

DVRS

DEALER VEHICLE REGISTRATION SCHEME DEALER AGREEMENT

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DVRS DEALER AGREEMENT

Background

The Roads & Traffic Authority of New South Wales (the **RTA**) has established a scheme known as the Dealer Vehicle Registration Scheme (**DVRS**), (formerly known as the Authorised New Vehicle Inspection Scheme (**ANVIS**)). Under that scheme:

- (a) dealers of New Vehicles, licensed under the *Motor Dealers Act 1974* (NSW), and other entities engaged in the sale, distribution and management of New Vehicles, are authorised to inspect, certify and register New Vehicles;
- (b) dealers of New Vehicles or Second-Hand Vehicles, licensed under the *Motor Dealers Act 1974* (NSW), and other entities engaged in the sale, distribution and management of New Vehicles or Second-Hand Vehicles, that have DOL Access are authorised to:
 - (1) register Second-Hand Vehicles (provided a current Inspection Report in relation to the Second-Hand Vehicle has been obtained);
 - (2) transfer and renew registration of vehicles; and
 - (3) advise the disposal of vehicles, using the DOL System; and
- (c) perform such other registration functions as the RTA may notify from time to time.

In consideration for the RTA admitting the Dealer to DVRS the Dealer agrees to observe the terms and conditions of use set out in this Dealer Agreement.

1 Definitions and interpretation

1.1 Definitions

In this Agreement:

Anniversary Date means each anniversary of the Commencement Date.

Application Form means the application form submitted by the Dealer to the RTA for authorisation to provide the Services.

Authorised Services Officer means a Services Officer who has been authorised by the RTA under clause 10(a).

AUVIS means an Authorised Unregistered Vehicle Inspection Station being a station authorised by the RTA to establish the identity and roadworthiness of unregistered vehicles.

Bulk Registration Transaction System means an application that enables registration transactions to be completed through a business to business system that links motor dealer stock management systems to DRIVES.

Business Day means any day other than a Saturday, Sunday, public or bank holiday in New South Wales.

Business Rules means the 'DVRS Business Rules' provided by the RTA to the Dealer and includes any amendments or supplements to, or replacements of those Business Rules which the RTA may make from time to time.

Commencement Date means the commencement date listed in Item 6 of schedule 1.

Compliance Plate means a plate fitted by a manufacturer to a vehicle to identify the vehicle and which shows, among other things:

- (a) the make and model of the vehicle;
- (b) the date of manufacture; and
- (c) the Vehicle Identification Number.

Confidential Information means any information disclosed by the RTA (whether the information is oral or in writing) or obtained or created by the Dealer pursuant to or in connection with this Dealer Agreement or an Existing Agreement or from information provided by the RTA or by a customer to the RTA, including DRIVES, DOL System Information, Personal Information and information concerning the practices, business dealings or affairs of the RTA or its customers.

Controlling Registry means the registry listed in Item 2 of schedule 1 or such other registry as notified by the RTA from time to time.

Dealer means the entity whose details are provided in Item 1 of schedule 1.

Dealer Agreement means the terms and conditions of this agreement including the schedules to this agreement.

Dealer Licence means a licence issued under the *Motor Dealers Act 1974* (NSW) that allows dealers to buy, sell and exchange vehicles.

Dealer Online User Manual means the RTA DOL User Manual available at the Commencement Date at: http://whome.rta.nsw.gov.au/registration/downloads/dol_manual.pdf as updated by the RTA from time to time.

Dealer's Representative is the person whose details are set out in Item 9 of schedule 1 or as otherwise notified to the RTA under clause 6(a).

DOL Access means authorisation to use the DOL System in accordance with this Dealer Agreement.

DOL System means the RTA's scheme under the Dealer Vehicle Registration Scheme (and includes the system known as the "Bulk Registration Transaction System") whereby a User electronically submits registration information to the RTA online via the RTA website and DRIVES, and includes the Dealer Online User Manual and all directions regulating the operation of the DOL System and the parties' participation in it.

DOL System Information means any and all data and information (in whatever form such information may exist), relating to motor vehicle registrations in New South Wales and drivers licensed in New South Wales which is owned by the RTA or held by the RTA in the DOL System or entered, received, stored, generated or processed as part of the Services, including any:

- (1) database in which such data or information is contained;
- (2) documentation or records relating to such data or information;
- (3) products, material, documentation or records resulting from the use or manipulation of such information;
- (4) copies of any of the above; and
- (5) user IDs or passwords for access to the DOL System.

DRIVES is the Driver and Vehicle Information System operated by the RTA and containing information relating to motor vehicle registrations and drivers licensed in New South Wales.

Equipment means the computer terminal and related equipment used by the Dealer for entering transactions via the DOL System and providing the Services in accordance with this Dealer Agreement.

Existing Agreement means any existing ANVIS Scheme Dealer Agreement in effect between the parties prior to the date of this Dealer Agreement.

Fees means:

- (a) registration fees in amounts as directed by the RTA from time to time;
- (b) motor vehicle taxes in amounts as directed by the RTA from time to time;
- (c) number plate fees in amounts as directed by the RTA from time to time;
- (d) for Heavy Vehicles, inspection fees in amounts as directed by the RTA from time to time;
- (e) stamp duty in amounts as directed by the RTA from time to time; and
- (f) any other fees, taxes, duties or any other amounts which the RTA directs the Dealer to collect from time to time.

Governmental Agency means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, Minister, commission, authority, tribunal, agency or entity in any part of the world.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

GST Law has the same meaning as in the GST Act.

GVM means the gross vehicle mass recommended by the vehicle manufacturer for safe operation of the vehicle.

Heavy Vehicle means a vehicle with a GVM of more than 4.5 tonnes.

Inspection Report means an inspection report (or “blue slip”) issued by an **AUVIS**.

Intellectual Property Rights means all intellectual property rights or other proprietary rights including copyright, design rights, registered designs, rights in databases, trademarks (registered or unregistered) and rights to apply for registration of any of the foregoing anywhere in the world.

Law means any law, regulation, government policy or ministerial direction.

Loss means any costs, actions, demands, suits, claims, expenses (including legal costs or expenses), proceedings, damages, loss (whether direct, indirect or consequential) or loss of profits suffered or incurred by a party.

Motor Dealer’s Guide to Vehicle Registration means the RTA Motor Dealer's Guide to Vehicle Registration available at the Commencement Date at:

<http://whome.rta.nsw.gov.au/registration/downloads/motordealersguide.pdf>, as updated by the RTA from time to time.

New Vehicle means a registrable vehicle as defined in the *Road Transport (Vehicle Registration) Act 1997* (NSW) which:

- (a) is newly manufactured;
- (b) has not been used as a vehicle other than as necessary for manufacture and pre-delivery service;
- (c) has not previously been registered in NSW or elsewhere; and
- (d) has a Compliance Plate fitted.

Other Nominated Registry means the registry listed in Item 3 of schedule 1.

Personal Information has the same meaning as in the *Privacy and Personal Information Protection Act 1998* (NSW).

Personnel means employees, officers, secondees, contractors and agents of the Dealer.

Premises means the premises listed in Item 4 of schedule 1.

Privacy Laws means the *Privacy and Personal Information Protection Act 1998* (NSW), the *Privacy Act 1988* (Cth), any applicable codes of conduct or directions issued under the *Privacy and Personal Information Protection Act 1998* (NSW) or the *Privacy Act 1988* (Cth), and all other applicable Laws relating to Personal Information.

Purpose means submitting vehicle information to the RTA and receiving information from the RTA as contemplated by this Dealer Agreement.

RTA means the Roads and Traffic Authority of New South Wales, ABN 480 155 255, of 101 Miller Street, North Sydney.

RTA Materials means any materials and documentation provided by the RTA to the Dealer to perform Services (including any materials and documentation relating to the DOL System, DOL System Information or provided under any Existing Agreement) other than the number plates and registration labels provided under clause 14(a) or the Existing Agreement.

Second-Hand Vehicle means a registrable vehicle as defined in the *Road Transport (Vehicle Registration) Act 1997* (NSW) which:

- (a) has previously been registered; and
- (b) has a Compliance Plate fitted.

Security Administrator is the person nominated by the Dealer and authorised by the RTA as the person responsible for administering the DOL System on behalf of the Dealer.

Services means:

- (a) in relation to a New Vehicle, all work, materials and services necessary or desirable to be performed or provided in connection with: inspection, certification and registration of the vehicle; and
- (b) in relation to a Second-Hand Vehicle, all work, materials and services necessary or desirable to be performed or provided in connection with: registration (including the provision of a current Inspection Report), transfer of registration, renewal of registration, and advising the disposal, of the vehicle using the DOL System,

including all functions described in the Business Rules and the Motor Dealer's Guide to Vehicle Registration.

Services Officers means employees of the Dealer (including, for the avoidance of doubt, the Dealer's Representative and the Security Administrator and Users under the DOL System) or subcontractors approved by the RTA under clause 5(b) who perform the Services.

Software means the computer software used by the Dealer for entering transactions via the DOL System and providing the Services in accordance with this Dealer Agreement.

Statement of Business Ethics means the RTA Statement of Business Ethics set out in Schedule 5 or available as at the Commencement Date at:

http://www.rta.nsw.gov.au/doingbusinesswithus/downloads/2006_08_ethics.pdf, as updated by the RTA from time to time.

Tax Invoice has the meaning given to it in GST Law.

Use includes access, amend, update, add to, reproduce, process or otherwise deal with.

User is a person nominated by the Dealer and authorised by the RTA to access the DOL System.

Vehicle Identification Number means a structured combination of characters assigned to a vehicle by the manufacturer for identification purposes in accordance with the Australian Design Rules.

1.2 Interpretation

- (a) The clause headings and subheadings in this Dealer Agreement do not form part of this Dealer Agreement and will not be used in its interpretation.
- (b) In this Dealer Agreement:
 - (1) a reference to a party includes its employees, officers, contractors and subcontractors;
 - (2) a reference to a statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws amending, consolidating or replacing it, whether passed by the same or another Governmental Agency with legal power to do so, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
 - (3) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
 - (4) a reference to a party includes that party's successors and assigns;
 - (5) a reference to an agreement other than this Dealer Agreement includes an undertaking, deed, agreement or legally enforceable arrangement or understanding whether or not in writing; and
 - (6) a reference to a document includes any agreement in writing, or any certificate, notice, instrument or other document of any kind.
- (c) "Includes" or "for example" or similar expressions are not words of limitation.

1.3 Priority of documents

If there is any inconsistency between this Dealer Agreement, the Business Rules or any RTA Materials, they will, to the extent of any inconsistency, take effect in the following descending order of priority:

- (a) this Dealer Agreement;
- (b) the Business Rules;
- (c) the Motor Dealer's Guide to Vehicle Registration; and
- (d) the RTA Materials, with the most recent RTA Materials taking precedence.

2 Existing Agreement

- (a) The parties acknowledge that any Existing Agreement terminates automatically on the Commencement Date without need for any further action.
- (b) The RTA acknowledges that the Dealer is not required to comply with clause 18.5 of any Existing Agreement.
- (c) Termination of the Existing Agreement is without prejudice to accrued rights or liabilities of either party under the Existing Agreement.

3 Authorisation

3.1 Authorisation

- (a) The RTA authorises the Dealer to perform Services as a delegate of the RTA pursuant to section 50 of the *Transport Administration Act 1988* (NSW) and Regulation 35(1)(f) of the *Transport Administration (General) Regulation 2005* on the terms and conditions set out in this Dealer Agreement.
- (b) The Dealer must not perform the Services in relation to New Vehicles unless:
 - (1) the Dealer is permitted to sell New Vehicles pursuant to its Dealer Licence; and
 - (2) the Dealer has represented that it is permitted to sell New Vehicles in Item 1 of schedule 1 or by notice to the RTA.
- (c) The Dealer must not perform any Services in relation to Second-Hand Vehicles unless:
 - (1) the Dealer is permitted to sell Second-Hand Vehicles pursuant to its Dealer Licence;
 - (2) the Dealer has represented that it is permitted to sell Second-Hand Vehicles in Item 1 of schedule 1 or by notice to the RTA; and
 - (3) the Dealer has DOL Access and any transaction in relation to the Second-Hand Vehicle is recorded or processed using the DOL System.

3.2 Acceptance of authorisation

In consideration of the RTA authorising the Dealer to perform the Services, the Dealer agrees to comply with the terms and conditions set out in this Dealer Agreement.

4 Scope of Dealer's authority

- (a) The Dealer must not act outside the scope of the authority conferred by this Dealer Agreement.
- (b) The Dealer must not bind the RTA in any way or hold itself out as having any authority to do so except to the extent authorised by this Dealer Agreement. Except as specifically permitted by this Dealer Agreement or the Business Rules, the Dealer is not authorised to assume or create any obligations on behalf of the RTA and the Dealer must not incur any liability on behalf of the RTA or in any way pledge or purport to pledge the RTA's credit.
- (c) The authority of the Dealer to act as delegate of the RTA is limited to lawful acts.
- (d) The Dealer must not do anything which might adversely affect the reputation of the RTA.
- (e) The Dealer must not register any New Vehicle under DVRS unless:
 - (1) it is a New Vehicle of the type listed in Item 5 of schedule 1; and
 - (2) the vehicle is legally within the Dealer's own possession or control at the time of registration.
- (f) The Dealer must not register any Second-Hand Vehicle under DVRS unless:

- (1) the Dealer has obtained a current Inspection Report in relation to the vehicle and has submitted the Inspection Report electronically to the RTA; and
- (2) the vehicle is legally within the Dealer's own possession or control at the time of registration.

5 Performance of Services

- (a) The Dealer must perform Services:
 - (1) diligently, accurately, competently, ethically, and honestly;
 - (2) to the standard of skill and care expected of a Dealer experienced in the provision of the type of services specified in this Dealer Agreement;
 - (3) in a timely and expeditious manner so as to meet any specific requirements made known to the Dealer by the RTA from time to time;
 - (4) in accordance with the Motor Dealer's Guide to Vehicle Registration;
 - (5) in accordance with the Business Rules;
 - (6) in accordance with the RTA Materials;
 - (7) in accordance with the Statement of Business Ethics;
 - (8) in accordance with any other guidelines or directions issued by the RTA; and
 - (9) in compliance with all Laws.
- (b) The Dealer must not subcontract the whole or any part of the performance of the Services without the prior written approval of the RTA. An approval given by the RTA permitting the Dealer to subcontract any part of the Services may only be given by the RTA's Manager, Registration and Vehicle Management, Licensing Registration and Freight, or another person notified by the RTA to the Dealer from time to time and if given, does not relieve the Dealer from its obligations and liabilities under this Dealer Agreement.
- (c) The Dealer must review the RTA website, and any RTA extranet to which the Dealer is given access, regularly for updates to the Motor Dealer's Guide to Vehicle Registration, the Business Rules, and Statement of Business Ethics or any other guidelines or directions issued by the RTA from time to time.

6 Notification of changes and breaches

The Dealer must notify the RTA:

- (a) of any change to the Dealer's Representative at least five Business Days before the change is implemented;
- (b) promptly, of any breach of this Dealer Agreement by the Dealer and advise of the action taken to remedy the breach;
- (c) immediately, if it becomes aware of any inaccuracy, incompleteness or change in the information in the Application Form or schedule 1;
- (d) immediately, if it becomes aware of any suspected, alleged or actual corrupt or fraudulent conduct (including fraud by customers or Services Officers);
- (e) immediately,

- (1) if any persons who between them beneficially own, at the date of this Dealer Agreement, more than 50% of the ordinary shares or other voting or economic interests in the Dealer, cease to hold or control more than 50% of such ordinary shares or other voting or economic interests; or
- (2) if the Dealer is a partnership, of any change in the composition of the partnership; and
- (f) immediately, if it ceases to meet the eligibility criteria set out in the Business Rules; and
- (g) promptly of the name of all Authorised Services Officers who cease to provide the Services for the Dealer.

7 Financial accounting

7.1 Fees

- (a) The Dealer acknowledges that Fees are received solely for and on behalf of the RTA.
- (b) The Dealer must:
 - (1) receive Fees as agent for the RTA;
 - (2) hold Fees received on trust for the RTA;
 - (3) separately account for Fees received for the RTA; and
 - (4) remit Fees received for the RTA to the RTA in accordance with the requirements of the Business Rules, Item 8 of schedule 1 and clause 7.2.

7.2 Receipt of Fees

The Dealer must issue a stamped Tax Invoice in accordance with GST Law to any person from whom payment is accepted on behalf of the RTA.

7.3 Errors and discrepancies

If the RTA detects any error or discrepancy in any of the documentation forwarded to it by the Dealer under clause 7.1(b)(4), it will notify the Dealer, and the Dealer must correct any such errors or discrepancies within one Business Day.

8 Control management

8.1 Full and accurate records

- (a) The Dealer must create and maintain full and accurate records of the Services performed, including:
 - (1) vehicle registration details, including details of transfer and renewal of vehicle registration;
 - (2) customer details;
 - (3) inspection details;
 - (4) number-plates issued; and

- (5) vehicle disposal details.
- (b) Without limiting clause 8.1(d), the Dealer must maintain all records that:
 - (1) are reasonably required for the purposes of an audit or inspection referred to in clause 8.2; or
 - (2) are required by any relevant Law of which the Dealer is or should be aware.
- (c) The Dealer must ensure that all records maintained under clauses 8.1(a) and 8.1(b) are maintained in its custody and control and in an accessible and secure form and for the period that either the Dealer or the RTA is required by Law to retain them.
- (d) The Dealer must provide the RTA with the records referred to in clauses 8.1(a) and 8.1(b) at the RTA's request.

8.2 RTA audits

- (a) Subject to clause 8.2(c), the Dealer must, on at least 24 hours notice, provide the RTA (or the RTA's nominee) free and unfettered access during the Dealer's usual business hours to:
 - (1) the resources, Authorised Services Officers, Premises and facilities used by the Dealer in connection with the supply of Services; and
 - (2) financial and operational records and other documentation relating to the provision of Services in the possession, custody or control of the Dealer (including all records relating to DOL Access),

for the purpose of the RTA assessing the Dealer's compliance with any Laws, any audit requirements or its obligations under this Dealer Agreement.
- (b) The RTA or its nominees may inspect and take copies of any such records.
- (c) If the Dealer is not legally able to provide the RTA with access to all of its the Premises and facilities because of restrictions imposed by Law, a representative of the Dealer must, within the time notified by the RTA, meet with the RTA and provide the RTA with satisfactory evidence of the Dealer's compliance with its obligations under this Dealer Agreement.
- (d) The Dealer must co-operate fully, and must ensure that all Authorised Services Officers co-operate fully, in any inspection including by answering all reasonable requisitions of the RTA or its nominee.
- (e) If an inspection reveals that the Dealer is not complying with any relevant Law, any audit requirement or otherwise with this Dealer Agreement, the Dealer must promptly take such action as is necessary to remedy the non-compliance.

8.3 Independent audits

- (a) The Dealer must conduct annual audits (using an independent auditor) for the purposes of auditing compliance with its obligations under this Dealer Agreement.
- (b) On the date specified in Item 7 of schedule 1 each year during the term of this Dealer Agreement, the Dealer must provide to the RTA a certification by the auditor referred to in clause 8.3(a) as to the following:
 - (1) that the Dealer and any subcontractors approved under clause 5(b) have complied with all of the Dealer's obligations under this Dealer Agreement; or
 - (2) if the Dealer or any subcontractor approved under clause 5(b) has failed to comply with all of the Dealer's obligations under this Dealer Agreement:

- (A) details of any such failure;
 - (B) details of the steps undertaken by the Dealer to rectify and prevent the recurrence of any such failure; and
 - (C) that the Dealer and any subcontractor approved under clause 5(b) has complied with the remainder of the Dealer's obligations under this Dealer Agreement.
- (c) The Dealer must ensure its independent auditor retains sufficient records so as to be able to justify its audit and certification if required.
 - (d) Each party must bear its own costs associated with audits under clauses 8.2 and 8.3.

8.4 Lodging, and accuracy of, data

- (a) The Dealer must:
 - (1) ensure that all forms and/or other documents required under the Motor Dealer's Guide to Vehicle Registration and the Business Rules are correctly completed; and
 - (2) forward the forms and/or other documents to the RTA in accordance with Item 8 of schedule 1 and the Business Rules.
- (b) The Dealer must notify the RTA within one Business Day of it becoming aware of any inaccuracy in forms, documents or other data it has supplied to the RTA.
- (c) If the Dealer supplies incorrect forms, documents or other data then the Dealer must correct the forms, documents or other data at its own expense, within one Business Day or such longer period as directed by the RTA.
- (d) It is an essential condition of this Dealer Agreement that all forms and other documents be completed by the Dealer with at least 95% accuracy rates at all times and 100% accuracy in respect of customer identification.
- (e) Where the Dealer fails to meet an accuracy rate as required by this clause then the RTA may in its discretion follow the "Dealer Errors – Action Plan Process" in schedule 4.
- (f) This clause 8.4 does not limit any right which the RTA has under any other clause including clauses 7, 18, or 21.

9 Dealer Online Access

9.1 DOL Access

- (a) The Dealer may apply for authorisation to use the DOL System for the provision of Services.
- (b) If the Dealer provides the RTA with 150 or more New Vehicle registrations in a calendar quarter, the RTA may notify the Dealer and request that the Dealer applies for DOL Access using the application form provided by the RTA.
- (c) Without limiting the operation of clause 18.1, the Dealer acknowledges that if the Dealer does not obtain DOL Access within a reasonable time following the RTA's request under clause 9.1(b) then the RTA may wish to terminate this Dealer Agreement under clause 18.1.
- (d) The Dealer's access to the DOL System will commence on the date determined by the RTA.

- (e) If the Dealer has DOL Access, without limiting any other provisions of this Dealer Agreement, the Dealer must comply with this clause 9.

9.2 Responsibility for use by Security Administrator and Users

The Dealer must ensure that its Security Administrator and User(s) comply with this Dealer Agreement and do not cause the Dealer to be in breach of this Dealer Agreement.

9.3 Equipment and Software

- (a) The Dealer is solely responsible, at its cost, for providing and maintaining the Equipment and Software with access to the World Wide Web required for entering transactions via the DOL System and providing the Services. The Dealer must comply with the licence terms and any other conditions applicable to use of the Software.
- (b) Provision of any items other than the RTA Materials by the RTA is at the RTA's sole and absolute discretion. The RTA accepts no responsibility for the provision of any hardware, software, DOL System, equipment or processes used by the Dealer in connection with the DOL System.
- (c) Title to the RTA Materials and any other items provided by the RTA will remain vested in the RTA.
- (d) The RTA is not responsible for any costs or expenses incurred by a Dealer in using the DOL System including any telecommunications fees, ISP charges or software licence fees.

9.4 Use of the DOL System

- (a) The Dealer must not use the DOL System for any purpose other than submitting vehicle information to the RTA and receiving information from the RTA as contemplated by this Dealer Agreement.
- (b) The Dealer must ensure that no person uses the DOL System other than as permitted in this clause 9.4.
- (c) The Dealer must comply with any guidelines or directions issued by the RTA from time to time in relation to the DOL System and must ensure that each Security Administrator and User is familiar with and complies with the guidelines, directions or documents provided by the RTA.
- (d) For the avoidance of doubt, the Dealer must submit all paperwork to RTA in hard copy as required by this Dealer Agreement, irrespective of whether or not it submits information to RTA on-line via the DOL System.
- (e) The Dealer must nominate a suitably qualified person to act as its Security Administrator and must also nominate at least one suitably qualified person as a User. For an individual to be authorised as a Security Administrator or a User, the Dealer must arrange for that person to complete and sign the relevant form and deliver it to the RTA.
- (f) The Dealer must ensure that the Dealer's Security Administrator takes day-to-day operational responsibility for ensuring the Dealer's and Users' compliance with the guidelines referred to in clause 9.4(c).
- (g) The RTA retains the right in its absolute discretion to authorise or reject any person nominated by the Dealer to fill either a User or Security Administrator role.
- (h) The Dealer must notify the RTA:

- (1) as soon as possible prior to any change in the details provided in respect of any Security Administrator or User on a Security Administration/User Authorisation Form; and
 - (2) promptly of the name of all Security Administrators or Users who cease to provide the Services for the Dealer.
- (i) The Dealer must ensure that all Security Administrators and Users:
 - (1) are provided with a copy of the Statement of Business Ethics; and
 - (2) carry out the Services in accordance with the Statement of Business Ethics.
 - (j) The nomination and appointment of a Security Administrator or User by the Dealer with the authorisation of the RTA does not in any way limit or affect the obligations of the Dealer under this Dealer Agreement.

9.5 User IDs and passwords

- (a) The RTA will provide a unique identification number (**user ID**) and a password for each User to enable the User to access the DOL System. Each user ID will be recorded by the RTA for security and audit reasons against all information submitted by each User.
- (b) The Dealer must ensure that each User and Security Administrator ensures that:
 - (1) password(s) are kept secure and separate from user IDs;
 - (2) password(s) are not used by or available to any person other than the individual User to which it is assigned; and
 - (3) each User logs out of the DOL System when vacating the dedicated terminal to ensure no other person is able to provide a transaction under that user ID.
- (c) The Dealer must also:
 - (1) except as required by Law prohibit the storage, reproduction or creation of any database of any DOL System Information whether in electronic or any other form;
 - (2) prohibit any other activity which may compromise the security and integrity of the DOL System or any DOL System Information; and
 - (3) inform Users of their potential personal liability for penalties under any Laws.
- (d) If a Dealer knows or suspects that a person who is not authorised to access the DOL System knows or may know a User's password or that a User knows the password of another User, the Dealer must:
 - (1) instruct the User to immediately change their Password (to the extent that they are able to); and
 - (2) advise the RTA of such occurrence or suspicion.

9.6 Dealer Online Information

The Dealer must ensure that all information submitted to the DOL System:

- (a) is complete, correct and accurate;
- (b) does not infringe the Intellectual Property Rights of any person; and
- (c) complies with:

- (1) all applicable Laws; and
- (2) any applicable RTA guidelines or directions which are notified to the Dealer.

9.7 Confidentiality: Protecting the DOL System and DOL System Information

- (a) Without limiting clause 19 of this Dealer Agreement, the Dealer must not permit Use of the DOL System or DOL System Information by, or disclose DOL System Information to, any person other than:
 - (1) its Personnel who are authorised in writing by the RTA prior to the disclosure; or
 - (2) persons to whom the Dealer is required by Law to disclose DOL System Information, if the Dealer notifies the RTA before the disclosure or, if that is not possible, immediately afterwards.
- (b) Without limiting clause 9.7(a) or clause 20 of this Dealer Agreement, the Dealer must ensure that any Personnel who Use the DOL System or DOL System Information or to whom it discloses DOL System Information:
 - (1) is a person who has a need to know for the Purpose; and
 - (2) is a person who has signed a document imposing confidentiality and privacy obligations substantially similar but in any event no less onerous than those imposed under this Dealer Agreement.

The Dealer must, upon request, provide the RTA with a copy of documents executed under clause 9.7(b)(2).

- (c) The Dealer must:
 - (1) immediately notify the Controlling Registry if it becomes aware of any suspected or actual unauthorised Use, disclosure or disposal of the DOL System or DOL System Information;
 - (2) immediately take all steps (including those requested by the RTA) at its own expense, which are necessary to:
 - (A) prevent any suspected or actual unauthorised Use, disclosure, or disposal of the DOL System or DOL System Information by its Personnel; or
 - (B) enforce the rights of the Dealer or the RTA in respect of any breach by the Dealer's Personnel of their obligations in respect of the DOL System or the DOL System Information;
 - (3) ensure that the DOL System and the DOL System Information are safeguarded at all times from corruption, interference or loss, and against unauthorised Use, disclosure, disposal or other misuse; and
 - (4) not store, reproduce or create any database of DOL System Information, whether in electronic or other form except as required for the Purpose or by Law.

9.8 Encryption requirements

The Dealer acknowledges and agrees that it must comply with the RTA's data encryption requirements, as notified by the RTA from time to time, in relation to use of the Bulk Registration Transaction System.

9.9 Termination of Dealer's DOL Access

- (a) The Dealer's access to the DOL System will terminate if any one or more of the following occurs:
 - (1) automatically, if this Dealer Agreement terminates for any reason;
 - (2) if the Dealer commits a material breach of this clause 9 and fails to remedy that breach within 4 days, after receipt of a notice of termination from the RTA;
 - (3) 7 days after the RTA issues a notice of termination to the Dealer; or
 - (4) 7 days after the Dealer issues a notice of termination to the RTA,
(and the parties acknowledge that a notice of termination under clauses 9.9(a)(3) and 9.9(a)(4) may be issued for convenience without cause).
- (b) Termination of the Dealer's access to the DOL System under this clause 9.9 does not of itself terminate this Dealer Agreement which shall continue to apply to the Dealer.
- (c) If the Dealer's access to the DOL System terminates for any reason, the authorisation of each Security Administrator and User employed or engaged by that Dealer will terminate automatically. The Dealer must ensure that no Security Administrator or User uses or attempts to use the DOL System after the date of termination.

9.10 Consequences and effect of termination

- (a) The Dealer must, within 5 days after the date of termination of the Dealer's access to the DOL System:
 - (1) deliver to the RTA all items, materials and documents issued to the Dealer by the RTA in connection with the Dealer's access to the DOL System; and
 - (2) pay to the RTA all money then due and payable to the RTA in connection with the Services.
- (b) Termination of the Dealer's access to the DOL System is without prejudice to any accrued rights or remedies of the parties.

9.11 Termination of Security Administrator's or Users' DOL Access

The RTA may at any time terminate the Security Administrator's or a User's DOL Access if the Security Administrator or User fail to comply with this Dealer Agreement or cause the Dealer to be in breach of this Dealer Agreement.

10 Engagement and management of Services Officers

- (a) The Dealer may from time to time apply to the RTA for a Services Officer to be authorised to perform the Services. The Dealer must ensure that only Authorised Services Officers perform the Services.
- (b) For an individual to be authorised as an Authorised Services Officer, the Dealer must ensure that the individual completes the Authorised Services Officer authorisation form or such other form as the RTA may require from time to time.
- (c) The RTA may in its absolute discretion authorise or reject any person nominated by the Dealer as an Authorised Services Officer.

- (d) The RTA may, in its absolute discretion, terminate any authorisation of an Authorised Services Officer immediately at any time, by giving notice to the Dealer.
- (e) The Dealer must:
 - (1) ensure that all Authorised Services Officers are appropriately qualified and experienced to provide Services in accordance with this Dealer Agreement, including for the avoidance of doubt, in accordance with the Motor Dealer's Guide to Vehicle Registration and the Business Rules;
 - (2) ensure that all Authorised Services Officers perform the Services in accordance with this Dealer Agreement; and
 - (3) ensure that all Authorised Services Officers:
 - (A) are provided with a copy of the Statement of Business Ethics; and
 - (B) carry out the Services in accordance with the Statement of Business Ethics.
- (f) RTA's authorisation of an Authorised Services Officer does not in any way limit or affect the obligations of the Dealer under this Dealer Agreement. For the avoidance of doubt, a failure by an Authorised Services Officer to perform the Services in accordance with this Dealer Agreement is a breach of this Dealer Agreement by the Dealer.
- (g) If requested to do so, the Dealer must provide to the RTA:
 - (1) accurate information about the identity, qualifications, job history and character of each of the Authorised Services Officers; and
 - (2) a list of any of the Authorised Services Officers, showing the full name, address and signature of each individual.
- (h) The Dealer must comply with any guidelines issued by the RTA from time to time in relation to the conduct of background, security or other checks on Authorised Services Officers or persons with proposed DOL Access or access to Confidential Information. The Dealer acknowledges that these directions or guidelines may require the Dealer to conduct such investigations as the RTA may reasonably request in relation to any Authorised Services Officers or persons with proposed DOL Access or access to Confidential Information.
- (i) The Dealer must obtain from any Authorised Services Officer or person with proposed DOL Access or access to Confidential Information any consent that is necessary to enable either the Dealer or the RTA to:
 - (1) comply with clause 10(h);
 - (2) conduct any investigations required by the RTA under any direction or guidelines; and
 - (3) to exchange information as contemplated in the relevant direction or guideline.
- (j) If the Dealer is unable to obtain that consent, then, unless the RTA agrees otherwise, that person must not perform the Services or be given access to the DOL System or Confidential Information.
- (k) An investigation by the RTA will not:
 - (1) constitute waiver of any breach of this Dealer Agreement; or
 - (2) affect the Dealer's obligations and its sole responsibilities regarding provision of the Services in accordance with this Dealer Agreement.

11 Premises

- (a) The Dealer must not provide the Services, Use the DOL System or Confidential Information at any location other than the Premises, except to the extent necessary to perform its obligations under this Dealer Agreement at the Controlling Registry or Other Nominated Registry.
- (b) If the Dealer wishes to change the location of the Premises, the Dealer must provide the RTA with 20 Business Days prior notice.

12 Conflict of interest

The Dealer must ensure that an Authorised Services Officer does not perform Services in relation to vehicles owned by that Authorised Services Officer.

13 Intellectual property rights

- (a) The Dealer acknowledges that this Dealer Agreement does not transfer to it any Intellectual Property Rights whatsoever, including any Intellectual Property Rights in the RTA Materials or any number plates or registration labels provided by the RTA or the DOL System or DOL System Information.
- (b) If the Dealer becomes aware of any actual or suspected infringement of the RTA's Intellectual Property Rights it must immediately notify the RTA and must provide all reasonable assistance requested by the RTA in relation to any action the RTA takes.
- (c) The Dealer absolutely and unconditionally:
 - (1) assigns to the RTA all present and future copyright it has in any Confidential Information and DOL System Information immediately on its creation; and
 - (2) agrees, absolutely and unconditionally, to assign to the RTA all other Intellectual Property Rights in any Confidential Information and DOL System Information without the need for any further assurance.

14 Number plates, labels and RTA Materials

- (a) The RTA will provide number plates and registration labels to the Dealer in accordance with RTA procedures. The Dealer must use the number plates and registration labels only for the provision of Services and in accordance with this Dealer Agreement.
- (b) The Dealer must store all number plates and registration labels in an area which:
 - (1) is locked; and
 - (2) is accessible only by Authorised Services Officers.
- (c) The RTA may provide the Dealer with RTA Materials required for the provision of the Services. The Dealer must use the RTA Materials only for the provision of Services and in accordance with this Dealer Agreement.
- (d) Title to the RTA Materials and to any number plates or registration labels provided by the RTA will remain vested in the RTA.

- (e) The Dealer must immediately notify any loss of RTA Materials, number plates or registration labels to the RTA.

15 Liability

15.1 Liability of the RTA

- (a) The Dealer:
 - (1) acknowledges that the RTA does not represent or warrant the accuracy, completeness or fitness of:
 - (A) the RTA Materials; or
 - (B) any information or advice provided by or for the RTA in connection with the RTA Materials or this Dealer Agreement; and
 - (C) (where the Dealer has DOL Access):
 - (i) the DOL System, the DOL System Information;
 - (ii) any information or advice provided by or for the RTA in connection with the DOL System or the DOL System Information;
 - (iii) that the RTA will provide access to the DOL System at any particular time or that it will be able to continue to do so;
 - (iv) that the Dealer or Users will be able to connect to or Use the DOL System; or
 - (v) that the DOL System, the DOL System Information, or the RTA Materials will be or will remain error free;
 - (2) must make its own assessment of the RTA Materials (and the DOL System and DOL System Information where the Dealer has DOL Access).
- (b) Subject to clause 15.1(c), the RTA excludes all liability (in contract, tort including negligence, under statute or otherwise arising), to the Dealer in respect of any Loss arising out of or relating to the performance of the Services or the RTA Materials or any act or omission of the RTA in relation to this Dealer Agreement.
- (c) If the *Trade Practices Act 1974* applies to this Dealer Agreement nothing in this clause 15 excludes or limits any liability the RTA may have under that Act or similar legislation that the RTA is not permitted by law to exclude or limit, including liability to a “consumer” (as that term is defined in that Act). The RTA limits any liability it has to such a consumer for breach of a warranty implied under that Act to resupplying the services in respect of which the breach occurred.
- (d) Without limiting clause 15.1(b), the RTA will have no liability to the Dealer (in contract, tort including negligence, under statute or otherwise arising) in respect of any Loss which is indirect or consequential including any loss of profits, loss of revenue, loss of business, loss of reputation, loss of data integrity or loss of anticipated savings.
- (e) Except as otherwise expressly stated in this Dealer Agreement, all terms, conditions, warranties, undertakings, inducements or representation whether express or implied, statutory or otherwise relating to the Services, the RTA Materials, this Dealer Agreement, and (where the Dealer has DOL Access, the DOL System) are excluded to the fullest extent permissible at law.

15.2 Remedies

The parties agree that:

- (a) monetary damages for a breach of this Dealer Agreement by the Dealer will be insufficient to compensate the RTA for such a breach; and
- (b) in addition to any other remedy available at law, the RTA is entitled to injunctive relief to prevent a breach of and to compel specific performance of the terms of this Dealer Agreement.

15.3 Dealer's indemnity

- (a) The Dealer must indemnify and keep indemnified the RTA and the State of New South Wales against all Loss (on a full indemnity basis and whether incurred by, or awarded against, the RTA or the State of New South Wales) that the RTA or the State of New South Wales may sustain or incur as a result, whether directly or indirectly arising out of or in relation to:
 - (1) loss of, loss of use of or damage to the number plates, registration labels or the RTA Materials while located on the Premises or being used for purposes of providing the Services;
 - (2) personal injury (including death) or illness to any person arising out of or relating to anything done or omitted to be done by Dealer in the provision of the Services;
 - (3) any claim for breach of confidence or privacy or misuse of Personal Information arising out of or in connection with this Dealer Agreement or provision or non provision of the Services by the Dealer or (where the Dealer has DOL Access) arising out of or in connection with the Use of the DOL System or DOL System Information by the Dealer;
 - (4) such share (as determined by the RTA) of any compensation which the RTA may decide to pay a person for Loss suffered by that person as a result of any breach of clause 20 by the Dealer, for which the RTA would have been liable under Privacy Laws if such breach had been that of the RTA, provided that the RTA will give the Dealer 14 days' notice of any proposed payment (which will include an explanation of how that liability or expense was assessed and the Dealer's proposed share of that liability) and the Dealer must make the payment to the RTA within that 14 days;
 - (5) any fraud or other unlawful activity committed by any Services Officers or Personnel;
 - (6) any discrepancy between the amount collected by the Dealer from customers on behalf of the RTA and the amount remitted by the Dealer to the RTA under clause 7;
 - (7) all charges for administration and legal costs incurred by the RTA in recovering Fees from the Dealer;
 - (8) any difference between the fees the Dealer collects from a customer and the Fees due to the RTA; and
 - (9) any act or omission of the Dealer arising out of or relating to this Dealer Agreement or the provision of the Services.
- (b) The Dealer's liability to indemnify the RTA is reduced proportionally to the extent that a malicious or negligent act or omission of the RTA or the RTA's employees or

agents (other than the Dealer) or a breach of this Dealer Agreement by the RTA has contributed to the injury or Loss.

15.4 Dealer's warranty

The Dealer represents and warrants that as at the execution of this Dealer Agreement, the execution and delivery by it of this Dealer Agreement was properly authorised.

16 Insurance

- (a) The Dealer must effect and maintain all insurances referred to in schedule 2 on such terms, for such amounts and for such periods as set out in schedule 2.
- (b) The Dealer must provide certificates of currency, in the form set out in schedule 3, to the RTA of the insurances required under clause 16(a) on execution of this Dealer Agreement and at any time at the request of the RTA.
- (c) The Dealer must notify RTA within 2 Business Days of:
 - (1) the cancellation of any of the policies of insurance required under clause 16(a); or
 - (2) the variation in the sum insured or coverage of such insurance policies.

17 Term

- (a) This Dealer Agreement commences on the date it is executed by the RTA and the Dealer.
- (b) The Dealer's authorisation to perform Services as set out in this Dealer Agreement commences on the Commencement Date.
- (c) This Dealer Agreement and the right to perform Services will remain in force until this Dealer Agreement is terminated in accordance with clause 18.

18 Termination

18.1 Termination without cause by either party

This Dealer Agreement may be terminated at any time without cause by either party giving 7 day's written notice to the other.

18.2 Termination by the RTA

The RTA may terminate this Dealer Agreement immediately at any time by giving notice to the Dealer if:

- (a) the Dealer fails at any time to meet the eligibility criteria set out in the Business Rules;
- (b) the Dealer, in the reasonable opinion of the RTA, fails to perform Services to a satisfactory standard and that failure has not been remedied to the reasonable satisfaction of the RTA within 4 days of the RTA giving the Dealer notice of that failure;

- (c) the Dealer or any of its Service Officers refuse to comply with any lawful directions given to them by the RTA;
- (d) the Dealer commits a breach of any of the provisions of this Dealer Agreement and:
 - (1) in the reasonable opinion of the RTA, the breach is incapable of being remedied; or
 - (2) in the reasonable opinion of the RTA, the breach is capable of being remedied, and the Dealer fails to remedy the breach to the reasonable satisfaction of the RTA within 7 days of receiving notice from the RTA of that breach;
- (e) the Dealer has received more than 3 notices issued under clause 18.2(d)(2) in a 12 month period;
- (f) without reasonable cause, the Dealer suspends the carrying out of Services;
- (g) the Dealer attempts to assign (by way of security or otherwise) any right or interest under this Dealer Agreement;
- (h) the Dealer becomes insolvent, within the meaning of Section 95A of the *Corporations Act 2001 (Cth)*;
- (i) a receiver, receiver and manager, official manager, trustee, administrator, other controller (as defined in the *Corporations Act 2001 (Cth)*) or similar official is appointed, or steps are taken for such appointment, over any of the equipment or undertakings of the Dealer;
- (j) the Dealer ceases or threatens to cease to carry on business;
- (k) an application or order is made for the liquidation of the Dealer or a resolution is passed or any steps are taken to liquidate or pass a resolution for the liquidation of the Dealer otherwise than for the purpose of an amalgamation or reconstruction;
- (l) any of the directors, partners or employees of the Dealer involved in the provision of Services are found guilty of any offence involving fraud or dishonesty, or any other offence (except for a traffic offence) which is punishable by imprisonment (whether or not that person is imprisoned); or
- (m) the Dealer, or a director or employee of the Dealer are found liable for a civil penalty under the *Trade Practices Act, 1974 (Cth)*, or similar legislation.

18.3 Notice

The Dealer must notify the RTA immediately upon becoming aware of the occurrence of any of the circumstances in clauses 18.2(h) to 18.2(m).

18.4 Effect of termination

- (a) Subject to clause 18.4(b), termination of this Dealer Agreement is without prejudice to any accrued rights or remedies of the parties.
- (b) The Dealer is not entitled to claim any compensation or damages from the RTA in relation to the termination of this Dealer Agreement.

18.5 Consequences of termination

On termination of this Dealer Agreement the Dealer must:

- (a) (at the RTA's discretion):
 - (1) promptly return to the RTA; or

- (2) allow to be recovered by the RTA, all RTA Materials, number plates and registration labels in its possession or control;
- (b) cease to use the RTA Materials, number plates and registration labels;
- (c) comply with clause 19.2; and
- (d) cease to perform the Services.

19 Confidentiality requirements

19.1 Protection of Confidential Information

- (a) The Dealer must not, without the prior written consent of the RTA, at any time advertise, publish or release to the public any Confidential Information or issue any statement or communication or make any representation directly or indirectly in connection with Confidential Information or this Dealer Agreement to any person not a party to this Dealer Agreement other than:
 - (1) as necessary for the Purpose or (where the Dealer has Dealer Access, as necessary to make use of the DOL System and the DOL System Information in accordance with this Dealer Agreement);
 - (2) with respect to any information (excluding Personal Information) already within the public domain through no fault of the Dealer; or
 - (3) as required by applicable Law.
- (b) Without limiting clause 19.1(a), the Dealer must:
 - (1) keep the Confidential Information confidential;
 - (2) not disclose or permit the disclosure of the Confidential Information to any unauthorised person;
 - (3) take all steps and do all things necessary, prudent or desirable to safeguard the confidentiality of the Confidential Information in any collection, use or storage of such information; and
 - (4) comply with all directions of the RTA relating to the Confidential Information.

19.2 Media releases and enquiries

- (a) Without limiting clause 19.1, the Dealer must seek RTA's written approval to any press release or advertisement or other release for publication concerning this Dealer Agreement, the RTA Materials, and, where the Dealer has DOL Access, the Dealer's authorisation to Use the DOL System, and DOL System Information.
- (b) The Dealer must refer any media enquiries concerning this Dealer Agreement the RTA Materials, and, where the Dealer has DOL Access, the Dealer's authorisation to Use the DOL System, and DOL System Information to the RTA's Manager, Communications and Corporate Relations.

19.3 Return or destruction of Confidential Information

- (a) Immediately on request by the RTA at any time during this Dealer Agreement and on termination, the Dealer must either:

(1) return the Confidential Information (including all copies containing or relating to Confidential Information) to the RTA in the manner specified by the RTA; or

(2) dispose of the Confidential Information in the manner approved in writing by the RTA and cease to use that Confidential Information,

as directed by the RTA and provide the RTA with a statutory declaration that Dealer has complied with the requirements of this clause 19.3(a).

(b) Notwithstanding clauses 19.3(a) or 19.3(c) where the RTA agrees in writing, the Dealer may:

(1) retain such Confidential Information as has been integrated with information held by the Dealer; or

(2) retain other Confidential Information for the Purpose or purposes approved by the RTA,

provided that the Dealer ensures the ongoing security and confidentiality of that integrated information in accordance with this Dealer Agreement.

(c) Subject to clauses 19.3(a) and 19.3(b), if the Dealer no longer requires use of Confidential Information in its possession or control, Dealer must notify the RTA and request that the RTA issue a request under 19.3(a).

20 Privacy obligations

The Dealer:

(a) acknowledges that it and the RTA are required to comply with Privacy Laws, and any guidelines issued by the RTA in relation to the collection, Use, storage and disclosure of Personal Information;

(b) must not do any act or engage in any practice:

(1) that would breach any of its obligations; or

(2) which if done or engaged in by the RTA, would breach any of the RTA's obligations

under any Privacy Law;

(c) must ensure that it Uses, accesses, retains and discloses any Personal Information, obtained either directly or indirectly as a consequence of this Dealer Agreement only as authorised in this Dealer Agreement;

(d) must Use, store and disclose Personal Information obtained either directly or indirectly as a consequence of this Dealer Agreement, only for the purpose for which such information was acquired;

(e) must store Personal Information obtained either directly or indirectly as a consequence of this Dealer Agreement:

(1) securely;

(2) in a way that the information is protected from unauthorised access, Use or disclosure; and

(3) only in an area that is locked and only accessible by Authorised Services Officers;

- (f) must dispose of Personal Information obtained either directly or indirectly as a consequence of this Dealer Agreement securely by shredding;
- (g) must notify the Controlling Registry immediately upon:
 - (1) becoming aware of a breach or possible breach of any of the obligations contained in or referred to in this clause 20, by the Dealer or any Personnel;
 - (2) receiving a complaint relating to privacy; or
 - (3) receiving a request from an individual for access to, alteration, amendment or correction of Personal Information used by the Dealer in connection with this Dealer Agreement;
- (h) must comply with all reasonable directions of the RTA in relation to the care, protection of, access to, and disposal of, Personal Information held in connection with this Dealer Agreement; and
- (i) must ensure that any other Agreement with any agent contractor or subcontractor who may be handling Personal Information, contains the same or equivalent obligations to this clause 20 which are enforceable by the Dealer against the agent, contractor or the subcontractor, as applicable.

21 Dispute resolution

- (a) If a dispute or difference arises out of, or in connection with, this Dealer Agreement then prior to commencing any litigation:
 - (1) the parties agree to use all reasonable endeavours to resolve the dispute speedily by good faith negotiation between the RTA's Sector Manager, Driver and Vehicle Services Branch, responsible for the Controlling Registry set out in Item 2 of schedule 1 or such other person as notified by the RTA to the Dealer from time to time, and the person holding the position of the person who executed this Dealer Agreement on behalf of the Dealer (or equivalent position) (**First Stage Discussions**);
 - (2) if the dispute has not been resolved within 20 Business Days after commencement of First Stage Discussions, the RTA's General Manager Operations, Driver and Vehicles Services or such other person as notified by the RTA to the Dealer from time to time, and the Chief Executive of the Dealer must promptly hold good faith discussions to attempt to resolve the dispute (**Second Level Discussions**); and
 - (3) subject to clause 21(b), each party must continue to perform its obligations under this Dealer Agreement despite the existence of a dispute or the operation of this dispute resolution process.
- (b) Nothing in this clause 21 prevents the RTA terminating this Dealer Agreement under clauses 18.1 or 18.2 or seeking an urgent injunction to restrain any breach or potential breach of this Dealer Agreement by the Dealer.

22 Administrative matters

22.1 Notices

- (a) Any notice given under this Dealer Agreement must be in writing and delivered in person or by registered post to:

- (1) in the case of the Dealer: the Dealer Representative at the address for service of notices set out in Item 10 of schedule 1; and
- (2) in the case of the RTA: the Controlling Registry at the address for service of notices set out in Item 10 of schedule 1,

or to such other address as a party notifies to the other party as its address for notices.

(b) Any notice will be deemed to have been served:

- (1) where the notice is delivered in person, on the date it is delivered; or
- (2) where the notice is posted, on the third Business Day after the notice has been posted.

22.2 Variation to Agreement

The Dealer agrees that the RTA may vary the terms and conditions of, or replace, this Dealer Agreement from time to time, by giving no less than 7 days notice to the Dealer, and that any such variation or replacement will be binding on both parties.

22.3 Assignment of rights and obligations

The Dealer may not assign or otherwise transfer any or all of its rights or obligations under this Dealer Agreement.

22.4 Governing law

This Dealer Agreement will be governed by and construed in accordance with the laws of New South Wales and the parties submit to the exclusive jurisdiction of the Courts of New South Wales.

22.5 Non-waiver of rights

No delay, neglect or forbearance by either party in enforcing any provision of this Dealer Agreement will be deemed to be a waiver of or in any way prejudice any rights of that party.

22.6 Limits to relationship

Nothing in this Dealer Agreement will create, or be deemed to create, a partnership or fiduciary or other relationship between the parties, other than the relationship expressly created by this Dealer Agreement. Except to the extent expressly authorised by the RTA, the Dealer has no authority to make any representation on behalf of the RTA and must not hold itself out as having any authority to do so.

22.7 Severability of Agreement

If any aspect of this Dealer Agreement is found to be invalid, illegal or unenforceable it will not affect the validity of any other part of this Dealer Agreement. In such case this Dealer Agreement will be construed and enforced as if it did not contain the invalid, illegal or unenforceable provision or part thereof.

22.8 Entire agreement

This Dealer Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Dealer Agreement, and supersedes all previous agreements and understandings between the parties with respect to the subject matter.

22.9 Approvals and consent

Subject to any express provision to the contrary, a party may conditionally or unconditionally give or withhold any consent contemplated by this Dealer Agreement and is not obliged to give its reasons for doing so. Any consent must be in writing.

22.10 RTA powers

Nothing in this Dealer Agreement restricts or limits the discretion or obligations of the RTA in enforcing and administering the *Road Transport (Vehicle Registration) Act 1997* and Regulation.

22.11 Administrative law

The parties acknowledge as follows:

- this Dealer Agreement is a commercial service agreement between the parties;
- no licence or right has been issued to the Dealer by the RTA, nor does the Dealer have a legitimate expectation of any licence or right;
- the rules of contract law apply;
- the rules of administrative law (including those of principles of natural justice) are not applicable to this Dealer Agreement or its termination.

Executed as an agreement:

Date Signed:

SIGNED by as
delegate of **ROADS AND TRAFFIC
AUTHORITY OF NEW SOUTH WALES** in
the presence of:

Delegate's Signature

Witness' Signature

Print Witness' Name

Dealer to choose appropriate execution clause from the following options:

A. Where the Dealer is a corporation:

Date Signed:

SIGNED by
[insert Co name] in accordance with s.127 of
the Corporations Act

Signature of 1st Director

Signature of *2nd Director/*Company
Secretary [* delete whichever title doesn't apply]

Print Name

Print Name



B. Where the Dealer is a "sole director" corporation:

Date Signed:

SIGNED by
[insert Co name] in accordance with s.127 of
the Corporations Act by its sole Director
and Company Secretary who hereby
states that he/she occupies both those two
offices

Signature of Sole Director/Sole Company
Secretary

Witness' Signature

Print Name

Print Witness' Name



C. Where the Dealer is a sole trader:

Date Signed:

SIGNED by
[insert name] in the presence of:

Contractor's Signature

Witness' Signature

Print Name

Print Witness' Name

D. Where the Dealer is a Partnership:

Date Signed:

SIGNED for and on behalf of

.....

[insert partnership name] by its authorised
representative

Witness' Signature

Print Witness' Name

Representative's Signature

Print Representative's Name

Schedule 1 - Agreement Details

Item 1. Details of Dealer

Dealer's Name (company or individual/s): _____

Dealer Licence No (if applicable): _____

Interstate Dealer Licence No (if applicable): _____

Name of State/Territory of Licence Dealer Licence: _____

ACN/ARBN: _____

ABN: _____

Address: _____

Dealer is licensed under the *Motor Dealers Act 1974* (NSW) to buy, sell and exchange
(select as applicable):

- New Vehicles only
- Second-Hand Vehicles only
- Both New Vehicles and Second-Hand Vehicles

Item 2. Controlling Registry _____

Item 3. Other Nominated Registry _____

Item 4. Premises

| Trading Name | Address | Contact Details |
|--------------|---------|--------------------------|
| 1. | | Phone: Fax: Email: |
| 2. | | Phone: Fax: Email: |
| 3. | | Phone: Fax: Email: |

Item 5. New Vehicles Types

| Manufacturer |
|--------------|
| |
| |
| |
| |
| |
| |

Item 6. Commencement Date: _____

Item 7. Annual date by which the Dealer must provide independent auditor certification to the RTA: _____

Item 8. Lodging arrangements for documents and registration fees

Where the Dealer is within 25kms of the Controlling Registry

- Deliver to the Controlling Registry within 1 Business Day

Where the Dealer is more than 25kms from the Controlling Registry or where a dealer submits information to RTA on-line via the DOL System:

- Lodge by mail to arrive at the Controlling Registry within 5 Business Days
- Deliver to the Controlling Registry within 5 Business Days

Item 9. Name of Dealer's Representative (must be an authorised Services Officer):

(Please print)

(Signature)

Item 10. Address for service of notices

Dealer: _____

RTA: Registry Manager

[insert name and address of Controlling Registry]

Schedule 2 – Insurance

| | TYPES OF INSURANCES | MINIMUM SUM INSURED | PERIOD OF INSURANCE |
|----|-------------------------------|---|---------------------------------|
| i | Public and Products Liability | \$20 million for any single occurrence and unlimited in the aggregate as to the number of occurrences. The total aggregate liability during any one period of insurance for all claims arising out of the Dealer's products shall not exceed \$20 million. | For the term of this Agreement. |
| ii | Workers Compensation | As per the Workers Compensation Act 1987 and Workplace Injury Management and Workers Compensation Act 1998 | For the term of this Agreement. |

Schedule 3 – Certificates of Currency

All insurances held by the Dealer to provide that the insurer consents to the jurisdiction of all States and Territories of Australia and is subject to the law of New South Wales.

The insurance required under this contract is current for the period

..... to

Dealer Principal signature.....

Date..... Insurance Company Stamp..... Or

Copy of current Certificates of Currency

Schedule 4 – Dealer Errors – Action Plan Process

Clause 8.4(e)

Without prejudice to the RTA's right to terminate this Dealer Agreement, the RTA may initiate the following process where there is any ongoing or repeated failure of the Dealer to comply with the Dealer's obligation to meet the accuracy rates specified in clause 8.4(e):

1. An action plan to resolve the issue is to be negotiated by the Manager of the Controlling Motor Registry and Dealer's Representative, the action plan is to be implemented and monitored.
2. If issue is not resolved after 20 business days the Registry Manager and Dealer's Representative are to revise the action plan.
3. If after 20 business days there is in the RTA's opinion no significant improvement in accuracy rates by the Dealer, the Manager of the Controlling Motor Registry may either:
 - initiate the Dispute Resolution procedure under clause 21 or
 - issue a termination notice under clause 18.2(b).

Schedule 5 – Statement of Business Ethics

Required in dealings between the RTA and the private sector

Chief Executive's message

Dealings between the RTA and the private sector, including purchasing goods and services, joint ventures and the complete contracting out of activities must be undertaken with transparency and integrity.

To facilitate this RTA and private sector employees must always be aware of the ethical standards the public demands when RTA money is used either directly or indirectly.

This statement sets out the appropriate standards for doing business with the RTA. It provides guidelines on what to expect from the RTA and explains the mutual obligations, roles and constraints of all parties. These ethical standards are not an additional requirement but an integral part of sound commercial practices.

All individuals and organisations that deal with the RTA must adopt these standards of ethical behaviour.

The standards comply with NSW Government guidelines for procurement, contracting and market testing.

The likely reward for maintaining ethical business dealings is enhanced public confidence and repeat business.

If you need more information about these guidelines or any ethical issue, please contact the RTA Ethics Information Line on 1800 043 642.



Les Wielinga

Chief Executive

Business ethics for the RTA and the private sector

The role of all parties

The NSW Government now relies on the private sector to perform many tasks it once carried out. This means that RTA employees are involved in purchasing goods and services from the private sector.

The RTA expects both its permanent and contract employees to behave ethically and comply with its Code of Conduct and Ethics.

The RTA also relies on industry and its employees to maintain similar standards of ethical conduct in their dealings with the RTA.

A common understanding between the RTA and the private sector on ethical issues will help us develop a productive and mutually beneficial working relationship.

RTA business principles

Three key principles form the basis of RTA business agreements.

- Obtain the best possible value for public money.
- Impartiality through all stages and processes.
- Fairness.

These principles enable suppliers to promote their interests effectively but avoid unproductive and potentially questionable activities.

All potential providers of goods and services are subject to the same ethical operating environment and must comply with these guidelines.

Value for money

Value for money is determined by considering the impact of factors such as quality, reliability, timeliness, service, initial and ongoing costs.

It does not mean 'lowest price'. However, the lowest price might offer the best value if it meets other essential criteria such as quality and reliability.

Impartiality

Impartiality means trying to be objective and even-handed. For example, an impartial person will try to objectively establish the criteria for determining best value for money and then assess each bid against these criteria.

Being impartial includes taking account of practicalities. For example, the principle of impartiality does not entail publicly advertising for bids for items of low monetary value or inviting bids from firms that have performed poorly in the past.

Fairness

Fairness overlaps with impartiality in the sense of being evenhanded.

In some circumstances fairness can also entail taking into account the effects of actions on others. For example, it would be unfair to call tenders when there is no serious intent to award a contract, even if a satisfactory or exceptional offer was received.

Fairness does not mean pleasing everyone. If people are adversely affected by a decision, it is unfortunate but not necessarily unfair.

The RTA requires its employees and contract staff to:

- Comply with RTA and government policies and procedures.
- Show fairness in their treatment of all individuals or organisations that supply goods or services to the RTA.
- Encourage fair and open competition while seeking value for money.
- Try to minimise costs to suppliers participating in the procurement process.
- Protect commercial-in-confidence information.
- Deal honestly with suppliers and pay accounts on time.
- Always be accountable and act in the public interest.
- Avoid situations where private interests conflict with public duty.
- Not solicit or accept financial or other benefits from a supplier for performing official duties.
- Respond to reasonable requests for advice and information without delay.

Tenderers, suppliers, consultants and contractors are expected to:

- Respect the conditions and requirements stated in documents supplied by the RTA.
- Present information concisely.
- Comply with any codes of tendering and practice that apply.
- Respect the obligation of RTA staff to comply with government procurement policies.
- Not act fraudulently or secretly.
- Prevent the unauthorised release of privileged or confidential information, such as commercial-in-confidence information.

- Not discuss RTA dealings with the media, without consulting the RTA first.
- Respond to reasonable requests for advice and information.
- Not offer RTA employees or contract staff any financial or other inducements which may lead to, or be seen as leading to, gaining an unfair advantage in dealings with the RTA.
- Comply with RTA post separation employment guidelines.

Some practical guidelines

Communications between parties

To avoid misunderstandings it is important to use written correspondence (letter, fax or email) for communications involving a business related decision. Telephone communications in this regard should be followed up with written confirmation of any decisions or commitments made.

Unless good reasons exist not to, all meetings should be either on RTA premises or on-site. A written record of commitments given at meetings must be made and endorsed by all parties.

Confidentiality

Information which is marked confidential, or which a reasonable person would expect to be confidential, should be treated as such. The information could be in various formats such as hardcopy documents or electronically stored.

Intellectual property rights must be negotiated. No individual or organisation is entitled to acquire any intellectual property rights because they are employed by or have a contract with the RTA.

Entertainment

Suppliers should not pay for any form of entertainment for RTA employees. Likewise, RTA employees are generally not entitled to use government funds to pay for entertainment.

Lunches etc.

RTA employees are expected to pay for all their own meals.

The RTA discourages external parties from providing RTA employees with benefits such as social lunches.

Employee participation is permitted only if a clear underlying business purpose exists and the value and frequency of such functions is not excessive.

Gifts

Gifts should not be given to RTA staff or its agencies and there should be no expectation that any gifts will be provided.

Travel and accommodation

The RTA meets all business travel and accommodation costs for its employees. Any variation to this policy must first be agreed with the RTA, not the individual employee affected, and approved by a senior employee. Public liability and insurance requirements must also be considered.

Contracting former RTA employees

Former employees are generally not employed as contractors for at least 12 months after they have left the RTA.

Any organisation intending to use a current or former RTA employee for contract work with the RTA should first discuss this with the RTA.

This policy protects the RTA, the individual and the organisation from any potential charge of impropriety or conflict of interest.

RTA – Ethics Information Line

Contact the Ethics Information Line for:

- Advice on any related issues.
- If you are concerned that a breach of the law or unethical conduct may have occurred. This could include fraud, corrupt conduct, maladministration, or serious or substantial waste.

1800 043 642 (free call)