

**PIWIS III Tester Purchase Agreement for Independent Repair Facilities (IRFs)**

Binder - Parts Bulletins, Group 12-15  
Supersedes bulletin dated 11/2/2011.

Attention: **Parts Managers / Service Managers / General Managers**

Porsche Cars North America is pleased to offer the PIWIS III Tester and certain support aspects for sale to Independent Repair Facilities (IRFs) through your dealership Parts Department.

- This bulletin contains the PIWIS III IRF Agreement, beginning on page 2. The PIWIS IRF Acknowledgment Form is found on page 16 of the Agreement.** Please examine the prices and product details in the agreement closely, as they differ from details in the PIWIS III package distributed to Porsche dealers. The IRF package includes Tester Hardware, Diagnostic software and Guided Fault Finding software only.
- Be sure to fill out all lines** requiring name, signature, address and other pertinent information as indicated in the PIWIS III IRF Agreement and the PIWIS IRF Acknowledgment Form.
- Dealership sends two (2) signed, executed agreements to PCNA AfterSales Publications.** We will in turn sign the Agreement and return a copy to you as acknowledgment of your order and for retention in your records. Be sure to also send a copy of the Acknowledgment Form found on page 16 of the Agreement.
- Receipt of the PIWIS III IRF Agreement by PCNA AfterSales Publications constitutes the Parts Order** for the PIWIS III IRF Tester, Software, etc. indicated in the following pages. The PIWIS III IRF Tester, Software, etc. cannot be ordered through normal parts channels by part number. Part numbers for these items are for internal reference only.
- Important Note:** PCNA will automatically **bill** the servicing Porsche dealer **each month** for the PIWIS III Tester support fee as well as the Guided Fault Finding (GFF) licensing fee. **The dealer bills the IRF for one year's support & GFF at the time of sale, and then annually thereafter,** on the date when the IRF renews their annual support & GFF subscription.
- The dealership will be responsible to collect the PIWIS III tester support fee as well as the Guided Fault Finding (GFF) licensing fee. Collect this fee as a lump sum at the time of sale and each time the purchasing IRF renews their annual support subscription.**
- All charges indicated are Annual Recurring Charges beginning CY2016, and/or IRF's anniversary of Agreement date—whichever occurs first.

Please inform your Parts and Service department personnel. (See Parts Bulletin Group 13 D13 for important details.) Thank you for your business and your support of this program.

**Porsche Cars North America AfterSales**

Dealership	Parts Manager	_____	Parts Specialist	_____	_____	_____	_____	_____	_____	_____
Distribution	Asst. Manager	_____	Parts Specialist	_____	_____	_____	_____	_____	_____	_____
Routing										

Dr. Ing. h.c. F. Porsche AG is the owner of numerous trademarks, both registered and unregistered, including without limitation the Porsche Crest®, Porsche®, Boxster®, Carrera®, Cayenne®, Cayman®, Panamera®, Tiptronic®, VarioCam®, PCM®, 911®, 4S®, FOUR, UNCOMPROMISED.® and the model numbers and the distinctive shapes of the Porsche automobiles such as, the federally registered 911 and Boxster automobiles. The third party trademarks contained herein are the properties of their respective owners. Porsche Cars North America, Inc. believes the specifications to be correct at the time of printing. Specifications, performance standards, standard equipment, options, and other elements shown are subject to change without notice. Some options may be unavailable when a car is built. Some vehicles may be shown with non-U.S. equipment. Porsche recommends seat belt usage and observance of traffic laws at all times. Printed in U.S.A.



## **PIWIS III Hardware Purchase, Software License, and Access Agreement**

This PIWIS III Hardware Purchase, Software License, and Access Agreement (“Agreement”) is entered into as of

(Effective Month/Day/Year): \_\_\_\_\_ >> (“Effective Date”), between Porsche Cars North America, Inc., a Delaware corporation (“PCNA”), and

(IRF Full Legal Name): \_\_\_\_\_,

a/an (IRF Charter State): \_\_\_\_\_ (IRF Entity Type) \_\_\_\_\_  
 (“Independent Repair Facility”).

In consideration of the mutual promises made herein, and for other good and valuable consideration, the parties hereby agree as follows:

### **1. Background.**

- 1.1. PCNA imports Porsche® brand automobiles and replacement parts into North America for distribution and resale through its authorized Dealer network (collectively, the “Dealerships”).
- 1.2. PCNA has developed a diagnostic information system commonly referred to as the “Porsche Integrated Workshop Information System” (“PIWIS”) for use by Dealerships and Independent Repair Facilities, which will be implemented in stages to be determined by PCNA.
- 1.3. Independent Repair Facility is an independent auto repair shop located in the United States of America or its territories (“USA”) or Canada that seeks access to PIWIS in connection with the repair and service of Porsche® series-production cars (including model series no longer produced) and related parts.
- 1.4. PIWIS is now in its second phase, referred to hereafter as “PIWIS III.”

### **2. Subject of this Agreement.**

- 2.1. PCNA shall provide Independent Repair Facility with the PIWIS III Tester package, which is comprised of the following: the PIWIS III Tester hardware (“Hardware”) and related software (“Software”) described in the system specification attached as **Appendix 1** (the “System Specification”) for the sole purpose of operating the PIWIS III Tester.
- 2.2. PCNA shall sell the Hardware to Independent Repair Facility, and through one or more of its Dealerships shall provide installation and support services for the PIWIS III Tester setup at the time of purchase as set forth on the System Specification.

2.3. PCNA shall grant Independent Repair Facility a renewable one (1) year license to use the Software for use in operating the PIWIS III Tester.

2.4. The Hardware and Software are an integrated system provided to Independent Repair Facility solely for the use specified in this Agreement and in the System Specification.

2.5. PCNA shall grant Independent Repair Facility a non-exclusive, non-transferable license to use the Software for its internal use only on the terms set forth in Article 7. PCNA shall retain all rights of ownership in the Software and the data contained therein.

2.6. Independent Repair Facility shall pay the annual license fee set forth in Appendix 3 for use of the Software on the terms set forth in Article 13.

2.7. Purchase of the PIWIS III Tester by the Independent Repair Facility (IRF) entitles the purchasing IRF to all updates within the annual scope of their current PIWIS III subscription, up to and including the purchase anniversary date. If however the Independent Repair Facility fails to renew its PIWIS III license, all online updates for the PIWIS III Tester will cease being transmitted on the day after the subscription ends and the PIWIS III Tester will become non-functional for any purpose. Cessation of functionality can and will occur at any time from the first day to the 90th day from the last update.

2.8. In cases where an IRF allows its PIWIS III Tester subscription to lapse, a grace period of seven calendar days will ensue dating from the day immediately following the PIWIS III Tester purchase date anniversary, during which time the IRF will be allowed to renew its PIWIS III Tester subscription without penalty. If the purchasing IRF does not renew its subscription by close of the seventh day after its subscription anniversary date and then requires restarting of its subscription, a fee of \$2000 payable to PCNA is required for renewal of the IRF's PIWIS III License. This fee covers the cost of updating and restoring the PIWIS III Tester to functional condition. Until this fee is paid, neither PCNA nor its authorized dealer(s) will be responsible in such cases for restoration and update of the IRF's PIWIS III Tester.

### **3. Sale of Hardware for PIWIS III Tester.**

3.1. PCNA shall through one of its Dealerships sell and deliver the Hardware to Independent Repair Facility in accordance with the conditions set forth in the System Specification for the PIWIS III Tester and system operating instructions.

3.2. Payment terms are set forth in Section 13.

3.3. Title to the Hardware shall remain with PCNA until all payments by Independent Repair Facility in accordance with Section 13 have been made in full, and, until such time, Independent Repair Facility may not resell, lease, or otherwise dispose of the Hardware.

### **4. Delivery of Hardware for PIWIS III Tester.**

4.1. Upon execution and return of this Agreement, PCNA shall through one of its Dealerships deliver the PIWIS III Tester to Independent Repair Facility in the USA or Canada, on the date listed in the System Specification.

4.2. The PIWIS III Tester will be placed by the Independent Repair Facility in an area that meets PCNA operating standards.

4.3. Before Independent Repair Facility uses the PIWIS III Tester, PCNA shall assign an operation number to the PIWIS III Tester unique to Independent Repair Facility, which will identify Porsche® brand cars diagnoses performed by Independent Repair Facility.

4.4. Unless otherwise agreed, no other services except those set forth in the System Specification will be provided.

4.5. The Hardware is sold for Independent Repair Facility's exclusive, internal use at the USA or Canadian location set forth in the System Specification. Independent Repair Facility may use the Hardware at another location in the USA or Canada. Independent Repair Facility shall not assign, license, lease, loan, sell, or otherwise transfer the Hardware to any third party that is not an Independent Repair Facility located in the USA or Canada, which would use the Hardware at such third party's USA or Canadian facility. Any attempted assignment, license, lease, loan, sale, or transfer of the Hardware by Independent Repair Facility in violation of this Section shall be void.

## **5. Services for the PIWIS III Tester.**

5.1. PCNA shall maintain and service the PIWIS III Tester for Independent Repair Facility through the Dealerships in exchange for payment of the fees set forth in **Appendix 3**.

5.2. In exchange for the service fees, PCNA shall:

5.2.1. replace a defective PIWIS III Tester within three (3) business days after receipt of written notice that the PIWIS III Tester is defective;

5.2.2. maintain this exchange service until a subsequent PIWIS III Tester model is introduced;

5.2.3. provide service support and answer questions relating only to the setup and initial operation of the PIWIS III Tester, Monday through Friday (except holidays) between 8:00 a.m. and 6:00 p.m. Eastern Time; and

5.2.4. deliver hardware extensions necessary to diagnose Porsche® brand cars at no additional cost, as part of the annual subscription, so long as the Independent Repair Facility's annual subscription to PIWIS is current. PCNA will not provide hardware updates to former subscribers whose subscriptions have expired and are not currently renewed. PCNA reserves the right to provide all hardware updates only to those subscribers who keep their subscriptions current.

5.3. Before an authorized assignment, license, lease, loan, sale, or other transfer of the PIWIS III Tester to a third party in conformance with this Agreement (including the restrictions on transfer under Section 4.5), Independent Repair Facility shall return the PIWIS III Tester to PCNA, along with the transferee's name and address, for use in reprogramming the associated PIWIS III Tester operation number. The IRF agrees to reimburse PCNA for all fees associated with reprogramming and restoring functionality of the PIWIS III Tester in question.

## **6. Delivery of the Software.**

6.1. PCNA shall deliver the Software with the PIWIS III Tester, which shall include information previous OBD vehicles where applicable.

6.2. PCNA shall provide Independent Repair Facility with updates, upgrades, and subsequent versions of the Software as soon as PCNA has generally released them for service. PCNA, at its own discretion, may elect to make available such updates, upgrades, and subsequent versions of Software by means of online data transfer, CD-ROM or DVD.

6.3. Before delivery to Independent Repair Facility, PCNA shall at its expense test the PIWIS III Tester for defects as described in the System Specification.

## **7. Grant and Scope of Software License.**

7.1. The Software is provided for Independent Repair Facility's exclusive, internal use at the USA or Canadian location set forth in the System Specification. Independent Repair Facility may use the Software at another location in the USA or Canada. Independent Repair Facility shall not assign, license, lease, loan, sell, or otherwise transfer the Software to any third party. Any attempted assignment, license, lease, loan, sale, or transfer of the Software by Independent Repair Facility shall be void.

7.2. Software may only be used in the USA or Canada to repair and service Porsche® brand sports cars and Porsche® brand Cayenne sport utility vehicles. Independent Repair Facility may not use the Software to manipulate the vehicle data stored in any of these vehicles' ECU's during manufacture (i.e., may not change the vehicle characteristics or data).

7.3. Software may only be used on the PIWIS III Tester with the serial number listed in the System Specification. Hardware and Software are provided jointly and must be used together.

7.4. Independent Repair Facility may run the Software, but may not make copies. No back-up copies of the Software or related instruction manual are permitted; provided, however, at Independent Repair Facility's request, PCNA shall supply one (1) back-up copy, if necessary and applicable.

7.5. Independent Repair Facility shall not amend, modify, or adapt the Software; provided, however, modification is allowed to correct a Software error which PCNA has knowledge of and fails to correct within sixty (60) days after Independent Repair Facility makes written demand to correct or PCNA refuses to correct the error.

7.6. Copyright notice, serial numbers, and other features that identify the PIWIS III Tester and the Software may not be removed or changed in any manner whatsoever.

7.7. Decompilation of the Software is not permitted.

7.8. Except for the maintenance support services set forth in the System Specification, PCNA MAKES NO OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE PIWIS III TESTER, SOFTWARE, PIWIS, OR PIWIS DATA.

## **8. Modification of PIWIS III Tester and Updates.**

8.1. PCNA may modify the PIWIS III Tester at its discretion, provided such modification is intended to maintain or improve the PIWIS III Tester. For reasons of safety and security, Independent Repair Facility must always use the latest Software version.

8.2. PCNA shall provide Independent Repair Facility with Software updates as soon as these are ready for delivery. Independent Repair Facility agrees to accept and install such updates at Independent Repair Facility's expense.

8.3. PCNA may replace the PIWIS III Tester at any time with another test system corresponding to the technical requirements of Porsche® vehicle models at Independent Repair Facility's expense.

**9. PIWIS Technical Details and Service Levels.** PCNA shall provide Independent Repair Facility via the selling Dealer in reasonable time the technical details and the service levels in listed in **Appendix 2**.

**10. Grant of PIWIS III Tester License.**

10.1. PCNA hereby grants Independent Repair Facility a license to use and access the PIWIS Software at the licensed Independent Repair Facility site in the USA or Canada set forth in the System Specification.

10.2. Independent Repair Facility may print out individual items of information obtained from the PIWIS Software for Independent Repair Facility's internal use only and if provided with access.

10.3. Independent Repair Facility may not reproduce the information, or offer, distribute, or otherwise transfer such information to a third party, whether contained in computer print outs, screenshots, or copied in file form.

**11. Duties of Independent Repair Facility to Cooperate.**

11.1. Independent Repair Facility is responsible for the security, control, and overall usage of the Software and PIWIS III Tester, and seeing that its employees, contractors, and agents having access to the PIWIS III Tester and Software are trained in the proper operation of the system, use the PIWIS III Tester and Software only for the intended purpose and in the intended manner, and operate the PIWIS III Tester and Software with all due care. As part of this obligation, Independent Repair Facility shall:

11.1.1. upon request, provide all necessary documents and information regarding the computer systems, equipment, software, and software components, which will be used in conjunction with the PIWIS III Tester and Software;

11.1.2. document in comprehensible form the errors in provided services, which are ascertained during setup test or normal setup operations and inform PCNA thereof without undue delay;

11.1.3. provide, at its own cost, systems, installations, and suitably qualified personnel as required to enable provision of the services;

11.1.4. make available adequate work premises for PCNA or Dealership employees, contractors, and representatives, if required; and

11.1.5. perform all third party-licensed software and hardware recommended system maintenance services (operating system, etc.).

11.2. Independent Repair Facility shall correct all errors, either itself or in conjunction with the respective software supplier, contained in third party software products used in conjunction with PIWIS.

11.3. Independent Repair Facility shall be responsible for the security, control, and overall usage of the Software and PIWIS III Tester and related material used by its personnel. Independent Repair Facility shall exercise reasonable care in safeguarding such Software, data, and material to guarantee the security of its systems (hardware and software) and data.

11.4. The duties of cooperation specified in this Section 11 are essential contractual duties. If Independent Repair Facility is in breach of any of these duties or other duties of cooperation for which it is responsible, PCNA's duty to provide those services, which cannot be provided without such cooperation (or not without disproportionate expense) for the period of breach shall be suspended.

## **12. Duties of Independent Repair Facility.**

12.1. Independent Repair Facility shall assign at least one (1) duly qualified full time employee who has a comprehensive knowledge of the PIWIS III Tester and Software.

12.2. Independent Repair Facility shall promptly report all defects and technical faults in the PIWIS III Tester and Software to the selling Dealer. Independent Repair Facility shall report in writing the nature, extent, and effect of the defects in as much detail as possible. Independent Repair Facility shall take into account the information provided by the selling Dealer relating to problem analysis in as far as can be reasonably expected and shall forward to the selling Dealer all information which it has and which is required to remedy the fault.

## **13. Payment.**

13.1. Upon delivery of the PIWIS III Tester to Independent Repair Facility, Independent Repair Facility shall pay the following sums to the selling Dealership:

13.1.1. The PIWIS III Tester Hardware purchase price as set forth in **Appendix 3**;

13.1.2. The first contract year's Annual Maintenance and Support Fee as set forth in **Appendix 3**;

13.1.3. The first contract year's Annual Guided Fault Finding ("GFF") Software Program License Fee as set forth in **Appendix 3**; and

13.1.4. All applicable taxes and shipping charges as set forth in **Appendix 3** (and other taxes as otherwise may be imposed).

13.2. PCNA shall be entitled to increase the Annual Maintenance and Support Fee and the Annual Guided Fault Finding ("GFF") Software Program License Fee due for any subsequent contract year upon providing sixty (60) days' notice before the end of a contract year.

13.3. The Annual Maintenance and Support Fee and the Annual Guided Fault Finding ("GFF") Software Program License Fee for each subsequent contract year shall be due and payable by Independent Repair Facility to the selling Dealership before the commencement of such subsequent contract year.

13.4. All amounts listed in **Appendix 3** are expressed in USA or Canadian dollars as shown therein. Regardless of whether they are listed in full in **Appendix 3**, Independent Repair Facility shall be responsible for payment of all applicable taxes (i.e., other than on PCNA's income).

13.5. Technical advice and assistance in the event of requests relating to initial setup functionalities of PIWIS are covered by the first contract year's Annual Maintenance and Support Fee and the first contract year's Annual Guided Fault Finding ("GFF") Software Program License Fee. After completion of the initial setup, the selling Dealership is responsible for providing technical support to Independent Repair Facility.

#### **14. Rights in the Event of Defects.**

14.1. PCNA warrants delivery of the PIWIS III Tester and the appropriate professional performance of the associated Software are free of defects in materials and workmanship. All qualities of the services owed by PCNA shall be conclusively defined by these contractual conditions. Only significant defects shall be regarded as defects within the meaning of the provisions of this Section 14. In the event of any doubt, information relating to services owed only represents an express warranty or guarantee of properties if this is specifically provided in this Agreement.

14.2. PCNA shall not be responsible for any defects in the event Independent Repair Facility fails to fulfill its obligations set forth in Section 12.2.

14.3. Any defect in the PIWIS III Tester will be remedied by PCNA within a reasonable period after Independent Repair Facility notifies PCNA of the defect. PCNA in its sole discretion may remedy the defect by repairing such defective item or replacing the defective item at no charge to Independent Repair Facility.

14.4. In the event of a defect in the licensed Software or PIWIS III Tester sold hereunder, Independent Repair Facility may not deduct any amount from amounts due hereunder.

**15. Limitation of Liability.** PCNA shall not be liable for any indirect, special, or consequential damages, under any circumstances, including damage or loss resulting from Independent Repair Facility's inability to use the PIWIS III Tester or Software.

**16. Release from Liability in the Event of Misuse, Damage, or Loss.** Independent Repair Facility shall indemnify PCNA from all costs, claims, and all other losses (including the costs for legal action) arising from Independent Repair Facility's use of the PIWIS III Tester or the Software contrary to terms contained herein or arising from Independent Repair Facility's misuse of the PIWIS III Tester or the Software for purposes other than those provided for in this Agreement, or from damage or loss to the PIWIS III Tester or the Software after Independent Repair Facility's receipt thereof from PCNA.

#### **17. Software Terms.**

17.1. The Software license shall be for a one year period and shall be extended by renewal of the Software license for successive one-year terms unless either party delivers written notice of termination at least six (6) weeks before the end of the initial or renewal term. If the IRF allows its PIWIS III Software license to lapse through failure to renew on the purchase anniversary date, PCNA is under no obligation to update and restore the IRF's PIWIS III Tester Software at a later date.

17.2. In the event of new developments or modifications to the PIWIS III Tester or the PIWIS Software, PCNA shall inform Independent Repair Facility within a reasonable period that a new system will be introduced. Independent Repair Facility is entitled to purchase this new system on the basis of a new agreement to be concluded. From the announcement of the new system, no further Software updates to



the then-current system shall be made. PCNA is also entitled to terminate this Agreement prematurely without liability upon announcement of a new system, with three (3) months' prior written notice to Independent Repair Facility.

17.3. PCNA may immediately terminate this Agreement if any of the following events occurs:

17.3.1. Independent Repair Facility misuses the PIWIS III Tester for non-approved adjustment of vehicle qualities or vehicle data;

17.3.2. Independent Repair Facility transfers or allows unauthorized third parties to use the Hardware or Software in violation of this Agreement;

17.3.3. Independent Repair Facility otherwise exceeds the rights of use set forth herein;

17.3.4. Independent Repair Facility is in default with the payment of the purchase price, the license fee, or a significant part of the purchase price or the fee;

17.3.5. Independent Repair Facility breaches the confidentiality obligations set forth herein;

17.3.6. A third party brings legal proceedings against Independent Repair Facility or PCNA based on Independent Repair Facility's use of third party software; or

17.3.7. Independent Repair Facility becomes subject to any bankruptcy or insolvency proceeding.

17.4. Notice of termination must be given in writing to be valid.

## **18. Consequences of Agreement Expiration or Termination.**

18.1. Upon expiration or termination of this Agreement for whatever reason, Independent Repair Facility shall return the Software to PCNA on the original storage media, including all related instruction manuals and any back-up copies. PCNA has no obligation to repurchase the PIWIS III Tester from Independent Repair Facility; however, should PCNA allow Independent Repair Facility to return the PIWIS III Tester, PCNA shall pay Independent Repair Facility an amount mutually agreed by the parties before any such return.

18.2. Upon expiration or termination of this Agreement for whatever reason, Independent Repair Facility's Software license shall terminate, and Independent Repair Facility shall promptly destroy all CD, DVD, or other copies made to other copy-media of the Software outside the PIWIS III Tester and provided by PCNA. PCNA will hold Independent Repair Facility responsible for any unauthorized transfer or use of Software provided by PCNA or its agents.

18.3. Independent Repair Facility's duties pursuant to Sections 16 and 19 shall not be affected by the expiration or termination of this Agreement.

## **19. Nondisclosure Obligations.**

19.1. Confidential Information and Trade Secrets. Independent Repair Facility may receive or have already received Confidential Information and Trade Secrets from PCNA in discussions regarding this Agreement, and the transactions and other activities contemplated hereunder, the disclosure of which would cause PCNA irreparable harm.

19.2. "Confidential Information" means any information that is valuable to PCNA and is not generally known by the public and any information defined as a Trade Secret, which is found by a court of

competent jurisdiction not to rise to the level of a Trade Secret. The term “Confidential Information” as used herein also includes any information, work papers, analyses, compilations, projections, studies, documents, terms, conditions, correspondence, facts, or other materials derived or produced by Independent Repair Facility or its partners, agents, employees, and other authorized representatives (collectively, its “Representatives”). The term “Confidential Information” as used herein does not include any information which (a) is already known to the public or Independent Repair Facility before disclosure by PCNA, (b) is subsequently made known to the public without any violation of this Agreement, (c) is rightfully received by Independent Repair Facility from a third party without similar restriction and without breach of this Agreement, or (d) is independently developed by Independent Repair Facility without breach of this Agreement.

19.3. “Trade Secret” means any technical or non-technical information, without regard to form, which (a) derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

19.4. Proprietary Information. “Proprietary Information” means, collectively, Confidential Information and Trade Secrets. Each party agrees that the terms of this Agreement are included within PCNA’s Proprietary Information. Independent Repair Facility acknowledges, accepts, and agrees that (a) the Proprietary Information is non-public and confidential and shall remain at all times the property of PCNA, (b) the disclosure of the Proprietary Information to Independent Repair Facility is for the sole purpose of enabling Independent Repair Facility to perform under this Agreement, (c) Independent Repair Facility shall not assert directly or indirectly any right with respect to the Proprietary Information which may impair or be adverse to PCNA's ownership thereof, and (d) Independent Repair Facility will not make use of any portion of the Proprietary Information or make reference in any way to this Agreement in any of its own sales, marketing, or product development efforts and will not solicit any employees of PCNA to leave PCNA or to become employed by Independent Repair Facility. Independent Repair Facility understands that PCNA makes no representation or warranty, express or implied, as to the accuracy or completeness of its Proprietary Information, and Independent Repair Facility agrees that PCNA shall have no liability to Independent Repair Facility or any other party resulting from any use or reliance on the Proprietary Information, except as otherwise provided in this Agreement. All Proprietary Information (including tangible copies and computerized or electronic versions thereof), except for that portion which consists of work papers, analyses, compilations, comparisons, studies, or other similar documents prepared by Independent Repair Facility, shall be returned to PCNA or destroyed by Independent Repair Facility, as appropriate, if requested by PCNA. That portion of the Proprietary Information which consists of work papers, analyses, compilations, comparisons, studies, or other similar documents prepared by Independent Repair Facility shall be held by Independent Repair Facility, as appropriate, and kept confidential as provided above, or shall be destroyed by Independent Repair Facility, as appropriate. To the maximum extent permitted by applicable law, any Proprietary Information supplied by PCNA to Independent Repair Facility before the execution of this Agreement and which is subject to disclosure restrictions in a prior agreement between the parties hereto, shall remain subject to such disclosure restrictions in any such prior agreement, or to the provisions of this Section of this Agreement, whichever is more restrictive. Otherwise, the parties agree that such previously disclosed Proprietary Information shall be governed by the terms and conditions set forth in this Section.

19.5. Disclosure Restrictions. Independent Repair Facility agrees that, upon expiration or earlier termination of this Agreement and for three (3) years thereafter with respect to Confidential Information and, with respect to Trade Secrets, for so long as such information remains a Trade Secret, Independent

Repair Facility will hold PCNA's Confidential Information and Trade Secrets in strict confidence and shall not disclose such information, in whole or in part, to any person (a) other than its Representatives who need to know such information in connection with Independent Repair Facility's performance under this Agreement, without the prior written consent of PCNA, or (b) as otherwise required by regulatory or legal authority; provided, however, that Independent Repair Facility being required by regulatory or legal authority to disclose such information shall first provide PCNA written notice of such request for information requiring disclosure of Proprietary Information (which could include the existence of or the terms of this Agreement). Independent Repair Facility agrees to inform its Representatives of the confidential nature of the Proprietary Information and to require its Representatives to keep such information confidential. The provisions of this Section shall survive termination or expiration of this Agreement.

19.6. **Publicity.** Independent Repair Facility shall not at any time use PCNA's name or the name of any PCNA parent, subsidiary, or affiliate company or their respective trademarks, service marks, trade dress, or trade names in any advertising or publicity without the prior written consent of PCNA.

19.7. **Remedies for Breach.** Each party agrees that money damages would not be a sufficient remedy for any breach of this Section of this Agreement and that PCNA shall be entitled to seek injunctive or other equitable relief to remedy or prevent any breach or threatened breach of this Section of this Agreement by Independent Repair Facility or any of its Representatives. Such remedy shall not be the exclusive remedy for any breach of this Section of this Agreement, but shall be in addition to all other rights and remedies available at law or in equity.

**20. Compliance with Laws.** Independent Repair Facility agrees that in carrying out its duties and responsibilities under this Agreement, it will neither undertake nor cause, nor permit to be undertaken, any activity which either (a) is illegal under any law, decree, rule, or regulation in effect in either the USA or foreign country if applicable; or (b) would have the effect of causing Independent Repair Facility to be in violation of any law, decree, rule, or regulation in effect in either the USA or foreign country, if applicable.

**21. Miscellaneous.**

21.1. Independent Repair Facility shall not describe, refer, advertise, or otherwise hold itself out to the public that it is an authorized Porsche Independent Repair Facility or similar facility. Independent Repair Facility obtains no right or license to use the PORSCHE crest or any other Porsche trademarks, service marks, trade dress, or trade names.

21.2. Neither party may assign its rights or obligations hereunder without the prior written consent of the other party. Notwithstanding this prohibition, PCNA may assign its rights or obligations under this Agreement to any parent, subsidiary, or affiliate company in its sole discretion.

21.3. Neither party shall be considered to be in default in the performance of its obligations under this Agreement to the extent that the performance of any such obligation is prevented or delayed by any cause which is beyond the reasonable control of the affected party. Such causes shall include an act of God, strike, lockout, riot, act of war, governmental regulation superimposed after the fact, earthquake, or other catastrophe. The affected party's time for performance hereunder shall be extended by delays caused by force majeure.

21.4. Independent Repair Facility may not deduct any setoff, counterclaim, or indemnification right arising out of this Agreement or any other agreement with PCNA from payments due PCNA hereunder.

21.5. Notice. Required communications to the other party (“Notice”) shall be in writing. Notice is made by delivery to the other party at its address below, with receipt acknowledged (or refusal to accept delivery established), in person or by a next-day mail or delivery service. The party entitled to Notice may waive it in writing. Notice is effective when received (or delivery acceptance is refused). A copy of the Notice (which shall not constitute Notice) shall be promptly sent by fax and e-mail.

Porsche Cars North America, Inc.	IRF Notice Name:
One Porsche Drive	IRF Street Address:
Atlanta, GA 30354	IRF City State Zip:
Attn:	Attn:
Fax:	Fax:
E-mail:	E-mail:

21.6. Waiver. None of the following is a waiver of a party’s rights under this Agreement: failure to exercise any right, power, or remedy under this Agreement or otherwise; failure to insist on compliance by the other party; or custom or practice of the parties inconsistent with this Agreement. The party entitled to the benefit of any part of this Agreement may waive it in writing.

21.7. References. References to Sections are to corresponding parts of this Agreement. Section headings are for reference only. References to Appendices are to Appendices attached to and incorporated into this Agreement. Unless expressly stated otherwise, references to “include” or “including” mean “including without limitation,” references to the singular include the plural, references to “it” include “him” or “her” as the case may be, references to “its” include “his” or “her” as the case may be, and references to “or” include “and.”

21.8. Interpretation. Whenever possible, each part of this Agreement shall be interpreted as effective and valid. If any part of this Agreement is found invalid, illegal, or unenforceable in any jurisdiction, the invalidity, illegality, or unenforceability shall not affect any other part of this Agreement in that jurisdiction, and this Agreement shall be enforced in that jurisdiction as if this Agreement never contained the invalid, illegal, or unenforceable part.

21.9. Governing Law and Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of Georgia, USA, without regard to its conflicts of laws principles. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. Any disputes not resolved by the parties shall be decided by a court of competent jurisdiction located in Georgia, USA.

21.10. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one single agreement between the parties.

21.11. Entire Agreement. This Agreement, including Appendices 1, 2, and 3 constitutes the entire agreement between the parties concerning its subject matter. It supersedes all their earlier written and oral agreements and understandings about its subject matter. It does not negate any written agreement by the parties signed as of or after the Effective Date. This Agreement may be modified only by a writing signed by both parties.

Agreed as of the Effective Date:

**PORSCHE CARS NORTH AMERICA, INC.**

**IRF FULL LEGAL NAME:**

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**The attached appendices are integral parts of this Agreement:**

**Appendix 1:** System Specification

**Appendix 2:** Technical details and service levels for PIWIS

**Appendix 3:** PIWIS III Tester and PIWIS Software Pricing Structure

## Appendix 1: System Specification

Name of Independent Repair Facility: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City, State (Province), Zip Code (Postal Code): \_\_\_\_\_  
Location of Service: \_\_\_\_\_  
\_\_\_\_\_  
Contact: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
E-mail: \_\_\_\_\_

PIWIS III Tester, including diagnostic Software with Guided Fault Finding (“GFF”):

<b>Conditions for the PIWIS III Tester:</b>	
<b>Serial ID number of the PIWIS III Tester – to be entered by PCNA only:</b>	<b>Estimated date of delivery</b>
	two business days

<b>Conditions for the Software of the PIWIS III Tester:</b>
<b>Latest available updates are installed in the Tester before shipment. Future updates will be shipped to Independent Repair Facility when they become available</b>

Independent Repair Facility shall receive the following operation number to be entered into the PIWIS III Tester: \_\_\_\_\_

Re: dba or Business Entity Name:

\_\_\_\_\_  
\_\_\_\_\_

Further details on the purpose of use or site of installation (if appropriate, location of business):

\_\_\_\_\_  
\_\_\_\_\_

System prerequisites to be organized by Independent Repair Facility:

\_\_\_\_\_  
\_\_\_\_\_

## **Appendix 2: Technical details and service levels of PIWIS**

### **Literature:**

Instructions and details enclosed with PIWIS III Tester unit.

Also, all contractual references are between PCNA and the Dealership.

### **Support:**

The Hardware will be supported by PCNA AfterSales Support Group during initial setup only. Independent Repair Facility shall return a non-functional (defective) PIWIS III Tester unit to the following address:

Porsche Cars North America, Inc.  
One Porsche Drive  
Atlanta, Georgia 30354  
Attn.: AfterSales PIWIS Tester Support

Independent Repair Facility will be sent a replacement PIWIS III Tester within 36 hours after receipt of the non-functional (defective) unit.







# Independent Repair Facility (IRF) Acknowledgement Form

(For PIWIS III Tester Requests and Hardware/Software/GFF Support)

Recommended PIWIS III Tester Units by IRF Technician:

Porsche Recommendation: one tester for every two technicians

## PIWIS III Tester:

IRF Technicians, Actual: \_\_\_\_\_

PIWIS III Testers Requested (Qty.): \_\_\_\_\_

PIWIS III Testers Shipped (Qty.): \_\_\_\_\_

**Note:** New PIWIS III Tester hardware will be sent to Porsche dealer within 14 days from receipt of returned PIWIS Agreement.

IRF Principal / GM Signature: \_\_\_\_\_

Porsche Dealer Contact Person /  
Porsche Service Manager or  
Porsche Parts Manager: \_\_\_\_\_

**PCNA Copy: Original      Dealer Copy: Make photocopy      IRF Copy: Make Photocopy**