



General Terms and Conditions regarding the Use of Time Slices for Applications and Data Content for the After-Sales outside of the European Union (EU) and European Free Trade Association (EFTA)

1. Scope of Application

- 1.1 The following general terms and conditions (hereinafter the “**GTC**”) apply exclusively for all services from Mercedes-Benz AG to Mercedes-Benz Canada Inc. (hereinafter the “**Distributor**”), and subsequently to all Users on the B2B Connect Platform (as defined in sec. 1.2(c)), related to orders for access to Applications and Data Content in the form of Time Slices in order to allow Users to access those Applications and Data Content. These GTC
- 1.2 Within the meaning of these GTC,
- a. “**Applications and Data Content**” shall mean applications, data content, software, updates, data storage media and other documentation for the After-Sales sector of the Mercedes-Benz and smart brands;
 - b. “**Time Slices**” shall mean fixed periods, throughout which the User is continuously given access to the Applications and Data Content;
 - c. “**User(s)**” shall mean all independent service providers and persons related to them that are authorized by an agreement with the Distributor to use the Applications and Data Content in the form of Time Slices. Independent service providers can include: independent workshops, manufacturers of repair equipment, publishers of technical information, automobile club employees, breakdown service employees, suppliers of inspection and testing services, employees of facilities for the education and training of car mechanics.
 - d. “**B2BConnect Platform**” (<https://b2bconnect.mercedes-benz.com>) is an After-Sales platform and integrates (at least partly) and includes the already existing online tools as systems such as WebParts, as far as applicable, and other Mercedes-Benz applications and data content.

2. Contractual Service

- 2.1 The scope of services and quality are each based on the description of the Time Slices on the B2BConnect Platform when ordering. This contains a detailed list of the temporary access granted to the Applications and Data Content. Currently the services provided include the Time Slices for the following Applications and Data Content: Parts Information, WIS/XENTRY WIS, ASRA/XENTRY Operation Time (XOT) and XENTRY TIPS (desktop and app version).
- 2.2 To make use of the contractual provision of Time Slices for WIS/XENTRY WIS, ASRA/XENTRY Operation Time (XOT) and XENTRY TIPS (desktop and app version), a valid User login for the B2BConnect Platform is required, and a Time Slice must have been ordered for the User ID associated with the User login.
- In order to use the contractual provision of Time Slices for the app XENTRY TIPS, a valid User login for this specific app is required and a Time Slice must have been ordered for the User ID associated with the User login.
- In order to use Parts Information, a valid User login for the B2BConnect Platform is required and an annual registration fee must be paid for the User ID associated with the User login.
- 2.3 Depending on the service, the Time Slices available amount to 1 day, 1 week, 1 month or 1 year. The contractual term applies depending on which of the above periods is selected, and starts from the moment the order for the Time Slice is confirmed.
- 2.4 The provision of Parts Information, WIS/XENTRY WIS, ASRA/XENTRY Operation Time (XOT) and XENTRY TIPS (desktop and app version) as well as the corresponding updates is carried out via online access as a standard.



General Terms and Conditions regarding the Use of Time Slices for Applications and Data Content for the After-Sales outside of the European Union (EU) and European Free Trade Association (EFTA)

- 2.5 Applications and Data Content have to be maintained and repaired at regular intervals and, if necessary, at short notice in order to enable the proper provision of the respective services (e.g. by installing Updates). As a result, the services may be temporarily unavailable in individual cases. The User will be informed about planned maintenance and repair work and its expected duration in good time, usually at least 48 hours in advance.
- 2.6 Users must ensure that the technical prerequisites for operating the Time Slices are met. Users may review these prerequisites on the B2BConnect Platform, under the Applications and Data Content in question.
- 3. Parties and General Terms and Conditions of Business**
- 3.1 These GTC shall apply to the Users of the Time Slices within the meaning of sec. 1.2(c). Upon request, Users will be sent the current version of these GTC.
- 4. Rights of use, contractual penalties and third-party intellectual property**
- 4.1 Mercedes-Benz AG has permitted Distributor to grant Users a simple, non-exclusive and non-transferable right to use the Applications and Data Content during the contractual term for its own operating purposes and for the intended use as contractually agreed.
- 4.2 The access authorization for Time Slices may be used by any person and on any computer within one of User's locations/operations. Use in other locations/operations of the User will require additional access authorizations that must be acquired in accordance with a separate agreement. As part of the assignment of usage rights, Users receive a personalized identity (User ID). This may only be used by the respective User personally. A transfer or use as a group or workshop user is not permitted. In case of a violation Mercedes-Benz AG reserves the right to withdraw usage rights or delete digital identities.
- 4.3 Notwithstanding secs. 4.1 and 4.2, all other rights to the Applications and Data Content, including subsequent upgrades and enhancements thereto, shall be retained by Mercedes-Benz AG/by the original software supplier.
- 4.4 Unless otherwise explicitly authorized, the following shall apply: The creation of any copies whatsoever of the Applications and Data Content is not permitted; similarly, not permitted is the processing and editing of the Applications and Data Content by the Distributor or Users or third parties authorized by the Distributor or User. This rule also relates to publications made under another name. The provided Applications allow it to display individual Data Content via the search masks. For the purpose of permanent availability, such individual Data Content may also be printed out. User hereby undertake to use the Applications and Data Content exclusively in its business for purposes of supporting its clients' vehicles and shall not disclose them to third parties (whether in whole or in excerpts) or make them available to such parties. Any automated retrieval via scripts or systematic copying or the like is not allowed. Users shall also impose these obligations on its staff.
- 4.5 [Intentionally Omitted]
- 4.6 Upon request, the User shall produce evidence of compliance with the rules governing the rights of use under this agreement.
- 4.7 Any data storage media, documentation and electronic copies that are no longer required must be duly destroyed in accordance with the waste disposal directive in force at that location. With respect to device and



General Terms and Conditions regarding the Use of Time Slices for Applications and Data Content for the After-Sales outside of the European Union (EU) and European Free Trade Association (EFTA)

server installations, action must be taken to ensure that it is not possible for anyone to gain unauthorized access thereto.

- 4.8 If the Time Slices or Applications and Data Content fall into third-party hands due to the gross negligence or wilful misconduct of User, e.g. because the User shares them or does not adequately protect them against third-party access, an appropriate contractual penalty to be set at Distributor and/or Mercedes-Benz AG's discretion must be paid, whereby the competent court may review whether this is appropriate in the event of disputes. The minimum amount is EUR 25,000.00 per Time Slice ordered. This does not affect the right to enforce claims for damages, although such claims will then be offset against the penalty.
- 4.9 Notwithstanding sec. 4.8, in each case, the User shall remain entitled to produce evidence that no losses or a lesser amount of loss was incurred, and similarly, Distributor and/or Mercedes-Benz AG will be entitled to prove that it has incurred a greater amount of losses.
- 4.10 Portions of the "Applications and Data Content" containing Software may contain Free and Open Source Software ("FOSS") components. Information about the respective FOSS components - in particular those required to be shared by the respective applying FOSS licenses, are incorporated and/or delivered by other means with the Product. The Distributor takes note that FOSS licenses may apply between the right holder/s of the FOSS component and the Distributor and that certain usage of the FOSS component requires consent of the Distributor to the applying FOSS licenses. The User acknowledges that the Software containing FOSS is not free of third party rights. Neither Mercedes-Benz AG nor Distributor confer expressly nor implicitly any license or patent rights concerning FOSS, unless obliged by FOSS license obligations. If any term of this GTC may be found to contradict any FOSS license governing a FOSS component incorporated into the Product, the latter shall prevail.

5. Registration and login data

- 5.1 Upon dispatch of the order confirmation to the User by the Distributor, the order of the Distributor will also be deemed to have been accepted by Mercedes-Benz AG.
- 5.2 Access to the Time Slices is subject to the following conditions:
- the User must place a binding order to the Distributor to access authorization, and
 - when placing the order, the User must indicate the scope to which the Time Slices are required.
- 5.3 Login data for the use of Time Slices (personalized identity (User ID) and passwords) provided by Mercedes-Benz AG may only be used by Users in accordance with sec. 1.2(c) and their staff. A transfer or use as a group or workshop user is not permitted. Any disclosure of personal login data to third parties is prohibited, even if these belong to the authorized user group according to sec. 1.2(c). The disclosure of login data is considered a breach of this section and these GTC. The use of login data in applications and data content which have not been provided by Mercedes-Benz AG is prohibited (e.g. illegally purchased software). User is obliged to maintain confidentiality of personal login data and to prevent misuse. If Users or their staff become aware of login data misuse, Mercedes-Benz AG and the Distributor must be informed immediately. Mercedes-Benz AG is entitled to immediate blocking of login data if a misuse has occurred. As described in sec. 14, data and accesses are monitored within the framework of product observation and security in order to counteract improper use.

6. Support

- 6.1 A right to claim support in the use of Time Slices shall continue during the contractual term.



General Terms and Conditions regarding the Use of Time Slices for Applications and Data Content for the After-Sales outside of the European Union (EU) and European Free Trade Association (EFTA)

6.2 Regular service hours for Support are from 8am to 6pm Central European Time (CET; "Service Hours"). Support requests submitted via the provided ticketing systems will be handled and executed during the Service Hours. Outside these Service Hours support, requests will usually not be answered or handled.

7. Alteration of contract

7.1 The Time Slices are provided in the form and for as long as they are used by Mercedes-Benz AG or are available to Mercedes-Benz AG. Due to the constant further development of the respective systems and system landscapes, the Time Slices and Applications and Data Content provided may change in this respect during the period of use, whereby Mercedes-Benz AG shall provide appropriate compensating measures to the Distributor in the event of significant changes. Further claims shall be excluded.

7.2 Notwithstanding sec. 7.1, Mercedes-Benz AG shall be entitled to change these GTC.

Sec. 9.7 shall remain unaffected.

8. Contractual term and termination

8.1 The contractual term and access authorization for the use of the Time Slices shall end once the selected period according to sec. 2.3 ends. There is no need to terminate the agreement. It is not possible to terminate the agreement prematurely without a valid reason.

8.2 [Intentionally Omitted]

8.3 The contract may be terminated without notice in textual form by Mercedes-Benz AG if there is good cause. Good cause shall include, *inter alia*, situations in which the User

- copies, produces or causes to be produced the Time Slices or Applications and Data Content without authorization resp. in breach of contract,
- discloses the Time Slices or Applications and Data Content or the provided login data (User ID and passwords) to third parties without authorization resp. in breach of contract ,
- does not use the provided login data for the officially by Mercedes-Benz AG provided Applications and Data Content (e.g. illegal purchased software),
- discontinues its business operations with or without a successor,
- no longer belongs to the authorized group of Distributors or Users within the meaning of sec. 1.1 resp. sec. 1.2(c) or changes role within this authorized group,
- fails to pay the compensation when due and after receiving a dunning notice.

If the agreement is terminated without notice for good cause, claims on the part of the Distributor to compensation for unused Time Slices shall be excluded.

9. Compensation and payment

9.1 The Distributor shall charge Users for the provision of the Time Slices. Distributor shall calculate the price in line with the latest price list in force. The price includes the costs of the Time Slices and of the regular updates. Users shall settle all issued invoices electronically.

9.2 [Intentionally Omitted]



General Terms and Conditions regarding the Use of Time Slices for Applications and Data Content for the After-Sales outside of the European Union (EU) and European Free Trade Association (EFTA)

- 9.3 The prices as indicated and agreed are net prices quoted without VAT, stated in CAD and may in each case be increased by the amount of the national VAT that is applicable or by any other indirect taxes, if neither a tax exemption nor a zero rate or reverse charge procedure is applicable.
In case VAT or any other indirect taxes (such as service tax, business tax, consumption tax, Digital service tax etc.) may be due in the other country, such taxes will be borne by the recipient of the service in addition to the agreed net price.
- 9.4 If the User fails in a timely manner to pay the compensation owed, then it shall be deemed in default following the first dunning notice.
- 9.5 Mercedes-Benz AG reserves the right to make price changes. Mercedes-Benz AG reserves the right, in its reasonable discretion, to adjust the indicated price on an annual basis (sec. 315 of the German Civil Code (abbreviated as "BGB")) in order to take account of changes in costs. An updated price list will be provided to Distributor by Mercedes-Benz AG in a timely manner. Distributor will then provide this updated price list to Users.

10. Tax clause

- 10.1 The parties shall take all measures to secure and ensure that there is strict compliance and adherence, as the case may be, to tax and customs duties which are payable in connection with this agreement.
- 10.2 The parties shall take all measures in accordance with their respective domestic laws and the agreement between the Federal Republic of Germany and the State of Distributor for the avoidance of double taxation with respect to taxes on income and on capital as in force at any given time ("Tax Treaty"), if any, to ensure a reduction of or exemption from, as the case may be, taxes which might become payable in connection with this agreement.
- 10.3 All taxes or duties and surcharges of any kind whatsoever in connection with payments made by Distributor and imposed on Mercedes-Benz AG by the German tax authorities shall be borne by Mercedes-Benz AG. All taxes or duties and surcharges of any kind whatsoever in connection with payments made by Distributor and imposed or to be paid in State of Distributor shall be borne by Distributor. The preceding sentence does not apply to income taxes imposed or withheld in accordance with the domestic law and the Tax Treaty.
- 10.4 In case Distributor is required to withhold taxes in accordance with the domestic law and the Tax Treaty, if any, from the payments made under this agreement, Distributor shall exercise its best efforts to attain that the payment to Mercedes-Benz AG will be taxed at any reduced rate under the Tax Treaty or under domestic law, if any, at the time of payment.
- 10.5 In case Distributor is required to withhold taxes from payments made under this agreement, Distributor shall provide Mercedes-Benz AG without undue delay with the original tax certificate and any other documents that evidence calculation and payment of the tax. These documents shall specify Mercedes-Benz AG as tax payer, the amount of tax paid, the tax law and the legal regulation on which such tax payment is based, the tax rate or the amount on which such rate is based, and the date of payment of the tax.
- 10.6 If the documents of the tax authorities are issued in a language other than German or English, Distributor agrees to have the documents translated into German or English at its own expense at the request of Mercedes-Benz AG and to have the correctness of such translation certified either officially or by a notary public.



General Terms and Conditions regarding the Use of Time Slices for Applications and Data Content for the After-Sales outside of the European Union (EU) and European Free Trade Association (EFTA)

11. Security warning

- 11.1 User shall stringently comply with all warning notices and safety-related information disclosures as well as user disclosures that are communicated in the respective Applications and Data Content. The User will be liable for any damages caused by a violation of the foregoing mandate.
- 11.2 Any subsequent supplements or developments to the delivered Applications and Data Content must be observed unconditionally.
- 11.3 Mercedes-Benz AG reserves the right to revise the Applications and Data Content at any time without notice.

Although Applications and Data Content can be useful to owners of Mercedes-Benz and smart vehicles and independent repair shops, it is intended only for use by service personnel who are properly trained and qualified to work on Mercedes-Benz and smart vehicles and have sound knowledge related to the information, access to the tools, equipment and literature necessary for the correct, safe performance of maintenance and repairs, as well as experience of using them. If they do not have this expertise and knowledge related to the Applications and Data Content, they must refrain from performing this work, which must be left to a qualified specialist workshop. The workshop must have the technical knowledge and tools required to perform the necessary work.

Warning: The Applications and Data Content is not intended for use as instructions or tools for repairs or maintenance on Mercedes-Benz and smart vehicles by individuals who have inadequate training on and experience of performing repairs and maintenance on Mercedes-Benz and smart vehicles. If the correct tools and equipment are not used, all the proper, necessary precautions that a trained, certified vehicle mechanic would take are not taken and all the safety regulations in this and other service publications are not followed, this can lead to material damage, personal injury or even death.

12. Liability

- 12.1 The Applications and Data Content also contain links to other Internet sites. Mercedes-Benz AG and Distributor would like to note that it has no influence on the structure or content of the pages to which the links are connected. Consequently, no guarantee can be given with regard to the currentness, correctness, completeness or quality of the information made available on those sites. Based on the foregoing, Mercedes-Benz AG and Distributor hereby distances themselves from all content on these linked pages. This declaration applies to all links that are contained in Applications and Data Content and that lead to external sites and the content thereof.
- 12.2 User shall check and ensure that the use of the Time Slices does not cause any damage to any workshop infrastructure. If Mercedes-Benz AG provides the Applications and Data Content in accordance with its contractual obligations, Mercedes-Benz AG shall not be responsible for corresponding damages.
- 12.3 If Distributor and/or Mercedes-Benz AG must compensate for damages based on the statutory provisions and if such damages were caused by simple negligence, then Distributor and/or Mercedes-Benz AG's liability shall be limited as follows:

The liability will arise only when there has been a breach of material contractual duties, such as those that the contract seeks to impose on Distributor and/or Mercedes-Benz AG based on its content and purpose or the fulfilment of which cannot even arise unless or until the contract is duly performed and upon which the User



General Terms and Conditions regarding the Use of Time Slices for Applications and Data Content for the After-Sales outside of the European Union (EU) and European Free Trade Association (EFTA)

can and should be able to routinely rely. This liability is limited to typical damages that were foreseeable at the time the contract was concluded.

The personal liability of the legal representatives, vicarious agents and employees of Distributor and/or Mercedes-Benz AG for damages caused by simple negligence is excluded.

- 12.4 The aforementioned limitation of liability and the aforementioned exclusion of liability shall not apply to damages resulting from a grossly negligent or intentional breach of duties by Distributor and/or Mercedes-Benz AG, its legal representative or its vicarious agent or in the event of death, personal injury or damage to health. In such cases, Distributor and/or Mercedes-Benz AG shall be liable in accordance with the statutory provisions.
- 12.5 Irrespective of any fault on the part of Mercedes-Benz AG, Mercedes-Benz AG shall remain liable for any fraudulent concealment of a defect, for the issuance of a guarantee or for a procurement risk and shall remain liable as prescribed under the Product Liability Act.
- 12.6 In the event of system failures of the Applications and Data Content, neither Distributor or Mercedes-Benz AG shall be liable for any damage (including damage due to loss of business profits, interruption of operations, loss of business or other loss of assets) unless caused by intent or gross negligence. Clauses 12.3, 12.4 and 12.5 shall apply mutatis mutandis.
- 12.7 Distributor and/or Mercedes-Benz AG shall also only be liable for the loss of data to the extent that the respective User has ensured by standard procedures that the data can be restored with reasonable effort. This includes in particular proper and regular data backups by the User. The Distributor shall ensure respective actions necessary to secure those procedures and measures by the User. This does not apply where data backup is an agreed obligation of Mercedes-Benz AG.
- 12.8 Insofar as tenancy law applies within the scope of the services owed, § 536 a I 1. Alt. BGB shall be excluded.
- 12.9 Provision and use of the Applications and Data Content as well as its support services may also be subject to certain restrictions, interruptions and/or inaccuracies beyond the control of Distributor and/or Mercedes-Benz AG, which might be caused in particular by force majeure events, including strikes, epidemics, lockouts, natural catastrophes, orders by the authorities, or result from technical or other measures or occurrences (e.g., lack of internet access, repairs, maintenance, software updates and enhancements) that need to be carried out on systems of Mercedes-Benz AG.
- 13. Data protection**
- 13.1 Corporate and personal data of the User shall be treated as confidential in accordance with the applicable data protection laws, except that the server operators have the right to forward the User's billing data to Mercedes-Benz AG. Upon request, the User will receive information about the data stored with the server operators and with Mercedes-Benz AG, and may correct, delete or block this information, if necessary.
- 13.2 Further information on how personal data of the User, its employees and/or concerned customers is processed hereunder, will be made available separately.
- 13.3 Such information is to be provided to data subjects in paper form and prior to commencing with the collection and processing of personal data which has to be ensured by Distributors respectively.



General Terms and Conditions regarding the Use of Time Slices for Applications and Data Content for the After-Sales outside of the European Union (EU) and European Free Trade Association (EFTA)

13.4 [Intentionally Omitted]

13.5 In order to comply with applicable data protection requirements, the parties also agree to be bound by the provisions of the Data Protection Agreement. In the event of any discrepancies between the terms contained in these GTCs and those contained in the Data Protection Agreement between Distributor and Users, the terms contained in the Data Protection Agreement shall prevail.

13.6 [Intentionally Omitted]

13.7 [Intentionally Omitted]

14. Data transmission

14.1 In connection with the use of Applications and Data Content on Users own hardware, data will be transmitted to, and stored at, Mercedes-Benz AG. For clarity, this means that data will be transmitted outside of Canada.

14.2 Data collected by XENTRY Services is used for analysis and statistics in order to optimize and continually improve the vehicles, the Applications and the Data Content and the support as well as for quality management, product monitoring and security (for example, vehicle parts and components stress data) and are used for control (checking) purposes when abuse is suspected.

14.3 The repair garage-related data about the registered user and the application and data volumes that were approved for use are transmitted to, and stored at, Mercedes-Benz AG *via* the user reporting. This is carried out without creating any inferences regarding actual usage. The data thereby compiled serve to generate and verify a proper billing settlement and are used for statistical purposes.

15. Compliance with applicable laws

15.1 User shall not engage in any acts or omissions that could lead to criminal liability based on fraud or breach of trust, insolvency crimes, anti-competitive criminal acts, the granting of advantages or to the corruptibility of persons employed by the User or other third parties. Where there have been such acts or omissions, Distributor and/or Mercedes-Benz AG will be entitled to rescind or terminate all legally consequential transactions with the User and to break off any and all dealings and negotiations.

15.2 Notwithstanding the foregoing, the User will be obligated to comply with all statutes and regulations impacting it and the business relationship with Distributor.

15.3 It is the User's sole responsibility to assess whether using the Applications and Data Content as provided hereunder will be in line with applicable laws and to carry out any measures needed in order to be able to use the Applications and Data Content in compliance with law.

15.4 The Applications and Data Content and all related documentation, information or materials may be subject to export control regulations. The User will strictly comply with all legal requirements established under these regulations and will not export, re-export, divert, transfer or disclose, directly or indirectly the Applications and Data Content, or any related technical documentation, information or materials without the prior approval of Mercedes-Benz AG and/or Distributor.



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General Terms and Conditions regarding the Use of Time Slices for Applications and Data Content for the After-Sales outside of the European Union (EU) and European Free Trade Association (EFTA)

16. Governing law and judicial forum, transfer of rights

16.1 The laws of the province of Ontario, and the federal laws of Canada shall apply. The jurisdiction and venue shall lie exclusively with the competent courts of Toronto, Ontario.

16.2 The User cannot transfer rights and obligations arising from or in connection with the contract or the conclusion thereof to third parties without Mercedes-Benz AG and/or Distributor's consent.