



General Terms and Conditions for the Leasing of XENTRY Diagnosis Kit 4, XENTRY Diagnosis Kit 4 Scope and XENTRY Scope (**GTC** - valid from 04/2025)

1. Scope

All goods and services provided by Mercedes-Benz USA, LLC ("MBUSA") in connection with the leasing of the diagnosis systems XENTRY Diagnosis Kit 4, XENTRY Diagnosis Kit 4 Scope and XENTRY Scope are subject to these terms and conditions (this "Agreement"). All agreements must be documented in writing. This also applies to collateral agreements, warranties, as well as subsequent contract amendments. Lessee's general terms and conditions of business shall not be deemed incorporated into this Agreement, even if those conditions have been attached to invitations to tender, orders, or declarations of acceptance and have not been explicitly rejected. This Agreement applies to components relinquished at no charge wherever appropriate.

2. Subject of the Agreement

2.1 The Lessee leases from MBUSA the diagnosis systems XENTRY Diagnosis Kit 4, XENTRY Diagnosis Kit 4 Scope and XENTRY Scope (hereinafter referred to as '**Systems**') consisting of hardware components and firmware.

This Agreement does not cover the provision of Applications and Data Content (incl. XENTRY Software) and data updates. These are subject of a separate agreement and are regulated by the 'General Terms and Conditions regarding the Use of Applications and Data Content provided by MBUSA for After-Sales'.

MBUSA hereby explicitly points out to the Lessee that the contract period of the aforementioned separate contract for the provision of applications and data content (incl. XENTRY Software) can be significantly shorter (e.g. until the end of a calendar year) than the minimum rental duration of the Systems of 42 months in accordance with section 16.1. This applies in particular if the Applications and Data Content (incl. XENTRY Software) in its current form or scope (e.g. certain data packages of individual divisions) are no longer used or distributed by MBUSA or no longer available to MBUSA.

ATTENTION: In this case, the rented Systems can then not be used to access to the Applications and Data Content (incl. XENTRY Software) which are no longer used or distributed by MBUSA or no longer available to MBUSA, and MBUSA may at its option terminate this Agreement in accordance with Section 16.1.

2.2 Lessee shall purchase the MBUSA-approved accessories for the Systems separately, unless these are included as part of the original delivery.

3. Formation of Contract

Lessee shall be bound by its order for a maximum of 14 days. A rental agreement is formed when MBUSA has confirmed acceptance of the order in writing within this period or when MBUSA has performed delivery of the goods or services. However, MBUSA is obliged to inform Lessee in writing without undue delay if it does not intend to accept the order.

MBUSA is not required to state a reason for not accepting the order.

If there is a provision in a separate contract for the dynamic inclusion of the current version of these general terms and conditions, the current version shall take precedence.

In all other cases, MBUSA will inform users of any intended changes to this Agreement in writing (e.g. e-mail) six (6) weeks in advance. If the user does not object to the changes in writing within four (4) weeks after receipt of the respective change notice, the changes shall be deemed accepted and mutually changed with expiration of the above-mentioned period of six (6) weeks and unopposed continuation of use of the services. Should the user object to the changes, both MBUSA and the user shall have the right to terminate this Agreement or the corresponding order with a notice period of four (4) weeks. MBUSA undertakes to inform the user of the effect of silence or non-objection when informing of the changes.

4. Compliance with Applicable Law

4.1 Lessee is obliged to refrain and desist from all practices that could result in criminal charges against employees of Lessee or other third parties for fraud or breach of trust, insolvency crimes, anti-competition crimes, granting of advantages, or passive corruption. In the event of violation of the above, MBUSA has the right to withdraw from or terminate all legal transactions existing with Lessee and to break off all negotiations with immediate effect.

Notwithstanding the above, Lessee is obliged to adhere to all laws and regulations applicable to both itself and the commercial relationship with MBUSA.

4.2 Lessee shall not sell, export or re-export, directly or indirectly, to the Russian Federation or Belarus or for use in the Russian Federation or Belarus any goods or technology supplied under or in connection with this Agreement.



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In addition, Lessee shall also not sell, supply, export, license or transfer, directly or indirectly, in any other way, any intellectual property rights or trade secrets nor grant rights to access or re-use any material or information protected by intellectual property rights or protected as trade secret to the Russian Federation or Belarus or for use in the Russian Federation or in Belarus. Lessee is required to prohibit possible sublicensees of such intellectual property rights or trade secret, from using such intellectual property rights, trade secrets or other information in connection with common high priority items as listed in Council Regulation (EU) 833/2014 and/or applicable U.S. laws and regulations that are intended for sale, supply, transfer or export, directly or indirectly, to the Russian Federation or Belarus or for use in the Russian Federation or Belarus.

- 4.3 Lessee shall undertake its best efforts to ensure that the purpose of Section 4.2 (above) is not frustrated by any third parties further down the commercial chain, including by possible resellers and/or possible sublicensees of such intellectual property rights or trade secret.
- 4.4 Lessee shall set up and maintain an adequate monitoring mechanism to detect conduct by any third parties further down the commercial chain, including by possible resellers, that would frustrate the purpose of Section 4.2 (above).
- 4.4 Any violation of Sections 4.2, 4.3, or 4.4 (above) shall constitute a material breach of an essential element of this Agreement, and MBUSA shall be entitled to seek appropriate remedies, including, but not limited to termination of this Agreement, and compensation of any costs, damage, or liability incurred by MBUSA resulting from the infringement, including the imposition of fines.
- 4.6 Lessee shall immediately inform MBUSA about any problems in applying Sections 4.2, 4.3 or 4.4 (above), including any relevant activities by third parties that could frustrate the purpose of the Section 4.2 (above), Lessee shall make available to MBUSA information concerning compliance with the obligations under Sections 4.2, 4.3 and 4.4 (above) within two weeks of the request of such information.

5. Type and Scope of Performances

- 5.1 The scope of performance is determined by the provisions in the individual rental agreements. These agreements cover the exact listing of the rented Systems, data contents and services, and the inseparably linked agreements on qualification, program extensions and relinquishment of product information.
- 5.2 MBUSA reserves the right to make changes to the design, technology, and scope of supply and services during the delivery period, provided these changes remain reasonable for Lessee while taking into account the interests of MBUSA.
- 5.3 Upon request by MBUSA, Lessee is obliged to replace the Systems with newer Systems provided by MBUSA. This will be contingent upon the need for exchange resulting from ongoing further development in vehicle diagnosis technology, IT technology, telematics, etc.
- 5.4 Lessee is aware that all Systems can only be used in connection with the corresponding chargeable XENTRY software (in particular XENTRY Diagnosis). Lessee bears the sole responsibility for granting a corresponding right of use for the XENTRY software for a fee and based on a separate agreement.

6. Partial performances

MBUSA is entitled to deliver the goods or services in installments provided that this is acceptable to Lessee.

7. Usage Rights and Penalty

- 7.1 Lessee undertakes to use the Systems, the accessories provided by MBUSA as part of the original delivery, the operating instructions, and the other documentation solely within its business and not to permit their use by any third parties, unless the Parties have agreed otherwise in this respect.
- 7.2 Lessee must ensure that no documentation is accessible to third parties without the prior consent of MBUSA in writing. No copies may be made. Furthermore, all information on the documentation is subject to a nondisclosure undertaking.
- 7.3 In the event that the Systems fall into third-party hands, irrespective of whether Lessee has passed them on or failed to ensure that third parties are prevented from accessing them, a penalty of \$27,250 will be payable to MBUSA. This does not affect the right of MBUSA to enforce damages claims, although such claims will then be offset against the penalty. Should such a case arise, MBUSA reserves the right to demand either the destruction or the return of the documentation.
- 7.4 A simple, gratuitous and indefinite right of use is conceded to Lessee for accessories relinquished at no cost including the accompanying documentation. Lessee shall duly dispose of the hardware components according to the legal regulations at its own cost after usage has expired.



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8. Small Repairs

Lessee is liable for damage caused by external sources at a repair cost of up to \$272.50 per contractual year, even if Lessee did not cause the damage. The liability of Lessee for damages Lessee causes is unlimited.

9. Due Diligence and Lessee's Liability

Lessee is obliged to handle the Systems carefully. Culpable damage, e.g. damage due to negligence of due diligence or improper handling of the Systems is charged to Lessee in full, including transport and handling costs. The following due diligence rests on Lessee:

- Securing the Systems against theft as well as unintentional or willful damage.
- Sufficient protection of the Systems from dirt, not tampering with the marking, adhesive labels and/or protective seals.
- Avoiding the exposure of the Systems or the Systems' batteries to heat or direct sunlight.
- Not operating the Systems in the rain or on a wet surface - This will prevent short-circuits and damage to the Systems.
- Never pouring fluids over the System (water, solvents or cleaning agents, oil, etc.) or allowing foreign objects to remain in the device. Securing the Systems from falling, not removing the rubber bumpers.
- Always placing the Systems on a level, non-slip surface.
- Avoiding all contact with flammable vapors.
- Adhering to the minimum distance of 46 cm (18 inches) from the Systems to the floor.
- Never covering the fans of the Systems. Never opening the Systems or making structural modifications, unless there are instructions to do so from the Diagnosis User Help Desk (UHD).
- Paying attention to the instructions on using and replacing batteries in the Systems.
- Operating the touchscreen of the XENTRY Tab only with the intended stylus or with a finger if need be.
- Avoiding unnecessary pressure, tension and rotation on the Systems.
- Unplugging the Systems and cables after each use.
- Exclusively using appropriate power sources.
- Exclusively installing approved software, hardware and accessories on the Systems.
- Lessee may not order repairs itself or have repairs performed by a repairer not authorized by MBUSA.
- Only commercially available cleaning agents approved for IT devices may be used for cleaning.
- For the use of Systems, the due diligence obligations of Lessee stated in the "XENTRY Diagnosis system user guidelines" also apply.

Lessee must not allow any lien or other encumbrance to be placed on the Systems or any related equipment, and Lessee will take any steps requested by MBUSA to remove any lien or encumbrance placed on the Systems or any related equipment. MBUSA may, but is not obligated to, file a financing statement in appropriate government records to protect MBUSA's interest in the Systems and any related equipment.

10. Warranty

- 10.1 MBUSA warrants that the Systems are free from defects at the time of delivery.
The warranty for the Systems starts at the time of delivery (ex works). Lessee shall send defective Systems or hardware components to MBUSA upon request.
- 10.2 In the event that a replacement is provided, the defective System or hardware components must be promptly returned to MBUSA upon receipt of the replacement System. If Lessee delays returning said item(s) or does not return it/them at all, Lessee must reimburse any losses incurred as a result, in accordance with the applicable statutory provisions. In particular, any customs charges or handling expenses due to a delayed return will be borne by Lessee.
- 10.3 Lessee is obliged to report damage and defects to the System immediately, otherwise the warranty for the System does not apply. The warranty shall not apply if a defect is caused by Lessee or a third party having modified, improperly used, or repaired the Systems without the consent of MBUSA or because the Systems have not been used and looked after in accordance with the 'Guidelines for XENTRY Diagnosis System Users'.
- 10.4 If a damage not caused by Lessee is not rectified, especially if the fault cannot be repaired or additional remedy attempts are unacceptable for Lessee, Lessee has the right to terminate this Agreement due to loss of use.

11. Liability

- 11.1 Under no circumstances will MBUSA, or its representatives, agents, directors, officers or employees be liable for any indirect, special or consequential damages (including but not limited to lost revenue or lost profits) related to the System or the use of the System by Lessee, regardless of whether such damages may be foreseeable.



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The liability of the representatives, agents, directors, officers and employees of MBUSA for any damages that were caused by their simple negligence is excluded (disclaimed).

The aforementioned limitation of liability and the aforementioned liability disclaimer do not apply to damages that are attributable to the grossly negligent or intentional violation of duties on the part of MBUSA, its representatives or its agents, directors, officers and employees and do not apply to death, bodily injury and impairment of health, in which case MBUSA's liability for such damages will be limited to the total amount of rent, fees and other charges paid by Lessee to MBUSA under this Agreement.

- 11.2 Irrespective of any fault on the part of MBUSA, MBUSA shall remain liable for any fraudulent concealment of a defect and shall remain liable under any applicable product liability laws.
- 11.3 Lessee must immediately report in writing or have MBUSA record any damages and losses for which MBUSA must provide compensation.
- 11.4 Damages claimed for reasons of slight negligence fall under the statute of limitations within one year from the date when the act of negligence occurred.

12. Support and Service

Support and other services will be provided only if Lessee adheres to the prescribed service processes. This means that the diagnosis user help desk must be contacted when support and services are required. The instructions of the diagnosis user help desk are binding.

13. Prices/Terms of Payment

- 13.1 The prices listed in the applicable price list apply. The applicable price list may be found via MBUSA's Netstar Newschannel messages and/or MBUSA's Lease Management System. The rental price is payable upon receipt of the invoice. Prices are net and exclusive of applicable tax, which will be charged at the rate applicable on the date the purchase price is due and are expressed in US dollars.
- 13.2 The prices are indicated and agreed are net prices quoted without value added tax ("VAT"), stated in Euros and may in each case be increased by the amount of the national VAT that is applicable or by any other indirect taxes, if neither a tax exemption nor a zero rate or reverse charge procedure is applicable. In respect thereof, the Lessee shall support MBUSA in obtaining shipment and transport documentation in order to ensure its ability to invoice on a VAT-exempt basis for cross-border delivery of goods (e.g. DVD), provided that the other prerequisites thereto are met.
If an exemption from statutory VAT or other indirect taxes depends on further requirements, MBUSA may charge a respective VAT amount or VAT-deposit amount as a security, which shall be refunded without interests upon proved fulfillment of the requirements, i.e. receipt of proper documentation and proofs.
- 13.3 The monthly rent is due and payable in advance on the first day of the month.
- 13.4 If the System is replaced or in some way updated to the latest technical status by a new development and introduced as such by MBUSA, MBUSA is authorized to adjust the rent with notification at least 2 months in advance. The rent is adjusted by the same amount by which the list rental prices have been raised in comparison with the previous list rental prices. If MBUSA demands an increase in rent, Lessee can cancel this Agreement within a month after announcement of the increase as per the effective date of the increase in rent.
- 13.5 The Lessee may offset its claims against claims by MBUSA only if the Lessee's counterclaim is uncontested or if a legally binding judgment exists. This includes counterclaims of the Lessee from the same contract of lease. Lessee can only assert a right of retention if it relates to claims arising from the same contractual relationship. Lessee may assert a right to offset claims or a right of retention for any invoice for 3 months following Lessee's receipt of the applicable invoice.

14. Taxes

All taxes or levies of any kind whatsoever in connection with payments made by Lessee and imposed on MBUSA by applicable tax authorities will be borne by MBUSA. All taxes or levies of any kind whatsoever in connection with payments made by Lessee and imposed or to be paid in its home state or the state in which the diagnosis Systems are located will be borne by Lessee. The foregoing sentence does not apply to tax on income that is imposed or deducted at source in accordance with applicable law.

In case the Lessee is required to withhold taxes in accordance with domestic law and applicable Tax Treaty, if any, from payments under this Agreements, the Lessee shall exercise its best efforts to attain that the payment to MBUSA will be taxed at any reduced rate under the Tax Treaty or under domestic law at the time of payment. So far as Lessee is required to withhold taxes in accordance with applicable law from the payments under these terms of lease, Lessee will do everything



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within its power to ensure that the payment to MBUSA is taxed at the lowest possible rate under applicable law at the time of payment.

In case the Lessee is required to withhold taxes from payments under this Agreement, the Lessee shall provide MBUSA without undue delay with any applicable documents that evidence calculation and payment of the tax. So far as applicable law requires Lessee to withhold and pay over taxes from payments under these terms of rental, Lessee shall, without culpable delay, provide MBUSA with original tax receipts issued by the tax authority and any other documents that specify MBUSA as taxpayer and show the amount of tax paid, the tax law and the legal regulation on which such tax payment is based, the tax rate or the basis on which the tax payment is assessed, and the date on which the tax was paid.

15. Assignment

Lessee may assign or delegate its rights and obligations under this Agreement only with the prior consent of MBUSA in writing.

16. Term and Termination

16.1 The duration of this Agreement is indefinite, insofar as this Agreement has not been canceled at the expiration of the minimum rental duration. The minimum rental duration is 48 months, after which this rental Agreement is automatically extended until it is canceled in writing with a period of notice of at least 60 days. **Attention: If Applications and Data Content (incl. XENTRY Software), which are subject of a separate agreement, in its current form or scope (e.g. certain data packages of individual divisions) are no longer used or distributed by MBUSA or no longer available to MBUSA (see sec. 2.1), MBUSA may at its option terminate this agreement at any time - even before the expiry of the minimum rental duration - with a notice period of six (6) weeks.**

16.2 This Agreement can be canceled without notice for good cause. MBUSA in particular can cancel this Agreement without notice if Lessee

- is no longer part of the authorized distribution network of MBUSA, or
- is in default of paying the rent or a considerable part of the rent for two successive due dates, or is in default of the payment of a part of the rent which amounts to the rent for two months, for a period which exceeds two due dates.

16.3 If MBUSA cancels this Agreement without notice for a good cause, MBUSA has the following rights:

- Claim for the immediate return of all relinquished Systems;
- Entitlement to the payment of depreciation compensation as per section 17.2.
- Entitlement to compensation amounting to the agreed rent for the duration of the withholding of the Systems, including the total equipment if Lessee does not return the Systems to MBUSA after the end of this contract. In addition, any customs and handling costs in the event of the late return are to be borne by Lessee.

17. Return of the Systems after the Agreement Ends

17.1 At the end of this Agreement, Lessee shall return the Systems to MBUSA at Lessee's expense and in accordance with the scope stated in this Agreement (including but not limited to Section 17.2 below). Lessee shall return the delivered Systems according to the prescribed return process, at the expense of Lessee. Any cables provided within the scope of this Agreement are excluded from this requirement. Lessee shall bear the risk associated with the return of the Systems to MBUSA.

If Systems or hardware components are not returned for reasons Lessee is responsible for, Lessee shall pay for the costs of replacement and any resulting damage according to the applicable legal requirements. Also, Lessee will continue to owe rent for the Systems and billing for such rent shall continue until the Systems are confirmed fully received in MBUSA's Lease Management System.

17.2 If, at the end of this Agreement, the Systems are not in a good condition taking into account their age and contractual use, and thereby are of lower value, Lessee must work with MBUSA to establish the proper condition and/or settle the reduced value plus VAT, if Lessee caused this as per section 9 due to a disregarding of its due diligence obligations or improper handling.

18. Place of Performance, Place of Jurisdiction and Governing Law

The place of performance is Atlanta, Georgia, and jurisdiction and venue shall lie with the competent courts of Atlanta, Georgia. The laws of the State of Georgia shall apply, to the exclusion of any conflict of law rules.