

This Assurance of Voluntary Compliance (“AVC”), is entered into between the undersigned States, by their respective Attorneys General (collectively, “Attorneys General”) on behalf of their respective states and commonwealths (collectively, “the States”)<sup>1</sup> and State Farm Mutual Automobile Insurance Company and each of its affiliates and subsidiaries (collectively, “State Farm”).

## I. BACKGROUND

1. State Farm is a mutual insurance company collectively owned by its policyholders with its principal place of business in Bloomington, Illinois. Among other products, State Farm sells automobile insurance to consumers throughout the United States.
2. Pursuant to those insurance policies, State Farm has processed vehicle total loss claims with its insureds and claimants throughout the country, and as a result has processed the certificates of title to total loss vehicles based on the circumstances of each total loss situation.
3. All states, except South Dakota, have enacted legislation regarding the issuance of branded certificates of title or cancellation of Vehicle Identification Numbers (“VIN”, defined below). (Like South Dakota, the District of Columbia, which issues certificates of title, does not issue branded certificates of title.<sup>2</sup>) The provisions of these State Branded Title laws vary considerably. For example, certain laws contain exemptions based on the model year of the vehicles involved, others contain differing thresholds as to the amount of damage required to qualify for a branded certificate of title, and some contain provisions that all vehicles acquired by an insurer as part of the settlement of a vehicle total loss claim require a branded certificate of title.
4. State Farm believes that throughout its history its commitment to complying with the various State Branded Title laws has been steadfast, but that even with that continued commitment to compliance with all State Branded Title laws, after conducting a review of its vehicle total loss records from the period beginning June 1, 1997 through the present, State Farm was unable to confirm through its own records that a branded certificate of title was obtained for certain vehicles that may have required one. As described more fully below, State Farm states that with regard to many of these vehicles, numerous factual and legal questions remain as to whether a Branded Title was required when State Farm handled those claims.

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<sup>1</sup> The “Executive Committee” comprises the Attorneys General of California, Florida, Illinois, Iowa, Nebraska, New York, South Carolina and Texas.

<sup>2</sup> The District of Columbia Council has passed the "Department of Motor Vehicles Reform Amendment Act of 2004," which would require a vehicle owner to apply for a salvage vehicle title if damage to the vehicle exceeds 75 percent of the retail value. The Act is expected to become law and go into effect in early 2005.

5. The determination of whether or not a vehicle requires a Branded Title varies by state and may depend on a myriad of individual factors, including but not necessarily limited to: the age of the vehicle; the state in which the vehicle was originally titled; the extent of repairs required for the vehicle; the type of repairs needed; the actual cost to repair the vehicle; and the cause of damage to the vehicle, e.g., hail, theft and other factors.
6. State Farm approached the Attorneys General and stated its desire to seek a coordinated and cooperative resolution to the branded titling issues noted above. State Farm has also sought the assistance of the Attorneys General to confirm that certain vehicles previously handled by State Farm in the United States as a result of a total loss claim have Branded Titles, if needed. In addition, State Farm proposed the framework of the project set forth below, designed to notify Current Vehicle Owners, as defined below, of the branded status of their vehicles, and the implementation of a possible compensation program.
7. To further expedite the vehicle record review process so that the branding status of certain of these vehicles could be confirmed, State Farm requested the assistance of various Attorneys General and State Departments of Motor Vehicles or the equivalent state agency. The increased communication between and among the Attorneys General, State Farm and the State Departments of Motor Vehicles allowed State Farm to gather additional information to confirm the branded status of these vehicles.
8. In conducting its review of vehicle total loss claim files, State Farm concluded that unless there was substantial evidence in its records confirming that a branded certificate of title was obtained, or was not required because the vehicle was exempt under applicable Branded Title laws as of the date of loss, that vehicle was designated as an Unresolved Vehicle, defined further below. In that regard, in those States with law(s) containing a subjective cost of repair threshold, State Farm designated as an Unresolved Vehicle some vehicles which State Farm through its own records could not clearly and conclusively determine had indeed suffered damage below the required threshold and for which State Farm agrees to provide the compensation and relief set forth in this AVC. In addition, State Farm also will obtain Branded Titles or the appropriate cancellation of any Title for any Unresolved Vehicles which have been junked, sold for parts, dismantled, or otherwise destroyed as of the Effective Date of this AVC.
9. State Farm has advised the Attorneys General that it has implemented, and will modify, as needed, practices which it believes will help keep State Farm in compliance with the States' relevant Branded Title laws. State Farm has implemented these practices, and while the Attorneys General express no opinion as to these practices, the Attorneys General recognize State Farm's efforts in creating and implementing them voluntarily.
10. The Attorneys General and State Farm enter into this AVC in order to provide the compensation set forth in this AVC to those eligible Current Vehicle Owners, as defined further below, and to ensure that those Current Vehicle Owners are made aware that vehicles they may be operating may have been required to be titled on branded certificates of title.

## II. DEFINITIONS

11. “Branded Title” shall mean a certificate of title for a motor vehicle that is designated as salvage, junk, rebuilt, reconstructed, damaged, flood-damaged, VIN-cancelled or a similar designation as reflected on the face of the certificate of title or in any Department of Motor Vehicle records.
12. “Current Average Retail Value” means the adjusted retail value as determined by the National Automobile Dealers Association (“NADA”) using the Vehicle Identification Number for the year, make, model and option package for the region of the country of the residence of the Current Vehicle Owner, as defined below, as of the Effective Date of this AVC, or within a reasonable time thereafter, but no later than 60 days following the Identification Date, as available by NADA. “Current Average Retail Value” shall not include any adjustment to retail value based on the past or current condition or mileage of the motor vehicle.
13. “Current Vehicle Owner” means the owner of any Unresolved Vehicle, as defined below, as of the date identified by Choice Point, Inc. (a recognized national vendor which collects current motor vehicle registration information from each of the DMVs) or via the records of the applicable Department of Motor Vehicles, within 60 days or soon as practicable after the Identification Date as defined in Paragraph 23 below, excluding salvage yards, licensed vehicle dismantlers, and State Farm.
14. “Date of Loss” means the date of the loss or accident involving the Unresolved Vehicle as recorded in State Farm’s claim files.
15. “DMV” shall refer to each State’s appropriate agency that handles, manages and oversees the administration of and processing of certificates of title for motor vehicles in that State.
16. “NCR” means those Unresolved Vehicles which are not capable of resolution because the vehicle identification number cannot be identified through State Farm’s records or cannot be searched in either any DMV records, or third-party vendor records, or the vehicle was never assigned a vehicle identification number.
17. “Non-Traditional Vehicles” shall include vehicles other than automobiles, trucks and sport utility vehicles (SUVs), such as motorcycles, snowmobiles, ATVs and trailers.
18. “Title” shall mean Certificate of Title or other motor vehicle ownership document.
19. “Unresolved Vehicle(s)” means those vehicles, except as provided in Paragraph 24 below, acquired and identified by State Farm in the settlement of a total loss claim between June 1, 1997, and the Effective Date of this AVC, for which State Farm cannot presently confirm that a Branded Title that may have been required was obtained and for which state DMV records do not show that a branded certificate of title was issued for that vehicle. Also, as set forth in Paragraph 8 above, certain vehicles as designated by State Farm, may also have been included among Unresolved Vehicles notwithstanding that there may be a potential question of fact as to whether the vehicle actually required a branded certificate of title.

20. "VIN" shall refer to a vehicle identification number.
21. "ATVs," "Motorcycles," "Motor homes," "Semi-trailers," "Snowmobiles," "Trailers" and "Watercraft" shall each respectively have the definition adopted in each State's statutory code.

### III. SCOPE OF AGREEMENT

22. Effective Date: The Executive Committee will provide written notification to all state Attorneys General of the terms of this AVC by December 20, 2004, and of the opportunity to join by January 4, 2005. This AVC shall be effective upon execution by State Farm and all of the Attorneys General of the States, or their designated representatives, who join the AVC (the "Effective Date").
23. Resolving Vehicle Titles in Question: State Farm will undertake reasonable efforts to identify those vehicles that are Unresolved Vehicles within 180 days following the Effective Date of this AVC (the "Identification Date"). State Farm agrees to continue to make reasonable efforts to bring about a swift resolution of any Title issues that may arise with respect to those vehicles, including the branding of all Titles that require such brands or the cancellation of any Titles and VINs for any vehicles which have been junked, sold for parts, dismantled, or otherwise destroyed.
24. Non-traditional Vehicles: The Attorneys General and State Farm agree that motorcycles, motor homes and semi-trailers will fall within the scope of this AVC and that trailers, ATVs, snowmobiles and any watercraft are excluded from the purview of this AVC.

### IV. COMPLIANCE

25. State Farm assures the Attorneys General that it will comply with all state laws which apply to the titling of salvage motor vehicles.

### V. RETITLING OF UNRESOLVED VEHICLES

26. Retitling of Unresolved Vehicles Owned by Current Vehicle Owners: Following notice to Current Vehicle Owners of the compensation available under this AVC and within 90 days following the Identification Date, the Project Administrator, defined further in Paragraph 32, will forward vehicle information to the DMV and the Attorneys General regarding all Unresolved Vehicles of Current Vehicle Owners eligible for the compensation set forth in this AVC, in the State in which the Current Vehicle Owners' vehicle was last registered per Choice Point with notice to that State DMV that the vehicle was required to be titled as salvage, and that the vehicle had not been so titled. For those Unresolved Vehicles which have been sold for parts, dismantled or otherwise destroyed, State Farm shall notify the DMV in the State in which the vehicle was last titled, that the VIN should be cancelled, thereby obviating the need for the issuance of a new Title.

VI. COMPENSATION TO CURRENT VEHICLE OWNERS

27. Compensation to Current Vehicle Owners: Current Vehicle Owners of Unresolved Vehicles that are presently registered will be eligible for compensation from State Farm upon the timely submission of a properly completed claim form providing information demonstrating ownership of the vehicle, and acknowledging that he or she was unaware of the fact that the vehicle was previously designated as a total loss or may have required a Branded Title. The specific monetary value of compensation to be paid to Current Vehicle Owners of Unresolved Vehicles that do not have a Branded Title will be based on the Current Average Retail Value, as defined in Paragraph 12, of the Current Vehicle Owners' vehicle. The compensation distribution plan is set forth as follows:

If the Current Average Retail Value of the Vehicle is:	The Approximate Compensation Amount equals:
\$0 to \$1,000	\$400
\$1,001 to \$2,000	\$600
\$2,001 to \$3,000	\$800
\$3,001 to \$4,000	\$1,000
\$4,001 to \$5,000	\$1,200
\$5,001 to \$6,000	\$1,400
\$6,001 to \$7,000	\$1,650
\$7,001 to \$8,000	\$1,850
\$8,001 to \$9,000	\$2,150
\$9,001 to \$10,000	\$2,400
\$10,001 to \$11,000	\$2,700
\$11,001 to \$12,000	\$3,000
\$12,001 to \$13,000	\$3,500
\$13,001 to \$14,000	\$4,000
\$14,001 to \$16,000	\$4,500
\$16,001 to \$18,000	\$5,000
\$18,001 to \$20,000	\$6,000
\$20,001 to \$25,000	\$7,500
\$25,001 to \$30,000	\$9,000
\$30,001 to \$35,000	\$10,000
\$35,001 to \$40,000	\$15,000
\$40,001 +	\$20,000

The Attorneys General and State Farm agree that the amount of compensation that each Current Vehicle Owner may receive will be increased or decreased proportionately based on the number of Current Vehicle Owners who elect to receive the compensation set forth in this paragraph. The Attorneys General and State Farm also agree that the total monetary compensation paid out to all eligible Current Vehicle Owners by State Farm pursuant to the terms of this AVC shall equal forty million dollars (\$40,000,000.00).

28. Vehicles that Do Not Qualify for Compensation: The Attorneys General and State Farm agree that the following Unresolved Vehicles do not qualify for compensation under this AVC:
- A. Unregistered Unresolved Vehicles: All Unresolved Vehicles as of the Identification Date of this AVC that are determined to be unregistered or currently registered to the vehicle owner on the Date of Loss per the records of Choice Point or the applicable DMV.
  - B. Unresolved Vehicles without VINs: Unresolved Vehicles with missing or incomplete VINs and which cannot be reasonably identified by State Farm will be recoded as NCR and removed from the list of Unresolved Vehicles. The Attorneys General and State Farm further agree that if an individual comes forward at a later date no later than two years following the effective date of this AVC, State Farm will review that individual's claim and determine whether the vehicle should have been retitled with a Branded Title, and determine whether the vehicle owner is eligible for the compensation as set forth in this AVC. State Farm will report any such request to the Attorneys General and of State Farm's determination regarding whether the vehicle should have been retitled. The Attorneys General will have 20 days within which to object to State Farm's determination as to retitling. Any disputes relating to such determination shall be submitted to non-binding mediation by an impartial third-party mediator selected by the Attorneys General and State Farm, whose costs shall be borne by State Farm. Payments of compensation made pursuant to this Paragraph shall be made in accordance with the compensation schedule set forth in Paragraph 27, but will be separate and apart from the total compensation set forth in Paragraph 27, and will not in anyway delay the payment of such compensation to Current Vehicle Owners.
  - C. Unresolved Vehicles Purchased by Salvage Yards or Registered to Licensed Rebuilders: Unresolved Vehicles which were purchased by or are currently registered to salvage yards, licensed rebuilders, or any other party which is licensed to purchase vehicles that require a Branded Title.
  - D. Unresolved Vehicles Which are Registered to State Farm: Unresolved Vehicles which are currently registered in the name of State Farm according to DMV records.
29. DMV Searches, DMV Title Processing and Record Updates: State Farm agrees to pay all costs related to its research of branded status through State DMV files and through Choice Point, and all costs associated with the retitling of all affected vehicles, including the cost of canceling the titles for all vehicles that have been junked, sold for parts, dismantled, or otherwise destroyed.

## VII. ADMINISTRATION OF PROJECT

30. Notice to Individual Claimants: State Farm will identify all persons who are the Current Vehicle Owners of Unresolved Vehicles and who the Attorneys General and State Farm agree will be offered compensation pursuant to this AVC. The Attorneys General and

State Farm agree that Choice Point's records shall provide the primary information to identify all Current Vehicle Owners of Unresolved Vehicles. State Farm will notify the Project Administrator, defined below, of the identities and last known addresses of the Current Vehicle Owners within 15 days of the Identification Date.

31. Contacting Current Vehicle Owners: The Current Vehicle Owners of Unresolved Vehicles will be contacted through an approved Project Administrator and provided with written notice of this agreement and the Current Vehicle Owners' ability to receive compensation in accordance with the terms of this AVC, and regarding the retitling of their vehicle. Such notice and claim form shall be in a form substantially similar to the document attached hereto as Exhibits A and B and will be provided to the Current Vehicle Owners by the Project Administrator within 60 days of the Identification Date. The Project Administrator shall make reasonable efforts to obtain and utilize Current Vehicle Owners' current mailing addresses.
32. Project Administrator: State Farm, with the approval of the Executive Committee, will select a Project Administrator who will coordinate the notification of eligibility for potential compensation, provide notice to the potential claimants and administer the receipt of all claim forms relating to the compensation set forth in Section VI, and the payment of approved claims and the administrative burdens related to the administration of this project. State Farm agrees to bear all costs associated with such an effort. The Project Administrator will be bound by the applicable provisions designed to protect any confidential information of all motor vehicle owners, including but not limited to the Driver Privacy Protection Act of 1994, and all similar state laws protecting the confidential information of vehicle owners.
33. Disbursement of Compensation: Notwithstanding Paragraph 28(b), payments of compensation shall be made to the Current Vehicle Owners by the Project Administrator within 120 days following the notice to Current Vehicle Owners as provided in Paragraph 31 and shall be based upon the timely filing of a properly completed claim form, as set forth in the notice to be provided to eligible Current Vehicle Owners, referenced above at Paragraphs 31 and 32, and review and approval of that claim by the Project Administrator. Current Vehicle Owners whose claim forms are denied by the Project Administrator shall be notified in writing. Any disputes relating to any determination made by the Project Administrator that a claim form has not been properly completed, or that the Current Vehicle Owner who receives notice is not eligible for compensation shall be subject to review and determination by the Executive Committee, upon request of the Current Vehicle Owner, and such determination shall be binding on State Farm. Within 60 days of the Effective Date of this AVC, the Executive Committee, State Farm and the Project Administrator shall develop a set of criteria to be utilized in resolving such disputes. All Current Vehicles Owners who file a claim will be contacted in writing with notice if the claim is denied and such notice shall include a statement of the time period in which the Current Vehicle Owner may dispute a denial of their claim form.
34. Releases (see infra, Section VIII): The Project Administrator will retain copies of all releases for four (4) years from the date of the execution of this AVC, and provide the original versions of each such release(s) to State Farm, which will retain all settlement administration documents in accordance with applicable statutory requirements.

35. Final Report: The Project Administrator shall submit to the participating Attorneys General and State Farm a final report (the “Final Report”) confirming that all compensation payments to any affected Current Vehicle Owners have been sent, the number of Current Vehicle Owners receiving the compensation and that all processing of new Branded Titles has been completed. The Final Report shall include the number of Current Vehicle Owners receiving compensation, the total dollar amounts of all payments of compensation made by state, a report on any compensation payments sent to Current Vehicle Owners which remain unclaimed as of the date of the Final Report, and shall be submitted to the participating Attorneys General within 120 days following the date by which all payments to any affected Current Vehicle Owners have been sent by the Project Administrator. The Project Administrator shall separately provide to the Attorneys General and State Farm a list of all vehicles for which compensation has been made as set forth in this AVC.

#### VIII. RELEASES

36. Release from the Attorneys General: This AVC is intended to resolve all interests of the Attorneys General as may arise from their Consumer Protection jurisdiction concerning Branded Title law compliance as addressed in this AVC.<sup>3</sup> To the extent that any of the Attorneys General received or receive complaints from a consumer in their respective States, relating to the branding of any vehicle previously acquired by State Farm from 1997 through the Effective Date, any claims that have been brought, or could have been brought by the Attorneys General under the Attorneys General’s Consumer Protection jurisdiction are hereby released. This release is effective only upon State Farm completing all of its obligations under the terms of Sections III and IV of this AVC.
37. Release from Current Vehicle Owners: Current Vehicle Owners shall execute the general release set forth in Exhibit B to this AVC before receiving compensation from State Farm pursuant to this AVC.

#### IX. MISCELLANEOUS PROVISIONS

38. This AVC shall not be used as an admission of, concession of or as evidence of the validity of any alleged wrongdoing or liability, or as an admission of or evidence of, any alleged fault, misrepresentation or omission by State Farm, by any party in any civil, criminal or administrative proceeding in any court, administrative agency, arbitration, or other tribunal.
39. Nothing in this AVC shall relieve State Farm of its obligation to comply with applicable state and federal law.
40. Nothing contained herein is intended to affect any rights a consumer may have regarding the matters described herein other than those which an individual consumer may release pursuant to the release set forth in Exhibit B to this AVC.
41. This AVC may be executed in counterparts.

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<sup>3</sup> In West Virginia, this Assurance of Voluntary Compliance shall have the legal status established by West Virginia Code § 46A-7-107.

42. This AVC may only be enforced by the parties hereto.
43. If any clause, provision or section of this AVC shall, for any reason, be held illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect any other clause, provision or section of this AVC and this AVC shall be construed and enforced as if such illegal, invalid or unenforceable clause, section or other provision had not been contained herein.
44. State Farm will make a payment by the Effective Date to the Attorneys General in the sum of one million dollars (\$1,000,000.00) to be divided as determined by the Executive Committee and to be used for attorneys' fees and costs, consumer education, future litigation, public protection or local consumer aid funds, at the discretion of each State's Attorney General as allowed by each State's law.