

SOUTH CAROLINA DEPARTMENT OF MOTOR VEHICLES
PERSONAL INFORMATION RELEASE AGREEMENT
(PRIVATE COMPANY-EMPLOYER NOTIFICATION PROJECT)
AUTHORIZED REPRESENTATIVE AND INDIVIDUAL USERS

This Agreement is entered into between _____, hereinafter referred to as ‘the Company’ or ‘the User,’ and the South Carolina Department of Motor Vehicles, hereinafter referred to as the Department. This agreement period will begin on the date it has been signed by both parties and will remain in effect as long as the User continues to obtain personal information from the Department’s records. Electronic access to select Department records is provided through the State’s Internet Portal (South Carolina Interactive).

Prior to gaining access to these web based applications the User will:

- a. Designate a Security Administrator ("SA") as well as an alternate or secondary SA who will be provided a SCDMV Administrator Account through which the SAs will be responsible for maintaining the accounts of all authorized personnel who have authorized access to Department data by the creation of a SCDMV Administrator Account. The Account will allow the Security Administrators "SAs" to create and maintain user accounts for SCDMV data access.
- b. All SAs must obtain written acknowledgement that the individuals accessing SCDMV data have read and understand SCDMV’s PIRA and their duties and responsibilities. User will maintain this acknowledgement for all time periods that the individual users have access to SCDMV data. This acknowledgement will be made available to SCDMV upon request or at time of agreement renewal.
- c. All SAs must keep a current list of the personnel authorized to use these screens, and must be responsible for account maintenance (re-validate account every 90 days, reset user id/passphrases of fifteen characters or more, deactivate accounts for employees who leave, create new accounts and so forth). The SA must immediately deactivate or remove access to any authorized user whose employment is terminated for any reason.
- d. All SAs must authorize access only within the scope of actual need. The SA shall not authorize the printing or distribution of screenshots of Department information to employees who are not authorized to access the Department's information. The User will likewise ensure that the screenshots, if printed or retained in any form, are not placed in files accessed by employees who are not authorized access to the Department's information.
- e. User must comply with all Identity Management System (“IDM”) requirements including:

1. All SAs are responsible for validating each individual user account every ninety (90) days. In addition, the individual users will also be responsible for changing passwords every ninety (90) days and will be denied access if the passwords are not changed.
- 2 All SAs must complete the IDM training.
3. Sharing of user ID and/or passwords is not permitted.

The User and the Department have entered into this Agreement as a supplement to the User having set up a charge account with the Portal by which it will obtain certain information and/or documents from the Department's records. The specific information and/or documents requested by the User 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 User understands that the term "personal information" means information that identifies or describes an individual including, but not limited to, an individual's photograph, signature, social security number, date of birth, driver identification number, customer number, name, home address, home telephone number, height, weight, race, and other physical details.

The User certifies that it is entitled to obtain and use personal information recorded in the driver and vehicle files of the Department in accordance with of the Driver Privacy Protection Act (DPPA), 18 U.S.C. §§ 2721 *et seq.*. In particular, the User claims that its use of such personal data will fit the following exemption 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 specific information about its intended use of the various data fields being requested, to show that the data is needed to carry out the agency's functions.]

___ 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 documents from the government agency specifying the work being performed and the period of time covered by the contract.]

___ 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 specify the exact services for which the data will be used and must provide documents from the corporation, for which it is providing these services, indicating the work being performed and the period of time covered by the contract.]

___ 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.” [The User must provide specific information to explain (1) how it will receive personal information that will need to be verified, (2) what personal information will be received, and (3) how it will use the correct information when it is received from the Department. Note that this exemption will be viewed very narrowly. Note, also, this section is typically not appropriate for private companies needing to monitor the driving records of non-CDL licensed employees. *See* 18 U.S.C. §2721(b)(9) and (13) below.]

___ 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.” [If User is an attorney or law firm, a managing attorney must sign the agreement. If User is employed by or contracting with one or more law firms, User must provide the names and addresses of firms for which it will be obtaining information. If User does not fit the preceding categories, User must provide very specific information to explain how this exemption applies to it.]

___ 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.” [The User must provide very specific information to the Department Office of General Counsel to prove that it is entitled to application 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.” [The User must provide specific information to explain how this exemption applies to it.]

___ 18 U.S.C. §2721(b)(7), which states “For use in providing notice to the owners of towed or impounded vehicles.” [If User is not a towing company, it must provide specific information to explain how this exemption applies to it.]

___ 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.*].” [If User is not an employer of persons using commercial driver's licenses, it must provide specific information to explain how this exemption applies to it.]

___ 18 U.S.C. §2721(b)(10), which states “For use in connection with the operation of private toll transportation facilities.” [User must provide proof that it operates a private toll transportation facility or has a contract with such a facility.]

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____ 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.” [The User must provide a 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 copies of any specific consents or categories of consent be provided by mail, facsimile, email, or other means upon fifteen days’ notice.]

The User certifies that it will comply with all 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.*.

Except as provided for in this agreement, the User certifies that the information will not be shared with, sold, given, transferred or otherwise made available to any other person, firm, corporation or government agency unless expressly agreed to by the Department in writing. [Express agreements allowing any disbursement of records must be negotiated with the Department and will then be incorporated herein as an Attachment.]

Data provided by the SCDMV may contain customer personally identifiable private information. If User has any reason to believe that SCDMV data was accessed, disclosed, acquired without proper authorization or that SCDMV data has been in any way compromised, the User will alert the SCDMV immediately.

User agrees to provide and document security awareness training for all employees/personnel with access to SCDMV data. As a minimum this training must emphasize the importance of protecting the Department’s customers’ private information to include personally identifiable information (PII) against unauthorized disclosure. Training must also stress protecting passwords and accounts providing access to the SCDMV data. Emphasis will be placed upon the use of strong, non-dictionary passwords containing a combination of at least eight upper and lower case letters, at least one special character and at least one number. Emphasis must be placed upon not sharing passwords.

User and its individual employees or individual contractors requiring access to Department equipment, Department networks, or data must sign a Department Personal Information Release Agreement before being granted access. Alternatively, an executive with signature authority for the individual users or individual contractor employees may sign the Department PIRA for the respective User or contractor so long as all persons with individual access to Department data remain current on security awareness training as set forth above. All Personal Information Release Agreements must be maintained in the User’s records for five years.

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 User 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 User by the Department, the User will, for a

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

The User 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 User's facilities unless the User and the Department agree on another site. For monitoring purposes, the User further agrees to grant the Department access to the User's Website, if any, 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 User shall indemnify and hold harmless the Department, its officers, agents, and employees with respect to any claims asserted against the Department, its officers, agents, and employees arising out of the furnishing of records to User and the User's use of the same.

The User 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 User 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 User delete any electronic files containing information provided by the Department.
- 4) Hold the User responsible for any damages arising from the misuse of the information by User or its agents, employees or representatives,
- 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.

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 representative for the User 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 User, thereby binding the User, its personnel, its agents, its employees and its representatives to the conditions stated in this agreement.

If this Agreement is being executed by an Insurer, Insurance Support Organization, Self-Insured, or on the behalf of an Attorney, the User further certifies that it has caused this agreement to be signed or co-signed by an attorney licensed to practice law in the state of the User's notice address (below). [An insurance agent is not an insurer or insurance support organization for purposes of this paragraph.] That attorney, by signature below, certifies: that s/he has read the statutes mentioned in this agreement; that the User's

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management has explained or the attorney is personally aware of the User's intended use of the personal information being requested in this agreement; that the User is entitled to this information; and that s/he has discussed with the User's management or staff the severe Federal and State criminal and civil penalties that will result from misuse of this information.

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

User: _____

Attention: _____

Address: _____

Telephone: _____

The notice address of the Department is:

South Carolina Department of Motor Vehicles
Attention: Procurement
Post Office Box 1498
10311 Wilson Blvd., Bldg. C-2
Blythewood, South Carolina 29016
Telephone: 803-896-9661
Facsimile: 803-896-3855

The notice address of the Portal is:

SC.Gov
Attn: General Manager
1301 Gervais Street, Suite 710
Columbia, South Carolina 29201
Telephone: 803-771-0131
Facsimile: 803-771-7660

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

USER (Please Check One)

User is Individual Sole Proprietorship Partnership
 Corporation Other: *(describe)* _____

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USER

Authorized Representative (*signature*)

Authorized Representative (*print name*)

Authorized Representative's Corporate Title

Date

SSN *or* Taxpayer Identification Number

PRIMARY SECURITY ADMINISTRATOR- ADMINISTRATOR ACCOUNT

Security Administrator's Name (print name)

Security Administrator's User's Email

Security Administrator's Phone Number

SECONDARY SECURITY ADMINISTRATOR- ADMINISTRATOR ACCOUNT

Security Administrator's Name (print name)

Security Administrator's User's Email

Security Administrator's Phone Number

USER'S ATTORNEY'S CERTIFICATION (Not necessary for SC companies or agencies)

Name of Attorney, Firm Name, Address, Telephone Number, and Facsimile Number (print)

State(s) in which Attorney is licensed and Bar Number(s)

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Attorney's signature

Date

DEPARTMENT OF MOTOR VEHICLES

Trish Blake (*print name*)
Director of Administration

Trish Blake (*signature*)
Director of Administration

Date

User's employees or contactor employees to be given access to the Department's information:

Employee:

By: _____

Print name: _____

Date: _____

By: _____

Print name: _____

Date: _____

By: _____

Print name: _____

Date: _____