

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

_____, **INSPECTOR**

THIS AGREEMENT (hereinafter “Agreement”) is made and entered into this _____ day of _____, 200____, by and between the **GEORGIA DEPARTMENT OF REVENUE** (hereinafter “Department”), an agency of the State of Georgia, and _____, Salvage/Assembled Vehicle Inspector (hereinafter “Inspector”), a _____ (corporation, LLC, partnership, sole proprietor, etc.) The Department and Inspector are hereinafter individually referred to as a “Party” and collectively 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 services of Inspector to perform the 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 Inspector shall 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 the procedures set forth in Chapter 560-10-30 of the Rules and Regulations of the Department.

1.2 Qualifications. The Inspector shall satisfy the requirements to perform Inspections set forth in Chapter 560-10-30 of the Rules and Regulations of the Department.

1.3 Education, Training, and Experience. The Inspector represents that he or she possesses a degree of learning, skill, and ability which is ordinarily possessed by other persons doing similar work in the collision repair industry, specifically those persons with an active ICAR® Platinum Individual™ designation.

1.4 Due Care. The Inspector shall perform the duties set forth herein with a degree of care that meets or exceeds that degree of care which is ordinarily exercised and employed by such persons under similar conditions and like circumstances. Failure to satisfy or enforce standards set forth by the Department generally, under Georgia law, as set forth in required training, as specified on Department inspection forms, and/or based on the individual instructions of any state Inspector or state supervisor will constitute a failure to meet this standard of due care. This Agreement may be terminated by the Department if, in the sole discretion of the Department, the Inspector has performed any portion of his or her duties under this Agreement below this standard of due care.

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 Inspector 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 Consideration. In consideration of the Inspector assisting the Department in fulfilling its statutory obligations to conduct inspections of salvage and assembled vehicles, the Inspector may assess applicants requesting the inspection, a fee not to exceed an amount set by Department regulations as compensation for the inspection. As of the date of this Agreement, such fee is fifty dollars (\$50.00).

2.3.1 Failure to comply with the terms and conditions in this sub-article (2.3), may result in termination of this Agreement at the sole discretion of the Department.

ARTICLE 3

Access to Records and Background Checks

3.1 Access and Inspection. The Department shall have access to any pertinent books, documents, papers, and records of the Inspector 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 Inspector 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. Inspector 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 Inspector herein grants and consents to the performance of a comprehensive background check to be conducted by the Department at any time. Such background check, in the sole Discretion of the department, may include criminal records, tax records, or other records deemed relevant by the Department in investigating the Inspector's prior history. Any evidence of prior misconduct, regardless of whether such incident resulted in an arrest or criminal conviction, may result in denial or termination of this Agreement.

ARTICLE 4

Bond, Insurance and Indemnity

4.1 Inspector Bond. The Inspector shall procure and maintain a Salvage and Assembled Vehicle surety bond in the amount of Fifty Thousand Dollars (\$50,000). The Inspector shall furnish a Vehicle Inspector Bond in the form established by the Department.

4.2 Required Qualifications for Surety. All bonds at the time of issuance must be issued by a surety or insurance company authorized by the Insurance Commissioner to transact the business of suretyship in the State of Georgia, and shall have a Best Policyholders Rating of "A-" or better and with a financial size rating of Class V or larger.

4.3 Liability Insurance. During the Term, the Inspector shall maintain professional liability insurance (errors and omissions insurance) applicable to the Services being performed. If there is no professional liability insurance product applicable to the work being performed, the Inspector 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 Inspector 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 in the aggregate, and \$100,000 per occurrence.

4.4 Indemnity. The Inspector 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 Inspector, its agents, employees or others working at the direction of Inspector or on its behalf, or due to any breach of this Agreement by the Inspector, or due to the application or violation of any pertinent Federal, State or local law, rule or regulation by the Inspector. This indemnification applies whether: (a) the activities involve third parties or employees or agents of the Inspector 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 sold 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 Inspector. 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 Inspector 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 Inspector 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 Confidential Information. Inspector may be given access to Confidential Information while completing the Inspections. Confidential information is information, data, and knowledge that is 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 Inspector or known by Inspector 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 Inspector shall not:

- a) disclose or cause to be disclosed the Confidential Information to third-parties; or
- b) use, copy, reproduce, distribute, 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 Inspector may disclose Confidential Information to its employees to the extent necessary to fulfill the intent and terms of this Agreement.

5.3 The Inspector 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.* (“DPPA”). The Inspector shall not access or use any personal information or other data from Department records or systems for any reason other than Inspections. The Inspector shall not disclose any personal information or data from Department records or systems without the express written consent of the Department.

5.4 The Inspector 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 Inspector or the disclosure of Confidential Information.

5.6 To the extent necessary to protect the Department’s rights, the Inspector 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. Inspector 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 Inspector'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 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 of notice:

- a) Inspector violates any provision of this Agreement; or
- b) Inspector 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) Inspector fails to maintain a current ICAR® Platinum Individual™ designation; or
- d) Insolvency or liquidation or dissolution of the Inspector is initiated; or
- e) A voluntary or involuntary bankruptcy petition is filed by or against the Inspector 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 Inspector.

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

6.5 Independent Contractor. The Inspector shall be an independent contractor of the Department. In the event the Inspector is terminated, their registration is revoked, or the Agreement is otherwise cancelled or not renewed the Inspector 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 numbered 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
Legal Affairs and Tax Policy
1800 Century Blvd. Suite 15107
Atlanta GA 30345

AS TO INSPECTOR: _____

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 persons.

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. Inspectors 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 Inspector warrants that he and his firm have 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 Inspector certifies that any lobbyist employed or retained by the Inspector 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 Inspector acknowledges that he is fully aware of the contents and requirements of Chapter 24 of Title 50 of the Official Code of Georgia. The Inspector by execution of the present Agreement does hereby certify that, to the best of his knowledge, information and belief, he and his Inspectors are 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 Inspector warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for him, to solicit or secure this agreement and that he has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for him, 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 Inspector 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 Assignments and Subcontracts. The Inspector 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. Inspector 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 Inspector 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 Inspector 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 Inspector 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, Inspector 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.

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.

Salvage/Assembled Vehicle Inspector:	
_____	DATE _____
Signature	
_____	_____
Print Name	Position
Witness:	
_____	DATE _____
Signature	
_____	_____
Printed Name	Position
Department of Revenue:	
_____	DATE _____
Signature	
State Revenue Commissioner	