

**Mercedes-Benz U.S.**

**International, Inc.**

EQUIPMENT LEASE AGREEMENT

CONTRACT NUMBER \_\_\_\_\_\_\_\_\_\_\_\_\_ DATE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**THIS EQUIPMENT LEASE AGREEMENT** (this “Agreement”) is entered into effective as of the \_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, by and between **MERCEDES-BENZ U.S. INTERNATIONAL, INC.** (“Lessee”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, (“Lessor”).

**WHEREAS**, Lessee wishes to lease certain equipment from Lessor and, if applicable, to engage Lessor to perform services related thereto pursuant to the provisions set forth in this Agreement.

**NOW THEREFORE**, in consideration of the agreements herein contained and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

# DEFINITIONS

## “Affiliated Persons” means Lessor’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 to the goods, services, and/or information which are subject of this Agreement, and all other laws, regulations, rules, orders, decrees, or other directives carrying the force of law applicable to any activities engaged in by Lessor or any of its Affiliated Persons in connection with this Agreement, in each case as the same may be amended from time to time.

## “Delivery Date” shall be the date on which Lessor is required to deliver the Equipment pursuant to the corresponding Equipment Schedule.

## “Delivery Location” shall be the location where the Lessor is required to deliver the Equipment pursuant to the corresponding Equipment Schedule.

## "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.

## “Equipment” means any and all equipment that Lessee is leasing from Lessor pursuant to this Agreement, including those items listed on the Equipment Schedule.

## “Equipment Schedule(s)” has the meaning set forth in the Article 3.0.

## “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 of 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.

## “Lease Documents” means those documents described in Article 2.0.

## “Fees” has the meaning set forth in Article 5.0.

## “Scope of Work” has the meaning set forth in Article 4.0.

## “Work” means the provision and leasing of the Equipment to Lessee as required by this Agreement, and includes any and all labor, materials, equipment, and services provided by Lessor to fulfill Lessor’s obligations under this Agreement. The Work contemplated by this Agreement includes all terms, conditions, requirements, and obligations provided for in the Lease Documents.

# LEASE DOCUMENTS

## Lease Documents. The Lease 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 Agreement:

PURCHASE ORDER

EQUIPMENT LEASE AGREEMENT (this document)

EQUIPMENT SCHEDULE(S) (Attachment 1)

SPECIAL CONDITIONS (if any)

## Conflict. In cases of express conflict between parts of the Lease Documents, the order of precedence shall be as follows: (a) Special Conditions; (b) Equipment Schedules; (c) this Agreement; (d) Purchase Order. In the event of an express conflict between the Lease Documents, or between any other documents which are a part of this Agreement, Lessor shall notify Lessee immediately and shall comply with Lessee’s resolution of the conflict.

## Additional Terms. No additional and/or different term(s) other than those included in the Lease Documents, including those which appear in any quotation, acceptance, invoice, or acknowledgment of or written confirmation by Lessor, shall be of any force or effect, unless Lessee expressly agrees in a duly executed writing to any such additional or different term(s). Lessee hereby notifies Lessor of its objection to any additional and or different term(s), unless and to the extent Lessee has expressly agreed to any such additional and/or different term(s) in a duly executed writing. Lessee expressly limits the terms of the lease of the Equipment and the performance of any services to the terms of the Lease Documents. All other terms are hereby expressly rejected.

# LEASE OF EQUIPMENT

## Lessor shall lease to Lessee, and Lessee shall lease from Lessor, the Equipment as described in the schedule or schedules attached hereto as Attachment 1 (the “Equipment Schedule,” or “Equipment Schedules,” as the case may be). The Equipment Schedule may be updated or new Equipment Schedules may be added from time to time during the Term of this Agreement.

# SCOPE OF WORK

## Scope of Work. The “Scope of Work” of this Agreement includes all Work required pursuant to an applicable Purchase Order, this Agreement, the Equipment Schedule(s), and any mutually agreed Special Conditions. In the event Lessor is leasing more than one item of Equipment, more than one Equipment Schedule may be included as part of Attachment 1.

## Work on Lessee’s Premises. If Lessor’s performance of the Work under this Agreement involves operations by Lessor on the premises of Lessee, Lessor shall take all necessary precautions to prevent the occurrence of any injury to person or property during the progress of the Work. If Lessor performs any part or all of the Work on-site, it shall comply with Lessee’s safety and environmental procedures, including, without limitation, the Expat/Contractor/Supplier Safety and Security Guidelines, the Hazardous and Toxic Substance Disclosure Requirements, and the Environmental Protection Plan for Construction. None of Lessor’s employees or contractors shall be permitted to perform Work on-site until they have successfully completed all of Lessee’s (and if there is a construction manager, the construction manager’s) safety and organizational requirements, including, without limitation, a drug screen and safety orientation. Lessor shall execute and comply with Lessee’s Substance Abuse Policy.

# FEES

## Fees. Lessee agrees to pay to Lessor the payment(s) specified in writing in the Equipment Schedule(s) and required under this Agreement (the “Fees”)for Lessor’s full compensation for full and complete performance by Lessor of all the Work and compliance with all terms and conditions of this Agreement, and such payments shall be made pursuant to Article 7.0. Notwithstanding anything to the contrary in this Agreement, the Fees for any partial period at the beginning or end of this Agreement shall be prorated on a daily basis based upon a 30 day month. Fees shall be inclusive of all taxes, duties, fees, and other assessments of whatever nature imposed by governmental authorities with respect to the Equipment or otherwise applicable to the performance of the Work and this Agreement.

## Taxes. Lessor shall promptly pay all taxes, fees and assessments due, imposed, assessed or levied against any Equipment (or the purchase, ownership, delivery, leasing, possession, use or operation thereof). Lessee shall have no responsibility for any such taxes. Lessor shall file and pay all personal property taxes and tax returns with respect to the Equipment.

# TERM OF LEASE AND TIMING OF THE WORK

## Commencement; Term. This Agreement shall commence on the date set forth above and shall remain in effect until the date specified on the applicable Equipment Schedule (the “Initial Term”) or as otherwise terminated by Lessee or Lessor in accordance herewith. Lessor shall begin the Work by delivering the Equipment no later than the Delivery Date set forth in the applicable Equipment Schedule.

## Renewal Term. With respect to any item of Equipment, Lessee has the option to extend the Initial Term or any successive term set forth in the Equipment Schedule for the time period(s) set forth in the Equipment Schedule and on the same terms and conditions specified in this Agreement. Lessee may exercise such option prior to the expiration of the Initial Term or any successive term, as the case may be.

## Time of the Essence. The times for performance for delivery of the Equipment under this Agreement shall be specified in the Equipment Schedule. TIME IS OF THE ESSENCE as regards to Lessor’s performance of the Work.

## Force Majeure. Neither Lessor nor Lessee shall be liable for a default hereunder resulting from the following causes which may occur after the date of this Agreement: fires, explosions, acts of God, acts, omissions, or delays of an applicable governmental authority, hurricanes, floods, or abnormal weather conditions that could not have been reasonably anticipated, landslides, and quarantines (defaults and delays which are the result of the foregoing causes shall be known as “Excusable Delays”); provided, however, that such occurrence, default, or delay is not caused by the negligence or willful action of the party seeking to have the failure, default, or delay excused. The parties hereby acknowledge and agree that delays caused by or associated with computer programs do not constitute Excusable Delays. Lessor further acknowledges that defaults or delays caused by a shortage of labor or a lack of materials, fuel, or supplies do not constitute Excusable Delays. In the event of an Excusable Delay, the duties and obligation of the party seeking to have the failure, default, or delay excused shall be extended for a commercially reasonable time.

# PAYMENT TERMS AND INVOICING

## Invoices. Lessor shall submit invoices to Lessee at Lessee’s address in accordance with this Agreement and the Equipment Schedule(s). Lessee shall not pay any invoice unless it is accompanied by proper documentation of rental and/or service activity detail, including, but not limited to, the item(s) of Equipment to which the invoice pertains and the period of the term of this Agreement to which the invoice relates. Lessor’s failure to cause its invoice to conform to the Equipment Schedule(s) or this Agreement, delay in providing invoices, and errors and omissions on invoices shall be considered just cause for withholding payment and returning an invoice to Lessor without payment without losing any applicable cash discount privileges. Lessor shall also provide Lessee with any other documentation reasonably requested by Lessee to support the Work invoiced.

## Time for Payment. Lessee shall pay the invoiced amount within thirty (30) days after receipt of a proper invoice, unless Lessee has notified Lessor in writing of a good faith dispute regarding part or all of an invoiced amount. In such case, Lessee and Lessor shall work together to resolve the dispute and Lessee shall pay the Lessor the mutually agreed to amount upon resolution.

## Amounts Owed to Lessee. Lessee shall be entitled to deduct from payment any amounts which Lessor owes Lessee.

## Books and Records. Lessor shall keep, at its own expense, accurate, true, and complete books and records with respect to this Agreement and the Fees, costs, expenses, and other charges due and owing by Lessee hereunder, and including all records relating to the Equipment. Such books and records shall be kept at Lessor’s principal place of business and shall be made available to Lessee and its representatives at all reasonable times for examination, audit, inspection, transcription, and copying so as to allow Lessee to verify all invoices, bills, charges, costs, expenses, and fees required to be paid by Lessee pursuant to the terms of this Agreement.

# PERMITS AND LICENSES

## Lessor shall promptly apply for and procure, without additional compensation, all permits, certificates, registration, titles, and licenses as may be required by governmental authorities having jurisdiction over the Work, Lessor, or the location of the Work for the lawful possession and use of the Equipment. Proof of such permits, certificates, or licenses shall be submitted to Lessee. Lessee agrees that any such titles and registrations shall be applied for, issued, and maintained in the name of Lessor, as owner of the Equipment.

# CHANGES IN WORK

## The Scope of Work shall be subject to change by addition, deletions, or revisions by Lessee. Lessor will be notified of such changes by receipt of written request from Lessee. Upon receiving a request for a change or written approval of a change from Lessee, Lessor shall submit to Lessee within ten (10) working days a detailed take-off with supporting calculations and pricing for the change and any adjustments in the schedule for performance of the Work or provision of any additional Equipment. If Lessor does not submit such pricing within ten (10) working days, Lessor shall perform the changed Work or provide additional Equipment at the cost and in the time estimated by Lessee. Lessor shall diligently perform the change in strict accordance with this Agreement upon Lessee approving the pricing for the change and any modifications to the schedule. All changes in the Scope of Work must be approved in writing by Lessee prior to any performance of changes in the Work. Any costs incurred by Lessor to perform oral changes or changes not approved by Lessee in writing will be for Lessor’s account, and no additional time will be granted for such oral or unapproved changes. In the event the change must be performed immediately or Lessee and Lessor are unable to reach agreement for pricing of a change or time for performance of the changed Work, Lessee may issue a change directive directing Lessor to perform the changed Work in the requested time frame. Upon receipt of the change directive, Lessor shall immediately commence performance of the changed Work and alert Lessee of any dispute regarding the pricing for the changed Work or time of performance. If such dispute cannot be immediately resolved, Lessor shall comply with the provisions found in Article 18.0.

# COMPLIANCE WITH LAWS

## Compliance with Laws. Lessor hereby confirms that it is aware of all Applicable Laws, and, in connection with the activities of the parties related to this Agreement, Lessor hereby commits to strict compliance with such Applicable Laws and makes the following representations and warranties as of the date of this Agreement and for the duration of this Agreement in connection with its activities related to this Agreement:

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

#### Lessor 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 Lessee or its affiliated companies to liability under Applicable Laws;

#### neither Lessor 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 Lessor or Lessee or their affiliated companies; and

#### in case Lessor 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 Lessor, Lessee, or their affiliated companies or to supervise, or otherwise control or direct the actions of, Government Officials who are in a position to direct business to Lessor or Lessee or their affiliated companies, Lessor or the respective Affiliated Persons must ensure that conflicts of interest will be excluded and to inform Lessee without undue delay about the measures taken.

#### Lessor has a duty to ensure that any employees used on site at Lessee’s facility and/or that any employees given access to any IT-systems in connection with fulfilling the requirements of this Agreement must receive an admission and/or access authorization from Lessee. Individuals to whom Lessee or any Affiliate has declared a house ban, an admission ban, and/or an access ban cannot be used by Lessor in fulfillment of this Agreement or any of the Work hereunder.

### Lessor shall assist and cooperate fully with the efforts of Lessee to comply with Applicable Laws. In particular, Lessor shall keep accurate books and records and Lessor shall immediately notify Lessee of any information that bribes or other improper payments are being requested, made, or offered in connection with this Agreement. Upon request of Lessee, Lessor shall make those records which are necessary for Lessee to verify Lessor’s compliance with the Applicable Laws relating to this Agreement available to a sworn auditor who is obligated to observe secrecy and selected by Lessee. If such auditor notices any failure by Lessor to comply with the Applicable Laws, Lessor agrees that the auditor may disclose information relating to Lessor’s failure to Lessee 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 Lessee be obligated to Lessor under or in connection with this Agreement to act or refrain from acting if Lessee believes that such act or omission would cause Lessee to be in violation of Applicable Laws. In no event will Lessee be liable to Lessor for any act or omission which Lessee believes is necessary to comply with Applicable Laws.

### If Lessor 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 Agreement, then, in addition to any other rights Lessee may have under this Agreement:

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

#### Lessee may immediately terminate this Agreement; and

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

### Lessor 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).

## Environmental Compliance.

### Lessor 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 Services under this Contract without Lessee's prior written approval thereof.

### Lessor shall not, under any circumstances, cause or permit the discharge, spill or release of any Hazardous Material in connection with the Work to be performed hereunder, in violation of any Environmental Requirements which are now or hereafter promulgated by any federal, state or local governmental authority. As an inducement to award of this Agreement, Lessor represents and warrants that it is and will remain in full compliance with and will adhere to all Environmental Requirements and, if necessary, obtain or arrange for, at its expense, all identification numbers, applications and other governmental approvals, certificates, licenses, permits, or the like, required in connection with the Work. Without limiting the effect of the foregoing, Lessor agrees that it will (i) not store any hazardous wastes at the Lessee’s facility for periods in excess of ninety (90) days or in violation of the applicable site storage limitations imposed by law, Lessee, or its agents, whichever shall be more restrictive; (ii) not permit any accumulation in excess of the small quantity generator exemption of Part 261 of Title 40 of the Code of Federal Regulations or other applicable law, as amended; (iii) take, at its expense, all actions necessary to protect third parties, including without limitation, employees and agents of Lessee, from any exposure to, or hazards of, any Hazardous Material generated or utilized in Lessor's operations; and (iv) report to the appropriate governmental agencies all discharges, releases and spills of any Hazardous Material required to be reported by law and to immediately notify Lessee of same. Further, if in the performance of this Agreement, Lessor is required to use a chemical substance or mixture, or any material which may generate or release a chemical substance or any hazardous agents, Lessor shall provide before or with said use a Material Safety Data Sheet (Federal OSHA Hazard Communication Standard, 29 CFR 1910.1200) and label which are current, accurate and complete, which include but are not limited to a statement of product hazards and precautions for safe use.

## Technical Compliance. Lessor must comply with all applicable laws to the extent related to Lessor’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. Lessor’s compliance must take into account the fundamental spirit of the respective laws and regulations. Lessor 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 Lessor’s employees and consider appropriate ethical, integrity, and technical compliance standards. If Lessor 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, Lessor 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. Lessor 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 Lessor.

## Immigration.

### Lessor (i) shall at all times during the term of this Agreement 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 Agreement 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 Lessor’s employees located in the United States; and (iii) has responded, and shall at all times during the term of this Agreement respond, in a timely fashion to any inspection requests related to such I-9 Forms by DHS or by Lessee. During the term of this Agreement, Lessor 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 Lessor or any of its employees. All agreements and contracts between Lessor 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 Agreement, except to the extent expressly stated otherwise in this Agreement.

### Lessor will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform any Work, and Lessor agrees to attest to such representation by a sworn affidavit as Lessee may request. As Lessee may request, Lessor shall require each subcontractor and sub-subcontractor to furnish to Lessor a similar affidavit. Furthermore, Lessor will not knowingly allow any subcontractor or sub-subcontractor to employ or continue to employ any unauthorized aliens to perform any Work. Prior to performing any Work, Lessor 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 Lessee evidence of Lessor’s enrollment in the E-Verify program, and to utilize the E-Verify program during the performance of the Agreement in accordance with the applicable state and federal rules and regulations. Lessor will retain and make available for inspection by Lessee, or any authorized governmental agency, at Lessee’s premises (and if requested provide a copy to Lessee), on the first day of employment or upon reasonable notice, a completed I-9 Employment Eligibility Verification Form and an E-Verify confirmation. Upon request, Lessor will provide to Lessee any available copies of associated employment eligibility, identity, and work authorization documentation for each person that Lessor employs at Lessee’s premises. If Lessor receives actual knowledge of the unauthorized status of one of its employees at Lessee’s premises, or if Lessor learns of facts that would lead a reasonable person to infer the unauthorized status of any employee at Lessee’s premises, Lessor will immediately remove that employee from Lessee’s premises, inform Lessee, and shall require each subcontractor and sub-subcontractor to act in a similar fashion with respect to such subcontractor’s or sub-subcontractor’s employees.

### Lessor shall indemnify, protect, defend, and hold harmless Lessee and its affiliates and its and their respective directors, stockholders, members, managers, officers, employees, agents, consultants, representatives, successors, transferees, and assigns from and against any and all damages arising from, relating to, or associated with any actual or alleged actions or omissions of Lessor 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 Work hereunder.

### Lessor represents and warrants that each employee and subcontractor and sub-subcontractor employee will have evidence of appropriate immigration authorization to perform the Work at Lessee’s premises. On-site credentials will not be issued by Lessee for any Lessor or subcontractor or sub-subcontractor employee unless the employee meets these requirements. Lessors who fail to present evidence of appropriate immigration authorization to Lessee shall not be allowed to perform work at Lessee’s premises in accordance with applicable laws and regulations. Lessor shall remain responsible for any and all damages incurred for failing to meet the appropriate immigration requirements and failure to remedy will be a breach of this Agreement. It is the responsibility of Lessor to seek legal counsel and bear all costs for obtaining such immigration authorization for its employees and subcontractors’ and sub-subcontractors’ employees prior to these employees’ assignment to Lessee’s premises. All indemnification obligations in Article 10 of this Agreement shall be enforced to the fullest extent permitted by applicable law for Lessee’s benefit, regardless of the causes or alleged causes of the claims.

## Minority-Owned Business Enterprises/Women-Owned Business Enterprises. Consideration is to be given to Minority-Owned Business Enterprises (“MBEs”) and Women-Owned Business Enterprises (“WBEs”) for the supply of the services and goods necessary for Lessor to supply Lessee with the Equipment and Work. Lessor is required to use its best efforts to have a minimum MBE participation equivalent of fifteen percent and a minimum WBE participation equivalent of five percent in its subcontractors and suppliers. MBEs and WBEs should be certified by a certifying agency that is approved by Lessee. The National Minority Supplier Development Council and its regional affiliate councils are Lessee-approved certifying agencies. Lessor shall be accountable for the usage of MBEs and WBEs through the monitoring and reporting of its MBE and WBE subcontractors and suppliers.

## Foreign Trade Subzone. Lessee’s premises has been designated a Foreign Trade Subzone pursuant to 19 U.S.C. § 81b, and accordingly, Lessor shall strictly comply with all requirements of the Foreign Trade Zones Act (19 U.S.C. § 81a et seq.) and all such rules, regulations, or laws of any kind relating to the Foreign Trade Zones Act which are now or hereafter promulgated by governmental authority.

# RISK OF OMISSIONS

## Lessor represents that Lessor has carefully examined the Scope of Work and has fully acquainted itself with all other conditions relevant to the Work, and its surroundings, including the location for any Equipment, and Lessor 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 the Work, or negligence, if any, of Lessee or Lessee’s agents, will fully complete the Work for the stated Fees without further recourse to Lessee. Except as otherwise provided in this Agreement, any omissions from this Agreement of elements of the Work, including design, materials, construction, or equipment, shall not relieve Lessor from furnishing the same if such are required in order to finish the Work as contemplated by this Agreement. Any such changes, additions, or deletions shall not constitute a change under Article 9.0 and shall not in any way increase the Fees.

# WARRANTY

## Lessor warrants to Lessee that:

### that the Work and the Equipment shall comply strictly with the provisions of this Agreement and any specifications provided by Lessee and that the Work shall be first-class in every particular manner and fit for its intended purpose;

### all Equipment furnished by Lessor pursuant to this Agreement shall be in compliance with all applicable federal, state, local, and other laws, ordinances, codes, regulations, orders, and agency, industry, or other standards, and shall also be free and clear of all liens, claims, security interests, or encumbrances arising or resulting from the acts or omissions of Lessor or anyone claiming by or through Lessor which will in any way adversely affect Lessee’s use of the Equipment (collectively, the “Liens”). Lessor further warrants Lessee that all Equipment furnished by Lessor in performance of this Agreement shall be in good condition and working order, merchantable, of the most suitable grade, free from defects, and fit for their intended purposes;

### that all services supplied by Lessor in performance of this Agreement shall be supplied by personnel who are careful, qualified, skilled, experienced, and competent in their respective trades or professions; and

### that no part of the Equipment or Work provided hereunder shall contain any traces of silicone (any of a large class of polymers of R2SiO where R is a hydrocarbon).

## Losses. Lessor shall bear all losses resulting to it on account of the amount or character of the Equipment or the Work being different from what Lessor anticipated, and on account of the weather. Lessor shall be responsible for all damages resulting from all errors, omissions, or negligence of Lessor in the performance of the Work.

## Assignment of Warranty Rights. Lessor shall assign to Lessee, solely for the purpose of making and prosecuting any such claim, all of Lessor’s rights against the manufacturer or supplier of any item of Equipment for breach of warranty or other representation respecting such item, provided that, in the event such rights are not assignable, Lessor shall assert such rights for the benefit of Lessee.

## Other Warranties. The warranties provided in this Article 12.0 are in addition to all other warranties, express or implied, at law or in equity.

# DELIVERY, ACCEPTANCE AND CORRECTION OF DEFECTIVE WORK

## Delivery of Equipment. On or before the Delivery Date specified in the applicable Equipment Schedule, Lessor shall deliver the Equipment to the Delivery Location set forth therein.

## Inspection of Equipment. Unless otherwise provided in the applicable Equipment Schedule, Lessee shall have ten (10) business days after the Delivery Date specified in the Equipment Schedule to inspect the Equipment and either (a) accept the Equipment, or (b) reject any item of the Equipment that does not conform to the warranties set forth in this Agreement, including, but not limited to, those set forth in Article 12.0, by providing notice to Lessor stating Lessee’s reasons for rejection.

## Inspection of Services. To the extent that the Work includes maintenance services, as determined in accordance with the applicable Equipment Schedule(s), unless otherwise provided in the applicable Equipment Schedule, Lessee shall have ten (10) business days after the maintenance is performed on any item of Equipment to inspect the Work and either (a) accept the Work, or (b) reject any part of the Work that does not conform to the warranties set forth in this Agreement, including, but not limited to, those set forth in Article 12.0,by providing notice to Lessor stating Lessee’s reasons for rejection.

## Rejection. In the event Lessee rejects any item of Equipment or Work pursuant to Sections 13.2 or 13.3 above, Lessor, at the option of Lessee, shall promptly provide Lessee alternate or substitute Equipment for use and rental under this Agreement. Lessor shall bear the costs of correcting such rejected Equipment or Work. Lessor acknowledges that, in entering into this Agreement, Lessee shall become entirely dependent upon Lessor for the timely delivery and maintenance (if applicable) of the Equipment. Lessor further recognizes that failure to timely and fully perform its obligations hereunder may affect the viability of Lessee’s operations, or the manufacturing at Lessee’s facility, and that Lessee shall suffer substantial losses and damages which cannot be measured solely in monetary terms. Lessor, therefore, expressly agrees that Lessee shall have the right to compel specific performance of this Agreement by Lessor. In addition, Lessee shall also be entitled to recover from Lessor all losses, expenses, and damages, including attorneys’ fees, costs, and incidental and consequential damages, which Lessee may suffer as a result of such default by Lessor.

## Substitute Equipment; Correction. If Lessor, after notice, fails to proceed promptly to provide alternate or substitute Equipment or to correct the Work, the Lessee may, at its discretion, have the defects corrected or enter into a new agreement with another party as a substitution for Lessor’s Work, and Lessor shall be liable for all expense incurred.

# INSURANCE

## Lessee’s Insurance. Lessee shall maintain or cause to be maintained in force at all times during the term of this Agreement insurance against (a) loss or damage to the Equipment caused by fire, theft, lightning, flood, windstorm, explosion, or other casualty; and (b) the death of or injury to persons or damage to property resulting from Lessee’s negligent operation, use, or storage of the Equipment in an amount not to exceed $1,000,000 per occurrence for bodily injury and property damage combined. Each insurance company shall endeavor to provide the Lessor with a thirty (30) days written notice of its intention to cancel the aforementioned policies.

## Lessor’s Insurance. Lessor shall maintain such commercial general liability, property damage, and employer’s liability and worker’s compensation insurance as will protect Lessee from said risks and from any claims under any applicable worker’s compensation, occupational disease, or similar act. In the event that the Work involves professional services, including, without limitation, design services, Lessor shall maintain professional liability insurance. Lessee requires Lessor to provide, at its sole expense, at least the following insurance coverages: (a) Commercial General Liability -- $1,000,000 Per Occurrence, including Products Completed Operations, Personal & Advertising Injury; (b) Automobile Liability -- $1,000,000 Per Occurrence Combined Single Limit BI/PD; (c) Umbrella Excess Liability -- $5,000,000 Per Occurrence and Aggregate; and (d) Worker's Compensation -- Statutory Limit with $1,000,000 Employer’s Liability applying to each accident, each disease, and each employee. Lessor shall not perform any work on Lessee’s site unless appropriate insurance is obtained beforehand. Lessor shall provide Lessee with a proper certificate of insurance from its insurance carrier prior to commencing the Work, which certificates shall be provided to Lessee. Lessee shall be included on the certificate as an additional insured with respect to all insurance required herein (excluding Workman’s Compensation). Each insurance policy shall contain a clause that states that the policy shall not be cancelled by the insurance company without thirty (30) days written notice to Lessee of the intention to cancel. Subrogation against Lessee under Lessor’s insurance coverages pursuant to this Article shall be, and is hereby, waived. Evidence of such waiver satisfactory in form and substance to Lessee shall be exhibited in the certificates furnished hereunder . No portion of the Fees to be paid to Lessor includes any amounts to reimburse Lessor for insurance policies, premiums, or consultants’ fees in connection therewith. In the event Lessor becomes aware of any overpayment in violation of this clause, it will promptly notify Lessee and shall reimburse Lessee for any amounts so overpaid to Lessor

# QUIET ENJOYMENT

## Lessor warrants to Lessee that, so long as Lessee is not in default under this Agreement, neither Lessor nor any successor, assignee, secured party, agent, or designee of Lessor will disturb Lessee’s quiet and peaceful possession of the Equipment and Lessee’s unrestricted use thereof for its intended purpose.

# RISK OF LOSS

## Risk of Loss. While any item of Equipment is in Lessee’s possession, Lessee shall bear the entire risk of loss of or damage to such item of Equipment resulting from fire, theft, collision, lightning, flood, windstorm, explosion, or other similar casualty which is not caused by the acts or omissions of Lessor.

## Notice of Loss. If any item of Equipment is rendered unusable as a result of such loss or damage, Lessee shall provide notice thereof to Lessor within fifteen (15) days after the date of occurrence of such loss or damage. Additionally, Lessee shall determine, within fifteen (15) days after the date of occurrence of such loss or damage, whether such item of Equipment can be repaired. In the event Lessee determines that such item of Equipment cannot be repaired, Lessee at its expense shall promptly replace such item of Equipment and convey title to such replacement to Lessor free and clear of all liens. Any replacement item of Equipment shall be of the same value based upon the model, age, usage, and utility as the replaced item at the time of the loss (the “Replacement Value”). Title to the original Equipment shall be conveyed to the Lessee, free and clear of all liens. If Lessee is unable to effect such replacement within thirty (30) days following the determination that such item cannot be repaired, Lessee shall pay to Lessor the Replacement Value for such item. In the event Lessee determines that such item of Equipment can be repaired, Lessee shall cause such item of Equipment to be promptly repaired. All proceeds of insurance received by Lessor or Lessee under the policies maintained pursuant to the provisions of Article 14.0 shall be applied toward the cost of any such repair or replacement. In addition, all Fees due under this Agreement with respect to any item of Equipment which has been rendered unusable due to a loss or damage resulting from the negligence of Lessee shall continue after the date of occurrence of such loss or damage; provided, however, such rental payments shall be abated for the time period beginning fifteen (15) days after the occurrence of such loss or damages and ending on the date such item is repaired or replaced.

# INSPECTIONS AND MAINTENANCE

## Inspection of Equipment. Prior to delivery to Lessee, Lessor shall inspect all of the Equipment to ensure that it is suitable for use by Lessee.

## Maintenance.

### To the extent that the Work includes maintenance services, Lessor shall maintain the Equipment in accordance with the provisions of this Agreement and the applicable Equipment Schedule. Lessor shall perform such maintenance services as may be necessary to keep the Equipment in good repair, condition, and working order, reasonable wear and tear excepted. The Work shall include, without limitation, performing the preventative and remedial maintenance services described in the applicable Equipment Schedule at the times set forth therein as well as in accordance with any manufacturer suggested maintenance schedule. In connection with such Work, Lessor shall complete and sign such reports and forms as Lessee may adopt from time to time for the purpose of documenting repairs and maintenance of the Equipment. All replacement parts used to repair and maintain the Equipment shall become part of the Equipment and the property of Lessor. Lessor shall at all times promptly pay for all services, materials, equipment, and labor used or furnished by Lessor in the performance of the Work under this Agreement

### In the event Lessee is responsible for maintaining the Equipment, Lessee shall, at its sole cost and expense, maintain the Equipment in good repair, condition, and working order, reasonable wear and tear excepted. All replacement parts used to repair and maintain the Equipment shall become part of the Equipment and the property of Lessor.

# CLAIMS

## Procedures for Lessor Claims. Upon any change pursuant to Article 9.0, Lessor shall give Lessee written notice within ten (10) working days after the happening of any eventwhich Lessor believes may give rise to a claim by Lessor for an increase in the Fees or in the scheduled time for performance or any other relief with respect to the terms of the Agreement. Within ten (10) working days after the happening of such event, Lessor shall supply Lessee with a statement supporting Lessor’s claim, which statement shall include Lessor’s detailed estimate of the change in Fees and/or scheduled time occasioned thereby, 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 18.0) and the circumstances requiring the adjustment requested in the claim necessitated by said condition or event. Lessor shall substantiate its claim with payroll documents, paid invoices, receipts, records of performance, and other documents satisfactory to Lessee and subject to its verification.

## Claims Not Reported in Accordance with this Article. Lessee shall not be liable for, and Lessor hereby waives, any claim or potential claim of Lessor which was not reported by Lessor in accordance with the provisions of this Article 18.0. Lessee shall not be bound to any adjustments in the Fees or scheduled time for Lessor’s claim unless expressly agreed to by Lessee in writing.

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

## No Claims After Final Payment. No claim hereunder by Lessor shall be allowed if asserted after final payment under this Agreement. Lessor’s remedies are limited to those expressly set forth in this Agreement.

# INDEMNIFICATION

## Indemnification by Lessor. Lessor agrees to indemnify, defend, and hold harmless Lessee or any of Lessee’s affiliated companies, and all of their respective directors, officers, employees, agents, representatives, servants, successors, assigns, and customers, from any and 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, attorneys’ and investigation fees (collectively, “Costs”), of any type whatsoever, which may be incurred by them or any of them arising out of or in connection with or related to (a) any claim or defect or alleged defect in the design, materials, manufacture, or leasing of the Equipment or the Work; (b) any intentional or negligent act or omission, whether alleged or actual, pursuant to this Agreement, including, without limitation, any claims or damages to property or injuries or death to persons arising out of acts or omissions of Lessor’s employees and agents; (c) any claim, damage, or loss relating to computer programs or computer-related dates; (d) any release or threat of release of any hazardous material into the environment and/or any public or private nuisance; and/or (e) any failure to comply with the Applicable Laws and all applicable federal, state, and local laws, ordinances, rules, orders, and regulations and those of any regulatory body or governmental authority having jurisdiction over all or part of the Equipment, the Work, Lessor, or Lessee. Lessor hereby expressly waives any and all statutory and/or constitutional immunity to which, but for this waiver, it might be entitled (i) as an employer in compliance with any State of Alabama worker’s compensation laws or (ii) under any other employee benefit statutes or similar laws of any jurisdiction.

## Indemnification Obligations. Lessor’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 attorneys’ fees incurred by Lessee for legal action to enforce Lessor’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 Lessor for any subcontractor under worker’s compensation acts, disability benefit acts, or other employee benefit acts. The obligations of the Lessor under this Article shall survive the termination of this Agreement.

## Right to Participate. With respect to the Lessor’s indemnity obligations set forth in this Article, Lessee 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 Lessee, its representatives, or agents, the affiliated companies, and all of their respective directors, officers, employees, agents, representatives, successors, or assigns.

## Indemnification by Lessee. Except to the extent prohibited by applicable law, Lessee shall indemnify and hold Lessor harmless from any and all Claims and Costs arising out of Lessee’s negligent operation, use, or storage of the Equipment, except to the extent that such Claims or Costs are caused by Lessor’s failure to comply with its obligations and warranties under this Agreement.

## Limitation of Liability. To the extent permitted by applicable law, Lessee shall not be liable to Lessor 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 this Agreement and/or the Work, whether or not such damages arise out of, or in connection with, or result from, the negligence of Lessee or its employees or agents.

# PROPRIETARY INFORMATION; INTELLECTUAL PROPERTY

## Intellectual Property Right Infringement. Lessor warrants that the Equipment leased and Work provided hereunder shall not infringe any U.S. and/or foreign patent and/or any other third party intellectual property right and Lessor shall, at its expense, defend, indemnify, and save Lessee harmless from and against any and all loss, damage, expense, or liability that may result by reason of any such infringement or alleged infringement, including, without limitation, attorneys’ fees incurred by Lessee in its defense. In the event that any of the Equipment or Work furnished to Lessee hereunder or the operation thereof become the subject of an alleged infringement of a U.S. and/or foreign patent and/or any other third party intellectual property right, Lessor shall, at its expense, procure for Lessee the right to continue using the Equipment or Work provided or replace or modify the same so that they become non-infringing; or, if Lessor cannot procure such right or modify such Equipment or Work, Lessor shall refund to Lessee the full purchase price of the alleged infringing Equipment and Work. Additionally, should any ancillary services be provided as a part of any transactions covered by this Agreement and such ancillary services be deemed to constitute an intellectual property right or process, Lessor hereby conveys and grants to Lessee the exclusive right to such intellectual property right or process.

## Use and Protection of Information. Lessor shall not disclose any business plans, customer or supplier information, specifications, records, drawings, design, data, computer programs, program documentation, product information, or any other technical information relating to this Agreement or to any aspect of Lessee’s business, manufacturing, financial, technical, or marketing operations (“Lessee Information”) to any other person or entity without Lessee’s prior written permission. All Lessee Information shall remain Lessee’s property and shall be kept confidential by Lessor, unless this furnished information (a) is within public knowledge, or (b) is made public by Lessee or an authorized third party, or (c) was previously known to Lessor free of any obligation to keep it confidential. Lessor shall (in the absence of a written mutual agreement for its use for other purposes) use such Lessee Information only for the purpose of this Agreement. If the Lessee Information is in written, graphic, or other tangible form, it shall be returned to Lessee promptly at its request. There is no obligation on the part of Lessee to deem Lessor’s information to be other than public and non-proprietary unless Lessor both specifically identifies any trade secret information or proprietary information on each page of the applicable document, diskette, or other medium providing the information and lists the item or aspect on a “Proprietary Information List” that it submits to Lessee. Any and all ideas, concepts, techniques, inventions, discoveries, improvements, processes, materials, know-how, products, works of authorship, and/or any other intellectual property conceived, first reduced to practice, developed, or created by Lessor, its personnel, or its subcontractors, or jointly with Lessee in the course of Lessor’s providing the Work to Lessee, and all copyrights, patents, trademarks, trade secrets, and/or other intellectual property rights pertaining thereto (collectively “Intellectual Property Rights”) shall belong exclusively to Lessee. Lessor hereby assigns, and shall cause its personnel and subcontractors to assign to Lessee, any right, title, or interest it or they may have in any and all Intellectual Property Rights. Each such Intellectual Property Right shall, to the extent possible, be considered a work made for hire for Lessee within the meaning of Title 17 of the United States Code, as amended, and Lessee shall be the sole and exclusive owner of all copyrights therein. Lessee shall retain exclusive, royalty free, perpetual right, title, and ownership to all source code portions of the Intellectual Property Rights, and any derivative works created from or based on the Intellectual Property Rights (the “Enhancements”), whether such works be created by Lessor or any other person or entity. Lessor has no right to distribute the Intellectual Property Rights (either in source or object code or otherwise) to any other persons or entities. Lessor automatically and irrevocably assigns, transfers, and conveys upon creation thereof the Intellectual Property Rights relating to any Enhancements to Lessee.

# TERMINATION

## Termination by Lessee. Lessee shall have the right at any time, with or without cause, to terminate further performance of all or part of the Work or to terminate this Agreement or any Equipment Schedule by written or telegraphic notice to Lessor specifying the date or termination. In the event of such termination by Lessee, Lessee shall pay Lessor for all Fees due as of the date of termination, and Lessee shall have no further liability to Lessor, including without limitation, no liability for lost or anticipated profits on account of such termination. Lessor agrees to waive any claims for damages, including, without limitation, loss of anticipated profits, on account of such termination.

## Termination by Lessor. Lessor may terminate this Agreement or any Equipment Schedule in whole or in part if Lessee fails to observe or perform any of its obligations required to be observed or performed by Lessee hereunder and such failure continues uncured for thirty (30) days after written or telegraphic notice thereof to Lessee by Lessor, or if because of the nature of such default it cannot be cured within such 30-day period, failure by Lessee to commence corrective action within such 30-day period and thereafter to pursue expeditiously and diligently such corrective action until completion.

## Obligations Upon Termination. Upon termination of this Agreement or any Equipment Schedule by expiration, cancellation, or otherwise, Lessee shall make the Equipment available for pick-up by the Lessor at Lessee’s facilities, in the same condition and state of repair as such Equipment was when it was delivered to Lessee, reasonable wear and tear excepted. In the event Lessee fails to return the Equipment to Lessor in such condition and state of repair, and such failure is not caused by Lessor’s failure to fulfill its obligations under this Agreement or otherwise, including, but not limited to Lessor's maintenance obligations, Lessee shall pay to Lessor the reasonable cost of repairing such Equipment in order to put it in such condition and state of repair.

# ELECTRONIC DATA INTERCHANGE SYSTEM AND EDOCS SYSTEMS.

## Lessee is using the Auto Industry Actions Group (AIAG) version 3050 sub-set of the American National Standard Institute (ANSI) Accredited Standard Committee (ASC) X12 Electronic Data Interchange (EDI) standards. Lessor shall implement an EDI communication system with Lessee that enables it to comply with Lessee’s EDI requirements and Lessee’s eDocs Terms of Use.

## When required by Lessee and pursuant to eDocs Terms of Use, Lessor shall use the EDI and eDocs system as the means of communication under the Agreement.

## Lessor shall identify an administrator for both the EDI system and the eDocs system. Only the administrator named by the Lessor and registered in Lessee’s portal shall be entitled to enable or to deactivate EDI and eDocs users for Lessor at any time.

## Even in the absence of electronic signatures, the parties agree that the orders, decisions and commitments communicated by them over the EDI system and the eDocs system shall be binding and shall be considered legally valid. Offers and acceptances submitted electronically via the EDI system and the eDocs system shall be legally binding upon the Lessor. Decisions and commitments communicated by one of Lessor’s registered users shall constitute binding confirmation of the acceptance of orders or sales agreements. Lessor shall only grant employees and agents entitled to submit legally binding declarations of intent authorized status to make those declarations via the EDI system and the eDocs system. The user IDs and passwords created for the EDI system and the eDocs system shall only be accessible to Lessor’s agents and employees who are able to submit declarations of intent, offers and acceptances that are legally binding on Lessor. Lessor shall, and shall cause its employee and agents to keep such IDs and passwords confidential. In the event Lessor terminates its relationship with an employee or agent who has knowledge of such an ID or password, Lessor shall immediately terminate that ID and/or password.

## Every process communicated via the EDI system and the eDocs system, and particularly offers, acceptances and communications regarding the Work shall be recorded and stored along with the identification of the user creating it. This record shall be used exclusively as evidence of the content and the fact that a party submitted a legally binding offer, acceptance or declaration of intent.

# ATTORNEYS FEES

# In the event that it becomes necessary for Lessee to initiate or respond to litigation for the purpose of enforcing any of its rights hereunder or for the purpose of seeking damages for any violation hereof, then, in addition to all other judicial remedies that may be granted, Lessee shall be entitled to recover attorney’s fees and all other costs that may be sustained by it in connection with such litigation.

# WAIVER OF TRIAL BY JURY

## **EACH PARTY HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SETOFF, DEMAND, ACTION, OR CAUSE OF ACTION, (A) ARISING OUT OF OR IN ANY WAY RELATING TO THIS AGREEMENT OR EXECUTED OR DELIVERED IN CONNECTION WITH THIS AGREEMENT OR (B) IN ANY WAY CONNECTED WITH OR RELATED TO OR INCIDENTAL TO ANY DEALINGS OF THE PARTIES HERETO WITH RESPECT TO THIS AGREEMENT, WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE. ALL PARTIES AGREE THAT ANY ONE OF THEM MAY FILE A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY, AND BARGAINED AGREEMENT BETWEEN THE PARTIES IRREVOCABLY TO WAIVE TRIAL BY JURY, AND THAT ANY DISPUTE OR CONTROVERSY WHATSOEVER BETWEEN THEM SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.**

# MISCELLANEOUS PROVISIONS

## Independent Contractor. In the performance of this Agreement, Lessor will act as an independent contractor, and nothing contained in this Agreement shall be deemed to make Lessor or its employees the partner of, a joint venturer with, the employee of, or an agent of, Lessee.

## Jurisdiction and Venue. Any controversy or claim arising out of or relating to this Agreement, which is not resolved pursuant to arbitration or another dispute resolution process, including actions for specific performance or other equitable relief, shall be brought in and each party irrevocably submits itself to the jurisdiction of the state and federal courts of the State of Alabama sitting in Tuscaloosa County, Alabama, and irrevocably agrees that all claims in respect of such action or proceeding shall be heard and determined only in and by either of the state or federal courts sitting within Tuscaloosa County, Alabama. Furthermore, each party hereby irrevocably waives and agrees not to assert by way of motion, as a defense or otherwise in any such action or proceeding, any claim that such party is not personally subject to the jurisdiction of the state or federal court sitting in Tuscaloosa County, Alabama, that such action or proceeding is brought in an inconvenient forum, that the venue of such action or proceeding is improper or that this Agreement may not be enforced in or by such state or federal court sitting in Tuscaloosa County, Alabama. Each party agrees that process against such party may be served by delivery of service of process by certified or registered mail in the manner provided for the giving of notices under this Agreement.

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

If to Lessee: If to Lessor:

Mercedes-Benz U.S. International, Inc.

1 Mercedes Drive

Vance, Alabama 35490

Purchasing

Attn: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Attn:

Either party may change such address by giving written notice of such change to the other party in the manner provided above.

## Successors and Assigns. This Agreement shall be binding upon and shall enure to the benefit of the parties, and their respective heirs, legal representatives, successors, and assigns; provided, however, that this Agreement, any item of Equipment, or any interest therein, may not be assigned, transferred, pledged, hypothecated, or otherwise disposed of by Lessee or Lessor in whole or in part, voluntarily or by operation of law, without the prior written consent of the other party, except that prior written consent of Lessor shall not be required in the event of the sale of the assets or stock of Lessee, in whole or in part.

## Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Alabama without reference to its principles of conflicts of law.

## Independent Review. Lessor hereby acknowledges and agrees that it has fully and adequately reviewed the terms and provisions of this Agreement. Lessor represents and warrants to the Lessee that it has furnished copies of this Agreement 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 Agreement or its legal effects.

## Counterparts. This Agreement 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.

## Entire Agreement; Amendment. This Agreement 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 this Agreement shall be binding unless executed in writing by a duly authorized officer of each of the parties.

## Waiver. No waiver of any provision of this Agreement 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.

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

## Severability. In the event any section, or any part or portion of any section, of this Agreement, 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.

## Survival of Obligations. Notwithstanding the acceptance of the Work or Equipment by Lessee or the termination of this Agreement, any duty or obligation which has been incurred by Lessor 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 Lessee 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.

[SIGNATURES ON FOLLOWING PAGE]

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement effective the day and year first written above.

**LESSOR**: **LESSEE:**

**MERCEDES-BENZ U.S. INTERNATIONAL, INC.**

BY: BY:

NAME: NAME:

TITLE: TITLE:

U.S. Taxpayers Identification No.:

Lessor’s State License No.: ( )

STATE