

## **Equipment Donation Agreement**

To: School Board of Clay County, Florida  
900 Walnut Street  
Green Cove Springs, Florida 32043

From: Mercedes Benz USA, LLC

**This Agreement outlines the Conditions under which Mercedes-Benz USA, LLC (“MBUSA”) will donate to The School Board of Clay County, Florida (hereinafter “Donee”) the automotive shop equipment and materials (“the Equipment”) described below. By accepting delivery of the Equipment, Donee specifically agrees as follows:**

1. MBUSA agrees to donate to Donee the Equipment listed on the attached Exhibit “A”
2. The parties agree that Donee will use the Equipment for instructional and educational purposes only.
3. The Equipment may not be transferred to any other institution, entity, or individual without MBUSA’s express written approval, which will not be unreasonably withheld.
4. Donee, for and in consideration of the donation of the Equipment, the adequacy and satisfactory nature of which it hereby acknowledges, herewith releases any and all claims and causes of action in law or in equity, or arising under any local, State and/or Federal laws, which Peterson and/or its parent, affiliates, subsidiaries, officers, directors and/or employees may currently have or have in the future against MBUSA, its parent, affiliates, subsidiaries, officers, directors, employees, agents and representatives, with respect to the Equipment.

Donee agrees that it is accepting the Equipment in an “as is” condition, agrees to have the Equipment inspected and serviced prior to use, and agrees to assume all risk associated with the use of the Equipment and covenants and agrees to unconditionally, and on demand, defend, indemnify and hold harmless MBUSA, its parent, affiliates, subsidiaries, officers, directors, employees, agents and representatives from and against any and all actions, claims, demands, counterclaims, or expenses, including without limitation, any costs and attorney’s fees, that MBUSA sustains or incurs in connection with the Donee’s use of the Equipment following its donation to Donee and/or any breach of this Agreement by Donee.

Donee similarly covenants and agrees to defend, indemnify and hold harmless MBUSA, regardless of whether such actions allegedly result from a manufacturing or design defect, or from breach of contract, breach of warranty, deceptive trade practices, or any other known and unknown cause of action which may now exist or which may be legally created in the future as it pertains to the Equipment. Donee

recognizes and acknowledges that the indemnity contained herein is cumulative of any other remedies and not in lieu of any other remedies at law or in equity.

5. Donee agrees and acknowledges that it shall comply with any and all Federal, State and/or local laws with regard to its possession and/or use of the Equipment at all times following the completion of the donation.
6. Donee acknowledges and understands that MBUSA may be immediately and irreparably harmed if it shall use the Equipment for other than instructional and/or educational purposes and/or violate any Federal, State and/or local laws with regard to its possession and/or use of the Equipment following the completion of the donation. Donee further understands and acknowledges that such actions may constitute a material breach of this Agreement and may cause MBUSA to suffer damages for which it cannot be compensated monetarily and for which there is no adequate remedy at law. Accordingly, Donee agrees that, in addition to any available monetary relief, MBUSA will be entitled, without the posting of a bond or the necessity of proving actual damages, to injunctive relief against Donee upon making an adequate showing of a breach or threatened breach by Donee of this Agreement.
7. Donee acknowledges and agrees that the words "Mercedes-Benz," "Mercedes," "Maybach," and "Smart" and the Three-Pointed Star Within a Circle, the Maybach logo and the Smart logo are the solely owned and validly registered trademarks and trade names of Daimler AG – Daimler Aktiengesellschaft, the parent company of Mercedes-Benz through Daimler AG's subsidiary. Peterson recognizes that it is not authorized to use any of Daimler AG's trademarks and trade names without the prior written approval of MBUSA.
8. Donee, its employees, agents and independent contractors voluntarily consent to inspection and surveillance of Donee's facilities, books, records and locations upon reasonable prior notice by MBUSA or its agent for the purpose of determining compliance with the terms and conditions of this Agreement.
9. Donee agrees and acknowledges that it accepts the donation of the Equipment from MBUSA in its current "as is" condition.
10. **Mercedes-Benz USA, LLC makes no promises, guarantees and/or warranties, express or implied, as to the condition, quality, utility, functionality and/or safety of the Equipment and expressly disclaims warranties of merchantability and fitness for a particular purpose.**
11. This Agreement shall be governed by and construed in accordance with New Jersey law. Donee understands that MBUSA's principle place of business is located in New Jersey and that by entering into the Agreement, Donee recognizes and acknowledges that the donation is conducted as a business transaction in New Jersey. Donee hereby waives the right to challenge jurisdiction and/or venue in connection with any action brought by MBUSA in New Jersey in connection with this Agreement and any claims for relief sought by MBUSA.

12. This Agreement shall have no force or effect until signed by both MBUSA and Donee and shall upon full execution constitute the entire understanding between MBUSA and Donee with respect to the subject matter of this Agreement and shall supersede all prior agreements. Any modification to this Agreement must be in writing and signed by a duly authorized representative of each party.
13. No waiver by either party of any failure of the other party to keep or perform any undertaking or condition of this Agreement shall be deemed to be a modification of this Agreement or be a waiver of any preceding or subsequent breach of the same or any other undertaking or condition.
14. This Agreement does not constitute and shall not be construed as constituting a partnership or joint venture between MBUSA and Donee. Neither party shall have any right to obligate or bind the other party in any manner whatsoever.
15. If any provision of this Agreement shall be declared illegal, void or unenforceable, the remaining provisions shall continue in full force and effect.

It is expressly understood that the individual accepting this Agreement on Donee's behalf has represented to MBUSA that Donee's signatory has read and understands this Agreement and is duly authorized to enter into this agreement on Donee's behalf.

**Mercedes-Benz USA, LLC**

**The School Board of Clay County,  
Florida**

**By:** \_\_\_\_\_

**By:** \_\_\_\_\_

**Title** \_\_\_\_\_

**Title: Chairman**

**Date:** \_\_\_\_\_

**Date:** \_\_\_\_\_