

Cooperation Agreement "Startup adVANce Challenge"

between

Daimler AG

and

Startup

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Cooperation Agreement "Startup adVANce"

This Cooperation Agreement (including these main provisions and the annexes hereinafter referred to as "**Agreement**") is concluded between the following *Parties*:

- (1) **Daimler AG**, Mercedesstrasse 137, 70565 Stuttgart ("**Daimler**") and
- (2) _____ ("**Startup**")

(*Daimler* and *Startup* hereinafter also individually referred to as "**Party**" and together as "**Parties**").

Whereas:

- (A) *Daimler* is organizing a challenge to initiate new partnerships with the most innovative startups in the field of "**Last Mile Transportation of Goods and People**" as well as to develop and realize prototypes in cooperation with these startups, which satisfy the future needs of B2C or B2B customers in this field ("**Startup adVANce Challenge**"). More precisely, the *Startup adVANce Challenge* focuses on all kinds of technology solutions (hardware and software; such technology solutions "**Products**") in combination as well as business models that address the following three *Tracks* around the *Last Mile Transportation of Goods and People*: (i) revolutionizing the cargo space of a van, (ii) Internet of Things (IoT) and (iii) transport sharing solutions.
- (B) The execution of the *Startup adVANce Challenge* occurs in three different phases ("**Phase**"). The first *Phase* is an idea and idea alignment stage ("**Phase 1 (Alignment Phase)**"), the second *Phase* is a concept stage with the aim that the *Startup*, in cooperation with *Daimler*, develops a more detailed "**Concept**" based on the idea proposed and aligned in *Phase 1 ("Phase 2 (Concept Phase)"),* and the third *Phase* is a prototype stage with the aim that the *Startup*, in cooperation with *Daimler*, converts the *Concept* into a functionally tested prototype of a *Product* ("**Prototype**") that is ready for a field test run ("**Phase 3 (Prototype Phase)**").
- (C) The cooperation between the *Startup* and *Daimler* only consists of technical aspects in connection with the development of the *Concept* in *Phase 2 (Concept Phase)* and the development of the *Prototypes* as well as their production in *Phase 3 (Prototype Phase)*. Business aspects, e. g. the development of the business model, is carried out by the *Startup* individually. *Daimler* will also provide specific financial assistance ("**Grants**") to startups that qualify for *Phase 2 (Concept Phase)* and *Phase 3 (Prototype Phase)*, respectively. For the avoidance of doubt, the *Startup adVANce Challenge* is not an acceleration or an incubation program and therefore does not include any business coaching for the startups by *Daimler*.
- (D) The *Startup adVANce Challenge*, in particular the participation requirements the *Startup* must meet, the *Phases*, the evaluation criteria for each *Phase* and the requirements for Grant eligibility, are described in more detail in the document "Startup adVANce – Terms and Conditions" ("**Startup adVANce Challenge T&C**"). The *Startup* has been provided with and has declared its acceptance of these *Startup adVANce T&Cs*.
- (E) The *Parties* intend to further specify their mutual rights and obligations for their cooperation in *Phase 2 (Concept Phase)* and, potentially, *Phase 3 (Prototype Phase)* of the *Startup adVANce Challenge*.

THEREFORE IT IS AGREED AS FOLLOWS:

1. Subject matter of the Agreement; Relationship to the Startup adVANce T&Cs

1.1 Subject Matter

1.1.1 The subject matter of this *Agreement* is the *Parties'* cooperation within the following *Phases* of the *Startup adVANce Challenge*:

- (a) *Phase 2 (Concept Phase)*, and
- (b) potentially *Phase 3 (Prototype Phase)*.

1.1.2 Within *Phase 2 (Concept Phase)*, the *Startup* will, in cooperation with *Daimler*, refine and complete the draft of the *Concept* and such other *Work Results*, each as further specified in clause 4. The details of the *Grant* awarded by *Daimler* to the *Startup* for this *Phase 2 (Concept Phase)* are also further specified in clause 4.

1.1.3 Within *Phase 3 (Prototype Phase)*, the *Startup* will, in cooperation with *Daimler*, develop several *Prototypes* with increasing maturity levels and such other *Work Results*, each as further specified in clause 5. The details of the *Grant* awarded by *Daimler* to the *Startup* for this *Phase 3 (Prototype Phase)* are also further specified in clause 5.

1.1.4 Unless this *Agreement* explicitly sets forth otherwise, each *Phase* is a distinct and separate subject matter of this *Agreement* with specific *Work Results* (e.g., the *Concept* and the *Prototypes*) to be developed in a specific period of time, as further specified in clause 4 for *Phase 2 (Concept Phase)* and clause 5 for *Phase 3 (Prototype Phase)*.

1.1.5 "**Work Result**" shall mean any output during *Phase 2 (Concept Phase)* and *Phase 3 (Prototype Phase)* such as, but not limited to, items, data, knowledge or information, whether tangible or intangible, whatever its form or nature and whether it can be protected or not, as well as any rights attached to it, including *Intellectual Property Rights*. The *Concept* may, depending on the level of cooperation between the *Parties* and their contribution for its development, either be a *Jointly-owned Work Result* or the individual *Work Result* of one *Party*. The *Prototypes* are the *Jointly-owned Work Results* of the *Parties*.

1.2 Relationship to the Startup adVANce T&Cs

The *Startup adVANce T&Cs* are an integral part of this *Agreement*. Therefore, the *Startup adVANce T&Cs* shall also apply to the cooperation of the *Parties* under this *Agreement*. In the event of a conflict between the terms of this *Agreement* and the terms included in the *Startup adVANce T&Cs*, the terms of this *Agreement* shall prevail. Terms defined in the *Startup adVANce T&Cs* shall have the same meaning when used in this *Agreement*, unless otherwise defined herein or required by the context.

2. Effectiveness of this Agreement

2.1 Phase 2 (Concept Phase)

For *Phase 2 (Concept Phase)*, this *Agreement* enters into effect when signed by both *Parties* (the "**Phase 2 Start Date**").

2.2 Phase 3 (Prototype Phase)

For *Phase 3 (Prototype Phase)*, this *Agreement* enters into effect as of August 25, 2017, provided that it has been signed by both *Parties* and the following condition precedent (*aufschiebende Bedingung*) is fulfilled:

- (a) *Daimler* has provided the *Startup* with the *Phase 3 Selection Notice* (as defined in Section 1.5 of the *Startup adVANce T&Cs*) and
 - (b) the *Startup* has submitted the signed *Phase 3 Prototype Plan* (as defined in Section 1.5 of the *Startup adVANce T&Cs*) by August 24, 2017, 23:59 (CET) at the latest
- (this date also the "**Phase 3 Effective Date**").

3. General Provisions for each Phase

3.1 Introduction

The following general provisions apply to the *Parties'* cooperation in *Phase 2 (Concept Phase)* and, if the *Startup* qualifies for *Phase 3 (Prototype Phase)* pursuant to the *Startup adVANce T&Cs*, also *Phase 3 (Prototype Phase)*.

3.2 Execution of each Phase

- 3.2.1 The *Startup* will carry out its activities in each *Phase* under this *Agreement* in an efficient and financially responsible manner. Therefore, the *Startup* will implement good policy and sound management and it will use any *Grant* received in an efficient manner and solely for the purpose for which it was awarded.
- 3.2.2 Each *Party* will perform its activities under this *Agreement* with utmost diligence and pursuant to state of the art standards in science and technology.

3.3 Reporting

- 3.3.1 The *Startup* has to continuously document, in comprehensive and adequately detailed manner, its activities within each *Phase* and each of the *Work Results* developed. Upon request of *Daimler*, the *Startup* has to provide such documentation and to adequately explain it as well as the *Work Results*. Additionally, the *Startup* must immediately inform *Daimler* of any facts and circumstances that could be of importance to *Daimler* with respect to a *Grant* and must provide any documents that relate to the facts and circumstances and, if requested by *Daimler*, must further explain these.
- 3.3.2 The *Startup's* reporting and information duties pursuant to clause 3.6 and clause 5.3 of this *Agreement* remain unaffected.

3.4 Resources

Unless otherwise set forth elsewhere in this *Agreement*, the *Startup* will be solely responsible, both legally and commercially, for procuring the required and appropriate material, equipment and human resources for the performance of its activities in each *Phase*, in particular the development of the *Concept* in *Phase 2 (Concept Phase)* and, if applicable, the *Prototypes* in *Phase 3 (Prototype Phase)*.

3.5 Subcontractors

- 3.5.1 Each *Party* is entitled to engage third parties ("**Subcontractors**") for the performance of its respective obligations under this *Agreement*. Any engagement of a *Subcontractor* by the *Startup* requires the prior written approval by *Daimler*. *Daimler* will not unreasonably withhold such approval.
- 3.5.2 If a *Party* intends to engage a *Subcontractor*, this *Party* is obligated to select the *Subcontractor* carefully and, subsequently, to supervise the *Subcontractor* as far as necessary for the execution of this *Agreement*. In any case, engaging a *Subcontractor* does not affect the legal responsibilities of this *Party* against the other *Party* in respect of the performance of

the former *Party's* contractual obligations; each *Party* is liable for the conduct of its *Subcontractor(s)* as it is for its own conduct.

3.6 Grants

- 3.6.1 The requirements for the eligibility of the *Startup* for a *Grant* are set forth in item 1. of Section 2.7 of the *Startup adVANce T&Cs*. For the avoidance of doubt, meeting these *Grant* eligibility requirements does not give the *Startup* any right (for whatever legal reason) to claim the award of a *Grant* from *Daimler*.
- 3.6.2 The *Grants* shall be used solely for the purpose of the *Startup adVANce Challenge*, i.e. for expenses incurred by the *Startup's* participation in the *Startup adVANce Challenge*. Only such expenses that were directly caused by the *Startup's* participation in the relevant *Phase* are eligible, as further specified in Annex 1 of the *Startup adVANce T&Cs*. Value added tax, sales tax or similar taxes or duties are non-eligible expenses. Expenses must be determined in accordance with the usual accounting and management principles and practices of the *Startup*. The accounting procedures used in the recording of costs shall respect the accounting rules of the state in which the *Startup* is established. The *Startup's* internal accounting and auditing procedures must permit direct reconciliation of the costs declared in respect of the *Startup adVANce Challenge* and, in case of *Phase 3 (Concept Phase)*, a given *Work Package / Milestone*, with the corresponding financial statements and supporting documents.
- 3.6.3 The use of the *Grants* must be recorded in the accounts of the *Startup*.
- 3.6.4 Upon request by *Daimler*, the *Startup* must provide *Daimler* with satisfactory evidence of its compliance with the requirements of clauses 3.6.2 and 3.6.3. In particular (without limitation), *Daimler* may request the submission of proven financial statements, along with all the respective invoices and payment documentation.
- 3.6.5 Further details regarding the *Grant* for *Phase 2 (Concept Phase)* are set forth in clause 4.2 of this *Agreement*. Further details regarding the *Grant* for *Phase 3 (Prototype Phase)*, if applicable, are set forth in clause 5.2 of this *Agreement*.

3.7 Existing Intellectual Property Rights

- 3.7.1 With respect to the field of *Last Mile Transportation of Goods and People* and in any other aspects relevant to the *Startup adVANce Challenge* and its *Phases*, each *Party* already owns or has licensed from third parties *Intellectual Property Rights* (as defined in clause 3.7.8), that the *Parties* will use within their cooperation under this *Agreement* (generally "**Background-IP**", and depending on the relevant *Party*, either "**Daimler-Background-IP**" or "**Startup-Background-IP**").
- 3.7.2 Unless expressly specified otherwise in this *Agreement* each *Party* remains the owner of its own *Background-IP*.
- 3.7.3 The *Startup-Background-IP* that the *Startup* intends to use within *Phase 2 (Concept Phase)* and *Phase 3 (Prototype Phase)* is described in **Annex 3.7.3**. **Annex 3.7.3** also includes information if and to which extent this *Startup-Background-IP* is subject to legal restrictions or limits. The *Startup* must inform *Daimler* reasonably in advance if it intends to use other *Startup-Background-IP*; in this case, the *Startup* must also provide information if and to which extent this *Startup-Background-IP* is subject to legal restrictions or limits.
- 3.7.4 Subject to clause 3.7.5, each *Party* grants the other *Party* a royalty-free, worldwide, non-exclusive, non-transferrable and non-sublicensable right to use its *Background-IP* only to the extent that this is necessary for the other *Party* (i) to perform such other *Party's* obligations under this *Agreement*, (ii) to use such other *Party's Work Results*, (iii) to use the *Jointly-owned Work Results* or (iv) to use the *Work Results* of the *Party* first mentioned herein, in each case

solely for the purpose of the *Startup adVANce Challenge* and in accordance with this *Agreement*.

- 3.7.5 In addition to the rights of *Daimler* to the *Startup-Background-IP* as set forth in clause 3.7.4, *Daimler* shall be entitled to use the *Startup-Background-IP* to the extent necessary to use and otherwise exploit the *Jointly-owned Work Results* pursuant to clause 3.9.4.
- 3.7.6 If *Background-IP* is licensed from a third party, the obligation of the *Party* set forth in clause 3.7.4 and the obligation of the *Startup* set forth in clause 3.7.5 are subject to any restrictions that may be set forth in the license terms of the existing agreement with the third party. The other *Party* is obligated to comply with these license terms, provided that these have been disclosed in advance to this other *Party*.
- 3.7.7 During the term of this *Agreement* (cf. clause 3.18), the *Startup* is not entitled to transfer its *Startup-Background-IP* to a third party or to grant an exclusive license thereto for purposes similar to the *Product Idea*, the *Concept* and the *Prototypes*, respectively, if this adversely affects *Daimler's* rights thereto pursuant to this *Agreement*.
- 3.7.8 "**Intellectual Property Rights**" shall mean the following: any rights existing out of, to, or in intangible assets, including, without limitation, patents, utility models, inventions (whether or not patentable), trade and business secrets, know-how, copyrights and other rights protected under copyright laws (including database rights and rights in computer programs and neighboring rights), designs, as well as trademarks, business names and domain names, in each case whether registered or unregistered and including all applications and rights to apply for and to be granted, renewals and extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

3.8 Work Results

- 3.8.1 Unless set forth otherwise elsewhere in this *Agreement*, each *Party* owns the *Intellectual Property Rights* in and to those *Work Results* it has individually developed in connection with the cooperation of the *Parties* during *Phase 2 (Concept Phase)* and, if applicable, *Phase 3 (Prototype Phase)*. *Work Results* that have been developed jointly but where the respective contributions of each *Party* can be established shall be deemed individually owned *Work Results* of each *Party* to the extent of each *Party's* respective contribution.
- 3.8.2 Each *Party* must examine the possibility of protecting its individually owned *Work Results* and must adequately protect them, for an appropriate period and with appropriate territorial coverage, if:
- (a) the *Work Results* can reasonably be expected to be commercially or industrially exploited and
 - (b) protecting them is possible, reasonable and justified (given the circumstances).
- 3.8.3 When deciding on protection of its individually owned *Work Results*, the *Party* must consider its own legitimate interests and the legitimate interests of the other *Party*.
- 3.8.4 Subject to clause 3.8.5, each *Party* grants the other *Party* a royalty-free, worldwide, non-exclusive, non-transferrable and non-sublicensable right to use its *Work Results* only to the extent that this is necessary for the other *Party* (i) to perform such other *Party's* obligations under this *Agreement*, (ii) to use such other *Party's Work Results* or (iii) to use the *Jointly-owned Work Results*, in each case solely for the purpose of the *Startup adVANce Challenge* and in accordance with this *Agreement*.

3.8.5 In addition to the rights of *Daimler* to the *Work Results* of the *Startup* as set forth in clause 3.8.4, *Daimler* shall be entitled to use these *Work Results* to the extent necessary to use and otherwise exploit the *Jointly-owned Work Results* pursuant to clause 3.9.4.

3.8.6 During the term of this *Agreement* (cf. clause 3.18), the *Startup* is not entitled to transfer its rights in and to its individually owned *Work Results* to a third party or to grant an exclusive license thereto for purposes similar to its similar to the *Product Idea*, the *Concept* and the *Prototypes*, respectively, if this adversely affects *Daimler's* rights thereto pursuant to this *Agreement*.

3.9 Jointly-owned Work Results

3.9.1 The *Parties* jointly own the *Intellectual Property Rights* in and to *Work Results* if

- (a) they have jointly generated them and
- (b) it is not possible to separate them for the purpose of applying for, obtaining or maintaining their protection

(such *Work Results* the "**Jointly-owned Work Results**" and the *Intellectual Property Rights* therein and thereto the "**Shared Intellectual Property Rights**").

3.9.2 The *Parties* shall in good faith agree on all necessary protection measures in relation to the *Shared Intellectual Property Rights* (including, but not limited to, the appropriate territorial coverage) and the division of the related costs between the *Parties*.

3.9.3 During the term of this *Agreement* (cf. clause 3.18)

- (a) each *Party* is entitled to individually use the *Jointly-owned Work Results* only for the purpose of the *Parties'* cooperation under this *Agreement* (including the joint test projects) on a worldwide and royalty-free basis without requiring the prior written consent of the other *Party* (without the right to grant sub-licenses to third parties other than affiliated undertakings according to Sec. 15 German Stock Corporation Act (Aktiengesetz; AktG), unless the other *Party* has given its prior written consent to such sub-licensing); and
- (b) neither *Party* is, without the prior written consent of the other *Party*, entitled to otherwise exploit the *Shared Intellectual Property Rights*.

3.9.4 When this *Agreement* ends (for whatever legal reason),

- (a) each *Party* shall be entitled, without requiring the prior written consent of the other *Party*, to use the *Jointly-owned Work Results* on a worldwide and royalty-free basis and to otherwise exploit the *Jointly-owned Work Results* (including the right to grant non-exclusive sub-licenses to third parties, but for avoidance of doubt, without the right to transfer the *Jointly-owned Work Results* as a whole to third parties which transfer shall require the written consent of the other *Party*); and
- (b) each *Party* shall be entitled to transfer its share in *Shared Intellectual Property Rights* (to the extent legally possible) to a third party, provided that the *Startup* must in such case obtain *Daimler's* prior written consent; if *Daimler* refuses to grant this consent, *Daimler* is obligated to offer the *Startup* a fair and reasonable compensation; upon the payment of such fair and reasonable compensation, *Daimler* shall become the owner of the *Startup's* share in the relevant *Shared Intellectual Property Rights*, which shall forthwith be *Daimler's* sole *Intellectual Property Rights*. When requesting *Daimler's* consent to the transfer of its share in *Shared Intellectual Property Rights*, the *Startup* shall provide *Daimler* with satisfactory evidence of a binding offer by the

designated transferee, including the offered purchase price; such purchase price shall in any event be the maximum compensation payable by *Daimler* to the *Startup*.

3.9.5 For the avoidance of doubt, the *Startup's* rights set forth in clause 3.9.4 do not include the right to use or otherwise exploit any *Daimler-Background-IP* or *Work Results* individually owned by *Daimler* even if this would be necessary in order to be able to use or exploit the *Jointly-owned Work Results* pursuant to this clause 3.9.4.

3.10 Rights of Third Parties (including Personnel)

3.10.1 Where a *Party* involves third parties (including personnel of one *Party*) in the generation of *Work Results*, such *Party* must obtain all necessary rights (transfer, licenses or other) from the third party in order to be able to respect its obligations as if those *Work Results* were generated by the *Party* itself.

3.10.2 If obtaining the rights is impossible, the *Party* must refrain from using the third party to generate the *Work Results*.

3.11 IP Indemnity

3.11.1 Each *Party* will ensure that the appropriate use of its individually owned *Work Results* (or its other materials) or its contributions to the *Jointly-owned Work Results* (in each case including the relevant *Background-IP*) by the other *Party* does not infringe any third party rights. If any claims in connection with the appropriate use of these (*Jointly-owned Work Results* or other materials (including the relevant *Background-IP*) of one *Party* ("**Indemnifying Party**") are enforced against the other *Party* ("**Indemnified Party**") on the basis of an actual or alleged infringement of third party rights, the *Indemnified Party* will notify the *Indemnifying Party* without undue delay (*unverzüglich*). The *Parties* will closely cooperate regarding the defense against these claims with the *Indemnified Party* assuming the lead responsibility therein. The *Indemnifying Party* will support the *Indemnified Party* to a reasonable extent.

3.11.2 If the *Indemnified Party* incurs costs and/or damages (including reasonable legal costs for litigation) in connection with the defense or other handling of claims mentioned in clause 3.11.1, the *Indemnifying Party* hereby indemnifies the *Indemnified Party* and holds the *Indemnified Party* harmless against any such costs and damage. The limitation of liability set forth in clause 3.14.2 will not apply to this indemnification obligation of the *Indemnifying Party*.

3.12 Free and Open Source Software

The *Parties* agree that the terms and conditions stated in **Annex 3.12** shall apply with regard to the use of any free and open source software (as defined in this **Annex 3.12**).

3.13 Source Code

Daimler may request from the *Startup* at any time a market standard deposition of the source code of the software owned by the *Startup* and/or used or developed in connection with the execution of this *Agreement*. The cost for the escrow will be borne by *Daimler*.

3.14 Liability

3.14.1 Each *Party* will be liable as provided by applicable laws for damages resulting from (i) willful misconduct (*Vorsatz*) or gross negligence (*grobe Fahrlässigkeit*), (ii) death or personal injury, (iii) infringement of rights of third parties, and (iv) breach of obligations on confidentiality and data protection. Each *Party's* liability for any other damages that cannot be excluded or limited due to mandatory applicable laws (e.g. product liability) will remain unaffected.

3.14.2 Subject to clause 3.14.1, each *Party's* liability for damages resulting from slight negligence (*leichte Fahrlässigkeit*) under or in connection with this *Agreement* will be limited to EUR 150,000.00 (in words: Euro one hundred fifty thousand).

3.15 Confidentiality and Data Protection

3.15.1 The *Parties* agree to use any *Confidential Information* (as defined in clause 3.15.6) of the other *Party* only for the purpose of exercising any rights or complying with any obligations under this *Agreement*. Each recipient of *Confidential Information* will use all reasonable efforts to protect such *Confidential Information* from unauthorized use or disclosure and, in any event, will exercise at least the same reasonable level of care to avoid any such unauthorized use or disclosure as it uses to protect its own information of a similar nature. The confidentiality obligation will survive for a duration of five (5) years beyond the termination or expiration of this *Agreement*.

3.15.2 Each *Party* may disclose *Confidential Information* of the respective other *Party* only to those employees which need the information to fulfil their tasks and who have agreed in writing to be bound to confidentiality insofar as they are not already bound to confidentiality by their employment contract. Insofar as a *Party* uses a third party to fulfil its contractual obligations, this *Party* is obligated to ensure by suitable agreement that the third party is bound by and complies with the confidentiality obligations in this clause 3.15.2.

3.15.3 Notwithstanding the foregoing, each *Party* may disclose *Confidential Information* of the other *Party* with prior written consent of the other *Party*. Each disclosure of *Confidential Information* has to be limited to the extent required in each case. Each *Party* will be free to disclose *Confidential Information* of the other *Party* without the prior written consent of the other *Party* only if:

- (a) this is demanded either by a regulatory authority or by a court in connection with a judicial procedure, or
- (b) this is required by mandatory applicable laws, or
- (c) the information in question is required by the personnel (cf. clause 3.15.2), *Subcontractors* approved in writing, or advisors of a *Party*, in each case for the fulfillment of their relevant obligations in connection with their respective tasks, provided that they are bound to confidentiality (e.g. due to the employment contract). In addition, each *Party* is entitled to disclose *Confidential Information* of the other *Party* to affiliated undertakings according to Sec. 15 German Stock Corporation Act (Aktengesetz; AktG) without the consent of the disclosing *Party* to the extent this is required for the execution of this *Agreement*.

3.15.4 Additionally, in the cases of clauses 3.15.3(a) and 3.15.3(b), the other affected *Party* is to be informed about the disclosure reasonably in advance in order to enable the other *Party* to take precautionary actions for their *Confidential Information*, unless this is not possible or admissible in the particular case.

3.15.5 If this *Agreement* ends for whatever reasons, the receiving *Party* of each tangible item of *Confidential Information* will return such item to the other *Party*. Besides, *Confidential Information* shall be destroyed. Each *Party* may request from the disclosing *Party* a corresponding certificate that all items of *Confidential Information* in possession of the other *Party* have been returned or destroyed respectively. The provisions stated above do not apply to general correspondence between the *Parties* or to any *Confidential Information* whose retention is required by legal requirements.

3.15.6 "**Confidential Information**" are this *Agreement* as well as other documents and data and information in any form, which one *Party* got aware are or will get aware of in connection with the preparation, the conclusion, the execution or the handling of this *Agreement* (irrespective

of whether the documents, data or information are deemed as confidential), insofar as they are not

- (a) generally known or accessible for the public or without the contribution of the other affected *Party* became public,
- (b) released in writing by the affected *Party* as non-confidential information,
- (c) at the time of the transfer of the item to the receiving *Party* were no longer subject to confidentiality, or
- (d) the transfer to the receiving *Party* from a third party occurred without an obligation to confidentiality.

3.15.7 Notwithstanding the above provisions on confidentiality, each *Party* will comply with the data protection regulations including confidentiality, availability, integrity and authenticity of data.

3.15.8 If the *Startup* collects, processes or uses personal data on behalf of *Daimler*, the *Parties* will agree on a contract on data processing on behalf as set out in **Annex 3.15.8**.

3.16 Communication and Publication

3.16.1 The *Startup* is not entitled to issue or to initiate public announcements in the press, media or in marketing materials relating to its *Product Idea* filed for the **Startup adVANCE Challenge** and to this *Agreement* and the *Parties'* cooperation (e.g., but not limited to, the *Product*, *Concept* and/or *Prototypes*) without the prior approval of *Daimler*. *Daimler* will inform the *Startup* reasonably prior to any intended press releases or statements regarding the *Parties'* cooperation under this *Agreement*.

3.16.2 The *Startup* shall not use the name, logo, other company symbols and identity of *Daimler* (including the group companies of *Daimler*) without the prior written consent of *Daimler*.

3.17 Costs

3.17.1 Each *Party* bears its own costs out of and in connection with the conclusion of this *Agreement* and the performance of its obligations owed to the other *Party* for each *Phase* pursuant to this *Agreement*.

3.17.2 The *Parties* herewith clarify that no specific or additional remuneration for the granting of rights pursuant to clauses 3.7 through 3.9 are owed between the *Parties*.

3.18 Term and Termination

3.18.1 With respect to *Phase 2 (Concept Phase)*, this *Agreement* has a fixed term starting from the *Start of Phase 2*, May 6, 2017, and until July 6, 2017. No *Party* is entitled to terminate this *Agreement* for convenience during this fixed term.

3.18.2 With respect to *Phase 3 (Prototype Phase)*, this *Agreement* has a fixed term starting from the *Start of Phase 3*, August 25, 2017, and until November 26, 2017 at the latest, or such earlier date as jointly determined by the *Parties*. No *Party* is entitled to terminate this *Agreement* for convenience during this fixed term. If so requested by one *Party*, the *Parties* may enter into good faith negotiations with the aim to extend the term of this *Agreement* beyond November 26, 2017 and to agree on any additional terms and conditions necessary for the successful continuation of their cooperation under this *Agreement*.

3.18.3 Each *Party* may terminate this *Agreement* for cause (*aus wichtigem Grund*) without notice period. Cause is given one *Party* has breached a material provision of this *Agreement* and has not remedied such breach, if remedial action is possible and has not been refused by the

other *Party* expressly or implicitly, within fourteen (14) days after receiving a corresponding formal notice by the other *Party*.

3.19 Miscellaneous

- 3.19.1 Within the framework of its commercial dealings with *Daimler*, the *Startup* is obligated to desist from all practices which may lead to penal liability due to fraud (*Betrug*) or embezzlement (*Untreue*), insolvency crimes (*Insolvenzstraftaten*), crimes in violation of competition (*Straftaten gegen den Wettbewerb*), guaranteeing advantages (*Vorteilsgewährung*), acceptance of advantages (*Vorteilsannahme*), bribery (*Bestechung*), acceptance of bribes (*Bestechlichkeit*) or similar crimes on the part of persons employed or retained by the *Startup* or other third parties. In the event of a violation of the above, *Daimler* has the right to immediately withdraw from, or terminate, all legal transactions existing with the *Startup* and the right to cancel all negotiations. Notwithstanding the above, the *Startup* is obligated to adhere to all laws and regulations applicable to both itself and the commercial relationship with *Daimler*.
- 3.19.2 Any amendment of, or supplement to, this *Agreement* (including its annexes) must be in writing to be valid (unless otherwise agreed herein). This also applies to the revocation of this requirement of written form.
- 3.19.3 Should a provision of this *Agreement* be or become invalid or unenforceable, the validity of the other provisions of this *Agreement* shall not be affected thereby. The invalid or unenforceable provision shall be replaced or supplemented by a legally valid arrangement which is consistent with the intentions of the *Parties* or what would have been the intention of the *Parties* if they had recognized the invalidity or unenforceability, as the case may be. The same applies to any contractual gaps or omissions.
- 3.19.4 This *Agreement* (together with the *Startup adVANce T&Cs*) constitutes the entire agreement between the *Parties* with regard to its subject matters. Any other side agreements have not been made. The *Parties* agree that their respective general terms and conditions shall not apply regarding this *Agreement*, notwithstanding any references to these in an order, order processing, order confirmation or otherwise; the effectiveness of the *Startup adVANce T&Cs* remains unaffected.
- 3.19.5 No *Party* to this *Agreement* may assign or transfer this *Agreement* or all or any part of its rights and obligations hereunder to a third party without the prior written consent of the other *Party*, whether by way of singular or universal legal succession. Section 354a of the German Commercial Code (Handelsgesetzbuch; HGB) remains unaffected.
- 3.19.6 This *Agreement* will be governed by, and construed in accordance with, the laws of the Federal Republic of Germany. The rules of private international law and the Vienna Convention on the International Sale of Goods (CISG) will not apply.
- 3.19.7 Exclusive venue for any dispute arising out of or in connection with this *Agreement* will be the courts in Stuttgart, Germany.

4. **Cooperation during Phase 2 (Concept Phase)**

4.1 General

- 4.1.1 In addition to the provisions set forth in clauses 1 through 3 of this *Agreement* and in the relevant Sections of the *Startup adVANce T&Cs*, the *Parties* agree on the following with respect to the execution of *Phase 2 (Concept Phase)*, specifically regarding the activities of the *Startup* and the development of the *Concept*.

- 4.1.2 The first draft of the *Concept* and other *Work Results* (if any) to be developed during *Phase 2 (Concept Phase)* are described in detail in **Annex 4.1.2** to this *Agreement*. The first draft of the *Concept* and other *Work Results* (if any) shall be further developed during this *Phase 2 (Concept Phase)* by the *Startup*. The level of maturity expected for the end of *Phase 2 (Concept Phase)* is a “ready to go concept” that can, without any need for significant further specifications, be used to build the first rough version of the *Prototype*.
- 4.1.3 The technical information and/or expertise of *Daimler* that the *Startup* deems necessary for the purpose of further developing the first draft of the *Concept* and the other *Work Results* (if any) described in **Annex 4.1.2** are also described therein. *Daimler* may, in each case upon its sole discretion, decide if, and if so, to which extent and how, to provide such technical information and expertise to the *Startup*. For the avoidance of doubt, **Annex 4.1.2** is in this respect not binding for *Daimler* and the *Startup* must use best efforts to perform its obligations hereunder and to further develop the *Concept* and the other *Work Results* (if any) pursuant to this *Agreement* even if *Daimler* does not provide the technical information and/or expertise suggested by the *Startup* in this **Annex 4.1.2**.
- 4.2 **Grant**
- 4.2.1 Subject to clause 3.6 of this *Agreement*, the *Startup* will be awarded a one-time *Grant* of EUR 10,000.00 (in words: Euro ten thousand) for *Phase 2 (Concept Phase)*.
- 4.2.2 *Daimler* will pay this *Grant* in a lump-sum to the *Startup* within thirty (30) days after the *Phase 2 Start Date*.
- 4.2.3 *Daimler* may claim the full or partial repayment of this *Grant* from the *Startup* in the following events:
- (a) the *Startup* has used this *Grant* for other purposes than stated in clause 3.6.2;
 - (b) the *Startup* has not, by July 23, 2017, 23:59 (CET) at the latest, submitted, a revised *Concept* that meets the maturity level expected for *Phase 2 (Concept Phase)* pursuant to the description of *Phase 2 (Concept Phase)* in Section 1.5 of the *Startup adVANce T&Cs*;
 - (c) the *Startup* is excluded from participation in the *Startup adVANce Challenge* pursuant to Section 1.4 or item 6. of Section 2.2 of the *Startup adVANce T&Cs*;
 - (d) the *Startup* fails to comply with any of its material obligations under *Startup adVANce T&Cs* or this *Agreement*; or
 - (e) *Daimler* has terminated this *Agreement* for cause (cf. clause 3.18.3).
- 4.2.4 The obligation to pay back the *Grant* for *Phase 2 (Concept Phase)* shall not apply once the *Startup* has submitted the revised *Concept* with the maturity level expected for *Phase 2 (Concept Phase)* according to Section 1.5 of the *Startup adVANce T&Cs*.
- 4.2.5 If the *Startup* has received payments exceeding the amount set forth in clause 4.2.1 for *Phase 2 (Concept Phase)* from *Daimler*, the *Startup* has to repay the relevant amount to *Daimler* without undue delay.

5. Cooperation during Phase 3 (Prototype Phase)

5.1 **General**

- 5.1.1 In addition to the provisions set forth in clauses 1 through 3 of this *Agreement* and in the relevant Sections of the *Startup adVANce T&Cs*, the *Parties* agree on the following with

respect to the execution of *Phase 3 (Prototype Phase)*, specifically regarding the activities of the *Startup* and the joint development of the several *Prototypes*.

- 5.1.2 The *Prototypes* and other *Work Results* (if any) to be (jointly) developed during *Phase 3 (Prototype Phase)* are described in the *Phase 3 Prototype Plan*. The *Phase 3 Prototype Plan* includes the *Work Packages* and corresponding *Milestones* (each as defined in Section 1.5 of the *Startup adVANce T&Cs*).
- 5.1.3 The *Startup* shall, in cooperation with *Daimler* pursuant to clauses 5.1.4 and 5.1.5, build the *Prototypes* according to the *Concept* and the *Phase 3 Prototype Plan*. The *Startup* shall build several *Prototypes* with increasing maturity levels with the final *Prototype* being suited for use in a field test run. Therefore, the *Parties* will jointly test the different *Prototypes* to ensure an interactive development approach and learning effect.
- 5.1.4 The technical information and expertise that *Daimler*, in each case in its sole discretion, may provide to the *Startup* in this *Phase 3 (Prototype Phase)* are also described in the *Phase 3 Prototype Plan*. For the avoidance of doubt, this part of the *Phase 3 Prototype Plan* is not binding for *Daimler* and the *Startup* must use best efforts to perform its obligations hereunder and to develop the *Prototypes* and the other *Work Results* (if any) pursuant to this *Agreement* even if *Daimler* does not provide the technical information and/or expertise suggested by the *Startup* in the *Phase 3 Prototype Plan*.
- 5.1.5 In its sole discretion, *Daimler* may also provide technical support, material and workspace to the *Startup*. In this case, the following shall apply:
- (a) Any material which *Daimler* provides to the *Startup* must be used by the *Startup* exclusively for the execution of its activities in *Phase 3 (Prototype Phase)*; the material remains in the ownership of *Daimler* unless ownership transfers by statutory law due to combination, mixture or manufacture. If this *Agreement* ends for whatever reasons, the *Startup* must, upon request, return such material to *Daimler* that is still owned by *Daimler* and that has not been consumed in the ordinary course of the execution of *Phase 3 (Prototype Phase)*.
 - (b) Any workspace (including IT systems) which *Daimler* provides to the *Startup* must be used by the *Startup* exclusively for the execution of its activities in *Phase 3 (Prototype Phase)*. When accessing *Daimler* premises and/or IT systems, the *Startup* and its personnel must at any time fully comply with the terms of use generally applicable to external users, in particular the relevant security requirements.

5.2 Grant

- 5.2.1 If selected for *Phase 3 (Prototype Phase)* and subject to clause 3.6 of this *Agreement*, the *Startup* will be awarded a *Grant* of EUR 80,000.00 (in words: Euro eighty thousand)
- 5.2.2 *Daimler* may award the *Startup* an *Optional Grant* (as defined in item 3. of Section 2.6 of the *Startup adVANce T&Cs*) pursuant to item 3. of Section 2.6 of the *Startup adVANce T&Cs*. Any award of an *Optional Grant* by *Daimler* will be based on *Daimler's* consideration of the added value that the *Work Packages* contribute to *Daimler's* strategic needs, provided that the decision on how to allocate the *Optional Grant* to the *Startup* and the other startups selected for *Phase 3 (Prototype Phase)* will be in *Daimler's* sole discretion.
- 5.2.3 *Daimler* will pay twenty (20) percent of the *Grant* for *Phase 3 (Prototype Phase)* (including the *Optional Grant*, if any) within thirty (30) days after the *Startup* has returned the signed copy of the *Phase 3 Prototype Plan*. The remaining eighty (80) percent shall be paid as linked to the *Milestones* in the *Phase 3 Prototype Plan* and following completion and joint validation of the *Milestones*.

- 5.2.4 *Daimler* may claim the full or partial repayment of this *Grant* from the *Startup* in the following events:
- (a) the *Startup* has used this *Grant* for other purposes than stated in clause 3.6.2;
 - (b) the *Startup* has not build the final *Prototype* that is suited for use in a field test run pursuant to the description of *Phase 3 (Prototype Phase)* in Section 1.5 of the *Startup adVANce T&Cs*;
 - (c) the *Startup* is excluded from participation in the *Startup adVANce Challenge* pursuant to Section 1.4 or item 6. of Section 2.2 of the *Startup adVANce T&Cs*;
 - (d) the *Startup* fails to comply with any of its material obligations under *Startup adVANce T&Cs* or this *Agreement*; or
 - (e) *Daimler* has terminated this *Agreement* for cause (cf. clause 3.18.3).
- 5.2.5 The obligation to pay back the *Grant* for *Phase 3 (Prototype Phase)* shall not apply once all *Milestones* have been completed successfully.
- 5.2.6 If the *Startup* has received payments exceeding the amount that it is eligible for in this *Phase 3 (Prototype Phase)* from *Daimler*, the *Startup* has to repay the relevant amount to *Daimler* without undue delay.

5.3 Phase 3 (Prototype Phase) Reporting

Upon completion of each *Milestone*, the *Startup* will provide *Daimler* with a "**Milestone Reports**" that must include the topics listed in item 5. of Section 2.6 of the *Startup adVANce T&Cs*.

[signature page(s) to follow.]

Stuttgart, _____

_____, _____

Daimler AG

Startup

Signature: _____

Signature: _____

Name: _____

Name: _____

Signature: _____

Signature: _____

Name: _____

Name: _____

Annex 3.7.3 (Startup-Background-IP)

to the

Cooperation Agreement "Startup adVANce Challenge"

between

Daimler AG

and

Startup

1. Startup-Background-IP

[to be completed by Startup]

Annex Free & Open Source Software for Mobile Apps Version 1/2014

1. Scope of Application
 - 1.1 These provisions extend the terms of the contract relating to the development and/or supply of applications for mobile devices ('Principal Contract') between Supplier and Daimler AG or companies affiliated with Daimler AG as defined in section 15 German Stock Corporation Act (AktG) ('Customer') with respect to the use of free software and open source software (collectively referred to as 'FOSS'). To this extent they take precedence over the provisions of the Principal Contract. Individual deviations must be agreed in writing with express reference to the provisions concerned.
 - 1.2 Goods or services provided by Supplier may only contain FOSS if Customer has given its express consent in writing in advance.

The term FOSS as used in this document encompasses all software that is, in principle, available at no cost and which is subject to a license or other contractual provision ('FOSS License') that, as a requirement for the modification and/or distribution of the software and/or any other software associated with or derived from this software ('FOSS Derivative'), contains at least one of the following conditions:

 - a) the source code of such software and/or of a FOSS Derivative must be made freely available to third parties; and/or
 - b) third parties must be allowed to create products derived from such software and/or FOSS Derivatives; and/or
 - c) certain information or documents, such as license text, must be included in the product documentation and/or other materials supplied with the software and/or agreed with the recipients.
2. Consent of the Customer to the Use of FOSS or FOSS Derivatives
 - 2.1 The consent of Customer must be obtained for each individual case in which Supplier wishes or intends to modify or use FOSS or FOSS Derivatives as part of the provision of goods or services, or otherwise include FOSS or FOSS Derivatives in the results of Supplier's activities that are intended to remain with Customer.

Supplier shall use the latest form provided by Customer ('Free & Open Source Software (FOSS) Disclosure for Mobile Apps', hereinafter referred to as 'FOSS Disclosure Document'). Supplier must present the fully and correctly completed FOSS Disclosure Document to Customer together with or prior to the offer for the goods or services concerned.
 - 2.2 Customer will decide at its own discretion on the use of FOSS. Consent may be made dependent on certain conditions for the use of FOSS or FOSS Derivatives, which will then become duties of Supplier under the Principal Contract. Consent will only be granted expressly and in writing ('Approved FOSS'); silence does not imply consent.
 - 2.3 Supplier shall submit a fully and correctly completed FOSS Disclosure Document for the current status of goods or services when providing the goods or services. This is a prerequisite for the provision of the goods or services in full and according to the contract.
 - 2.4 This procedure will apply again in the event of any changes to the FOSS or FOSS Derivatives, even if the change only involves the release of a new version, and in the event of any changes to the use approved by Customer.
- 2.5 The time and expenses of Supplier incurred in connection with this procedure, and the resulting obligations and their fulfillment, will be covered by the remuneration for the goods and services; the same applies to the remuneration for the provision of the Approved FOSS and FOSS Derivatives.
3. Duties of Supplier
 - 3.1 Supplier shall fulfill all obligations arising from the use, modification and distribution of FOSS and FOSS Derivatives, for and on behalf of Customer, unless this is not permitted under the terms of the respective FOSS License. Any restrictions in this respect may only be agreed in the FOSS Disclosure Document.

In addition, Supplier shall enable Customer to fulfill all such obligations itself, and shall ensure strict compliance with the conditions and obligations agreed with Customer.
 - 3.2 Supplier shall design and structure its goods or services, and the software architecture in the case of software development or modifications, in accordance with the requirements of Customer so that
 - a) software to be developed or modified for Customer is not impaired by the FOSS or FOSS Derivatives used, in particular as a result of 'copyleft' or 'viral' effects.
 - b) the FOSS Licenses do not conflict with the digital signature of Customer.
 - 3.3 Approved FOSS and FOSS Derivatives must be technically implemented in the goods or services in a manner that allows for them to be quickly and easily removed and replaced by a different product offering the same functions.
 - 3.4 Supplier must fulfill all obligations relating to the Approved FOSS, in particular
 - a) at Customer's request, disclose and, where necessary, amend its organizational and technical processes with regard to FOSS (e.g. use of tools to detect FOSS),
 - b) provide Customer, no later than the date on which the goods or services are delivered, with the text of the FOSS Licenses, the information to be included in the product documentation and other components required by Customer to create and use a workable version of the Approved FOSS (such as modified build scripts), including the source codes of the FOSS and any FOSS Derivatives and
 - c) acquire and provide, at its own cost, licenses for industrial property rights and other third-party rights that are required for the use of the Approved FOSS in order to ensure that Customer is granted rights of use as set out in the Principal Contract.
 - 3.5 If Supplier uses several FOSS, it will undertake appropriate measures to ensure the mutual compatibility of the individual FOSS Licenses and their compatibility as a whole with any other software to be developed or used, e.g. by designing and structuring the software accordingly.
 - 3.6 To the extent required by the respective FOSS Licenses or if so requested by Customer, Supplier shall provide the respective FOSS projects with the FOSS Derivatives created by Supplier. This will always be done in prior consultation with Customer and only to the extent that the FOSS Derivatives are non-differentiating and are classified as commodities, and if there are no conflicting confidentiality agreements, patents or other legal

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- obstacles. In cases of doubt, Customer will decide.
4. Liability and Warranty
- 4.1 This document does not establish a responsibility of Supplier for the FOSS and FOSS Derivatives per se, save where permitted by the respective FOSS License. Nevertheless, Supplier is obliged to assume liability and provide a warranty for goods or services supplied under the terms of the Principal Contract, including those in which FOSS or FOSS Derivatives are used.
- 4.2 As part of its warranty obligations Supplier shall, without restriction to its duties under clause 3 and save for where this is not permitted under the terms of the respective FOSS License, provide at its own cost maintenance services for the FOSS and FOSS Derivatives in accordance with the Principal Contract, in particular for the rectification of defects. This includes the obligation to examine the FOSS and FOSS Derivatives for potential faults prior to initial use, and continuously thereafter, and to remedy such faults, in particular if they have security implications. Such corrections will be included in the scope of goods or services if Customer grants its consent.
- 4.3 Supplier shall provide integration support for the FOSS and FOSS Derivatives as requested by Customer and in accordance with the provisions of the Principal Contract, unless this is not permitted under the terms of the respective FOSS License.
- 4.4 If Supplier breaches an obligation described herein, it shall indemnify Customer and its affiliated companies and the sales partners, dealers and end customers of Customer in respect of all claims, losses and costs arising as a result and shall defend the aforementioned parties against third-party claims. Customer may also opt to defend itself. Supplier shall bear the costs of court and out-of-court proceedings including reasonable attorney's fees, even if the defense relates to a merely alleged claim.
5. Changes
- 5.1 Any changes to the FOSS approved by Customer will require the prior consent of Customer. The procedure for first use of FOSS will apply accordingly. Supplier shall obtain Customer's approval for changes in good time, stating the planned date on which the changes are to be included in the goods or services provided. The procedure for changes described in the Principal Contract will apply in respect of any further implications that changes to FOSS may have for the goods or services covered by the Principal Contract.
- 5.2 Customer may, at its own reasonable discretion and in consideration of Supplier's interests, demand reasonable changes and additions to the use of FOSS at any time until the respective goods or services are delivered or accepted.
6. Duties of Subcontractors
- 6.1 The use of subcontractors is governed by the provisions of the Principal Contract. The commissioning of subcontractors does not affect Supplier's responsibility to Customer for the provision of the contracted goods or services, in particular with regard to the granting of rights to use the work results.
- 6.2 Supplier shall select any subcontractors carefully with respect to the requirements set out herein, monitor them and include them in its information and work processes concerning FOSS. This will be demonstrated by suitable documentation, such as excerpts from the corresponding agreements. Customer will be entitled to contact subcontractors directly in order to clarify queries relating to the FOSS used. In such a case Supplier will be informed.
- 6.3 Upon request, Supplier shall cease to use subcontractors for Customer in connection with FOSS if Customer has good cause to doubt the subcontractors' reliability and willingness to cooperate in terms of compliance with Customer's requirements for the use of FOSS. Supplier shall bear any costs thereby incurred.
7. General Provisions
- 7.1 The provisions of the Principal Contract concerning intellectual property rights and rights to use the goods or services also apply to modified versions of FOSS.
- If the foregoing clause or any FOSS Licenses give rise to restrictions on the duties of Supplier arising from the Principal Contract or from this document with respect to the distribution of unchanged FOSS, such restrictions must be expressly agreed in writing in advance and must make explicit reference to this document and the Principal Contract.
- 7.2 Upon request, Supplier shall take all action required to be taken by Customer in order to be able to grant rights to third parties (such as customers) in accordance with the respective FOSS License, in particular making the source codes publicly available. This also includes the preparation and publication of documentation, the archiving and version management of the individual FOSS and FOSS Derivatives, their clear allocation to individual goods or services and, if necessary, the provision and dissemination of the FOSS and FOSS Derivatives to third parties in accordance with the respective FOSS Licenses on behalf of Customer.
- 7.3 Supplier shall give the required information concerning the FOSS covered by this document. The nature and extent of the information will be agreed with Customer.
- 7.4 No separate remuneration will be paid for the provision of Approved FOSS and FOSS Derivatives. The remuneration according to the Principal Contract remains unaffected.
- 7.5 This document is governed exclusively by the law of the Federal Republic of Germany, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG). The courts of Stuttgart have exclusive jurisdiction for all disputes. This is without prejudice to mandatory statutory jurisdictional requirements. No arbitration or conciliation agreement has been concluded.
- 7.6 The German version of this document is authoritative. Translations are provided for convenience only.

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Document on FOSS-Disclosure

Disclosure of Free Software and Open-Source-Software (FOSS) in App
<Product, Product Version, Supplier Parts Number>

[NAME OF THE SUPPLIER
ADDRESS
ADDRESS]

SUPPLIER NUMBER
CREATION DATE

[Please check one of the following boxes]

- Application for approval regarding the use of FOSS for the specific product**
or
- Statement of full compliance regarding the use of FOSS under an existing approval for the specific product**
or
- Statement that no FOSS components are used**

1. Purpose of the Form, Process

The statement on the disclosure of FOSS comprises of this document and its attached FOSS Disclosure Bill of Material (hereinafter referred to as "Items List") (Annex 1).

1.1 Application for Approval Regarding the Use of Free Software/Open-Source-Software

Components of free software and open-source-software ("FOSS-Components") may only be used with Daimler's (hereinafter referred to as "DAI") explicit prior consent. Subject of the approval is the use of any FOSS-Component for an application for mobile devices to be created ("App", hereinafter also referred to as "Product"), that has been acquired under a license for free software/open-source-software ("FOSS-License").

By submission of this duly completed document including the Items List (**Annex 1**) regarding the disclosure of FOSS ("FOSS-D"), the supplier applies to Daimler for the approval to use those particular FOSS-Components listed in this FOSS-D that have been acquired under the FOSS-Licenses described herein for the use in the Product described herein ("Product").

Daimler will inform the supplier explicitly in writing about the decision regarding the proposed use of the FOSS-Components. This decision may be a rejection, an approval or an approval with certain limitations or statutory requirements. Also a full rejection of the applied use of FOSS-Components is without prejudice to the supplier's obligation in particular towards the fulfillment of all existing contractual obligations towards Daimler.

The Items List (**Annex 1**) contains for informational purposes (unbinding) only, a list of FOSS-Licenses frequently approved by Daimler (including particular combinations) and frequently non-approved FOSS-Licenses. The current version of this FOSS-License list is also available under [\[add address for download of the current FOSS-License list\]](#). From the content of the FOSS-License list no entitlement or claim for an approval of a FOSS-Component or FOSS-License by Daimler may be derived.

1.2 Statement of Unreserved Compliance with the Granted Approval

With every delivery of the Product the supplier will by submission of this duly completed FOSS-D confirm without restriction or limitation that the Product fully complies with Daimler's approval

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Document on FOSS-Disclosure

of the use of FOSS. Any deviation from an approval granted by Daimler requires a new application for approval.

1.3 Statement That no FOSS-Components are Used

The supplier states that in the Product described herein no FOSS-Components are used. For this statement the document is signed, although Sections 2 and 3 are not completed. Daimler does not approve the use of any FOSS-Components.

1.4 Completeness and Accuracy of the Information regarding FOSS-Disclosure Contained in this Document

By submission of this FOSS-D the supplier states that its use of any FOSS-Components in connection with the Product has been and will be limited to the categories of usage explicitly approved by Daimler. The supplier approves and assures that all information in this form is valid, complete and accurate. The supplier is fully liable for invalid, wrong, incomplete or missing information in this FOSS-D.

2. Overview on FOSS-Components and Associated License Obligations

2.1 Complete Table of FOSS-Components

The Items List (**Annex 1**) contains a list of all FOSS-Components that are used in the Product as well as the associated FOSS-Licenses including the date and the source of supply of the supplier.

2.2 Disclosure Statement

The Product will only contain the FOSS-Components specified in the Items List (**Annex 1**). The use of a FOSS-Component is governed by the conditions of the respective FOSS-License. By a FOSS-License additional rights may be granted to the user of the Product that might exceed the rights for normal use of the Product. A FOSS-License may impose certain obligations on the user that may be a requirement for the right to use the respective FOSS-Component. The right to use is granted under the respective FOSS-License free of charge. In case of inconsistencies or contradictions the FOSS-License terms on the respective FOSS-Component have priority over different terms of other licenses that relate to the use of the Product.

2.3 Required Information

The supplier has to provide the following information on the individual FOSS-Components with this FOSS-D:

- A) Exact name and indication of the FOSS-Component and its version,
- B) Source code of the FOSS-Component (the original version acquired by the supplier and, if applicable, the current modified version that is supposed to be used with regard to the Product),
- C) Exact name and indication of FOSS-Licenses for the individual FOSS-Components,
- D) Origin or source of the FOSS-Component and the respective FOSS-License as well as date of acquisition.

2.4 List of FOSS-Licenses

The Product will include FOSS-Components that are subject to the FOSS-Licenses listed in the Items List (**Annex 1**). The supplier ensures as a whole that this list is complete and accurate.

The supplier also ensures that no conflicts arise between the FOSS-Licenses for the FOSS-Components that will be included in the Product. This applies in particular for the FOSS-Licenses listed above.

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Document on FOSS-Disclosure

2.5 Overview on the Obligations in Connection with the Use of FOSS-Components

The following obligations summarized under this Section 2.5 are associated with the use of the FOSS-Licenses with regards to the granting or transfer of usage rights in the respective FOSS-Components. In particular it is to be included if the respective obligation has been completed by the supplier or if this has to be completed by Daimler (abbreviation: DAI).

2.5.1 List of Copyright-Notices

The Product must contain these Copyright Notices for the following FOSS-Components:

FOSS-Component	Copyright-Notice (Wording)	Completed by Supplier	To be Completed by DAI
[.....]	Copyright ©		
	Copyright ©		
	Copyright ©		
	Copyright ©		
	Copyright ©		

The supplier ensures that all copyright notices are contained in the Product unless and only as far as stated differently, explicitly and in detail (“to be completed by DAI”) in this list in this Section 2.5.1.

2.5.2 List of References to Authorship

The Product must contain these references to authorship for the following FOSS-Components:

FOSS-Component	Reference to Authorship (Wording)	Completed by Supplier	To be Completed by DAI
[.....]			

The supplier ensures that all references to authorship are contained in the Product unless and only as far as stated differently, explicitly and in detail (“to be completed by DAI”) in this list in this Section 2.5.2.

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Document on FOSS-Disclosure

2.5.3 List of License Texts

The Product has to be delivered with the FOSS-Licenses for the following FOSS-Components:

FOSS-Component	FOSS-License Text (exact name/ indication)	Delivered as Copy/File	Completed by Supplier	To be completed by DAI
[.....]				

The supplier ensures that all FOSS-License Texts are properly delivered with the Product unless and only as far as stated differently, explicitly and in detail (“to be completed by DAI”) in this list in this Section 2.5.3.

2.5.4 List of Exclusions of Guarantee and Warranty

The FOSS-Licenses provide that the following exclusions of guarantee and warranty have to be passed on:

FOSS-License (exact name/indication)	Exclusion of Guarantee and Warranty (Wording in FOSS-License)	Completed by Supplier	To be Completed by DAI
[.....]			

The supplier ensures that all these exclusions of guarantee and warranty are passed on with the Product unless and only as far as stated differently, explicitly and in detail (“to be completed by DAI”) in this list in this Section 2.5.4.

2.5.5 List of the provided Source Codes

The FOSS-Licenses contain the obligation to provide the users with source codes of the following FOSS-Components:

FOSS-Component (exact name/indication)	Source Code of the FOSS-Component (File-name)	Completed by Supplier	To be completed by DAI

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[.....]			

The supplier ensures that all these source codes are provided to the users of the Product by the supplier beginning with the delivery of the Product until the end of the envisaged lifecycle of the Product unless and only as far as stated differently, explicitly and in detail (“to be completed by DAI”) in this list in this Section 2.5.5.

2.5.6 Other License Obligations

The FOSS-Licenses provide for the following further obligations that need to be fulfilled:

FOSS-Component (exact name/indication)	Content of the License Obligation	Completed by Supplier	To be Completed by DAI
[.....]			

The supplier ensures that all these other license obligations are properly fulfilled unless and only as far as stated differently, explicitly and in detail (“to be completed by DAI”) in this list in this Section 2.5.6.

3. Annexes

Attached to this document as an annex (**Annex 1**) is the **Items List** that forms an integral part of this FOSS-D, which is fully covered by the supplier’s statement and – as a consequence – whose signature also extends to the statements made therein.

Date: _____

SUPPLIER

By: _____

Name: [_____]

Title: [_____]

DAIMLER

Document on FOSS-Disclosure

By: _____

Name: [_____]

Title: [_____]

AGREEMENT ON DATA PROCESSING ON BEHALF

between

(Please insert Controller.)

- as Controller -

and

(Please insert Processor)

- as Processor -

Contact details	
<i>Controller</i>	
Name	
Zip code, town/city	
No., street, P.O. box no.	
Contact name	
- Tel.	
- Email	
Data protection officer / coordinator	
- Tel.	
- Email	
Information security officer	
- Tel.	
- Email	
<i>Processor</i>	
Name	
Zip code, town/city	
No., street, P.O. box no.	
Contact name	
- Tel.	
- Email	
Data protection officer	
- Tel.	
- Email	
Information security officer	
- Tel.	
- Email	

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PART 1: CONTRACT ENSURING DATA PROTECTION AND INFORMATION SECURITY

1 DESCRIPTION OF THE CONTRACT

- (1) The **subject matter of the Contract** is the collection, processing, and use of personal data by Processor on behalf of Controller and in accordance with Controller's instructions as part of the service described in the Main Agreement.

This Contract also applies *mutatis mutandis* to (remote) testing and maintenance of automated procedures or data processing systems if it is not possible to rule out access to personal data when such work is carried out.

Reference Main Agreement; describe the subject matter of the contract, if there is no Main Agreement or if the Main Agreement does not include regulations regarding data processing)

- (2) **Term of this Contract**

Processor will collect, process or use Controller's data for the following term:

(Please specify contract term. In case a Main Agreement exists, and contract terms are identical, reference to the Main Agreement is possible)

- (3) **Type of personal data used**

Processor will have access to the following personal data:

(Please list relevant data, e.g. name, address, user-ID etc.)

- (4) **Scope, nature, and purpose involved in collecting, processing, and/or using** personal data:

Processor shall provide the following services for Controller in relation to the data specified in subclause 3:

(Please describe in concrete terms which services the Processor shall provide in connection with the Data Processing on Behalf. If these services are already described in the Main Agreement, a reference to the Main Agreement may be used: e.g. "Processor provides the services as described under section ... of the Main Agreement")

- (5) The **group** of people (data subjects) **affected** by the handling of their personal data in the context of this Contract is as follows:

(Please describe in concrete terms whose data are affected by the service, e.g. employees of company XY, customer of service A, users of application B, drivers, suppliers, etc. Should this already be described in the Main Agreement, a reference to the Main Agreement may be used: e.g. "The persons concerned by the services are described under section ... of the Main Agreement")

2 NON-DISCLOSURE

- (1) Processor undertakes to treat as confidential all information – including, but not limited to, technical and commercial information, plans, findings, intelligence, designs, and documents – that becomes known to it or that it receives from Controller under this Agreement, not to disclose this information to third parties, to protect it from third-party access, to use it only for purposes in connection with this Agreement, and only to disclose it to employees who are themselves under an obligation to observe confidentiality, unless otherwise agreed in writing between the Parties.
- (2) This confidentiality undertaking shall not apply in respect of information
- that can be proven to have been known to Processor before this Agreement came into effect,
 - that can be proven to have been lawfully obtained by Processor from a third party without being subject to a confidentiality obligation,
 - that is already in the public domain or that enters into the public domain without any infringement of the obligations under this Agreement,
 - that can be proven to have been developed by Processor during the course of its own independent work.
- (3) As far as the Controller is a financial services company and is obliged to observe requirements of banking secrecy, the same requirements shall apply to the Processor.
- (4) Processor agrees to impose upon its employees to whom this information is disclosed the same duty of confidentiality as Processor has entered into above unless these employees are already subject to an equivalent non-disclosure obligation by virtue of their contracts of employment.
- (5) If notified of any development results that are capable of being protected by intellectual property rights, the Parties reserve all rights in respect of any such property rights subsequently applied for or granted.
- (6) The non-disclosure obligations in respect of information that has been made available during the term of this Agreement shall continue to apply for a period of five years after the Agreement has ended.

3 DATA PROTECTION

- (1) Processor collects, processes, and uses personal data on behalf of Controller. Controller is responsible for complying with the provisions of data protection law.
- (2) Processor shall follow solely the instructions issued by Controller when collecting, processing, and using personal data. Such instructions must be given in writing or by electronic mail. Other than as instructed by Controller, Processor may not use, either for its own purposes or the purposes of third parties, the data to

which it has been given access for processing or use or the data it has collected. In accordance with the instructions issued by Controller, Processor must amend, delete, or block the data it is processing on behalf of Controller.

- (3) Processor shall assist Controller in satisfying the rights of the persons whose personal data is stored (data subjects), which may include correcting, deleting, blocking, or providing information about such data. If a data subject contacts Processor directly to ask for information or request that his/her personal data be corrected, deleted, or blocked, Processor shall forward this request to Controller without delay.
- (4) Processor undertakes to provide data protection training for its employees entrusted with the processing and use of the data provided by Controller and to impose on such employees an obligation to observe data secrecy (obligation not to disclose personal data).
- (5) Processor must provide Controller with the details of contacts for data protection and information security. If Processor is subject to a statutory obligation to appoint a data protection officer, Processor shall appoint such an officer in writing and shall send Controller the name(s) of the person(s) concerned.
- (6) Upon request, Processor shall provide Controller with the information necessary to enable Controller to satisfy reporting obligations and maintain a systems and procedures overview.
- (7) Processor shall inform Controller without delay of any checks or action taken by the relevant regulatory authorities in its organization or in connection with the IT infrastructure it uses.

4 INFORMATION SECURITY

- (1) Processor undertakes, as part of an information security strategy, to use state of the art technology to safeguard all Controller's information and data immediately and effectively against unauthorized access, modification, destruction or loss, unauthorized transfer, other unauthorized processing, and other misuse. The security strategy must be described in detail by completing the fields in Part 2. Processor shall agree its information security strategy with Controller's relevant information security officer. Part 2 need not be completed if Processor has suitable certification (for example, in accordance with ISO 2700x) covering the services that form the subject matter of this Contract. In this case, a reference to the certification must be inserted and the certification attached as an annex to this Agreement. If this certification becomes invalid and re-certification is not obtained within a reasonable period, this Agreement and the Main Agreement may be terminated by Controller.
- (2) Processor must store Controller's data for a period of six months, even after the relevant service agreement has ended. Within this six-month period, the data must be returned in a generally readable format or, if instructed, deleted. If the data is deleted, action must be taken to ensure that the data cannot be reconstructed. Processor shall prove to Controller and confirm in writing or by electronic mail that all the data, copies, and storage media have been returned and deleted. Controller may at any time specify an earlier date for data deletion. Regardless of this provision, Processor shall be under an obligation to surrender the data in a generally readable format at any time upon request by Controller.
- (3) Processor must ensure that the technical and organizational measures described in Part 2 are implemented before data processing begins and that the associated activities are regularly reviewed and adjusted. Processor must inform Controller in writing or by electronic mail if there are any material changes to data

processing. In the event of any foreseeable reduction in the effectiveness of the data protection, the consent of Controller must be obtained in writing or by electronic mail before the related change is carried out.

5 SUBCONTRACTORS AND ACCESS CONTROL

- (1) If Processor involves subcontractors or freelancers it must first obtain the prior consent of Controller in writing or by electronic mail. The contractual arrangements between Processor and the subcontractor or freelancer must be drafted in such a way that they correspond with the arrangements contained in the contractual relationship between Controller and Processor. In particular, Processor must ensure that Controller can also carry out the checks specified in clause 6 of this Contract in respect of the subcontractors or freelancers. Controller is entitled to receive information from Processor concerning the essential contractual provisions and the implementation of the obligations in this Contract – if necessary by means of inspecting the relevant contract documents.
- (2) Controller is deemed to have consented to the subcontractors and functions listed in Part 3 when Controller signs this Agreement. Processor must ensure that these subcontractors comply with the technical and organizational requirements specified in Part 2 in the same way as Processor itself. If subcontractors are replaced or added during the course of the contractual relationship, Processor must first obtain the consent of Controller in writing or by electronic mail.
- (3) Processor may only authorize access to Controller's data for its own employees in accordance with the authorization rules and only to the extent necessary to allow the employee concerned to carry out the relevant task in connection with fulfillment of contractual requirements. If it is necessary to issue access authorizations to employees of subcontractors or to freelancers to facilitate fulfillment of contractual requirements, this can only be done with the prior consent of Controller in writing or by electronic mail and only to the extent necessary for the task concerned. Upon request, Processor must supply Controller with the names of persons or groups of persons to whom access authorization has been granted. Processor undertakes not to disclose to any unauthorized person the access authorizations granted to enable Processor to use the system.
- (4) If Processor is granted access to the IT systems of Controller, its representatives, or subcontractors, Processor undertakes only to access the data and information necessary to enable it to satisfy its obligations under this Agreement.

6 CHECKS

- (1) Controller or its representatives have the right to carry out checks on compliance with the requirements of this Agreement. Processor shall provide the desired information and, at the request of Controller and within a reasonable period, submit documentary evidence that it has met its obligations by completing a questionnaire supplied by Controller.
- (2) Subject to advance notice, Controller or its representative shall be granted access to the offices and IT systems in/on which Controller's data is used or processed so that the implementation of the contractual agreements and the appropriateness of the technical and organizational data security measures can be verified.

- (3) Processor must inform Controller without delay should any suspicion arise that there has been a violation of data protection requirements (in particular, unlawful forwarding of Controller's data to third parties or unlawful access by third parties to Controller's data), a violation of banking secrecy, a breach of security, or other manipulation during data processing. In consultation with Controller, Processor must initiate all necessary steps to rectify the problem and prevent further data protection and/or security violations.
- (4) If Controller's data held by Processor is placed at risk as a result of seizure, distraint, judicial inquiries, or other enforcement of legal control by relevant authorities, as a result of insolvency or composition proceedings, or as a result of other events or action taken by third parties, Processor must inform Controller without delay. Processor shall inform all parties involved in any such action without delay that the power of control over the data subject to this Agreement lies with Controller and shall not transfer any data to third parties or allow access to the data by third parties without the consent of Controller.

7 DATA PROCESSING IN A NON-EEA COUNTRY

- (1) If Processor or its subcontractor processes personal data emanating from the European Union (EU) outside the European Economic Area (EU member states together with Iceland, Liechtenstein, Norway) or outside a country recognized by the European Commission as having an appropriate level of data protection, or if Processor or its subcontractor accesses EU-sourced personal data from outside the countries specified above
 - Controller must come to a written agreement with Processor or its subcontractor to include the EU's standard contractual clauses governing Data Processing on Behalf in non-EEA countries, or
 - Processor must participate in a certification system recognized by the EU and satisfy the requirements of this system, or
 - the data processing must be subject to binding rules and regulations that have been put in place by Processor and are recognized by a relevant regulatory authority as providing a sufficient basis for creating an appropriate level of data protection within the meaning of EU law.
- (2) In the case of personal data that emanates from countries other than those specified in subclause 1 and that also gives rise to requirements under data protection law in respect of data processing abroad, appropriate measures must be implemented in accordance with provisions under national law.

PART 2: DATA PROTECTION AND INFORMATION SECURITY MEASURES

This section must be used to document the technical and organizational measures implemented in order to safeguard the security of data processing activities. It must be clearly stated whether the action concerned is taken by Controller (Co) or by Processor (Pr). There is no requirement to implement all the action points listed below; the parties need to ensure that there is an appropriate level of protection from an overall perspective in each case.

Completion of this section may be replaced by documentary evidence of suitable certification (for example, in accordance with ISO 2700x) provided that the certification covers the services involved. In this case, a copy of the certification must be attached to the Agreement documents.

1. Access control (physical)

Definition: Physical access control means the action taken to deny unauthorized persons physical access to data processing systems in which personal data is processed or used.

b) Who holds overall responsibility for implementing and ensuring compliance with physical access control?

Controller

Processor

c) What action is taken to implement physical access control and who carries out this action? *(Please select appropriate answers and mark with a cross, as applicable)*

	Co	Pr
• <i>Specification of authorized persons, including scope of authority</i>	<input type="checkbox"/>	<input type="checkbox"/>
• <i>Admittance authorization IDs issued</i>	<input type="checkbox"/>	<input type="checkbox"/>
• <i>Rules and regulations for visitors in place</i>	<input type="checkbox"/>	<input type="checkbox"/>
• <i>Rules and regulations governing keys implemented</i>	<input type="checkbox"/>	<input type="checkbox"/>
• <i>All individuals recorded in and out</i>	<input type="checkbox"/>	<input type="checkbox"/>
• <i>Physical protection measures in place and regularly checked:</i>		
○ <i>Secure entrance (e.g. locking system, ID readers)</i>	<input type="checkbox"/>	<input type="checkbox"/>
○ <i>Burglar-resistant windows</i>	<input type="checkbox"/>	<input type="checkbox"/>
○ <i>Equipment secured against theft, manipulation, damage</i>	<input type="checkbox"/>	<input type="checkbox"/>
○ <i>Surveillance installation (e.g. alarm system, CCTV)</i>	<input type="checkbox"/>	<input type="checkbox"/>
○ <i>Separation system (e.g. turnstiles, double-door system)</i>	<input type="checkbox"/>	<input type="checkbox"/>

- Security guards.....
- Areas divided into different security zones

d) Please use the following field (free text) for details of additional or other measures you have implemented or if you would like to provide more specific information on the above items:

(Please use additional sheet if necessary.)

e) If physical access control is not relevant to the services subject to this Agreement, please briefly state the reasons below:

(Please use additional sheet if necessary.)

2. Access control (systems)

Definition: Systems access control means the action taken to prevent unauthorized persons from using data processing systems.

a) Who holds overall responsibility for implementing and ensuring compliance with systems access control?

- Controller Processor

b) What action is taken to implement systems access control (user identification and authentication) and who carries out this action? *(Please select appropriate answers and mark with a cross, as applicable)*

- | | Co | Pr |
|---|--------------------------|--------------------------|
| ● Authorization concept designed and implemented | | |
| ○ Authorization concept for terminal devices (computers)..... | <input type="checkbox"/> | <input type="checkbox"/> |
| ○ Authorization concept for systems | <input type="checkbox"/> | <input type="checkbox"/> |
| ● User identified and authorization verified..... | <input type="checkbox"/> | <input type="checkbox"/> |
| ● User identity management system implemented..... | <input type="checkbox"/> | <input type="checkbox"/> |
| ● Access attempts monitored, including response to security issues..... | <input type="checkbox"/> | <input type="checkbox"/> |

- Access authority specified and checked
- Authentication procedure based on required level of protection for the information (classification)
- Appropriate password protection (binding requirements, encrypted storage).....
- Special security software (e.g. anti-malware, VPN, firewall)
- Rules and regulations for visitors in place
- Access function using tokens.....

c) Please use the following field (free text) for details of additional or other measures you have implemented or if you would like to provide more specific information on the above items:

(Please use additional sheet if necessary.)

d) If systems access control is not relevant to the services subject to this Agreement, please briefly state the reasons below:

(Please use additional sheet if necessary.)

3. Access control (user rights)

Definition: Access control (user rights) comprises the action taken to ensure that the persons authorized to use a data processing system can only access the data corresponding to their access authorization and that personal data cannot be read, copied, amended, or removed without authorization during processing or use, or after the data has been saved.

a) Who holds overall responsibility for implementing and ensuring compliance with access control (user rights)?

Controller

Processor

b) What action is taken to implement access control (user rights) and who carries out this action? (Please select appropriate answers and mark with a cross, as applicable)

	Co	Pr
• Authorization and roles concept implemented for applications.....	<input type="checkbox"/>	<input type="checkbox"/>
• Rules and regulations for authorizing users and data access implemented.....	<input type="checkbox"/>	<input type="checkbox"/>
• Regular review of authorizations.....	<input type="checkbox"/>	<input type="checkbox"/>
• Functions restricted (in terms of function and time).....	<input type="checkbox"/>	<input type="checkbox"/>
• Access restrictions imposed (based on principles of need-to-know and least privilege).....	<input type="checkbox"/>	<input type="checkbox"/>
• Encrypted storage of personal data.....	<input type="checkbox"/>	<input type="checkbox"/>
• Logging		
○ Read-access logged.....	<input type="checkbox"/>	<input type="checkbox"/>
○ Write-access logged.....	<input type="checkbox"/>	<input type="checkbox"/>
○ Unauthorized access attempts logged.....	<input type="checkbox"/>	<input type="checkbox"/>
○ Regular analyses carried out.....	<input type="checkbox"/>	<input type="checkbox"/>
○ Ad hoc analyses carried out.....	<input type="checkbox"/>	<input type="checkbox"/>
• Implementation of retention periods for data.....	<input type="checkbox"/>	<input type="checkbox"/>
• Rules and regulations on handling digital storage media implemented.....	<input type="checkbox"/>	<input type="checkbox"/>
• Rules and regulations on disposing of storage media implemented.....	<input type="checkbox"/>	<input type="checkbox"/>
• Integrity checks carried out.....	<input type="checkbox"/>	<input type="checkbox"/>
• Separation of test and productive environment.....	<input type="checkbox"/>	<input type="checkbox"/>

c) Please use the following field (free text) for details of additional or other measures you have implemented or if you would like to provide more specific information on the above items:

(Please use additional sheet if necessary.)

- d) If access control (user rights) is not relevant to the services subject to this Agreement, please briefly state the reasons below:

(Please use additional sheet if necessary.)

4. Disclosure control

Definition: Disclosure control refers to the action taken to ensure that personal data cannot be read, copied, amended, or removed without authorization during electronic transmission, during storage on data media, or during transit on such media, and to ensure that it is possible to establish and review the points at which it is envisaged it will be necessary to transfer personal data using data transfer facilities.

- a) Who holds overall responsibility for implementing and ensuring compliance with disclosure control?

Controller

Processor

- b) What action is taken to implement disclosure control and who carries out this action?

(Please select appropriate answers and mark with a cross, as applicable)

	Co	Pr
<ul style="list-style-type: none"> • <i>Forms of data forwarding fully documented (e.g. printout, data media, automated transfer)</i> 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • <i>Data recipients listed (enter under c).....</i> 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • <i>Interfaces, retrieval and transmission programs documented.....</i> 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • <i>For printouts and data media:</i> <ul style="list-style-type: none"> ○ <i>Regular inventory checks carried out.....</i> ○ <i>Transit security measures implemented (e.g. containers, encrypted storage media, handover records).....</i> 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> ○ <i>Transit security measures implemented (e.g. containers, encrypted storage media, handover records).....</i> 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • <i>For electronic forwarding:</i> <ul style="list-style-type: none"> ○ <i>Data transfer encrypted.....</i> ○ <i>Data forwarding or transfer logged</i> 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> ○ <i>Data forwarding or transfer logged</i> 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • <i>Plausibility, completeness, and accuracy checks carried out.....</i> 	<input type="checkbox"/>	<input type="checkbox"/>

• *Action taken to prevent uncontrolled information outflow:*

- *USB interface deactivation.....*
- *Restriction of rights for data transfer.....*
- *Regular checks on permitted recipients.....*
- *Forwarding restricted to permitted recipients by technical measures.....*

c) Please use the following field (free text) for details of additional or other measures you have implemented or if you would like to provide more specific information on the above items:

(Please use additional sheet if necessary.)

d) If disclosure control is not relevant to the services subject to this Agreement, please briefly state the reasons below:

(Please use additional sheet if necessary.)

5. Input control

Definition: Input control refers to the action taken to ensure that retrospective checks can be carried out to establish whether personal data in data processing systems has been entered, modified, or removed and, if so, by whom.

a) Who holds overall responsibility for implementing and ensuring compliance with input control?

Controller

Processor

b) What action is taken to implement input control and who carries out this action?

(Please select appropriate answers and mark with a cross, as applicable)

- *Inputs/Changes logged*

Co Pr

- *Regular review of logs*.....
- *Inputting responsibilities specified in organizational structure*.....

c) Please use the following field (free text) for details of additional or other measures you have implemented or if you would like to provide more specific information on the above items:

(Please use additional sheet if necessary.)

d) If input control is not relevant to the services subject to this Agreement, please briefly state the reasons below:

(Please use additional sheet if necessary.)

6. Job control

Definition: Job control means the action taken to ensure that personal data being processed on behalf of Controller can only be processed in accordance with the instructions issued by Controller.

a) Who holds overall responsibility for implementing and ensuring compliance with job control?

- Controller* *Processor*

b) What action is taken to implement job control and who carries out this action?

(Please select appropriate answers and mark with a cross, as applicable)

- | | Co | Pr |
|--|--------------------------|--------------------------|
| • <i>System implemented for regularly checking the commissioning process</i> | | |
| ○ <i>Submission of self-assessments</i> | <input type="checkbox"/> | <input type="checkbox"/> |
| ○ <i>Submission of agreements with subcontractors</i> | <input type="checkbox"/> | <input type="checkbox"/> |
| ○ <i>Checks on subcontractors by Processor</i> | <input type="checkbox"/> | <input type="checkbox"/> |

- c) Please use the following field (free text) for details of additional or other measures you have implemented or if you would like to provide more specific information on the above items:

(Please use additional sheet if necessary.)

- d) If job control is not relevant to the services subject to this Agreement, please briefly state the reasons below:

(Please use additional sheet if necessary.)

7. Availability control

Definition: Availability control means the action taken to ensure that personal data is protected against accidental destruction or loss.

- a) Who holds overall responsibility for implementing and ensuring compliance with availability control?

Controller Processor

- b) What action is taken to implement availability control and who carries out this action?

(Please select appropriate answers and mark with a cross, as applicable)

	Co	Pr
• System condition regularly checked (monitoring)	<input type="checkbox"/>	<input type="checkbox"/>
• Backup and recovery plan in place (regular data backups).....	<input type="checkbox"/>	<input type="checkbox"/>
• Data archiving strategy implemented.....	<input type="checkbox"/>	<input type="checkbox"/>
• Documented contingency plans (business continuity, disaster recovery)	<input type="checkbox"/>	<input type="checkbox"/>
• Contingency plans regularly tested.....	<input type="checkbox"/>	<input type="checkbox"/>
• Presence of redundant IT systems assessed (servers, storage, etc.)	<input type="checkbox"/>	<input type="checkbox"/>
• Fully operational physical protection systems in place (fire protection, energy, A/C)..	<input type="checkbox"/>	<input type="checkbox"/>

- c) Please use the following field (free text) for details of additional or other measures you have implemented or if you would like to provide more specific information on the above items:

(Please use additional sheet if necessary.)

- d) If availability control is not relevant to the services subject to this Agreement, please briefly state the reasons below:

(Please use additional sheet if necessary.)

8. Segregation principle

Definition: The segregation principle requires the implementation of measures to ensure that data collected for different purposes can be processed separately.

- a) Who holds overall responsibility for implementing and ensuring compliance with the segregation principle?

Controller Processor

- b) What action is taken to implement the segregation principle and who carries out this action? *(Please select appropriate answers and mark with a cross, as applicable)*

	Co	Pr
• Segregation of functions documented	<input type="checkbox"/>	<input type="checkbox"/>
• Policies and procedural instructions in place	<input type="checkbox"/>	<input type="checkbox"/>
• Procedure documentation in place	<input type="checkbox"/>	<input type="checkbox"/>
• Multi-client capability:		
○ Physical separation.....	<input type="checkbox"/>	<input type="checkbox"/>
○ Separation at system level.....	<input type="checkbox"/>	<input type="checkbox"/>
○ Separation at data level	<input type="checkbox"/>	<input type="checkbox"/>

- *Regular checks carried out to ensure fully compliant use of information and IT systems*

c) Please use the following field (free text) for details of additional or other measures you have implemented or if you would like to provide more specific information on the above items:

(Please use additional sheet if necessary.)

d) If the segregation principle is not relevant to the services subject to this Agreement, please briefly state the reasons below:

(Please use additional sheet if necessary.)

9. Organizational security criteria

Definition: The organizational security criteria are the rules and processes used to protect personal data.

a) Who holds overall responsibility for implementing and ensuring compliance with the organizational security criteria?

- Controller* *Processor*

b) What action is taken to implement the organizational security criteria and who carries out this action?
(Please select appropriate answers and mark with a cross, as applicable)

	Co	Pr
• <i>Data protection responsibilities fixed in writing</i>	<input type="checkbox"/>	<input type="checkbox"/>
• <i>Information security responsibilities fixed in writing</i>	<input type="checkbox"/>	<input type="checkbox"/>
• <i>Appropriate information security management system in place</i>	<input type="checkbox"/>	<input type="checkbox"/>
• <i>Appropriate incident management system in place</i>	<input type="checkbox"/>	<input type="checkbox"/>
• <i>Information classification system implemented</i>	<input type="checkbox"/>	<input type="checkbox"/>

- Clarification and awareness sessions regularly carried out for employees and managers.....

c) Please use the following field (free text) for details of additional or other measures you have implemented or if you would like to provide more specific information on the above items:

(Please use additional sheet if necessary.)

d) If organizational security criteria are not relevant to the services subject to this Agreement, please briefly state the reasons below:

(Please use additional sheet if necessary.)

PART 3: APPROVED SUBCONTRACTORS

Subcontractor name, address (1)	
Name	
Zip code, town/city	
No., street, P.O. box no.	
Country	
Data protection contact	
Information security contact	

Brief description of the function carried out by this subcontractor:

Subcontractor name, address (2)	
Name	
Zip code, town/city	
No., street, P.O. box no.	
Country	
Data protection contact	
Information security contact	

Brief description of the function carried out by this subcontractor:

(Provide details for any further subcontractors)

Processor shall ensure that the subcontractors listed above are contractually bound by the obligations specified in Part 1 and have implemented the technical and organizational measures in accordance with the specifications in Part 2 or can furnish proof that they have been awarded suitable certification (for example, ISO 2700x).

PART 4: SIGNATURES

Note: This part is only to be filled, and a signed version to be attached to the contract, if the legislation applicable to the controller demands for hand-written signatures of the parties.

Place, date

Place, date

Controller signature(s)

Controller signature(s)

Place, date

Place, date

Processor signature(s)

Processor signature(s)

Annex 4.1.2 (Detailed Description of Phase 2)

to the

Cooperation Agreement "Startup adVANce Challenge"

between

Daimler AG

and

Startup

1. Description of Concept

[to be completed by Startup]

2. Other Work Results (if any)

[to be completed by Startup, if applicable]

3. Daimler Cooperation

The Startup deems the following cooperation by Daimler necessary for the purpose of developing the Concept and the other Work Results:

- (a) [to be completed by Startup, if applicable]
- (b) [to be completed by Startup, if applicable]
- (c) [to be completed by Startup, if applicable]