

**UNITED STATES DEPARTMENT OF TRANSPORTATION
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION**
1200 New Jersey Avenue SE
Washington, D.C. 20590

_____))
In re:)
EA15-001)
Air Bag Inflator Rupture)
_____))

AGREEMENT

This Agreement is entered into between the National Highway Traffic Safety Administration (“NHTSA” or “the Agency”), an operating administration of the U.S. Department of Transportation, and Volkswagen Group of America, Inc. (“VW”) to address the recall of VW’s vehicles equipped with Takata SDI-D air bag inflators.

WHEREAS, the parties have reviewed findings from various sources, including but not limited to a study from TK Global (the successor to TK Holdings, Inc.), on the safety and service life of desiccated Takata air bag inflators.

WHEREAS, in consultation with NHTSA regarding the Agency’s evaluation of such sources, and out of an abundance of caution, VW agrees to recall certain vehicles specified herein that contain SDI-D phase-stabilized ammonium nitrate (“PSAN”) air bag inflators, which are desiccated inflators containing 2004 propellant.

NOW THEREFORE, the parties set forth the terms under which they have agreed to a risk-based schedule for recalling vehicles equipped with SDI-D inflators containing 2004 propellant.

I. Legal Authority

1. NHTSA and VW make this agreement, in light of NHTSA’s authority under the National Traffic and Motor Vehicle Safety Act of 1966, as amended and recodified (the “Safety Act”), 49 U.S.C. Chapter 301, as delegated by the Secretary of Transportation, 49 C.F.R. §§ 1.95, 501.2, to inspect and investigate, 49 U.S.C. § 30166(b)(1), to ensure that vehicles and equipment containing safety-related defects are recalled, 49 U.S.C. §§ 30118-30120, to ensure the adequacy of recalls, 49 U.S.C. § 30120(c), to accelerate remedy programs, 49 U.S.C. § 30120(c)(3), and to require any person to file reports or answers to specific questions, 49 U.S.C. § 30166(g).

II. Terms of Agreement

2. VW agrees to file three Defect Information Reports (“DIRs”), pursuant to 49 C.F.R. Part 573, as set forth in the following schedule:

DIR Deadline	Description of DIR Filing Commitment¹
December 31, 2020	All Model Year 2012-2014 vehicles containing SDI-D inflators installed in the vehicles as original equipment
January 1, 2023	All Model Year 2015-2016 vehicles containing SDI-D inflators installed in the vehicles as original equipment
January 1, 2025	All other vehicles of any Model Year containing SDI-D inflators

The filing of DIRs by VW trigger its obligations to conduct recalls under 49 U.S.C. §§ 30118-20 and 49 C.F.R. Parts 573 and 577.

3. To the maximum extent possible, VW agrees to take measures necessary to acquire in a reasonably expeditious manner and sustain its supply of remedy parts, to enable it to provide those remedy parts to dealers to remedy vehicles after each DIR launch without delay or disruption. To the extent necessary, VW agrees to allocate remedy parts based on risk, considering vehicle age and geographic location.

¹ A complete list of the vehicles in each DIR group is attached hereto as Annex A.

4. A modification or amendment to this Agreement, including the recalls and dates specified in Paragraph 2 (“Covered DIRs”), is subject to the agreement of both parties.

Notwithstanding that:

- a. VW agrees to consult with NHTSA regarding the potential acceleration of the Covered DIRs by filing them at an earlier date, if VW determines that it has a sufficient supply of remedy parts available to do so without negatively affecting supply for vehicles already under recall.
 - b. VW may present additional test data, analysis, information regarding supply shortages, or other relevant and appropriate evidence to NHTSA to modify or amend a Covered DIR or defer certain vehicles to a later Covered DIR filing date.
 - c. The parties agree to work together in good faith if any modifications or amendments to this Agreement become necessary or desirable as a consequence of events beyond the parties’ reasonable control.
5. VW agrees to continue to monitor its vehicles equipped with Takata SDI-D air bag inflators and to update NHTSA on the progress and findings of that work. To that end, VW agrees to submit a monitoring protocol to NHTSA, developed in consultation with NHTSA.
6. VW acknowledges that nothing in this Agreement alters its legal obligations under the Safety Act and related regulations to recall vehicles when it learns they contain a defect and decides in good faith that the defect is related to motor vehicle safety. Should further monitoring, investigation, or other available information reveal an unreasonable risk to safety within the meaning of the Safety Act based on the occurrence of field ruptures, testing, or other information, VW will file a DIR (pursuant to 49 C.F.R. Part 573) earlier than the otherwise applicable deadline above in Paragraph 2.

III. Miscellaneous

7. This Agreement cannot be modified, amended, or waived except by an instrument in writing signed by the parties.

8. Nothing in this Agreement shall be interpreted or construed in a manner inconsistent with, or contravening, any federal law, rule, or regulation at the time of the execution of this Agreement, or as amended thereafter.

9. Nothing in this Agreement relieves VW of its obligation to submit any other reports or satisfy any other obligations required by law.

10. Should any condition or other provision contained herein be held invalid, void, or illegal by any court of competent jurisdiction, it shall be deemed severable from the remainder of this Agreement and shall in no way affect, impair, or invalidate any other provision of this Agreement.

11. This Agreement shall be effective upon execution by both VW and NHTSA. Any breach of the obligations under this Agreement may, at NHTSA's option, be immediately enforceable in any United States District Court. VW agrees that it will not raise any objection as to venue.

12. This Agreement has been negotiated and prepared by both VW and NHTSA. If any of the Agreement's provisions require a court's interpretation, no ambiguity found in this Agreement shall be construed against the drafter.

13. The parties who are the signatories to this Agreement have the legal authority to enter into this Agreement, and each party has authorized its undersigned to execute this Agreement on its behalf.

14. This Agreement may be executed in counterparts, each of which shall be considered effective as an original signature.

15. This Agreement is a fully integrated agreement and shall in all respects be interpreted, enforced, and governed under the federal law of the United States. This Agreement sets forth the entire agreement between the parties with regard to the subject matter hereof.

There are no promises, agreements, or conditions, express or implied, other than those set forth in this Agreement.

NATIONAL HIGHWAY TRAFFIC SAFETY
ADMINISTRATION,
U.S. DEPARTMENT OF TRANSPORTATION

Dated: May 5, 2020

By: James Owens
Digitally signed by James Owens
DN: cn=James Owens, o, ou=NHTSA,
email=james.owens@dot.gov, c=US
Date: 2020.05.05 09:25:52 -04'00'

James C. Owens
Deputy Administrator

Dated: May 5, 2020

By: JONATHAN CHARLES MORRISON
Digitally signed by JONATHAN
CHARLES MORRISON
Date: 2020.05.05 09:18:43 -04'00'

Jonathan C. Morrison
Chief Counsel

Dated: May 5, 2020

By: KERRY E KOLODZIEJ
Digitally signed by KERRY E
KOLODZIEJ
Date: 2020.05.05 09:07:28 -04'00'

Kerry Kolodziej
Assistant Chief Counsel
for Litigation and Enforcement

Dated: May 5, 2020

By:   Digitally signed by STEPHEN HENCH
Date: 2020.05.05 08:56:27 -04'00'

Stephen Hensch
Trial Attorney

VOLKSWAGEN GROUP OF AMERICA, INC.

Dated: April 30, 2020

By: Sandvig Christopher
VWPKI 930CBB999E53339A
930CBB999E53339A  Digitally signed by Sandvig Christopher
VWPKI 930CBB999E53339A
DN: dc=vwg, cn=Sandvig Christopher
VWPKI 930CBB999E53339A
Date: 2020.04.30 14:20:47 -04'00'

Christopher T. Sandvig
Director, Group Customer Protection

Dated: April 30, 2020

By: Klapper Antony VWPKI
A57DB1BAB1F6DD4E  Digitally signed by Klapper Antony
VWPKI A57DB1BAB1F6DD4E
Date: 2020.04.30 13:06:39 -04'00'

Antony J. Klapper
Deputy General Counsel, Product Liability and
Regulatory

Dated: April 30, 2020

By: **Brian Kapatkin**  Digitally signed by Brian Kapatkin
Date: 2020.04.30 09:03:32 -04'00'

Brian J. Kapatkin
Corporate Counsel, Product Regulatory

ANNEX A

DIR Group 1 – Deadline December 31, 2020

2012-2014 VW Beetle

2012-2014 VW Beetle Convertible

DIR Group 2 – Deadline January 1, 2023

2015-2016 VW Beetle

2015-2016 VW Beetle Convertible

DIR Group 3 – Deadline January 1, 2025

2017-2019 VW Beetle

2017-2019 VW Beetle Convertible

2011-2014 VW Passat²

² Only such vehicles that received SDI-D inflators as remedy parts in earlier Takata-related recalls.