

EXHIBIT 1 TO DATA DISTRIBUTION AGREEMENT

FCA US SCAN TOOL DATA LICENSE AGREEMENT

This Agreement is by and between FCA US LLC f/k/a Chrysler Group LLC, a Delaware limited liability company having a principal place of business at 1000 Chrysler Drive, Auburn Hills, Michigan 48326-2766 ("FCA US"), and the company identified below in the signature block of this Agreement ("Licensee"), and is effective as of the later of the two dated signatures below ("Effective Date").

FCA US has FCA US Scan Tool Data, defined below, useful in scan tools.

Pursuant to a Data Distribution Agreement with the Equipment and Tool Institute, FCA US has licensed ETI to distribute certain FCA US Scan Tool Data to members of ETI who have entered into this License Agreement with FCA US.

Licensee desires to obtain Licensed Data (defined below) for use by Licensee as permitted herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, the parties agree as follows:

1. **Definitions.**

"Authorized Scan Tool" means a scan tool as described on Exhibit 1 of this Agreement.

"FCA US Scan Tool Data" means electronic messages transmitted between a scan tool and an electronic control unit ("ECU") on-board a FCA US vehicle for the purposes of performing diagnosis, tests and repairs of the FCA US vehicle, and includes without limitation: (a) read only, data stream information (e.g. sensor values, I/O switch states, etc.); (b) bi-directional control, data stream information (e.g., operation of actuators, initiation of self-checks, etc.); (c) special diagnostic test routine requirements (e.g. VIN initialization, cylinder balance test, etc.); (d) vehicle data communication requirements (e.g. vehicle connector terminal/pin out definitions, physical layer definitions, etc.); (e) ECU data communication requirements (e.g. diagnostic protocols, data link layer definitions, etc.); (f) vehicle application information (e.g. ECU information charts, etc).

"ETI" means the Equipment and Tool Institute.

"ETI Agreement" means the Data Distribution Agreement between ETI and FCA US.

"Licensed Data" means the FCA US Scan Tool Data that is provided by FCA US to Licensee, such as by ETI pursuant to the ETI Agreement. For avoidance of doubt, Licensed Data will not include flash reprogramming software, *e.g.*, the J2534 software, the files that are flashed into a memory of a controller in a FCA US vehicle when the controller is reprogrammed, security algorithms, and the like.

2. **License.** FCA US grants to Licensee while this Agreement is in effect a nontransferable, non-exclusive license, without the right to grant sublicenses, to use the Licensed Data to make Authorized Scan Tools and to distribute those Authorized Scan Tools. FCA US does not grant Licensee any other license or right under this Agreement.

3. **Ownership, Restrictions.**

(a) All FCA US Scan Tool Data, and all intellectual property rights therein, are and will be the property of FCA US.

(b) Licensee will not use any FCA US Scan Tool Data except to use the Licensed Data as permitted by the license granted in Section 2 of this Agreement. Except to distribute Authorized Scan Tools

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that include Licensed Data, Licensee must not market, distribute or otherwise provide any FCA US Scan Tool Data to any third party.

(c) Licensee must not alter any of the Licensed Data. As to FCA US vehicles, the Authorized Scan Tools must not provide any capability beyond that described in Exhibit 1. FCA US has the right to require Licensee to cease making, selling or otherwise distributing any scan tool using any FCA US Scan Tool Data that FCA US determines provides any capability beyond that described in Exhibit 1.

(d) No FCA US Scan Tool Data will be provided to Licensee until Licensee has paid the License Fee and will not be provided to Licensee for any subsequent year for which this Agreement has been renewed as provided hereunder until Licensee has paid the License Fee the subsequent year.

4. **Confidentiality.** Licensee will retain all FCA US Scan Tool Data in confidence. Licensee will restrict access to the FCA US Scan Tool Data to those of its employees who have a need to know and whom Licensee has bound to appropriate confidentiality obligations. The foregoing obligation of confidentiality does not apply to any FCA US Scan Tool Data that Licensee can show:

- (a) becomes publicly known through no wrongful act on Licensee's part; or
- (b) is rightfully received by Licensee from a third party who is not under any obligation of confidentiality to FCA US; or
- (c) is explicitly approved for release by written authorization of FCA US; or
- (d) is independently developed by Licensee without breach of this Agreement.

5. **Governmental or Judicial Request.** Licensee will have the right to disclose any FCA US Scan Tool Data if such is required to be disclosed to a governmental authority by law, pursuant to any governmental or judicial order, or in any judicial or administrative proceeding. Prior to disclosing any FCA US Scan Tool Data pursuant to this Section 5, Licensee will notify FCA US sufficiently in advance of the disclosure to give FCA US adequate time to contest the request and in any event, make commercially reasonable efforts to have the FCA US Scan Tool Data received in confidence or, in the case of a judicial or administrative proceeding, disclosed pursuant to an appropriate protective order.

6. **Disclaimers, Limitation of Liability.** LICENSEE ASSUMES THE ENTIRE RISK OF USING THE FCA US SCAN TOOL DATA. THE FCA US SCAN TOOL DATA IS LICENSED AND PROVIDED "AS IS" WITHOUT ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE FCA US SCAN TOOL DATA IS NOT WARRANTED TO BE DEFECT FREE. FCA US IS NOT LIABLE FOR ANY DAMAGES IN CONNECTION WITH THE LICENSE GRANTED OR THE USE OF THE FCA US SCAN TOOL DATA, INCLUDING WITHOUT LIMITATION, ANY DIRECT, INDIRECT, SPECIAL, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH, RELATED TO, OR ARISING OUT OF USE OF THE FCA US SCAN TOOL DATA OR ANY INDIRECT, SPECIAL, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, EVEN IF FCA US HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. FCA US'S LIABILITY FOR DAMAGES, REGARDLESS OF THE FORM OF ACTION, WILL NOT EXCEED THE ANNUAL LICENSEE FEE PAID BY LICENSEE UNDER THIS AGREEMENT FOR THE THEN CURRENT YEAR.

7. **License Fee, Records, Audit, Insurance.**

- (a) **License Fee.** Licensee will pay FCA US an annual license fee as set forth on Exhibit 1

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of this Agreement (“License Fee”).

(b) **Records, Audit.** While this Agreement is in effect and for a period of three years after its termination or expiration, Licensee will keep and maintain full, complete and accurate records related to its obligations under this Agreement. FCA US will have the right to inspect such books and records at reasonable times during normal business hours, and make extracts thereof.

(c) **Insurance.** Licensee will obtain at its own expense, and maintain at all times, worker’s compensation including employer’s liability with minimum limits of \$500,000 and comprehensive general liability (including but not limited to contractual liability and products and completed operations liability) subject to minimum limits of \$2,000,000 with insurers that maintain an A.M. Best Rating of A-:VII. Coverages required shall 1) name FCA US as an additional insured on general liability and products liability (if separate), 2) shall include a waiver of subrogation or no right of recovery against FCA US by Licensee or its insurers, 3) shall be supplied with a copy of the certificate of insurance prior to performance of this Agreement. Such policies will contain endorsements stating that the policies are primary and not excess over or contributory with any other valid, applicable, and collectible insurance in force for FCA US. Licensee shall be financially responsible for any deductibles, retentions and/or premiums. Limits shall not be considered as limitations or maximums as respects to Licensee’s indemnification obligations.

8. **Compliance With Laws.**

(a) Licensee’s Authorized Scan Tools must comply with all applicable federal, state, and local laws, regulations and rules, including without limitation, including those of the U.S. Environmental Protection Agency (EPA) and the California Air Resource Board (CARB) pertaining to the dissemination of emission-related service information, as applicable to the subject matter of this Agreement, and the U.S. Export Administration Laws and Regulations (“EAR”). Licensee will not export, re-export, resell, ship or divert or cause to be exported, re-exported, resold, shipped or diverted, directly or indirectly, any FCA US Scan Tool Data or direct products thereof to any country or entity for which the United States Government or any agency thereof at the time of such activity requires an export license or other governmental approval without first obtaining such license or approval.

(b) Licensee must not in any manner encourage, assist or acquiesce in the use of scan tools with FCA US vehicles for: (i) modification or enhancement of any electronic control unit calibration parameter or characteristic curve for the purposes of emission or performance “tuning” (such as, by way of example and not of limitation, air/fuel schedules); (ii) modification or enhancement of any electronic control unit operating parameter or variant coding table, except to restore original factor settings or reinitialize vehicle-specific configuration data following replacement of an electronic control unit or electrical/electronic component in accordance with FCA US’s service procedures; (iii) accessing any protected electronic control unit memory location or secured function; or (iv) reprogramming any electronic control unit memory location or flash memory partition using unauthorized software programs or flash data (software programs or flash data that is not authorized by FCA US).

(c) Licensee agrees that any breach by it of any of its obligations under this Section 8 is a material breach of this Agreement and in addition to all other remedies it may have at law or equity, FCA US may immediately cease the provision of FCA US Scan Tool Data to Licensee, including without limitation, requiring ETI to cease providing the FCA US Scan Tool Data to Licensee

9. **Term, Termination.**

(a) This Agreement will be effective as of the Effective Date and have a term of one year. This Agreement will renew at the end of each one year term for another one year term upon Licensee’s payment of the Annual Fee for the next one year term, such as may be invoiced to Licensee by FCA US’s nominee (presently the Equipment and Tool Institute). FCA US may terminate this Agreement without

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cause upon within thirty days written notice to Licensee. If FCA US terminates this Agreement without cause, Licensee will receive a pro-rata refund of the Annual Fee that it paid for the current one year term. FCA US may also terminate this Agreement immediately by giving Licensee written notice of termination if Licensee fails to timely pay the Annual Fee for the next one-year term, such as by the due date set forth in the invoice for the Annual Fee for the next one-year term.

(b) If Licensee (a) breaches any of its material obligations hereunder (including without limitation, its obligations under Section 3, 4 or 8) and fails to remedy that breach within thirty (30) days after the breach has been called to its attention by written notice of FCA US, (b) files a petition in bankruptcy, has an order entered on a petition in bankruptcy filed against it, makes a general assignment for the benefit of creditors or otherwise acknowledges insolvency, (c) is adjudged bankrupt, (d) commences or is placed in complete liquidation, or (e) suffers the appointment of a receiver, who is not discharged within ninety days after being appointed, for any substantial portion of its business; then, and in any such event, FCA US may terminate this Agreement immediately by giving written notice of such termination to Licensee.

(c) Sections 3, 4, 8 and 11 survive termination or expiration of this Agreement.

(d) Within ten (10) days after the termination or expiration of this Agreement, Licensee will delete all FCA US Scan Tool Data from any electronic media and destroy all other copies, and will confirm in writing that it has done the foregoing.

10. **Indemnity.** Licensee will indemnify and hold FCA US harmless against all claims, liabilities, losses, suits, settlements, judgments, expenses including attorney or other legal fees, penalties, costs or demands of any kind made against FCA US arising out of or in any way connected to the design, manufacture, distribution, sale, offer for sale or use of any scan tool using FCA US Scan Tool Data, including without limitation, any claim or lawsuit for: i) actual or alleged bodily injury or death to any person; ii) actual or alleged damage to tangible property; iii) alleged product defect in such a scan tool, iv) patent infringement or misappropriation of ideas; v) cause of or transfer of viruses, trojan horses, worms, time bombs, robots or other harmful components or contaminants, including damage to software, hardware or loss of data; or vi) breach of this Agreement.

11. **Equitable Relief.** Licensee acknowledges and agrees that any breach of any of the obligations contained in Sections 3 (Ownership, Restrictions), 4 (Confidentiality) or 8 (Compliance with Laws) above will result in material and irreparable harm to FCA US. Licensee therefore agrees that FCA US has the right to seek and obtain an injunction or other equitable relief to enforce these provisions without prejudice to any other rights and remedies FCA US may have. In any such action, prior notice will not be required to obtain preliminary injunctive relief, and no bond will be required.

12. **General.**

(a) **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter herein and supercedes all prior communications, negotiations, understandings and agreements between the parties, whether express or implied, either written or oral, with respect to the subject matter herein. This Agreement may only be amended by a writing executed by both parties.

(b) **Relationship of the Parties.** This Agreement does not constitute either party as the agent, representative or partner of the other party for any purpose. Neither party has the authority to assume or create an obligation on behalf of, or in the name of, the other party.

(c) **Publicity.** Licensee agrees that it will not use any trademarks, trade names or service marks of FCA US without the prior written consent of FCA US.

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(d) Governing law. This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan, without regard to its conflict of laws provisions, and the federal laws of the United States.

(e) Assignment. No party may assign any right or obligation under this Agreement without the prior written consent of the other, except that either party may assign, in whole or in part, its right, title and interest in this Agreement to any company with which it may merge or consolidate or which acquires substantially all of the business or assets of such party. The terms and conditions hereof will inure to the benefit of and be binding upon agents and successors in interest of each party.

(f) Notices and Written Communications. Any notice or other communication required under this Agreement must be in writing and either delivered personally or by expedited courier service, or sent by telefax or telex (and confirmed by mail) or certified mail (airmail from outside the U.S.), postage prepaid, return receipt requested, addressed as follows:

If to Licensee:

To the person signing this Agreement on behalf of Licensee at the address set forth below Licensee's name in the signature block of this Agreement.

If to FCA US:

Assistant General Counsel, Intellectual Property
Corporate Patent Office
CIMS 483-02-19
FCA US LLC
1000 Chrysler Drive
Auburn Hills, MI 48326-2766
Facsimile: (248) 944-6537

or to such other address as the party to receive such notice has designated by written notice to the other party.

(g) Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, the parties agree to renegotiate such provisions in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (i) such provision shall be excluded from this Agreement; (ii) the balance of the Agreement shall be interpreted as if such provision were so excluded; and (iii) the balance of the Agreement shall be enforceable in accordance with its terms.

(h) Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

[signatures on next page]

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IN WITNESS WHEREOF, the parties have entered into this Agreement by having it signed by their duly authorized representatives.

LICENSEE

(Licensee's Name)

(Licensee's Address)

By: _____
(Signature)

(Printed Name)

Title: _____
Date: _____

FCA US LLC

1000 Chrysler Drive
Auburn Hills, MI 48326-2766

By: _____
(Signature)

(Printed Name)

Title: _____
Date: _____

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Exhibit 1

Authorized Scan Tool

Authorized Scan Tools will be limited to devices exchanging only those electronic messages with an electronic control unit (“ECU”) on-board a FCA US vehicle needed for purposes of performing diagnosis, analysis, test and repair of the FCA US vehicle. Except as provided below, the Authorized Scan Tool must not have the capability of modifying any software program or data in such an ECU, including but not limited to, (i) modification or enhancement of any ECU calibration parameter or characteristic curve for the purposes of emission or performing “tuning” (such as by way of example and not of limitation, air/fuel schedules); (ii) modification or enhancement of any ECU operating parameter or variant coding table; (iii) accessing any protected ECU memory location or secured function; or (iv) reprogramming of any ECU memory location or flash memory partition using any software or flash data not authorized by FCA US. Authorized Scan Tools may have the capability of restoring original factory settings or reinitializing vehicle-specific configuration data following FCA US’s ECU/component replacement procedures.

Authorized Scan Tools can only be a Non-Authenticated Scan Tool unless Licensee has signed an Authenticated Scan Tool Addendum to this Scan Tool Data License Agreement.

An Authenticated Scan Tool is an Authorized Scan Tool that meets FCA US specifications for Authenticated Scan Tools and for which Licensee has signed an Authenticated Scan Tool Addendum to this FCA US Scan Tool Data License Agreement. Only Authenticated Scan Tools can have bi-directional access capability for FCA US vehicles having a secure gateway module, and can also have bi-directional access capability for FCA US vehicles that do not have the secure gateway module. FCA US may charge an additional annual license fee for Authenticated Scan Tools.

A Non-Authenticated Scan Tool is any Authorized Scan Tool that is not an Authenticated Scan Tool. Non-Authenticated Scan Tools may have bi-directional access capability for FCA US vehicles that do not have a secure gateway module but must not have bi-directional access capability for FCA US vehicles having the secure gateway module. In this regard, Licensee acknowledges that bi-directional access by Non-Authenticated Scan Tools to FCA US vehicles having the secure gateway module will be blocked by the secure gateway module.

Bi-directional access capability includes, but is not limited to, bi-directional control and data stream information (*e.g.*, operation of emission related actuators).

License Fee:

The amount stated in the schedule below, annually, to be paid in advance to FCA US's Nominee, which FCA US may change at any time by giving Licensee notice of the change pursuant to Section 12(f) of the Agreement. FCA US reserves the right to change the fees set forth in the below schedule prior to any renewal of this Agreement. Licensee acknowledges and agrees that the below schedule that determines a lump sum annual License Fee based on Licensee's annual sales is a reasonable and expeditious way of approximating royalties on Licensee's sales of Authorized Scan Tools in lieu of a per unit royalty.

	Annual Sales of Automotive Equipment and Tools in North America	Annual License Fee
<input type="checkbox"/>	Under \$10,000,000	\$5,500
<input type="checkbox"/>	\$10,000,000 to \$49,999,999	\$10,500
<input type="checkbox"/>	\$50,000,000 and over	\$15,500

Payment Information:

Checks are to be made payable and remitted to:
Electronic Equipment and Tool Institute ("Nominee")
Attn: Greg Potter
37899 W. 12 Mile Road, Suite 220
Farmington Hills, MI 48331

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