

## Auto Care Association License Agreement

**IMPORTANT – Read carefully before downloading, copying, installing or using the eLearning package for this Subscription. You may not access or use the databases to which this applies unless you agree to all of the terms and conditions of this Subscription License Agreement.**

**BY CLICKING "I ACCEPT" AT THE END OF THIS AGREEMENT OR BY INSTALLING, ACCESSING, OR USING ANY PART OF THE ASSOCIATION LICENSED PROPERTY (AS DEFINED BELOW), YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT, THAT YOU UNDERSTAND IT AND ITS TERMS AND CONDITIONS, AND THAT YOU AGREE TO BE BOUND LEGALLY BY IT AND ITS TERMS AND CONDITIONS.**

This Subscription License Agreement is a legal and binding agreement between the Auto Care Association ("ASSOCIATION") and the Subscriber individually, (the "Subscriber") regarding the use of the ASSOCIATION Licensed Property (as defined below). It consists of the terms and conditions below (the "Agreement") regarding the ASSOCIATION Licensed Property. The Agreement is effective as of the date on which you click "I ACCEPT" (the "Effective Date"). ASSOCIATION reserves the right to verify eligibility of the Subscriber at any time and suspend access to the ASSOCIATION Licensed Property if eligibility requirements are not met.

**1. ASSOCIATION Licensed Property.** The "ASSOCIATION Licensed Property" means the eLearning module concerning the Vehicle Configuration Database (VCdb), Product Classification database (PCdb), Qualifier database (Qdb), Brand Table offered under the ACES™ trademark ("ACES™ database") and the Product Classification Database (PCdb), Product Attributes database (PAdb) and Brand Table offered under the PIES™ trademark ("PIES™ database")

### **2. License**

2.1. License Grant. Conditioned on Subscriber's compliance with the terms and conditions of this Agreement (including, without limitation, Subscriber's payment of applicable fees pursuant to Section 8 below), this Agreement provides Subscriber with a limited, revocable, non-exclusive, non-transferrable, non-assignable license to access and use the ASSOCIATION Licensed Property. No third party, including a third party employed by the same employer as Subscriber, is authorized to view or access the ASSOCIATION Licensed Property under this Agreement.

2.2. Restrictions. Subscriber may not modify, alter, comingle, merge, translate, decompile, distribute, disassemble, reverse engineer, benchmark, broadcast, transmit, reproduce, attempt to examine the source code for, publish, license, sub-license, transfer, sell, resell, exploit, rent, timeshare, outsource, provide on a service bureau basis, lease, grant a security interest in, transfer any right(s) in, or otherwise use in any manner not expressly permitted herein, the ASSOCIATION Licensed Property or any part thereof. In addition, Subscriber may not remove or alter any proprietary notice on the ASSOCIATION Licensed Property. All rights not expressly granted to Subscriber herein are hereby reserved by ASSOCIATION, and Subscriber expressly acknowledges and agrees that other than to the extent expressly permitted under Section 2.1, nothing herein allows the Subscriber to distribute or provide the ASSOCIATION Licensed Property or any portion thereof to any third parties.

**3. User Obligations.** By installing, accessing, or using the ASSOCIATION Licensed Property in order to view any information and materials, Subscriber represents that Subscriber is at least eighteen (18) years of age and will, at all times, provide true, accurate, current, and complete information when submitting information or materials in connection with Subscriber's use of the ASSOCIATION Licensed Property. If Subscriber provides any false, inaccurate, untrue, or incomplete information, ASSOCIATION reserves the right to immediately terminate Subscriber's access and use of the ASSOCIATION Licensed Property. By downloading, accessing, and/or using the ASSOCIATION Licensed Property, you also represent that Subscriber agrees to abide by all applicable laws and regulations with respect to Subscriber's use of the ASSOCIATION Licensed Property and that such use will not be for any unfair, harassment, or deceptive purposes. ASSOCIATION assumes no responsibility or liability for any claims that may result directly or indirectly from any communications or interactions Subscriber engages in by using the ASSOCIATION Licensed Property.

**4. Ownership.** ASSOCIATION has and retains all ownership, right, title, and interest in and to the ASSOCIATION Licensed Property and all programs, software, databases, information, documentation, confidential Information and Intellectual Property associated with the ASSOCIATION Licensed Property. Subscriber has no ownership interest in the ASSOCIATION Licensed Property. Subscriber's ownership rights, if any, are limited solely to Subscriber's information, data records, files, or other materials and which do not contain any information, materials, data, Confidential information or Intellectual Property of ASSOCIATION. As used herein, "Intellectual Property" means all trade secrets, patents, trademarks (registered or unregistered, including any goodwill in such trademarks), service marks, tradenames, copyrights, database rights, design rights, confidential information and all other Intellectual Property rights that may subsist anywhere in the world.

**5. Fees; Payment.** Subscriber acknowledges and agrees to pay the applicable fee(s) specified by ASSOCIATION set forth <https://www.autocare.org/data-and-information/data-standards/subscriptions>, incorporated by reference. If Subscriber elects a subscription option available to representatives or employees of ASSOCIATION members and either (a) such entity ceases to be an ASSOCIATION, or (b) Subscriber is no longer employed or represents such ASSOCIATION member at any time during the Term, Subscriber's subscription will automatically be converted to a non-member license only. Without limiting the foregoing, ASSOCIATION reserves the right to verify eligibility of the Subscriber at any time and suspend access to the ASSOCIATION Licensed Property if eligibility requirements are not met.

**6. Confidentiality.** Subscriber acknowledges and agrees that the ASSOCIATION Licensed Property contains confidential Information. Accordingly, Subscriber agrees to secure and protect the confidentiality of the ASSOCIATION Licensed Property in a manner consistent with the maintenance of ASSOCIATION's rights therein, and use at least a degree of care as Subscriber uses to maintain its own confidential information of a similar nature, but in no event using less than reasonable efforts. Subscriber shall not, nor permit any third party to, sell, transfer, publish, disclose, or otherwise make available any portion of the ASSOCIATION Licensed Property, except as expressly authorized in this Agreement.

**7. Warranty Disclaimer.** THE ASSOCIATION LICENSED PROPERTY AND ANY ASSOCIATED INFORMATION, SERVICES, PROGRAMS, PRODUCTS, AND MATERIALS ARE PROVIDED "AS IS"

AND "AS AVAILABLE" WITHOUT WARRANTY OF ANY KIND, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT AS WELL AS ANY WARRANTY RELATED TO THE USE, OR THE RESULTS OF THE USE, OF THE ASSOCIATION LICENSED PROPERTY IN TERMS OF AVAILABILITY, ACCURACY, SECURITY, RELIABILITY, OR OTHERWISE. ASSOCIATION AND ITS THIRD PARTY LICENSORS DO NOT WARRANT THAT THE ASSOCIATION LICENSED PROPERTY WILL OPERATE ERROR-FREE, UNINTERRUPTED, OR IN A MANNER THAT WILL MEET YOUR REQUIREMENTS. THE ENTIRE RISK AS TO THE AVAILABILITY, QUALITY, AND PERFORMANCE OF THE ASSOCIATION LICENSED PROPERTY IS WITH SUBSCRIBER.

**8. Limitation of Liability.** ASSOCIATION SHALL NOT BE LIABLE FOR ANY CLAIM OF HARM RESULTING FROM A CAUSE BEYOND ASSOCIATION'S CONTROL, INCLUDING, BUT NOT LIMITED TO, FAILURE OF ELECTRONIC OR MECHANICAL EQUIPMENT OR COMMUNICATION LINES, TELEPHONE OR OTHER CONNECTION PROBLEMS, COMPUTER VIRUSES, UNAUTHORIZED ACCESS, THEFT, OPERATOR ERRORS, SEVERE WEATHER, EARTHQUAKES, OR NATURAL DISASTERS, STRIKES, OR OTHER LABOR PROBLEMS, WARS, OR GOVERNMENTAL RESTRICTIONS. MOREOVER, SUBSCRIBER AGREES THAT IN NO EVENT SHALL ASSOCIATION BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OF THE ASSOCIATION LICENSED PROPERTY, WHETHER BASED IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, AND EVEN IF ASSOCIATION HAS BEEN ADVISED OF THE POSSIBILITY OF DAMAGES. WITHOUT LIMITATION OF THE FOREGOING, TOTAL LIABILITY OF ASSOCIATION OR ITS THIRD PARTY LICENSORS FOR ANY REASON WHATSOEVER RELATED TO USE OF THE ASSOCIATION LICENSED PROPERTY OR ANY CLAIMS RELATING TO THIS AGREEMENT OR THE ASSOCIATION LICENSED PROPERTY SHALL NOT EXCEED \$1,000.00 (USD).

**9. Indemnity.** Subscriber agrees to defend, indemnify, and hold harmless ASSOCIATION and its board of directors, committee members, affiliates, employees, licensors, agents, directors, officers, partners, representatives, shareholders, attorneys, successors, and assigns from and against any and all claims, proceedings, damages, injuries, liabilities, losses, costs, and expenses (including reasonable attorneys' fees and litigation expenses), relating to or arising from Subscriber's use of the ASSOCIATION Licensed Property and any breach of this Agreement by Subscriber. Subscriber shall use reasonable efforts to cooperate with ASSOCIATION in defense of any claim, and Subscriber acknowledges and agrees that ASSOCIATION reserves the exclusive right, in its sole discretion, to participate in any claim and assume, at Subscriber's sole expense or such other cost sharing arrangement agreeable to ASSOCIATION, the control, defense, and/or settlement of any matter otherwise subject to this indemnification obligation.

**10. Governing Law.** This Agreement has been made in and will be construed and enforced solely in accordance with the laws of the United States of America and the State of Maryland, U.S.A. as applied to agreements entered into and completely performed in the State of Maryland. For any disputes between the parties under or arising out of this Agreement, the parties agree that jurisdiction shall be in the courts of the State of Maryland. The parties also acknowledge and agree that any state law implementation of the Uniform Computer Information Transactions Act (including any available remedies or laws) shall not apply

to this Agreement and is hereby disclaimed. Moreover, the parties agree that no action or proceeding may be brought arising from this Agreement more than four (4) years after such claim first arose.

**11. Term; Termination.** Unless terminated earlier, as set forth herein, the term of this Agreement (the "Term") is twelve (12) months beginning with the Effective Date. This Agreement will terminate automatically if Subscriber fails to comply with any of the terms and conditions described herein, including by exceeding the scope of the license or failing to pay in a timely manner any applicable fees, charges, or costs. ASSOCIATION reserves the right to terminate this Agreement for any reason without notice. Upon termination or expiration, Subscriber must return, destroy, or delete from its system all copies of the ASSOCIATION Licensed Property (and any associated materials and data) in its possession. Any and all terms of this Agreement which should survive the termination of this Agreement, shall survive such termination.

**12. Miscellaneous.** This Agreement is personal to Subscriber, and Subscriber may not assign its rights or obligations to any third party without ASSOCIATION's prior written consent. Failure by ASSOCIATION to insist on strict performance of any of the terms and conditions of this Agreement will not operate as a waiver by ASSOCIATION of that or any subsequent default or failure of performance. If any provision (or part thereof) contained in this Agreement is determined to be void, invalid, or otherwise unenforceable by a court of competent jurisdiction or on account of a conflict with an applicable government regulation, such determination shall not affect the remaining provisions (or parts thereof) contained herein. Subscriber and ASSOCIATION are independent contractors. No joint venture, partnership, employment, or agency relationship exists between Subscriber and ASSOCIATION as result of this Agreement or Subscriber's utilization of the ASSOCIATION Licensed Property, and Subscriber shall have no right to bind ASSOCIATION without its prior written permission.

**13. Entire Agreement.** This Agreement represents the entire agreement between Subscriber and ASSOCIATION with respect to using the ASSOCIATION Licensed Property as a registered subscriber, and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between Subscriber and ASSOCIATION with respect to the ASSOCIATION Licensed Property.

**14. Dispute Resolution.** All claims and disputes arising under or relating to this Agreement which are not settled by the parties within sixty (60) days after notice of breach is first given by either party to the other will be exclusively and finally settled by binding arbitration in the state of Maryland under the American Arbitration Association Commercial Arbitration Rules. The arbitration shall be conducted on a confidential basis pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Each party shall pay for and bear the costs of its own experts, evidence, and legal counsel, and its own pro rata share of the cost of arbitration. Any decision or award as a result of any such arbitration proceeding shall be in writing and shall provide an explanation for all conclusions of law and fact and shall include the assessment of costs, expenses, and reasonable attorneys' fees. An award of arbitration may be confirmed in a court of competent jurisdiction.