**TOOLING SUPPLY AGREEMENT**



**Mercedes-Benz U.S.**

**International, Inc.**

**THIS TOOLING SUPPLY AGREEMENT** (this “Contract”) is entered into, effective as of \_\_\_\_\_\_\_\_\_\_\_ \_\_, 20\_\_, by and between **MERCEDES-BENZ U.S. INTERNATIONAL, INC.**, (hereinafter referred to as “Owner”), and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, (hereinafter referred to as “Contractor”) (Owner and Contractor each being a “Party” and sometimes collectively referred to herein as the “Parties”).

NOW THEREFORE, in consideration of the agreements herein contained, the Parties hereto contract and agree as follows:

# DEFINITIONS

## “Affiliate” means, with respect to any Person, any other Person that, directly or indirectly, through one or more intermediaries controls, is controlled by or is under common control with such Person. For the purposes of this definition, “control” means, as to any Person, the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise; “controlled by” and “under common control with” shall have correlative meanings.

## “Affiliated Persons” means Contractor’s officers, directors, employees, or agents, or any of its stockholders, principals or owners acting on its behalf or in its interests.

## “Applicable Laws” means the U.S. Foreign Corrupt Practices Act and German anti-corruption laws, without regard to their jurisdictional limitations, U.S. and German export control laws to the extent applicable the goods and or information which are subject of this Contract, and all other laws, regulations, rules, orders, decrees or other directives carrying the force of law applicable to any activities engaged in by Contractor or any of its Affiliated Persons in connection with this Contract, in each case as the same may be amended from time to time.

## “Contract” means the entire agreement between the Parties represented by this Contract and the documents described in **Article 2.0** below, which may be modified, amended, supplemented or restated from time to time.

## “Drawings” are the graphic and pictorial portions of the Contract, wherever located and whenever issued, showing the design, location and dimensions of the Tooling, and/or the Product generally including plans, elevations, sections, details, schedules and diagrams, and as may be amended from time to time.

## “EDI” means the electronic data interchange system described in the IT Requirements found on the Supplier Portal.

##  “Environmental Requirements” means all applicable present and future federal, state and local laws, statutes, regulations, rules, ordinances, codes, orders, licenses, permits, approvals, plans, authorizations, concessions, or the like, and all applicable judicial, administrative, and regulatory decrees, judgments, and orders, relating to the protection of human health or the environment, including without limitation: (i) all requirements pertaining to reporting, licensing, authorizing, approving, permitting, investigation, and remediation of emissions, discharges, releases, or threatened releases of any Hazardous Materials or waste into the indoor or outdoor air, surface water, sanitary water, groundwater, or land, or otherwise into the environment, or relating to the manufacture, operation, processing, distribution, use, treatment, storage, disposal, transport, handling or management of any Hazardous Material or waste; and (ii) all requirements pertaining to the protection of the health and safety of employees or the public and/or the environment.

##  “Final Acceptance” means acceptance of Contractor’s Notice of Completion by Owner as described in **Section 6.10**.

##  “Final Completion” shall have occurred when to Owner’s satisfaction “Final Acceptance”, or its equivalent, has been achieved, in compliance with the procedure set forth in **Section 6.10**, such that the Tooling is produced and delivered in accordance with the terms and conditions of the Contract.

##  “Final Payment” means the final payment to be made by Owner pursuant to the terms set forth in **Section 6.3**.

##  “Government Entity” means a government or any department, agency or instrumentality thereof (including any company or other entity controlled by a government), a political party or a public international organization.

##  “Government Official” means any officeholder, employee or other official (including any immediate family member thereof) of a Government Entity, any person acting in an official capacity for a Government Entity or any candidate for political office.

##  “Hazardous Material” means any substance or material: (i) the presence of which requires investigation or remediation under any federal, state or local law, statute, rule, regulation, ordinance, order, action, policy or common law; (ii) which is or becomes regulated by any federal, state or local governmental authority, including without limitation, any substance or waste material which is defined or listed as a “hazardous waste,” “acutely hazardous waste,” “extremely hazardous substance,” “restricted hazardous waste,” “industrial waste,” “hazardous substance,” “hazardous material,” “pollutant” “hazardous air pollutant,” “criteria pollutant,” “volatile organic compound,” “priority pollutant,” “special waste,” “SARA 313 chemical” or “contaminant” under any law, including without limitation, the federal Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§9601 et seq., the federal Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq., the federal Water Pollution Control Act, 33 U.S.C. §§1251 et seq., the federal Clean Air Act, 42 U.S.C. §§7401 et seq., the Toxic Substances Control Act, 7 U.S.C. §§136 et seq. , the Safe Drinking Water Act, 42 U.S.C. §§300f et seq., the Occupation Safety and Health Act of 1970, 29 U.S.C. §§651 et seq., and similar Alabama state and local laws, including without limitation, the Alabama Hazardous Wastes Management and Minimization Act, 22 Ala. Code §§30-1 et seq., the Alabama Water Pollution Control Act, 22 Ala. Code §§22-1, et seq.; and the Alabama Air Pollution Control Act, 22 Ala. Code §§28-1, et seq., or any other federal or Alabama state or local law regulating or otherwise affecting the handling, use, control, management, treatment, storage or disposal or hazardous, explosive, corrosive, flammable, infectious, radioactive or toxic materials or wastes; (iii) which contains gasoline, diesel fuel or other petroleum hydrocarbons or a petroleum derivative; (iv) which contains polychlorinated biphenyls (“PCBs”), asbestos or urea formaldehyde; or (v) which poses an unreasonable risk of injury to human health or the environment.

##  “Owner” means Mercedes-Benz U.S. International, Inc.

##  “Notice of Acceptance” means the notice provided by Owner described in **Section 6.10.**

##  “Notice of Completion” means the notice provided by Contractor described in **Section 6.10.**

##  “Owner” means MBUSI.

##  “Owner Intellectual Property” means rights to inventions, ideas, improvements, or discoveries, processes, composition of materials, designs, specifications, software, mask works, or other technical information involving the Tooling or Product including, without limitation, all rights to patents, trademarks, copyrights, or legally protected trade secrets pertaining thereto and renewals thereof, whether or not incorporated into the Tooling or Product.

## “Person” means any individual, corporation, partnership, joint venture, limited liability company, association, joint-stock company, trust, unincorporated organization or governmental body.

## “Product” means the product or part produced from the Tooling.

##  “Specifications” are that portion of the Contract consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the Tooling, and/or Product and performance of related services, and any amendments thereto.

##  “Subcontractor” means any properly qualified individual, firm, association, or corporation undertaking the performance of any part of the work under the terms of the Contract by virtue of an agreement between itself and the Contractor or by virtue of an agreement between itself and a subtier contractor of the Contractor.

##  “Supplier Portal” means Owner’s supplier portal found at https://supplier.mercedes-benz.com or its successor site.

## “Tooling” means the tooling specified and ordered for production in a PO issued to Contractor by Owner or elsewhere in the Contract.

##  “Tooling Price” has the meaning set forth in **Section 3.2** herein.

##  “Vehicle” means the vehicle or vehicles manufactured by Owner from Products made using the Tooling.

##  “Warranty Period” means the period of time extending until **five (5) years** after Final Acceptance whereby Contractor agrees to correct defective work guaranteed pursuant to this Contract; provided, however, if Owner requests an engineering change after Final Acceptance, Contractor agrees to correct defective work relating to the engineering change for five (5) years after the completion of the engineering change work.

# CONTRACT DOCUMENTS

## The Contract Documents shall consist of the following documents and the exhibits and attachments referred to therein, all of which by this reference are incorporated herein and made a part of this Contract, including all additions, deletions, and modifications as agreed upon in writing by Owner:

1. This Tooling Supply Agreement
2. Special Conditions (if any)
3. Specifications and Drawings
4. All other Exhibits, including any appendices, addendums, and attachments to this Contract
5. Purchase Orders (excluding any terms and conditions of Contractor)
6. Confidentiality Agreement

## In cases of express conflict between parts of the Contract, the order of precedence shall be as follows: (1) Special Conditions; (2) Tooling Supply Agreement; (3) Specifications and Drawings; (4) All other exhibits and attachments to this Contract; (5) Purchase Orders; and (6) Confidentiality Agreement. Notwithstanding the foregoing, Owner’s documents shall have precedence over Contractor’s documents. Acceptance of each Purchase Order is expressly limited to the terms of the Contract and the Contract Documents. The Contract Documents may not be modified, superseded, or altered except by written agreement or by electronic data agreement signed by an authorized representative of Owner, notwithstanding any terms which may now or in the future appear on any quotations, sales orders, acknowledgements, invoices, or other forms issued by Contractor, whether printed, by electronic communication, or by electronic data interchange are hereby rejected and shall not be a part of the Contract Documents. THE CONTRACT DOCUMENTS SHALL CONTROL IN THE EVENT OF ANY CONFLICT WITH THE TERMS OF ANY QUOTATION, SALES ORDER, ACKNOWLEDGEMENT, INVOICE, OR OTHER FORM ISSUED BY CONTRACTOR, WHETHER PRINTED OR BY ELECTRONIC DATA INTERCHANGE, AND REGARDLESS OF THE MEANS BY WHICH CONTRACTOR EFFECTS ACCEPTANCE OF THE PURCHASE ORDER. This provision shall be deemed to be incorporated into each Purchase Order issued under the Agreement. In the event of an express conflict between the Contract Documents, or between any other documents which are a part of the Contract, Contractor shall notify Owner immediately and shall comply with Owner’s resolution of the conflict.

# PURCHASE ORDER FOR TOOLING

## During the term of this Contract, Contractor agrees to accept Purchase Orders (each a “**PO**”) for Tooling from Owner and to design, engineer, test, manufacture and deliver such Tooling at the prices agreed upon by the Parties and subject to the terms and conditions of the Contract. In addition, if requested by Owner, Contractor shall make available to Owner samples, prototypes, and pre-production trial units of the Product (“**Prototypes**”) in accordance with the requirements of Owner. Owner shall pay for Prototypes at the price set forth in any PO for such trial units of the Product. Contractor shall comply with the development program guidelines provided to Contractor. Contractor shall provide all equipment, materials, tools, and other supplies it needs for performance of the Contract.

## Owner will issue all POs to Contractor through the EDI. Each PO will reference this Contract and include shipping and delivery instructions. Owner will provide Contractor initial Drawings and Specifications. The Parties shall use good faith efforts: (i) to finalize the Drawings and Specifications; (ii) to determine the production schedule timeline (the “**Production Timeline**”); and (iii) to determine the price (the “**Tooling Price**”) of the Tooling and any pre-production units produced from the Tooling (“**Prototype Price**”). The final terms agreed upon, and acceptance by Contractor, of each PO shall be communicated by the Parties through the EDI. The terms and conditions of the Contract shall be deemed incorporated and made a part of each PO.

## Contractor shall pay when due, and the Tooling Price and Prototype Price shall be inclusive of, all taxes, duties, fees and other assessments of whatever nature imposed by governmental authorities and applicable to the production and delivery of the Tooling and Prototypes, if applicable, and performance of obligations under the Contract, including but not limited to any import or export fees associated with the production or delivery of the Tooling and Prototypes.

## Contractor shall provide Owner full Tooling documentation in English and/or German, each as may be specified by Owner from time to time.

## The Contract is not an exclusive supply agreement or a requirements contract, and nothing contained herein shall require Owner to purchase any quantity or any specific quantities of Tooling or parts from Contractor, and Owner may retain other suppliers to provide the same or similar Tooling.

# TITLE AND OWNERSHIP

## Title and risk of loss with respect to all Tooling shall pass to Owner upon delivery to Owner’s designated location and acceptance by Owner.

## All materials which Contractor, its Subcontractors or suppliers prepare or develop specifically for Owner in the performance and completion of any PO, including documents, calculations, programs, financial or accounting information, maps, sketches, notices, reports, data, models and samples, and any and all inventions and copyrightable material contained therein (collectively, the “**Work Product**”), shall be the exclusive property of Owner, subject to Contractor’s, its Subcontractors’ or suppliers’ right to use the same to perform its obligations under the Contract. Contractor agrees to execute all documents and to take all steps requested by Owner, at Owner’s expense, which Owner deems necessary or desirable to complete and perfect Owner’s said ownership and Owner’s property rights in said material.

## Contractor agrees that, to the extent possible, the Work Product is a “work made for hire” for Owner, as such term is defined in 17 U.S.C. § 101, and that all copyrights in such Work Product shall be, and are, owned solely, completely, and exclusively by Owner. If for any reason the Work Product does not constitute a “work made for hire,” Contractor hereby assigns to Owner, all of Contractor’s right, title, and interest in and to the Work Product, including all Owner Intellectual Property.

## During and following the term of this Contract, Contractor shall not in any way: (i) engineer, design, manufacture or produce the Tooling for any party other than Owner; or (ii) engineer, design, manufacture or produce any product that contains any Confidential Information (as defined in the Confidentiality Contract entered into between the Parties and specifically including the Drawings and Specifications).

# TIMING OF PRODUCTION AND DELIVERY

## TIME IS OF THE ESSENCE with regard to Contactor’s obligations under the Contract. Contractor shall design, engineer, test, manufacture and deliver the Tooling subject to the applicable Production Timeline. The Production Timeline as communicated by Owner is of the essence of the Contract.

## By execution of this Contract and acceptance of a PO, Contractor confirms that the Production Timeline as applicable to each PO is a reasonable period for performing the obligations specified therein.

## If Contractor is delayed at any time in progress of its obligations with respect to any PO by changes ordered to the PO, or by other causes which Owner determines may justify delay, then the Production Timeline shall be extended for such a reasonable time as Owner may determine in its sole discretion in writing.

## Upon request by Owner, Contractor shall submit to Owner schedules and progress reports during the performance of any PO on the actual progress and updated schedules of the work to be performed. In the event Contractor’s performance of such PO is not in compliance with the Production Timeline, Owner may require the Contractor to take steps to achieve compliance with such Production Timeline, and/or exercise any other remedies under the Contract.

## Overtime work, whether scheduled, unscheduled or incidental, shall be to Contractor’s account unless the compensation therefor is specifically authorized and approved in writing by Owner.

## Contractor shall deliver the Tooling delivery duty paid (DDP as defined in Incoterms 2010) to Owner’s designated place of shipment. For clarity, Contractor shall be responsible for the care of the Tooling and shall bear the risk of loss until acceptance by Owner at the location designated by Owner for shipment. Contractor shall be responsible for and shall pay all applicable freight charges, insurance costs, duties, importation and/or exportation costs in connection with the delivery of the Tooling (and Prototypes). Contractor may use such commercial carriers for delivery of the Tooling as are reasonably acceptable to Owner. In addition to any other rights contained herein, in the event Contractor becomes aware it will not meet any delivery date, Owner may require Contractor, at Contractor’s cost and expense, to deliver the Tooling in any manner reasonably necessary to speed delivery.

# PAYMENT TERMS

## The Tooling Price shall be payable in separate payments (each a “**Progress Payment**”) pursuant to a progress payment schedule (each a “**Payment Schedule**”) as communicated by Owner. Final Completion Payment, Progress Payments, and payments of any invoices by Owner shall not be construed as an acceptance of the Tooling or any work performed under any PO.

## Contractor shall issue invoices for Progress Payments within **five (5) calendar days** after each Progress Payment milestone is achieved by Contractor (including additional work authorized by Owner and added by a formal change order to the Contract). Subject to **Section 6.7** below, each invoice for a Progress Payment will be paid **net 30** after receipt by Owner. The fact that Owner pays any Progress Payments shall not imply or constitute that such Progress Payment milestone has been achieved or performed.

 Contractor shall issue monthly invoices for Prototypes, subject to the terms of the Contract and at the Prototype Price. Subject to **Section 6.7** below, each invoice will be paid **net 30** after receipt by Owner.

Contractor shall issue the Final Completion invoice for each PO after Owner gives Contractor a written Notice of Final Acceptance of such PO and compliance by Contractor with all of the terms of the PO and the requirements of **Section 6.3** below. This invoice shall contain a complete itemized listing of progress and additional work invoices by number, date, gross amount, retention amount, and the total amount of sums retained and due and shall be accompanied by an accounting breakdown in the form to be specified by and acceptable to Owner. Final Payment shall occur as set forth in **Section 6.3** below.

## Final Payment

 Subject to **Section 6.7** below, upon Contractor’s satisfaction of the requirements for Final Completion pursuant to **Section 6.10** hereof, Owner shall, within **thirty (30) days** following Owner’s delivering a Notice of Acceptance to Contractor, make the Final Payment to Contractor. The Final Payment shall be equal to (i) one hundred percent (100%) of the sums retained by Owner from the Tooling Price, plus (ii) the undisputed unpaid portion of the Tooling Price, without duplication, less (iii) any sums that may be necessary to settle any outstanding claims which may be for the account of Contractor, including any claims Subcontractors or Owner may have against Contractor, provided that Contractor shall have submitted to Owner not less than **ten (10) days** prior thereto and as a condition precedent thereto:

### an affidavit in form and substance satisfactory to Owner that all payrolls, Subcontractors, suppliers and materialmen and any other indebtedness relating to the Tooling have been paid in full or otherwise satisfied other than those Subcontractors, suppliers and materialmen (a) which are to be paid in full out of the proceeds of such Final Payment subject to Owner’s right to pay such Subcontractors, sub-subcontractors, suppliers and materialmen out of such proceeds directly or (b) for which Owner has withheld funds to settle claims pursuant to the above, and Contractor has provided such forms of security as may be acceptable to Owner or cash equivalent in lieu thereof;

### releases of all claims against Owner arising out of or by virtue hereof (other than claims for disputed matters solely between Owner and Contractor for which Contractor has given prior written notice in accordance with this Contract to Owner, provided that Contractor has released Owner from all other claims arising out of or by virtue hereof) in such form and substance and from such persons as may be requested by Owner.

## Final Payment nor payment of any Progress Payment or invoice issued pursuant to the Contract shall relieve Contractor of any obligation under the Contract.

## Contractor shall maintain for a period of **ten (10) years** after the end of the Warranty Period under the Contract, all records and accounts pertaining to Tooling produced by Contractor under this Contract.

## Owner shall have the right to audit, copy and inspect said records and accounts at all reasonable times during the course of such work under the Contract for a period of **ten (10) years** after the end of the Warranty Period for the purpose of verifying units furnished and/or costs incurred, as applicable. Contractor shall keep proper records and books in accordance with generally accepted accounting principles consistently applied. Such permitted audit will not be limited in scope to Contractor’s direct costs, and Owner shall be entitled to review Contractor’s indirect costs and other standard rates or percentages Contractor normally charges its clients.

## The Owner may withhold payment of the whole or any part of a verified or approved application for payment to such an extent as may be necessary to protect itself from loss on account of any of the following causes discovered subsequent to its verification or approvals:

### Defective Tooling not remedied.

### Evidence indicating probable filing of claims by other parties against the Contractor or Owner.

### Reasonable evidence that the Tooling cannot be completed for the unpaid balance of the Tooling Price.

### Reasonable evidence that the Tooling cannot be completed within the Production Timeline, and the unpaid balance would not be adequate to cover actual damages for anticipated delay.

### Failure to carry out the obligations in accordance with the Contract.

When the above grounds are removed, applications for payments will then be verified and/or approved for amounts not previously verified and approved because of these grounds.

## No payment made to the Contractor, nor partial or entire use of the Tooling by the Owner, shall be an acceptance of any Tooling not in accordance with the Contract.

## Owner, without waiver or limitation of any rights or remedies of Owner shall be entitled from time to time to deduct any and all amounts owed by Contractor to Owner in connection with this Contract from any amounts due or owing by Owner to Contractor in connection with this Contract (or any other contract with Owner).

## Notice of Completion and Notice of Acceptance

### When Contractor deems the production of Tooling fully completed, including satisfactory completion of such inspections, tests and documentation as are specified in this Contract, Contractor shall, within **ten (10) working days** thereafter, give a written “Notice of Completion” of the Tooling to Owner, specifying the Tooling completed and the date it was completed. Within **thirty (30) calendar days** after receipt of said “Notice of Completion”, Owner may inspect the Tooling and shall either reject the Notice of Completion and specify defective or uncompleted portions of the Tooling, or shall give the Contractor a written “Notice of Acceptance” of the Tooling either for the purpose of Final Payment only, or for the purposes of Final Payment and Final Completion.

### In the event Owner rejects the Notice of Completion and specifies defective or uncompleted portions of the Tooling, Contractor shall within **five (5) working days** of such notification, provide for Owner’s review and approval, a schedule detailing when all defects will be corrected and/or the Tooling will be completed and shall proceed to remedy such defective and uncompleted portions of the Tooling. Thereafter, Contractor shall again give Owner a written Notice of Completion of the Tooling, specifying a new date for the completion of the Tooling based upon the date such defective or uncompleted portions of the Tooling were corrected. The foregoing procedure shall apply again and successively thereafter until Owner has given Contractor written Notice of Acceptance for purposes of Final Payment and Final Completion, at which time Final Acceptance shall have been achieved.

### Any failure by Owner to inspect or to reject the Tooling or to reject Contractor’s Notice of Completion, as set forth above, shall not be deemed to be acceptance of the Tooling for any purpose by Owner nor imply acceptance of, or agreement with, said Notice of Completion.

# PERMITS AND LICENSES

## Contractor shall promptly apply for and procure without additional compensation all permits, certificates and licenses (including without limitation an Alabama General Contractor License if applicable) required by governmental authorities having jurisdiction over the work performed hereunder, Contractor or the location of the Tooling. Proof of such permits, certificates, or licenses shall be submitted to Owner upon request by Owner. This requirement is also applicable to all Subcontractors. Contractor obligates itself to reimburse Owner on demand for all sums Owner may be required to pay under such laws in the event of Contractor’s failure to comply with the requirements of this section.

# CHANGES IN WORK/ STOP ORDERS

## Each PO, Specifications and/or Drawings shall be subject to change by addition, deletions, or revisions thereto by Owner. Contractor will be notified of such changes by receipt of additional and/or revised drawings, specifications, exhibits or written orders. Upon receiving a request for a change or written approval of a change from Owner, Contractor shall submit to Owner within ten (10) working days a detailed take-off with supporting calculations and pricing for the change and any adjustments in the Production Timeline. If Contractor does not submit such pricing within ten (10) working days, Contractor shall perform the changes at the cost and in the time estimated by Owner. Contractor shall diligently perform the changes in strict accordance with the Contract upon Owner approving the pricing for the changes and any modifications to the Production Timeline. All changes must be approved in writing by Owner prior to any performance of changes in the Contract. Contractor agrees to keep any increased costs resulting from changes to a minimum. Contractor shall document any changes in cost in the detailed format required by Owner. With respect to design changes or modifications due to legal requirements, manufacturability, marketing needs, and/or stylistic considerations, Contractor commits that the Tooling shall remain competitive. The comparison basis for minimum cost and competitiveness shall be quotations submitted to Owner by competitors of Contactor for the Tooling, or an alternate product fitting the same purpose with the incorporation of the design change proposed by Owner. Any costs incurred by Contractor in connection with changes not approved by Owner in writing will be deemed Contractor’s responsibility and fully borne by Contractor, and no additional time will be granted as a result of such oral or unapproved changes. In the event any change must be performed immediately or Owner and Contractor are unable to reach agreement for pricing of a change or time for performance, Owner may issue a change directive directing Contractor to perform the changes in the requested time frame. Upon receipt of the change directive, Contractor shall immediately commence performance of the changes and alert Owner of any dispute regarding the pricing for the changed work or time of performance. If such dispute cannot be immediately resolved, Contractor shall comply with the provisions found in **Article 24.0, Claims**. Contractor acknowledges that its obligations and commitments under this Section 8.1 are of a material nature.

## Owner may at any time, and from time to time, by written notice to Contractor order the Contractor to stop work and/or suspend further performance of all or any portion of the Contract by Contractor.

## Without the prior written consent of Owner, which may be withheld in Owner’s sole discretion, Contractor shall not modify the Tooling if such modification affects the Specifications, Drawings, measurements, functioning or serviceability of other components or parts of the Vehicle or of the Vehicle as a whole. All other modifications of the Tooling by Contractor are subject to the prior written consent of Owner, such consent not to be unreasonably withheld. Any proposals for modifications to the Tooling shall be submitted in writing to Owner.

# COMPLIANCE WITH LAWS

## The Parties hereby confirm that they are aware of the Applicable Laws, and, in connection with the activities of the Parties related to this Contract, Contractor hereby commits to strict compliance with such Applicable Laws and makes the following representations and warranties as of the date of this Contract and for the duration of this Contract in connection with its activities related to this Contract:

### Contractor, for itself and on behalf of its Affiliated Persons, represents, warrants and covenants that:

#### Contractor and its Affiliated Persons are solely responsible for complying, have to their best knowledge complied, and will comply, with Applicable Laws and have to their best knowledge not taken and will not take or fail to take any action, which act or omission would subject Owner or its affiliated companies to liability under Applicable Laws;

#### neither Contractor nor any of its Affiliated Persons has, to its or their best knowledge, offered, paid, given or loaned or promised to pay, give or loan, or will offer, pay, give or loan or promise to pay, give or loan, directly or indirectly, money or any other thing of value to or for the benefit of any Government Official, for the purposes of corruptly (a) influencing any act or decision of such Government Official in his official capacity, (b) inducing such Government Official to do or omit to do any act in violation of his lawful duty, (c) securing any improper advantage or (d) inducing such Government Official to use his influence with a Government Entity to affect or influence any act or decision of that Government Entity, in each instance to direct business to Contractor or Owner or its affiliated companies;

#### in case Contractor or any of its Affiliated Persons is or will become a Government Entity or a Government Official whose official duties include decisions to direct business to Contractor, Owner or its affiliated companies or to supervise, or otherwise control or direct the actions of, Government Officials who are in a position to direct business to Contractor or Owner or its affiliated companies, Contractor or the respective Affiliated Persons have to make sure, that conflicts of interest will be excluded and to inform Owner without undue delay about the measures taken; and

#### Contractor has a duty to ensure that any employees used on site at Owner and/or that any employees given access to any IT-systems in connection with fulfilling the requirements of this Contract must receive an admission and/or access authorization from Owner. Individuals to whom Owner or any Owner affiliate has declared a house ban, an admission ban, and/or an access ban cannot be used by Contractor in fulfillment of this Contract.

### Contractor shall assist and cooperate fully with the efforts of Owner to comply with Applicable Laws. In particular, Contractor shall keep accurate books and records and Contractor shall immediately notify Owner of any information that bribes or other improper payments are being requested, made or offered in connection with this Contract. Upon request of Owner, Contractor shall make those records which are necessary for Owner to verify Contractor’s compliance with the Applicable Laws relating to this Contract available to a sworn auditor who is obligated to observe secrecy and selected by Owner. If such auditor notices any failure by Contractor to comply with the Applicable Laws Contractor agrees that the auditor may disclose information relating to Contractor’s failure to Owner and, to the extent required by a legal demand by a competent court of law or government body, to third parties.

### In no event will Owner be obligated to Contractor under or in connection with this Contract to act or refrain from acting if Owner believes that such act or omission would cause Owner to be in violation of Applicable Laws. In no event will Owner be liable to Contractor for any act or omission which Owner believes is necessary to comply with Applicable Laws.

### If Contractor or any of its Affiliated Persons breaches any of the representations, warranties or covenants in this Article each of which is deemed to be material and continuously made throughout the term of this Contract, then, in addition to any other rights Owner may have under this Contract:

#### Owner may declare a forfeit of any unpaid amounts owing to Contractor and will be entitled to repayment of any amounts paid or credited to Contractor, in each case, which are prohibited by Applicable Laws; and

#### Owner may immediately terminate this Contract; and

#### Contractor shall, upon first written request by Owner, indemnify and hold harmless Owner in regard to any and all cost and claims brought forward against Owner arising out of any failure of Contractor to comply with its representations, warranties and covenants of this Article.

## Contractor shall not, under any circumstances, apply for, enter into, or otherwise pursue negotiations with any governmental authority or agency to seek any approval, authorization, permission or acceptance for any variance, modification or revision to any and all Environmental Requirements or any and all federal, state or local safety or health laws, rules or regulations, including without limitation, federal and state industrial hygiene rules and regulations relating to the performance of the Contract without Owner’s prior written approval thereof.

## Immigration.

### As applicable, Contractor (i) shall at all times during the term of this Contract comply, in all respects with all immigration laws, statutes, rules, codes, orders and regulations, including without limitation, the Immigration Reform and Control Act of 1986, as amended, the Immigration and Nationality Act, as amended, and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, and all other applicable state or local laws, as amended, and any successor statutes, laws, rules and regulations thereto (collectively, the “**Immigration Laws**”), (ii) has properly maintained, and shall at all times during the term of this Contract properly maintain, all records required by the Department of Homeland Security (the “**DHS**”), including, without limitation, the completion and maintenance of the Form I-9 for each of Contractor’s employees located in the United States, and (iii) has responded, and shall at all times during the term of this Contract respond, in a timely fashion to any inspection requests related to such I-9 Forms by DHS or by Owner. During the term of this Contract, Contractor shall, and shall cause its directors, officers, managers, agents and employees to, fully cooperate in all respects with any audit, inquiry, inspection or investigation that may be conducted by the DHS of Contractor or any of its employees. All agreements and contracts between Contractor and its Subcontractors shall provide, and shall require the Subcontractors to cause all agreements and contracts with Sub-subcontractors to provide, that the Subcontractor or Sub-subcontractor, as the case may be, is subject to all of the terms and conditions of this Contract, except to the extent expressly stated otherwise in the Contract.

### Contractor will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform any work. Furthermore, Contractor will not knowingly allow any Subcontractors or Sub-Subcontractors to employ or continue to employ any unauthorized aliens to perform any work. Prior to performing any work hereunder, Contractor agrees to enroll and maintain enrollment in the federal work authorization program by the DHS commonly known as E-Verify or any subsequent replacement program (the “**E-Verify program**”), to provide to Owner evidence of Contractor’s enrollment in the E-Verify program, and to utilize the E-Verify program during the performance of the Contract in accordance with the applicable state and federal rules and regulations. During the term of this Contract, Contractor shall cause to be performed, no less frequently than every twelve (12) months, a certified audit of its I-9 and other immigration files by competent independent immigration counsel or other consultants. Contractor certifies, represents and warrants that such an audit has been conducted within twelve (12) months of the execution date of this Contract.

## Contractor shall indemnify, protect, defend and hold harmless Owner and its affiliates and its and their respective directors, stockholders, members, managers, officers, employees, agents, consultants, representatives, successors, transferees and assigns (collectively, the “**Owner Indemnified Parties**”) from and against any and all damages arising from, relating to or associated with any actual or alleged actions or omissions of Contractor or its employees, agents, representatives, Subcontractors, or Sub-subcontractors, or any employees, agents, representatives or contractors of any of the foregoing, in connection with the performance of the Contract.

## All indemnification obligations in this Contract shall be enforced to the fullest extent permitted by applicable law for the Owner Indemnified Parties’ benefit, regardless of the causes or alleged causes of the claims.

## In addition to **Section 9.1** above, Contractor shall also adhere to the standards and requirements regarding social responsibility, compliance, sustainability, and environmental protection as specified in both the latest versions of and any applicable annexes to (i) MBST 36 and (ii) the MBST Responsible Sourcing Standards, as either may be amended from time to time and which can be found on the Mercedes-Benz Supplier Portal (https://supplier.mercedes-benz.com).

## Without limiting Contractor’s obligations under Section 9.1 in performing under this Agreement, Contractor must comply with all applicable laws to the extent related to Contractor’s performance under this agreement. These laws may include, but are not limited to, technical laws and regulations regarding US vehicle emissions, certification, and product safety. Contractor’s compliance must take into account the fundamental spirit of the respective laws and regulations. Contractor must establish adequate structures within his organization to ensure adherence to all applicable laws for product creation and development. Such a system should provide orientation and guidance for Contractor’s employees and consider appropriate ethical, integrity, and technical compliance standards. If Contractor learns or has reason to know of facts that may indicate a violation of legal requirements or regulations regarding certification, emission, and/or vehicle product safety with implications for Mercedes-Benz Group AG, Owner, or its affiliates, Contractor must (1) immediately notify the appropriate contact person according to the Technical Compliance Management System (tCMS) escalation model and (2) immediately investigate the facts. The current tCMS escalation model and list of points of contact can be found in the supplier portal at https://supplier.mercedes-benz.com/portal/en. Contractor shall undertake reasonable best efforts to include comparable notification and escalation requirements in its contract documents with subcontractors for certification, emission, or product safety-related parts, software or software calibrations whereby the corresponding notifications must be made by subcontractors to the Contractor.

# RISK OF OMISSIONS

By executing this Contract and accepting any PO, Contractor represents that Contractor has carefully examined the applicable Specifications and Drawings, Contractor has fully acquainted itself with all other conditions relevant to the performance of the PO, and Contractor assumes the risk of such conditions, waives any and all claims arising out of such conditions, and, regardless of such conditions, the expense, difficulty of performing its obligations under the PO, or negligence, if any, of Owner or Owner’s agents, will fully complete the PO for the stated Tooling Price without further recourse to Owner. Except as otherwise provided in the Contract, any omissions from the Contract of elements of work, including design, materials, construction or equipment shall not relieve Contractor from furnishing the same if such are required in order to finish the Tooling as contemplated by the Contract. Any such changes, additions or deletions shall not constitute a change under **Article 8.0** and shall not in any way increase the Tooling Price.

# ROYALTIES AND PATENTS

## The Contractor shall pay all royalties and license fees which relate to any material or process used or incorporated into the Tooling by Contractor. The Contractor shall hold and save the Owner and his agents and employees harmless from liability of any nature or kind, including cost and expenses, for or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Contract, including its use by the Owner. If the Contractor has information that any process, article or item specified or delineated by the Owner is an infringement of a patent, or a copyright, Contractor shall promptly give such information to the Owner.

# LABOR REQUIREMENTS AND WORK RULES

## Contractor shall provide an adequate number of qualified employees and competent supervisory staff, craftpersons and other personnel to perform its obligations under the Contract on a timely basis.

## Contractor shall not utilize any employee, Subcontractor or contractor in performance of the Contract if Owner so requests.

## Whenever Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of a Production Timeline, Contractor shall immediately give notice thereof, including all relevant information, to Owner and shall immediately take any and all actions necessary, including legal action, to restore and maintain labor peace. Contractor shall take full responsibility for its own relations with its own employees, Subcontractors and suppliers and shall negotiate and settle any labor relations issues which may adversely impact the performance of the Contract.

# WARRANTY

## Contractor guarantees to Owner that each Tooling shall comply strictly with the provisions of the Contract including all applicable Specifications and Drawings and that the Tooling shall be first-class in every particular manner and free from defects in materials and workmanship and in any design or engineering furnished by Contractor and fit for its intended purpose. Contractor further guarantees Owner that all materials, equipment and supplies furnished by Contractor for each Tooling shall be new, merchantable, of the most suitable grade and fit for their intended purposes. Contractor further guarantees to Owner that all services supplied by Contractor in performance of the Contract shall be supplied by personnel who are careful, skilled, experienced and competent in their respective trades or professions.

## Contractor also shall bear all losses resulting to it on account of the amount or character of the work required by the Contract. Contractor shall be responsible for all damages resulting from all errors, omissions or negligence of Contractor or that of its Subcontractors in the Tooling or work performed under the Contract.

## Contractor warrants that no part of the Tooling provided hereunder shall contain any traces of silicone (any of a large class of polymers of R2SiO where R is a hydrocarbon). Contractor acknowledges and agrees to abide by Owner’s silicone avoidance policies, as may be amended from time to time.

# CORRECTION OF DEFECTIVE WORK

## The Contractor shall promptly correct Tooling rejected by the Owner or failing to conform to the requirements of the Contract, whether observed before or after Final Completion and whether or not fabricated, installed or completed, and shall correct any Tooling found to be not in accordance with the requirements of the Contract within the Warranty Period. The provisions of this **Article 14.0** apply to any work performed under any PO by Subcontractors as well as by the employees of Contractor. The Contractor shall bear costs of correcting such rejected Tooling, including additional testing and inspections and compensation for services and expenses made necessary thereby.

## If the Contractor, after notice, fails to proceed promptly to correct defective Tooling in accordance with the Contract, the Owner may have the defects (including the replacement parts) corrected and the Contractor and its surety shall be liable for all expense incurred.

## Nothing contained in this **Article 14.0** shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract. Establishment of the Warranty Period relates only to the specific obligation of the Contractor to correct the Tooling, and has no relationship to the time within which the obligation to comply with the Contract may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor’s liability with respect to the Contractor’s obligations other than specifically to correct the Tooling.

# INTENT OF SPECIFICATIONS AND DRAWINGS

## Intent of Specifications and Drawings. The Specifications and Drawings are intended to describe the Tooling and to furnish sufficient information to indicate what is necessary for the performance of the PO. The intent of the Specifications is to outline or indicate items of the Tooling that cannot readily be shown on the Drawings, to indicate types and qualities of materials and workmanship and to indicate standards of performance.

## Contractor’s Duty to Pay Expenses. Except as otherwise specifically stated in the Contract, Contractor shall provide and pay for all permits, taxes, insurance, materials, labor, tools, equipment, water, light, heat, power, transportation, supervision, temporary construction and all services and facilities of every nature and whatsoever necessary for the performance of the Contract, complete and within the agreed time.

## Work Required. The Specifications and Drawings are intended to be complimentary, and what is called for by either shall be as binding upon Contractor as if called for by both. The Tooling shall be complete in every detail. Should any work or any material be required which is not set forth in the Specifications or on the Drawings, either directly or indirectly, but which is nevertheless necessary for the proper production of the Tooling, including variations as may be necessary to conform to the conditions of the actual Tooling, Contractor agrees the same to be implied and required and shall perform all work and furnish all such material as fully as if said work and/or material were particularly delineated or described without additional costs to Owner. Contractor shall not be relieved of any obligations or responsibilities with respect to any PO except by written consent of Owner.

## Errors, Omissions or Inconsistencies. Contractor shall not take advantage of any manifestly unintentional error, omission, or inconsistency, should such exist. Should any error, omission, or inconsistency appear in the Specifications or in the Drawings, Contractor, before proceeding with performance of the PO, shall call Owner’s attention to same for proper determination, and in no case shall Contractor proceed with performance under the PO until such determination is received from Owner. Contractor shall be responsible for the classification and allocation of the performance of the PO and for the furnishing of all labor and material in connection therewith to avoid any delays which may otherwise result from conflicts with local customs, rules, jurisdictional awards, regulations, decisions and the like, insofar as same may be applicable to the performance of the PO.

## Explanations. Any doubt as to the meaning of the Specifications or Drawings, or any obscurity as to the wording of them, will be explained by Owner. All directions and explanations requisite or necessary to complete, explain or make definite any of the provisions of the Specifications and Drawings and give them due effect will be given by Owner in writing.

## Additional Instructions. Further information and instructions may be issued by Owner or prepared by Owner and transmitted to Contractor by Owner, during the performance of any PO by means of additional detail drawings or otherwise as deemed necessary to make more clear or specific the Drawings and Specifications in the Contract, when and as required by the performance of the PO.

# MANUFACTURER’S INSTRUCTIONS

Contractor shall, unless otherwise specified, comply with manufacturer’s latest printed instructions for materials, supply, storage and installation methods, and notify Owner in writing of any conflict between the Specifications and Drawings and the manufacturer’s instructions. Owner will designate which document is to be followed.

# PROTECTION OF TOOLING

###### Until Final Acceptance, Owner shall retain a precautionary security interest in the Tooling, to secure Contractor’s obligation’s under this Contract. The Tooling shall be kept at the address(es) specified in the Equipment Database or on the applicable PO until such time as a written consent to a change of location is obtained from Owner.

###### The Owner Intellectual Property and tangible embodiments thereof shall at all times remain the property of Owner and Contractor shall have no right or property interest therein but only the right to use the same under the Contract.

###### Contractor shall maintain the Tooling, shall pay all license fees, assessments and taxes, including, without limitation, personal property taxes, for the Tooling and, unless otherwise instructed by Owner, shall provide annual written proof of the payment of personal property taxes. Unless otherwise instructed by Owner, Contractor shall fully insure the Tooling and the insurance policy shall be in form and in an amount equivalent to the current replacement value and reasonably acceptable to Owner and shall name Owner as an additional insured. In addition, Contractor shall purchase insurance in an amount reasonable under the circumstances to cover the liability of Owner for public liability and property damage which in any event shall not be less than $1,000,000 per occurrence. The insurance policies and proceeds shall be the sole property of Owner. Contractor shall deliver to Owner the policies of insurance or duplicates thereof or other evidence satisfactory to Owner of such insurance coverage. Each insurer shall agree by endorsement upon the policy or policies issued by it, that it shall give Owner 30 days prior written notice of the effective date of any alteration or cancellation. If Contractor fails to obtain such insurance, Owner shall have the right to obtain insurance at Contractor’s expense. In the event Contractor fails to preserve and maintain the Tooling, discharge all taxes, liens, or charges, pay all costs and expenses, or procure and maintain insurance as provided herein, Owner may take whatever steps are necessary to carry out these requirements. All advances by Owner shall be repayable by Contractor to Owner on demand, together with interest thereon at the highest legal contract rate until paid.

###### Without limiting Owner’s other rights and remedies pursuant to the Contract, law or otherwise, during the term of the Contract, Owner may enter any premises where the Tooling is located for the purpose of inspection and may remove the Tooling forthwith, without notice to Contractor, if, in Owner’s opinion the Tooling is being improperly used or maintained.

###### Risk of Loss.

##### During the term of the Contract, Contractor assumes the entire risk of loss, theft, or damage to the Tooling, whether or not covered by insurance, and not such loss, theft, or damage shall relieve Contractor of its obligations hereunder except as otherwise specifically set forth in the Contract.

##### In the event of loss, theft or damage to the Tooling in whole or in part, Contractor shall promptly so notify Owner and, at Owner’s option, shall: (a) restore the Tooling to good condition and working order; or (b) replace the Tooling with like Tooling in good condition and working order and furnish Owner with necessary documents to vest good and marketable title thereto in Owner; or (c) if Owner determines that any item of Tooling is beyond repair, pay to Owner, within ten (10) days of such notification, the loss value thereof, which shall be an amount equal to the value of the item of Tooling on the date of loss, and upon such payment this **Section 17(e)** shall terminate with respect to the item of Tooling so paid for and Contractor shall thereupon become the owner thereof.

##### The obligations of Contractor pursuant to **Section 17(e)(ii)** shall be offset to the extent that any insurance proceeds are received by Owner with respect to the subject Tooling.

###### (f) Precautionary Security Interest.

##### Until Final Acceptance by Owner, Contractor hereby creates and grants to Owner a purchase money security interest in the Tooling, together with all replacements thereof and all attachments and accessories new or hereafter installed therein or affixed thereto, in order to secure Contractor’s obligations as provided herein and all additional indebtedness, costs, obligations and expenses of Contractor provided in the Contract. In addition to all remedies provided herein to Owner, upon Contractor’s default, Owner may exercise its rights of enforcement and shall have all remedies under the Uniform Commercial Code applicable in such jurisdiction as may be required by law with respect to the Tooling. The provisions of this **Section 17(f)** shall not lessen or restrict, but shall be in addition to, all the other obligations of Owner under the Contract.

##### Contractor shall take every possible step to ensure that the interests of Owner in the Tooling is fully secured, respected, and is enforceable by Owner at any time. This obligation includes, but is not limited to, cooperating in the filing of appropriate Uniform Commercial Code financing statements, including protective filings, and/or such other documents, if any, as may be necessary or desirable in order to perfect valid and enforceable rights for Owner in the Tooling.

##### Owner, as secured party under the Uniform Commercial Code, may file financing statements without the signature of Contractor as debtor.

##### Contractor shall execute and deliver to Owner, upon Owner’s request, such instruments and assurances as Owner deems necessary for the confirmation or perfection of this Section 18(f) and Owner’s rights hereunder. In furtherance thereof, Owner may file a financing statement with respect thereto as to give notice to any interested parties.

###### (g) Contractor shall indemnify Owner against and hold Owner harmless from any and all claims, actions, damages, costs, including reasonable attorney’s fees, obligations, liabilities and liens (including any of the foregoing arising or accrued without Owner’s fault or negligence, or under the doctrine of “strict liability”) arising out of the manufacture, purchase, use, possession, selection, storage, delivery or return, operation, maintenance, renting, control or other disposition of the Tooling, or in any way connected therewith. Upon institution of any action, against Owner for any claim, action, damages, obligations, liability or lien, Contractor shall assume full responsibility for the defense thereof.

###### (h) Owner may assign its rights under this **Article 17** and the Tooling without notice to or consent of Contractor. On any such assignment, the assignee shall succeed to all of Owner’s rights in respect thereto. The assignee’s rights shall be free from all claims, defenses, setoffs or counterclaims that Contractor may be entitled to assert against Owner.

# EQUIPMENT AND MATERIAL DEVIATIONS

Whenever any material or piece of equipment used by Contractor in the performance under the Contract is identified on the Drawings or in the Specifications by reference to manufacturer’s names, model numbers, etc., it is intended to establish a required standard of design and quality, and is not intended to limit competition. It shall be expressly understood, however, that if the phrase “or approved equal” is inserted following the naming of manufacturers for any such material or equipment, Contractor may propose to Owner an alternative manufacturer for such material or piece of equipment. The alternative material or piece of equipment may only be used upon approval of Owner. If the phrase “or approved equal” is not inserted, the material or piece of equipment used must be exactly as identified on the Drawings or in the Specifications.

# LIENS

## Waiver and Release of Liens. To the full extent permitted by applicable law, Contractor hereby waives and releases any and all rights of mechanic’s lien, materialmen’s lien, laborer’s lien and similar rights for payment for services, labor, equipment, or materials furnished by Contractor in performance of the Contract and granted by law to persons supplying materials, equipment, services and other things of value, which Contractor may have against Owner’s property belonging to Owner or its agents. Contractor shall indemnify and save harmless Owner and its employees, agents and assigns from and against all laborers’, mechanics’ or materialmen’s liens, or any other lien, claim (including, without limitation, attorney’s fees), charge, or encumbrance, of whatever kind upon the performance of work under the Contract, any property of Owner and/or any monies retained by Owner or due or to become due from Owner to Contractor, arising out of the work performed by Contractor or by its vendors or its Subcontractors or their vendors or subcontractors and/or out of materials, services or equipment furnished by Contractor or by its vendors, Subcontractors or any of their respective employees, agents, or vendors or subcontractors under or in connection with the Contract.

## Contractor to Keep all Property Free and Clear of Liens. Contractor shall at all times promptly pay for all services, materials, equipment and labor used or furnished by Contractor in the performance of the Contract and shall at its expense keep all property belonging to Owner free and clear of any and all of the above-mentioned liens and rights of lien arising out of services, labor, equipment or materials furnished by Contractor or its employees, materialmen or Subcontractors in the performance of any work under the Contract. If Contractor fails to release and discharge any such claim of lien against Owner’s property arising out of performance of the work under the Contract within **five (5) working days** after receipt of written notice from Owner to remove such claim of lien, Owner may, at its option, discharge or release the claim of lien or otherwise deal with the lien claimant, and Contractor shall pay Owner any and all costs and expenses of Owner in so doing, including reasonable attorney’s fees incurred by Owner.

# INSPECTIONS AND TESTING

## Inspection of Materials, Supplies and Equipment. Contractor shall inspect all materials, supplies and equipment which are to be incorporated in the Tooling to ensure they are suitable for the work performed under the Contract.

## Inspection and Test of Tooling. Contractor shall, during the course of performance of Contract, without additional compensation, make or cause to be made all tests required by the Contract. Owner may require additional inspections and tests. Contractor shall furnish Owner with documentation satisfactory to Owner in every respect of the results of all inspections and tests. Owner shall be given not less than **five (5) working days** notice of any tests to be made by Contractor or Contractor’s vendors in order that Owner may witness any such tests. All test protocols and procedures are to be reviewed and approved in advance by Owner.

## Right to Inspect. Owner, as well as others as may be required by applicable laws, ordinances and regulations, shall have the right at all reasonable times to inspect the Tooling and all material, supplies and equipment for the Tooling at Contractor’s, its suppliers’, and the Subcontractors’ shops for conformance with the Contract. Contractor shall provide, or cause to be provided access and sufficient, safe and proper facilities for such inspections. Neither the failure to make such inspection nor to discover defective workmanship, materials or equipment, nor approval of or payment to Contractor for such Tooling, materials or equipment shall prejudice the rights of Owner. Contractor shall bear all costs of tests and inspections required by the Contract, or by applicable laws, ordinances or regulations.

## Uncovering Work and Restoration. If Contractor covers any portion of the Tooling prior to any inspection or test provided for in the Specifications, inspection schedule, or as previously requested by Owner, the cost of uncovering and covering the Tooling to allow for such inspection or test shall be borne by Contractor. Re-examination of any of the Tooling may be ordered by Owner. In the event of such re-examination, if any part of the Tooling is determined by Owner to be defective, Contractor shall not be reimbursed for uncovering, repair or corrective and restoration costs. If such Tooling is found to be in accordance with the Contract requirements upon such re-examination, Owner shall pay Contractor the cost of uncovering and restoration.

# CLAIMS

## Procedures for Contractor Claims. Subject to the provisions of **Article 8.0**, **CHANGES IN WORK/STOP ORDERS** hereof, Contractor shall give Owner written notice within **five (5) working days** after the happening of any eventwhich Contractor believes may give rise to a claim by Contractor for an increase in the Tooling Price or change in the Production Schedule or any other relief with respect to the terms of the Contract. Within **ten (10) working days** after the happening of such event, Contractor shall supply Owner with a statement supporting Contractor’s claim, which statement shall include Contractor’s detailed estimate of the change in Tooling Price and/or Production Schedule, and specifying in detail the reasons for (including specific references to the relevant contractual provision(s) upon which said claim is based other than this **Article 24.0**) and the circumstances requiring the adjustment requested in the claim necessitated by said condition or event. Contractor shall substantiate its claim with payroll documents, paid invoices, receipts, records of performance and other documents satisfactory to Owner and subject to its verification.

## Claims Not Reported in Accordance with this Article. Owner shall not be liable for, and Contractor hereby waives, any claim or potential claim of Contractor which was not reported by Contractor in accordance with the provisions of this **Article 21.0.** Owner shall not be bound to any adjustments in the Tooling Price or scheduled time for Contractor’s claim unless expressly agreed to by Owner in writing.

## Continuing Duty to Complete Work. The Parties shall negotiate in good faith to reach an agreement, but in no case, except with Owner’s prior written consent, shall any of the work under the Contract be halted pending such agreement, whether or not the claim can be resolved to Contractor’s satisfaction, and Contractor shall be bound by the terms and conditions of this Contract to prosecute the work under each PO without delay to its successful completion.

## No Claims After Final Payment. No claim hereunder by Contractor or its Subcontractors shall be allowed if asserted after final payment under the Contract. Contractor’s remedies are limited to those expressly set forth in the Contract.

# SUBCONTRACTS

## Contractor shall not subcontract performance of any portion of the work under the Contract without the prior written consent of Owner.

## Contractor guarantees that its Subcontractors will comply fully with the terms of this Contract applicable to the portion of the work performed by such Subcontractor. If any portion of the work which has been subcontracted by Contractor is not prosecuted in accordance with the Contract, on request of Owner, the Subcontractor shall be replaced at no additional cost to Owner.

## Owner shall have the right from time to time to contact Contractor’s Subcontractors to discuss their progress.

## As used in this Article, the term “subcontract” shall include purchase orders of the general types designated from time to time by Owner in advance for materials or equipment for the work, and the term “Subcontractor” shall include vendors of such material or equipment.

# ELECTRONIC DATA INTERCHANGE AND EDOCS SYSTEM

## Contractor shall comply with all Owner requirements as to electronic data exchange. Contractor shall comply with the IT Requirements, which are located on the Supplier Portal, as may be amended from time to time.

## Contractor shall use the eDocs system as required by Owner, and Contractor shall comply with the eDocs Terms of Use, as may be amended from time to time.

## Contractor shall comply with the Information Security Requirements, which are located on the Supplier Portal, as may be amended from time to time.

# INDEMNIFICATION OF OWNER

## Contractor agrees to indemnify, defend and hold harmless Owner or any of Owner’s affiliated companies, and all of their respective directors, officers, employees, agents, representatives, servants, successors and assigns, from and against all actions, causes of action, claims, administrative proceedings, and demands (collectively, “**Claims**”), and all losses, liabilities, judgments, decrees, fines, penalties, damages, obligations, expenses, amounts paid in settlement and investigation and costs and charges of any kind, including but not limited to, attorney’s and investigation fees (collectively, “**Costs**”), relating in any way whatsoever to, or arising from, either directly or indirectly, the performance by the Contractor of its obligations and/or the acts or omissions of Contractor or its affiliates or Contractors under the Contract, including, but not limited to, those arising from:

### any Claims by any party, including but not limited to Owner, or its representatives or agents, or Contractors hired by Owner, or its representatives or agents, Subcontractors or employees of Contractor, or governmental authorities involving any actual or asserted (i) breach by Contractor of any of its warranties or representations under the Contract, (ii) failure of Contractor to perform any obligation under the Contract, or (iii) failure by Contractor or any of its affiliates to comply with any law, statute, code, ordinance, regulation, rule, or order of any governmental or quasi-governmental body, in the performance of its work under the Contract, including but not limited to any such claims involving any actual or asserted failure of Contractor to pay taxes or to comply with any Environmental Requirements; or

### any actual or asserted infringement or improper appropriation or use by Owner or Contractor or its affiliates of trade secrets, proprietary information, know-how, copyright rights (both statutory and nonstatutory) or patented or unpatented inventions, or for actual or alleged unauthorized imitation of the work of others, arising out of the use or sale of materials, equipment, methods, processes, designs, information, or other things (including construction methods, construction equipment, and temporary construction facilities) furnished by Contractor or its Subcontractors, or Contractors in or for performance of the Contract; or

### any Claims or Costs on account of (i) injury to or death of persons (including without limitation the employees of Owner, or its agents, Contractor and Contractor’s affiliates and suppliers) or (ii) damages to or loss of property (including without limitation the property of Owner) arising directly or indirectly out of the Contract, including without limitation, any claims or costs arising under non-delegable duties of Owner or those arising from the use or operation by Contractor of any construction equipment, tools, scaffolding, facilities, or Hazardous Material furnished to Contractor by Owner or its agents to perform the work hereunder; or

### without limiting the effect of **Articles 24.1-A and 24.1-C** above, any Claims or Costs relating in any manner whatsoever to, or arising from, either directly or indirectly, any actual or alleged release or threat of release of any Hazardous Material into the outdoor or indoor environment, or public or private nuisance, in connection with the performance of the Contract, including the acts or omissions of Contractor, its affiliates or Contractors in the performance of the Contract; or

### the negligence or willful misconduct of Contractor, Contractor’s affiliates or Subcontractors in performing the work hereunder.

## Contractor’s indemnification obligations under this Article shall apply regardless of whether the party to be indemnified was concurrently negligent, whether actively or passively, but excepting where the injury or death of persons or damage to or loss of property was caused solely by the gross negligence or willful misconduct of the party to be indemnified and shall include any expenses and attorney’s fees incurred by Owner for legal action to enforce Contractor’s indemnification obligations under this Article. The indemnification obligation under this section shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits paid by or for Contractor for any Subcontractor under worker’s compensation acts, disability benefit acts or other employee benefit acts. The obligations of the Contractor under this Article shall survive the termination of the Contract.

## With respect to the Contractor’s indemnity obligations set forth in this Article, Owner shall have the right to participate in the defense of, or at its option to assume the defense of, any action, suit, proceeding, demand, assessment or judgment brought by any party against Owner, its representatives or agents, the affiliated companies, and all of their respective directors, officers, employees, agents, representatives, successors or assigns.

# TERMINATION OF THE CONTRACT/REMEDIES

## Owner shall have all remedies available to it provided by each of contract (including, without limitation, the Contract), statute, common law and otherwise, and all of Owner’s remedies are cumulative. The exercise of one remedy by Owner does not restrict the exercise of any other remedies by Owner.

## Notwithstanding any other provision of the Contract, Owner may terminate the Contract and/or any PO issued under the Contract at any time with or without cause in whole or in part by written notice, whereupon Contractor shall stop work on the date and to the extent specified in such notice, and terminate all orders and subcontracts that relate to the Contract and/or the terminated PO. In such case, Owner shall have no liability with respect to goods or components procured, or worked on, or supplies partially fabricated, in excess of the authority contained in this Section 25.2. Upon termination pursuant to this **Section 25.2**, Contractor shall submit all claims resulting from such termination within thirty days after receipt of the termination notice. Owner shall have the right to verify such claims by auditing the relevant records, facilities, work, or materials of Contractor and/or its subcontractors. Owner shall pay Contractor for finished work accepted by Owner, as well as for the documented cost to Contractor of work in process and raw materials allocable to the terminated work which are not in excess of any prior Owner authorization. Payment made under this **Section** **25.2** shall constitute the only liability of Owner for termination under the Contract, with title and right of possession to all delivered goods and services vesting in Owner immediately upon tender of payment by Owner. The provisions of this **Section 25.2** shall not apply to any cancellation by Owner for default by Contractor. In no event shall Owner be liable for prospective or anticipated profits by reason of such termination, and Contractor shall not assert any claim for loss of prospective or anticipatory profits or consequential damages under any circumstances.

## If Owner has decided to cancel all activities with respect to the Vehicle, Owner shall be liable to Contractor only for tooling costs incurred by Contractor up to the applicable maximum amount specified in the applicable PO issued for the respective tools.

## Contractor acknowledges that, in entering into the Contract, Owner shall become entirely dependent upon Contractor for the timely production of the Tooling and for the production by Owner of the Vehicle in accordance with the schedules contemplated in the Contract. Contractor further recognizes that failure to timely and fully perform its obligations hereunder may affect the viability of production, or the manufacturing of the Vehicle, and that Owner shall suffer substantial losses and damages which cannot be measured solely in monetary terms. Contractor, therefore, expressly agrees that Owner shall have the immediate right to compel specific performance of the Contract by Contractor, or alternatively, to terminate the Contract upon written notice to Contractor under **Section 25.2** above, if Contractor (a) fails to meet any key milestone for the development of the Tooling and such failure continues for more than 10 days beyond such milestone date; (b) fails to deliver goods or perform services at the times specified herein; (c) fails to perform any other provision hereof and fails to cure such failure within a period of 10 days after receipt of written notice from Owner specifying such failure; (d) ceases doing business as a going concern, admits in writing its inability to perform its obligations under the Contract as and when due, becomes insolvent, makes an assignment in favor of creditors, or enters bankruptcy or dissolution proceedings; (e) is merged into another company and/or is expropriated or nationalized; or (f) furnishes any certificate, statement, representation or warranty that proves to be false in any material respect. In any such event, Owner may cancel the whole or any part of the Contract without any liability, except for payment due for Tooling delivered and accepted. Upon such breach, Owner shall have the right, on notice to Contractor, to take title to and possession of all or any part of such work performed by Contractor under any PO issued under the Contract. In addition, in any such event Owner shall be entitled to recover from Contractor all losses, expenses, and damages, including attorney’s fees, costs, and incidental and consequential damages which Owner may suffer as a result of such default by Contractor.

## In the event Contractor fails to provide Owner with Tooling as defined herein that meets the quality and performance standards set forth by Owner or otherwise, Owner may terminate the Contract or seek any additional reasonable remedies for Contractor’s continued failure to meet quality standards as expressed to Contractor in the Contract.

## If the Contract is terminated by Owner or if Contractor is otherwise in default under the Contract, or if Owner, in its exclusive judgment, determines that Contractor is unable or soon will be unable to deliver timely all of the Tooling, Owner may exercise all rights and remedies available under applicable law and under the Contract, specifically including, without limitation, the right to take possession immediately (without the necessity of posting a bond) of all Tooling and all tangible embodiments of Owner Intellectual Property in any medium whatsoever and to remove the same from Contractor’s premises or wherever the Tooling or any tangible embodiment of Owner Intellectual Property may be located. Contractor shall cooperate with and assist Owner in connection with its exercise of the foregoing rights and shall in no event seek to oppose or interfere with the exercise by Owner of such rights. To the extent Contractor’s equipment is multi-use equipment (i.e., used for more than the services performed hereunder) and cannot be removed from Contractor’s facility or wherever such equipment may be located, Owner shall have the right to use such equipment on the Contractor’s premises or wherever such equipment is located. In any such event, Owner shall be entitled to recover from Contractor all losses, expenses, and damages, including attorney’s fees and costs and incidental and consequential damages which Owner may suffer as a result of such default by Contractor. In this regard, Owner’s cost incurred in breaking down, packing, moving, and reassembling the Tooling and/or tangible embodiments of Owner Intellectual Property in order that the Tooling may be used by Owner or its assignee shall constitute recoverable damages.

## If the Contract is terminated by Owner or if Contractor is otherwise in default under the Contract, or if Owner, in its exclusive judgment, determines that Contractor is unable or soon will be unable to deliver timely all of the Tooling, then, to enable Owner to have an uninterrupted supply of Product from which to assemble and manufacture the Vehicle, Contractor hereby grants to Owner the right to operate or to have a third party operate Contractor’s facilities to assemble and manufacture the Tooling on a timely basis without interruption to Owner’s production of the Vehicle. Contractor agrees that to manufacture the Tooling pursuant to this **Section 25.7**, it will provide Owner unfettered access to an entire production line or lines, which shall include, without limitation, access to equipment, employees, energy sources, raw materials, inventory, and the like (whether or not Owner has an interest in such items). Owner shall be entitled to an immediate court order granting Owner the operating rights set forth in this **Section 25.7**. Owner shall be entitled to operate such line or lines of production in its own name, or through a contractor or a court appointed receiver or trustee. Owner shall be responsible for paying all of the actual costs of running the line or lines of production (such as wages, raw materials, inventory costs and energy costs), and Owner may (but is not required to) pay such amounts directly to the party providing the labor, inventory, services or energy; provided, however, that in no event shall Owner be responsible for paying Contractor’s routine costs or overhead. Furthermore, Owner may elect to setoff any payments due pursuant to this **Section 25.7** against those amounts owed by Contractor to Owner.

## In order to enable Owner to continue with the manufacture of the Tooling in the event Owner takes possession of the Tooling pursuant to any Section of the Contract, Contractor shall ensure in its contracts with its Sub-Contractors that such contracts can be assigned to Owner. Furthermore, Contractor shall ensure in its contracts with Sub-Contractors that, in the event of termination under any Section of the Contract, Contractor may take possession of the Sub-Contractor’s special tooling and equipment and assign such special tooling and equipment to Owner as a third party beneficiary. To the extent the Sub-Contractor special tooling is multi-use equipment (i.e., used for more purposes than in connection with the Services provided hereunder) and cannot be removed from the Sub-Contractor’s facility, Contractor shall ensure that Contractor and/or Owner shall have the right to use such Sub-Contractor special tooling and equipment on the Sub-Contractor’s premises or wherever such Sub-Contractor special tooling and equipment is located.

## Owner may at any time and without notice deduct or set-off or recoup Contractor’s claims for money due or to become due from Owner or any Affiliate of Owner against any claims that Owner or any Affiliate of Owner has or may have arising out of this or any other transaction. These rights of set-off and recoupment apply equally in any court proceeding, including a determination of how much money Contractor might be owed on a bonded indebtedness. Moreover, to the extent that Owner has a set-off or recoupment claim or defense against Contractor, the amount of money subject to such claim or defense shall not be owed by Owner to Contractor.

## All of Owner’s remedies hereunder shall survive the termination of the Contract. Moreover, to the extent provisions of the Contract are intended to survive any expiration or termination of the Contract, these provisions shall remain in effect accordingly.

## Owner shall have the right to immediate possession of any of the Tooling (regardless of whether fully paid for by Owner), in any medium whatsoever, regardless of the location of such Tooling and to remove the same from Contractor’s premises or wherever the Tooling may be located. If demanded by Contractor, Owner will post a bond contemporaneously with Owner removing such Tooling, but only if (i) the Contract has not been terminated, (ii) Contractor is not in default hereunder, (iii) Owner, in its exclusive judgment, has not determined that Contractor is unable or soon will be unable to deliver timely all of the Tooling. The bond amount will be equal to the cost of the Tooling, as evidenced by the purchase price paid by Owner, less any amounts which may have already been paid for such Tooling.

# GOVERNING LAW; COURT ACTIONS

## The Contract and all questions arising out of or in connection with the Contract shall be governed by and construed in accordance with the laws of the State of Alabama as if entirely performed therein and without giving effect to its conflict of law rules.

## Contractor agrees to litigate all claims and actions arising under or otherwise concerning the Agreement exclusively in a court of competent jurisdiction located in Tuscaloosa County, Alabama. Contractor Hereby Waives Any Right Contractor May Have to a Jury Trial Arising from Any Disputes Related in Any Way to the Contract. Contractor Hereby Consents to the Exclusive Jurisdiction in the State or Federal Courts Located in Tuscaloosa County, Alabama and Waives Any Objection to *in personam* Jurisdiction in Any Court Sitting in Tuscaloosa County, Alabama.

# MISCELLANEOUS PROVISIONS

## Independent Contractor. Contractor agrees that Contractor is (1) an independent contractor to Owner; and (2) an employer subject to all applicable unemployment compensation, occupational safety and health, or similar statutes so as to relieve Owner of any responsibility or liability for treating Contractor’s employees as employees of Owner for any purposes including, without limitation, the purpose of their safety or of keeping records, making reports or paying of any payroll taxes or contribution; and Contractor agrees to indemnify and hold Owner harmless and reimburse it for any expense or liability incurred under said statutes in connection with employees of Contractor, including a sum equal to any unemployment benefits paid to those who were Contractor’s employees, where such benefit payments are charged to Owner under any merit plan or to Owner’s reserve account pursuant to any statute. To the extent Contractor offers its employees any employee benefits and/or employee compensation, Contractor shall be solely responsible for providing such employee benefits, employee compensation and/or benefits pursuant to an Employee Retirement Income Security Act (“ERISA”) plan. Contractor agrees to indemnify, hold Owner harmless and reimburse Owner for any expense or liability incurred in connection with any claims or actions by the employees or agents of Contractor, its Subcontractors, or suppliers against Owner or any of Owner’s ERISA plans relating to employee benefits or employee compensation. Nothing in this Contract shall be deemed to represent that Contractor, or any of Contractor’s employees or agents, are the agents, representatives or employees of Owner or its agents. Contractor shall have responsibility for and control over the details and means for performing the work hereunder, provided that Contractor is in compliance with the terms of the Contract. Anything in the Contract which may appear to give Owner or its agents the right to direct Contractor as to the details of the performance of the work or to exercise a measure of control over Contractor shall mean that Contractor shall follow the desires of Owner only as to the intended results of the work under the Contract.

## Any notice required or permitted to be given hereunder shall be deemed to be effectively given not more than 48 hours after having been deposited in the United States mail, certified or registered mail, postage prepaid and addressed as follows:

If to Owner: If to Contractor:

Mercedes-Benz U.S. International, Inc.

1 Mercedes Drive

Vance, Alabama 35490

Attn: Manager Controlling Suppliers

 & Assets Attn:

Either Party may change such address by giving written notice of such change to the other Party in the manner provided above. All correspondence from Contractor shall be sequentially numbered, beginning with the number one (1) and continuing with progressing numbering until such time as final communication is completed. In addition, all correspondence from Owner will likewise be sequentially numbered. Both numbering systems are to begin with the Contract number and include the sequential number as a suffix. (Example: Correspondence No.: CXXX would be the contract number and YYY would represent the sequential number).

## This Contract shall be binding upon and shall inure to the benefit of the Parties, and their respective heirs, legal representatives, successors and assigns; provided, however, that this Contract may not be assigned by Contractor in whole or in part, voluntarily or by operation of law, without the prior written consent of Owner. For purposes of this Section 27.3, a direct or indirect change of control of Contractor shall constitute an assignment.

## Contractor hereby acknowledges and agrees that it has fully and adequately reviewed the terms and provisions of this Contract. Contractor represents and warrants to the Owner that it has furnished copies of this Contract to its own independent legal counsel and has discussed with said counsel its provisions and legal effects, or that it has determined not to consult with legal counsel concerning the terms and conditions of this Contract or its legal effects.

## This Contract may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same agreement.

## This Contract constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, representations and understandings of the parties. No supplement, modification or amendment of the Contract shall be binding unless executed in writing by a duly authorized officer of each of the parties. No waiver of any provision of this Contract shall be deemed or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver.

## Titles and captions used in this Contract are for convenience only and shall not be used in the interpretation of any of the provisions of this Contract. As used in this Contract, the neuter gender shall include the masculine and the feminine, the masculine and feminine genders shall be interchangeable, the singular number shall include the plural, and the plural the singular.

## In the event any section, or any part or portion of any section of this Contract, shall be held to be invalid, void or otherwise unenforceable, such holding shall not affect the remaining part or portions of that section, or any other section hereof.

## Waiver. Owner’s failure to insist on performance of any term, condition, or instruction, or to exercise any right or privilege included in this Contract, or its waiver of any breach, shall not thereafter waive any such term, condition, instruction, and/or any right or privilege.

## Survival Of Obligations. Notwithstanding the acceptance of any Tooling by Owner or the termination of this Contract, any duty or obligation which has been incurred by Contractor and which has not been fully observed, performed and/or discharged and any right, unconditional or conditional, which has been created for the benefit of Owner and which has not been fully enjoyed, enforced and/or satisfied shall survive such acceptance or termination until such duty or obligation has been fully observed, performed and or discharged and such right has been fully enjoyed, enforced and/or satisfied.

## Special, Indirect And Consequential Damages. To the extent permitted by applicable law, Owner shall not be liable to Contractor in contract, tort or otherwise (including negligence, warranty or strict liability) for any incidental, special, indirect, exemplary or consequential damages arising out of or in connection with or resulting from the Contract and/or the work hereunder, whether or not such damages arise out of, or in connection with, or result from, the negligence of Owner or its employees or agents.

## Force Majeure. In the event there is a delay in performance under the Contract which is (a) beyond the control of a Party, and (b) not occasioned by the fault or negligence of a Party, and (c) which results from wars or other acts of a public enemy, restrictions, prohibitions, priorities, or allocations imposed by any governmental authority (other than an order of court relating to, or based upon, insolvency proceedings), freight embargoes, fires, floods, tornados, or other unusually severe weather, earthquakes, epidemics, acts of God, or other natural or governmental causes, which shall not, however, include (x) non-performance by any subcontractors or affiliates and which also shall not include (y) any strike, lockout, shortage of labor, lack of or inability to obtain raw materials, fuel or supplies (unless caused solely by governmental restriction), or (z) any other labor or industrial disturbance, such delay shall be excused and the period of such delay shall be added to the time for performance of the obligation delayed, unless the date, schedule or time period for performance of the obligation is expressly stated in the Contract to be guaranteed. In the event any such delay due to the foregoing causes or events occurs or is anticipated, the Party delayed or anticipating delay shall promptly notify the other Party in writing of such delay or expected delay and the cause and estimated duration of such delay. In the event of a delay due to the foregoing causes or events, whether such delay is excused or not, the Party delayed shall, at no cost to the other Party, exercise due diligence to shorten and avoid the delay and shall keep the other Party advised as to the continuance of the delay and steps taken to shorten or terminate the delay. Contractor shall not in any event be entitled to additional or extra compensation by reason of Contractor having been delayed in performance of its obligations due to the foregoing causes or events, whether such delay was excused or not.

## Advertising. Contractor shall not, without first obtaining the prior written approval of Owner, in any manner advertise or publish the fact that Contractor has contracted to perform work for Owner.

# OTHER CONDITIONS, PROVISIONS, OR MODIFICATIONS

Check any written **Special Conditions** for other conditions, provisions, or modifications to this Contract.

IN WITNESS WHEREOF, the Parties hereto have executed this Contract as of the date first above written.

OWNER: CONTRACTOR:

MERCEDES-BENZ U.S. INTERNATIONAL,
INC.

By: By:

Its: Its:

Date: Date:

By:

Its:

Date: