



# **XENTRY Diagnosis System Hardware**

and

# **XENTRY Diagnosis System Software**

Purchase Information for the  
Independent Service Provider





## Support and Warranty

All XENTRY Diagnosis Systems have a 3.5 year (42 months) warranty. Should the hardware/software issue arise during the warranty period there is an XENTRY Diagnosis Support Desk (located in Germany) that can be reached by calling:

Toll Free Telephone Number: (1)-416-216-4162

E-mail: [xentry.diagnosis.support@daimler.com](mailto:xentry.diagnosis.support@daimler.com)

Hours of operation:

English: Mon – Fri, 24 hours; Sat. 12 am to 3:30 CET

French: Mon – Fri, 7 am to 6 pm CET; Sat. 7 am to 2 pm CET

The help desk will resolve your problem over the phone or, should the unit need repair, a replacement unit will be ordered from Germany.

All cables and batteries are considered consumable and are not covered under warranty.

Please mail the completed and signed forms (XENTRY Diagnosis System Hardware Order Form, XENTRY Diagnosis System Software License Agreement, XENTRY Diagnosis System Hardware License Agreement) along with **certified funds** (money order or a certified bank cheque) via FedEx/UPS/DHL or Certified Canada Post delivery. All orders for Xentry Diagnosis equipment must include sales tax relevant to your location. Full payment **must** be received in advance for orders to be processed and units shipped.

### **Mail to:**

Mercedes-Benz Canada Inc.

Attn.: Technical Literature Dept (CONFIDENTIAL)

98 Vanderhoof Ave.

Toronto, Ontario

M4G 4C9



**ORDER FORM (Independent Service Provider)**  
**XENTRY Diagnosis System Hardware**

TO: Mercedes-Benz Canada Inc.  
 98 Vanderhoof Ave.  
 Toronto, Ontario, M4G 4C9  
 Attn.: Technical Literature Department (CONFIDENTIAL)

FAX: (416) 916-9594

**Please PRINT clearly and neatly all information on this form !**

|                 |                 |                        |
|-----------------|-----------------|------------------------|
| Ordered By:     |                 | Date:                  |
| Street:         | City, Province: | Sales Tax Ident. No.:  |
| Postal Code:    | Phone:          | Your remarks/comments: |
| E-mail Address: | Fax:            |                        |
| Contact Person: |                 |                        |

**Delivery Address**

Ship to:

|                        |              |
|------------------------|--------------|
| Street:                | City:        |
| Province:              | Postal Code: |
| Your remarks/comments: |              |

**Price below includes hardware purchase and software subscription for 24 months.**

| Order Number: | Item Description                              | Quantity | Single Price (Cdn.) | Total Price<br>(multiply single price<br>by quantity) |
|---------------|---|----------|---------------------|---|
| 6511 9400 76  | XENTRY Kit 3                                  |          | \$29,783.00         |   |
| 6511 9450 76  | XENTRY Kit 3 MT (with HMS 990 USB Technology) |          | \$38,519.00         |   |
|               |   |          | GST                 |   |
|               |   |          | PST                 |   |
|               |   |          | Total               |   |

Select language version:     English

French

....Continued on Page 4

**ORDER FORM (Independent Service Provider)**



## XENTRY Diagnosis System Hardware

Each **XENTRY Diagnostic System** includes periodic software updates for 24 months from the date you receive your XENTRY Diagnosis System. The software update subscription must be renewed prior to end of the two year software subscription included with the purchase of a Xentry Kit or Xentry Kit MT in order for the software update service to continue without interruption.

The current yearly fee for the subsequent year for the software update subscription is \$3,993.00 Cdn. plus HST. Fee may be subject to change without notice.

### IMPORTANT:

- Freeze/lock option is no longer available.
- HMS 990USB Technology is only compatible with XENTRY Kit 3.

An approved signatory of the respective company hereby confirms that he or she must ensure compliance with these regulations and is **personally liable** for any violations. Confirmation of order by approved signatory:

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Signature

Date



## **XENTRY DIAGNOSIS SYSTEM SOFTWARE LICENSE AGREEMENT**

This Agreement, made as of \_\_\_\_\_ (month), \_\_\_\_\_ (day), 20\_\_\_\_ (year) by and between \_\_\_\_\_, having an address at \_\_\_\_\_ (hereinafter "Licensee") and Mercedes-Benz Canada Inc. (hereinafter "MBC"), having an address at 98 Vanderhoof Ave, Toronto, Ontario, M4G 4C9.

**WHEREAS**, MBC is a sub-licensee of Daimler Aktiengesellschaft ("DAG") with respect to certain proprietary computer software programs and concomitant documentation and subsequent amendments thereto and all other rights to the programs and documentation of DAG with respect to a diagnostics system for Mercedes-Benz and/or smart vehicles entitled the XENTRY Diagnosis System (hereinafter "Software") which is resident on compact diagnostic equipment sold by MBC to Licensee pursuant to the terms of a separate XENTRY Diagnostics System Purchase Agreement ("Hardware"); and

**WHEREAS**, Licensee wishes to obtain the right to use the Software pursuant to this License Agreement for use with the Hardware in connection with the provision of vehicle diagnostic services for the maintenance and repair ("Services") of Mercedes-Benz passenger vehicles and commercial vans and/or smart vehicles;

**THEREFORE**, the parties hereto agree as follows:

1. MBC hereby grants to Licensee a non-exclusive, non-assignable and non-transferable right to use the Software ("License") with the Hardware in accordance with the terms of this Agreement. It is acknowledged and agreed that Licensee shall only utilize the Software in connection with the Licensee's providing the Services.
2. Licensee hereby agrees and acknowledges that the Software is confidential and proprietary to DAG and its sub-licensee MBC and that the disclosure, transfer or assignment of the Software to any third parties shall cause DAG and/or MBC irreparable harm. Accordingly, Licensee hereby agrees that it shall maintain the Software as confidential, proprietary, trade secret information and shall not transfer, allow unauthorized third parties access to or assign the Software and/or any equipment in which it is resident. Licensee further agrees that the damage which would be sustained by MBC and/or DAG from the unauthorized transfer or assignment of the Software to any unauthorized third party or granting unauthorized third party access to the Software or Licensee's failure to maintain the confidentiality of the Software is not readily calculable and therefore agrees that it, upon such intentional or unintentional transfer or assignment of the Software to a third party or granting of access to unauthorized third parties to the Software, or its breach of the confidentiality obligation hereunder it shall pay to MBC liquidated damages in the sum of Twenty Five Thousand (\$25,000) Dollars which the parties hereto agree to be reasonable compensation and not a penalty. Licensee further agrees that the liquidated damages shall be in addition to any actual provable damages or equitable rights MBC and/or DAG might have in connection with the enforcement of this Agreement.



3. Licensee agrees to:

- (a) hold the Software in strict confidence and only use same with the Hardware;
- (b) disclose the Software only to Licensee's employees to which knowledge thereof is required to perform the Services;
- (c) refrain from and protect the Software from any reverse engineering, decompiling, disassembling or otherwise attempting to reconstruct or discover any secure code, underlying ideas, algorithms, file formats or programming interfaces of the Software or allowing any other party to attempt to do the same to the Software or any components thereof;
- (d) refrain from providing, renting, selling, leasing or otherwise transferring the Software to or granting access to the Software to any third party;
- (e) refrain from adapting, altering, modifying, translating or creating a derivation work thereof; and
- (f) refrain from removing, obliterating or canceling from view any product identification copyright or other notices from Software.

4. The rights and obligations of Licensee and MBC under this Agreement shall commence on the date the Equipment and Software is shipped to Licensee by MBC and continues for 24 months (2 years). MBC may from time-to-time during the term of the Agreement offer modifications or enhancements to the Software at additional cost. This Agreement may be extended by the written mutual agreement of the parties. This Agreement shall terminate immediately upon the sale, transfer or assignment of the Equipment to any third party or upon Licensee's breach of any term or condition of this Agreement. Upon termination of this Agreement, Licensee shall immediately return the Software to MBC.

5. Licensee shall use its best commercial efforts to maintain all security and protection incorporated into the Software or provided by MBC for use in connection with the Software and to protect MBC's and DAG's rights in the Software.

6. The license fees payable by Licensee to MBC for the license of the Software during the term of this Agreement were **included** in the cost of the Equipment, namely the update and content fee of **\$3,993.00 per year** throughout the term of this license. Licensee acknowledges and agrees that the License Fee and any updates and content fees for use of the Software after the initial term of this Agreement may vary and shall be established by MBC at its sole discretion. Licensee shall submit a Software update subscription application to MBC prior to receiving the last scheduled Software update in order for the Software update service to continue without interruption. All payments must be in Canadian Dollar currency and are exclusive of any taxes, duties and the like, all of which shall be paid by Licensee. In the event of non-payment of the License Fee or early termination of this Agreement for other causes, the Licensee shall immediately return the Software to MBC.



7. This Agreement shall continue in effect for the period set forth in Section 4 above and only so long as Licensee continues to utilize the Hardware (XENTRY diagnostic equipment) upon which the Software is resident. In the event of the sale, transfer or assignment of the Hardware to any third party or upon Licensee's breach of any term or condition hereof, this Agreement shall terminate immediately.

8. MBC HAS NO CONTROL OF THE CONDITIONS UNDER WHICH LICENSEE USES THE SOFTWARE. THEREFORE, MBC CANNOT AND DOES NOT WARRANT THE RESULTS THAT MAY BE OBTAINED BY ITS USE. HOWEVER, MBC PROVIDES THE FOLLOWING LIMITED WARRANTY:

- a. MBC WARRANTS THAT THE MEDIA ON WHICH THE SOFTWARE IS RECORDED IS FREE FROM DEFECTS IN MATERIALS AND WORKMANSHIP UNDER NORMAL USE. MBC WARRANTS THAT THE SOFTWARE ITSELF WILL PERFORM SUBSTANTIALLY IN ACCORDANCE WITH ITS SPECIFICATIONS.
- b. MBC WILL REPLACE ANY MEDIA WHICH PROVES DEFECTIVE IN MATERIAL OR WORKMANSHIP DURING THE WARRANTY PERIOD, WITHOUT CHARGE.
- c. MBC WILL EITHER REPLACE OR REPAIR ANY SOFTWARE THAT DOES NOT PERFORM IN ACCORDANCE WITH ITS SPECIFICATIONS WITH A CORRECTED COPY OF THE SOFTWARE OR CORRECTIVE CODE OR INSTRUCTIONS AT MBC'S SOLE OPTION.
- d. THE TERM OF THIS WARRANTY SHALL BE FOR THE INITIAL TERM OF THIS AGREEMENT.
- e. IF MBC IS UNABLE TO REPLACE THE DEFECTIVE MEDIA OR IF MBC IS UNABLE TO PROVIDE CORRECTED SOFTWARE WITHIN A REASONABLE TIME, MBC WILL REPLACE THE SOFTWARE WITH A FUNCTIONALLY SIMILAR PROGRAM.
- f. MBC DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE SOFTWARE WILL MEET LICENSEE'S REQUIREMENTS OR THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE. THIS WARRANTY DOES NOT COVER ANY SOFTWARE WHICH HAS BEEN SUBJECTED TO ANY DAMAGE OR ABUSE. THE WARRANTY DOES NOT COVER ANY SOFTWARE WHICH HAS BEEN ALTERED OR CHANGED IN ANY WAY BY ANYONE OTHER THAN MBC OR ITS AUTHORIZED REPRESENTATIVES.

THE IMPLIED CONDITIONS AND WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE WITH RESPECT TO THE SOFTWARE AS WELL AS ALL OTHER REPRESENTATIONS AND WARRANTIES ARE HEREBY DISCLAIMED.



9. Any liability of MBC or any of its parent, affiliate and subsidiary entities and their respective officers, directors and employees (hereinafter "MBC and its affiliates") will be limited to Software replacement. In no event shall MBC and its affiliates be liable for any incidental, indirect, special or consequential damages (including without limitation, loss of profits, business interruption, loss or inaccuracy of information or the cost of procurement) arising out of the Software, even if MBC and its affiliates have been apprised of the possibility thereof. In no event shall MBC's and its affiliates' liability hereunder, whether in tort, contract or otherwise, exceed the payments actually made by Licensee to MBC under this License Agreement. Any action brought by Licensee against MBC or its affiliates with respect to the Software, irrespective of theory, must be brought within two (2) years of the date of occurrence of the event claimed to give rise to the cause of action.
10. For the duration of this Agreement and while Licensee remains current in payment of applicable License Fees as required in Paragraph 6 hereof, MBC will maintain the Software to operate as specified in this Agreement and supply to Licensee any updated user guides as well as any improvements or modifications to the Software which are not charged for as options and which are made generally available to all other such licensees of MBC.
11. The parties agree that a material breach of this Agreement adversely affecting MBC's and/or DAG's rights in the Software would cause irreparable harm for which monetary damages alone would be inadequate, and that MBC and/or DAG shall be entitled to equitable relief including injunction in addition to any remedies it may have hereunder or at law.
12. Licensee hereby acknowledges and agrees that it shall not by virtue of this Agreement or otherwise have title to the Software and documentation with respect thereto, said Software shall not be assigned, sub-leased, sub-licensed, rented, offered for sale, sold or disposed of by Licensee in any manner whatsoever or otherwise be given access to unauthorized third parties.
13. The terms and conditions stated herein shall constitute the complete and entire statement of the terms hereof and shall supersede all prior oral and written statements of any kind whatsoever made by the parties or their representatives. No statement in writing subsequent to the date hereof purporting to modify or add to the terms and conditions hereof shall be binding unless consented to in writing signed by a duly authorized representative of Licensee and issued by MBC.
14. No waiver of any breach of any provision of this Agreement shall constitute a waiver of a prior, concurrent or subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing and signed by an authorized representative. In the event that any provision of this Agreement shall be declared by a court to be void or unenforceable, the validity of any other provision and of the entire Agreement shall not be affected thereby.



15. This Agreement is not intended, nor will it be deemed or construed, to create or confer any rights, including, by way of example, but not limitation, third party beneficiary rights, to any person or entity other than Licensee and MBC.

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and shall be effective as of \_\_\_\_\_(month), \_\_\_\_ (day), 20\_\_ (year) ("**Effective Date**").

**IN WITNESS WHEREOF**, this Agreement is hereby executed as of the date first above set forth.

\_\_\_\_\_  
(print Licensee's name)

**MERCEDES-BENZ CANADA INC.**

By: \_\_\_\_\_  
(print name & title)

By: \_\_\_\_\_  
(print name & title)

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(date)

\_\_\_\_\_  
(date)

By: \_\_\_\_\_  
(print name & title)

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(date)



**XENTRY DIAGNOSIS SYSTEM HARDWARE PURCHASE AGREEMENT**

**THIS AGREEMENT** is made by and between the undersigned \_\_\_\_\_  
\_\_\_\_\_ (“Licensee”) and  
Mercedes-Benz Canada Inc. (“MBC”), having an address at 98 Vanderhoof Ave, Toronto, Ontario, M4G 4C9.

**WHEREAS**, MBC is a sub-licensee of Daimler Aktiengesellschaft (“DAG”) with respect to certain proprietary computer software programs and hardware of DAG with respect to a diagnostics system for the service and repair of certain Mercedes-Benz brand passenger vehicles and commercial vans, smart brand passenger cars entitled the Xentry Diagnostics System including but not limited to XENTRY Kit 3, XENTRY Kit 3 MT, XENTRY MT HMS Measurement Technology (hereinafter “System”); and

**WHEREAS**, Licensee wishes to purchase the System pursuant to this Purchase Agreement solely for use by Licensee in connection with its providing for the service and repair of certain Mercedes-Benz passenger vehicles and commercial vans and smart brand passenger cars (collectively “Vehicles”)

**THEREFORE**, the parties hereto agree as follows:

1. MBC hereby agrees to sell to Licensee the System in accordance with the terms of this Agreement solely in connection with the Licensee’s providing maintenance and repair service for the Vehicles. The System is more fully identified in **Attachment A**, attached hereto and made a part hereof. The purchase price for the System shall be the per unit amounts set forth on the “ORDER FORM (Independent Service Provider) XENTRY Diagnosis System Hardware” attached hereto and made a part hereof. Unless otherwise agreed to by the parties, the purchase price for the System shall be received by MBC prior to the delivery of same to the Licensee.
2. Licensee hereby agrees and acknowledges that the System is confidential and proprietary to DAG and its sub-licensee MBC and that the disclosure, transfer or assignment of the System to any third parties shall cause DAG and/or MBC serious and irreparable harm. Accordingly, Licensee hereby agrees that it shall maintain the System as confidential, proprietary, trade secret information and shall not transfer, allow unauthorized third parties access to or assign the System. Inasmuch as a breach by Licensee of this obligation may cause serious and irreparable damage, and because it would be difficult, if not impossible, to prove the exact amount of such damage, Licensee agrees that in the event of a breach of this obligation from the unauthorized transfer or assignment of the System to any unauthorized third party, granting unauthorized third party access to the System or Licensee’s failure to maintain the confidentiality of the System, Licensee agrees that it, upon such intentional or unintentional transfer or assignment of the System to a third party or granting of access to unauthorized third parties to the System, or its breach of the confidentiality obligation hereunder, it shall pay to MBC liquidated damages in the sum of Twenty Five Thousand (\$25,000) Dollars for each such



breach of said obligation. It is acknowledged and agreed that the amount of the liquidated damages is a reasonable and fair estimate of the damages that MBC would suffer and is not a penalty. Licensee further agrees that this liquidated damages provision is intended to be and shall be cumulative, and in addition to every other remedy of the parties now or hereafter existing at law or in equity, or by statute.

3. Licensee agrees to:

- (a) hold and maintain the System in strict confidence;
- (b) permit the use of the System only to Licensee's employees to which knowledge thereof is required to perform service and repairs to the Vehicles;
- (c) refrain from and protect the System from any reverse engineering, decompiling, disassembling or otherwise attempting to reconstruct or discover any secure code, underlying ideas, algorithms, file formats or programming interfaces of the System or allowing any other party to attempt to do the same to the System or any components thereof;
- (d) refrain from providing, renting, selling, leasing or otherwise transferring the System to or granting access to the System to any third party;
- (e) refrain from adapting, altering, modifying, translating or creating a derivation work thereof; and
- (f) refrain from removing, obliterating or canceling from view any product identification copyright or other notices from the System.

4. MBC may provide modifications or enhancements to the System from time to time. Upon notification by MBC, Licensee will install or replace, as directed any modifications or enhancements to the System and return to MBC any media embodying any prior versions of the System.

5. Licensee agrees to use reasonable commercial efforts to maintain all security and protection incorporated into the System or provided by MBC and to protect the rights of MBC and DAG in the System.

6. All payments made pursuant to this Agreement must be made in CANADIAN currency and are exclusive of any taxes, duties and the like, all of which shall be paid by Licensee.

7. MBC WARRANTS THAT THE EQUIPMENT (EXCLUDING CABLES AND BATTERIES) SHALL BE FREE FROM SUBSTANTIAL DEFECT IN MATERIAL OR WORKMANSHIP UNDER NORMAL USE AND SERVICE FOR **42 MONTHS** (HEREINAFTER "WARRANTY PERIOD"). MBC WILL REPAIR OR REPLACE, IN ITS DISCRETION, ANY EQUIPMENT WHICH PROVES TO BE DEFECTIVE IN MATERIAL OR WORKMANSHIP DURING THE WARRANTY PERIOD WITHOUT CHARGE. THE FOREGOING NOTWITHSTANDING, THIS WARRANTY DOES NOT COVER; (1) REPAIRS OF REPLACEMENTS COSTING LESS THAN \$200.00 CDN; (2) EQUIPMENT WHICH HAS BEEN SUBJECTED TO ANY DAMAGE, ABUSE, MISUSE, SUBJECTED TO UNAUTHORIZED REPAIR ATTEMPTS OR OPERATED OTHER THAN IN ACCORDANCE WITH APPLICABLE USE INSTRUCTIONS, OR (3) DOES



NOT COVER EQUIPMENT WHICH HAS BEEN MODIFIED IN ANY WAY BY ANYONE OTHER THAN MBC OR ITS AUTHORIZED REPRESENTATIVES.

MBC HAS NO CONTROL OF THE CONDITIONS UNDER WHICH LICENSEE USES THE SYSTEM. THEREFORE, MBC CANNOT AND DOES NOT WARRANT OR GUARANTEE THE RESULTS THAT MAY BE OBTAINED BY ITS USE.

MBC DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE SYSTEM WILL MEET LICENSEE'S REQUIREMENTS OR THAT THE OPERATION OF THE SYSTEM WILL BE UNINTERRUPTED OR ERROR FREE. THIS WARRANTY DOES NOT COVER ANY SYSTEM WHICH HAS BEEN SUBJECTED TO ANY DAMAGE OR ABUSE. THE WARRANTY DOES NOT COVER ANY SYSTEM WHICH HAS BEEN ALTERED OR CHANGED IN ANY WAY BY ANY ONE OTHER THAN MBC OR ITS AUTHORIZED REPRESENTATIVES.

THE REPRESENTATIONS AND WARRANTIES OF MBC SET FORTH IN THIS AGREEMENT WITH RESPECT TO THE SYSTEM, IF ANY, ARE IN LIEU OF ALL OTHER REPRESENTATIONS, CONDITIONS AND WARRANTIES, EXPRESS, IMPLIED OR STATUTORY ON BEHALF OF MBC OR ANY OF ITS PARENT, AFFILIATE AND SUBSIDIARY ENTITIES, INCLUDING BUT NOT LIMITED TO ANY IMPLIED REPRESENTATIONS, CONDITIONS OR WARRANTIES OF MARKETABILITY OR FITNESS FOR A PARTICULAR USE WITH RESPECT TO THE SYSTEM AND SAID OTHER REPRESENTATIONS AND WARRANTIES ARE HEREBY DISCLAIMED.

8. Any liability of MBC or any of its parent, affiliate and subsidiary entities and their respective officers, directors and employees (hereinafter "MBC and its affiliates") will be limited to replacement of the System or its components or if replacement is inadequate or in MBC's opinion impractical, to refund payments to Licensee as specifically provided in the warranty stated herein. In no event shall MBC or its affiliates be liable for any incidental, indirect, special or consequential damages (including without limitation, loss of profits, business interruption, loss or inaccuracy of information or the cost of procurement) arising out the System, even if MBC and its affiliates have been apprised of the possibility thereof. In no event shall MBC's and its affiliates' liability hereunder, whether in tort, contract or otherwise, exceed the payments actually made by Licensee to MBC under this Agreement. Any action brought by Licensee against MBC or its affiliates with respect to the System, irrespective of theory, must be brought within two (2) years of the date of occurrence of the event claimed to give rise to the cause of action.

9. MBC will maintain the System to operate as specified in this Agreement, supply updated user guides and any improvements or modifications to the System which are not charged for as options and which are made generally available to all of MBC's licensees.

10. Notwithstanding the liquidated damages provision in Section 2 above, the parties acknowledge and agree that a material breach of this Agreement that adversely affects MBC's and DAG's rights in the System may cause serious and irreparable harm for which monetary damages alone would be inadequate, and that MBC shall be entitled to equitable relief, including but not limited to injunctive relief, in addition to any other remedies it may have hereunder or at law.



11. License hereby acknowledges and agrees that it shall not by virtue of this Agreement or otherwise have title to the System and documentation with respect thereto, said System shall not be assigned, sub-leased, sub-licensed, rented, offered for sale, sold or disposed of by Licensee in any manner whatsoever or otherwise be given access to unauthorized third parties.

12. The terms and conditions stated herein shall constitute the complete and entire statement of the terms hereof and shall supersede all prior oral and written statements of any kind whatsoever made by the parties or their representatives. No statement in writing subsequent to the date hereof purporting to modify or add to the terms and conditions hereof shall be binding unless consented to in writing signed by a duly authorized representative of Licensee and issued by MBC.

13. No waiver of any breach of any provision of this Agreement shall constitute a waiver of a prior, concurrent or subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing and signed by an authorized representative. In the event that any provision of this Agreement shall be declared by a court to be void or unenforceable, the validity of any other provision and of the entire Agreement shall not be affected thereby.

14. This Agreement is not intended, nor will it be deemed or construed, to create or confer any rights, including, by way of example, but not limitation, third party beneficiary rights, to any person or entity other than Licensee and MBC. It is acknowledged and agreed that this Agreement does not constitute and shall not be construed as constituting a partnership, joint venture or franchise relationship between MBC and Licensee. Neither party shall have the right to obligate or bind the other in any manner whatsoever, and nothing contained herein shall give or is intended to give any such rights.

15. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario. In the event of any litigation to enforce or interpret this Agreement, the prevailing party shall be entitled to reimbursement of its reasonable legal fees and costs of litigation as determined by the court having jurisdiction over such litigation.

16. Any notices required pursuant to this Agreement shall be made via registered mail or overnight delivery by a recognized national carrier.

17. The Licensee acknowledges and agrees that all services and activities contemplated in this Agreement shall be conducted in accordance with all applicable laws and regulations. Licensee further acknowledges and agrees that it and its officers, employees, agents, subcontractors and representatives are obliged to refrain from any practices that may lead to liability from fraud or embezzlement, fraudulent preferences or other violations of insolvency or bankruptcy laws or regulations, violations of competition laws or regulations and/or the acceptance of bribes or gratuities from or paying any bribes or gratuities to any director, officer, employee or agent of MBC or any third party or otherwise participating in any other activity which is of the nature of a crime of corruption. In the event of a violation of the foregoing, MBC has the right to immediately withdraw from and terminate this Agreement.



18. Installation. The Licensee shall be solely responsible for specifying the location where the Equipment is to be placed, placing the Equipment and installing the Equipment in accordance with the instructions provided by the manufacturer of the Equipment.

19. Maintenance. Licensee shall be responsible for acquiring any maintenance or repair for the Equipment. Except for the warranty repair work stated in Section 7 of this Agreement, MBC shall not supply or make available any maintenance or repair service for the Equipment.

20. Terms of Shipment.

- (a) All Equipment will be shipped to the Licensee at the expense of MBC.
- (b) All Equipment will be shipped to MBC at the expense of the Licensee.
- (c) MBC reserves the right to make partial shipments.

21. MBC shall have the right, at its sole option, to terminate this Agreement in the event of the occurrence if any one of the following is not remedied within thirty (30) days of receipt by the Licensee of notice thereof:

- (a) Licensee has not made financial arrangements for the purchase of the Equipment satisfactory to MBC;
- (b) Licensee neglects or fails to perform or observe any of its obligations hereunder; or
- (c) If any assignment is made of Licensee's business for the benefit of creditors, a petition in bankruptcy is filed by or against Licensee, a receiver, trustee in bankruptcy of similar officer is appointed to take charge of all or part of its property, if Licensee is adjudicated a bankrupt or if the Licensee seeks protection under the Companies' Creditors Arrangement Act R.S., 1985, c. C-36.

22. Limitation of Remedies.

- (A) THE LICENSEE AGREES THAT MBC WILL NOT HAVE ANY RESPONSIBILITY FOR ANY EQUIPMENT OR SERVICE OR PARTS THEREFOR PROVIDED BY ANY PERSON OR ENTITY OTHER THAN MBC.

23. Miscellaneous.

- (a) This Agreement is not assignable by Licensee. Any such assignment shall be void.
- (b) This Agreement can only be modified by a written agreement duly signed by persons authorized to sign agreements on behalf of Licensee and MBC. The parties hereto agree that the terms, conditions and prices contained herein will prevail notwithstanding any variations of additional terms on any orders or other notification submitted by the Licensee.
- (c) No failure to exercise, and no delay in exercising, on the part of either party, any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right, power or privilege hereunder preclude further exercise of the same right or the exercise of any other right thereunder.



Mercedes-Benz

**IN WITNESS WHEREOF**, this Agreement is hereby executed this \_\_\_\_\_(day) of \_\_\_\_\_ (month), 20 \_\_\_\_ (year) by and between the parties.

**LICENSEE:**

**MERCEDES-BENZ CANADA, INC.**

Company Name: \_\_\_\_\_

By: \_\_\_\_\_  
(print name & title)

By: \_\_\_\_\_  
(print title)

Signature: \_\_\_\_\_

By: \_\_\_\_\_  
(print name)

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

Signature: \_\_\_\_\_

By: \_\_\_\_\_  
(print name & title)

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

Signature: \_\_\_\_\_

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



## ATTACHMENT A EQUIPMENT DESCRIPTION

**XENTRY Kit 3 (\$29,783.00)** – for passenger cars, light truck, smart:

- Case
- OBD cable (16-pin)
- Power supply unit including power supply plug
- USB cable (5 m)
- Blu-ray drive including USB connection cable
- User information and safety notes
- Update disc (BD) with current data status
- Adapter cable (8-/14-/38-pin)

**XENTRY Kit 3 MT (\$ 38,519.00)** – for passenger cars, light truck, smart:

- Case
- OBD cable (16-pin)
- Power supply unit including power supply plug
- USB cable (5 m)
- Blu-ray drive including USB connection cable
- User information and safety notes
- Update disc (BD) with current data status
- Adapter cable (8-/14-/38-pin)
- HMS 990 USB Measurement Technology hardware (64-bit version)



**ATTACHMENT B  
EQUIPMENT PURCHASED**

In accordance with the terms and conditions of the Equipment Purchase Agreement, Licensee hereby purchases from MBC, the following equipment:

| <b>EQUIPMENT</b>   | <b>ORDER #</b> | <b>DATE OF DELIVERY</b> |
|--------------------|----------------|-------------------------|
| 1. XENTRY KIT 3    |                |                         |
| 2. XENTRY KIT 3 MT |                |                         |