LICENSE AGREEMENT

by and between

Volvo Group North America, LLC (“Licensor”)

and

Third Party Equipment and Tool Company

 COMPANY (“Licensee”)

Background

To facilitate Licensor compliance with Regulations promulgated by the United States Environmental Protection Agency and the California Air Resources Board concerning emission control diagnostic systems, this License Agreement sets forth the terms and conditions according to which the Licensor provides Emissions-Related Information regarding all generic and enhanced service and repair information, including bi-directional control and data stream information, to the third party Licensee as defined in the Regulations.

The Licensee is an independent, third party equipment and tool company as defined in the Regulations that is engaged in, or plans to engage in, the manufacture of diagnostic or scan tool reprogramming equipment or software specifically for application on emission control diagnostic systems on Licensor’s vehicles.

1. Parties
	1. Licensor

 Volvo Group North America, LLC , a Delaware limited liability company with a principal place of business at 7900 National Service Road, Greensboro, North Carolina 27409.

* 1. Licensee

COMPANY, a (state) corporation / partnership / limited liability company with a principal place of business at \_\_\_\_\_\_\_\_\_\_\_\_\_\_ .

1. Term

This License Agreement shall be valid for 12 months from the date of signing by the Licensor.

1. License and Scope
	1. The Licensor grants to Licensee, for the Term of this License Agreement, a non-exclusive, non-assignable, limited right to use the Emissions-Related Information to the extent set out in Article 5.4 and to use such access strictly for the purposes as described under Article 5.1 and 5.2 below.
	2. The Licensee shall not sublicense its access to or use of the Emissions-Related Information or any parts thereof to any third party. The Licensee shall not lease, lend, sell, or in any other way assign to any third party its access to or the use of the Emissions-Related Information, except to the extent that such Emissions-Related Information is appropriately utilized in the development and distribution of diagnostic tools and scan tools as intended pursuant to the Regulations.
2. License Fee and Other Charges
	1. The Licensee shall pay the Licensor a license fee as well as any other reasonable charges as specified in Appendix 1.
	2. Payment shall be effected in accordance with the Licensor’s payment instructions, including payment terms.
	3. The Licensor may appoint an affiliated company within the Volvo Group to invoice and collect fees due under this License Agreement, in which case such affiliated company may issue invoices in accordance with the fees payable according to this License Agreement.
	4. All amounts due are net of any taxes, any applicable VAT, customs duties, delivery costs and such like, which the Licensee shall be required to pay to the Licensor in addition to the fees and charges set out in Appendix 1.
3. Licensee’s Permitted Use
	1. The Licensee may use the Emissions-Related Information only for its own use for the manufacture of diagnostic tools or scan tools within the scope of intentions set out in the Regulations. The Licensee may not otherwise sell, copy, transfer, assign, publish, distribute or otherwise permit access to and use of the Emissions-Related Information or parts thereof.
	2. Any use that is not in line with the wording or intent of Article 5.1 is permitted only if and to the extent that Licensor and Licensee have entered into a separate licensing agreement in writing.
	3. The Licensee’s diagnostic tool or scan tool shall be prepared as an independent work under applicable law. The diagnostic tool or scan tool must be designed so that it clearly removes any risk of being perceived to be a diagnostic tool or scan tool issued by Licensor or any other company of the Volvo Group.
	4. This license includes only the following information:

The Emissions-Related Information provided to Licensee is valid for diagnostics, scanning, servicing or repair of engines manufactured by Licensor or an affiliated company in the Volvo Group for vehicle model years 2013 and forwards in order to make diagnostics.

The Emissions-Related Information includes all generic and enhanced service information including bi-directional control and data stream information as defined in the Regulations.

Any subsequent version of the Emissions-Related Information shall prevail over a previous version.

No other information will be provided pursuant to this License Agreement.

* 1. The Emissions-Related Information will be provided in accordance with Appendix 2.
1. Licensor’s Obligations
	1. The Licensor will provide limited Helpdesk functions for the Emissions-Related Information.
	2. The Licensor may provide updates and/or upgrades in respect of the Emissions-Related Information from time to time but assumes no responsibility for the implementation thereof by Licensee, and assumes in particular no responsibility for the incorrect functioning of the Emissions-Related Information if the Licensee does not implement such updates and/or upgrades in a timely or proper manner.
2. Licensee’s Obligations
	1. The password that should be used by the Licensee to access the Emissions-Related Information is intended for the personal use only of the persons specifically empowered by the Licensee to access and use the Emissions-Related Information in accordance with this License Agreement. The Licensee shall be responsible for all actions taken by any persons empowered by the Licensee to use its passwords in order to access and use the Emissions-Related Information.
	2. The Licensee shall print a fingerprint provided by Licensor with each usage of its diagnostic tool or scan tool as further outlined in Appendix 2. Licensee shall use a contract number plus voluntary number series (e.g. SIR001-00001).
	3. The Licensee (at its own cost) is responsible for ensuring that its personnel participate in adequate training in the use, maintenance and operation of the confidential and proprietary Emissions-Related Information. It is agreed and understood, however, that the Licensor sets no minimum training requirements as a condition under this Licenses Agreement. The Licensee shall defend, indemnify and hold harmless the Licensor for any damages, expenses or costs arising from the lack of adequate training or protection of confidentiality by the Licensee or its personnel concerning or related to the Emissions-Related Information.
3. Permitted Use of Emissions-Related Information
	1. The Emissions-Related Information may only be used to design and manufacture diagnostic tools or scan tools for usage on engines and after-treatment systems manufactured by or utilized in Licensor vehicle model years 2013 and forwards in the United States, in order to make diagnostics, service or repair of emissions-related components.
	2. Only information provided by Licensor under this License Agreement may be used for the design and manufacture of the diagnostic tool or scan tool.
	3. The information may not be used for any programming, trimming or permanent change to existing engine configurations of an ECU in any vehicle manufactured or distributed by Licensor.
	4. The Emissions-Related Information may not be used to retrieve further information from an ECU in any vehicle manufactured or distributed by Licensor.
4. Licensee’s Warranties
	1. The Licensee warrants and represents:
		1. that it fulfills the criteria to be a registered equipment or software company either public or private that is engaged in, or plans to engage in, the manufacture of scan tool reprogramming equipment or software, and
		2. the accuracy and completeness of all information provided to the Licensor in connection with this Agreement.
5. Property Rights
	1. The Emissions-Related Information and documentation related thereto is the property of the Licensor and, as the case may be, its licensors. Title in and to the Emissions-Related Information and all rights to patents, copyright, trademark and proprietary information therein shall remain with the Licensor and, as the case may be, its licensors. For the avoidance of doubt, the Licensee accepts that this License Agreement does not give Licensee any right to use any patent, trademark or other proprietary intellectual property ownership that belongs to or is used by Licensor or any company in the Volvo Group.
	2. Through payment of the license fee as set out in Appendix 1 the Licensee is solely granted a non-exclusive right to access and use the Emissions-Related Information according to the conditions set forth in this License Agreement.
	3. The Licensee may not reverse, compile, decompile, disassemble, alter, modify or take any similar action to any information accessed with the use of the provided Emissions-Related Information. Provided Emissions-Related Information may only be copied for security purposes. Any copies shall be subject to the conditions of this License Agreement.
6. Infringements
	1. The Licensor shall defend any claim by any third party against the Licensee based on the allegation that the use by the Licensee of the Emissions-Related Information constitutes an infringement of any intellectual property rights or application thereof and shall indemnify the Licensee for costs and damages awarded against the Licensee as a result of any such claim. As a condition of this indemnity the Licensee shall:
		1. notify the Licensor promptly in writing of any allegation of infringement;
		2. make no admission relating to the infringement or the alleged infringement; and
		3. allow the Licensor to conduct all negotiations and proceedings and give the Licensor all reasonable assistance in connection herewith.
7. Disclaimer / Limitation of liability
	1. The Licensor reserves the right to make any change to the Emissions-Related Information. The Licensor shall have no responsibility for any damages, cost, loss of business or other liability which the Licensee may suffer as a result of any change to the Emissions-Related Information or for the malfunction, defect or disturbance hereof.
	2. The Licensee shall be solely responsible for the use of the Emissions-Related Information and shall do so at its own risk and liability. The information and functionalities covered by the Emissions-Related Information are based on the Licensor’s best knowledge at the time it was published or provided. The Emissions-Related Information is accordingly provided “as is” and the Licensee is aware of and accepts that the Licensor does not guarantee the correctness, timeliness, sequence, accuracy or completeness thereof. New and or updated Emissions-Related Information shall be made available for equipment and tool manufacturers from time to time, but as an approximation six times per year.
	3. In no event shall the Licensor be liable to the Licensee (whether in contract, tort (including negligence), breach of statutory duty, restitution or otherwise) for any injury, death, damage or direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss) howsoever arising out of or in connection with this License Agreement.
8. Confidentiality
	1. The Licensee shall observe secrecy in respect of any information, including any Emissions-Related Information or other information divulged pursuant to this License Agreement, relating to the Licensor’s past, present or future research, development or business activities which is disclosed in writing or orally or in any other way and which is of a confidential nature. The Licensee shall refrain from divulging such information to third parties without the explicit written consent of the Licensor. Said information may only be used by the Licensee for the purposes as provided for under this License Agreement and be made known solely to employees and sub-contractors on a need-to-know basis. The Licensee shall ensure that such employees and sub-contractors are made aware of and adhere to these contractual obligations regarding the confidentiality of such information.
	2. The obligations of confidentiality set out in this License Agreement shall survive the termination or expiration of this License Agreement for 10 years therefrom, unless such information has been disclosed to the public by the Licensor or by a third party authorized to do so by the Licensor or shall become public knowledge other than by breach of this obligation.
9. Termination
	1. The Licensor reserves the right to terminate this License Agreement with immediate effect if:
		1. The Licensee is declared bankrupt, composes with its creditors, enters into liquidation proceedings, or loses the right to manage its business.
		2. The Licensee fails to comply with its obligations under this License Agreement or any of the termination events stipulated in this License Agreement occurs.
		3. The Licensee does not fulfill the payment of the fees payable pursuant to this License Agreement according to the applicable payment terms.
10. Consequences of termination
	1. Upon termination or expiry of this License Agreement, for whatever reason, access to the Emissions-Related Information will be shut down and the Licensee’s right to use the Emissions-Related Information and the information included therein shall cease with immediate effect.
	2. Upon termination or expiry of this License Agreement, for whatever reason, the Licensee must return any documents and other materials obtained from the Licensor in the possession of the Licensee to the Licensor, or otherwise dispose of the same as the Licensor may instruct.
	3. Any obligation hereunder which by virtue of its nature is intended to be valid after the termination or expiry of this License Agreement shall accordingly survive the termination or expiry of this Agreement. Such obligations include, but are not limited to, Article 10 (Property Rights) and Article 13 (Confidentiality).
11. Data Privacy
	1. The Licensee permits the Licensor to store information, provided or available to the Licensor, in a central database and to update such database when the Licensee connects to the Licensor’s Emissions-Related Information.

* 1. The Licensee is responsible for (and the Licensor assumes no responsibility for) the compliance with all applicable data privacy protection laws, regulations and obligations in respect of any data emanating from the Licensee’s use of the Emissions-Related Information.
	2. The Licensee accepts to enter into such additional agreements or consents that may be required for the administration of data if and to the extent requested by the Licensor. The refusal by the Licensee to enter into such agreements or consents gives the Licensor the right to terminate this License Agreement if, in the Licensor’s reasonable judgment, such refusal results in the Licensor not being able to access or process certain data or risks committing a breach of data privacy legislation in doing so without the Licensee’s consent.
1. Governing law and disputes

This License Agreement shall be governed by and construed in accordance with the substantive laws of the state of North Carolina in the United States of America.

1. Notices and contact information
	1. Notices under this License Agreement shall be sent by registered mail or overnight courier to the other party’s address as indicated at the beginning of this License Agreement or as otherwise stipulated from time to time in writing.
2. Entire agreement, modifications and conflicts between documents
	1. The Licensee accepts that this License Agreement constitutes the entire agreement between the parties in respect of the subject matter covered herein and consequently waives the application of any terms and conditions issued by the Licensee, including, but not limited to, the Licensee’s purchase conditions.
	2. In case of conflicts between documents forming part of this License Agreement, the documents shall have priority in the following order:
		1. The main part of this License Agreement, then
		2. The appendices (if any) in the order they are numbered herein.
3. Severability
	1. In the event that any clause or provision of this License Agreement should under applicable law be held to be illegal or void, or both, such clause or provision shall be considered severable and the remaining clauses and provisions shall continue in full force and effect. In such case, the Licensor shall provide a valid and enforceable clause or provision in lieu of the ineffective provision, which will ensure the same or as approximate an effect as possible as the clause or provision which has become ineffective, and the Licensee shall be deemed to have accepted such new version of this License Agreement.
4. Definitions
	1. “License Agreement” shall mean this license agreement including any and all appendices and incorporating any other documents explicitly referred to herein.
	2. “Helpdesk” shall mean the following functional email box SIRRequest@volvo.com supported by Licensor.
	3. ”Regulations” shall mean 42 USC 7521(m) and the supporting Environmental Protection Agency regulations published as 40 CFR Part 86, 89, 90, 1027, 1033, 1042, 1048, 1054, 1060, 1065, and 1068[EPA–HQ–OAR–2005–0047; FRL–8750–3], and California Air Resources Board regulations published as 13 CA ADC T.13, et seq.
	4. “Emissions-Related Information” shall mean any emissions-related information which the Licensor should provide to equipment and tool manufacturer related to the diagnosis, service, and repair of emissions-related components, including information regarding any system, component or part of an engine that controls emissions or is part of the diagnostic strategy for an onboard diagnostics monitor, under the provisions of the Regulations and as outlined in Appendix 2 of this License Agreement or as subsequently updated from time to time and make available to Licensee by Licensor.
	5. “Volvo Group” shall mean AB Volvo (publ), a company incorporated pursuant to the laws of Sweden, and any company which is directly or indirectly controlled by AB Volvo (publ).

HEREBY ACKNOWLEDGED AND AGREED:

Volvo Group North America, LLC Licensee:

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Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_