

Receiving Party Name: \_\_\_\_\_

Account # \_\_\_\_\_

SOUTH CAROLINA DEPARTMENT OF MOTOR VEHICLES

**INFORMATION RELEASE AGREEMENT  
(ELT PROGRAM)**

(Please type or print in ink)

This agreement is entered into between \_\_\_\_\_, hereinafter referred to as the "Receiving Party", and the South Carolina Department of Motor Vehicles, hereinafter referred to as the Department or DMV. The agreement period will begin on the date it has been signed by both parties and will remain in effect as long as the Receiving Party continues to obtain personal, confidential or restricted information from the Department's records.

The Receiving Party and the Department have entered into this agreement as a supplement to the ELT Program Contract, by which the Receiving Party will obtain certain information, documents, and/or files from the Department for a fee. The specific information, documents, and/or documents requested by the Receiving Party contain personal information about Department customers.

The definitions of the term "personal information" vary in the laws cited below. As a summary for the purposes of this agreement, the Receiving Party understands that the term "personal information" means information that identifies or describes an individual including, but not limited to, social security number, 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 Department will or may also disclose certain additional information to the Receiving Party which is confidential or restricted, including but not limited to computer hardware or software, computer system architecture, intellectual property, trade secrets, copyrighted material, trademarks or service marks or data pertaining to any of them. The terms "confidential" and "restricted" as used in this Agreement shall have the meanings attributed to them in the South Carolina Department of Administration's Information Security Policy on Data Protection and Privacy, 1.1 Data Classification.

Whereas, when the Receiving Party is not a consumer or direct user of the personal information covered by this Agreement; rather, it obtains such records for the purpose of creating products containing both personal and non-personal information for its customers. The Receiving Party certifies that those customers are and will be entitled to personal information obtained from the Department's records, as is addressed elsewhere in this Agreement. The Department is aware that the information received by the Receiving Party will be sold, given, transferred, shared with, or otherwise made available to other persons, firms, corporations, or government agencies, based on the Receiving Party's certification herein that everyone receiving this information will be legally entitled to it. To safeguard the security of such personal information obtained from the Department, the Receiving Party certifies that it will not retain any file containing personal information in the same format as the information was received from the Department. The Receiving Party may retain any products it has created containing personal information; however, Receiving Party certifies that such products will be safeguarded in the manner contemplated by this Agreement. Further, to the extent applicable by law, the Receiving Party may retain any and all files as received from the Department as required by the Fair Credit Reporting Act and to validate compliance with federally

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mandated recalls. Further, the Receiving Party must retain written evidence of appropriate use of this information as more fully described below.

The Receiving Party certifies that its customers are and will be entitled to obtain and use personal information recorded in the driver and/or vehicle files of the Department in accordance with the Driver Privacy Protection Act (DPPA), 18 U.S.C. §§ 2721 *et seq.*. In particular, the Receiving Party claims that its customers' use of such personal data will fit the exemptions in the federal Driver Privacy Protection Act Set forth below. [The Department acknowledges that the customer information required below comprises trade secrets and is exempt from disclosure under the South Carolina Freedom of Information Act (SC FOIA). The Department will not release such customer information under the SC FOIA.

The Receiving Party will:

- a. (1) Not disclose information of Department to any other non-authorized person and  
(2) Use at least the same degree of care to maintain the Information confidential as User uses in maintaining as confidential its own confidential Information, but always at least a reasonable degree of care;
- b. Use the Information only for the purpose outlined above or as set forth in the ELT Program Contract;
- c. Restrict disclosure of the Information of the Department solely to those employees of Receiving Party having a need to know such Information in order to accomplish the Purpose stated above;
- d. Advise each such employee, before he or she receives access to the Information, of the obligations of Receiving Party under this Agreement, and require each such employee to maintain those obligations.
- e. If Information, whether on its own or comingled with other data, is subject to State or Federal retention periods, or other legally required purposes, such Information may be retained for the necessary retention period or required purpose.

The Information shall remain the sole property of The Department.

The Department 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, the Department 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. The Department 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 Receiving Party.

Neither the Receiving Party nor its employees will export, directly or indirectly, any technical data acquired from the Department or any product utilizing any such data to any country for which the

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U.S. Government or any agency thereof at the time of export requires an export licensor other governmental approval, without first obtaining such license or approval.

The rights and obligations of the parties under this Agreement may not be sold, assigned, or otherwise transferred.

To the extent that this agreement contemplates interface between Receiving Party's computer system(s) and the computer system(s) of the Department, the Receiving Party and its signatory employees (i.e. all Receiving Party employees to be given access to the Department's applications and/or the Department's Phoenix System must sign an ELT [User] Acknowledgment Form or a version of this Information Release Agreement) acknowledge that Receiving Party will have access to the Department's driver and/or registrant private information. The Receiving Party and all of its signatory employees certify that they will comply with all applicable Federal and State statutes and regulations pertaining to personal information disseminated by the Department which may include but are not limited to: the Federal Drivers' Privacy Protection Act; 18 U.S.C. §§ 2721 *et seq.*, §607 of the Federal Fair Credit Reporting Act, Public Law No. 91-508; Title VI of the Consumer Credit Protection Act; S.C. Release of Licensing And Registration Information laws, *S.C. Code Ann.* §§ 56-3-510 to -540; the S.C. Freedom of Information Act, *S.C. Code Ann.* §§30-4-160, *et seq.*; and the S.C. Family Privacy Protection Act (FPPA), *S.C. Code Ann.* §§30-2-10 *et seq.*

The Receiving Party agrees to protect the Department's confidential or restricted information and data Receiving Party has access to under this contract from breach or from unauthorized use by Receiving Party's employees, contractors, agents or representatives. In like manner, Receiving Party likewise agrees to protect the Department's private information and data Receiving Party may have previously received prior to entering this contract.

This Agreement is binding upon both parties and upon the directors, officers, employees, contractors and agents of each. The Receiving Party will disclose information only to those employees who have a need to know the information in furtherance of the purpose and who are bound by written confidentiality obligations no less restrictive than those contained in this agreement or an ELT [User] Acknowledgment Form. The Receiving Party shall be responsible for any breach of this Agreement made by any such employees or contractors as if Receiving Party itself had committed such breach. Provisions regarding the protection of privacy apply to all signatories. This Agreement is effective as of the date of execution. Receiving Party's obligations of confidentiality and restrictions on use of the information disclosed by The Department, however, shall survive termination of this Agreement.

The Receiving Party certifies that it is entitled to obtain and that its customers will be entitled to use personal information recorded in the driver and/or vehicle files of the Department in accordance with of the Driver Privacy Protection Act (DPPA), 18 U.S.C. Chapter 123. In particular, the Receiving Party claims that its use and its customers' use of such personal data will fit the following exemption(s) in the federal Driver Privacy Protection Act.

\_\_\_ 18 U.S.C. §2721(b) (1), first half, which states "For use by any government agency, including any court or law enforcement agency, in carrying out its functions." [*User must provide information about its five largest government*

*agency customers for personal information contained in South Carolina driver and/or vehicle records that will be used for this purpose, specifically names, principal addresses, and how the personal information will be used by each of those agencies that fit this exemption.]*

\_\_\_ 18 U.S.C. §2721(b) (1), second half, which states “any private person or entity acting on behalf of a Federal, State, or local agency in carrying out its functions.” [User must provide information about its five largest private customers, acting on behalf of government agency customers, seeking personal information contained in South Carolina driver and/or vehicle records that will be used for this purpose, specifically names, principal addresses, and how the personal information will be used by each of those customers that fit this exemption.]

\_\_\_ 18 U.S.C. §2721(b) (2), which states “For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; and removal of non-owner records from the original owner records of motor vehicle manufacturers.” [User must provide information about its five largest customers seeking personal information contained in South Carolina vehicle records that will be used for this purpose, specifically names, principal addresses, and how the personal information will be used by each of those customers that fit this exemption.]

\_\_\_ 18 U.S.C. §2721(b) (3), which states “For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only (A) to verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and (B) if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.” [User must provide information about its five largest customers for personal information contained in South Carolina driver and/or vehicle records that will be used for this purpose, specifically names, principal addresses, and how the personal information will be used by each of those customers that fit this exemption.]

\_\_\_ 18 U.S.C. §2721(b) (4), which states “For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court.” [User must provide information about its five largest customers for personal information contained in South Carolina driver and/or vehicle records that will be used for this purpose, specifically names, principal addresses, and how the personal information will be used by each of those customers that fit this exemption.]

\_\_\_ 18 U.S.C. §2721(b) (5), which states “For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals.” *[User must provide information about all customers for personal information contained in South Carolina driver and/or vehicle records that will be used for this purpose, specifically names, principal addresses, and how the personal information will be used by each of those customers that fit this exemption. The Department declines to grant the User blanket permission to decide which organizations are legitimate users of this exemption. Note that this exemption will be viewed very narrowly and will most probably not apply to any private, non-educational organization.]*

\_\_\_ 18 U.S.C. §2721(b) (6), which states “For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating or underwriting.” *[User must provide information about its five largest customers for personal information contained in South Carolina driver and/or vehicle records that will be used for this purpose, specifically names, principal addresses, and how the personal information will be used by each of those customers that fit this exemption.]*

\_\_\_ 18 U.S.C. §2721(b) (7), which states “For use in providing notice to the owners of towed or impounded vehicles.” *[User must provide information about its five largest customers for personal information contained in South Carolina driver and/or vehicle records that will be used for this purpose, specifically names, principal addresses, and how the personal information will be used by each of those customers that fit this exemption.]*

\_\_\_ 18 U.S.C. §2721(b) (9), which states “For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under chapter 313 of title 49 [49 USCS §§31301, *et seq.*].” *[User must provide information about its five largest customers for personal information contained in South Carolina driver and/or vehicle records that will be used for this purpose, specifically names, principal addresses, and how the personal information will be used by each of those customers that fit this exemption.]*

\_\_\_ 18 U.S.C. §2721(b) (10), which states “For use in connection with the operation of private toll transportation facilities.” *[User must provide information about its five largest customers for personal information contained in South Carolina driver and/or vehicle records that will be used for this purpose, specifically names, principal addresses, and how the personal information will be used by each of those customers that fit this exemption.]*

\_\_\_ 18 U.S.C. §2721(b) (13), which states, “For use by any requester, if the requester demonstrates it has obtained the written consent of the individual to

whom the information pertains.” [User must provide information about its five largest customers for personal information contained in South Carolina driver and/or vehicle records that will be used for this purpose, specifically names, principal addresses, and how the personal information will be used by each of those customers that fit this exemption. For each customer claiming this exemption, User must maintain in its records the customer’s detailed plan for obtaining written consent and maintaining an accessible record of those consents for the time periods specified in this agreement. The Department will have the right to request that the User obtain from one or more customers and provide to the Department copies of any specific consents or categories of consent; such copies will be provided to the Department by mail, facsimile, email, or other means within fifteen days of a Department request.]

The Receiving Party certifies that its customer contracts include privacy agreements that restrict use of the personal information to the DPPA exemptions listed above.

The Receiving Party certifies that it will comply with (and will assure that all its customers for South Carolina data will comply with) all applicable Federal and State statutes and regulations pertaining to personal information disseminated by the Department which include but are not limited to: the DPPA; §607 of the Federal Fair Credit Reporting Act, Public Law No. 91-508; Title VI of the Consumer Credit Protection Act; Release Of Licensing And Registration Information laws, *S.C. Code Ann.* §§56-3-510 to -540; the S.C. Freedom of Information Act *S.C. Code Ann.* §§30-4-160, *et seq.*; and the S.C. Family Privacy Protection Act (FPPA), *S.C. Code Ann.* §§30-2-10, *et seq.*

*S.C. Code Ann.* §30-2-50, which is part of the SC FPPA, requires that the Department give notice to all requestors of records that obtaining or using public records for commercial solicitation directed to any person in this State is prohibited. The Receiving Party certifies that it will not misuse or allow the misuse of the information in violation of the FPPA.

From each date that personal information is furnished to the Receiving Party by the Department, the Receiving Party will, for a period of five years [see DPPA §2721(c)] keep on file written evidence of the appropriate use of that set of personal information. The Receiving Party further agrees that in case the disclosure of such information leads to any claim or litigation, the Receiving Party will hold the Department harmless from any resulting liability, including reimbursing the Department for any legal fees and costs.

As set forth in the ELT Provider Contract: **Title Data**, the Receiving Party will grant reasonable access to the Department’s auditors or other persons acting on the Department’s behalf to inspect the above records. Such access will be at the Receiving Party’s facilities unless the Receiving Party and the Department agree on another site. For monitoring purposes, the Receiving Party further agrees to grant the Department access to the Receiving Party’s Website to ensure compliance with all State and Federal laws and regulations at no cost to the Department.

This agreement is subject to change due to the issuance of court orders or changes in State and/or Federal laws, rules, and regulations governing access and use of the requested information. If court

orders are issued or if the laws, rules, or regulations change such that the terms of this agreement cannot be fulfilled, the agreement will be automatically and immediately terminated and all unpaid fees under any associated contract or agreement will be due and owing.

The Receiving Party will not misuse or allow the misuse of the information in violation of any provision of law. If the Department determines to its own satisfaction that the Receiving Party has either misused or allowed the misuse of the information, the Department may, in addition to other penalties provided by law:

- 1) Terminate this agreement immediately
- 2) Require the return of all files and media containing information provided by the Department
- 3) Require that the Receiving Party delete any electronic files, excluding products that have been released to its customers, containing information provided by the Department.
- 4) Hold the Receiving Party responsible for any damages arising from the misuse of the information
- 5) Make publicly available the evidence of information misuse, and
- 6) Take any other actions that the Department deems appropriate to protect the interests of the Department and the citizens of the State.

All Receiving Party or contractor employees requiring access to the Department's equipment, the Department's networks, or data must individually sign the Department information release agreement or ELT [User] Acknowledgment Form before being granted access. The Receiving Party shall retain and make available to the Department upon request an executive SCDMV information release agreement; and, as applicable, ELT [User] Acknowledgment Form signed annually by all employees/contractors with access to SCDMV data.

The Department's data may not transit nor be stored (temporary storage or permanently stored) in a public cloud environment. Private cloud must be owned, managed and operated by the organization, a third party, or some combination of them. It may exist on or off premise.

Except as otherwise provided for herein, this agreement may be terminated by either party with not less than thirty days written notice to the other unless a shorter time is agreed upon by mutual consent.

The undersigned for the Receiving Party represents and warrants that he/she is an officer of the organization for which he/she has executed this contract and that he/she has the full and complete authority to enter into this agreement on behalf of the Receiving Party, thereby binding the Receiving Party, its personnel, its agents, and its representatives to the conditions stated in this agreement.

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For purposes of notice under this agreement, the notice address for the Receiving Party is:

Receiving Party: \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

The notice address of the Department is:

South Carolina Department of Motor Vehicles  
Attention: Director of Administration  
Post Office Box 1498  
Blythewood, South Carolina 29016  
Email: Procurement@scdmv.net  
Telephone: 803.896.9661  
FAX: 803.896.3855

To show their agreement to all of the above terms and conditions the parties have signed or caused their authorized representatives to sign below.

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**REMAINDER OF PAGE INTENTIONALLY BLANK. SIGNATURES TO FOLLOW.**



Receiving Party Name: \_\_\_\_\_

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**RECEIVING PARTY**

\_\_\_\_\_  
Receiving Party Name (*print name*)

\_\_\_\_\_  
Authorized Representative (*print name*)

\_\_\_\_\_  
Authorized Representative (*signature*)

\_\_\_\_\_  
Authorized Representative's Corporate Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
SSN *or* Taxpayer Identification Number

\_\_\_\_\_  
User's Street Address of Principal Place of Business

**DEPARTMENT OF MOTOR VEHICLES**

\_\_\_\_\_  
Director of Administration

\_\_\_\_\_  
Date