

Data License Agreement

This Data License Agreement (this "**Agreement**"), effective as of the date set forth on the "**Confirmation of Eligibility**" (as defined below) (the "**Effective Date**"), is by and between the AUTO CARE ASSOCIATION, an Illinois not for profit corporation with offices located at Suite 1300, 7101 Wisconsin Avenue, Bethesda, Maryland, 20814 ("**Licensor**") and the licensing entity set forth in the "**Registration Page**" at the "**Licensor Site**," as those terms are defined below ("**Licensee**"). Licensor and Licensee may be referred to herein collectively as the "**Parties**" or individually as a "**Party**."

By completing and submitting the required information at the registration page (the "**Registration Page**") available on this site (the "**Licensor Site**") and Clicking "Read and Agreed," the individual so acting (a) represents and warrants that (i) he has the authority to sign for and bind the Licensee to the Agreement; and (ii) that all information set forth in the Registration Page is complete and accurate; and (b) acknowledges and agrees that the Agreement shall be binding upon Licensee once Licensor has received the "**Confirmation of Eligibility**" as described below.

1. Purpose. Licensor has compiled data into the proprietary database described in **Exhibit A**, and the compiled data included in such proprietary database is referred to in this Agreement as the "**Data**." Licensor desires to license the Data to Licensee, and Licensee desires to license the Data from Licensor, subject to the terms and conditions of this Agreement. The Data is comprised of information concerning discrete aftermarket automotive parts and accessory sales for specific automotive parts (each, a "**Parts Product Line**") and the licenses contemplated and granted by this Agreement (each, a "**License**") shall apply only to the specific Parts Product Line indicated in the Confirmation of Eligibility.
2. Acceptance by Licensor.
 - a. Licensee acknowledges and agrees that each License granted pursuant to this Agreement is contingent on the eligibility of the Licensee, determined solely by the Licensor, and only available to Licensees that meet one (1) of the following license requirements ("**License Requirements**"):
 - i. The Licensee has contributed data to Licensor (each, a "**Contributor**") for the development and exploitation of the Data and wishes to license Data with respect to one or more of the Parts Product Lines covered by the contributed data (a "**Contributor Licensee**").
 - ii. The Licensee is a member of the Auto Care Association and through one or more Contributors, sells or distributes automotive parts within the specified Parts Product Line for which a License is desired (a "**Member Licensee**").
 - iii. The Licensee is not a member of the Auto Care Association and through one or more Contributors, sells or distributes parts within the specified Parts Product Line for which a License is desired (a "**Non-Member Licensee**").

- b. Within seven (7) days following submission of a properly completed Registration Page and acceptance of this Agreement by Licensor, Licensor shall confirm the Licensee's eligibility for the Licenses desired as reflected in the Registration Page (a "**Confirmation of Eligibility**"). The Confirmation of Eligibility shall include information necessary for Licensee to register and access the Data which is the subject of the confirmed License. In the event Licensor is unable to confirm that Licensee meets the License Requirements for the requested License, this Agreement shall be null and void ab initio and of no force or effect.
- c. Licensee acknowledges and agrees that each License granted pursuant to this Agreement is contingent on the the accuracy of pertinent information provided by the Licensee in the Registration Page and the continued eligibility of the Licensee by meeting and continuing to meet the relevant License Requirements during the Term of the License. Any determination of eligibility of the Licensee, including pricing for each License granted to the Licensee pursuant to this Agreement, may be changed at any time at Licensor's sole discretion.

3. License.

- a. License Grant. Subject to and conditioned on Licensee's timely payment of "**Fees**" and compliance with all other terms and conditions of this Agreement, Licensor hereby grants Licensee a non-exclusive, non-sublicenseable, and non-transferable (except in compliance with Section 12c of this Agreement) License during the Term to use the Data solely for Licensee's internal business purposes and the Data shall be kept and maintained solely within the Licensee's organization (the "**Permitted Use**"). The total number of users by the Licensee will not exceed the limits set forth in the Confirmation of Eligibility, except as expressly agreed to in writing by the Parties and subject to any appropriate adjustment of the Fees payable hereunder.
- b. Use Restrictions. Licensee shall only use the Data for the Permitted Use and shall not disclose, release, distribute, or deliver the Data, or any portion thereof, to any third party without Licensor's prior written consent, which consent may be withheld in Licensor's sole discretion. Any purpose or use not specifically authorized herein is prohibited unless otherwise agreed to in writing by Licensor. Without limiting the foregoing and except as otherwise expressly set forth in this Agreement, Licensee shall not at any time, directly or indirectly: (i) copy, modify, or create derivative works of the Data, in whole or in part; (ii) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Data; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to the source of the Data or methods used to compile the Data, in whole or in part; (iv) remove any proprietary notices included within the Data; (v) publish, enhance, or display any compilation or directory based upon information derived from the Data; or (vi) use the Data in

any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law. Without limiting the generality of the foregoing, no new research, programs, or initiatives may be commenced or initiated using any part of the Data.

- c. Reservation of Rights. Licensor reserves all rights not expressly granted to Licensee in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to Licensee or any third party any intellectual property rights or other right, title, or interest in or to the Data.
 - d. Delivery. The Data to which Licensee is entitled under the License shall be available to Licensee at the URL included in the Confirmation of Eligibility and in such proprietary formats and presentation method (the “**Format**”) as shall be included therein and shall be updated on a monthly basis.
4. Fees and Payment.
- a. Fees. Licensee shall pay Licensor the fees (“**Fees**”) set forth in Exhibit A without offset or deduction. Licensee shall make all payments hereunder in US dollars on or before the due date set forth in Exhibit A. Payment of the Fees is due prior to Licensee being provided access to and use of the Data covered by the License. If Licensee fails to make any Fee or other payment when due, Licensee’s access to the Data covered by the License shall be suspended until such time as the relevant Fee or payment has been paid.
 - b. Taxes. All Fees and other amounts payable by Licensee under this Agreement are exclusive of taxes and similar assessments. Licensee is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental or regulatory authority on any amounts payable by Licensee hereunder, other than any taxes imposed on Licensor's income.
5. Data Security. Licensee shall use all reasonable legal, organizational, physical, administrative and technical measures, and security procedures to safeguard and ensure the security of the Data and to protect the Data from unauthorized access, disclosure, duplication, use, modification, or loss.
6. Confidentiality. Licensee acknowledges and agrees that the Data and Format contain certain proprietary trade secrets and non-public information (the “**Confidential Information**”). Licensee agrees to secure and protect the confidentiality of the Confidential Information using at least the same degree of care as Licensee uses to maintain the confidentiality of Licensee’s own confidential information of a similar

nature, but in no event using less than reasonable efforts. Licensee shall not, and shall not permit any third party to, sell, transfer, publish, disclose, or otherwise make available any portion of the Confidential Information to third parties, including, without limitation, any entity affiliated with Licensee.

7. Intellectual Property Ownership. (a) Licensee acknowledges that, as between Licensee and Licensor, Licensor owns all right, title and interest, including all intellectual property rights, in and to the Data and the Format. Licensee further acknowledges that: (i) the Data is an original compilation protected by United States copyright laws; (ii) Licensor has dedicated substantial resources to collect, manage and compile the Data and in the development of the Format; and (iii) the Data and the Format constitute trade secrets of Licensor. Licensor may terminate this Agreement without advance notice to Licensee or an opportunity for Licensee to cure and without further obligation or liability in the event Licensee takes any action, which, in the reasonable opinion of Licensor, jeopardizes or otherwise puts at risk Licensor's intellectual property rights. Licensee acknowledges and agrees that it will be considered a material breach by Licensee under this Agreement if Licensee contests any of Licensor's right, title, or interest in or to the Data or the Format, including without limitation, in a judicial proceeding anywhere throughout the world. (b) Notwithstanding the foregoing, Licensor acknowledges and agrees that portions of the raw data included in the Data is owned by the relevant Contributor and not by Licensor, subject to rights granted by such Contributor to Licensor to include its raw data in the Data.
8. Disclaimer of Warranties. THE DATA IS PROVIDED "AS IS" AND LICENSOR HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE. LICENSOR SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE. LICENSOR MAKES NO WARRANTY OF ANY KIND THAT THE DATA, OR ANY PRODUCTS OR RESULTS OF ITS USE, WILL MEET LICENSEE'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.
9. Indemnification. Licensee shall indemnify, hold harmless, and, at Licensor's option, defend Licensor from and against any and all losses, damages, liabilities, or costs (including reasonable attorneys' fees) ("**Losses**") incurred by Licensor resulting from any third-party claim, suit, action, or proceeding ("**Third-Party Claim**") based on Licensee's: (i) negligence or willful misconduct; or (ii) use of the Data in a manner not authorized by this Agreement; provided that Licensee may not settle any Third-Party Claim against Licensor unless such settlement completely and forever releases Licensor from all

liability with respect to such Third-Party Claim or unless Licensor consents to such settlement, and further provided that Licensor shall have the right, at its option, to defend itself against any such Third-Party Claim or to participate in the defense thereof by counsel of its own choice.

10. Limitation of Liability. IN NO EVENT WILL LICENSOR BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY (a) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED OR PUNITIVE DAMAGES, (b) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS, (c) LOSS OF GOODWILL OR REPUTATION, (d) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY DATA OR BREACH OF DATA OR SYSTEM SECURITY, OR (e) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER LICENSOR WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. IN NO EVENT WILL LICENSOR'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY AND OTHERWISE, EXCEED THE TOTAL AMOUNTS PAID TO LICENSOR UNDER THIS AGREEMENT IN THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

11. Term and Termination.

- a. Term. The term of this Agreement begins on the Effective Date and, unless terminated earlier pursuant to any of the Agreement's express provisions, will continue in effect for one (1) year from the Effective Date (the "**Initial Term**"). This Agreement will automatically renew for consecutive one (1) year periods provided (i) Licensee or Licensor has not elected to terminate this Agreement by written notice to the other no less than thirty (30) days prior to the end of the then current Term; and (ii) Licensee has paid the then current Fee (as posted on the Licensor Site) for the succeeding one (1) year period (each a "**Renewal Term**" and together with the Initial Term, the "**Term**").
- b. Termination. In addition to any other express termination right set forth elsewhere in this Agreement:
 - i. Licensor may terminate this Agreement, effective on written notice to Licensee, if Licensee: (A) fails to pay any amount when due hereunder; or (B) breaches any of its obligations under this Agreement;

- ii. either Party may terminate this Agreement, effective immediately upon written notice to the other Party, if the other Party: (A) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (B) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (C) makes or seeks to make a general assignment for the benefit of its creditors; or (D) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.
- c. Effect of Expiration or Termination. Upon expiration of the Term or earlier termination of this Agreement, the License(s) granted hereunder will also terminate, and, without limiting Licensee's obligations set forth elsewhere in this Agreement, Licensee shall cease using and delete, destroy, or return all copies of the Data and provide a written certification of an officer or senior executive of Licensee that the Data has been deleted or destroyed. No expiration or termination will affect Licensee's obligation to pay all Fees that may have become due before such expiration or termination, or entitle Licensee to any refund.
- d. Survival. Any rights, obligations, or required performance of the Parties set forth in this Agreement which, by their express terms or nature and context are intended to survive termination or expiration of this Agreement in order to be given effect, will survive any such termination or expiration.

12. Miscellaneous.

- a. Entire Agreement. This Agreement, together with any other documents incorporated herein by reference and all related Exhibits, constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, and representations and warranties, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements made in the body of this Agreement, the related Exhibits, and any other documents incorporated herein by reference, the following order of precedence governs: (i) first, this Agreement, excluding its Exhibits; (ii) second, the Exhibits to this Agreement as of the Effective Date; and (iii) third, any other documents incorporated herein by reference.
- b. Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "**Notice**") must be in writing and addressed to the Parties at the addresses set forth on the first page of this Agreement or in the Registration Page (or to such other address that may be designated by the Party giving Notice from time to time in accordance with this Section). The Parties shall

deliver Notices by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile, or email (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage pre-paid). Except as otherwise provided in this Agreement, a Notice is effective only: (i) upon receipt by the receiving Party, and (ii) if the Party giving the Notice has complied with the requirements of this Section.

- c. Amendment and Modification; Waiver. Except as expressly set forth elsewhere in this Agreement, no amendment to or modification of this Agreement is effective unless it is in writing and signed by an authorized representative of each Party. No waiver by any Party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, (i) no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement will operate or be construed as a waiver thereof, and (ii) no single or partial exercise of any right, remedy, power, or privilege hereunder will preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.
- d. Severability. If any provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.
- e. Governing Law; Submission to Jurisdiction. This Agreement is governed by and construed in accordance with the internal laws of the State of Maryland without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of Maryland. Any legal suit, action, or proceeding arising out of or related to this Agreement or the Licenses granted hereunder may be instituted in the federal courts of the United States or the courts of the State of Maryland in each case located in the city of Bethesda and County of Montgomery, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.
- f. Assignment. Licensee may not assign or transfer any of its rights or delegate any of its obligations hereunder, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without the prior written consent of Licensor, which consent may be withheld in Licensor's discretion. Any purported

assignment, transfer, or delegation in violation of this Section is null and void. No assignment, transfer, or delegation will relieve the assigning or delegating Party of any of its obligations hereunder. This Agreement is binding upon and inures to the benefit of the Parties hereto and their respective permitted successors and assigns.

- g. Export Regulation. The Data may be subject to US export control laws, including the United States Export Administration Act and its associated regulations. Licensee shall not, directly or indirectly, export, re-export, or release the Data to, or make the Data accessible from, any jurisdiction or country to which export, re-export, or release is prohibited by law, rule, or regulation. Licensee shall comply with all applicable federal laws, regulations, and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing, or otherwise making the Data available outside the United States.
- h. Equitable Relief. Each Party acknowledges and agrees that a breach or threatened breach by such Party of any of its obligations under Section **Error! Reference source not found.** of this Agreement would cause the other Party irreparable harm for which monetary damages would not be an adequate remedy and agrees that, in the event of such breach or threatened breach, the other Party will be entitled to equitable relief, including a restraining order, an injunction, specific performance, and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity, or otherwise.

EXHIBIT A

Capitalized terms used but not defined in this **Exhibit A** have the meaning given to those terms in the Agreement.

A. DESCRIPTION OF DATA: DESCRIPTION OF DATA ELEMENTS

The Data measures the relevant Parts Product Line's overall unit sales performance (light-duty and United States-sales only, across all channels represented by Contributors), expressed as monthly/quarterly index values (January/1st Qt 2016 = 100) displayed two ways – (1) as a linear index-point change; and (2) year-over-year % change. Parts Product Lines are: a) Brake Calipers; b) Brake Steel (Drums and Rotors); c) Brake Friction (Pads and Shoes); d) Ignition Components; e) Engine Management Sensors; f) Fuel Pumps; g) Hoses and Belts; h) Water Pumps; i) Radiators; j) Charging Systems; k) Starting Systems; l) Gaskets; m) Chassis Suspension; n) Ride Control Suspension; o) Wheel Bearings and Seals.

B. FEES:

- Contributor License – No annual Fee;
- Member License - \$5,000 annual Fee per Parts Product Line; and
- Non-Member License - \$15,000 annual Fee per Parts Product Line.