SOUTH CAROLINA DEPARTMENT OF MOTOR VEHICLES
ELECTRONIC VEHICLE REGISTRATION (EVR) SERVICE PROVIDER CONTRACT/NON-DISCLOSURE AGREEMENT

This Contract is entered into between _____ hereinafter referred to as the "Service Provider" and the South Carolina Department of Motor Vehicles, hereinafter referred to as "Department" or "SCDMV". This contractual period will begin on the date it has been signed by both parties and unless otherwise terminated pursuant to this agreement shall undergo a comprehensive review every five years. This review will ascertain that the terms of the agreement remain in alignment with the South Carolina Electronic Vehicle Registration (EVR) Program Standards, hereafter referred to as "Program Standards", adhere to industry best practices, and subsequent changes in applicable laws. Notwithstanding termination, nothing in this contract shall be interpreted as terminating Service Provider's continuing responsibilities and obligation regarding any retained vehicle or personal data set forth in this contract.

The SCDMV and Service Provider, in consideration of their mutual duties and responsibilities as set forth in this contract, agree to the following terms and conditions. The SCDMV has established the ELECTRONIC VEHICLE REGISTRATION (EVR) PROGRAM, hereinafter referred to as the "EVR Program" which will allow approved dealers and participants, through the Service Provider, to apply for title and registration documents for their customers.

The Service Provider shall use a computerized interface which shall allow an approved dealer or participant to provide their customers the following services: receiving applications for title and/or registration of a motor vehicle; requesting motor vehicle license plates and/or decals on the customers' behalf, to be mailed to the customers. The validity of the requested transactions is subject to receipt by SCDMV of all fees, taxes, penalties, and other monies due to SCDMV, subject to the conditions hereinafter set forth.

1. RESPONSIBILITIES OF THE SERVICE PROVIDER

The SCDMV has established Program Standards for the operation of the EVR Program for approved dealers and participants. The Program Standards are hereby incorporated herein as though repeated verbatim.

The Service Provider shall monitor the dealer or participant's performance in accordance with the Program Standards and immediately report any discrepancies or violations to SCDMV.

The Service Provider shall provide the requisite training, especially security training as more fully set forth below to all dealers, participants, and their authorized users, in addition to any training required by the SCDMV.

The Service Provider shall attend any training or workshops required by SCDMV.

In exchange for access to SCDMV data, as described in Section 2. below, the Service Provider agrees to pay to SCDMV the amount of $2.50 fee per each completed transaction defined as: completion of title transaction, completion of Update 2 (UPD2) for dealer transactions of title and registration upon purchase of vehicle, and issuing a 45-Day traceable temporary tag for Out-of-State customers.

The Service Provider shall deposit, through the electronic network, all monies owed to SCDMV and collected by the approved dealers and participants to the credit of SCDMV with the Treasurer of the State of South Carolina through SCDMV designated bank or financial institutions.

The Service Provider shall submit all reports, including daily activity reports, financial reports, and such other reports as may be required by the Program Standards and in all other respects to comply with the Code of

Laws for the State of South Carolina.

The Service Provider shall receive, securely store, account for, and be fully responsible for such items of value as may be entrusted to the Service Provider by SCDMV. In general, the Service Provider will not handle inventory but will facilitate direct delivery of inventory from SCDMV. The parties to this contract recognize, however, that there may be specific instances, such as auto rental and leasing company businesses, which routinely sell from their fleets to third party purchasers, in which it may become necessary for the Service Provider to acquire and maintain inventory such as license plates, registration certificates and year decals. If the Service Provider engages in such business arrangements, items of inventory will be subject to the requirements of this paragraph and the Service Provider will be responsible for such items. Such inventory will likewise be subject to the bonding provisions of Section 7, below.

The Service Provider shall be responsible for all uncollected funds resulting from transactions processed by it as an EVR Service Provider and shall reimburse SCDMV for any such uncollected funds.

The Service Provider has the right to impose monthly participation fees, standard transaction inquiry and transaction fees on dealers and participants. Additionally, the Service Provider may charge other fees for utilizing EVR and transferring fees and other monies to SCDMV or other entities as specified in its agreements with dealers and participants.

Apart from protected vehicle data and personal information later discussed herein, the Service Provider shall also safeguard and protect from disclosure to third parties any information provided by the SCDMV which the Service Provider knows, understands, or is marked by the SCDMV to be confidential, restricted, or sensitive. Such items include, but are not limited to, system architecture, protocols for accessing SCDMV data, or items clearly proprietary to the exchange of data between the SCDMV and a Service Provider.

2. RESPONSIBILITIES OF SCDMV

SCDMV agrees to make available to the Service Provider direct on-line access to vehicle data to allow the Service Provider to provide dealers and participants with EVR services. Access to SCDMV vehicle data by the Service Provider, and by the Service Provider to dealers and participants pursuant to this section shall be solely for fulfilling the purpose of this contract. SCDMV warrants that it has all necessary statutory authority to grant such access and to allow for the provision of EVR in the State of South Carolina. “Vehicle data” means the vehicle registration, vehicle title, and customer records of SCDMV maintained in the SCDMV database and data storage systems.

The access to and use of SCDMV vehicle data by the Service Provider, dealers, and participants is limited to the completion of EVR transactions, as specified in the Program Standards.

SCDMV and Service Provider agree that the Service Provider, in providing EVR services within the scope of this contract and the Program Standards as amended from time-to-time, is acting on behalf of the SCDMV. In this capacity, the Service Provider is carrying out a function of SCDMV as contemplated by Section 2721(b)(1) of the Federal Driver’s Privacy Protection Act (“DPPA”), and related South Carolina driver privacy legislation and all successor legislation.

3. ACCURACY OF DATA TRANSMISSION

THE SCDMV MAKES NO REPRESENTATION WITH RESPECT TO AND DOES NOT WARRANT ANY INFORMATION PROVIDED UNDER THIS AGREEMENT, BUT SHALL FURNISH SUCH IN GOOD FAITH. WITHOUT RESTRICTING THE GENERALITY OF THE FOREGOING, SCDMV MAKES NO REPRESENTATIONS OR WARRANTIES, WHETHER WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED WITH RESPECT TO THE INFORMATION WHICH MAY BE PROVIDED HEREUNDER, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR

PURPOSE. SCDMV SHALL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE WHATSOEVER RESULTING FROM RECEIPT OR USE OF THE INFORMATION BY THE SERVICE PROVIDER.

Provided that the Service Provider did not make any changes to the information received or transmitted, nothing in this contract shall be construed to create, on the part of the Service Provider, any duty to make any inquiry regarding the actual accuracy of any information received and transmitted by Service Provider, completely and without substantive change.

4. AUDIT AND AUDIT REIMBURSEMENT

The Service Provider acknowledges and agrees that the Department, or an independent auditor selected by the Department, may audit the performance of the Service Provider, its customers, and subcontractors under this Contract, to include follow up audits if discrepancies or deficiencies are found. The degree and conduct of any such audit, and the frequency of such audits, will be at the sole discretion of the Department and will focus on compliance with the terms of this Contract. The Service Provider agrees to assume responsibility for the actual costs of all such audits and will submit payment for audit within thirty (30) calendar days of receipt of an invoice. The Department agrees that costs to the Service Provider for such audits will not exceed one hundred and twenty-five thousand dollars ($125,000.00) total in every three (3) year period. The Service Provider agrees to cooperate fully with the Department's auditors and agrees to be directly responsible for conducting any audits of its customers and subcontractors.

The Service Provider agrees to be directly responsible for conducting privacy and security reviews and audits of its customers and subcontractors and shall require security protocols that are equal to or exceed the security requirements and protocols as specified in and required by this agreement.

The Department or an independent auditor selected by the Department will consider the findings of any independent third-party audits, including but not limited to a Systems and Operational Controls II (SOC2) audit provided to the Department by the Service Provider in conjunction with its audit. The cost of any independent third-party audits shall be the sole responsibility of the Service Provider.

In addition, the Department may request and be provided access to any audit reports on the Service Provider, or that the Service Provider has performed, or had performed, on customers or subcontractors who have had access to the Department's data. If, as the result of reviewing any such audit reports the Department's auditors see items of concern, the Department may request an audit of the customer or subcontractor in the areas of concern, at the expense of the Service Provider.

The Service Provider certifies that all its applicable subcontractor and customer contracts include privacy agreements that are substantially the same as this Contract including, but not limited to, audit authority. At the request of the Department, the Service Provider will provide to the Department samples of its various subcontractor and customer contracts or agreements that contain privacy clauses. In addition, upon thirty (30) days written request by the Department, the Service Provider will provide the Department with copies of any privacy agreements that the Service Provider has entered with subcontractors or customers related to receipt of the Department's data.

5. RETENTION OF RECORDS

The Service Provider shall maintain and retain all records and documents relating to an EVR transaction for five years from the time it takes place and shall make them available for inspection and audit by SCDMV and authorized representatives of the State, including the Procurement Officer or designee, during normal business hours without advance notification.

6. INFORMATION ACCESS AND NONDISCLOSURE

The parties hereby acknowledge that pursuant to this agreement, the Service Provider will obtain access to personally identifiable information (PII) either from the SCDMV directly or customer data obtained through Dealers and other participants. For purposes of this agreement, PII has the same meaning as the definition of

"personal information" and "highly restricted personal information" as found under the DPPA. All PII shall remain the sole property of the SCDMV.

The parties agree that some, if not all, of this information is of a personal nature, which the parties understands to mean any information that identifies or describes an individual including, but not limited to, an individual's name, home address (excluding zip code), date of birth, driver identification number, customer number, height, weight, race, and other physical details.

The Service Provider must comply with this agreement and all federal and state laws governing the disclosure, protection, and use of personal information, including but not limited to the Driver Privacy Protection Act, ("DPPA"), 18 USC §§ 2721 *et seq*.; and privacy provisions enacted by the State of South Carolina, SC Code §§56-3-510 to -540 and §§30-4-160 and -165; The Service Provider shall not disclose, sell, or otherwise transfer personal information obtained pursuant to this contract to any third party for any purpose not expressly authorized by law and any successor laws or regulations adopted by the State of South Carolina, Federal law, SCDMV Policy and SCDMV Program Standards with regard to disclosure or dissemination of any information obtained from SCDMV records or files.

By signing this contract, the Service Provider warrants that the signatory and all of its participating personnel are familiar with and shall abide by all provisions of the Federal Driver Privacy Protection Act of 1994, 18 U.S.C §§ 2721, *et seq.,* and the South Carolina Freedom of Information Act in the S. C. Code of Laws Ann. §§ 30-4-10, *et seq.,* and the Family Privacy Protection Act of 2002, §§30-2-10, *et seq.,* which further limit the use and access to personal information in South Carolina.

The Service Provider shall keep a record for a period of five years of person(s) to whom the information is disclosed and the purpose for which the information is to be used, and to make the record available to SCDMV upon request.

7. LIABILITY AND LIMITATION OF LIABILITY

The Service Provider shall indemnify SCDMV for and against any and all claims, losses, damages, judgments, liabilities, or similar costs and expenses which arise in whole or in part out of the acts or omissions of the Service Provider, its employees, agents, or subcontractors, with respect to this program or the failure to abide by the terms of this Contract, including, without limitation, reasonable attorneys' fees and all other costs of defending any such action or claim.

Without limiting the foregoing in any way, the Service Provider shall not have any liability to SCDMV for any claims, losses, damages, judgments, liabilities or similar costs and expenses, except as to inventory, resulting directly or indirectly from the misappropriation or misuse by a dealer or participant for any vehicle record obtained from SCDMV, or any other act or omission of a dealer or participant, including, without limitation, any dealer's or participant's failure to abide by the program standards if (a) the Service Provider was not wilfully negligent in its duty to monitor the dealer or participant's performance in accordance with the Program Standards; and (b) the Service Provider had no notice or knowledge of such misappropriation or misuse; or (c) the Service Provider did have suspicions of the dealer or participant wrongdoing and immediately reported the suspicions and the results of any investigations to SCDMV.

The Service Provider shall provide and maintain a surety bond in the amount of one hundred thousand ($100,000.00) dollars to cover all claims, losses, damages, judgment, liabilities, audit reimbursement, out-of-pocket costs, or similar cost and expenses incurred by SCDMV owing to the loss, destruction of or the Service Provider's inability to account for inventory as set forth in Section 1., above.

In the event of a breach or threatened breach or intended breach of this Agreement by either party, the other party, in addition to any other rights and remedies available to it at law or in equity, shall be entitled to seek preliminary and final injunctions, enjoining and restraining such breach or threatened breach or intended breach.

8. CONFIDENTIALITY, INTELLECTUAL PROPERTY OWNERSHIP AND SECURITY

The Service Provider shall be responsible for safeguarding the computerized equipment, which provides access to the computerized network for approved dealers and participants, and limit access to those persons who are authorized users of the network who have been properly instructed as to their duties and responsibilities as authorized users under this Contract. The Service Provider shall implement procedures to ensure that the computerized equipment is located in an area that prevents information, including any printed copy of a vehicle record, from being viewed by persons who are not authorized to use the equipment and interface. The Service Provider shall implement procedures to ensure that any printed copy of information obtained from SCDMV files shall be destroyed when its legitimate use has ended.

By signing this Contract, the Service Provider warrants that the signatory and all of its authorized participating personnel are familiar with and shall abide by all provisions of the Federal laws affecting access to and use of computer information include, but are not limited to, the following: 15 U.S.C.S. §§271 et seq.; 40 U.S.C.S. §§759 et seq. (Computer Security Act of 1987); 23 U.S.C.S. §401 (National Driver Register Act); 5 U.S.C.S. §552a (Privacy Act of 1974); 18 U.S.C.S. §1001 Computer Fraud and Abuse Act of 1986); 17 U.S.C.S. §109 (Computer Software Rental Amendments Act of 1990); and 15 U.S.C.S. §1681 (Fair Credit Reporting Act).

The Service Provider agrees not to transfer, export, or store any SCDMV data outside the territorial boundaries of the United States without prior written consent from the SCDMV. The Service Provider agrees not to transfer, export, or store any SCDMV data outside the territorial boundaries of the United States without prior written consent from the SCDMV. Any such transfer, export, or storage shall be subject to applicable laws and regulations governing data protection and privacy.

The Service Provider agrees to abide by the following:

a. Storage: A public cloud environment shall not be used to transfer or store, temporarily or permanently, SCDMV data. The cloud infrastructure must be provisioned for exclusive use by a single organization comprising multiple consumers (e.g., business units). It may be owned, managed, and operated by the organization, a third party, or some combination of them, and it may exist on or off-premises.
b. Encryption: SCDMV data at rest and in transit must be encrypted. In conjunction with SCDMV, the Service Provider must securely determine the best way to transfer data between the Department and the Service Provider. The Service Provider must maintain key management, and a third party's control of encryption keys is not allowed.
c. Access Control: The Service Provider must have multifactor authentication procedures per NIST SP 800-63b on devices and systems that access, use, or store SCDMV data. Upon request, the Service Provider must provide reference architecture and other evidentiary artifacts.
d. Disclosure and Employee/Contractor NDA: The Service Provider will disclose SCDMV data and information only to those employees who have a need to know the information in furtherance of the contractual purpose. All the Service Provider's employees, contractors and subcontractors requiring access to SCDMV equipment, SCDMV networks, or data must individually sign a SCDMV non-disclosure agreement (NDA) before being granted access. These individuals are also required to sign a new NDA annually or any time at the discretion of the SCDMV and must sign a SCDMV NDA upon removal of access rights. If the user or contractor has an internally administered NDA acceptable to the SCDMV, an executive with signature authority for the user/contractor may sign the SCDMV NDA for the user/contractor organization.
e. Contractor VPN: All Contractor employees requiring remote access to the SCDMV network will complete a VPN request in accordance with SCDMV policy.

f. Security Awareness Training: The Service Provider must provide initial new employee and quarterly security awareness training to all employees, including contractors, who access SCDMV equipment, the SCDMV data network, or SCDMV data, and provide documentation of that training to SCDMV upon request. Training must stress protecting accounts and devices providing access to the SCDMV data with an emphasis on password protection. Training shall include, but not be limited to protecting credentials, ransomware, and phishing attacks. Developers should undergo annual training on secure coding practices and secure code review techniques. Service Provider must self-certify completion of training by submitting a statement on company letterhead no later than July 30th of each year, commencing in the year the contract or renewal contract is signed. The statement must include a listing of the individuals' names, training dates, and the instructor or source for the training. The provider may submit a report showing this information in lieu of a statement on company letterhead.

g. Background Checks: All Service Providers or contractor employees requiring access to SCDMV equipment, SCDMV networks, or data must undergo employee background checks. Any person with criminal convictions for crimes involving fraud or dishonesty shall be prohibited from accessing SCDMV records.

h. Penetration Testing: The Service Provider must conduct penetration testing exercises annually by employing an independent third party. Upon request, Service Provider must provide evidentiary artifacts of annual penetration tests within thirty (30) calendar days of when the request for such artifacts was made.

i. Vulnerability Management: The Service Provider must perform regular vulnerability scans of all information systems and web applications used to store, process, or transmit SCDMV data. Critical vulnerabilities discovered must be remediated within thirty (30) calendar days. Critical findings that cannot be resolved by patching, software upgrades, or operating system updates must have compensating controls implemented within thirty (30) calendar days of the finding. Service Providers may not use software, operating systems, or information systems that store, process, or transmit SCDMV data that have reached end-of-life.

j. Audit: Create and retain system audit logs and records to the extent needed to enable the monitoring, analysis, investigation, and reporting of unlawful or unauthorized system activity.

k. Disposal: The Service Provider must ensure disposal of media, digital or physical, will be in accordance with State and Federal laws, regulations, and industry best. All removable media used by Service Provider in the execution of this Agreement will be properly classified in accordance with industry accepted standards and all applicable laws, rules and regulations. All Data will be sanitized in accordance with industry best practices to ensure data is rendered inaccessible and otherwise unrecoverable. Service Provider will ensure all media containing the Department Data is disposed of using methods that ensures the Data cannot be recovered or reconstructed when the data and media is no longer used with the EVR program.

l. Security Incident: The Service Provider must establish an operational incident-handling capability for organizational systems that includes preparation, detection, analysis, containment, recovery, and user response activities. In an actual or suspected security-related incident, that may impact the Department's information systems or data containing personally identifiable information (PII), the Service Provider must notify the Department within twenty-four (24) hours after initially discovering the incident. The Service Provider will provide the Department with a written, detailed explanation of the incident, including any Department exposure, incident mitigation, and the corrective actions taken within seventy-two hours of the initial discovery of the incident. Initial notification may be telephonic to the Department point of contact, followed by a written explanation within seventy-two (72) hours. The Department reserves the right to request the offending individual(s) be removed from the Department's account. For purposes of this agreement, PII has the same meaning as the definition of “personal information” and “highly restricted personal information” as found under the DPPA.

m. Data Breach: Data provided by the Department may contain customer personally identifiable information (PII). The Service Provider will alert the Department if it has any reason to believe that PII has been compromised. The Service Provider will alert the Department by calling within twenty-four

(24) hours of the initial discovery of the incident, followed up by a written detailed explanation within seventy-two (72) hours. The description must include details specific to any PII that was, may have been, or may yet be compromised and incident mitigation and corrective actions taken to protect PII against unauthorized access, use, or disclosure.

Notices for Security Incident or Data Breach must be sent to:

E-mail:	ISONotify@dmv.sc.gov
Primary Phone:	(803) 240-6932
Alternate Phone:	(803) 766-8659

The Department will restore data access upon satisfactory review of a third-party attestation surrounding the facts and remediation of the security incident.

9. GENERAL NOTICE

Except as provided in Section 8 regarding Notice for Security Incident or Data Breach, any notice given pursuant to this Contract must comply with this Section. The notice must be in writing and the notice date is determined as follows: (1) if by email, the notice date is the day the notice is acknowledged as received in writing by the addressee; or, (2) if by mail, the date is determined by whichever happens first, either when the notice was received by the addressee or five (5) business days after mailing the notice to the addressee listed below. For purposes of notice under this contract, the notice addresses and emails are:

The notice address of the Service Provider is:

Service Provider:

Attention:

Address:

Telephone:

Email:

The notice address of the Department is:

South Carolina Department of Motor Vehicles
Attention: Procurement
Post Office Box 1498
Blythewood, South Carolina 29016
Telephone: 803-896-7858
E-mail: procurement@dmv.sc.gov

The parties are required to always keep contact information for notification purposes up to date. Each party shall notify the other of any changes to contact information for notification purposes within thirty (30) calendar days of any change.

10. CHOICE OF LAW, JURISDICTION & VENUE

This Contract was made and entered in pursuant to the laws of the State of South Carolina. The laws of South Carolina shall govern the resolution of any issue arising in connection with this Contract, including, but not limited to, all questions concerning the validity of this Contract, the capacity of the parties to enter therein,

any modification or amendment thereto and the rights and obligations of the parties hereunder. The parties agree that venue and jurisdiction for any claims and/or disputes between the User and the Department pertaining to this contract shall be in the Richland County, South Carolina, Court of Common Pleas.

11. TERMINATION

The contractual period will begin on the date it has been signed by both parties and shall be reviewed every five years to ensure the terms are in compliance with the program standards, adhere to industry best practices, and any applicable laws enacted in the future.

If SCDMV determines to its own satisfaction that the Service Provider or any of its dealers or participants have either misused or knowingly allowed the misuse of SCDMV data, SCDMV may, in addition to other penalties provided by law:

a. Terminate this Contract immediately, without regard to written notice,

b. Require the return of all files and media containing information provided by the Department,

c. Hold the Service Provider, dealer, or participant responsible for any damages arising from the misuse of the information,

d. Make publicly available the evidence of information misuse, and

e. Prosecute or seek remedies made available to SCDMV or the State.

SCDMV may suspend or terminate all access privileges of the Service Provider, dealer, or participant without a hearing upon the Service Provider, dealer or participant's breach of or failure to fulfill any responsibility established pursuant to this Contract or the program standards as they may be amended from time to time.

Furthermore, either party may terminate this agreement for any reason with thirty (30) days written notice to the other party.

12. DEALER REQUIREMENTS

Service Providers or participants interested in participating in the EVR program shall demonstrate understanding and commitment to SCDMV's EVR rules and regulations, such as:

a. Agree to forward to SCDMV all required documentation supporting the titling and registration transaction no later than twenty-four hours after finalization of the transaction,
b. Submit legible coversheets and documents,
c. Submit all required documents in EVR Documentation Order and the transaction should be in the order of the bundle report when bundled,
d. Not staple required documents, and
e. Work with the SCDMV quality assurance team, the Service Provider, or participant, when necessary, to correct and improve transaction processing.

13. TESTING REQUIREMENTS

For EVR program enhancements, the Service Provider will receive technical specifications six weeks prior to implementation from SCDMV. During those six weeks, SCDMV will coordinate a testing cycle with the Service Provider and the Service Provider must ensure stability of the program before enhancements are promoted to production.

14. ASSIGNMENT

The Parties' rights and obligations under this Agreement may not be transferred or assigned without the prior written consent of the other Party. Any attempt to do so without such consent will be null and void.

15. MODIFICATION OF THIS CONTRACT

This Contract is subject to change and modification due to changes in the SCDMV's procedures, the issuance of court orders, or changes in state or federal laws, rules, and regulations. If the Department changes its procedures, court orders are issued, or the laws, rules, or regulations change such that the terms of this agreement must be modified, the Service Provider, whenever possible, will be notified at least thirty (30) days in advance of such changes or modifications and the Service Provider may, at its option, immediately terminate this Contract.

This Contract can be modified by either party in any manner through mutual agreement. All changes to the Contract must be submitted through written amendment which has been executed by all parties.

This Contract anticipates periodic modifications of the security rules and edits noted above. This Contract will not need to be amended solely to accommodate such modifications.

IN WITNESS HEREOF, the parties hereto have caused these presents to be executed.

_____

NAME OF SERVICE PROVIDER

_____

Authorized Representative (*print name*)

_____

Authorized Representative (*signature*)

_____

Authorized Representative's Corporate Title

_____

Date

_____

SSN or Taxpayer Identification Number

SOUTH CAROLINA DEPARTMENT OF MOTOR VEHICLES

_____

Adam Wagnblas, Director of Administration

_____

Date