment depends on the subclass to which the settlement class member belongs. California SPI subclass members are eligible to receive cash payments of \$350. Nationwide SPI members are eligible to receive cash payments of \$80. Nationwide PI subclass members are eligible to receive cash payments of \$20. All payment amounts listed above are subject to an upward or downward proration based on how much money is available to disburse settlement awards. The proration of cash payments is set forth in greater detail in the settlement agreement.

**Reimbursement for Out-of-Pocket Losses:** Members of the California SPI subclass and Nationwide SPI subclass are eligible for reimbursement for out-of-pocket losses up to \$5,000 per person. Examples of out-of-pocket losses include: (1) unreimbursed costs, expenses, losses, or charges incurred as a result of identity theft or identity fraud, falsified tax returns, or other possible misuse of settlement class members' SPI; (2) costs associated with accessing or freezing/unfreezing credit reports with any credit reporting agency; (3) other miscellaneous expenses incurred related to any out-of-pocket loss such as notary, fax, postage, copying, mileage, and long-distance telephone charges; and (4) unpaid time off work to address issues fairly traceable to the data security incident at the actual hourly rate of that settlement class member (i.e., hourly wage or annual salary divided by estimated number of hours worked per year), up to \$50 per hour, for up to four hours. To be reimbursable, out-of-pocket losses must be fairly traceable to the data security incident and require documentation.

## HOW TO GET BENEFITS

### 9. How do I get benefits?

---

To receive a monetary award from the settlement, you must timely submit a valid claim. To submit a claim, you must complete, sign, and send a claim form to the settlement administrator on or before [claims deadline]. You can access digital copies of the claim form online at [website URL]. You can also request a claim form by mail by calling [number] or visiting [website URL]. To ensure that you properly complete the claim form, please read the instructions carefully. If you are seeking reimbursement for out-of-pocket losses, you will need to attach supporting documentation. You may submit the claim form online at [website URL] or mail it to the Settlement Administrator at the following address:

[Address]

A claim form is considered timely submitted if it is postmarked or submitted electronically on or before [date].

Please read the claim form's instructions carefully, fill it out, provide reasonable documentation (where applicable), and submit it online at [website URL] or mail it **postmarked no later than [date]** to Volkswagen/Audi Data Security Settlement, Settlement Administrator,

**Questions? Call [Number] or visit [www.CaseSettlementWebsite.com](http://www.CaseSettlementWebsite.com)**

[address]. On the claim form, you will have the option to select how you would like to be paid. Awards will be distributed after the settlement becomes effective, and you will receive payment in the manner that you selected on the claim form.

**10. How will claims be decided?**

---

The settlement administrator will initially decide whether the information provided on a claim form is complete and valid. The settlement administrator may request additional information from any claimant. If the required information is not provided on a timely basis, as determined in the sole discretion of the settlement administrator, the claim will be considered invalid and will not be paid.

**REMAINING IN THE SETTLEMENT CLASS**

**11. Do I need to do anything to receive a cash benefit from the settlement?**

---

If you want a monetary award from the settlement fund, you must submit a claim by [date], as explained in Question 9. If you do nothing, you will remain in the settlement class but you will not receive the settlement benefits.

**12. What am I giving up as part of the settlement?**

---

If the settlement becomes effective and you do not opt out, you will give up your right to bring your own lawsuit against certain parties for any claims related to the data security incident. The specific persons and entities who you are giving up claims against are described in Paragraph 3.30 of the settlement agreement. The specific claims you are giving up are described in Paragraphs 3.29 and 3.42 of the settlement agreement. The settlement agreement is available at [website]. The settlement agreement describes the released parties and released claims in detail, so read it carefully. If you have any questions, you may talk to the attorneys listed in Question 16 for free. Alternatively, you may talk to your personal attorney at your own expense.

**EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you do not want monetary benefits from the settlement and/or want to preserve the right to bring your own lawsuit against Audi, Volkswagen, and/or Shift Digital regarding the data security incident, then you must take steps to exclude yourself from the settlement class. This is sometimes referred to as “opting out” of the settlement class.

**13. If I exclude myself, can I get monetary benefits from this settlement?**

---

No. If you exclude yourself from the settlement, you will not be entitled to any monetary benefits. If you exclude yourself and you submit a claim form, you will not receive any money. You will also not be bound by any judgment in this case, and thus may bring an individual lawsuit against the Defendants. However, you cannot exclude yourself from the non-monetary benefits provided by Shift Digital, who will implement and maintain certain measures to further secure the personal information in its possession.

**14. If I do not exclude myself, can I bring a claim against Defendants for the same thing later?**

---

No. If you do not exclude yourself from the settlement class, you will give up any right to bring your own lawsuit against Defendants and related parties for the claims that this settlement resolves. You must exclude yourself from the settlement class if you want to bring a separate action or to be part of any different proceeding relating to the claims in this case.

**15. How do I exclude myself from the settlement?**

---

To exclude yourself from the settlement class, you will need to submit a written request for exclusion to the settlement administrator. In the request for exclusion, you must (a) provide your full name, address, telephone number, and email address (if any), and (b) state unequivocally that you would like to be excluded from the settlement. You or a person authorized by law to act on your behalf must sign the request for exclusion. To submit your request for exclusion, you must mail it to the following address: [address]. You may also electronically submit your request for exclusion at [settlement website]. To be timely, your request for exclusion must be postmarked or electronically submitted by [opt out deadline].

**THE LAWYERS REPRESENTING YOU**

**16. Do I have a lawyer in this case?**

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The Court has appointed the following attorneys as class counsel:

Rachele R. Byrd WOLF HALDENSTEIN ADLER FREEMAN & HERZ LLP 750 B Street, Suite 1820 San Diego, California 92101 Tel: (619) 239-4599 Fax: (619) 234-4599 byrd@whafh.com	Gayle M. Blatt CASEY GERRY SCHENK FRANCAVILLA BLATT & PENFIELD, LLP 110 Laurel Street San Diego, California 92101 Tel: (619) 238-1811 Fax: (619) 544-9232 gmb@cglaw.com	M. Anderson Berry CLAYEO C. ARNOLD A PROFESSIONAL LAW CORP. 865 Howe Avenue Sacramento, CA 95825 Tel: (916) 777-7777 Fax: (916) 924-1829 aberry@justice4you.com	Karen Hanson Riebel LOCKRIDGE GRINDAL NAUEN P.L.L.P 100 Washington Ave S. Ste. 2200 Minneapolis, MN 55401 Tel: (612) 339-6900 Fax: (612) 339-0981 khriebel@locklaw.com
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As class counsel, these attorneys represent the settlement class members. You will not be individually charged for these lawyers. If you decide to exclude yourself from the settlement, then class counsel will no longer represent you. If you decide to object to the settlement, class counsel will not represent you for purposes of your objection. If you want to be represented by your own lawyer, you may hire one at your own expense.

**17. How will class counsel and the class representatives be paid?**

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The settlement agreement does not provide for a specific amount to be paid to class counsel but does allow class counsel to request—and the Court to award—reasonable attorneys’ fees and costs. Class counsel will request an award of no more than \$1.05 million in fees and \$20,000 in costs. The Court will then decide whether to award attorneys’ fees and costs and if so, how much. If the Court decides to award attorneys’ fees and costs, they will be paid out of the settlement fund.

Class counsel will also request that the Court award \$5,000 to each of the named plaintiffs to reward them for the time and burdens of serving as class representatives. If the Court approves these service awards, they will be paid out of the settlement fund.

## OBJECTING TO THE SETTLEMENT

If you do not want the Court to grant final approval of the settlement, you may object to the settlement. By objecting to the settlement, you can tell the Court why you think the settlement should not be finally approved.

### **18. How do I object to the settlement?**

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To object to the settlement, you must (1) timely submit a written objection to the settlement administrator, or (2) appear and state your objection at the final approval hearing, as explained in Questions 20 through 22. If you wish, you may submit a written objection *and* voice your objection at the final approval hearing. If you submit a written objection, you should provide (a) your full name, address, telephone number, and email address; (b) the case name and number (i.e., [case name], [case number]); and (c) the grounds for your objection. The objection must be signed by you or someone authorized to sign on your behalf. If you are represented by your own attorney, please provide their name and phone number.

If you submit a written objection, you must mail it to the settlement administrator at [address] or submit it electronically to the settlement administrator at [email address or upload to website]. To be timely submitted, the written objection must be postmarked or electronically submitted no later than [objection deadline].

### **19. What is the difference between objecting and opting out?**

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Objecting is telling the Court that you do not like something about the settlement and why you do not think it should be approved. Opting out is excluding yourself from the settlement. If you opt out, you cannot object to the settlement because it no longer affects you.

## THE FINAL APPROVAL HEARING

The Court will hold a hearing to decide whether to grant final approval of the settlement and to determine whether to award attorneys' fees and costs to class counsel and service awards to the class representatives, and if so, how much.

### **20. When and where will the Court decide whether to approve the settlement?**

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The Court will hold a final approval hearing at [date and time] [via teleconference?]. The details for attending the final approval hearing can be found at [website]. You do not need to attend this hearing to receive benefits from the settlement. The hearing may be moved to a different date or time without additional notice, so it is a good idea to keep checking [website] or calling [number] to stay up to date.

At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. The Court will consider any written objections and will listen to any objectors who attend the hearing and wish to speak. The Court will also consider class counsel's request for an award of attorneys' fees and costs, as well as the request for service awards for the class representatives. After

the hearing, the Court will decide whether to approve the settlement and the awards. We do not know how long the Court will take to make these decisions.

**21. Do I have to attend the hearing?**

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No. Class counsel will present the settlement to the Court. You or your own lawyer are welcome to attend at your own expense, but you are not required to do so. If you submit a written objection, you do not have to attend to present it to the Court. As long as you properly submitted your objection according to the instructions in Question 18, the Court will consider your concerns.

**22. May I speak at the hearing?**

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You may speak at the final approval hearing if you wish to object to the settlement.

## IF YOU DO NOTHING

**23. What happens if I do nothing?**

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If you do nothing, you will not receive any monetary benefits from the settlement. If the Court grants approval of the settlement and the judgment becomes final, you will not be able to bring your own lawsuit against the Defendants or other related parties in connection with the data security incident.

## GETTING MORE INFORMATION

**24. How do I get more information?**

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This notice only provides a summary of the proposed settlement. You are encouraged to review the complete details of the settlement, which can be found in the settlement agreement available at [settlement website URL]. You also may send written questions to the settlement administrator at [Email], or call the toll-free number, [number].

**Again, the important deadlines are:**

Last day to opt out of the settlement class or object to the settlement:

Last day to submit a claim form:

Final approval hearing:

# **EXHIBIT C**

*In re Volkswagen Data Breach Litigation*  
[address]

Unique Identification Number:

<<ACCOUNT>>

**Notice of Class Action Settlement**  
No. **Case Number**

**If you are a former, current or prospective Volkswagen or Audi customer who was sent notice in June 2021 that your personal information may have been compromised in a data security incident, you are eligible for a monetary award from a class action settlement.**

*A court has authorized this Notice. This is not a solicitation from a lawyer.*

*Para el notificación en Español visitor nuestro sitio web.*

<<MAIL ID>>

<<Name1>>

<<Name2>>

<<Address1>>

<<Address2>>

<<CITY>> <<ST>> <<ZIP>>

<<COUNTRY >>

A settlement has been reached with Volkswagen Group of America, Audi of America, and Sanctus LLC d/b/a Shift Digital (collectively, “Defendants”) in a class action lawsuit arising from an alleged data security incident (the “Incident”) involving the personal information (“PI”) and sensitive personal information (“SPI”) of certain current, former, and prospective Volkswagen and Audi customers.

**Who is included in the settlement?** You are included in the settlement and are a settlement class member if you reside in the United States and were sent a notice in June 2021 by Volkswagen and/or Audi that your PI or SPI may have been exposed as a result of the Incident. Our records indicate that you are a settlement class member.

**What does the settlement provide?** To fully settle and release the claims of the settlement class members related to the Incident, Defendants have agreed to pay \$3.5 million into a settlement fund, which will be used to pay (1) cash settlement awards to settlement class members; (2) settlement administration expenses; (3) attorneys’ fees and costs incurred by class counsel; and (4) service awards to the named plaintiffs. Settlement awards include cash payments of \$350, \$80, or \$20, or reimbursement of out-of-pocket losses fairly traceable to the Incident and (subject to upward and downward proration), depending on where you resided at the time of the Incident and whether you had PI or SPI potentially exposed in the Incident.

**How do I get an award from the settlement?** You must properly complete and timely submit a claim form to receive a settlement award. You may submit your claim form online at [website] or by mail. You can obtain a paper claim form at [website] or by calling toll free [number]. To be timely, the claim form must be submitted electronically or postmarked by [date]. ***When completing your claim form, please provide your unique claim identification number.***

**What are my other options?** If you do not wish to submit a claim, you may (1) do nothing; (2) object to the settlement; or (3) exclude yourself from the settlement class. If you object to the settlement or do nothing, you are choosing to stay in the settlement class. You will be legally bound by all orders of the Court and you will not be able to start, continue, or be part of any other lawsuit against Defendants or related parties concerning the Incident. If you choose to object to the settlement, you will have the opportunity to tell the Court why you think that the Court should not finally approve the settlement. To object to the settlement, you must submit a written objection to the settlement administrator by [DATE] or appear at the final approval hearing. If you do not want to be bound by the settlement, you may exclude yourself from the settlement class by filing a request for exclusion by [opt out deadline].

# **EXHIBIT D**

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**FOR THE COUNTY OF CONTRA COSTA**

JOHN HAJNY, RICARDO  
VILLALOBOS, ANTHONY SERVICE  
and JEREMY ADAMS, individually and  
on behalf of all others similarly situated,

Plaintiffs,

v.

VOLKSWAGEN GROUP OF  
AMERICA, INC., AUDI OF AMERICA,  
LLC, AND SANCTUS, LLC D/B/A  
SHIFT DIGITAL,

Defendants.

Case No. \_\_\_\_\_

**ORDER GRANTING FINAL APPROVAL  
OF CLASS ACTION SETTLEMENT**

DATE: \_\_\_\_\_, 202\_

TIME: \_\_:\_\_.m.

JUDGE: Hon. Edward G. Weil

DEPT: 39

1 The Motion for Final Approval of a Class Action Settlement (“Motion”) and the Motion  
2 for Award of Attorneys’ Fees, Expenses and Plaintiffs’ Service Awards filed by Plaintiffs Ricardo  
3 Villalobos, John Hajny, Anthony Service, and Jeremy Adams (collectively, “Plaintiffs”) came on  
4 for hearing on \_\_\_\_\_, 202\_\_ at \_\_:\_\_.m. in Department 39 of the Superior Court of California  
5 for the County of Contra Costa, the Honorable Edward G. Weil presiding.

6 Unless otherwise defined herein, all capitalized words and terms contained in this Order  
7 Granting Final Approval of Class Action Settlement (“Final Order”) shall have the same meanings  
8 as set forth in the Settlement Agreement (“SA”) (Section III, Definitions ¶¶ 3.1 – 3.44) filed on  
9 \_\_\_\_\_, 2022.

10 On \_\_\_\_\_ \_\_, 2022, the Court entered an Order Granting Plaintiffs’ Motion for  
11 Preliminary Approval of Class Action Settlement (“Preliminary Approval Order”), preliminarily  
12 approving the proposed settlement of this Action pursuant to the terms of the SA and directing that  
13 notice be given to the members of the Class.

14 Pursuant to the Notice Plan, the Settlement Class was notified of the terms of the proposed  
15 settlement and of a Final Approval Hearing to determine: (1) whether the terms and conditions of  
16 the settlement are fair, reasonable and adequate for the Release of the Released Claims against the  
17 Released Parties; (2) whether the Final Order and Final Judgment should be entered; (3) whether  
18 the Court should approve the provisions of the SA with respect to the service awards; and (4)  
19 whether the Court should grant Class Counsel’s application for the Attorneys’ Fees and Expenses  
20 Award.

21 A Final Approval Hearing was held on \_\_\_\_\_ \_\_, 202\_. Prior to the Final Approval  
22 Hearing, proof of completion of the Notice Plan was filed with the Court, along with declarations  
23 of compliance. Class Members were therefore notified of their right to appear at the hearing in  
24 support of or in opposition to the proposed settlement, the Attorneys’ Fees and Expenses Award  
25 to Class Counsel, and Plaintiffs’ service awards.

26 The Court, (i) having heard and considered the oral presentations made at the Final  
27 Approval Hearing (including any materials and documents presented to the Court therein), (ii)  
28 having reviewed and considered the SA, the Motion for Final Approval of Class Action Settlement,

1 the application for service awards and an Attorneys' Fees and Expenses Award, and supporting  
2 papers and declarations, including the pleadings filed in support of the Motion for Preliminary  
3 Approval of Class Action Settlement and declarations, and any supplements thereto, and any  
4 timely and proper objections, and (iii) having determined that the settlement is fair, adequate and  
5 reasonable, and good cause appearing thereon, makes the following findings and determinations.

6 It is hereby ORDERED, ADJUDGED, and DECREED that:

7 1. The Court, for purposes of this Final Order, adopts all defined terms as set forth in  
8 the SA (Section III, Definitions, ¶¶ 3.1 – 3.44).

9 2. This Court has jurisdiction over the subject matter of the Action, over all claims  
10 raised therein, over the Settling Parties and over the Settlement Class Members.

11 3. Based on its review of the record, including the Settlement, all submissions in  
12 support of the Settlement, and all prior proceedings in the Action, the Court finally certifies the  
13 following Class for settlement purposes only:

14 All persons residing in the United States to whom Volkswagen Group of America,  
15 Inc. and/or Audi of America, LLC sent notice that their Sensitive Personal  
16 Information and/or Personal Information may have been exposed as a result of the  
17 Incident.<sup>1</sup>

18 4. Excluded from the Settlement Class are those persons identified in Exhibit A to the  
19 Final Judgment, each of whom submitted a timely and valid request to be excluded from the  
20 Settlement Class. Such persons shall not receive the benefits of the Settlement and shall not be  
21 bound by this Final Approval order or the Judgment to be entered.

22 5. Plaintiffs Ricardo Villalobos, John Hajny, Anthony Service, and Jeremy Adams  
23 fairly and adequately represented the Settlement Class Members.

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24 <sup>1</sup> "Sensitive Personal Information" or "SPI" means the following types of Personal  
25 Information: driver's license numbers, Social Security numbers, credit or debit card numbers, bank  
26 account or routing numbers, social insurance numbers, dates of birth, and/or tax identification  
27 numbers.

28 "Personal Information" or "PI" means information that is or could be used, whether on its  
own or in combination with other information, to identify, locate, or contact a person. For purposes  
of this agreement, Personal Information or PI, does not include driver's license numbers, Social  
Security numbers, credit or debit card numbers, bank account or routing numbers, social insurance  
numbers, dates of birth, and/or tax identification numbers.

1           6.       M. Anderson Berry of Clayeo C. Arnold, A Professional Law Corp; Gayle M. Blatt  
2 of Casey Gerry Schenk Francavilla Blatt & Penfield LLP; Rachele R. Byrd of Wolf Haldenstein  
3 Adler Freeman & Herz LLP; and Karen Hanson Riebel of Lockridge Grindal Nauen P.L.L.P. as  
4 Class Counsel fairly, adequately, and competently represented the Settlement Class Members.

5           7.       The Court finds, similar to its order conditionally certifying the Settlement Class in  
6 the Preliminary Approval Order, that the requirements of Code of Civil Procedure § 382 are  
7 satisfied. Specifically, the Court finds and concludes for settlement purposes only that the  
8 prerequisites to a class action are satisfied in that:

- 9                   (a)       the members of the Settlement Class are so numerous that joinder of all  
10                               members is impracticable;
- 11                   (b)       there are questions of law or fact common to the Settlement Class;
- 12                   (c)       Plaintiffs and Class Counsel (as defined below) fairly and adequately  
13                               represent the Settlement Class;
- 14                   (d)       Plaintiffs' claims are typical of those of Settlement Class Members;
- 15                   (e)       common issues predominate over any individual issues affecting the  
16                               members of the Settlement Class;
- 17                   (f)       Plaintiffs fairly and adequately protect and represents the interests of all  
18                               members of the Settlement Class, and Plaintiffs' interests are aligned with  
19                               the interests of all other members of the Settlement Class; and
- 20                   (g)       settlement of the Action on a class action basis is superior to other means  
21                               of resolving this matter.

22           8.       Class Notice was provided to the Class in accordance with the Preliminary  
23 Approval Order and satisfied the requirements of due process, California Code of Civil Procedure  
24 section 382 and rule 3.766 of the California Rules of Court and (a) provided the best notice  
25 practicable, and (b) was reasonably calculated under the circumstances to apprise Settlement Class  
26 Members of the pendency of the Action, the terms of the settlement, their right to appear at the  
27 Final Approval Hearing, their right to object to the settlement, and their right to exclude themselves  
28 from the settlement.

1           9.       The Court finds that the Notice Plan set forth in the SA and effectuated pursuant to  
2 the Preliminary Approval Order constitutes the best notice practicable under the circumstances and  
3 shall constitute due and sufficient notice to the Settlement Class of the pendency of the Action,  
4 certification of the Settlement Class, the terms of the SA, and the Final Approval Hearing, and  
5 satisfies the requirements of California law and due process of law,

6           10.      The SA was arrived at following serious, informed, adversarial, and arm's-length  
7 negotiations conducted in good faith by counsel for the Settling Parties, facilitated by an  
8 experienced mediator, and is supported by the majority of the members of the Settlement Class.

9           11.      The settlement, as set forth in the SA, is in all respects fair, reasonable, adequate  
10 and in the best interests of the Settlement Class and is approved. The Parties shall effectuate the  
11 SA according to its terms, including the Business Practice Commitments. The SA shall be deemed  
12 incorporated herein as if explicitly set forth and shall have the full force and effect of an Order of  
13 this Court.

14          12.      Upon the Effective Date, Class Representatives and each Settlement Class Member,  
15 on behalf of themselves and any other legal or natural persons who may claim by, through or under  
16 them, are deemed to have fully, finally and forever released and discharged the Released Parties  
17 from any and all Released Claims.

18          13.      Settlement Class Members, including the Class Representatives, are hereby barred  
19 from hereafter instituting, maintaining, prosecuting, and/or asserting any suit, action, and/or  
20 proceeding against the Released Parties, either directly or indirectly, on their own behalf, on behalf  
21 of a class or on behalf of any other person or entity with respect to the claims, causes of action,  
22 and/or any other matters released through the settlement.

23          14.      This Final Order, the SA, the settlement which it reflects, and any and all acts,  
24 statements, documents or proceedings relating to the settlement, are not, and shall not, be construed  
25 as or used as an admission by or against Defendants or any of the other Released Parties of any  
26 fault, wrongdoing, or liability on their part, or of the validity of any Released Claim or of the  
27 existence or amount of damages.

28          15.      For the reasons set forth in their application for an Attorneys' Fees and Expenses

1 Award, the Court hereby awards Class Counsel attorneys' fees in the amount of \$ \_\_\_\_\_  
2 and reimbursement of expenses in the amount of \$ \_\_\_\_\_. For the reasons set forth in  
3 the Class Representatives' request for service awards, the Court hereby awards Class  
4 Representatives a service award of \$ \_\_\_\_\_ each for their time, effort, and risk in connection with  
5 the Action. The foregoing sums shall be paid from the Settlement Fund in accordance with the  
6 SA.

7 16. This Order does not constitute an expression by the Court of any opinion, position  
8 or determination as to the merit or lack of merit of any of the claims or defenses of Class  
9 Representatives or Defendants. This Order is not an admission or indication by Defendants of the  
10 validity of any claims in this action or of any liability or wrongdoing or of any violation of law.

11 17. Class Representatives and the Settlement Class, on the one hand, and the  
12 Defendants, on the other, shall take nothing further from the other side except as expressly set  
13 forth in the SA and this Final Order.

14 18. The Parties are authorized to implement the terms of the SA.

15 19. Pursuant to California Code of Civil Procedure section 664.6 and rule 3.769(h) of  
16 the California Rules of Court, and without affecting the finality of the Final Judgment, the Court  
17 reserves exclusive and continuing jurisdiction over this Action, the Class Representatives, the  
18 Settlement Class Members, and Defendants for purposes of administering, consummating,  
19 enforcing, and interpreting the SA, the Final Order and Final Judgment, including any release in  
20 connection with the settlement, and for any other necessary purpose, and to issue related orders  
21 necessary to effectuate the final approval of the SA.

22 21. The Claims Administrator shall post the Final Order and Final Judgment on the  
23 settlement website, www.\_\_\_\_\_.com, forthwith and it shall remain there until at least  
24 thirty (30) days after the Effective Date.

25 22. The Court sets a non-appearance compliance hearing for \_\_\_\_\_ at  
26 \_\_\_\_\_ .m. in Department 69 of this Court. At least five (5) court days before the hearing, Class  
27 Counsel and the Claims Administrator shall submit a summary accounting of the Settlement Fund  
28 identifying distributions made as ordered herein, the status of any unresolved issues, and any other

1 matters appropriate to bring to the Court's attention.

2 23. The objections to the settlement are without merit and are overruled.

3 24. The Court approves the Settlement Administration expenses associated with the  
4 settlement.

5 25. The Clerk is directed to enter this Final Order forthwith.

6 **IT IS SO ORDERED.**

7

8 DATED: \_\_\_\_\_

\_\_\_\_\_  
HON. EDWARD G. WEIL  
JUDGE OF THE SUPERIOR COURT

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# **EXHIBIT E**

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**FOR THE COUNTY OF CONTRA COSTA**

JOHN HAJNY, RICARDO  
VILLALOBOS, ANTHONY SERVICE  
and JEREMY ADAMS, individually and  
on behalf of all others similarly situated,

Plaintiffs,

v.

VOLKSWAGEN GROUP OF  
AMERICA, INC., AUDI OF AMERICA,  
LLC, AND SANCTUS, LLC D/B/A  
SHIFT DIGITAL,

Defendants.

Case No. \_\_\_\_\_

**ORDER GRANTING PRELIMINARY  
APPROVAL OF CLASS ACTION  
SETTLEMENT**

**ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

1 This case is before the Court on the Motion for Preliminary Approval of Class Action  
2 Settlement (the “Motion”) filed by Plaintiffs Ricardo Villalobos, John Hajny, Anthony Service,  
3 and Jeremy Adams (collectively, “Plaintiffs”). The Court, having considered the Motion; the  
4 supporting memorandum of points and authorities; the Parties’ Settlement Agreement dated  
5 August     , 2022; the proposed Claim Form, Long Notice, and Summary Notice (attached as  
6 Exhibits A, B, and C, respectively, to the Settlement Agreement); the pleadings and other papers  
7 filed in this Action; and the statements of counsel and the Parties, and for good cause shown,  
8 **HEREBY ORDERS** as follows:

9 Preliminary Approval of Settlement Agreement

10 1. Plaintiffs’ Motion is GRANTED. For purposes of this Order, except as  
11 otherwise indicated herein, the Court adopts and incorporates the definitions contained in the  
12 Settlement Agreement.

13 2. All proceedings in the Action, other than proceedings necessary to carry out or  
14 enforce the terms and conditions of the Settlement Agreement and this Order, are hereby stayed.

15 3. Upon preliminary review, the Court finds that the Settlement Agreement, and the  
16 settlement it incorporates, appears fair, reasonable, and adequate. Accordingly, the Settlement  
17 Agreement is preliminarily approved and is sufficient to warrant sending notice to the Settlement  
18 Class.

19 Class Certification

20 4. Solely for purposes of the Settlement, the Court conditionally certifies the  
21 following class (“Settlement Class”):

22 All persons residing in the United States to whom Volkswagen Group of America,  
23 Inc. and/or Audi of America, LLC sent notice that their Sensitive Personal  
24 Information and/or Personal Information may have been exposed as a result of the  
25 Incident.<sup>1</sup>

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26 <sup>1</sup> “Sensitive Personal Information” or “SPI” means the following types of Personal Information: driver’s  
27 license numbers, Social Security numbers, credit or debit card numbers, bank account or routing numbers, social  
28 insurance numbers, dates of birth, and/or tax identification numbers.

“Personal Information” or “PI” means information that is or could be used, whether on its own or in  
combination with other information, to identify, locate, or contact a person. For purposes of this agreement, Personal



1 Notices”), attached to the Settlement Agreement as Exhibits B and C, respectively, and finds  
2 that the dissemination of the Class Notice substantially in the manner and form set forth in  
3 Section VI of the Settlement Agreement (“Notice Plan”) is the best notice practicable under the  
4 circumstances, constitutes due and sufficient notice of the Settlement and this Order to all  
5 persons entitled thereto, and is in full compliance with applicable law and due process. The  
6 Court approves as to form and content the Long Notice and Summary Notice, attached as  
7 Exhibits B and C, respectively, to the Settlement Agreement. The Court orders the Settlement  
8 Administrator to commence the Notice Program following entry of this Order in accordance  
9 with the terms of the Settlement Agreement.

10 10. The Court further approves the Claim Form, substantially similar to Exhibit A to  
11 the Settlement Agreement, which will be available both on the settlement website and by request.  
12 Settlement Class Members who qualify for and wish to submit a Claim Form under the  
13 Settlement shall do so in accordance with the requirements and procedures of the Settlement  
14 Agreement and the Claim Form under which they are entitled to seek relief. The Claims deadline  
15 is 120 days after entry of this Order. All Settlement Class Members who fail to submit a claim  
16 in accordance with the requirements and procedures of the Settlement Agreement and respective  
17 Claim Form shall be forever barred from receiving any such benefit but will in all other respects  
18 be subject to and bound by the provisions of the Settlement and the releases contained therein.

19 11. The Court hereby orders that, within three (3) business days of an order directing  
20 Class Notice, Defendants will advance to the Settlement Administrator the costs of notice, and  
21 within five (5) days of entry of this Order, Defendants shall provide to the Claims Administrator  
22 a list of Settlement Class Members in an Excel spreadsheet that includes, to the extent available,  
23 the name, email address, and mailing address of each Settlement Class Member as reflected in  
24 Defendants’ business records.

25 12. Within thirty (30) days of the Settlement Administrator’s receiving the  
26 Settlement Class Member data from Defendants, notice shall be provided to the Settlement Class  
27 as follows:  
28

- 1 (a) The Settlement Administrator shall email the Summary Notice to  
2 Settlement Class Members who have valid email addresses.
- 3 (b) The Settlement Administrator shall mail the Summary Notice to  
4 Settlement Class Members who do not have valid email addresses.
- 5 (c) The Settlement Administrator shall establish a dedicated settlement  
6 website. The Settlement Administrator shall post on the website copies  
7 of the Summary Notice, the Long Notice, and the Claim Form approved  
8 by the Court. The Settlement Administrator shall also post this  
9 Agreement, the Motion for Preliminary Approval of the Settlement, the  
10 Motion for Final Approval of the Settlement and the Motion for the  
11 Attorneys' Fees and Expenses Award and Class Representative Awards.  
12 The Settlement Administrator shall maintain and update the website  
13 throughout the Claims Period.
- 14 (d) The Settlement Administrator shall make available a toll-free number  
15 with interactive voice recognition, FAQs, and an option to speak to a live  
16 operator to address Settlement Class Members' inquiries.
- 17 (e) The Settlement Administrator shall publish notice of the settlement in an  
18 appropriate media outlet.
- 19 (f) The Settlement Administrator shall create an internet notice campaign  
20 and internet sponsored search listings.
- 21 (g) The Settlement Administrator shall distribute the Reminder Notice(s) to  
22 Settlement Class Members as directed by Class Counsel.

23 13. The Notice Program shall commence within thirty-seven (37) days of entry of  
24 this Order and shall be completed within ninety-five (95) days of entry of this Order, except as  
25 otherwise specifically provided above. Contemporaneously with seeking Final Approval of the  
26 Settlement, Settlement Class Counsel shall cause to be filed with the Court an appropriate  
27 affidavit or declaration from the Claims Administrator with respect to complying with the Notice  
28

1 Plan.

2 Requests for Exclusion from the Settlement Class

3 14. Settlement Class Members may opt-out or object up to ninety (90) days from the  
4 date of entry of this Order (the “Opt Out Deadline”).

5 15. Any Settlement Class Member who wishes to exclude themselves from the  
6 settlement must individually sign and timely mail to the address designated by the Settlement  
7 Administrator or submit electronically through the settlement website a written Request for  
8 Exclusion. For a Request for Exclusion to be properly completed and executed, it must: (a) state  
9 the Settlement Class Member’s full name, address and telephone number; (b) contain the  
10 Settlement Class Member’s personal signature or the signature of a person authorized by law to  
11 act on the Settlement Class Member’s behalf with respect to a claim or right such as those asserted  
12 in the Action, such as a trustee, guardian, or person acting under a power of attorney; and (c) state  
13 the Settlement Class Member’s intent to be excluded from the settlement. All Requests for  
14 Exclusion must be submitted individually in connection with a Settlement Class Member; i.e.,  
15 one request is required for every Settlement Class Member seeking exclusion. To be effective, a  
16 Request for Exclusion must be postmarked or submitted electronically no later than the Opt Out  
17 Deadline

18 16. Any member of the Settlement Class who does not properly and timely opt out  
19 of the Settlement shall, upon entry of the Final Approval Order Judgment, be bound by all the  
20 terms and provisions of the Settlement Agreement, whether or not such Settlement Class  
21 Member objected to the settlement and whether or not such Settlement Class Member received  
22 consideration under the Settlement Agreement.

23 Objections

24 17. Any Settlement Class Member who does not elect to be excluded from the  
25 Settlement Class may (1) serve an Objection to the settlement (an “Objection Notice”) no later  
26 than ninety (90) days after the date of entry of this Order (the “Objection Deadline”), or (2) appear  
27 at the Final Approval Hearing to state an objection. Class Members who wish to object to the  
28

1 Settlement Agreement in writing must send their Objection Notices to the Settlement  
2 Administrator at the address set forth in the Class Notice.

3 18. Any Settlement Class Member who submits an Objection Notice must include in  
4 any such Notice: (i) his/her full name address, telephone number, and e-mail address; (ii) the case  
5 name and number of the Action; (iii) the grounds for objection; and (iv) the objector's signature.  
6 If represented by counsel, the objecting Settlement Class Member must also provide the name and  
7 telephone number of his/her counsel.

8 19. The Claims Administrator, Defense Counsel, and Class Counsel shall promptly  
9 furnish each other copies of any and all objections that might come into their possession.

#### 10 The Final Approval Hearing

11 1. The Court will hold a Final Approval Hearing on \_\_\_\_\_, 2023 at \_\_:\_\_ .m.  
12 in Department 39, 725 Court Street, Martinez, California 94553, to determine, among other things,  
13 (a) whether the Action should be finally certified as a class action for settlement purposes  
14 (a) whether certification of the Settlement Class for settlement purposes only should be confirmed;  
15 (b) whether the Settlement should be approved as fair, reasonable, adequate and in the best  
16 interests of the Settlement Class; (c) the application by Class Counsel for an award of attorneys'  
17 fees, costs and expenses as provided for under the Settlement Agreement; (d) the application for  
18 Plaintiffs' service awards as provided for under the Settlement Agreement; (e) whether the Release  
19 of Released Claims as set forth in the Settlement Agreement should be provided; (f) whether the  
20 Court should enter the [Proposed] Final Order and Judgment; and (g) ruling upon such other  
21 matters as the Court may deem just and appropriate. The Final Approval Hearing may, from time  
22 to time and without further notice to Settlement Class Members be continued or adjourned by order  
23 of the Court.

24  
25 2. Plaintiffs shall file and serve Defendants by electronic mail their Motion for an  
26 Award of Attorneys' Fees and Expenses and Plaintiffs' Service Awards no later than thirty-five  
27 (35) days prior to the Objection Deadline. No later than 16 court days prior to the Final Approval  
28 Hearing, Plaintiffs shall file and serve Defendants by electronic mail their Motion for Final

1 Approval of Class Action Settlement. No later than 5 court days prior to the Final Approval  
 2 Hearing, Plaintiffs shall file their Reply Brief in Support of Motion for Final Approval of Class  
 3 Action Settlement Agreement and their Reply Brief in Support of the Motion for an Award of  
 4 Attorneys' Fees and Expenses and Plaintiffs' Service Awards, including as needed to respond to  
 5 any valid and timely objections.

6 20. The Court adopts the following schedule for the remaining events in this case:

<b>Event</b>	<b>Date</b>
Defendants to advance to the Settlement Administrator the costs of notice	Within three (3) business days after Entry of this Order
Defendants to Provide Claims Administrator with the list of Settlement Class Members	Within five (5) days after Entry of this Order
Notice Program Commences	Within thirty-seven 37 days after entry of this Order
Notice Program Concludes	Within ninety-five (95) days after entry of this Order
Deadline to file Plaintiffs' Motion for Attorneys' Fees, Expenses, and Service Award	At least thirty-five (35) days prior to the Objection Deadline
Objection Deadline	Ninety (90) days after entry of this Order
Opt Out Deadline	Ninety (90) days after entry of this Order
Claims Deadline	One hundred-twenty (120) days after entry of this Order
Deadline for Plaintiffs to File Reply in further support of Motion for Final Approval and Motion for Attorneys' Fees, Expenses and Plaintiffs' Service Awards	No later than five (5) court days prior to the Final Approval Hearing

1 Final Approval Hearing

To be set by the Court and held in  
Department 39, at Contra Costa County  
Superior Court, 725 Court Street, Martinez,  
California 94553, details of which to be  
provided before the Final Approval Hearing  
on the Settlement Website.

2  
3  
4  
5 21. The existing stay of the Action shall remain in effect pending the Court's ruling  
6 on final approval. Any action brought by a Settlement Class Member concerning a Released  
7 Claim shall be stayed pending final approval of the Settlement.  
8

9 DATED: \_\_\_\_\_

10 \_\_\_\_\_  
11 HON. EDWARD G. WEIL  
12 JUDGE OF THE SUPERIOR COURT  
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# **EXHIBIT F**

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF CONTRA COSTA**

JOHN HAJNY, RICARDO  
VILLALOBOS, ANTHONY SERVICE  
and JEREMY ADAMS, individually and  
on behalf of all others similarly situated,

Plaintiffs,

v.

VOLKSWAGEN GROUP OF  
AMERICA, INC., AUDI OF AMERICA,  
LLC, AND SANCTUS, LLC D/B/A  
SHIFT DIGITAL,

Defendants.

Case No. \_\_\_\_\_

**FINAL JUDGMENT**

DATE: \_\_\_\_\_, 202\_  
TIME: \_\_:\_\_.m.  
JUDGE: Hon. Edward G. Weil  
DEPT: 39

1 WHEREAS, this matter came before the Court for hearing on \_\_\_\_\_, 202\_ at \_\_:\_\_.m.  
2 (“Final Approval Hearing”), in accordance with the (i) Order Granting Motion for Preliminary  
3 Approval of Class Action Settlement entered by this Court on \_\_\_\_\_, 202\_, and (ii) Plaintiffs’  
4 Motion for Final Approval of Class Action Settlement filed on \_\_\_\_\_, 202\_ seeking final  
5 approval of the settlement set forth in the Settlement Agreement filed on \_\_\_\_\_, 2022 (“SA”);

6 WHEREAS, the Court, having considered all papers filed in this action, oral arguments of  
7 counsel in this action and those persons appearing at the Final Approval Hearing, and otherwise being  
8 fully informed, and good cause appearing therefore; and

9 WHEREAS, unless otherwise defined herein, all capitalized words and terms contained in  
10 this Final Judgment shall have the same meanings as set forth in the SA (Section III, Definitions,  
11 ¶¶ 3.1 – 3.44).

12 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

13 1. This Court has jurisdiction over the subject matter of the Action, this litigation, and  
14 over all parties to the Action, including all Settlement Class Members.

15 2. The Court the Court finally certifies the following Class for settlement purposes  
16 only:

17 All persons residing in the United States to whom Volkswagen Group of America,  
18 Inc. and/or Audi of America, LLC sent notice that their Sensitive Personal  
19 Information and/or Personal Information may have been exposed as a result of the  
20 Incident.<sup>1</sup>

21 \_\_\_\_\_  
22 <sup>1</sup> “Sensitive Personal Information” or “SPI” means the following types of Personal  
23 Information: driver’s license numbers, Social Security numbers, credit or debit card numbers, bank  
24 account or routing numbers, social insurance numbers, dates of birth, and/or tax identification  
25 numbers.

26 “Personal Information” or “PI” means information that is or could be used, whether on its  
27 own or in combination with other information, to identify, locate, or contact a person. For purposes  
28 of this agreement, Personal Information or PI, does not include driver’s license numbers, Social

1           3.       The SA and the Preliminary Approval Order permits Settlement Class Members to  
2 exclude themselves from the Settlement. Excluded from the Action, this litigation and the  
3 Settlement Class are those persons who have submitted valid and timely requests for exclusion.  
4 Attached hereto as Exhibit A is a list of all persons excluded from the Action or the Settlement  
5 Class by submitting valid and timely requests for exclusion.

6           4.       This Court hereby enters Judgment in accordance with, and subject to, the terms set  
7 forth in the Order Granting Final Approval of Class Action Settlement, and the Class Representatives  
8 and the Settlement Class Members shall take nothing except as provided in the SA.

9           5.       Class Representatives Ricardo Villalobos, John Hajny, Anthony Service, and Jeremy  
10 Adams fairly and adequately represented the Class Members.

11           6.       Class Counsel M. Anderson Berry of Clayeo C. Arnold, A Professional Law Corp;  
12 Gayle M. Blatt of Casey Gerry Schenk Francavilla Blatt & Penfield LLP; Rachele R. Byrd of Wolf  
13 Haldenstein Adler Freeman & Herz LLP; and Karen Hanson Riebel of Lockridge Grindal Nauen  
14 P.L.L.P. fairly and adequately represented the Settlement Class Members.

15           7.       The Settling Parties shall take all steps necessary and appropriate to provide  
16 Settlement Class Members with the benefits to which they are entitled under the terms of the SA and  
17 pursuant to the Orders of the Court.

18           8.       Class Representatives Ricardo Villalobos, John Hajny, Anthony Service, and Jeremy  
19 Adams are each awarded a Service Payment of \$\_\_\_\_\_. Such funds shall be paid from the  
20 Settlement Fund.

21           9.       Class Counsel is hereby awarded \$\_\_\_\_\_ in attorneys' fees and  
22 \$\_\_\_\_\_ in expenses, which amounts are approved as fair and reasonable, in accordance  
23 \_\_\_\_\_  
24 \_\_\_\_\_  
25 Security numbers, credit or debit card numbers, bank account or routing numbers, social insurance  
26 numbers, dates of birth, and/or tax identification numbers.

1 with the terms of the SA. Such sums shall be paid from the Settlement Fund.

2 10. The Court hereby approves the SA and finds that the settlement is, in all respects, fair,  
3 reasonable, and adequate to the Settlement Class.

4 11. Upon the Effective Date of this Final Judgment, Class Representatives and each  
5 Settlement Class Member, on behalf of themselves and any other legal or natural persons who may  
6 claim by, through or under them, are deemed to have fully, finally and forever released and discharged  
7 the Released Parties from any and all Released Claims.

8 12. The Class Notice disseminated pursuant to the Notice Plan and by Order of this Court  
9 was the best notice practicable under the circumstances. The Class Notice provided due and adequate  
10 notice of those proceedings and of the matters set forth therein, including the proposed Settlement, to  
11 all persons entitled to such notice, and the Class Notice fully satisfied the requirements of California  
12 law and the requirements of due process.

13 13. Pursuant to the SA, California Code of Civil Procedure section 664.6, and rule  
14 3.769(h) of the California Rules of Court, this Court retains jurisdiction over the Parties to enforce  
15 the terms of the SA, the Order Granting Final Approval of Class Action Settlement, and this Final  
16 Judgment.

17 14. This document shall constitute a judgment for purposes of California Rules of Court,  
18 rule 3.769(h). The Clerk is directed to enter this Final Judgment forthwith.

19 15. This Final Judgment shall be posted on the settlement website until at least thirty (30)  
20 days after the Effective Date.

21 **IT IS SO ORDERED.**

22 DATED: \_\_\_\_\_

23 \_\_\_\_\_  
24 HON. EDWARD G. WEIL  
25 JUDGE OF THE SUPERIOR COURT

26 28656