

OEConnection Subscription Agreement

This Subscription Agreement (“Agreement”) is entered into by and between OEConnection LLC (“OEConnection”), 3600 Embassy Pkwy, Suite 300, Fairlawn, OH 44333, and the subscriber (“Subscriber”) listed in the Subscription Agreement Signature Page, with reference to the following facts:

- A. Subscriber acknowledges and agrees that this Agreement and any written addendum, if any, referencing this Agreement entered into by the parties (“Addendum”) sets forth the terms and conditions with respect to all of the Product(s) listed on the Subscription Agreement Signature Page. In the event of any conflict or inconsistency between the terms of the Agreement and the Addendum, the Addendum shall control.
- B. As part of the Toyota Wholesale Toolbox, Subscriber acknowledges that the monthly subscription of \$199 for PSX will be billed directly versus to the parts statement.

The nonexclusive right to use the Product(s) granted to Subscriber shall be subject to the following terms and conditions:

1. **Acceptance.** This Agreement is subject to acceptance by OEConnection at its administrative office. Upon OEConnection’s acceptance this will become a binding Agreement. Any additional, inconsistent or contradictory terms or conditions in Subscriber’s purchase order are hereby objected to, and such terms shall be superseded and controlled by this Agreement.
2. **Subscription Payment.** Subscriber has subscribed to the Product(s) marked on the Subscription Agreement Signature Page delivered to OEConnection. For each Product, the Subscriber agrees to pay: (i) non-recurring Subscription Fees, if applicable, payable upon activation of the Product(s), (ii) recurring Subscription Fees, payable monthly throughout the term of this Agreement; and (iii) any other applicable Subscription Fees payable as set forth on the Subscription Agreement Signature Page.
3. **Term.** Unless a different term is set out in the Subscription Agreement Signature Page or Addendum, the initial term of this Agreement shall be 12 months commencing on the date this Agreement is accepted by OEConnection. Unless either party gives written notice to the other of its intent not to renew this Agreement not less than 30 days prior to the end of the then current term, the term of this Agreement shall be extended automatically and renewed for subsequent consecutive renewal terms of 12 months each. In the event Subscriber subsequently subscribes to an Add-On Product, the subscription term of such Add-On Product shall be coterminous with the Base Product.
4. **Cancellation.** All cancellation requests must be received in writing by OEConnection at least 30 days prior to the expiration of the then current term. Cancellation requests received less than the required 30 days before the end of the then current term will be billed for the remainder of the then current term plus the full renewal term. If at any time during the term of this Agreement, Subscriber submits a cancellation request as Subscriber is Out of Business, part of a Dealer Merge, or part of a Buy/Sell event, then Subscriber shall only be obligated to pay for its remaining payment obligation not to exceed 6 months of Subscription Fees.

Notwithstanding anything to the contrary herein, OEConnection may cancel this Agreement upon 30 days notice for any reason or for no reason at all, including, but not limited to, Subscriber, Manufacturer or others failing to provide OEConnection necessary data or information. In the event of such cancellation by OEConnection, OEConnection shall have no liability to Subscriber. Subscriber may not

cancel or otherwise terminate this Agreement during its terms, except as expressly set forth in this Agreement.

5. **Cooperation.** Subscriber shall cooperate fully with OEConnection in the activation of the Product(s) and the collection of information as permitted herein as well as with any on-going interactions or assistance that is necessary from the Subscriber to keep the Product(s) functioning properly.

6. **Software, Database, and Product(s) Usage.** OEConnection hereby authorizes and grants Subscriber a nonexclusive, non-sublicenseable, limited right to access and use the Product(s) at the Location(s) and for the franchise(s) listed in the Subscription Agreement Signature Page only in object code format in conjunction with the Database, if applicable. Subscriber's right to utilize the Product(s) shall not be assigned, sublicensed, loaned, leased, rented, or transferred without the prior written consent of OEConnection. In the event a Product requires a password, Subscriber agrees to keep its password and user name confidential (and distributed within Subscriber's organization on a need-to-know basis only) and shall use the Product(s) exclusively in the normal conduct of the operation and business of the Subscriber.

7. **Incorporation by Reference.** All Addendums, if any, and Subscription Agreement Signature Pages are incorporated herein by reference and shall be part of this Agreement.

8. **Amendment.** This Agreement may be modified by OEConnection from time to time by posting any amendments on the Product web site or any other method of communication selected by OEConnection. Subscriber agrees to be bound by the amendments posted on such web site or otherwise communicated to Customer. Use of the Product after an amendment has been posted on the web site or otherwise communicated to Customer shall be deemed an express acceptance of the amendment. Notwithstanding the previous sentence, any amendment to an Addendum or the terms set out in the Subscription Agreement Signature Page may be modified by OEConnection from time to time by posting an amendment on the Product website or any other method of communication selected by OEConnection which specifically references the terms to be modified in an Addendum or the Subscription Agreement Signature Page.

9. **Fees.** All fees, including but not limited to Subscription Fees, will be set forth on the respective Subscription Agreement Signature Page for each Product(s). In the event of a change to the Subscription Fees, OEConnection will notify the Subscriber at least sixty (60) days prior to the end of the then current term with the details of the change to the Subscription Fees. Subscriber agrees that all fees, including Subscription Fees, shall be billed monthly to Subscriber from either OEConnection or Subscriber's automaker franchisor and/or Manufacturer through the monthly parts statement received by Subscriber or any other method deemed appropriate by OEConnection. OEConnection reserves the right to terminate the billing relationship through the Manufacturer, if any, at any time and submit all monthly invoices directly to Subscriber. Any amounts which are not paid when due shall be subject to a late payment charge equal to 18% per annum or the maximum rate permitted by applicable law, whichever is less, from the due date until the date when the payment is actually received by OEConnection.

10. **Customer Service.** Customer telephone support and services are generally available from 8:00 a.m. to 8:00 p.m. Eastern Time Monday through Friday and 8:00 a.m. to 5:00 p.m. Eastern Time on Saturday. OEConnection may change its service hours at any time without prior notice.

11. **Equipment.** OEConnection shall not be obligated to provide any computer equipment or hardware as part of this Agreement. Subscriber acknowledges that it will be responsible for all necessary computer equipment. Further, Subscriber agrees to provide, and to take any action necessary to provide, OEConnection or its agents or subcontractors with access to, and any and all information necessary to access, the Subscriber's Technology and/or Data Processing System(s).

12. **Ownership.** Subscriber acknowledges that the Product(s) and the related Software, Database, know-how relating to the Software and Database, and the programs, processes, methods, and information contained or embodied therein: (i) constitute valuable, confidential and proprietary property rights of OEConnection or other parties from whom OEConnection has obtained marketing or licensing rights, and (ii) may be protected by patents owned or licensed by OEConnection. Subscriber will take no action in deprivation of any such property rights. Subscriber further acknowledges that Subscriber's use of the Product(s) under this Agreement shall not operate to modify or abridge such rights in the Product(s), the related Software, or the Database or create in Subscriber any right in the Product(s).

OEConnection is authorized by Manufacturers to republish certain image and text information for sale, use, and/or license to authorized users. OEConnection's ability and obligation to provide this information to Subscriber is subject to and dependent and conditioned upon OEConnection's continued access to this information supplied by the Manufacturers. OEConnection shall not be obligated to provide Subscriber with the Product(s) or Database or any updates in the event that a Manufacturer supplying the Database fails to provide the necessary information or data, properly formatted in a timely manner, or OEConnection determines that the Subscriber has ceased to be an eligible user authorized to use the Product(s) or Database or any updates thereto. In no event shall OEConnection have any liability to Subscriber for failure to provide the Product(s) or Database or any updates.

OEConnection's ability and obligation to provide certain Products is subject to and dependent and conditioned upon connectivity with Subscriber's Technology and/or data processing systems and, if applicable, integration with the Products. OEConnection shall not be obligated to provide Product(s) if such connectivity or integration, if applicable, is lost or is otherwise unavailable as compared to the date this Agreement is executed. Further, Subscriber acknowledges and agrees that if it changes or alters Technology and/or Data Processing System(s) providers, computer platforms or systems, such change or alteration may negatively impact the Products' functionality and operation.

13. **Restriction on Use.** Use of the Product(s) shall be limited to the generation of a selected list of information and selected images from the Database in the Subscriber's ordinary day-to-day business. Subscriber shall not generate or attempt to generate a listing of all or any substantial portion of the information or images in the Database for any purpose. Subscriber agrees not to tamper with or damage the Product(s). Further, Subscriber agrees not to use any robot, spider, other automatic device, or manual process to monitor or copy the Database, Software or any part of the Product(s). Subscriber agrees not to use any device, software or routine to interfere or attempt to interfere with the proper working of the Product. Subscriber agrees that it will not take any action that imposes an unreasonable or disproportionately large load on OEConnection's infrastructure.

Subscriber has no rights in or to the source code of the Software. The Subscriber agrees that it will not, nor will it permit anyone else to, modify, copy, disclose, disseminate, translate, reverse assemble, decompile, or otherwise reverse engineer the Software and/or Database or any version of the Software or any portion of the Database utilized by or available to Subscriber. Further, Subscriber agrees that it will not, nor will it permit anyone else to, copy, modify, upload and download, transmit, publish or otherwise distribute any content from the Product(s) except as expressly permitted by this

Agreement. Subscriber agrees not to use the Product(s) to violate any applicable local, state, federal, or international law or regulation.

Subscriber agrees not to use the Product(s) to assist in the purchase of parts or services that: (i) are not original equipment manufactured parts; or in any manner that (ii) prevents OEConnection from participating as a compensated facilitator of such purchase.

14. **Updates and Modifications.** OEConnection will furnish the Database and Database updates as directed by Manufacturers, subject to and conditioned upon the Manufacturers providing correct and properly formatted information to OEConnection. OEConnection will supply Subscriber access to any enhancements and modifications to the Software made by OEConnection for which OEConnection does not charge a separate fee.

Subscriber acknowledges that enhancements and/or modifications may at times require changes to Subscriber's computer system. Subscriber agrees to make such changes or expansion at its sole expense. Subscriber will be solely responsible for obtaining hardware and related equipment that meets minimum hardware requirements provided by OEConnection.

15. **Default.** The following shall constitute a default under this Agreement:

a. Subscriber loses its dealership code to operate as an authorized franchisee of a Manufacturer or becomes a subscriber who is Out of Business, part of Dealer Merge, or part of a Buy/Sell event.

b. Failure by Subscriber to pay its monthly bill, within 30 days after receipt as submitted by OEConnection or its Manufacturer.

c. A breach by Subscriber of any provision of this Agreement and Subscriber's failure to cure such breach within 30 days after written notice identifying such breach.

d. Subscriber's insolvency or inability to pay its debts as they become due or assignment for the benefit of creditors or commencement of voluntary or involuntary proceedings in bankruptcy or receivership or closure of Subscriber's Location.

e. Any default by Subscriber under any other agreement it may have with OEConnection.

f. Subscriber's use of the Product in a manner inconsistent with use in the ordinary course of Subscriber's day-to-day operations or the Product's intended use.

g. Any default by Subscriber under any binding agreement it may have with any third-party user of any of the Product(s).

16. **Remedies.** If default occurs as set forth above, OEConnection may terminate this Agreement in whole or in part and the Subscriber's right to use one or more of the Product(s). Thereafter, all amounts previously due plus all remaining sums due under the applicable Product subscription for the remaining term, which includes any binding renewal terms, shall be immediately due and payable without further notice or demand. Subscriber will be responsible for all expenses (including reasonable attorney's fees) incurred by OEConnection in collecting any amounts due and unpaid by Subscriber. The remedies set forth herein and below are cumulative and shall not limit rights and remedies otherwise available to

OEConnection. OEConnection's termination of this Agreement with respect to a single Product shall not alter Subscriber's obligations under this Agreement with respect to other Product(s), if any.

17. **Effect of Termination.** Upon termination of this Agreement, all rights of Subscriber under this Agreement shall terminate, except that: (a) Subscriber's obligations to make payments shall continue in accordance with the terms of this Agreement, including but not limited to Subscription Fees owed during any binding renewal terms, and (b) Subscriber's obligations regarding the restrictions on use of the Product(s) shall continue indefinitely and survive expiration or termination of this Agreement. Upon expiration or termination of this Agreement, Subscriber shall discontinue all use of Software and Database and shall deliver to OEConnection all tangible media bearing any portion of the Software and/or Database. Subscriber will certify in writing that all electronic forms of Software and/or Database have been deleted from computers or other equipment which is owned by or subject to the control of Subscriber.

18. **Injunctive Relief.** If Subscriber violates Section 13 of this Agreement, OEConnection shall have, in addition to any other remedy, the right to immediate injunctive relief, as well as, the right to terminate this Agreement immediately. The Subscriber hereby acknowledges that monetary damages for breach of Section 13 would not be an adequate remedy at law or in equity.

19. **Limitation of Liability.** IN ADDITION TO ANY OF THE LIMITATIONS OF THE REMEDIES DESCRIBED IN THIS AGREEMENT, OECONNECTION'S ENTIRE LIABILITY TO SUBSCRIBER FOR ANY CLAIM WHATSOEVER, REGARDLESS OF FORM, SHALL BE LIMITED TO ACTUAL DAMAGES, NOT TO EXCEED THE MONTHLY SUBSCRIPTION FEE ACTUALLY PAID DURING THE TWELVE MONTHS PRIOR TO THE EVENT GIVING RISE TO SUCH CLAIM. IN NO EVENT WILL OECONNECTION BE LIABLE TO SUBSCRIBER OR ANY THIRD PARTY FOR ANY OTHER DAMAGES WHATSOEVER ARISING FROM THE USE OR PERFORMANCE OF THE PRODUCT(S), THE SOFTWARE AND/OR DATABASE AND/OR OTHERWISE IN CONNECTION WITH THIS AGREEMENT INCLUDING BUT NOT LIMITED TO INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL, AND CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING LOSS OF USE, DATA OR PROFITS, WHETHER IN CONTRACT, WARRANTY, TORT INCLUDING NEGLIGENCE, OR OTHERWISE, OR FOR ANY DAMAGES CAUSED BY SUBSCRIBER'S OR OECONNECTION'S FAILURE TO PERFORM ITS RESPONSIBILITIES, OR FOR ANY CLAIM AGAINST SUBSCRIBER BY ANY THIRD PARTY (COLLECTIVELY "CLAIMS"). SUBSCRIBER RELEASES AND HOLDS OECONNECTION HARMLESS FROM ANY CLAIMS. SUBSCRIBER ACKNOWLEDGES THAT THE FEES CHARGED BY OECONNECTION REFLECT THE ALLOCATION OF RISK SET FORTH IN THIS AGREEMENT AND THAT OECONNECTION WOULD NOT HAVE ENTERED INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS OF LIABILITY.

20. **Warranties.** Upon execution and acceptance, OEConnection and Subscriber each represent and warrant to the other that the execution and performance of this Agreement are within their respective corporate or organizational powers, have been duly authorized by all necessary requisite actions, do not contravene any governmental or contractual restrictions binding upon such party, and that this Agreement is valid, binding, and legally enforceable in accordance with its terms.

21. **Limitation of Warranty.** The parties acknowledge that the operation of the Product(s) will not be uninterrupted or error-free and defects may not be able to be corrected. Further, OEConnection does not represent or warrant that the information in the Database is correct or that there will be connectivity or integration, if applicable, to the Subscriber's Technology and/or Data Processing System(s). The

Database may contain technical inaccuracies, outdated information, typographical errors or pricing errors. Subscriber acknowledges and agrees that OEConnection has no obligation to validate or scrub any information that is part of the Database. Further, OEConnection makes no representations or warranties that the Product(s) is free of defects, viruses or other harmful components. OEConnection shall not be responsible for any damages or loss that may result from the Product(s)' integration with Subscriber's Technology and/or Data Processing System(s) or from the hacking or infiltration of the OEConnection web site or OEConnection's computer systems. Subscriber has the sole responsibility for adequate protection and backup of data and equipment use in connection with the Product(s). To the extent permitted by applicable law, the Product(s) is provided "AS IS."

OECONNECTION HEREBY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. OEConnection does not in any way guarantee the quality, data, content, artistic worth or legality of information, content, goods, or services that are transferred, received, purchased or otherwise made available or obtained by use of the Product(s) or Software or Database.

22. **Indemnity.** Subscriber shall indemnify, defend and hold harmless OEConnection, its directors, officers and members against and in respect of any and all claims, demands, losses, and liabilities, whether known or unknown, including interest, arbitration, or litigation expenses and reasonable attorney's fees, (collectively "Losses") that OEConnection shall incur, sustain, or suffer, which result from, relate to, or arises out of (i) Subscriber's breach of this Agreement; (ii) Subscriber's violation of any law or the rights of a third party; or (iii) this Agreement, other than Losses caused by OEConnection's gross negligence or willful misconduct.

23. **Subscriber's Terms and Conditions.** Subscriber acknowledges that any order filled by Subscriber utilizing certain Product(s) shall be subject to separate terms and conditions governing the transaction between Subscriber and the other party(ies) to the transaction.

24. **General Release.** Subscriber acknowledges and agrees that OEConnection is not a party to any transaction between Subscriber and any other users of the Product(s), and Subscriber releases OEConnection and its directors, officers, members, employees, and agents from any Losses of Subscriber or any other third party arising out of or relating to any dispute between Subscriber and any user of the Product(s).

25. **Privacy Statement.** Subscriber acknowledges and agrees to be bound by the terms of the Privacy Statement established by OEConnection and posted on the OEConnection web site. Subscriber acknowledges that the Privacy Statement may be changed by OEConnection from time to time by posting the new Privacy Statement on the OEConnection web site. Subscriber agrees to be bound by any new Privacy Statement posted on the web site. Use of the Product after the new Privacy Statement has been posted on the web site shall be deemed an express acceptance of the new Privacy Statement.

26. **Third Party Mark.** Subscriber shall not use in any way the trademarks or servicemarks of the manufacturers, OEConnection (D2DLink[®], DMSLink, CollisionLink[®], LinkIQ[™], RepairLink[™], DiscountPartsHUB[®].com or any other marks that appear on any OEConnection web site) without a license from the owner of the mark.

27. **Taxes.** The Subscription Fees do not include taxes. If any taxes are due or ultimately assessed because of services provided pursuant to this Agreement, such taxes, and any interest or penalties, will be an additional charge due and payable by Subscriber.

28. **Service.** Subscriber acknowledges and agrees that as part of the service and the Product(s), OEConnection or its subcontractors must gather and collect data necessary to maintain functionality of the Product(s), including but not limited to: (i) Subscriber's entire parts inventory and other parts-related data from its Technology and/or Data Processing System(s), including but not limited to tires, rims, and accessories ("Parts Inventory"); and (ii) such elements of the Subscriber's Service Department records and data as may be collected by OEConnection or its subcontractors or provided by Subscriber as part of those Products related to Subscriber's Service Department ("Service Information"). Service Information may include personally identifiable information of Subscriber's customers. Subscriber shall take all action and receive all necessary consents from its customers to lawfully permit the transfer to and use by OEConnection of any such personally identifiable information. Subscriber hereby agrees that OEConnection, or its subcontractors, shall be permitted to remote access, receive, collect, poll, copy, extract, download, reformat, aggregate, and/or compile Subscriber's Parts Inventory and Service Information on a frequency basis determined by OEConnection from time to time. If Subscriber has subscribed to a Product providing integration with Subscriber's Technology and/or Data Processing System(s), Subscriber authorizes OEConnection to rewrite data into Subscriber's Technology and/or Data Processing System(s) as part of the Product integration subscribed to by Subscriber. Further, Subscriber hereby grants OEConnection a perpetual, nonexclusive, sublicenseable, irrevocable, royalty-free license to utilize the Subscriber Information in the Portal/Exchange. Subscriber acknowledges that OEConnection may provide Manufacturers, insurance companies, users of the Product(s), and Subscriber's franchisor, and such franchisor's independent contractors, access to and copies in whole or part of the Subscriber Information. Subscriber agrees that OEConnection may use Subscriber's name and logo to identify Subscriber as a customer of the Product(s) on the OEConnection web site, and as part of a general list of customers for use and reference in OEConnection corporate, promotional, and marketing literature. Subscriber acknowledges and agrees that the data provided by Subscriber and/or produced by Subscriber's use of the Product(s) ("Usage Data") shall be owned by OEConnection; OEConnection may utilize or sell Usage Data as part of the Portal Exchange; and Subscriber shall have no rights in or to Usage Data.

29. **Applicability of Export and Other Laws and Regulations.** Subscriber acknowledges and agrees that the provisions of this Agreement, as well as the Database and the Software, are subject to the laws of the United States including export laws and regulations. Subscriber further acknowledges and agrees that unauthorized use and disclosure of the Database or the Software is prohibited by Chapter 12 of Title 17 of the United States Code as well as Sections 1831, 1832, 2314, 2318, and 2319 of Title 18 of the United States Code, and other laws and regulations. Subscriber agrees to abide by all laws and regulations which are applicable to the use of the Software and the Database.

30. **Arbitration and Governing Law.** This Agreement shall be governed by the laws of the state of Ohio without regard to conflicts of law provisions. The Subscriber hereby submits to personal jurisdiction and venue in Summit County, Ohio. Subject to the qualifications and exceptions set forth later in this paragraph, any controversy or claim arising out of or related to Subscriber's use of any Product(s) or this Agreement shall be resolved exclusively by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Any such controversy or claim shall be arbitrated on an individual basis, and shall not be consolidated in any arbitration or litigation with any claim or controversy of any other party. The arbitration shall be conducted in Summit County, Ohio, and judgment on the arbitration award may be entered into any court having jurisdiction thereof.

Either party may seek any interim or preliminary relief from a court of competent jurisdiction in Summit County, Ohio, necessary to protect the rights or property of the Subscriber or OEConnection pending the completion of arbitration. Should either party file an action contrary to this provision, the other party may recover attorney's fees and costs up to \$10,000, and the parties shall consent to the dismissal or stay of the improperly filed action pending resolution consistent with the provisions of this Section.

Notwithstanding any other provision of this paragraph, OEConnection shall have the right to petition a court of competent jurisdiction: (i) for the entry of orders for specific performance or injunctive relief as set forth in Section 18; and (ii) for recovery of money damages arising out of Subscriber's failure to pay the Subscription fee.

31. **Third Party Content.** Subscriber acknowledges that third party content may appear on the Product web site or may be accessible through links from the Product web site. Subscriber agrees that OEConnection is not responsible for and assumes no liability for such third party content. Subscriber acknowledges that the information and opinions expressed in any third party content only represent the view of such third party and are neither endorsed by nor reflective of the views of OEConnection.

32. **Miscellaneous.** The descriptive headings of the various paragraphs of the Agreement are for convenience only and shall not be used to construe or interpret the meaning of any of the provisions hereof. This Agreement is made and entered into for the sole protection and benefit of the parties hereto, and no other person, persons, entity or entities shall have the right of action hereon, right to claim any right or benefit from the terms contained herein, or be deemed a third party beneficiary hereunder. Subscriber shall not assign this Agreement without OEConnection's prior written approval. If Subscriber sells its business, OEConnection will not unreasonably withhold consent for assignment to the purchasing entity provided the purchasing entity agrees to be bound by the terms and conditions of this Agreement. This Agreement shall be interpreted to give it fair meaning, and any ambiguity shall not be construed against either party as the primary drafter hereof. Should any clause, portion or section of this Agreement be unenforceable or invalid for any reason, such unenforceability or invalidity shall not affect the enforceability or validity of the remainder of this Agreement. Notice may be delivered personally or by mail at the address shown on the first page of this Agreement for OEConnection and on the Subscription Agreement Signature Page for Subscriber. Notices that have delayed effective dates shall be deemed delivered as of the date of mailing or the date of personal delivery. No waiver of any provision of this Agreement will be deemed to constitute a waiver of any other provision. No waiver will constitute a continuing waiver. No waiver will be binding unless executed in writing by the party making the waiver. OEConnection shall not be liable for delays in performance caused by fire, flood, explosion, accident, unavailability of parts or materials, or unavailability of data from manufacturers or others, energy shortage, labor trouble, war, terrorist acts, inclement weather, telecommunication or power failure, sabotage, law or government regulation or any other cause reasonably beyond its control. This Agreement shall not be construed to create a partnership, joint venture or agency relationship between the parties. This Agreement constitutes the entire contract between the parties. Except as otherwise agreed to in a writing signed by authorized representatives of both parties, the terms of this Agreement are intended by the parties as a final expression of their agreement with respect to the subject matter herein and may not be contradicted by evidence of any prior or contemporaneous written or oral representations, agreements, or understandings, whether express or implied. The parties further intend that this Agreement constitutes the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever may be introduced in any judicial or arbitral proceeding, if any, involving this Agreement. In the event OEConnection is a party with Subscriber's Manufacturer to an agreement regarding Subscriber's Product(s) subscription, any inconsistencies or conflicts between the terms of such agreement and this Agreement shall be governed by such agreement.

33. **E-Signature.** Subscriber acknowledges that it and its representative are authorized parties and are acting in good faith. Subscriber agrees that an electronic signature shall constitute acceptance of this Agreement and shall create a legally binding contract. Subscriber further agrees that such electronic signature shall not be denied legal effect, validity, or enforceability solely because it is in electronic form as stipulated by the *Electronic Signatures in Global and National Commerce Act*, codified at 15 U.S.C. § 7001 et seq.

34. **Survival.** The provisions of Sections 2, 6, 8, 9, 12, 13, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 30, 31, 32, 34, and 35 shall survive any expiration or termination of this Agreement.

35. **Definitions.**

a. Add-On Product means a Product that relies on a Base Product and is not operationally independent of the Base Product.

b. Base Product means a Product that does not rely on another Product and is operationally independent of other Products.

c. Buy/Sell means an existing Subscriber ceases business and is purchased by an outside third party not currently an OEConnection customer.

d. Database means the database(s) of a selected set of image, graphic and text information. Certain Products will not utilize the Database. Any reference in this Agreement to the Database should be disregarded with regard to such Products.

e. Dealer Merge means a subscriber that ceases current business and merges with an existing OEConnection subscriber.

f. Interfaces means the connecting and data transfer that occurs as part of computer systems applications communicating with one another.

g. Location means a single site where Subscriber conducts business.

h. Manufacturer means any original equipment manufacturer, distributor, or other supplier of the technical information included in the Database.

i. Out of Business means a Subscriber that has ceased business entirely.

j. Portal/Exchange means the electronic commerce platform and portal that offers collision shops, dealers, fleets, installers, insurance companies, consumers, authorized distributors and others a single source for original equipment parts, service information and parts procurement needs through original equipment manufacturers' dealers and authorized distributors and includes all Products.

k. Product(s) means the product(s) or suite(s) of products subscribed to by Customer as set forth on the Subscription Agreement Signature Page.

l. Software means the software provided by OEConnection as part of the Products. "Software" may include third-party programs selected and provided by OEConnection in connection with the system, but does not include any third-party software or programs not provided by OEConnection.

m. Subscriber Information means individually and collectively Parts Inventory, Service Information and Usage Data.

n. Subscription Agreement Signature Page means the signature page of Subscriber or any enrollment form or any other data submission required to subscribe to a Product.

o. Subscription Fee means the amounts payable to OEConnection by Subscriber pursuant to Section 2 above.

p. Technology and/or Data Processing System(s) means dealer management system, inventory management system, business management system, collision estimating system or any comparable computer system.

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