

StoneEagle

Data Access Agreement



This Data Access Agreement ("Agreement") is made this _____ day of _____, 20____ ("Effective Date") and is between StoneEagle.com, Inc. ("StoneEagle"), and Dealership or Dealerships listed in Exhibit A ("Dealer"). StoneEagle agrees to provide software applications and services necessary to capture information from the Dealer Management System ("DMS") and update information to Dealer's DMS where possible ("Purpose"). Dealer authorizes StoneEagle to provide the application and/or extracted data to the Dealer's authorized third-party product providers and partners. Dealer acknowledges that StoneEagle must have access to certain information from Dealer to accomplish the Purpose.

Negation of warranty

DEALER EXPRESSLY AGREES THAT IT'S USE OF THE DEALER MANAGEMENT SYSTEM INTERFACE ("DMSI") IS AT THE DEALER'S SOLE RISK. NEITHER STONEEAGLE NOR ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, CONTRACTORS OR AFFILIATES WARRANT THE ACCURACY, THE CORRECTNESS OF ANY DATA, THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE DMSI, THE TIMELINESS, SEQUENCE, COMPLETENESS, RELIABILITY OR CONTENT OF THE DATA OR INFORMATION OF THE DMSI. ALL ACCESS TO THE DMSI IS "AS IS" WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. DEALER BEARS ALL RISK PERTAINING TO QUALITY AND PERFORMANCE OF THE DMSI AND ALL INFORMATION INVOLVED WITH DMSI.

Limitation of liability

IN NO EVENT, INCLUDING NEGLIGENCE, SHALL STONEEAGLE BE LIABLE TO THE DEALER AND/OR THEIR AFFILIATES FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, PUNITIVE DAMAGES OR LOST PROFITS ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE PERFORMANCE OR BREACH THEREOF, OR THE ACCURACY OR CORRECTNESS OF THE INFORMATION CONTAINED HEREIN, EVEN IF STONEEAGLE HAS BEEN ADVISED OF THE POSSIBILITY THEREOF. STONEEAGLE'S LIABILITY TO THE DEALER AND/OR THEIR AFFILIATES HEREUNDER, IF ANY, SHALL IN NO EVENT EXCEED THE TOTAL AGGREGATE AMOUNT DEALER PAID TO STONEEAGLE IN CONNECTION WITH THE AGREEMENT.

IN NO EVENT SHALL STONEEAGLE BE LIABLE TO THE DEALER AND/OR THEIR AFFILIATES FOR ANY DAMAGES RESULTING FROM OR RELATED TO ANY FAILURE OR DELAY OF STONEEAGLE IN PROVIDING THE DATA UNDER THIS AGREEMENT OR TO THE ACCURACY OR CORRECTNESS OF THE DATA PROCESSED BY THE DEALER.

IN NO EVENT SHALL STONEEAGLE BE LIABLE TO THE DEALER AND/OR THEIR AFFILIATES FOR ANY DAMAGES RESULTING FROM OR RELATED TO ANY FAILURE OR DELAY OF STONEEAGLE TO CONNECT TO THE DEALER'S DMS DUE TO ISSUES BEYOND STONEEAGLE'S CONTROL WHICH INCLUDES, WITHOUT LIMITATION, BUSY LINES, CORRUPT MODEMS, LOCKED PORTS ON THE DMS, NO MODEM CARRIER ERRORS AND ALL OTHER TECHNICAL ISSUES THAT MAY PREVENT CONNECTIVITY TO THE DMS.

DEALER AGREES TO BE SOLELY RESPONSIBLE AND LIABLE FOR ESTABLISHING, ADMINISTERING AND MONITORING ALL SECURITY OF DEALER'S EMPLOYEES, AGENTS OR AFFILIATES. DEALER AGREES TO BE SOLELY RESPONSIBLE AND LIABLE FOR ACCESS TO, AND USE OF, THE DMSI AND ANY INFORMATION CONTAINED THEREIN. IN NO EVENT SHALL STONEEAGLE BE LIABLE TO DEALER, ITS EMPLOYEES, AGENTS OR AFFILIATES FOR UNAUTHORIZED ACCESS TO, OR MISUSE OF THE DMSI OR ANY INFORMATION CONTAINED THEREIN.

Nonpublic Personal Information

The privacy provisions of the G-L-B Act and Regulation P, which became effective on July 1, 2001, regulate the manner in which the Dealer is allowed to share with others the personally identifiable financial information not otherwise generally available to the public that the Dealer obtains about its consumers ("Nonpublic Personal Information").

Dealer will notify StoneEagle if it is subject to the Graham-Leach-Bliley Act ("GLB Act"), and will identify any "Nonpublic Personal Information" (as defined in Title V of the GLB Act) ("NPI") that it delivers or makes available to StoneEagle ("Dealer NPI"). Upon Dealer's request, StoneEagle will return or destroy any Dealer NPI that is in its possession. Dealer acknowledges that StoneEagle is in the business of developing and providing proprietary data products and that the Services may be enhanced by StoneEagle's use of data that is aggregated from its various Dealers. StoneEagle warrants to Dealer that it presently maintains, and will continue to maintain and periodically test the efficiency of appropriate information security programs and measures designed to ensure the security and confidentiality of "Customer Information" (as defined in 16 CFR S314.2(b)).

To fulfill the Purpose, Dealer shall share certain of its consumers' Nonpublic Personal Information with StoneEagle who agrees:

1. To use its best efforts to comply with the requirements of G-L-B Act and Regulation P, in particular, as they relate to the disclosure and protection of Trade Secret and Nonpublic Personal Information.
2. To use its best efforts to keep confidential all Trade Secret and Nonpublic Personal Information received from the Dealer in accordance with the provisions of the G-L-B Act and Regulation P. In particular, StoneEagle understands that StoneEagle may use the Trade Secret and Nonpublic Personal Information StoneEagle receives from the Dealer only for the purposes for which such Trade Secret and Nonpublic Personal Information was delivered to StoneEagle, and only for such other purposes as are permitted under the G-L-B Act and Regulation P.
3. To use its best efforts to maintain and to cause their affiliates to maintain physical, electronic and procedural safeguards that comply with Regulation P to guard the Trade Secret and Nonpublic Personal Information StoneEagle receives from Dealer.
4. In the event Trade Secret and Nonpublic Personal Information is used in an unauthorized manner or disclosed in violation of the G-L-B Act and Regulation P, which unauthorized use or disclosure is caused by the action or inaction of StoneEagle, to immediately notify the Dealer of such event. StoneEagle shall indemnify and hold the Dealer harmless from all claims, damage, liability, costs and expenses (including court costs and reasonable attorneys' fees) arising from any unauthorized use or disclosure which results directly from the action or inaction of StoneEagle. In addition, StoneEagle understand that the Dealer will be entitled to all other remedies available at law or equity, including injunctive relief.
5. Upon written request, to promptly return Trade Secret and Nonpublic Personal Information received from the Dealer, or to promptly destroy all materials containing such Trade Secret and Nonpublic Personal Information (and any copies, extracts, and summaries thereof) and shall further provide Dealer with written confirmation of such return or destruction upon the Dealer's written request.
6. To warrant to its Dealers that it presently maintains, and will continue to maintain and periodically test the efficiency of appropriate information security programs and measures designed to ensure the security and confidentiality of "Customer Information" (as defined in 16 CFR S314.2(b)). Such information security programs and measures shall include appropriate procedures designed to (1) protect the security and confidentiality of such information, (2) protect against anticipated threats or hazards to the access to or use of such information, and (3) protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any customer of Dealer

Term:

The Term of this Agreement shall commence on the effective date and terminate upon StoneEagle's, or Dealer's thirty (30) day prior written notice delivered to the other party.

General:

The Dealer, its employees, agents and affiliates shall not copy, modify, distribute or transfer (by any means) sublicense, reverse engineer, recompile or disassemble any of the software or components constituting StoneEagle's products or services provided pursuant to the Service Agreement and the same shall at all times be and remain solely and exclusively owned by StoneEagle.

7. This Agreement shall be binding upon and inure to the benefit of StoneEagle's affiliates, successors, and assigns. In the event of a conflict between the terms of this Agreement and any prior agreement between the parties hereto, the terms of this Agreement shall control. All obligations under this Agreement shall survive the termination of this Agreement for a period of two (2) years, except that the obligation to keep Trade Secret and Nonpublic Personal Information confidential shall remain in effect for an indefinite period of time. Any failure on the part of the Dealer to insist upon the performance of this Agreement or any part thereof shall not constitute a waiver of any rights hereunder. If a court in any judicial proceeding shall refuse to enforce any of the separate rights or obligations contained in this Agreement, then such unenforceable right or obligation shall be deemed modified or eliminated so as to be enforceable for purposes of such proceeding.

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

Dealer:

_____ Date

Authorized Signature

_____ Title

Printed Name

StoneEagle.com, Inc.:

_____ Date

Authorized Signature

Printed Name

Title

SAMPLE