

MEMORANDUM OF UNDERSTANDING

NATIONAL COMMERCIAL VEHICLE SERVICE INFORMATION

The Commercial Vehicle Solutions Network (“CVSN”), the Equipment and Tool Institute (“ETI”), the Heavy Duty Aftermarket Canada (HDAC), Auto Care Association (“Auto Care”) and the Truck and Engine Manufacturers Association (“EMA”) enter into this Memorandum of Understanding (“MOU”) in the United States and Canada and voluntarily agree to fully support the provisions of this MOU as delineated below.

Section 1.

(a) CVSN, ETI, Auto Care and HDAC acknowledge that Commercial Vehicles are manufactured, sold, operated, maintained and serviced very differently from passenger cars and such market differences must be reflected in an MOU unique to the needs of Commercial Vehicles.

(b) CVSN, ETI, Auto Care and HDAC agree to fully implement the MOU and to oppose and not to fund or otherwise support, directly or indirectly, any new state or provincial Commercial Vehicle or Commercial Vehicle Engine service information legislation, provided that Manufacturers comply with the MOU. In addition, the Original Parties (defined below) also agree to oppose and not to fund or otherwise support, directly or indirectly, any federal Commercial Vehicle or Commercial Vehicle Engine service information legislation that is not consistent with this MOU, provided the Manufacturers comply with the MOU. The Original Parties further agree to use their best efforts to resolve future issues related to telematics prior to seeking any federal or state legislative resolution.

(c) The Original Parties agree to work together to resolve any future or related Commercial Vehicle or Commercial Vehicle Engine service information issues that might otherwise be the subject of state, provincial, or federal legislation and, subject to the mutual consent of the Original Parties, amend the MOU to include those additional matters.

(d) The Original Parties agree to work to strongly encourage their members and any new entrants to the United States or Canadian Commercial Vehicle or Commercial Vehicle Engine market or any new participants in the Commercial Vehicle or Commercial Vehicle Engine service industry to abide by the MOU.

(e) Any amendments or revisions to the terms of the MOU shall require the written consent of the Original Parties.

(f) The Original Parties agree to meet as needed to assess how the MOU is operating, address concerns, and discuss any other matters relevant to the MOU. In the event that one of the Original Parties concludes that, due to changed circumstances, the MOU may no longer be viable, that party shall upon thirty (30) days written notice to the other Original Parties, call a meeting to discuss the need for the MOU to continue. After participating in such meeting, an Original Party may withdraw from the MOU.

(g) The Original Parties agree that should a state, province, or federal government pass a law relating to issues covered by this MOU, after the effective date of the MOU, any Manufacturer may elect not to follow the MOU partially or entirely for the impacted state, province, or federal entity.

(h) The Original Parties agree that any Manufacturer that has a range of products of which some are covered by this MOU, and others are covered by either the January 15, 2014 MOU between Auto Care, CARE, the Alliance, and Global Automakers (the “Light-Duty MOU”) or the September 29, 2009 Agreement entitled Canadian Automotive Service Information Standard (The “Canadian MOU”) can comply with the terms of the Light-Duty MOU or the Canadian MOU for their Commercial Vehicles and Commercial Vehicle Engines in lieu of this MOU.

Section 2.

As used in this MOU, the following terms shall have the meanings given below, unless the context clearly indicates otherwise:

“As-Built Parts Information” Manufacturer part number information for a specific Commercial Vehicle or Commercial Vehicle Engine that identifies (through the Vehicle Identification Number (VIN), engine serial number or other system used by a Manufacturer) information on original and replacement components and parts that were installed on the Commercial Vehicle or Commercial Vehicle Engine at the Manufacturer’s factory which can be used to identify the correct parts to be used during a repair.

“Commercial Vehicle” Any motor vehicle with a gross vehicle weight over 14,000 pounds that is designed for transporting persons or property on a street or highway and that is certified by the Manufacturer under all applicable federal safety and emissions standards and requirements for distribution and sale in the United States and Canada, but excluding (i) any vehicles equipped with a nonroad engine; or (ii) a motor home equipped for habitation (other than the engine and chassis).

“Commercial Vehicle Engine” Any engine used to power a Commercial Vehicle.

“Contractual Agreement” A written arrangement for a definite or indefinite period in which a Manufacturer or distributor grants to a Dealer a license to use a trade name, service mark or related characteristic and in which there is a community of interest in the marketing of new Commercial Vehicles, Commercial Vehicle Engines or services related thereto.

“Dealer” Any person or business who, in the ordinary course of its business, is engaged in the business of selling or leasing new Commercial Vehicles or Commercial Vehicle Engines pursuant to a contractual agreement and who has obtained a license, as required under applicable law, and is engaged in the diagnosis, service, maintenance or repair of Commercial Vehicles or Commercial Vehicle Engines.

“Dispute Resolution Panel (DRP)” A five-person panel established by the Original Parties comprised of the following: two members appointed by CVSNI, ETI, HDAC, and Auto Care and two members appointed by EMA. In addition, there shall be a DRP Chair selected by

unanimous consent of the Original Parties. Any expenses for the DRP Chair associated with meetings of the DRP called by the Original Parties (not for purposes of hearing an appeal) shall be funded in equal amounts by each of the Original Parties. The Original Parties may remove a member from the DRP and appoint a replacement at any time. The Original Parties may remove the Chair and appoint a new Chair at any time by unanimous consent.

“Fair and Reasonable Terms” Provided that nothing in this MOU precludes a Manufacturer and an Owner or Independent Repair Facility who is subject to the MOU from agreeing to the sale of information and tools on any other terms on which they agree, in determining whether a price is on " Fair and Reasonable Terms," consideration may be given to relevant factors, including, but not limited to, the following:

- (i) The net cost to the Manufacturer's dealers for similar information obtained from Manufacturers, less any discounts, rebates, or other incentive programs,
- (ii) The cost to the Manufacturer for preparing and distributing the information, excluding any research and development costs incurred in designing and implementing, upgrading or altering the onboard computer and its software or any other Commercial Vehicle or Commercial Vehicle Engine part or component. Amortized capital costs for the preparation and distribution of the information may be included,
- (iii) The price charged by other Manufacturers for similar information,
- (iv) The price charged by Manufacturers for similar information prior to the launch of Manufacturer web sites,
- (v) The ability of aftermarket technicians or shops to afford the information,
- (vi) The means by which the information is distributed,
- (vii) The extent to which the information is used, which includes the number of users, and frequency, duration, and volume of use, and
- (viii) Inflation.

“Immobilizer System” An electronic device designed for the sole purpose of preventing the theft of a Commercial Vehicle by preventing the Commercial Vehicle in which it is installed from starting without the correct activation or authorization code.

“Independent Component” Those parts and systems of Commercial Vehicles or Commercial Vehicle Engines, not manufactured, controlled, warranted or serviced by the Manufacturer.

“Independent Repair Facility” A person or business that is not affiliated with a Manufacturer or Manufacturer's authorized Dealer, which is engaged in the diagnosis, service, maintenance or repair of Commercial Vehicles or Commercial Vehicle Engines.

“Manufacturer” Any person or business engaged in the business of manufacturing or assembling new Commercial Vehicles or Commercial Vehicle Engines.

“Original Parties” The signatories to this MOU.

“Owner” A person or business who owns or leases a Commercial Vehicle.

“Telematics Services” Services including, but not limited to, integrated vehicle location technology and wireless communications related to automatic airbag deployment and crash notification, remote diagnostics, navigation, stolen vehicle location, remote door unlock, transmitting emergency and vehicle location information to public safety answering points, as well as any other such services which integrate vehicle location technology and wireless communications.

“Trade Secret” Anything, tangible or intangible or electronically stored or kept, which constitutes, represents, evidences or records intellectual property including secret or confidentially held designs, processes, procedures, formulas, inventions, or improvements, or secret or confidentially held scientific, technical, merchandising, production, financial, business or management information, or anything within the definition of 18 U.S.C. § 1839(3) or R.S.C., 1985, C.O-5 (Security of Information Act).

Section 3.

(a) Except as provided in subsection (3)(e), for Model Year 2010 and later Commercial Vehicles and Commercial Vehicle Engines, a Manufacturer shall make available for purchase by Owners and by Independent Repair Facilities, the same diagnostic and repair information, including repair technical updates that such Manufacturer makes available to its Dealers through the Manufacturer's internet-based diagnostic and repair information system or other electronically accessible Manufacturer's repair information system. All diagnostic and repair content in any such Manufacturer's repair information system shall be made available to Owners and to Independent Repair Facilities in the same general form and manner and to the same extent as is made available to Dealers, and shall include information that would allow Independent Repair Facilities to identify the locations of sensors and computer modules and As-Built Parts Information so that correct replacement components and parts can be used to repair the Commercial Vehicle or Commercial Vehicle Engine. Each Manufacturer shall provide access to such Manufacturer's diagnostic and repair information system for purchase by Owners and Independent Repair Facilities on a monthly and yearly subscription basis and upon Fair and Reasonable Terms.

(b) For Model Year 2010 and later, each Manufacturer shall make available for purchase by Owners and Independent Repair Facilities all diagnostic repair tools incorporating the same diagnostic, repair and wireless capabilities that such Manufacturer makes available to its Dealers.

(i) Such tools shall incorporate the same functional repair capabilities that such Manufacturer makes available to Dealers. Each Manufacturer shall offer such tools for sale to Owners and to Independent Repair Facilities upon Fair and Reasonable Terms. As a prerequisite to the purchase or use of any tools, and to assure their control and proper use, Manufacturers may include a licensing agreement as part of the purchase, lease or rental of such tools.

- (ii) Each Manufacturer shall provide diagnostic repair information, related updates, modifications, and version changes to each aftermarket scan tool company and each third party service information provider with whom the Manufacturer has appropriate licensing, contractual or confidentiality agreements for the sole purpose of building aftermarket diagnostic tools and third party service information publications and systems. Each Manufacturer also shall provide access to data stream information to each aftermarket scan tool company with whom the Manufacturer has appropriate licensing, contractual or confidentiality agreements for the sole purpose of building aftermarket diagnostic tools. After a Manufacturer makes such information available, the Manufacturer has no further responsibility for the content and functionality of aftermarket diagnostic tools or service information systems.
- (iii) No Manufacturer shall be prohibited from making proprietary tools available to Dealers if such tools are for a specific specialized diagnostic or repair procedure developed for the sole purpose of a customer service campaign or performance of a specific technical service bulletin or recall after the Commercial Vehicle or Commercial Vehicle Engine was produced, provided such tools are made available to owners and Independent Repair Facilities upon Fair and Reasonable Terms.

(c) Nothing in Section 3(a) or 3(b) of this MOU shall require Manufacturers to make available to Owners or Independent Repair Facilities any diagnostic or repair information or tools for any Independent Component included in a Commercial Vehicle or Commercial Vehicle Engine, or any part, component, vehicle body, or system added to the Commercial Vehicle or Commercial Vehicle Engine that is not included in the Manufacturer's as-built configuration, unless such information is provided to Dealers.

(d) Commencing in Model Year 2018, except as provided in subsection (3)(c) and 3(e), Manufacturers shall provide access to their onboard diagnostic and repair information system utilizing an online connection. This system consists of the manufacture's internet server based diagnostics, an end user owned, off-the-shelf PC and an end user owned non-proprietary Vehicle Communication Interface or VCI that complies with the Technology and Maintenance Council (TMC) RP1210A, SAE International (SAE) J2534, or the International Organization for standardization standard (ISO) 22900, or any successor to TMC RP1210A, SAE J2534-1, or ISO 22900 as may be accepted or published by the Technology and Maintenance Council, SAE International, or the International Organization for Standardization. In lieu of the requirement in this section a Manufacturer may substitute:

- (i) any onboard diagnostic and repair information system integrated and entirely self-contained within the vehicle, including, but not limited to, service information systems integrated into an onboard display, or
- (ii) a system that provides direct access to onboard diagnostic and repair information through a non-proprietary vehicle interface, such as Ethernet, universal serial bus or digital versatile disc.

The manufacturer's diagnostic application can run on the PC as a downloadable and updateable program application, or the PC can act as a client to a program running on the manufacturer's server.

Each manufacturer shall provide access to the same on-board diagnostic and repair information available to their dealers, including technical updates to such on-board systems, through such non-proprietary interfaces as referenced in this paragraph. Nothing in this agreement shall be construed to require a dealer to use the non-proprietary vehicle interface (i.e., SAE J2534, TMC RP1210A, or ISO 22900 vehicle interface device) specified in this subsection, nor shall this agreement be construed to prohibit a manufacturer from developing a proprietary vehicle diagnostic and reprogramming device, provided that the manufacturer also complies with this Section 3(e) that requires the Manufacturer to provide an end user owned non-proprietary Vehicle Communication Interface or VCI, and the Manufacturer also makes the proprietary device available to independent repair facilities upon fair and reasonable terms, and otherwise complies with Section 3(a).

Access will be available to each controller or computer on the vehicle bus that has a diagnostic application.

(e) Manufacturers shall not be required to provide unrestricted service information access to Owners and Independent Repair Facilities for diagnostic, service and repair information necessary to:

- (i) reset an Immobilizer System or security-related electronic modules,
- (ii) reprogram the Commercial Vehicle's Central Processing Unit (CPU) or Commercial Vehicle Engine's Control Unit (ECU), or
- (iii) change any Commercial Vehicle or Commercial Vehicle Engine settings affecting emissions or safety compliance.

If excluded under this paragraph, the information necessary to reset an Immobilizer System or security-related electronic modules, reprogram the CPU or ECU, or change emissions or safety-related systems shall be obtained by Owners and Independent Repair Facilities from Manufacturers in a secure manner that provides timely access to the information.

(f) With the exception of telematics diagnostic and repair information that is provided to Dealers, necessary to diagnose and repair a customer's vehicle, and not otherwise available to an Independent Repair Facility via the tools specified in (3)(b)(i), nothing in this MOU shall apply to Telematics Services or any other remote or information service, diagnostic or otherwise, delivered to or derived from the vehicle by mobile communications; provided, however, that nothing in this MOU shall be construed to abrogate a Telematics Services or other contract that exists between a Manufacturer or service provider, a Commercial Vehicle Owner, and/or a Dealer.

(g) Nothing in this agreement shall require a Manufacturer or a Dealer to disclose to any person the identity of existing customers or customer lists.

Section 4.

Nothing in this MOU shall require a Manufacturer to divulge a Trade Secret.

Section 5.

Notwithstanding any general or special law or any rule or regulation to the contrary, no provision in this MOU shall be read, interpreted or construed to abrogate, interfere with, contradict or alter the terms of any Contractual Agreement executed and in force between a Dealer and a Manufacturer including, but not limited to, the performance or provision of warranty or recall repair work by a Dealer on behalf of a Manufacturer pursuant to such Contractual Agreement.

Section 6.

Nothing in this MOU shall be read, interpreted or construed to require Manufacturers or Dealers to provide an Owner or Independent Repair Facility access to non-diagnostic and repair information provided by a Manufacturer to a Dealer, or by a Dealer to a Manufacturer pursuant to the terms of a Contractual Agreement.

Section 7.

Manufacturers shall provide Independent Repair Facilities access to training materials and instructions related to tools and repairs on Fair and Reasonable Terms. Nothing in this MOU shall be read, interpreted or construed to require Manufacturers or Dealers to provide an Owner or Independent Repair Facility access to in-person training sessions or telephonic support conducted by the Manufacturer or Dealer.

Section 8.

Nothing in this MOU shall be read, interpreted or construed as creating or increasing a Manufacturer's liability for any acts or omissions of Owners or Independent Repair Facilities relating to the maintenance, repair, or operation of any Commercial Vehicle or Commercial Vehicle Engine. Manufacturers may add an appropriate indemnification or limitation of liability clause to any parts, tools, information, use or training transactions with Owners or Independent Repair Facilities, provided such clause does not limit the Manufacturer's liability for its own gross negligence or willful misconduct.

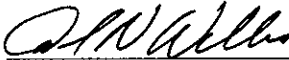
Section 9.

If an Independent Repair Facility or Owner believes that a Manufacturer has failed to provide the information or tool required by this MOU, it may challenge the Manufacturer's actions by first notifying the Manufacturer in writing. The Manufacturer has thirty (30) days from the time it receives the reasonably clear and specific complaint to cure the failure, unless the parties otherwise agree. If the complainant is not satisfied, it has thirty (30) days to appeal the Manufacturer's decision to the DRP. The DRP shall be convened by the Chair within thirty (30) days of receipt of the appeal of the Manufacturer's decision. The DRP will attempt to reach agreement between the parties. If unsuccessful, the DRP shall convene and

issue its decision. The decision must be issued within 10 business days following the DRP meeting, unless otherwise agreed to by the parties and shall be binding on all the Original Parties to this MOU. The DRP decision shall be disseminated to the complainant, the Manufacturer, and the Original Parties. If the Manufacturer and complainant still cannot reach agreement, the complainant may take whatever legal measures are available to it. The DRP annually shall establish the costs associated with an appeal and shall make information about those costs available in advance to the potential parties to an appeal. During the first year of this MOU, any costs associated with appeals to the DRP shall be shared equally between EMA (50%) and the remaining Original Parties (50%). Thereafter, unless agreed to by the unanimous consent of the Original Parties, the costs of an appeal to the DRP shall be borne equally between the complainant and the respondent, who must pay those costs in advance. The DRP may adopt such other rules and procedures for conducting its business by unanimous written consent, subject to the review and approval of the Original Parties.

In witness whereof, the parties hereto have executed this MOU as follows:

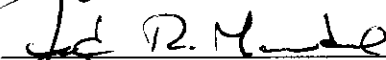
Commercial Vehicle Solutions Network

By: 

Its: PRESIDENT CUSN

Date: 8/3/15

Truck and Engine Manufacturers Association

By: 

Its: President

Date: 8/12/15

Heavy Duty Aftermarket Canada

By: 

Its: PRESIDENT - H.D.A.C.

Date: 8/10/2015

Equipment and Tool Institute

By: 

Its: EXECUTIVE MANAGER - COO

Date: 8-11-15

Auto Care Association

By: 

Its: Pres & CEO

Date: 8.4.15