

## **MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding is entered into between Fairfax County School Board, which operates the Fairfax County Public Schools (Schools) and Volkswagen Group of America, Inc. (Volkswagen).

**WHEREAS** both Schools and Volkswagen believe that their joint activities will provide an education initiative designed to support students and teachers interested in advanced automotive technology and the next generation of automotive engineering and is to the benefit of the students, families, schools, and the community; and

**WHEREAS** the parties will focus on creating a comprehensive automotive technologies education initiative in 13 high schools in a multi-year and multi-faceted partnership to benefit more than 1,200 students by creating a late model training program (Program) and by implementing an environmental studies element rooted in automotive sustainability beliefs; and

**WHEREAS** the Program will train next generation engineers and mechanics; foster a highly educated group of environmentally conscious engineers and mechanics; and build a skilled homegrown local workforce; and

**WHEREAS** Schools and Volkswagen believe that their joint activities will confer a substantial benefit upon Schools, in general, and upon the students in particular, these parties wish to memorialize the terms of their understanding.

Now, therefore, in consideration of the above, the parties agree as follows.

### **Term of Agreement.**

Unless terminated earlier in accordance with the provisions herein, the term of this Agreement shall commence on June 4, 2009 and end on June 4, 2013.

### **Volkswagen's Duties and Responsibilities.**

Volkswagen will donate 13 vehicles, including some clean diesel Jettas, to Schools, provide access to Volkswagen's mechanic online training for the School's teachers, donate to Schools specialized tools used for working on the vehicles, and other teaching tools that may be used instructionally with students. Volkswagen will also donate \$100,000 to Fairfax County Public Schools over the term of the agreement.

### **School's Duties and Responsibilities.**

The Schools will work with Volkswagen to develop a plan to find green alternatives for the disposal of the donated vehicles. The Schools will work with other higher education institutions for potential vertical articulation for their teachers and students. Schools will share the donated clean diesel Jettas with each of the 13 relevant schools.

### **Mutual Duties and Responsibilities.**

The parties will develop and implement a train-the-teacher program in which Volkswagen technicians train School automotive technology teachers about the vehicles' operation, maintenance, and repair. The parties will also develop reciprocal shadowing opportunities where employees and/or students visit job sites. The parties will develop marketing plans to promote the partnership and programs.

### **Termination.**

**By the Schools.** Notwithstanding any other provision of this agreement, the Schools may terminate or, at its option, suspend this Memorandum of Understanding for cause in the event that any officer or director of Volkswagen or any member of the

Volkswagen staff affiliated with the Program is convicted of a felony, or any offense which involves the sexual molestation, physical or sexual abuse or neglect or rape of a child or which otherwise is referred to in Va. Code Ann. § 22.1-296.2(A), as the same may be amended from time to time.

**By Schools or Volkswagen.** Either Schools or Volkswagen, as the case may be, may terminate or, at its option, suspend this Memorandum of Understanding for cause in the event the other party fails to perform any material obligation required to be performed by it pursuant to this Memorandum of Understanding; provided, the non-breaching party first gives notice to the other party of the breach with reasonable detail and the opportunity to cure the breach within 30 days after the date of the notice. Should the breach not be cured within such time period, the non-breaching party shall promptly confirm its termination or suspension of the Memorandum of Understanding in writing to the other party.

**Liability.**

Neither party to this contract shall be liable for any damages, liabilities, judgments, attorney's fees, settlements, or other expenses arising out of claims for the negligent acts or omissions of the other party. To the extent permitted by Virginia law, each party shall be responsible for the actionable errors, acts, and omissions of its agents, volunteers and/or employees, causing loss or harm to persons not a party to this Memorandum of Understanding, as well as the other party.

**COMPLIANCE WITH SCHOOL BOARD POLICIES AND REGULATIONS AND BACKGROUND CHECK PROCEDURES.**

Each employee, agent, or subcontractor of Volkswagen who performs work on the School's property shall be subject to all reporting and fingerprinting requirements,

criminal background investigations, personnel policies and regulations in effect from time to time during the Term to the same extent as if each such employee, agent, or subcontractor was an employee of the School Board. Prior to the commencement of the Term, Volkswagen shall cause each employee, agent, or subcontractor to sign an agreement in form and substance satisfactory to the School Board containing such employee's, agent's, or subcontractor's agreement to abide by the School Board's Professional Expectations/Standards of Conduct (excerpt from Fairfax County Public Schools (FCPS) Substitute Teachers' Handbook).

**VOLKSWAGEN CERTIFICATION REGARDING CRIMINAL CONVICTIONS.**

By the signature of its authorized official on this MOU, Volkswagen certifies that neither the contracting official nor any employees, agents or subcontractors who will have direct contact with students has been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child. Volkswagen agrees to remove from this contract any employee, agent or subcontractor who has been determined by the School Board to be disqualified from service due to such convictions or the failure to truthfully report such convictions.

In the event that the School determines that any employee, agent, or subcontractor, at any time during the Term, has failed to satisfy the requirements set forth in the Virginia Code with regard to reporting and fingerprinting requirements and/or criminal background investigations and criminal certification requirements, or otherwise fails to comply with applicable rules and requirements set forth in the School Board's Professional Expectations/Standards of Conduct, the School Board shall issue written notice of such determination to Volkswagen, and Volkswagen shall promptly cause such employee, agent, or subcontractor to leave or be removed from the School Board's

property. In such event, Volkswagen shall promptly assign a replacement who shall be acceptable in all respects to the School Board and shall agree, in writing, to abide by the terms and conditions of this Agreement, including without limitation, the confidentiality provisions set forth in this Agreement.

#### **ILLEGAL ALIEN CERTIFICATION.**

By the signature of its authorized official on this MOU, Volkswagen hereby covenants and agrees that it does not, and shall not during the performance of this Agreement, knowingly employ an unauthorized alien (as such term is defined in the federal Immigration Reform and Control Act of 1986).

#### **STUDENT RECORDS.**

##### **ACCESS TO PUPIL RECORDS.**

For purposes of obtaining access to Pupil Records in connection with the performance of this agreement, each employee, agent, or subcontractor of Volkswagen shall abide by the requirements of Confidentiality of Student Records Section herein and shall be deemed to be the designated representative of the School Principal.

#### **CONFIDENTIALITY OF STUDENT RECORDS.**

Volkswagen hereby covenants and agrees that it shall maintain in strict confidence and trust, and that it shall cause each employee and all other agents, subcontractors, and authorized representatives of Volkswagen to maintain in strict confidence and trust, all student records, reports and other documents or materials of any nature relating to any student enrolled in Fairfax County Public Schools (collectively, the "Pupil Records"). Volkswagen shall not use or disclose, and shall take all reasonable steps necessary to ensure that no employee of Volkswagen or agents, subcontractors, or authorized representatives shall use or disclose any Pupil Records. Upon expiration of

the Term, or termination of this Agreement for any reason, Volkswagen promptly shall deliver to the School Board, and shall take all reasonable steps necessary to cause each employee of Volkswagen and all agents, subcontractors, and authorized representatives of Volkswagen promptly to deliver to the School Board, all Pupil Records. Volkswagen shall (i) designate one employee to be responsible for ensuring Volkswagen's confidentiality of Pupil Records, (ii) train Volkswagen Staff with regard to confidentiality responsibilities, and (iii) maintain at all times a list of Contractor Staff members with access to Pupil Records.

**RESPONSE TO INFORMATION THAT PARTICIPATING PUPIL OR OTHERS ARE AT RISK OF HARM.**

Volkswagen shall notify FCPS staff of information that has been disclosed or obtained in any form that suggests that a Pupil may be at risk for harming himself/herself or others and/or if the student has been harmed by someone else, to include abuse or neglect by a person responsible for the Pupil's care.

Volkswagen shall cooperate as necessary with School staff to comply with the current version of School Board Regulation 2115 which requires that a report be made to Child Protective Services within 72 hours of a suspicion of child abuse or neglect.

Volkswagen shall cooperate as necessary with School staff to comply with Section 22.1-272.1 of the Code of Virginia, requiring notification to parent or to Fairfax County Department of Social Services if the Participating Pupil is at imminent risk of suicide.

**APPROPRIATIONS.**

Multiyear contracts may be continued each fiscal year only after funding appropriations and program approval have been granted. In the event that funding

appropriation/program approval has not been granted, then the affected multi-year contract becomes null and void, effective July 1 of the fiscal year.

**PROVISIONS REQUIRED BY LAW DEEMED INSERTED.**

Each and every provision of laws and clauses required by law to be inserted in this contract shall be deemed to be inserted herein and hereby incorporated by reference and the contract shall be read and enforced as though it were included herein and if through mistake or otherwise, any such provision is not inserted or not correctly inserted, then upon application of either party the contract shall forthwith be physically amended to make such insertion.

**Notices.**

All notices and other communications hereunder shall be in writing and shall be hand-delivered, sent by fax and a duplicate copy transmitted by another method of delivery authorized hereunder, sent by certified first class mail, postage prepaid, or sent by nationally recognized express courier service. Such notices and other communications shall be effective upon receipt if hand-delivered or sent by fax (with a duplicate copy transmitted by another method of delivery authorized hereunder), five (5) days after mailing if sent by mail, and one (1) day after dispatch if sent by express courier, to the following addresses and or fax numbers:

If to the Schools:	Fairfax County Public Schools
	8115 Gatehouse Road
	Fairfax, Virginia 22042
Attention:	Jack D. Dale, Ph.D.
	Superintendent of Schools
Fax:	(571) 423-1007

If to Volkswagen: Volkswagen Group of America, Inc.  
2200 Ferdinand Porsche Drive  
Herndon, VA 20171  
Attention: General Counsel

Fax: (703) 364-7080

Either party may designate, by notice given to the other in the manner prescribed herein, any further or different addresses and/or fax numbers to which subsequent notices shall be sent.

**Benefit of Memorandum of Understanding.**

This Memorandum of Understanding shall be enforceable and binding upon, and shall inure to the benefit of; the only parties hereto, their respective successors and permitted assigns. Nothing contained herein, express or implied, is intended to or shall confer upon any other person any rights, benefits or remedies of any nature whatsoever under or by reason of this Memorandum of Understanding.

**No Waiver.**

The failure by either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way affect the right to require such performance or compliance at any time thereafter. The waiver by either party of a breach of any provision hereof shall not be taken or held to be a waiver of any preceding or succeeding breach of such provision or as a waiver of the provision itself. No waiver of any kinds shall be effective or binding, unless it is in writing and is signed by the party against whom such waiver is sought to be enforced.

**Assignment.**

This Memorandum of Understanding may not be assigned by either party, in total or in part or otherwise, to any other person or entity without the prior written consent of the other party hereto.

**Survival of Representations.**

All representations and warranties contained herein shall survive the execution and delivery of this Memorandum of Understanding.

**Nature of Relationship.**

Nothing contained herein shall have the effect of establishing or creating any joint venture or partnership between the parties or shall be construed to create the relationship of employer and employee between the parties.

**Compliance with Laws.**

Each of the parties to this Memorandum of Understanding covenants and agrees that it shall abide by all laws, rules and regulations applicable to the conduct of its business activities, and shall make and file all required reports, filings and affidavits required by federal, state or local law, rule or regulation..

**Entire Memorandum of Understanding Amendment.**

This Memorandum of Understanding contains the entire understanding of the parties regarding subject matter hereof and supersedes all prior agreements, arrangements and understandings with respect thereto between Volkswagen and School. This Memorandum of Understanding may be amended, modified, superseded, cancelled, renewed or extended only by an agreement in writing executed by both parties hereto.

**Governing Law; Venue.**

This Memorandum of Understanding shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without reference to conflict of law principles. Any dispute hereunder which is not otherwise resolved by the parties hereto shall be decided by a court of competent jurisdiction located in the Commonwealth of Virginia.


**Counterparts; Headings.**

This Memorandum of Understanding may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one document. The underlined headings contained herein are for convenience only and shall not affect the interpretation of this Memorandum of Understanding.

**IN WITNESS WHEREOF**, the parties have caused this Memorandum of Understanding to be executed by their duly authorized officers.

**FAIRFAX COUNTY SCHOOL BOARD**

By: \_\_\_\_\_

  
**Jack D. Dale, Ph.D.**  
**Superintendent of Schools**

**VOLKSWAGEN GROUP OF  
AMERICA, INC.**

By: \_\_\_\_\_

  
NAME