



August 3, 2007

**VIA FACSIMILE AND BY CERTIFIED RETURN RECEIPT REQUESTED**

H. Rodgin Cohen, Esq.  
Sullivan & Cromwell LLP  
125 Broad Street  
New York, New York 10004

Subject: Volkswagen Bank USA, Salt Lake City, Utah  
Interagency Notice of Change in Control

Dear Mr. Cohen:

On March 26, 2007, Dr. Ing h.c. F. Porsche Aktiengesellschaft, Stuttgart, Germany ("Porsche"), transmitted to the FDIC an Interagency Notice of Change in Control ("Notice") regarding Porsche's proposed acquisition of control of Volkswagen Bank USA, Salt Lake City, Utah, (the "Bank"). The Bank is a Utah-chartered, nonmember bank. The Bank is also an indirect subsidiary of Volkswagen of America, Inc., a corporation organized and existing under the laws of the State of Delaware ("Volkswagen-America") and an indirect subsidiary of Volkswagen AG, a German corporation ("Volkswagen").

In connection with the Notice, Porsche has entered into a Divestiture Agreement with the FDIC in which Porsche has agreed to use reasonable steps within its power to, among other things, cause Volkswagen to divest control of the Bank upon the occurrence of one or more specified events and within one year of the date of any non-disapproval of the proposed acquisition issued by the FDIC (unless the Bank's insured status under the Federal Deposit Insurance Act (the "FDI Act")<sup>1</sup> is sooner terminated). In addition, Porsche has entered into a Consent to Jurisdiction and Agreement to Maintain Agent for Service of Process.

Also in connection with the Notice, Volkswagen-America and the Bank have entered into a Deposit Insurance Termination Agreement in which Volkswagen-America and the Bank have agreed to, among other things, cause the Bank's deposit insurance under the FDI Act to be terminated within one year of the date of any non-disapproval of the proposed acquisition issued by the FDIC (unless Volkswagen sooner divests control of the Bank).

An executed copy of each of the agreements mentioned above is attached.

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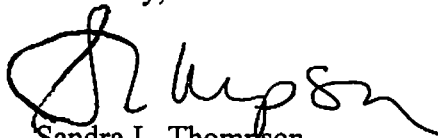
<sup>1</sup> 12 U.S.C. § 1811, *et. seq.*

We have considered all the information, representations, agreements, and commitments related to the statutory factors in the Change in Bank Control Act of 1978, section 7(j) of the FDI Act, 12 U.S.C. 1817(j), (the "CIBCA") including, but not limited to, the information submitted in connection with the Notice; the commitments and agreements by Porsche, Volkswagen-America, and the Bank; and the views of the State of Utah Department of Financial Institutions. Based on that information and those representations, agreements, and commitments, and subject to the conditions detailed above, the FDIC hereby conveys its intent not to disapprove the acquisition proposed in the Notice.

An acquisition which is inconsistent with that information or the representations, agreements, conditions, and commitments may be viewed as a violation of the CIBCA and may result in enforcement action (including for example, civil monetary penalties). Any material changes to the information provided in the Notice, for example, changes in financial or other conditions must be reported immediately to the San Francisco Regional Office in writing.

Finally, please notify the San Francisco Regional Office in writing if a control enhancing event, as specified in the Divestiture Agreement, occurs. Should you have any questions, please contact Regional Director John F. Carter at (415) 808-8059.

Sincerely,



Sandra L. Thompson  
Director

Enclosure

cc: Janine C. Guido, Esq., Sullivan & Cromwell LLP  
G. Edward Leary, Utah Department of Financial Institutions  
Horst Meima, Volkswagen Bank USA

## DEPOSIT INSURANCE TERMINATION AGREEMENT

**THIS DEPOSIT INSURANCE TERMINATION AGREEMENT** (“Agreement”) is made and entered into as of June 20<sup>th</sup>, 2007, by and among the **FEDERAL DEPOSIT INSURANCE CORPORATION** (the “FDIC”), a Federal banking agency established and existing pursuant to the Federal Deposit Insurance Act (FDI Act)<sup>1</sup>, **Volkswagen of America, Inc.** (“Volkswagen-America”), a corporation duly organized and existing under the laws of the State of Delaware, whose headquarters are located at 3800 Hamlin Rd., Auburn Hills, Michigan, and **Volkswagen Bank USA** (the “Bank”), an industrial bank chartered and operating pursuant to the laws of the State of Utah, whose headquarters are located at 5295 South 300 West, Salt Lake City, Utah.

### WITNESSETH:

**WHEREAS**, on July 28, 2006, the FDIC imposed a six-month moratorium<sup>2</sup> on deposit insurance applications and change in control notices with respect to all industrial banks, and then on January 31, 2007, extended the moratorium for one year with respect to industrial banks that would be controlled by companies engaged in nonfinancial activities (the “Extended Moratorium”)<sup>3</sup>;

**WHEREAS**, the Bank is a Utah-chartered, nonmember bank and an indirect subsidiary of Volkswagen-America;

**WHEREAS**, the FDIC is authorized by section 7 of the FDI Act, 12 U.S.C. § 1817(j), to consider and act on all notices of change in bank control filed with respect to state-chartered, nonmember banks;

**WHEREAS**, by letter dated March 26, 2007, Dr. Ing h.c. F. Porsche Aktiengesellschaft (“Porsche”) transmitted to the FDIC an Interagency Notice of Change in Control regarding Porsche’s proposed acquisition of control of the Bank (the “Notice”);

**WHEREAS**, by letter dated April 2, 2007, the Bank informed the FDIC that Volkswagen-America has decided to discontinue, and is in the process of unwinding, the Bank’s operations;

**WHEREAS**, Porsche is a company engaged in nonfinancial activities and, therefore, its proposed acquisition of the Bank would be subject to the Extended Moratorium;

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<sup>1</sup> 12 U.S.C. § 1811 *et seq.*

<sup>2</sup> See 71 Fed. Reg. 43482 (August 1, 2006).

<sup>3</sup> See 72 Fed. Reg. 5290 (February 5, 2007).

**WHEREAS**, Volkswagen-America and the Bank each desire that the FDIC accept and act on the Notice prior to the end of the Extended Moratorium, and each is willing to enter into this Agreement;

**WHEREAS**, this Agreement will enable the FDIC to better identify, evaluate, and control the potential risks to the Bank and to the Deposit Insurance Fund arising out of the proposed acquisition; and

**WHEREAS**, the FDIC may not accept the Notice or process the Notice if Volkswagen-America and the Bank do not enter into this Agreement;

**NOW THEREFORE**, in consideration of the terms, conditions, and commitments contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

I. If the FDIC accepts the Notice and issues a letter of intent not to disapprove the Notice ("Nondisapproval"):

A. The Bank shall not, without the prior written consent of the FDIC,

1. make a material change in its business plan, other than to facilitate the termination of the Bank's deposit insurance and the liquidation of the Bank;
2. add or replace a member of its board of directors;
3. add or replace a senior executive officer;
4. hire a senior executive officer who is associated in any manner (e.g., as a director, officer, employee, agent, owner, partner, or consultant) with an affiliate of the Bank; or
5. enter into any contract for services essential to the operations of the Bank (for example, loan servicing function) with Porsche or any subsidiary thereof, except as necessary to facilitate liquidation of the Bank.

B. Volkswagen-America and the Bank shall cause the Bank's deposit insurance under the FDI Act to be terminated within one year after the date of the Nondisapproval, unless Porsche sooner divests control of the Bank.

II. Volkswagen-America shall maintain the Bank's capital and liquidity at such levels as the FDIC deems appropriate, and/or take such other actions as the FDIC deems appropriate to provide the Bank with a resource for additional capital and liquidity including, for example, pledging assets, obtaining and maintaining a letter of credit, and indemnifying the Bank.

### III. Termination.

This Agreement shall terminate upon the occurrence of either of the following events:

- A. termination of the Bank's Federal deposit insurance under the FDI Act, or
- B. divestiture of control of the Bank by Porsche,

except that liabilities arising out of any violations of the terms of this Agreement occurring prior to either such event, together with the rights and remedies with respect to such violations, shall survive termination of this Agreement.

### IV. Miscellaneous Provisions.

A. Definitions. The term "board of directors," with respect to a company organized or chartered in the United States, includes, for a corporation, the board of directors, and for a limited liability company, the board of managers or the managing members, as appropriate. The term "control" has the meaning given it in the Change in Bank Control Act, section 7(j) of the FDI Act, 12 U.S.C. § 1817(j), and includes the rebuttable presumption of control at 12 C.F.R. § 303.82(b)(2). Any other terms used in this Agreement that are not otherwise defined herein have the meanings given them in section 3 of the FDI Act, 12 U.S.C. § 1813.

B. Enforceability as a Written Agreement. In addition to any other remedies provided by law, this Agreement is binding and enforceable by the FDIC as a written agreement pursuant to section 8 of the FDI Act, 12 U.S.C. § 1818.

C. Authority of Volkswagen-America and Bank. The boards of directors of Volkswagen-America and the Bank have each adopted and issued a resolution authorizing their respective companies to enter into and carry out this Agreement. A certified copy of each such resolution for each such party is attached hereto as Exhibit B and incorporated herein by reference. In addition, each such company has authorized, executed, and issued all other documents necessary to make this Agreement binding and enforceable with respect to such company, and to facilitate full compliance with the provisions of this Agreement.

D. Governing Laws. This Agreement and the rights and obligations hereunder shall be governed by, and shall be construed in accordance with, the Federal law of the United States of America, and, in the absence of such controlling Federal law, in accordance with the laws of the State of Utah.

E. No Waiver. No failure to exercise, and no delay in the exercise of, any right or remedy on the part of any of the parties to this Agreement shall operate as a waiver or termination thereof. Further, any exercise or partial exercise of any right or remedy relating to this Agreement shall not preclude any other or further exercise of such right or remedy or any other right or remedy.

F. No Oral Change. This Agreement may not be modified, amended, changed, discharged, terminated, released, renewed, or extended, in whole or in part, in any manner except by a writing signed by all of the parties.

G. Addresses. Any correspondence or submissions required by, or related to, this Agreement shall be provided in writing and shall be delivered by hand, or sent by United States express mail or commercial express mail, postage prepaid, and addressed as follows:

If to Volkswagen-America:

VP General Counsel & Secretary  
Volkswagen of America, Inc.  
3800 Hamlin Rd.  
Auburn Hills, MI 48326

If to the Bank:

President  
Volkswagen Bank USA  
5295 South 300 West, Suite 500  
Salt Lake City, UT 84107

If to the FDIC:

Associate Director, Division of Supervision and Consumer Protection  
Supervision and Applications Branch  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street, NW  
Washington, D.C. 20429

H. No Assignment. This agreement may not be assigned or transferred, in whole or in part, without the prior written consent of the FDIC.

I. Complete Agreement. This Agreement is the complete and exclusive statement of the agreement among the parties concerning the subject matter of this Agreement, and supersedes all prior written or oral communications, representations, and agreements relating to the subject matter of this Agreement.

J. Severability. In the event any one or more of the provisions contained herein should be held invalid, illegal, or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. The parties shall endeavor in good faith to replace the invalid, illegal, or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal, or unenforceable provisions.

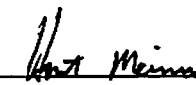
IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year indicated above.

**VOLKSWAGEN OF AMERICA, INC.**

By: 

Printed Name & Title: F. WITTER, CEO

**VOLKSWAGEN BANK USA**

By: 

Printed Name & Title: Horst Meima, President

**FEDERAL DEPOSIT INSURANCE CORPORATION**

By: 

Printed Name & Title: S. Thompson, Director

Execution Copy

## DIVESTITURE AGREEMENT

THIS DIVESTITURE AGREEMENT ("Agreement") is made and entered into as of July 11, 2007, by and between the **FEDERAL DEPOSIT INSURANCE CORPORATION** (the "FDIC"), a Federal banking agency established and existing pursuant to the Federal Deposit Insurance Act (FDI Act),<sup>1</sup> and **Dr. Ing h.c. F. Porsche Aktiengesellschaft** ("Porsche"), a corporation duly organized and existing under the laws of the Federal Republic of Germany, whose headquarters are located at Porscheplatz 1, 70435 Stuttgart, Germany.

### WITNESSETH:

**WHEREAS**, the FDIC is authorized by section 7(j) of the FDI Act, 12 U.S.C. § 1817(j), to consider and act on all notices of change in bank control filed with respect to state-chartered, nonmember banks;

**WHEREAS**, Volkswagen Bank USA (the "Bank") is a Utah-chartered, nonmember bank and an indirect subsidiary of Volkswagen of America, Inc. ("Volkswagen-America"), a Delaware corporation, which, in turn, is an indirect subsidiary of Volkswagen Aktiengesellschaft ("Volkswagen-Germany"), a corporation duly organized and existing under the laws of the Federal Republic of Germany;

**WHEREAS**, by letter dated March 26, 2007, Porsche transmitted to the FDIC an Interagency Notice of Change in Control regarding Porsche's proposed acquisition of control of the Bank (the "Notice");

**WHEREAS**, on July 28, 2006, the FDIC imposed a six-month moratorium<sup>2</sup> on deposit insurance applications and change-in-control notices with respect to all industrial banks, and then on January 31, 2007, extended the moratorium for one year with respect to industrial banks that would be controlled by companies engaged in nonfinancial activities (the "Extended Moratorium")<sup>3</sup>;

**WHEREAS**, Porsche is a company engaged in nonfinancial activities and, therefore, its proposed acquisition of the Bank would in the view of the FDIC be subject to the Extended Moratorium;

**WHEREAS**, Volkswagen-America has executed an agreement with the FDIC in which Volkswagen-America committed to cause the Bank's deposit insurance to be terminated within one year of the date, if any, that the FDIC issues a letter of intent not to disapprove the Notice;

<sup>1</sup> 12 U.S.C. § 1811 *et seq.*

<sup>2</sup> See 71 Fed. Reg. 43482 (August 1, 2006).



**WHEREAS**, Porsche desires that the FDIC accept and act on the Notice prior to the end of the Extended Moratorium and is willing to enter into this Agreement; and

**WHEREAS**, this Agreement will enable the FDIC to better identify, evaluate, and control the potential risks to the Bank and to the Deposit Insurance Fund arising out of the proposed acquisition.

**NOW THEREFORE**, in consideration of the terms, conditions, and commitments contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

- I. If the FDIC accepts the Notice and issues a letter of intent not to disapprove the Notice ("Nondisapproval"), Porsche:
  - A. shall submit to the FDIC an initial listing of all of its subsidiaries within ten calendar days after the date of the Nondisapproval, and update the list annually;
  - B. hereby consents to examination by the FDIC of Porsche and each of its subsidiaries to monitor compliance with the provisions of the FDI Act and any other federal law that the FDIC has specific jurisdiction to enforce against such company or subsidiary and those governing transactions and relationships between any depository institution subsidiary and its affiliates;
  - C. shall submit to the FDIC an annual report regarding its operations and activities, in the form and manner prescribed by the FDIC, and such other reports with respect to Porsche and its subsidiaries as may be requested by the FDIC to keep the FDIC informed as to their financial conditions, systems for monitoring and controlling financial and operating risks, and transactions with the Bank; and compliance by Porsche and its subsidiaries with applicable provisions of the FDI Act and any other Federal laws that the FDIC has specific jurisdiction to enforce against such company or subsidiary;
  - D. shall maintain such records as the FDIC may deem necessary to assess the risks to the Bank or to the Deposit Insurance Fund;
  - E. shall have no representation, direct or indirect, on the board of directors of the Bank nor in the management of the Bank; and
  - F. except as provided in paragraphs II.B.1., II.B.2., II.B.3 and II.D. below, shall not participate in the conduct of the affairs of the Bank.
  
- II. Porsche shall also comply with the provisions of paragraph II.B. as limited by paragraph II.C. below, and paragraph II.D., if (i) the FDIC accepts the Notice and issues

the Nondisapproval and (ii) one or more of the control-enhancing events listed in paragraph II.A. below occurs.

A. Control-Enhancing Events include:

1. the Volkswagen Act<sup>4</sup> is repealed, and after such repeal, Porsche owns, controls, or holds with power to vote more than 20% of the outstanding voting stock of Volkswagen-Germany;
2. Porsche obtains the power to vote 25% or more of the outstanding voting stock of Volkswagen-Germany that is eligible to vote; and
3. Porsche has, at any time, more than two representatives on the board of directors of Volkswagen-Germany (it being understood that Prof. Dr. techn. h.c. Ferdinand Piëch, current Chairman of the Supervisory Board of Volkswagen-Germany, is not deemed a representative of Porsche on the board of directors of Volkswagen-Germany during his present term).

B. Porsche shall take all reasonable steps within its power to procure that

1. an independent audit of the Bank is annually performed;
2. the Bank does not expand, engage in any activities in which it was not lawfully engaged on March 26, 2007, or establish any branches which were not approved by the FDIC as of March 26, 2007; and
3. within one-year after the date of the Nondisapproval, unless the Bank's insured status under the FDI Act is sooner terminated, Volkswagen-Germany divests control of the Bank to one or more companies that is (are) not affiliated with Porsche or Volkswagen-Germany and that is (are) engaged solely in "financial activities," as that term is defined in the FDIC's Notice of Limited Extension of Moratorium,<sup>5</sup> and/or one or more individuals not associated in any manner (e.g., as a director, officer, employee, agent, owner, partner, or consultant) with Porsche or Volkswagen-Germany.

C. It is understood that the "reasonable steps within its power" to be taken by Porsche in accordance with paragraph II.B. above are reasonable good faith efforts that are not in violation of applicable law and that do not give rise to

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<sup>4</sup> *Law On The Transfer Of Shares In Volkswagen Gmbh Into Private Ownership* of July 21, 1960, Federal Gazette I 1960, 585, as amended by the law of 31 July 1970, Federal Gazette I 1970, 1149. Essentially, this German law prevents any shareholder of Volkswagen-Germany from voting more than 20% of the outstanding voting stock of Volkswagen-Germany even if that shareholder holds more than 20%.

claims for compensation under sections 311 and 317 of the German Stock Corporation Act.

- D. Porsche shall not take any steps to prevent Volkswagen-Germany from maintaining the Bank's capital and liquidity at such levels as the FDIC deems appropriate, and taking such other actions as the FDIC deems appropriate to provide the Bank with a resource for additional capital and liquidity including, for example, pledging assets, obtaining and maintaining a letter of credit, and indemnifying the Bank.

### III. Termination.

This Agreement shall terminate upon the occurrence of either of the following events:

- A. termination of the Bank's Federal deposit insurance under the FDI Act, or
- B. divestiture of control of the Bank by Volkswagen-Germany, as provided in paragraph II.B.3. above,

except that liabilities arising out of any violations of the terms of this Agreement occurring prior to either such event, together with the rights and remedies with respect to such violations, shall survive termination of this Agreement.

### IV. Miscellaneous Provisions.

A. Definitions. The term "board of directors," with respect to a company organized or chartered in the United States, includes, for a corporation, the board of directors, and for a limited liability company, the board of managers or the managing members, as appropriate. The term "board of directors," with respect to a company organized in the Federal Republic of Germany, refers to the supervisory board. The term "control" has the meaning given it in the Change in Bank Control Act, section 7(j) of the FDI Act, 12 U.S.C. § 1817(j), and includes the rebuttable presumption of control at 12 C.F.R. § 303.82(b)(2). Any other terms used in this Agreement that are not otherwise defined herein have the meanings given them in section 3 of the FDI Act, 12 U.S.C. § 1813.

B. Enforceability as a Written Agreement. In addition to any other remedies provided by law, this Agreement is binding and enforceable by the FDIC as a written agreement pursuant to section 8 of the FDI Act, 12 U.S.C. § 1818.

C. Consent to Jurisdiction. Porsche has executed and delivered to the FDIC a "Consent to Jurisdiction and Agreement to Maintain Agent for Service" in the form attached as Exhibit A

D. Authority of Porsche. This Agreement has been duly authorized and executed by Porsche and constitutes a binding and enforceable obligation of Porsche. Execution of this Agreement and compliance with its provisions by Porsche does not conflict with any provisions of the Articles of Incorporation of Porsche. In addition, Porsche has provided an opinion of the Head of the Legal Department of Porsche that this Agreement has been duly authorized and executed by Porsche and that it constitutes a binding and enforceable obligation of Porsche.

E. Governing Laws. This Agreement and the rights and obligations hereunder shall be governed by, and shall be construed in accordance with, the Federal law of the United States of America, and, in the absence of such controlling Federal law, in accordance with the laws of the State of Utah.

F. No Waiver. No failure to exercise, and no delay in the exercise of, any right or remedy on the part of any of the parties to this Agreement shall operate as a waiver or termination thereof. Further, any exercise or partial exercise of any right or remedy relating to this Agreement shall not preclude any other or further exercise of such right or remedy or any other right or remedy.

G. No Oral Change. This Agreement may not be modified, amended, changed, discharged, terminated, released, renewed, or extended, in whole or in part, in any manner except by a writing signed by all of the parties.

H. Addresses. Any correspondence or submissions required by, or related to, this Agreement shall be provided in writing and shall be delivered by hand, or sent by United States express mail or commercial express mail, postage prepaid, and addressed as follows:

If to Porsche:

Dr. Ing. h.c. F. Porsche AG  
Att: Dr. Konrad Wartenberg  
Porscheplatz 1  
D-70435 Stuttgart  
Germany

If to the FDIC:

Associate Director, Division of Supervision and Consumer Protection  
Supervision and Applications Branch  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street, NW  
Washington, D.C. 20429

I. No Assignment. This Agreement may not be assigned or transferred, in whole or in part, without the prior written consent of the FDIC.

J. Complete Agreement. This Agreement is the complete and exclusive statement of the agreement among the parties concerning the subject matter of this Agreement, and supersedes all prior written or oral communications, representations, and agreements relating to the subject matter of this Agreement.

K. Severability. In the event any one or more of the provisions contained herein should be held invalid, illegal, or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. The parties shall endeavor in good faith to replace the invalid, illegal, or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year indicated above.

DR. ING H.C. F. PURSCHE AKTIENGESELLSCHAFT

By: H. Härter

Printed Name & Title: Holger P. Härter, Member of the Management Board

By: ppa. Michael Harmening

Printed Name & Title: Dr. Michael Harmening, Authorized Officer (*Prokurist*)

FEDERAL DEPOSIT INSURANCE CORPORATION

By: S. Thompson

Printed Name & Title: S. Thompson, Director