



Agreement



This is a legal agreement (“Agreement”) between you (“You”) and the counterparty – either Volvo Group North America, Inc. (“Volvo”) or Mack Trucks, Inc. (“Mack”), or both, as applicable – with whom You currently hold a dealer agreement(s) contemplating the sale and service of heavy duty trucks manufactured by that counterparty (“Vehicles”), or parts and service agreement(s) contemplating only the service of said Vehicles. Collectively and singularly Volvo and Mack shall be referred to from time-to-time as “OEM” hereunder. OEM shall have for purposes of this Agreement as its address National Service Road, Greensboro, North Carolina 27409. This Agreement governs Your subscription to access the MV.ASIST service for providing repair estimates (“Subscription”) and any ancillary training or other service (collectively, the “Service”), and is effective on your acceptance of this Agreement by clicking the “Accept” button or signing the Agreement below (“Effective Date”).

BY CLICKING THE ACCEPT BUTTON OR SIGNING THE AGREEMENT BELOW, YOU ACKNOWLEDGE THAT YOU ARE AN AUTHORIZED DEALER OR PARTS AND SERVICE PROVIDER OF VOLVO AND/OR MACK AND HAVE READ ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, UNDERSTAND THEM, AND AGREE TO BE BOUND BY THEM.

1. Fees and Payment Terms. Without limiting any of OEM’s rights set forth herein, the fees described above, in effect on the Effective Date, are incorporated herein by reference. For the Subscription, You agree to pay OEM (a) the applicable one-time Set Up Fee, if any, payable on the Effective Date; and (b) the applicable annual Subscription Fee, if any, the first month of which is payable on the Effective Date and monthly thereafter unless and until You provide notice of non-renewal within the time period in Section 5 below. For other Services, including ancillary and other services related to the Subscription, should you so desire you may agree from time-to-time, according to written policies and procedures then established by OEM, to accept written offers extended by OEM generally to all subscribers; provided that, such acceptance shall only bind OEM as expressly permitted by the written policies and procedures in effect at the time of said acceptance. Fees for Services actually provided are not refundable under any circumstances; prepaid fees for future Services are refundable only on termination of this Subscription by OEM without cause. All quoted fees and charges exclude taxes. The Set-Up Fee and Subscription Fee, and any other fees for ancillary and other services provided hereunder, will be charged by OEM to your account with OEM, the payment of which shall be governed by all policies and procedures promulgated by OEM and in effect at the time such payment becomes due, as they may be modified by OEM in its discretion from time-to-time. You are responsible for the payment and remittance of all applicable national, state and local taxes, value added or sales or use taxes, levies and assessments pertaining to all fees and charges assessed under the Agreement (except taxes based upon OEM’s net income). If OEM is required to collect any such taxes from You, You shall pay and remit such taxes to OEM on demand. OEM and/or its licensors and/or contractors, and/or their successors and/or assigns, in connection with the Services shall have the right to offer, at any time and from time-to-time, in any available media or form, to You related services directly themselves or through third parties. All amounts not paid when due hereunder shall bear interest at a rate of one percent (1.0%) per month from the due date on any payment more than twenty (20) days past due.

2. Subscription to Service. Subject to the terms and conditions herein, OEM grants to You a nonexclusive, non-transferable, revocable license to access the Service through a website maintained by or for OEM or its duly designated licensors and/or contractors, and/or their successors and/or assigns (the "Website"). The Subscription is limited to the number of simultaneous users for which You have subscribed ("Authorized Simultaneous Users"). You agree not to exceed the number of Authorized Simultaneous Users. OEM, its duly designated licensors and/or contractors, and/or their successors and/or assigns, may maintain software which will reject attempts made to exceed the number of Authorized Simultaneous Users and provide an appropriate message notifying You of the need to obtain a license for additional Authorized Simultaneous Users. You have no rights to any software used to provide the Service. Title, ownership, and intellectual property rights in and to the Service and any underlying software or other technology shall remain in OEM, its duly designated licensors and/or contractors, and/or their successors and/or assigns, and You shall have no right of ownership or other rights (except for the right to use the Service as is expressly set forth herein) to the Service or such underlying software and, as applicable, other technology, nor, without limitation, any right to copy, store, disclose, modify, or reverse engineer the software. All rights not expressly granted to You pursuant to this Agreement are expressly reserved by OEM, its duly designated licensors and/or contractors, and/or their successors and/or assigns.

3. Modifications of Terms. The terms and conditions contained herein may not be modified by You, except in a writing signed by You and an authorized representative of OEM. OEM may amend the terms of this Agreement, including without limitation the Service offerings, amount of any fees and billing methods, effective immediately if needed or useful to avoid any infringement or other liability, or in all other cases, upon no less than thirty (30) days prior written notice (including by email) to You, or by posting such change on the Website.

4. Source Data, Your Data, and Confidentiality. The Service includes access to a database of information regarding the description and reference number of replacement parts and the description of repair operations regularly performed in repairing applicable Vehicles ("Source Data"). This Source Data belongs to OEM and title to and ownership of such Source Data shall remain with OEM. OEM makes no representations, warranties, guarantees or promises as to the accuracy of the Source Data. You may use the Source Data as part of the Service, but You acknowledge that the Source Data contains information which is proprietary and confidential, that access to the Source Data in the manner described in the Agreement is provided only to subscribers with the right to access and use the Service, and that no ownership rights in the Source Data are granted under the Agreement. You shall not disclose or otherwise make available to any third party the Source Data, and shall not use the Source Data except as authorized by the Agreement, or as otherwise authorized under Your Volvo or Mack (as applicable) dealer or parts and service agreement. You agree to take all commercially reasonable actions to protect the confidentiality of the Source Data, including appropriate instruction and agreement with Your employees and other authorized parties. Without limitation, OEM and/or its licensors and/or contractors, and/or their successors and/or assigns, may at any time and from time-to-time make disclosures of aggregate information or disclosures of other information pertaining to the Service without identifying You (by way of example only, OEM, its licensors and/or contractors, and/or their successors and/or assigns, may identify for a certain region, the highest, lowest, and median labor rates).

5. Term and Termination. The initial term of the Agreement shall begin on the Effective Date and shall automatically renew, unless sooner terminated as provided herein, on the first anniversary of the Effective Date, and automatically continue and renew thereafter for successive renewal terms of one (1)

year each unless and until a party provides the other no less than thirty (30) days prior written notice of its intention to terminate the Agreement. You shall be in default under the Agreement and OEM may immediately terminate the Agreement with cause on notice to You if You (i) fail to comply with any provision of the Agreement; (ii) cease to do business in the normal course; (iii) are the subject of any proceeding relating to bankruptcy, liquidation or insolvency; (iv) make an assignment for the benefit of your creditors; (v) dissolve, terminate, or discontinue your business; or (vi) sell or dispose of all or substantially all of the assets of your business. OEM may also at any time terminate this Agreement on notice to You, without cause, in which case OEM shall refund pre-paid amounts for Services not provided, but otherwise without liability of any kind related to such termination. On expiration or termination of the Agreement, all rights granted to You under the Agreement shall cease, and You shall immediately discontinue use of the Service. Your obligation to pay amounts owed shall survive the expiration or termination of the Agreement. The provisions of Sections 1 (for unpaid amounts), 2 (only for OEM's and its licensors' and contractors', and their successors' and assigns', reservation of their rights to, and restriction of Your use of, the Service and the underlying software and other intellectual property), 4 (only as to ownership and use of the Source Data and OEM's and its licensors' and contractors' and their successors' and assigns', rights to disclose information pertaining to the Service), and 6-11 shall survive the expiration or termination of the Agreement.

6. No Warranty. OEM, ITS LICENSORS AND CONTRACTORS, AND THEIR SUCCESSORS AND ASSIGNS, COLLECTIVELY AND/OR INDIVIDUALLY, MAKE NO WARRANTIES, AND EXPRESSLY DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN INCLUDING, WITHOUT LIMITATION, EXPRESS AND IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT.

OEM, ITS LICENSORS AND CONTRACTORS, AND THEIR SUCCESSORS AND ASSIGNS, COLLECTIVELY AND/OR INDIVIDUALLY DO NOT WARRANT THAT THE SERVICE SHALL BE UNINTERRUPTED AND/OR ERROR-FREE. YOU HEREBY WAIVE, TO THE GREATEST EXTENT PERMITTED BY LAW, ANY CLAIMS OF WARRANTY AS WELL AS ANY OTHER CLAIMS OF WHATEVER NATURE, THAT OTHERWISE MIGHT BE BROUGHT AGAINST OEM AND/OR ITS LICENSORS AND/OR CONTRACTORS AND/OR THEIR SUCCESSORS AND/OR ASSIGNS, ARISING OUT OF USE OF THE SERVICE. YOU ACKNOWLEDGE THAT NO PERSON, OTHER THAN OFFICERS OF OEM AND/OR THE LICENSOR(S) AND/OR CONTRACTOR(S) AND/OR THEIR SUCCESSOR(S) AND/OR ASSIGN(S) AGAINST WHOM SUCH WAIVER OR IMPAIRMENT IS SOUGHT, IN A WRITING EXECUTED BY AN OFFICER OF ANY AND ALL SUCH PERSONS, RESPECTIVELY, HAS ANY AUTHORITY TO WAIVE OR IMPAIR SUCH PERSON(S)' RIGHTS AND PROTECTIONS UNDER THIS SECTION 6.

7. Limitations of Liability. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL OEM AND/OR ITS LICENSORS AND/OR ITS CONTRACTORS, AND/OR THEIR SUCCESSORS AND/OR ASSIGNS, COLLECTIVELY AND/OR INDIVIDUALLY, BE LIABLE TO YOU, YOUR SUCCESSORS AND/OR PERMITTED ASSIGNS, AND/OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, AND/OR OTHER INDIRECT DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, REVENUE, AND/OR DATA ARISING OUT OF YOUR USE OF OR INABILITY TO USE THE SERVICE, AND/OR THE PERFORMANCE OR NONPERFORMANCE BY OEM UNDER THE AGREEMENT, EVEN IF OEM AND/OR ITS LICENSORS AND/OR ITS CONTRACTORS AND/OR THEIR SUCCESSORS AND/OR ASSIGNS,

COLLECTIVELY AND/OR INDIVIDUALLY, IS/ARE ADVISED OR AWARE OF THE POSSIBILITY OF SUCH DAMAGES.

OEM AND ITS LICENSORS', AND CONTRACTORS', AND THEIR SUCCESSORS' AND ASSIGNS', ENTIRE AND EXCLUSIVE AGGREGATE LIABILITY TO YOU FOR ALL CLAIMS RELATING TO YOUR USE OR INABILITY TO USE THE SERVICE, AND/OR THE PERFORMANCE OR NONPERFORMANCE BY OEM, ITS LICENSORS AND/OR CONTRACTORS, AND/OR THEIR SUCCESSORS AND/OR ASSIGNS, COLLECTIVELY AND/OR INDIVIDUALLY, AND/OR ANY OTHER CAUSE UNDER THIS AGREEMENT OR OTHERWISE, REGARDLESS OF LEGAL THEORY, SHALL NOT EXCEED THE ANNUAL SUBSCRIPTION FEE (LESS ANY AMOUNTS PREVIOUSLY PAID).

Some jurisdictions do not allow the exclusion or limitation of special, incidental, consequential, indirect or exemplary damages, or the limitation of liability to specified amounts, so the above limitation or exclusion may not apply to You, but strictly for purposes of the application of the terms and conditions of this Agreement under that/those jurisdiction(s) only.

8. Governing Laws. The Agreement shall be governed by the laws of the state of North Carolina, without regard to its conflicts of laws provisions. The United Nations Convention of Contracts for the International Sale of Goods shall not apply.

9. Arbitration. All disputes and claims (collectively for purposes of this Section 9. "Claims") relating to or arising out of the Agreement or the Services or your use thereof shall be resolved by binding arbitration conducted under the Commercial Arbitration Rules of the American Arbitration Association ("AAA") in Richmond, Virginia, by a single arbitrator appointed by the AAA. The prevailing party in any dispute may be reimbursed by the other for any and all costs and expenses incurred by it, including reasonable attorneys' fees, at the discretion of the arbitrator. Notwithstanding anything contained in this Paragraph to the contrary, OEM, its licensors, contractors, and their successors and assigns, collectively and/or individually, shall have the right to institute judicial proceedings in any appropriate forum against You and/or anyone acting by, through, or under You, in order to enforce OEM's, its licensors' and contractors', and their successors' and assigns', collectively and/or individually, rights hereunder through reformation of contract, specific performance, injunction, and/or similar equitable relief. You agree, that any and all such Claims You bring against the OEM will be brought solely in the foregoing forum. All Claims must be commenced as permitted above within two hundred and seventy (270) days after the date the party asserting the Claim(s) first knows or reasonably should know of the act, omission and/or default giving rise to the Claim(s), or the shortest time period in excess of two hundred and seventy (270) days that is permitted by applicable law.

10. Assignment. You may not assign or otherwise transfer the Agreement and/or any rights and/or obligations herein without the prior express written consent of OEM. OEM may assign the Agreement and/or any rights and/or obligations herein to any party upon thirty (30) days prior written notice to You. Subject to the foregoing provisions of this paragraph, the Agreement shall be binding upon and shall inure to the benefit of the parties and their permitted successors and assigns.

11. Miscellaneous. The Agreement constitutes the entire agreement between the parties concerning the use of the Service and/or any part thereof, and supersedes all prior and contemporaneous agreements and

communications, whether oral or written, between the parties concerning such subject matter. Without limiting any term or condition of this Agreement, the terms and conditions of any purchase order or other written instrument submitted by You shall be void and have no effect unless otherwise approved in a manually signed writing by OEM. If any provision in the Agreement should be held illegal or unenforceable, such provision shall be modified to the extent necessary to render it enforceable without losing its intent, or severed from the Agreement if no such modification is possible, and all other provisions of the Agreement shall remain in full force and effect. A party's waiver of the other party's violation of any term or condition of the Agreement in any one instance shall not constitute such party's waiver of the other party's subsequent violation of the same or any other term or condition. No waiver of any terms or conditions hereunder will be effective unless in a writing signed by an officer of the party against whom such waiver is sought. Where OEM's licensors and contractors, and their respective successors and assigns, are referenced by the express terms of this Agreement, they are intended third party beneficiaries of this Agreement. Without limiting any other provision in this Agreement, OEM shall not be deemed to be in default under this Agreement or otherwise liable for any delay in or failure in its performance if such delay or failure is due to acts of God, earthquakes, floods, fire, epidemics, riots, war, failures or delay in transportation or communications systems, shortages of supplies, labor disputes, Internet failure, or other causes beyond OEM's reasonable control. Any notices required or permitted under this Agreement shall be in writing and shall be sufficiently given only when provided in writing, and either personally delivered to a responsible officer of recipient, or sent via certified or registered mail (return receipt required) or facsimile (with proof of transmission), or by nationally-recognized overnight delivery service, to the recipient's address indicated herein. For OEM, any and all such notices shall be sent to the attention of the General Counsel to the address indicated herein.

The Subscription Agreement is accepted and shall be effective as of the date signed by Subscriber below.

Subscriber:

Subscriber Address:

By: _____

Title: _____

Date: _____