



VEHICLE DATA LICENSE AGREEMENT

SAMPLE – VODS OR VOIDS SERVICE GOVERNMENTAL ENTITIES

THESE ARE SAMPLE TERMS AND CONDITIONS. ACTUAL TERMS AND CONDITIONS MAY VARY.

SAMPLE TERMS AND CONDITIONS

This Vehicle Data License Agreement (hereinafter called “Contract”) is entered into by and between the state of Washington, Department of Licensing (hereinafter called "DOL"), and the Contractor named on page one (1).

1. PURPOSE

This Contract is issued pursuant to chapters 46.12.630 and 42.56 Revised Code Washington (RCW), Washington Administrative Code (WAC) 308-93, WAC 308-10, Chapter 18 USC Sec. 2721 - 2725 Driver Privacy Protection Act (DPPA), and Executive Order 97-01.

The purpose of this Contract is to provide terms and conditions under which DOL will provide Data to the Contractor. DOL is at all times the owner of the Data and provides a license to the Contractor to use the Data only as provided herein. This Contract ensures that DOL vehicle Data is provided, protected and is used only for purposes authorized by state and federal laws governing the release of such Data.

2. PERMISSIBLE USE

The Data provided in this Contract contains Personal Information, as defined in this Contract.

Contractor is responsible for ensuring the Data it receives from DOL is used only for those purposes allowed under RCW 46.12.630. It is the Contractor’s responsibility to know and understand the uses permitted by both federal and state laws.

The Contractor shall protect Data collected, used, or acquired in connection with this Contract, against unauthorized use, disclosure, modification or loss. The Contractor shall ensure its directors, officers, employees, Subcontractors, and agents use the Data solely for the Permissible Uses allowed by law.

Additionally, Attachment B, *File Layout*, identifies those Data fields the Contractor will receive. In accordance with RCW 46.12.630 or any other applicable state or federal law, this Contract may be terminated for Default if any of the Data or Data fields is improperly disclosed, exposed or otherwise utilized and will be liable for damages as allowed by law. The Contractor is wholly responsible for the safekeeping of any DOL Data provided under this Contract.

3. DEFINITIONS

As used throughout this Contract, the following terms shall have the meanings set forth below:

- A. **“Business Days”** means standard business days and hours for the Department of Licensing is Monday through Friday 8:00 a.m. to 5:00 p.m. PST. Weekends and Washington State holidays are not included when counting the number of business days.
- B. **“Contract”** mean this Vehicle Data License Agreement including all incorporated terms and conditions, documents, and attachments.
- C. **“Contractor”** means that agency, firm, provider, organization, individual or other entity performing services or obtaining Data under this Contract, including all Subcontractors.
- D. **“Contract Manager”** means the representative identified of either party who is delegated the authority to administer this Contract upon the behalf of its respective party.
- E. **“Data”** means information contained in the vehicle or vessel Record provided to Contractor under this Contract.
- F. **“Data Security”** means protecting and securing information from unauthorized access, use, disclosure, disruption, modification, perusal, inspection, recording or destruction. This applies regardless of the form the Data may take (electronic, physical, etc.).

- G. **"Data Security Requirements"** means the minimum requirements, as outlined in Attachment A, *Data Security Requirements*, which the Contractor must comply with to ensure DOL Data is secure.
- H. **"DOL"** means the Washington State Department of Licensing.
- I. **"Default"** means the failure of the Contractor to perform an act, contractual requirement or obligation, and includes the violation of any state or federal laws, rules and statutes associated with this Contract.
- J. **"Permissible Use"** means only those uses authorized in this Contract.
- K. **"Personal Information"** means information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address (but not the five-digit zip code), telephone number, or medical or disability information.
- L. **"Record"** or **"Records"** means the compilation of data associated with vehicles, motor vehicles and/or vessels as defined in Washington State law (chapters 46.04 and 88.02 RCW).
- M. **"RCW"** means Revised Codes of Washington. All references in this document to RCW chapters or sections shall include any successors, amended, or replacement statutes, as currently written or hereafter amended.
- N. **"Secure Data Transfer"** means a method that protects the Data in transit to prevent viewing and manipulation by another.
- O. **"Subcontractor"** means one not in the employment of the Contractor, who is performing all or part of those services under this Contract under a separate contract with the Contractor. The terms "Subcontractor" and "Subcontractors" mean Subcontractor(s) in any tier.
- P. **"Vehicle Data License Agreement"** shall also mean this Contract to license DOL Data to the Contractor for only the specific uses permitted herein.
- Q. **"WAC"** means the Washington Administrative Code. All references in this document to WAC chapters or sections shall include any successors, amended, or replacement statutes, as currently written or hereafter amended.

4. TERMS AND CONDITIONS

All rights and obligations of the parties to this Contract shall be subject to and governed by the following: *Terms and Conditions* contained in the text of this Contract; Attachment A, *Data Security Requirements*, and Attachment B, *File Layout*, which are attached to and incorporated herein.

5. PERIOD OF PERFORMANCE

Subject to its other provisions, this Contract shall begin on the date of execution and be in effect as stated on page one (1), unless terminated sooner or extended by either party as provided herein. This Contract may be extended multiple times for additional periods of up to five (5) years. Extensions are at the exclusive option of the DOL and shall be affected by a written amendment to this Contract.

6. FEE SCHEDULE

The following rates apply:

FEE SCHEDULE		Cost
1.	*Monthly Fee	
	Monthly fee to provide Data	\$ _____
2.	*Set up and Additional Fees	
	One time initial file setup fee for	\$ _____
	Requests for additional Data runs, reruns, or restoration of Data delivery	\$ 47.99 / hourly

* Monthly Fee and Additional Fees subject to change based on DOL actual costs.

7. ADDITIONAL DATA RUNS OR RERUNS

Requests from Contractor for Data runs at frequencies or dates not already agreed upon within this Contract will require additional fees. Each additional Data run or rerun will be billed at a rate(s) outlined in this Contract. Additional set up fees may also apply. "Rerun" means the re-delivery of a previous sent file unless there was a corruption in the original file.

8. PAYMENT PROCEDURES

DOL will invoice Contractor for Data provided under this Contract, or as otherwise outlined herein. Contractor will pay DOL within thirty (30) days of receipt of invoice. Each payment will clearly reference the invoice number and Contract number. If the Contractor fails to pay any invoice within thirty (30) days of being billed, DOL may cease regularly scheduled transmittals until payment is made in full. Payment will be made to:

Department of Licensing
Revenue Accounting
P.O. Box 3907
Seattle, WA 98124-3907

DOL may suspend Data transmissions or terminate this Contract for Default if Contractor continues to fail to make timely and complete payments. Contractor will be required to pay additional fees to restore Data transmission.

9. CONTRACT MANAGEMENT

9.1 The Contract Managers listed on page one (1) shall be responsible for all communications pertaining to this Contract.

9.2 The Contractor is required to notify DOL Contract Manager listed on page one (1) in writing within three (3) Business Days of changes to: business name, business address, phone number, email address, or Contract Manager or his/her contact information.

10. PUBLICITY

The Contractor agrees not to use DOL's name, logo, or state seal to publish, email, distribute in any manner or use in any way in advertising, publicity matters without prior written consent of DOL. If DOL approved, DOL reserves the right to add a disclaimer.

11. INSURANCE

Contractor certifies that it is self-insured, is a member of a risk pool, or maintains insurance. Contractor shall pay for losses for which it is found liable.

Contractor shall, at all times during the term of this Contract, at the Contractor's cost, purchase and maintain insurance. Failure to purchase and maintain insurance may result in the termination of this Contract at DOL's option.

12. DATA SECURITY REQUIREMENTS

Contractor must comply with all Data Security Requirements as outlined in Attachment A, *Data Security Requirements*. If a change is made to DOL's Data Security Requirements, this Contract may be amended to incorporate the new requirements.

13. POLICIES AND PROCEDURES

Contractor must maintain and enforce policies and procedures consistent with this Contract. Such policies and procedures must include at a minimum methods for mitigating risks, employee training, and incident response. Contractor will provide a copy of its policies and procedures within thirty (30) days of DOL's request.

14. SAFEGUARDING OF PERSONAL INFORMATION

The Contractor shall not use or disclose Personal Information in any manner that would constitute a violation of federal law or applicable provisions of Washington State law. The Contractor agrees to comply with all federal and state laws and regulations, as currently enacted or revised, regarding data security and electronic data interchange of Personal Information.

The Contractor shall protect Personal Information collected, used, or acquired in connection with this Contract, against unauthorized use, disclosure, modification, or loss. The Contractor shall ensure its directors, officers, employees, or agents use it solely for the purposes of accomplishing the purposes set forth in this Contract. The Contractor agrees not to release, divulge, publish, transfer, sell or otherwise make it known to unauthorized persons without the express written consent of DOL or as otherwise authorized by law. The Contractor agrees to implement physical, electronic, and managerial policies, procedures, and safeguards to prevent unauthorized access, use, or disclosure of Personal Information and shall not use or disclose Personal Information in any manner that would constitute a violation of the Permissible Use of this Contract.

In accordance with RCW 46.12.630, violations of Permissible Use may result in termination without an opportunity to cure the violation and the demand of the destruction of Data in accordance with Attachment B, *Data Security Requirements*.

15. AUDITS

15.1 Minimum Audit Requirements

Pursuant to RCW 46.12.630, DOL is required to conduct both regular Permissible Use and Data Security audits that demonstrate compliance with Data Security standards adopted by the Washington State Office of the Chief Information Officer (OCIO). By law, the Contractor is required to bear the costs associated with these audits.

Audits will be conducted within twelve (12) months of Contract execution of this Contract, and approximately every four (4) years thereafter. DOL may approve an alternate audit schedule on a case-by-case basis.

15.2 Corrective Action Plans

Within thirty (30) days after receiving the results of an audit, Contractor must submit a corrective action plan for each violation identified by an audit. For each violation, the corrective action plan must outline the following:

- Steps to be taken to correct the violation; and
- A timeline for the steps, including the anticipated completion date.

16. SUBCONTRACTING

Contractor may enter into agreements with Subcontractors for any work, services or data sharing as provided under this Contract. This clause does not include contracts of employment between a party and personnel assigned to work under this Contract. Contractor is responsible for ensuring that all terms, conditions, securities, assurances and certifications set forth in this Contract are carried forward to any Subcontractors.

17. DISQUALIFICATION

Pursuant to RCW 46.12.630, DOL will implement a process to track those Subcontractors disqualified from gaining access to Data. Such disqualification will be based on evidence of unauthorized disclosure of Data.

18. DISPUTES

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner:

Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall evaluate the facts, Agreement terms, applicable statutes and rules, and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on both parties.

Each party shall be responsible for its own expenses and those of their selected representative to the dispute resolution team. Both parties shall share equally in the expenses of the mutually agreed upon third member of the dispute resolution team. In addition, each party shall be responsible for its own attorneys' fees incurred as a result of the dispute resolution process.

19. TERMINATION FOR DEFAULT

- A. If the Contractor violates any applicable state or federal law, or any material term, condition or requirement of this Contract, DOL may give the Contractor written notice of the violation, and terminate the Contract immediately.
- B. Alternatively, DOL at its sole discretion may give Contractor the opportunity to correct the violation(s) as directed by DOL. Such direction will include required action steps and timeframes. If the violation is not corrected, DOL may, at its sole discretion, immediately terminate this Contract for Default by written notice to the Contractor. Upon termination, the Contractor shall be liable for damages as authorized by law.
- C. Contractor may be subject to penalties in accordance with RCW 46.12.630, or as otherwise allowed by law.
- D. Notice of Default or notice of termination shall be conclusively deemed to have been delivered to, and received by Contractor, as of midnight of the third day following the date of its posting in the United States Postal Service mail.

20. TERMINATION FOR CONFLICT OF INTEREST

DOL may, by written notice to the Contractor terminate this Contract if it is found after due notice and examination by DOL that there is a violation of the Ethics in Public Service Act, chapter 42.52 RCW; or any similar statute involving the Contractor in the performance under this Contract.

21. TERMINATION FOR CONVENIENCE

Either party has the right to terminate this Contract by giving written notice to the other party at least fifteen (15) Business Days before the effective date of termination. Written notice may include, but is not limited to notice provided by United States Postal Service (USPS), email or FAX.

22. FUNDING CONTINGENCY

In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date of this Contract and prior to normal completion, DOL may terminate this Contract without advance notice and without penalty to the state of Washington. At the sole discretion of DOL, this Contract may be subject to renegotiation under any new funding limitations and/or conditions.

23. TERMINATION PROCEDURE

After receipt of a notice of termination, and except as otherwise directed by DOL's Contract Manager, the Contractor shall:

- a. Place no further orders for Data files,
- b. Settle all outstanding liabilities and all claims arising out of such termination, with the approval or ratification of DOL's Contract Manager to the extent required, which approval or ratification shall be final for all the purposes of the *Termination Procedure* clause; and
- c. Take such action as may be necessary, or as DOL's Contract Manager may direct, for the protection and preservation of the property related to this Agreement which is in the possession of the Contractor and in which DOL has an interest.

24. ORDER OF PRECEDENCE

All rights and obligations of the parties to this Contract shall be subject to and governed by the items listed in this section, which are incorporated herein. In the event of an inconsistency in this Contract, unless otherwise provided in this Contract, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable federal and Washington State laws, and regulations;
2. The terms and conditions of this *Vehicle Data License Agreement*;
3. Attachment A, *Data Security Requirements*;
4. Attachment B, *File Layout*;
5. Contractor's *Vehicle/Vessel Contract Application* incorporated by reference; and
6. Any other provisions of this Contract incorporated by reference or otherwise.

25. ALTERATIONS AND AMENDMENTS

This Contract may only be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

26. ASSIGNABILITY

The Contractor shall not assign this Contract, nor any claim arising under this Contract without the prior written consent of DOL, which consent shall not be unreasonably withheld.

27. COMPLIANCE WITH APPLICABLE LAW

At all times during the term of this Contract, the Contractor shall comply with all applicable federal, state, and local laws and regulations, including but not limited to, nondiscrimination laws and regulations.

28. GOVERNANCE

This Contract shall be construed and interpreted in accordance with the laws of the state of Washington and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

29. INDEPENDENT CAPACITY

The employees or agents of each party under this Contract shall continue to be the employee or agent of that party and shall not be considered for any purpose to be employees or agents of the other.

30. INDEMNIFICATION

Each party to this Contract shall indemnify, defend and hold harmless the other party from and against all claims for damages resulting from its own acts and/or omissions and those of its officers, employees and agents arising out of or resulting from the performance of the Contract.

31. LEGAL FEES

Unless otherwise specified by law, and except as otherwise stated herein, in the event of litigation or other action brought to enforce Contract terms, each party shall bear its own legal fees and costs.

32. LIMITATION OF SIGNATURE AUTHORITY

Only DOL's Director or designated delegate, by writing, shall have the expressed, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this Contract is not effective or binding unless made in writing and signed by DOL's Director or delegate.

33. RECORDS MAINTENANCE

The Contractor shall maintain books, records, documents and other evidence of accounting and data security procedures and practices. These records shall be subject at all reasonable times to inspection, review, or audit by personnel duly authorized by DOL, the Office of the State Auditor, and federal officials so authorized by law, rule, regulation, or contract. The Contractor will retain all books, records, documents, and other materials relevant to this Contract for six (6) years after settlement, and make them available for inspection by persons authorized under this provision. The Contractor shall be responsible for any audit exceptions or disallowed costs incurred by the Contractor or any of its Subcontractors.

Contractor is a government agency, and the parties have mutually determined that the Contractor shall adhere to its required retention schedule. Without agreeing that litigation or claims are legally authorized, if any litigation, claim, or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved including any appeals and remands.

34. RIGHTS OF INSPECTION

The Contractor shall, at no cost to DOL, provide DOL with reasonable access to Contractor's place of business and Contractor's records, wherever located. This right of inspection shall extend to any authorized agent or official of the State of Washington. These inspection rights are intended to allow DOL to monitor, audit (per RCW 46.12.630), and evaluate the Contractor's performance and compliance with applicable laws, regulations, and these Contract terms. These inspection rights shall survive for six (6) years following this Contract's termination or expiration.

35. SEVERABILITY

If any term or condition of this Contract is held invalid, the remainder of the Contract remains valid and in full force and effect.

36. SURVIVORSHIP

All transactions executed pursuant to the authority of this Contract shall be bound by all of the terms and conditions set forth herein, notwithstanding the expiration of the initial term of this Contract or any extension thereof. Further, the terms, conditions and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive.

37. WAIVER

A failure by either party to exercise its rights under this Contract shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Contract unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Contract.

ATTACHMENT A
Department of Licensing (DOL)
Interagency Data Security Requirements

1. Data Classification

The classification of the data shared is considered:

- Category 1 – Public Information
- Category 2 – Sensitive Information
- Category 3 – Confidential Information
- Category 4 – Confidential Information Requiring Special Handling

2. Network Security

Contractor agrees to maintain network security that conforms to OCIO 141.10: Securing Information Technology Assets, Standard 5.

3. Application Security

Contractor agrees to maintain application security that conforms to OCIO 141.10: Securing Information Technology Assets, Standard 7.

4. Data Storage

Contractor agrees that any and all DOL data will be stored, processed, and maintained solely on designated computing equipment and that no DOL data at any time will be processed on or transferred to any portable or laptop computing device or any portable storage medium.

5. Data Transmission

Contractor agrees that any and all electronic transmission or exchange of system and application data with DOL and/or any other parties expressly designated by DOL shall take place via secure means (e.g. HTTPS or SFTP or equivalent).

6. Data Encryption

Contractor agrees that any and all DOL data, in transit or at rest, defined as Category 4, be encrypted using only NIST or ISO approved encryption algorithms.

7. Distribution of Data

Contractor agrees that any and all data exchanged shall be used solely for the purposes as expressly described in this Agreement. Data shall not be distributed, repurposed or shared across other applications, environments, or business units of Contractor. Contractor further agrees that no DOL data of any kind shall be transmitted, exchanged or otherwise passed to other contractors/vendors or Interested Parties except Subscribers who have an authorized legal permissible use according to the current agreement, right to receive DOL data, and who are under contract with the Contractor. Any exception shall be on a case-by-case basis as mutually agreed to in writing by the execution of an amendment to this Agreement.

8. Data Disposal

Unless otherwise specified in the Contract, Contractor agrees that upon termination of this Agreement it shall erase, destroy, and render unrecoverable all DOL data and certify in writing that these actions have been completed within 30 days of the termination of this Agreement or within 7 days of the request of an agent of DOL, whichever shall come first. At a minimum, media sanitization is to be performed according to the standards enumerated by NIST SP 800-88 Guidelines for Media Sanitization.

9. Access Security

Contractor agrees to maintain access security that conforms to OCIO 141.10: Securing Information Technology Assets, Standard 6.

10. Security Breach Notification

Contractor agrees to comply with all applicable laws that require the notification of individuals in the event of unauthorized release of DOL data or other event requiring notification. In the event of a breach of any of Contractor's security obligations, or other event requiring notification under applicable law, Contractor agrees to the following:

- a) Notify DOL by telephone and e-mail of such an event within 24 hours of discovery:
DOL Help Desk, phone: (360) 902-0111; email: hlbhelp@dol.wa.gov
- b) Assume responsibility for informing all such individuals in accordance with applicable state and federal laws
- c) Indemnify, hold harmless and defend DOL and its trustees, officers, and employees from and against any claims, damages, or other harm related to such notification event.
- d) Mitigate the risk of loss and comply with any notification or other requirements imposed by law or DOL.

