

**SOUTH CAROLINA DEPARTMENT OF MOTOR VEHICLES
ELECTRONIC VEHICLE REGISTRATION (EVR)
PARTICIPATING DEALER CONTRACT**

This Contract is entered into between _____, a motor vehicle dealer operating under South Carolina Dealer License Number _____, hereinafter referred to as the Participating Dealer, and the South Carolina Department of Motor Vehicles, and hereinafter referred to as the SCDMV. This contractual period will begin on the date it has been signed by both parties and remain in effect as long as the Participating Dealer continues to conduct Electronic Vehicle Registration (EVR) business with SCDMV as specified in the Electronic Vehicle Registration Program Standards.

WHEREAS, the SCDMV has established a program, ELECTRONIC VEHICLE REGISTRATION, which will allow participating South Carolina dealers (Participating Dealers) either independently or through a Service Provider, to apply for titles and registration documents on behalf of their customers,

WHEREAS, to participate in the EVR program, each Participating Dealer will have developed their own computer-based program or entered into an agreement with a SCDMV- approved Service Provider to enable the Participating Dealer to transmit applications for titles, registrations and fees to the SCDMV by way of the EVR network,

WHEREAS, the SCDMV established the EVR Program Standards for the operation of the EVR program, which includes all relevant rules, and procedures established by the SCDMV,

WHEREAS, the Participating Dealer has an executed agreement in effect with a SCDMV approved Service Provider to provide EVR services when not participating independently,

WHEREAS, the Participating Dealer, participating independently, has developed and use a computerized interface to process applications for the title and registration of a motor vehicle on behalf of their customer; and,

WHEREAS, SCDMV hereby appoints the above-named as a Participating Dealer to be authorized to process title and registration documents and collect the appropriate fees on behalf of the SCDMV subject to the conditions set forth in this Contract.

1. BUSINESS LOCATION

The Participating Dealer shall establish and maintain, at its expense, an office for the purpose of processing title and registration documents in accordance with the provisions of South Carolina law, the EVR Program Standards, and the provisions of this Contract.

2. RESPONSIBILITIES OF PARTICIPATING DEALER

The Participating Dealer shall abide by the EVR Program Standards and more specifically agrees:

- A. To develop its own computer-based program independently or to enter into and maintain a contract with an approved Service Provider including but not limited to transactional charges as may be provided for in such contract. The Service Provider will be charged two dollars and fifty cents (\$2.50) fee per each Update Phase 2 submitted in exchange for access to SCDMV data. The Service Provider may, by contract, provide that the \$2.50 fee be paid by the Participating Dealer and/or purchaser. A title and registration transaction is defined as each transaction for which the Participating Dealer has performed an Update 1 and an Update 2 to fulfill the transaction transmission. The Update 1 performs all the edits necessary to ensure a successful update to the SCDMV system, and takes place at the time of sale. Update 2 updates the SCDMV systems with the title and registration information as applicable and completes the transaction allowing the SCDMV to order and send the plate and registration to the customer. Independent Participating Dealer will be charged directly the fees for accessing SCDMV data.
- B. To attend, and to have all Authorized Users attend the required SCDMV and Provider training for EVR.

- C. To deposit all monies collected as a Participating Dealer through the EVR network to the Service Provider as required by the Service Provider agreement on the same date as the EVR transaction.
- D. To issue license plates, stickers and any other title or registration materials to customers in accordance with current SCDMV procedures.
- E. To submit all reports, including daily activity reports, inventories of license plates and decals, and such other reports as may be required by the SCDMV, and in all other respects to comply with the laws of South Carolina.
- F. To receive, securely store, issue, account for, and be fully responsible for such license plates or decals or other items of value as may be entrusted to the Participating Dealer by the SCDMV.
- G. The Participating Dealer 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 customer 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.

3. AGREEMENTS OF DMV

SCDMV agrees to make available to Service Provider and Participating Dealers direct on-line access to DMV data as required to execute EVR transactions. Access to SCDMV data by any Participating Dealer shall be solely for fulfilling the purposes 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. For the purposes of this Contract, "SCDMV data" means vehicle registration, vehicle title, and customer identity records of the SCDMV maintained in the SCDMV database and data storage systems.

The access to and use of SCDMV data by any Participating Dealer is limited to the completion of EVR transactions, as specified in the EVR Program Standards.

SCDMV agrees that any Participating Dealer, in providing EVR services within the scope of this Contract and applicable EVR Program Standards as they may be amended from time to time, is acting on behalf of the 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].

4. AUTHORIZED USER

The Participating Dealer shall designate at least two full time employees as Authorized Users of the automated network. The Participating Dealer shall limit network access to those employees who have been designated as Authorized Users and who have executed User Acknowledgement of Duty of Non-Disclosure and Due Diligence.

The Participating Dealer shall send SCDMV the original of each Affidavits User Acknowledgement of Duty of Non-Disclosure and Due Diligence. In addition, the Participating Dealer shall maintain for five years a file of its Affidavits User Acknowledgement of Duty of Non-Disclosure and Due Diligence and make them available to DMV upon request.

The Participating Dealer shall immediately notify its Provider and/or SCDMV of any changes in those designations as Authorized Users and shall not allow other individuals to have access until notified by the SCDMV, via written notification, that they are approved and appointed as Authorized Users.

5. LIABILITY AND LIMITATION OF LIABILITY

The Participating Dealer shall indemnify the 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 acts of omissions of such Participating Dealer with respect to this program or the application of laws restricting access to and disclosure of SCDMV vehicle and driver records available through the program, including, without limitation, reasonable attorneys' fees and all other costs of defending any such action or claim.

The Participating Dealer shall be liable for and shall indemnify and hold harmless the SCDMV for any misuse or misappropriation of any vehicle record or related information obtained from the SCDMV in connection with this Contract. The Participating Dealer shall also be liable for any failure by the Participating Dealer or their employees to comply with the terms of this Contract. Further, the Participating Dealer shall be liable for failure to safeguard and limit access to motor vehicle records as required herein or for any damages resulting from the acts or omissions of the Participating Dealer or their personnel relating to the titling or registration of motor vehicles.

If the SCDMV suspends or terminates the access privileges of any Participating Dealer, SCDMV may require that the Participating Dealer provide and maintain a surety bond in order to re-enter the EVR program. The bond amount, as determined by SCDMV, shall be sufficient to cover all future claims, losses, damages, judgments, liabilities or similar costs and expenses which arise in whole or in part out of acts of omissions of such Participating Dealer with respect to the EVR program.

6. INFORMATION ACCESS

The SCDMV shall allow the Participating Dealer only such access to SCDMV's data as necessary to process title and registration applications. Such access is limited to that information needed by the Participating Dealer or in the conduct of its business as a SCDMV EVR Participating Dealer or and in the processing of title and registration documents.

The Participating Dealer shall not sell or impart to any person, firm or corporation any information obtained from SCDMV data or 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 in 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 Participating Dealer warrants that the signatory and all Authorized Users 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 South Carolina's 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, Section §30-2-10, *et seq.*, which further limit the use and access to personal information in South Carolina.

The Participating Dealer shall keep a record for a period of five years of person(s) to whom the information was re-disclosed and the purpose for which the information was to be used. The Participating Dealer shall make records available to the SCDMV upon request.

7. TRANSACTIONS PROHIBITED BY PARTICIPATING DEALERS OR THIRD PARTY PARTICIPANT

The Participating Dealer shall not process transactions through the automated network for the following categories of customers:

- A. Those for whom the SCDMV databases indicate an existing problem requiring SCDMV action, or
- B. Those for whom there is no entry in the SCDMV databases.

The Participating Dealer may not issue Certificates of Title.

8. COMPENSATION OF PARTICIPATING DEALER

The Participating Dealer shall not charge any other fees for filling out applications or for other services relating to title or registration transactions, unless authorized to do so by the EVR Program Standards.

9. RETENTION OF RECORDS

The Participating Dealer 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.

10. CONFIDENTIALITY AND SECURITY

The Participating Dealer shall be responsible for safeguarding the automated equipment, which provides access to the EVR network and limit access to those persons who are Authorized Users of the network and who have been properly instructed as to their duties and responsibilities as Authorized Users under this Contract. The automated equipment utilized by the Participating Dealer to obtain access to SCDMV's EVR automated network can be either an integrated terminal or one which is not used for any other purpose or in any other system.

The Participating Dealer shall implement procedures to ensure that the automated 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 Users of the equipment.

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

If the Participating Dealer has any reason to believe that SCDMV data may have been accessed, disclosed, acquired without proper authorization or that SCDMV data has been in any way compromised, the Participating Dealer will alert the SCDMV immediately via written communication.

11. NOTICE

Any notice given pursuant to this Contract must be in writing. Notice is determined by the earlier of the time notice is actually received by the addressee or five business days after the mailing of the notice to the SCDMV Director or Participating Dealer at the address of the respective signatory.

12. CHOICE OF LAW

This Contract was made and entered in and 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 thereunder.

13. TERMINATION

The SCDMV will immediately suspend or terminate the access privileges of the Participating Dealer without a hearing upon the Participating Dealer's breach of, or failure to fulfill, any responsibility established pursuant to this Contract, or EVR Program Standards.

If SCDMV determines to its own satisfaction that the Participating Dealer has either misused or knowingly allowed the misuse of the information, the SCDMV may, in addition to other penalties provided by law:

- A. Terminate this contract immediately,
- B. Require the return of all files and media containing information provided by the SCDMV,
- C. Hold the Participating Dealer 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 the SCDMV by statute or regulation.

The Participating Dealer may terminate this Contract upon thirty days written notice to the SCDMV. The SCDMV may terminate this Contract at any time by giving notice to the Participating Dealer.

This Contract 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 personal information. If court orders are issued or if the laws, rules, or regulations change such that the terms of this contract cannot be fulfilled, the contract will be automatically and immediately terminated and the Participating Dealer will forward all unpaid fees due and owed to the SCDMV in the manner prescribed for payment transaction as provided in the executed Agreement between the Participating Dealer and the Provider.

If this Contract between the SCDMV and Participating Dealer is suspended or terminated, the Participating Dealer participation in the EVR program will be correspondingly interrupted.

14. MODIFICATION OF THIS AGREEMENT

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 and/or Federal laws, rules, and regulations. If the SCDMV changes its procedures, if court orders are issued, or if laws, rules, or regulations change such that the terms of this contract must be modified, the Participating Dealer, whenever possible, will be notified at least thirty days in advance of such changes or modifications and the Participating Dealer may, at its option, immediately terminate this Contract.

This Contract cannot be modified in any manner except by written amendment, which has been executed by the parties.

15. MISCELLANEOUS

This Contract is the exclusive statement of the parties with respect to its subject matter and supersedes all prior contracts, negotiations, representations, proposals, and awards, written and oral, relating to its subject matter.

IN WITNESS HEREOF, the parties hereto have caused these presents to be executed. *(Authorized Representatives will sign below and will also initial and date each page in the left margin.)*

PARTICIPATING DEALER

Corporate Name and D/B/A Name (print)

Corporate Officer (print name and corporate title)

Corporate Officer (signature)

Date: _____

Taxpayer Identification Number

Street Address of Principal Place of Business

Mailing Address and Facsimile Number for Notification:

SOUTH CAROLINA DEPARTMENT OF MOTOR VEHICLES

Address for Notification:
Director of Administration
Post Office Box 1498
Blythewood, South Carolina 29016-0023

(Signature)

Date: _____