



**STATE OF FLORIDA
DEPARTMENT OF
HIGHWAY SAFETY AND MOTOR VEHICLES
TALLAHASSEE, FLORIDA 32399-0500**

ELECTRONIC LIEN AND TITLE PROGRAM

MEMORANDUM OF UNDERSTANDING

THIRD PARTY PROVIDER

1. This agreement is between the Florida Department of Highway Safety and Motor Vehicles, Division of Motor Vehicles, hereinafter referred to as DHSMV, and _____, whose mailing address is _____, hereinafter referred to as a third party provider.
2. The purpose of this agreement is to establish the parameters for the use of DHSMV'S Electronic Lien Holder and Title Program Process, hereinafter referred to as ELT, by the third party provider and DHSMV. Both parties agree the successful outcome of this project is of economic benefit to both parties and therefore agree to be bound by the terms and conditions set forth herein. This agreement includes and incorporates all terms, conditions, and definitions made between DHSMV and the third party provider for this project. Any amendment or modification to this agreement shall be in writing duly

executed by each party's authorized official, which shall become effective at a time mutually agreed upon by the parties.

3. This agreement shall become effective on the date of execution and shall continue in force until modified, amended or terminated.
4. This agreement is subject to any restrictions, limitations or conditions enacted by the Florida Legislature, which may affect any or all terms or provisions of this agreement in any manner. The third party provider agrees that upon written notice from DHSMV of any such restrictions, limitations or conditions as may be enacted by the Florida Legislature will constitute a modification or amendment to this agreement until such time as they are put in writing and duly executed by each party's authorized official as required in paragraph two (2) of this agreement. DHSMV will advise the third party provider of any such actions taken by the Florida Legislature as soon as possible, but lack of notification by DHSMV does not negate the legal requirement to comply with all applicable provisions of law. The third party provider may immediately terminate this agreement if it decides not to comply with the modifications or amendments to this agreement.
5. No alteration or variation of the terms of this agreement shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on either party.
6. This agreement is subject to the right of either party to terminate the agreement at any time without cause by giving the other party at least thirty (30) calendar days prior

written notice of such termination. Notice is effective from the date sent by facsimile (FAX) transmission or, if served by mail, five (5) days from the date of mailing.

Termination initiated by the third party provider must be directed to the attention of the Director, DMV, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0500. Termination initiated by DHSMV must be directed to the attention of

_____.

_____ ,

_____.

7. This agreement is not assignable by the third party provider either in whole or in part, without the written consent of DHSMV.

8. The third party provider agrees that this agreement is subject to section 119.0712(2), Florida Statutes and the Federal Driver Privacy Protection Act and that all personal information and vehicle information which is considered privileged and confidential under Florida law and is contained in any title information forwarded to the third party provider under this agreement will not be released by the third party provider to any individual or other legal entity who would not otherwise have access to such information. Any release of information by the third party provider to any unauthorized individual or other legal entity will result in DHSMV terminating this agreement and the third party provider will hold DHSMV harmless for any resulting damage or loss. Notwithstanding any other time limits herein, DHSMV may terminate this agreement for such unauthorized use or disclosure by written notice to the third party provider, such notice to

be effective upon facsimile (FAX) transmission to Third party provider or five (5) days from the date of mailing of such notice.

9. The third party provider agrees to participate in structure testing as established by DHSMV. Further, it is expressly understood that ELT participation is subject to passing the structure test and no ELT transactions will be accepted until the DHSMV Information Service Administration, herein referred to as ISA, advises them in writing all requirements have been satisfied and activates a mail box.
10. The third party provider by executing this document agrees to be bound by all of the terms and provisions of Memorandum of Understandings executed by each of their clients and DHSMV. Further, they agree to be bound by all amendments to such Memorandums of Understanding.
11. All costs incurred by the third party provider to participate in ELT will be their sole responsibility.
12. The third party provider agrees to post a \$50,000 surety bond or in lieu of a surety bond a \$50,000 irrevocable letter of credit for all activities in Florida under the ELT program as outlined herein and DHSMV must be named as an insured under such surety bond or Beneficiary in the irrevocable letter of credit. If an irrevocable letter of credit is used in lieu of a surety bond, it must be issued by a bank authorized by the Florida Department of Financial Services to do business in the State of Florida as a bank. The bonding company as surety or bank issuing the irrevocable letter of credit must indemnify DHSMV as

obligee or beneficiary for any loss or damages it may sustain by reason of failure or default on the part of the third party provider as principal to adhere to the provisions of this Memorandum of Understanding. If this Memorandum of Understanding is terminated by the third party provider or DHSMV, the \$50,000 Surety bond or irrevocable letter of credit must remain in effect for one year after cessation of business activities to cover any loss or damages that may arise.

13. DHSMV will assign each third party provider a unique identifier. Every day the third party provider will log on to a secure bank site and view a sequentially numbered report showing the fee amount owed for the previous days requests to convert an electronic title to a paper certificate of title. The third party provider will process and authorize a debit from their bank account for the total amount due daily. This debit will be deposited into the DHSMV designated Department of Financial Services Treasury account.
14. Except to the extent DHSMV or its employees or agents are liable under section 768.28, Florida Statutes, the third party provider agrees to indemnify and hold harmless DHSMV and its officers, agents and employees from any and all claims, actions, damages or losses which may be brought or alleged against DHSMV, its employees or agents for unauthorized disclosure of information, error or omissions, or delays, or from equipment, software or communication failures, except such failure due to *force majeure* arising from the activities performed as described in this agreement.
15. DHSMV shall not be responsible for any error or transmission of inaccurate information by the third party provider or any third party vendor of the third party provider resulting

in erroneous release or satisfaction of lien by any DHSMV. The third party provider agrees to indemnify and hold harmless DHSMV for any damage or loss, if any, sustained by DHSMV or any other party.

16. This agreement is entered into in the State of Florida and is governed by the provisions of the laws of the State of Florida.

(Balance of page left blank intentionally)

In witness whereof, the undersigned have caused the agreement to be executed by their authorized officials as of the date first written above.

Printed name
Florida Department of Highway Safety and Motor Vehicles

Signature
Florida Department of Highway Safety and Motor Vehicles

Date

Printed name

Signature

Date

Title_____

Company_____

FEID# _____

EmailAddress_____

This agreement has been approved by General Counsel, Department of Highway Safety and Motor Vehicles as to form and legality, subject only to full and proper execution by the parties.

9/2009