

**AGREEMENT BY AND BETWEEN
THE GEORGIA DEPARTMENT OF REVENUE
AND**

_____, **INSPECTION STATION**

THIS AGREEMENT (hereinafter "Agreement") is made and entered into this _____ day of _____, 20____, by and between the **GEORGIA DEPARTMENT OF REVENUE** (hereinafter "Department"), an agency of the State of Georgia, and _____, Salvage/Assembled Vehicle Inspection Station, and _____, owner of the Salvage/Assembled Vehicle Inspection Station (Inspection Station and owner of the Inspection Station collectively referred to as "Inspection Station")(Department and Inspection Station collectively referred to as the "Parties").

WHEREAS, pursuant to O.C.G.A. § 40-3-30.1 and O.C.G.A. § 40-3-37, the Department is obligated to conduct inspections of salvage and assembled motor vehicles prior to the issuance of a certificate of title; and

WHEREAS, the Department requires the use of Inspection Station facilities for Department registered Inspectors to perform inspections of salvage and assembled motor vehicles pursuant to Georgia law and Chapter 560-10-30 of the Rules and Regulations of the Department; and

WHEREAS, pursuant to O.C.G.A. §40-3-3, the Department is authorized to enter into contracts for this purpose.

NOW THEREFORE, for and in consideration of the mutual promises, covenants, acknowledgements and agreement contained herein, together with other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

**ARTICLE 1
Services and Standards**

1.1 Scope of Services. The Inspection Station facilities shall be used to conduct salvage and assembled vehicle inspections (hereinafter "Inspections") on behalf of the Department in accordance with the Motor Vehicle Certificate of Title Act, O.C.G.A. § 40-3-1 et seq., and Chapter 560-10-30 of the Rules and Regulations of the Department.

1.2 Qualifications. The Inspection Station shall satisfy all of the requirements to permit Inspections set forth in Chapter 560-10-30 of the Rules and Regulations of the Department.

ARTICLE 2

Term and Consideration

2.1 Term. The term of this Agreement shall commence on the date hereof and shall expire at 11:59 p.m., prevailing legal time in Atlanta, Georgia, on the 30th day of November, in the year subsequent to the effective date (hereinafter referred to as “Initial Term”), unless earlier terminated or extended as specified herein.

2.2 Renewal Term. Provided this Agreement is not earlier terminated and the Inspection Station is not in default, this Agreement may be renewed at the expiration of the Initial Term for additional one-year terms (each year beyond the Initial Term hereinafter referred to as “Renewal Term”) (the Initial Term and Renewal Term collectively referred to as the “Term”). Each Renewal Term shall be upon the terms and conditions contained herein.

2.3 Notice of Acceptance. This Agreement may be renewed, as provided for in Paragraph 2.2 above, by the Inspection Station notifying the Department of its desire to renew the Agreement for one additional year, at least sixty (60) days prior to the expiration date of the immediately preceding Initial Term or Renewal Term. In order for a renewal to be effective, the Department must notify the Inspection Station of its acceptance no later than fifteen (15) days prior to the expiration date. Should the Department not provide such notification; the Agreement will terminate according to the terms set forth herein.

2.4 Consideration and Fees.

2.4.1 In consideration of the Inspection Station assisting the Department in fulfilling its statutory obligations to conduct inspections of salvage and assembled vehicles, the Inspection Station may assess applicants requesting the inspection a fee not to exceed:

- a) Fifty Dollars (\$50.00) as a “site” fee for the use of its facility; and
- b) Fifty Dollars (\$50.00) for a salvage or assembled vehicle inspection performed by an Inspector registered with the Department, and employed with or contracted by the Inspection Station.
- c) The Inspection Station shall not assess the applicant requesting the inspection a fee for salvage or assembled vehicle inspection performed by a Department employee.

2.4.2 The Inspection Station is not authorized to collect any other state fees.

2.4.3 In no event shall the applicant requesting the inspection pay total fees to the Inspection Station in excess of One Hundred Dollars (\$100.00), before taxes. Fees paid to the Inspection Station do not include state inspection and titling fees due to the Department.

2.4.4 Failure to comply with the terms and conditions in this sub-article 2.4 may result in termination of this Agreement by the Department.

ARTICLE 3

Access to Records and Background Checks

3.1 Access and Inspection. The Inspection Station shall allow the Department to have access to any pertinent books, documents, papers, and records of the Inspection Station for the purpose of conducting inspections and making audit examinations relative to this Agreement, without notice.

3.2 Open Records Act. All records received or maintained by the Inspection Station in the performance of a service or function for or on behalf of an agency, a public agency, or a public office shall be subject to disclosure under the Open Records Act, O.C.G.A. 50-18-70 (hereinafter "Act"). Non-compliance with the Act may constitute a criminal act. Inspection Station shall advise the Department in writing within 24 hours of a request for records falling under the Act. Failure to comply with the Act is a material breach of this Agreement which may result in termination for cause.

3.3 Background Checks. The Department, in its sole discretion, may perform background checks, on all employees, directors, officers, and owners of the Inspection Station assigned to perform under this Agreement, and the Inspection Station shall cause its employees, directors, officers, and owners to consent to any background check. The Department may conduct a review of the Inspection Station's tax and revenue status.

ARTICLE 4

Insurance and Indemnity

4.1 Liability Insurance. During the Term, the Inspection Station shall maintain a commercial general liability insurance policy covering bodily injury, property damage liability, and personal injury. The policy or policies shall name the officers, agents and employees of the State of Georgia as an additional named insured, but only with respect to claims which are not covered by the Georgia Tort Claims Act, O.C.G.A. §50-21-290, *et seq.* The Inspection Station shall file with the Department a certificate of insurance from an insurance company licensed to do business in the State of Georgia showing evidence of such professional or commercial general liability insurance in limits of not less than \$1,000,000.00 the aggregate, and \$100,000.00 per occurrence.

4.2 Worker's Compensation. The Inspection Station shall procure and maintain workers compensation insurance in conformity with the statutory limits as established by the General Assembly of the State of Georgia (NOTE: A self-insurer must submit a certificate from the Georgia Board of Workers Compensation station the Owner qualifies to pay it's own workers compensation claims). The Inspection Station shall require all contractors and subcontractors performing work under this Agreement to obtain an insurance certificate showing proof of Workers Compensation Coverage.

4.3 Indemnity. The Inspection Station shall indemnify, release and hold harmless the Department, its officers, members, employees and the State of Georgia, and its departments, agencies and instrumentalities and all of their respective officers, members, employees and directors (hereinafter collectively referred to as the "Indemnities") from and against any and all claims, demands, liabilities, losses, cost or expenses, for any loss including but not limited to bodily injury, personal injury, property damage, expenses and attorneys' fees, caused by, growing out of, or otherwise happening in connection with this Agreement, due to any act or omission on the part of the Inspection Station, its owners, agents, employees or others working at the direction of Inspection Station or on its behalf, or due to any breach of this Agreement by the Inspection Station, or due to the application or violation of any pertinent Federal, State or local law, rule or regulation by the Inspection Station. This indemnification applies whether: (a) the activities involve third parties or employees, agents, or owners of the Inspection Station or of the State entity, (b) the State is partially responsible for the situation giving rise to the claim; provided, however, this indemnification does not apply to the extent of the sole negligence of the State of Georgia and its officers or employees. This indemnification survives the termination of the Agreement and the dissolution or, to the extent allowed by law, the bankruptcy of the Inspection Station. If and to the extent such damage or loss as covered by this indemnification is covered by the State Tort Claims Fund ("Fund") established and maintained by the State of Georgia Department of Administrative Services ("DOAS"), the Inspection Station agrees to reimburse the Fund for such monies paid out by the Fund. To the full extent permitted by the Constitution and the laws of the State of Georgia and the terms of the Fund, the Inspection Station and its insurers waive any right of subrogation against the State of Georgia, its officers, employees and agents, the Fund and insurers participating hereunder, to the full extent of this indemnification.

ARTICLE 5

Confidentiality

5.1 Inspection Station may be given access to Confidential Information while completing the Inspections. Confidential Information is information, data, and knowledge that are not generally known to the public or to other persons who can obtain economic value from its disclosure or use, and which has actual or potential economic value as long as it is kept secret. Confidential Information will include, among other things, any and all information disclosed to Inspection Station or known by Inspection Station as a consequence of performing under this Agreement that is not

generally known outside the Department about the Department's finances, operations, employees, policies, manuals, processes, technology, inventions, research, improvements, computer programs, designs, services, development projects, accounts, billing methods, pricing, data, business methods, marketing, systems or plans, internal affairs, legal affairs, creative ideas and concepts, projects in development, locations, advertising and promotional procedures, operating procedures, potential or existing reorganization plans, phone lists, mailing lists, any and all information entrusted to the Department by third parties, and any and all information defined as "Trade Secrets" under the Uniform Trade Secrets Act. Further, all information as now or hereafter defined as "personal information" under O.C.G.A. §§40-2-130, 40-3-23, and 40-5-2, and the Driver's Privacy Protection Act, 18 U.S.C. §2721, *et seq.* shall be regarded as Confidential Information. Confidential Information may be contained in written materials, in verbal communications, in the unwritten knowledge of employees, and/or any other tangible medium of expression, including, but not limited to, tapes, hard disk or soft disk drive mechanisms, and any and all mechanisms for electronic storage of information.

5.2 Except as permitted by law, the Inspection Station shall not:

- a) disclose or cause to be disclosed the Confidential Information to any third party;
- or
- b) use, copy, reproduces, distributes, manufacture, duplicate, reveal, or publish the Confidential Information for any purpose except to further the functions, duties and purposes of the Department.

Notwithstanding the foregoing, the Inspection Station may disclose Confidential Information to its employees only to the extent necessary to fulfill its obligations under this Agreement.

5.3 The Inspection Station shall comply with the disclosure prohibitions contained in Georgia law, including, but not limited to O.C.G.A. §§40-2-130, 40-3-23, and 40-5-2, and the Driver's Privacy Protection Act, 18 U.S.C. §2721, *et seq.*

5.4 The Inspection Station shall return to the Department all Confidential Information, including duplicates, whenever the Department may require that such Confidential Information be returned.

5.5 No license under any patent, trade secret or copyright, now or hereafter obtained is granted, will be granted, or implied by either this Inspection Station or the disclosure of Confidential Information.

5.6 To the extent necessary to protect the Department's rights, the Inspection Station shall cause its employees, whose services it may require to perform the services hereunder, to comply with all terms of this Agreement.

5.7 In addition to any other rights and remedies the Department may have, the Department shall be entitled to obtain a temporary restraining order or a preliminary or permanent injunction and other equitable relief to prevent a threatened or actual breach or continuing breach of this paragraph. Inspection Station acknowledges that this paragraph shall be specifically enforceable in accordance with its terms.

5.8 Any breach of any of the terms and conditions of this paragraph may result in the immediate termination of this Agreement and such Inspection Station's registration to perform salvage and assembled motor vehicle inspections.

ARTICLE 6

Adjustments and Termination

6.1 Amendments. Amendments to this Agreement are not valid or effective until written and signed by all parties.

6.2 Termination for Convenience (Without Cause). Either party may at any time, and for any reason, terminate this Agreement by giving the other party thirty (30) days written notice, with notice effective on the date sent by the terminating party.

6.3 Termination for Cause. The Department may terminate this Agreement upon any one or more of the following events, by giving notice to the Inspector, with termination effective on the date notice is sent:

- a) Inspection Station violates any provision of this Agreement; or
- b) Inspection Station fails to comply with or otherwise violates any federal, state or local law or regulation. An arrest, conviction, judgment, or other court ruling is not necessary for the purpose of this provision; or
- c) Inspection Station becomes insolvent or liquidation or dissolution of the Inspection Station is initiated; or
- e) A voluntary or involuntary bankruptcy petition is filed by or against the Inspection Station under the United States Bankruptcy Code or any similar petition under any state insolvency law; or
- f) A proceeding for the appointment of a receiver, custodian, trustee, or similar agent is initiated with respect to Inspection Station.

6.4 Revocation of Registration. In the event the Inspection Station fails to comply or perform any of the terms, covenants, or conditions of this Agreement, the Department may revoke the Inspection Station registration.

6.5 Independent Contractor. The Inspection Station shall be an independent contractor of the Department. In the event the Inspection Station's registration is revoked, or the Agreement is otherwise cancelled or not renewed, the Inspection Station shall not have any right to an administrative appeal for any reason.

ARTICLE 7

Miscellaneous Provisions

7.1 Matters of Interpretation.

7.1.1 No Estoppel. No course of action or failure to act by the Department or any of its officers, members, employees, agents or other representatives shall serve to modify this Agreement, waive rights under it or arising from its breach, or to estop the Department from enforcing its terms.

7.1.2 Captions. The Caption of each provision hereof is for identification and convenience only and shall be completely disregarded in construing this Agreement.

7.1.3 Notices. Any notice to be given hereunder shall be in writing and shall be given by delivery in person or by depositing the notice in United States Certified Mail, Return Receipt Requested, postage prepaid, in an envelope addressed to the parties to be notified at such party's address as follows:

AS TO DEPARTMENT: Georgia Department of Revenue
Tax Law and Policy Division
1800 Century Blvd
Atlanta, GA 30345

AS TO INSPECTION STATION: _____

AS TO OWNER OF INSPECTION STATION: _____

7.1.4 Non-Exclusive Agreement. This Agreement is entered into solely for the convenience of the Department, and it in no way precludes the Department or the State from obtaining like services from other parties.

7.2 **Matters of Law.**

7.2.1 Minority Participation Policy. It is the policy of the State of Georgia that minority business enterprises shall have the maximum opportunity to participate in the State purchasing and contracting process. Therefore, the State of Georgia encourages all minority business enterprises to compete for, win, and receive contracts for goods, services, and construction. Also, the State encourages all companies to sub-contract portions of any State contract to minority business enterprises. Inspection Stations who utilize qualified minority subcontractors may qualify for a Georgia state income tax deduction for qualified payments made to minority subcontractors. See O. C. G. A. §48-7-38.

7.2.2 Compliance with Executive Orders Concerning Ethics. The Inspection Station warrants that it has complied in all respects with the Governor's Executive Orders concerning ethics matters, including, but not limited to, Executive Order dated January 13, 2003 (establishing Code of Ethics for Executive Branch Officers and Employees, including provisions governing former officers and employees) and Executive Order dated October 1, 2003 (governing vendors to state agencies and disclosure and registration of lobbyists). In this regard, the Inspection Station certifies that any lobbyist employed or retained by the Inspection Station or his firm has both registered and made the required disclosures required by the Executive Orders, as amended.

7.2.3 Drug Free Work Place. The Inspection Station acknowledges that it is fully aware of the contents and requirements of Chapter 24 of Title 50 of the Official Code of Georgia. The Inspection Station by execution of the present Agreement does hereby certify that, to the best of its knowledge, information and belief, the Inspection Station is in compliance with the aforesaid code section.

7.2.4 Prohibition Against Contingent Fees. As required pursuant to O.C.G.A. §50-22-6(d), the Inspection Station warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for it, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or the making of this Agreement.

7.2.5 Conflicts of Interest. The Inspection Station acknowledges and certifies that the provisions of O.C.G.A. 45-10-1 et seq. concerning conflicts of interest and prohibitions of certain state officials and employees dealing with state agencies have not been and will not be violated.

7.3 **General Provisions.**

7.3.1 Assignment. The Inspection Station shall not subcontract, assign or otherwise permit anyone to perform any of the work or provide any of the services under this Agreement, or assign or transfer any interest or right in this Agreement in whole or in part to any party. Inspection Station shall indemnify and hold harmless the Department, its agents, its employees, and the State of Georgia for any breach of this warranty. The Department may assign this agreement to another state governmental entity.

7.3.2 Third Party Beneficiaries. Nothing in this Agreement, whether express or implied, is intended to confer upon any other party any right or interest whatsoever, except the parties hereto, and the State of Georgia, its departments, agencies, and authorities. No party other than the parties hereto is entitled to rely in any way upon the warranties, representations, obligations, indemnities or limitations of liability whatsoever in this Agreement.

7.3.3 Compliance with Statutes. The Inspection Station shall comply with all applicable federal and state laws, ordinances, rules and regulations including, but not limited to procedures and requirements relating to labor standards, equal employment opportunity, nondiscrimination, compliance with Americans with Disabilities Act, anti-solicitation, information, and auditing and reporting provisions.

7.3.4 Applicable Law. The law of Georgia shall govern this Agreement. In case any dispute or controversy arises between the Inspection Station and the Department, either party may exercise those legal remedies as may be available to them.

7.3.5 Additional Terms. Neither the Department, or the State shall be bound by any terms and conditions included in any Inspection Station packaging, invoice, brochure, technical data sheet, or other document which attempts to impose any condition in variance with or in addition to the terms and conditions contained herein.

7.3.6 Waiver. The waiver by the Department of the breach of any provision contained in this Agreement shall not be deemed to a waiver of such provision on any subsequent breach of the same or any other provision contained in the Agreement. No such waiver or waivers shall serve to establish a course of performance between the parties contradictory to the terms hereof.

7.3.7 Antitrust Actions. For good cause and as consideration for executing this Agreement, Inspection Station hereby conveys, sells, assigns, and transfers to the State of Georgia all rights, title, and interest to and to all causes of action it may now or thereafter acquire under the antitrust laws of the United States and the State of Georgia relating to the particular goods or services purchased or acquired by the State of Georgia pursuant hereto.

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7.3.8 No Joint Venture. Nothing contained in this Agreement shall make, or shall be construed to make, the State of Georgia and the Inspection Station partners in, of, or joint venturers with each other, nor shall anything contained in this Agreement render, or shall be construed to render, either the State of Georgia or the Inspection Station liable to a third party for the debts or obligations of the other.

7.3.9 Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and, except as otherwise stated, supersedes all prior understandings and writings, and may be changed only by a writing signed by the parties hereto.

IN WITNESS WHEREOF, the parties have each caused these presents to be duly signed, sealed and delivered by their duly authorized representatives on the day, month and year first above written.

Owner of Salvage/Assembled Vehicle Inspection Station:

Signature DATE _____

Print Name Position

Witness:

Signature DATE _____

Printed Name Position

Department of Revenue:

State Revenue Commissioner DATE _____