

**TEXAS INFORMATION MANAGEMENT SYSTEM ("TIMS")  
ENROLLMENT FORM AND STATION AGREEMENT ("EFASA")**

Establishing and maintaining TIMS Service with Gordon-Darby, Inc. ("GDI") is required for participation in the Texas vehicle emissions testing program, known as "AirCheckTexas." This form must be filled in and returned to Gordon-Darby, Inc. prior to the initiation of the new TIMS Service, and anytime thereafter if there is a change in station information. To initiate your new TIMS Service, please review and complete this TIMS Enrollment Form and Agreement ("EFASA") and return it in the self-addressed envelope or **fax to 1-800-877-3491. For any questions regarding service, please call our helpline at 1-877-434-8467.**

Gordon-Darby Customer ID #: _____ GDI INTERNAL USE ONLY	Station ID #: _____ Use Station ID # from DPS Certificate of Appointment Form
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**CHECK THE PROPER BLOCK:**     New Inspection Station     Re-Appointment     Change of Location

Change of Authority within a Company or Corporation     Change of Mailing Address     Change of Address by Post Office

Change of Trade Name     Additional Analyzer     Other \_\_\_\_\_

**CUSTOMER INFORMATION:** Please type or print legibly.

Station Name: \_\_\_\_\_

Station Address: (Physical)	Number and Street	City or Town	County	State	Zip Code
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Station Address: (Mailing)	Number and Street	City or Town	County	State	Zip Code
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Station Area Code and Telephone Number: (    )	Station Area Code and Fax Number: (    )
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Station E-mail Address: \_\_\_\_\_

Billing Contact Area Code and Telephone Number: (    )	Billing Contact Area Code and Fax Number: (    )
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Billing Contact Name:	First	Middle	Last
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Billing Address:	Number and Street	City or Town	County	State	Zip Code
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Alternate Billing Address: <b>(Must be DIFFERENT than other addresses provided)</b>	Number and Street	City or Town	County	State	Zip Code
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Billing E-mail Address: \_\_\_\_\_

I have reviewed this TIMS Enrollment Form and Station Agreement and, to the best of my knowledge, all the information provided herein is true and correct. By submitting this signed document, I acknowledge that I have read and understand the "Gordon-Darby, Inc. Service Terms and Conditions for the Texas Information Management System" stated herein, and which are incorporated as part of this agreement. I further acknowledge and accept that these Service Terms and Conditions will control the operation of this agreement, including but not limited to my responsibility to pay, in a timely manner, all authorized costs incurred for the TIMS Services.

Customer Authorized Signature _____	Date _____
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Printed Name _____	Title _____	
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## Gordon-Darby, Inc. Service Terms and Conditions for the Texas Information Management System

### **BUSINESS AGREEMENT ("AGREEMENT")**

The Customer's use of the Gordon-Darby, Inc. (GDI) provided Texas Information Management System ("TIMS") Service constitutes agreement to these Service Terms and Conditions. GDI may terminate the GDI TIMS Services provided hereunder, including Customer's access to the TIMS network, at any time should Customer fail to abide by the terms of this Agreement.

### **DESCRIPTION OF SERVICE**

Gordon-Darby, Inc. will provide to the Customer, and the Customer will receive from GDI, access to the TIMS network and services to enable the transmittal of data between the Customer's test analyzer system ("TAS") unit(s) and the Vehicle Information Database ("VID") necessary for the Customer's participation in the AirCheckTexas program ("Gordon-Darby, Inc."), Services pursuant to this Agreement.

### **CUSTOMER RESPONSIBILITIES**

(a) Should any unauthorized user obtain access to the TAS unit(s) utilized by the Customer to participate in the AirCheckTexas program, the Customer must notify GDI immediately. Until such notification is made, the Customer understands and agrees that the Customer will continue to be responsible to pay for all TIMS transactions and transmissions incurred on such TAS unit(s).

(b) Customer understands and agrees that the Customer shall be responsible for any access code and/or personal information number (PIN) that may be associated with access into the TIMS network. Customer's access code(s) and/or PIN(s) should not be shared and must be kept secure. GDI shall in no way be liable for TIMS transaction charges fraudulently incurred on the TAS unit(s) utilized by the Customer to participate in the AirCheckTexas program. It is the Customer's responsibility to pay these transaction charges.

(c) Customer shall notify the GDI immediately upon any address change, or Customer departure from Customer's listed address. Changes to the Customer account can be made only by the Customer.

(d) Customer understands and agrees that Customer shall be responsible for obtaining from the Texas Department of Public Safety (DPS) a Station Certificate of Appointment. Customer's failure to obtain or maintain TAS unit(s) in good working order or loss of Customer's Station Certificate of Appointment will prevent access to the TIMS network.

### **CHARGES AND PAYMENT TERMS FOR GORDON-DARBY, INC. SERVICES**

(a) By using the GDI TIMS Services, the Customer assumes full responsibility for all TIMS transactions and transmission charges incurred by the TAS unit(s) utilized by the Customer to participate in the AirCheckTexas program, and its/their associated telephone number(s), related to emissions testing and diagnostic and repair information.

(b) (1) Customer shall pay for any emissions related transaction charges, and other applicable communications with or inquiries to the VID. GDI will invoice the Customer, and the total amount invoiced shall be due and payable on the Due Date as indicated on the invoice. The invoice shall state the total number of transactions and the total amount due, as well as any applicable Taxes. Customer shall pay all amounts invoiced under this Agreement; payment must be received by GDI on or before the Due Date stated on the invoice (which is the last day of the month subsequent to/after the month during which the transactions/communications occurred, e.g. the Due Date for January 1 – 31 transactions/communications is February 28 or 29, depending on the year). Failure to pay (by reason of insufficient funds or for any other reason) the amount due on the GDI invoice on or before the last day of the month following the month of the invoice may result in termination of the GDI provided TIMS Services, e.g. for January 1 – 31 transactions/communications (with a payment Due Date of February 28 or 29, depending on the year), TIMS Services may be terminated if payment is not received by GDI on or before March 31. The Customer will be locked out and denied access to the TIMS network and/or the ability to transmit data to or receive data from the VID, until both payment for all late and past due amounts and a request for reinstatement of TIMS Services are received by Gordon-Darby, Inc. Late payments resulting in TIMS Service terminations/lockouts may be sent to a GDI approved collection agency.

(2) Taxes. All charges for GDI TIMS Services under this Agreement are exclusive of applicable Taxes, which Customer shall pay; provided, however, GDI will exempt the Customer in accordance with law, effective on the date GDI receives an exemption certificate from Customer.

(c) Problems related to non-payment or challenges to monthly billing should be reported to the GDI either by calling the provided toll-free number or in writing to Gordon-Darby, Inc., Texas Information Management System (TIMS) Billing Center; P.O. Box 99309; Louisville, Kentucky 40269. If the Customer does not provide GDI with written notice of a dispute with respect to the GDI charges, or the application of any Taxes, within six (6) months from the date the invoice was rendered (Invoice Date), such invoice shall be deemed correct and binding on the Customer.

(d) Customer agrees there will be a Twenty Dollar (\$20.00) fee for reinstatement of TIMS Services subsequent to termination of TIMS Services for late or non-payment. Failure to pay the Twenty Dollar (\$20.00) fee, as invoiced and according to the terms specified herein, may result in a TAS lockout of TIMS Service.

(e) Customer agrees there will be a Twenty Dollar (\$20.00) fee for any payment to Gordon-Darby, Inc. that is returned due to insufficient funds. Each time a check is submitted and not honored due to insufficient funds will result in a separate Twenty Dollar (\$20.00) fee, regardless of whether the customer is notified of such re-submittal by their bank. Failure to pay the outstanding invoice in addition to the Twenty Dollar (\$20.00) fee(s), as invoiced and according to the terms specified herein, may result in a TAS lockout of TIMS Service. If a station has two (2) or more incidents of insufficient funds in any 12-month period, Gordon-Darby may require the station to make future payments by cashier's check, money order, credit card or as they otherwise deem appropriate.

### **WARRANTY DISCLAIMER AND LIMITATION OF LIABILITY**

(a) GORDON-DARBY, INC. TIMS SERVICES PROVIDED HEREUNDER ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTIES RIGHTS. FURTHER, GORDON-DARBY, INC. DOES NOT WARRANT, GUARANTEE, OR MAKE ANY REPRESENTATIONS REGARDING THE USE, OR THE RESULTS OF THE USE OF GORDON-DARBY, INC. SERVICES OR WRITTEN MATERIALS IN TERMS OF CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE. THE CUSTOMER UNDERSTANDS THAT GORDON-DARBY, INC. IS NOT RESPONSIBLE FOR AND WILL HAVE NO LIABILITY FOR HARDWARE, SOFTWARE OR OTHER ITEMS OR ANY SERVICES PROVIDED BY ANY PERSONS OTHER THAN GORDON-DARBY, INC. IN NO EVENT SHALL GORDON-DARBY, INC. BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES INCLUDING, WITHOUT LIMITATION, LOSS OF REVENUE OR PROFITS.

(b) Neither party shall be deemed negligent, at fault or liable in any respect to the other for any delay, interruption or failure in performance hereunder resulting from fire, flood, water, the elements, explosions, acts of God, war, accidents, labor disputes, strikes, shortages of equipment or suppliers, unavailability of transportation or other cause beyond the reasonable control of the party delayed or prevented from performing. GDI's liability for willful misconduct, if established as a result of judicial or administrative proceedings, is not limited by these Service Terms and Conditions. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF REVENUE AND PROFITS, EVEN IF AWARE OF THE POSSIBILITY THEREOF.

### **CANCELLATION RIGHTS AND LIABILITIES**

Either party may terminate this Agreement with thirty (30) days prior written notice to the other party. However, Gordon-Darby, Inc. may terminate this Agreement immediately, without liability, upon notification and direction of the Texas Commission on Environmental Quality (TCEQ) or the Texas Department of Public Safety (DPS).

### **TERMINATION FOR CAUSE**

In addition to any other rights of cancellation specified herein, either party may terminate this Agreement upon three (3) days prior written notice to the other in the event of the other's failure to pay any amounts due hereunder and not duly contested in good faith within ten (10) days after the receipt of the terminating party's written notice of default concerning the same; or the other's failure to cure a material breach within thirty (30) days after receipt of the terminating party's written notice of default concerning the same.

### **APPLICABLE LAW**

This Agreement shall be construed in accordance with the laws of the State of Texas. Customer will comply with all applicable state and federal laws.

### **ASSIGNMENT**

Neither party may assign this Agreement or any of its rights hereunder, without the prior written consent of the other party, which consent shall not be unreasonably withheld, except Gordon-Darby, Inc. may assign this Agreement to any parent, subsidiary, affiliate, or purchaser of all or substantially all of its assets.

### **INDEPENDENT CONTRACTORS**

The relationship between the parties shall not be that of partners or joint venturers of one another and nothing contained in this Agreement shall be deemed to constitute a partnership agreement between them.

### **ENTIRE SERVICE ORDER**

This TIMS Enrollment Form and Station Agreement together with all Exhibits set forth the entire understanding between the parties with regard to the subject matter hereof and supersedes any prior or contemporaneous agreements, discussions, representations or negotiations between the parties whether written or oral with respect thereto. All amendments to this TIMS Enrollment Form and Station Agreement shall be in writing and signed by the authorized representatives of both parties. All notices, requests, demands, or communications shall be deemed effective upon personal delivery or on the calendar day following the date of the telex, telegram, or Gordon-Darby, Inc. mail, or when received if sent by registered, certified or express mail.