

**NONDISCLOSURE AND CONFIDENTIALITY AGREEMENT**  
**FOR CUSTOMER INFORMATION AND SERVICE ANALYTICS**

This Nondisclosure and Confidentiality Agreement is entered into between **TOYOTA MOTOR SALES, U.S.A., INC.**, a California corporation ("Toyota"), with its principal place of business at 19001 South Western Avenue, Torrance, California 90509, and the company whose name and address are set forth on the signature page of this Agreement ("Company"). This Agreement is effective as of the date executed by the Company as set forth on the signature page.

Toyota is in the business of distributing and marketing motor vehicles, and related parts and accessories, under the Toyota, Lexus and Scion brands (Toyota Products). Company has requested access to certain information about owners or prospective purchasers of vehicles originally distributed by Toyota (Customer Information as defined in Section 1 below) to promote the sale of Toyota Products or related services. In addition, Company has requested access to Service Analytics to increase revenue opportunities. The Customer Information and Service Analytics are proprietary to Toyota. The Customer Information is also subject to legal restrictions. Toyota wishes to provide the Customer Information and Service Analytics to Company, from time to time, subject to the following terms and conditions and any additional terms and conditions that Toyota may otherwise reasonably specify:

1. Definitions. For the purposes of this Agreement, the following terms have the following meaning:
  - i. "Customer Information" means information that is provided by Toyota to or on behalf of the Company and can be used to identify or locate a natural person, including but not limited to, name, address, telephone number, and email address. Customer Information may include information about a single customer (for example, with respect to a lead) or about a number of customers.
  - ii. "Service Analytics" means reports generated by Toyota for Company that evaluate and assess service customer pay performance to increase Company's revenue opportunities.
  - iii. "Privacy Laws" means Title V of the Federal Gramm-Leach-Bliley Act and any state statutes adopted to comply therewith, the Federal Trade Commission's (FTC) Regulations promulgated pursuant thereto, any state regulations promulgated under such state statutes or in compliance with the Gramm-Leach-Bliley Act and any other federal, state or local law, rule or regulation that restricts the use or distribution of Customer Information.
  - iv. "Data Security Laws" means the FTC Safeguards Rule (16 CFR Part 314) and any other federal, state or local law, rule or regulation that requires the protection of Customer Information.

2. Company agrees that the Customer Information and Service Analytics shall only be used for Toyota's benefit and for the specific purpose of marketing Toyota Products or related services as Company and Toyota agreed when Company requested the Customer Information and Service Analytics and for no other purpose.

3. Company warrants that it has an executed valid Agreement with third party, to pull Customer Information and customer service information from Company's data management systems and transmit to Toyota, for the sole purpose of fulfilling Toyota's obligations under this Agreement. Company acknowledges that the accuracy, completeness and value of the Service Analytics is entirely dependent upon the accuracy and completeness of the data extracted from Company.

4. Company acknowledges that Toyota has developed the Customer Information and Service Analytics and compiled it at great time and expense and has a proprietary interest therein; that Company and certain of its employees will become familiar with and have access to the Customer Information and Service Analytics; and that Toyota may suffer great harm if Company or its employees disclose the Customer Information and Service Analytics except as contemplated by this Agreement. Company expressly understands and acknowledges that the Customer Information includes, or may include, Customer Information protected under the Privacy Laws. Company shall not use or disclose the Customer Information and Service Analytics it receives for purposes other than those agreed to between Toyota and Company. Except as otherwise expressly contemplated in this Agreement, Company agrees to:

- i. hold the Customer Information and Service Analytics in strict confidence;
- ii. disclose the Customer Information and Service Analytics only to its employees whose knowledge is required for its proper use by Company;
- iii. require that its employees hold the Customer Information and Service Analytics in strict confidence; and
- iv. take reasonable steps to prevent the accidental or otherwise unauthorized release of any of the Customer Information and Service Analytics.

5. In the event Company has retained the services of a third party to assist it in such marketing ("Marketing Vendor"), Company shall cause Marketing Vendor to enter into a Nondisclosure and Confidentiality Agreement with Toyota as Toyota shall require before the Customer Information and Service Analytics are disclosed to Marketing Vendor. Company shall immediately notify Toyota in the event Company no longer uses the services of Marketing Vendor.

6. Company agrees that, while Customer Information may be transmitted to or on behalf of Company from time to time, each transmittal will be provided for a one-time use only in connection with a specific marketing promotion, and shall not be used by Company to create, add to or delete from any substitute, parallel or other database housed or maintained by Company, Marketing Vendor or any other party not expressly approved by Toyota in writing or create substitute or parallel database(s). Upon completion of the specific marketing promotion for which the Customer Information has been provided to Company, Company shall immediately discontinue use of the Customer Information and shall either destroy such Customer Information or return it and any copies of it to Toyota and shall promptly inform Toyota in writing of what steps it has taken to comply with this requirement. Notwithstanding the preceding language, Company may retain Customer Information as necessary to comply with all federal and state laws that apply to email marketing campaigns.

7. Company agrees to implement and maintain appropriate data security measures designed to meet the following objectives:

- i. to ensure the security and confidentiality of the Customer Information and Service Analytics;
- ii. to protect against any anticipated threats or hazards to the security or integrity of the Customer Information and Service Analytics;
- iii. to protect against unauthorized access to or use of the Customer Information and Service Analytics; and
- iv. to otherwise comply with all applicable Data Security Laws.

These measures shall include, but not be limited to, the maintenance of appropriate safeguards to restrict access to the Customer Information and Service Analytics to those employees, agents or service providers of Company who need such information to carry out the purpose(s) for which the Customer Information and Service Analytics was disclosed to or on behalf of Company. For information disclosed in electronic form, Company agrees that such safeguards will include electronic

barriers (e.g., “firewalls” or similar barriers) and password protected access to the Customer Information and Service Analytics. For information disclosed in written form, Company agrees that such safeguards will include secured storage of the Customer Information and Service Analytics. Upon the request of Toyota, Company will conduct an independent audit by a mutually acceptable auditor and make available to Toyota copies of audits and test result information sufficient to assure Toyota that Company implements information security measures that comply with its obligations under this Agreement.

8. Company acknowledges that the Customer Information and Service Analytics are not warranted or represented as error free and that nothing in this Agreement shall obligate Toyota to provide the Customer Information and Service Analytics to or on behalf of Company.

9. If Customer Information is used in connection with a direct mail, email or telemarketing advertising campaign, Company shall retain, or cause Marketing Vendor to retain, at least two (2) copies of each mail piece, email communication or telemarketing script for a period of at least 24 months after the completion date of the applicable marketing promotion. Upon a request by Toyota, Company shall promptly deliver to Toyota copies of the requested mail piece, email communication or telemarketing script.

10. Company acknowledges and agrees that its execution of this Agreement is completely voluntary and not required by Toyota. However, to obtain and use the Customer Information and Service Analytics described herein Company is required to execute this Agreement.

11. When Customer Information is used in a marketing promotion of any type, such promotion shall comply with all applicable federal, state and local laws, including but not limited to:

- i. If the Customer Information is used in connection with an email marketing campaign, Company shall comply with all applicable federal and state laws that apply to such marketing, including without limitation the federal Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (the CAN-SPAM Act).
- ii. If the Customer Information is used in connection with a telemarketing campaign, Company shall comply with all applicable federal and state laws that apply to such marketing, including without limitation the Federal Trade Commission’s Telemarketing Sales Rule (16 CFR Part 310), and comparable rules adopted by the Federal Communications Commission.

12. Company agrees to defend, indemnify, and hold harmless Toyota and its directors, officers, employees, agents, and contractors, from any and all claims and liabilities of any type whatsoever that may now or hereafter arise out of or result from any breach of Company’s obligations under this Agreement.

13. The validity, construction, and the parties’ performance under this Agreement shall be governed by the laws of the State of California.

14. Sections 6, 9, 12 and 13 of this Agreement shall survive the termination of Company’s status, as the case may be, as a (i) franchised dealer of Toyota Products, or (ii) Marketing Vendor.

IN WITNESS WHEREOF, Company has executed this agreement as of the date below.

COMPANY

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Company Street Address

\_\_\_\_\_  
Company City, State and Zip Code

\_\_\_\_\_  
Dealer Code (If Applicable)

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Title

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