SOUTH CAROLINA DEPARTMENT OF MOTOR VEHICLES
ELECTRONIC REGISTRATION AND TITLING (ERT)
SERVICE PROVIDER CONTRACT

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 SCDMV. This 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.

WHEREAS, SCDMV has established a program, ELECTRONIC REGISTRATION AND TITLING (ERT), which will allow South Carolina dealers or non-dealer participants, through the Service Provider, to apply for salvage titles as well as vehicle title and registration documents for their customers,

WHEREAS, 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 salvage title, receiving applications for the title and 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 by SCDMV for forwarding 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 ERT program and standards 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 to the 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 salvage title transaction, completion of Update 2 (UPD2) for dealer transactions of title and registration upon purchase of vehicle.

The Service Provider shall deposit, through the electronic network, all monies owed to SCDMV and collected by the approved dealers and participant 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 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 6, below.

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

The Service Provider shall be entitled to charge dealers and participant monthly participation fees, standard transaction inquiry and transaction fees and such other fees for the use of ERT and transfer of fees and other monies to SCDMV or others as may be provided for in its agreements with dealers and participants.

THE SERVICE PROVIDER ONLY MAKES THE WARRANTIES EXPRESSLY CONTAINED IN THIS CONTRACT AND DISCLAIMS ALL OTHER WARRANTIES INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

2.   AGREEMENTS OF SCDMV

SCDMV agrees to make available to the Service Provider, dealers, and participant direct on-line access to vehicle data to allow Service Providers to provide dealers and participants with ERT 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 purposing of this contract. SCDMV warrants that it has all necessary statutory authority to grant such access and to allow for the provision of ERT 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 ERT transactions, as specified in the program standards.

SCDMV agrees that the Service Provider, in providing ERT services when acting within the scope of this contract and the program standards as they may amended from time-to-time is acting on behalf of SCDMV in carrying out a function of SCDMV [as contemplated by Section 2721 (b) (1) of the Federal Driver's Privacy Protection Act [and related South Carolina driver privacy legislation) and all successor legislation].

3.   ACCURACY OF DATA TRANSMISSION

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 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 Service Provider has performed on customers or subcontractors who have had access to the Department's data. If, as the result of reviewing any such audits 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. 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 days written request by the Department, the Service Provider will provide the Department with copies of any privacy agreements that 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 ERT 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

The Service Provider shall not sell or impart to any person, firm, or corporation any information obtained from SCDMV records, including listings of individuals, for any reason. Information obtained through such access is subject to the restrictions upon use and dissemination imposed by the South Carolina Freedom of Information Act of the S. C. Code of Laws Ann. §§30-4-10, *et seq.,* the Family Privacy Protection Act of 2002, §§ 30-2-10 *et seq.,* the provisions of the Federal Driver Privacy Protection Act of 1994, 18 U.S.C §§ 2721, *et seq.,* and any SCDMV policy on access to records or any successor laws or regulations adopted by the State of South Carolina or SCDMV 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 with respect to this program or the Service Provider's 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.

Except with respect to its obligations otherwise set forth in this Section and Section 5 hereof and except for the damages caused by the intentional misconduct of the Service Provider, the Service Provider's total liability in any event for monetary damages suffered by SCDMV, including without limitation, any indirect, special, incidental, or consequential damages resulting from the loss of data, SCDMV's use of the products and services provided by the Service Provider, hereunder, or the performance or nonperformance by the Service Provider of its obligations under this Contract, whether or not the Service Provider was advised of the possibility of such damages and whether or not such damages arise in tort, contract or under any other theory of liability, shall be expressly limited to the recovery by SCDMV of funds collected by the Service Provider and not yet remitted for transactions that have been completed and for uncollected funds as described in Section 1., above. 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 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 had no notice or knowledge of such misappropriation or misuse or (b) 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, out-of-pocket costs, or similar cost and expenses incurred by SCDMV owing to the loss, destruction of or Service Provider's inability to account for inventory as set forth in Section 1., above.

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 participating business partners, 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).

   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: Service Providers 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. Security Awareness Training: Service Providers 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. 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 Providers 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.

e. 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.

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

g. Vulnerability Management: Service Providers 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 calendar days. Critical findings that cannot be resolved by patching, software upgrades, or operating system updates must have compensating controls implemented within thirty 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.

h. 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.

i. 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 EVR program.

j. 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 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 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.

k. 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 hours of the initial discovery of the incident, followed up by a written detailed explanation within seventy-two 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.

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

9. NOTICE

Any notice given pursuant to this Contract must be in writing. The notice date is determined by whichever happens first, either when the notice was received by the addressee or five business days after mailing the notice to the SCDMV Director or Service Provider at the addresses listed below.

10. CHOICE OF LAW

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.

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 .

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's or any dealer or participant 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.

12. NOTICE OF TERMINATION

For intents of notification of termination, SCDMV will make official notification to the Service Provider or participant.

a. First notice: The Vehicle Service ERT Quality Assurance Supervisor will either call or email the dealership or participant notifying them of critical errors.
b. Second notice: The Vehicle Services EVR Quality Assurance Supervisor will either call or email the Service Provider or participant notifying them of the dealer's critical errors.
c. Third notice: The EVR Coordinator will submit a letter of possible termination to the Service Provider or participant.
d. Fourth and final notice: The ERT Program Manager will submit a notice of termination to the Service Provider or participant with an effective date of termination.

13. **DEALER REQUIREMENTS**

Service Providers or participants interested in participating in the ERT 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,
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, Service Provider, or participant, when necessary, to correct and improve transaction processing.

14. **TESTING REQUIREMENTS**

For ERT 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.

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 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.

SOUTH CAROLINA DEPARTMENT OF MOTOR VEHICLES

Address for notification:

South Carolina Department of Motor Vehicles
Attention: Director of Administration
Post Office Box 1498
Blythewood, South Carolina 29016
Email: EVRTCoordinator@SCDMV.net
Telephone: (803) 896-9997

_____

(Signature)   Date: _____

SERVICE PROVIDER

Address for Service Provider:

_____

_____

_____

Telephone: _____

Facsimile: _____

Authorized Representative (Print Name)

_____

Authorized Representative (Signature)   Date: _____

_____

Taxpayer Identification Number: _____