



## DATA SECURITY POLICY AGREEMENT/ADDENDUM

The purpose of this Data Security Policy Agreement/Addendum (“Agreement”) is to protect and limit the unauthorized disclosure and use of “Personal Information” and “Proprietary Technical Data” (as defined herein) communicated between **[insert legal name and address of repair shop]** (“Company”) and **[insert legal name and address of entity that receives data from the repair shop]** (“Vendor”) as part of their business dealings. Company and Vendor shall collectively be referred to herein as “the Parties.” This Agreement supplements any prior agreements between the Parties as to this subject matter and, to the extent that there is a conflict between the terms of this Agreement and any prior agreement, the terms of this Agreement shall control.

For purposes of this Agreement, the following terms have the following meanings:

- (1) “Personal information” means either of the following: (A) An individual’s first name or first initial and his or her last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted or redacted: (i) Social security number; (ii) Driver’s license number or state identification card number; (iii) Account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual’s financial account; (iv) Medical information; (v) Health insurance information; (vi) Automobile insurance information; (vii) Vehicle Identification Number (“VIN”); (B) A username or email address in combination with a password or security question and answer that would permit access to an online account. “Personal information” does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.
- (2) “Proprietary Technical Data” means the terms of this Agreement and any and all information, data, software, matter or thing of a secret, confidential or private nature relating to the business of the disclosing Party or its Affiliates, including matters of a technical nature (such as know-how, processes, data and techniques), matters of a business nature (such as information about costs, profits, discounts, markets, sales, customers, suppliers, the Parties' contractual dealings with each other and the projects – including preliminary, interim, or final costs, methods, scope, parts, and/or procedures used to repair one or more vehicles – that that are the subject-matter thereof), matters of a proprietary nature (such as information about patents, patent applications, copyrights, trade secrets and trademarks), other information of a similar nature, and any other information which has been derived from the foregoing information by the receiving Party; provided, however, that Proprietary Data shall not include information which: (a) is legally in possession of the receiving Party prior to receipt thereof from the other Party; (b) the receiving Party can show by suitable evidence to have been independently developed by the receiving Party or its employees, consultants, affiliates or agents; (c) enters the public domain through no fault of the receiving Party or others within its control; (d) is disclosed to the receiving Party, without restriction or breach of an obligation of confidentiality to the disclosing Party or (e) is legally required to be disclosed; provided that the receiving Party subject to such a requirement uses its reasonable best efforts to notify the other Party of any request or subpoena for the production of any Proprietary Data and provides such Party with an opportunity to resist such a request or subpoena.

Vendor, at its sole cost and expense, shall implement and maintain reasonable security procedures and practices appropriate to the nature of the information to protect from unauthorized access, destruction, use, modification, or disclosure the Personal Information and Proprietary Technical Data it receives from Company. Vendor further

agrees and warrants that it shall not access, use, modify, disclose, or sell (broadly defined as receiving any monetary or non-monetary consideration, including reciprocal sharing agreements) to a third-party any Personal Information or Proprietary Technical Data it receives from Company without the express written consent of Company after Vendor's full disclosure of its intended use of the Personal Information or Proprietary Technical Data, the identification of all third-parties that will receive any such data and their intended use, and any consideration Vendor may receive for the data in individual or aggregate form. This includes, but is not limited to, the mining, manipulation, analysis, breakdown, summary, or repackaging of Personal Information or Proprietary Technical Data.

Vendor agrees to notify Company within 72 hour of any breach of Vendor's security systems that results in the unauthorized dissemination of Personal Information or Proprietary Technical Data. Vendor assumes all liability for any costs, direct and consequential damages, and judgments stemming from an alleged breach of this Agreement, including paying Company's costs of investigation and reasonable attorneys' fees as they are incurred and full indemnity. The Parties agree that Company shall be entitled to equitable and injunctive relief to prevent or stop a breach of this Agreement. The Parties agree that any disputes related to this Agreement shall be governed by the law of the state in which Company is headquartered, without regard to choice of law provisions, and that venue shall be exclusively in the state or federal courts in which Company is headquartered.

IN WITNESS WHEREOF the Parties have caused this Agreement to be executed by their duly authorized representatives as of this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**[Insert Company's Legal Name]**

Signature: \_\_\_\_\_

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

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

Email Address: \_\_\_\_\_

Dated: \_\_\_\_\_

**[Insert Vendor's Legal Name]**

Signature: \_\_\_\_\_

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

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

Email Address: \_\_\_\_\_

Dated: \_\_\_\_\_

**Important information/disclaimer:**

**As every company is different and laws vary from state to state, please seek professional advice when creating your data protection policies and agreements. Your business may face circumstances and issues that are not covered by this sample agreement. This data-protection agreement is made available on an 'as is' basis. ASA cannot take any responsibility for the consequences of errors or omissions. Any reliance you place on this document will be at your own risk.**

**Neither ASA, nor its employees, experts, sponsors or syndication partners are liable for any losses or damages arising from your use of this document. These individuals and organizations exclude all warranties and representations, express or implied, in respect of your use of the document and its content."**