This is a Damages-Based Agreement or ‘DBA’. It is a legally binding contract between you and Harcus Parker Limited which controls how Harcus Parker will be paid. The work covered by this DBA includes all work preparatory to and/or related to the Claims, as defined below.

This document is confidential and contains intellectual property and work product which belongs to Harcus Parker. If you have not already instructed Harcus Parker in the Mercedes-Benz Emissions Litigation, or if you do not in good faith intend to instruct Harcus Parker in the Mercedes-Benz Emissions Litigation, then you must not read, share, or use this document.

1 Date
The date of this agreement is the date upon which you click to accept its terms.

2 The parties
This is an agreement made between:

(1) You; and

(2) Harcus Parker Limited (‘Harcus Parker’) of 7th Floor, Melbourne House, 44-46 Aldwych, London WC2B 4LL

3 Background
(A) You are entering into this agreement in order to bring a claim against Daimler AG, Mercedes-Benz Cars UK Limited, Mercedes-Benz Financial Services UK Limited, any relevant subsidiary or associated entities, authorised agents or dealers, and/or any other entity against whom we advise you to bring a claim (together, ‘Mercedes-Benz’, or the ‘Defendants’) which arise out of losses suffered by you as a result of purchasing a Mercedes-Benz branded vehicle fitted with a diesel engine during the relevant period.

(B) Harcus Parker has described the legal work which it will undertake for you in a summary document (the ‘Summary’) which you have read and understood. You have also received and agreed to the Harcus Parker’s ‘Terms of Business’. Where there is a conflict or other inconsistency between this DBA and the Terms of Business, this DBA shall prevail.

(C) You are one of a number of individuals (together, the ‘Claimants’, and each individually a ‘Claimant’) who have instructed Harcus Parker to bring claims against the Defendants. Harcus Parker will manage your Claim alongside the claims of the other Claimants. The way in which those claims will be managed is set out in a separate agreement between you, Harcus Parker, and the other Claimants called the Litigation Management Agreement (or ‘LMA’).

(D) Harcus Parker has agreed to cooperate with Hausfeld & Co. LLP (‘Hausfeld’) pursuant to the terms of a cooperation agreement (the ‘Cooperation Agreement’). Harcus Parker and Hausfeld recognise that it is in the best interests of their respective clients for the two firms to cooperate in relation to the proceedings where reasonably practicable. The two firms take the view that working together cooperatively and collaboratively will enable the proceedings to be brought more efficiently and more cost-effectively, to the benefit of each firm’s clients.

(E) You acknowledge that you have either taken independent legal advice in relation to the arrangements set out in this agreement or that you are content to proceed without such advice.

(F) You are bringing your Claim alongside all of the other Claimants. It is possible that the Defendants will offer to settle all the Claimants’ claims for a single global amount. In that event, the LMA will
Confidential & privileged

4 This agreement

4.1 This is a DBA which is made under section 58AA(3) of the Courts and Legal Services Act 1990 and the Damages-Based Agreements Regulations 2013 (Statutory Instrument 2013/609) (the ‘DBA Regulations 2013’).

4.2 The claim to which this agreement relates (the ‘Claim’) is your claim against Mercedes-Benz, which arises out of your purchase of a Mercedes-Benz branded vehicle or vehicles fitted with a diesel engine.

4.3 This agreement covers all the work done and to be done by Harcus Parker in respect of the Claim from 1 November 2019.

4.4 This agreement covers any appeal proceedings which may be brought by you or by the Defendant (or any other party to the Claim).

4.5 This agreement does not cover any counterclaim which might be made against you by the Defendant.

5 What happens if you win?

5.1 ‘Claim Proceeds’ means the sum recovered in respect of the Claim or damages awarded to you (but not including any costs, barristers’ fees or disbursements paid or payable by another party to the proceedings within clause 5.5 below).

5.2 You will ‘Win’ if you recover or are awarded any Claim Proceeds.

5.3 If you Win, you will pay:

i) an amount of money equivalent to 40% plus VAT of the Claim Proceeds to Harcus Parker (the ‘Solicitors’ Fee’); and

ii) the Disbursements (as defined in clause 7, below), but only if and to the extent that any such sums in respect of the Disbursements are recovered from the Defendant in respect of the Claim.

5.4 The Solicitors’ Fee is calculated before the payment by you of tax (if any) on the amount recovered or awarded.

5.5 The Solicitors’ Fee payable by you shall in all circumstances be net of:

i) any costs (including fixed costs under Part 45 of the Civil Procedure Rules 1998 (“CPR”)); and

ii) any sum in respect of barristers’ fees incurred by Harcus Parker,

that have been paid or are payable by another party to the proceedings by agreement or order.

5.6 The Solicitors’ Fee cannot in any circumstances amount to a payment above an amount which, including VAT, is equal to 50% of the sums in respect of the Claim Proceeds ultimately recovered by you.

5.7 If you Win, then in ordinary circumstances the Defendants will be liable to pay all or some of your costs and disbursements, but in such circumstances, our fees to be payable by the Defendants will be subject to assessment by the court in accordance with CPR rule 44.3 on the basis primarily or exclusively of a reasonable number of hours multiplied by reasonable hourly rates, rather than as a percentage of the Claims Proceeds as provided for in this DBA, and you may not recover from the Defendants by way of costs more than the total amount payable by you to us under this DBA, pursuant to CPR rule 44.18.
6 What happens if you lose?

If your Claim ends without a Win:

6.1 you will remain liable for the Disbursements as set out in clause [5.3.ii)] above, but Harcus Parker will indemnify these for you and, in the first instance, agrees to pay these on your behalf; and

6.2 save in respect of clause 6.1 immediately above, you will not be required to pay anything to Harcus Parker.

7 Disbursements

7.1 ‘Disbursements’ means your proportionate share (calculated in the way set out in the LMA) of the expenses which Harcus Parker will need to pay in order bring the Proceedings (but does not include barristers’ fees which are included in the Solicitors’ Fee). These include:

i) the fees of experts;

ii) court fees (where applicable);

iii) the payment of insurance premiums (if relevant, and whether or not such premiums are payable up front or deferred and/or payable only in the event of success);

iv) the fees due to Audit Intelligence which are payable whether you Win or you lose the Claim;

v) the costs, as applicable, of data rooms, disclosure platforms, and electronic bundling systems; and

vi) photocopying charges.

7.2 By entering into the LMA, you authorise the committee of Claimants established in the LMA (the ‘Committee’) to authorise Harcus Parker to incur Disbursements. You agree that Harcus Parker shall arrange for the Disbursements to be paid on your behalf but you shall remain liable to pay the Disbursements subject to the terms of this DBA.

8 Calculation of the Solicitors’ Fee

The Solicitors’ Fee has been set at 40% of the Claim Proceeds for the following reasons:

8.1 the risk to Harcus Parker that the Claim will not succeed, in which case it will not be paid;

8.2 the fact that Harcus Parker may be undertaking work over a long period without pay;

8.3 the fact that Harcus Parker has borne a burden of costs and expenses prior to your entering into this agreement and the risk being taken by Harcus Parker that it may, in due course, prove impossible to bring the Claim;

8.4 the risk that interim or final decisions of the Court may be appealed;

8.5 the fact that Harcus Parker will bear the cost of instructing barristers and of the Disbursements and will only be able to recoup those expenses (and, depending on the amount recovered from the Defendants, potentially not fully) if you Win;

8.6 the fact that Harcus Parker a number of different parties have contributed and will contribute to the establishment of the Claim, some of whom will be paid out of the Solicitors’ Fee.

9 Invoicing at the conclusion of the case

9.1 In the event that the Solicitors’ Fee becomes payable, Harcus Parker shall raise an invoice to you, care of the Committee who shall have authority to approve it on your behalf. The invoice shall set out a computation of the payment due and shall identify the relevant VAT sum which shall be paid to Harcus Parker in any event. The invoice shall separately set out the Disbursements payable.

9.2 Such fees as are payable by you will be paid to Harcus Parker within 30 days of the date of invoicing.

9.3 You and Harcus Parker agree that in the event that the Solicitors’ Fee becomes payable, you will use your best endeavours to procure that the Claim Proceeds (or, if more practicable, the
Solicitors’ Fee only together with the Disbursements) shall be paid directly into Harcus Parker’s client account and distributed in accordance with this agreement and the LMA.

9.4 You agree to assist Harcus Parker to recover any money due to you in connection with the Claim, including by taking action in your name to enforce an order or agreement.

10 Termination

10.1 In entering this agreement it is Harcus Parker’s intention to reach a successful conclusion of your Claim either before the Court or through settlement. However, there are circumstances in which either you or Harcus Parker may wish to end this agreement before then.

10.2 You may terminate this agreement at any time.

10.3 Harcus Parker can end this agreement if:

i) you act unreasonably by, for example:
   (1) failing to give Harcus Parker clear or timely instructions, so that they consider that they cannot do their work properly; or
   (2) deliberately misleading Harcus Parker; or if

ii) Harcus Parker come to the view that you are unlikely to win and/or should withdraw the Claim or the value of the Claim does not make it worthwhile for Harcus Parker to pursue the claim.

10.4 In the event of Harcus Parker terminating this agreement pursuant to clause 10.3, Harcus Parker shall explain in full its reasons for ending the agreement. In circumstances of termination other than where you have achieved or go on to achieve a Win, you will be liable just for Disbursements in accordance with clause 6 above and nothing else.

11 Harcus Parker: successor practice

11.1 Harcus Parker may notify you, using the email address which you provided to Harcus Parker in the course of engaging it to act for you, that your Claim will henceforth be carried on by a successor firm to Harcus Parker which will:

i) act for you on the same basis as Harcus Parker and in those circumstances the successor firm would be governed by and under the terms of this agreement as applied to the successor firm in place of Harcus Parker and would not be terminated within clause 10 above or at all;

ii) be authorised to carry on legal services and carry the appropriate insurance; and

iii) employ substantially the same lawyers on your claim.

11.2 You authorise the Committee to enter into a novation agreement on your behalf and as your agent in favour of the new firm, subject to clause 11.1 above.

11.3 In that event, subject to clause 11.1 above and to any further agreement between the parties, that the terms of the DBA shall continue apply as between your and Harcus Parker up to the date that the successor practice take over, and the DBA with the new firm shall apply from that date onwards.

12 Authority of Committee to enter new DBA on Claimants’ behalf

It is expressly anticipated, and you hereby authorise the Committee to act as your agent for the purpose of, entering into a replacement Damages-Based Agreement or agreements (a ‘Replacement DBA’) in the event that:

12.1 the DBA Regulations 2013 are amended or replaced; or

12.2 Harcus Parker receive advice from a costs lawyer and/or a barrister that a Replacement DBA should be entered into; or
12.3 Harcus Parker notifies the Committee that the carriage of the Claim is to be transferred into a new practice,
provided that any Replacement DBA should be on terms no less favourable to you than this agreement
and should so far as possible have retrospective effect to the date of 1 November 2019.

13 Claimants’ understanding of Harcus Parker’s reliance
If any part of this agreement should prove to be invalid or unenforceable, the parties shall negotiate in
good faith to give effect to the intentions of the parties in entering this agreement.

14 No liability of Harcus Parker for Adverse Costs
Subject to the court’s jurisdiction to award costs against Harcus Parker under the wasted costs jurisdiction
or otherwise under Section 51 of the Senior Courts Costs Act 1981, the Claimants agree to use their best
efforts not to do any act so as to cause Harcus Parker to become liable for the costs of any opponent
in the Claim.

15 Severability
If any of the provisions of this Agreement are found by a court or other competent authority to be void
or unenforceable, such provision shall be deemed to be deleted from this Agreement and the remaining
provisions of this Agreement shall continue in full force and effect. Notwithstanding the foregoing, the
parties shall thereupon negotiate in good faith in order to agree the terms of a mutually satisfactory
provision to be substituted for the provision so found to be void or unenforceable.

16 Governing Law
This Agreement is governed by and is to be construed in accordance with the law of England and Wales.

17 Execution
17.1 In making this DBA available for signature, Harcus Parker has given their agreement to its terms.
In addition, Harcus Parker will execute a single copy of this agreement and such execution shall be
evidence of Harcus Parker’s agreement with every Claimant who agrees to this agreement.

17.2 You confirm your agreement to the terms of this agreement by giving your electronic consent to
it.

Signed: .................................

For and on behalf of Harcus Parker Limited