

# MUTUAL NON-DISCLOSURE AGREEMENT

## South Carolina Department of Motor Vehicles Electronic Vehicle Registration Program (EVR)

This non-disclosure agreement ("Agreement") is between The South Carolina Department of Motor Vehicles ("SCDMV" or "owning party") and \_\_\_\_\_ (receiving party).

### RECITALS

A. \_\_\_\_\_ and SCDMV wish to exchange certain information pertaining to \_\_\_\_\_

\_\_\_\_\_

This exchange includes all communication of information between the parties in any form whatsoever, including oral, written and machine readable form, pertaining to the above.

B. SCDMV and \_\_\_\_\_ wish to exchange the information for the sole purpose noted above and each party regards certain parts of the Information it possesses to be secret and desires to protect those parts from unauthorized disclosure or use (such secret parts being hereafter collectively referred to as "Information").

C. SCDMV (as "Owning Party") and \_\_\_\_\_ (as "Receiving Party") are willing to disclose Information and receive Information on the terms and conditions set forth herein.

### AGREEMENTS

Therefore, SCDMV and \_\_\_\_\_ agree, as follows:

1. The Receiving Party will:

- a. (1) Not disclose Information of Owning Party to any other person and (2) use at least the same degree of care to maintain the Information confidential as Receiving Party 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 above purpose;

- c. Restrict disclosure of the Information of the Owing Party 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. Within fifteen (15) days following request of Owing Party return to Owing Party all documentation, copies, notes, diagrams, computer memory media and other materials containing any portion of the Information, or confirm to Owing Party, in writing, the destruction of such materials.
2. This Agreement imposes no obligation on Receiving Party with respect to any portion of the Information received from Owing Party which (a) was known to Receiving Party prior to disclosure by Owing Party, (b) is lawfully obtained by Receiving Party from a third party under no obligation of confidentiality, (c) is or becomes generally known or publicly available other than by unauthorized disclosure, (d) is independently developed by Receiving Party or (e) is disclosed by Owing Party to a third party without a duty of confidentiality on the third party.
3. This Agreement imposes no obligation on Receiving Party with respect to any portion of the Information unless such portion is (a) disclosed in a written document or machine readable media marked "CONFIDENTIAL" at the time of disclosure or (b) disclosed in any other manner and summarized in a memorandum mailed to Receiving Party within thirty (30) days of the disclosure. Information disclosed by Owing Party in a written document or machine readable media and marked "CONFIDENTIAL" includes, but is not limited to, the items, if any, set forth in Attachments 1 and 2 attached hereto. Attachments 1 and 2 are incorporated herein by reference. Receiving Party hereby acknowledges receipt of the items listed in Attachments 1 and 2, if any.
4. The Information shall remain the sole property of Owing Party.
5. NEITHER OWNING PARTY MAKES ANY 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, NEITHER OWNING PARTY MAKES ANY 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. NEITHER OWNING PARTY SHALL 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.
6. 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 preliminary and final injunctions, enjoining and restraining such breach or threatened breach or intended breach.

7. The Receiving Party will not export, directly or indirectly, any technical data acquired from Owing Party or any product utilizing any such data to any country for which the U.S. Government or any agency thereof at the time of export requires an export license or other governmental approval, without first obtaining such license or approval.

8. The validity, construction, and performance of this Agreement are governed by the laws of the State of South Carolina, and suit may be brought in South Carolina to enforce the terms of this Agreement. The parties agree that venue of any such suit is proper in the Court of Common Pleas of Richland County, South Carolina.

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

This Agreement is binding upon both parties and upon the directors, officers, employees and agents of each. This Agreement is effective as of the later date of execution and will continue indefinitely, unless terminated on thirty (30) days written notice by either party. However, Receiving Party's obligations of confidentiality and restrictions on use of the Information disclosed by Owing Party shall survive termination of this Agreement.

### **The South Carolina Department of Motor Vehicles**

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

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

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

Date: \_\_\_\_\_

### **EVR Service Provider**

\_\_\_\_\_  
Company Name

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

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

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

Date: \_\_\_\_\_