



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

**ELECTRONIC LIEN AND TITLE PROGRAM
MEMORANDUM OF UNDERSTANDING
PARTICIPATING ELECTRONIC LIENHOLDERS**

1. This agreement is between the Florida Department of Highway Safety and Motor Vehicles, Division of Motorist Services, hereinafter referred to as the Department, and _____, whose mailing address is _____, hereinafter referred to as Business Partner.
2. The Electronic Lien Transaction (ELT) program secures liens within Florida electronically and allows electronic lien Business Partner to maintain the electronic liens from their designated facility through an ELT Third Party Provider pursuant to Section 319.24, Florida Statutes.
3. The Vendor/Lienholder's responsibilities are to ensure the same title documents required to apply for a paper title, which are also required for an electronic title, are being utilized. Title documents will be entered into the Department's computer system and are handled and examined the same as if paper titles were to be issued. The change will occur when the title is ready to be issued. Instead of issuing a paper title certificate, an electronic notification will be sent to the Lienholder.
4. A Lienholder may choose to utilize a third party service provider for software and record management needs. When perfecting liens, a Lienholder using a third party service provider will send loan information to the service provider. Then, the Department will send electronic title and lien notifications to the third party service provider, where the transactions will be matched and records maintained. When the lien(s) are satisfied, the third party service provider will forward lien satisfactions from the lienholder to the Department and will receive an electronic confirmation from the Department. A third party service provider also provides reporting services for a Lienholder.

5. The purpose of this agreement is to establish the parameters for the use of the Department's Electronic Lien Holder and Title Program Process, hereinafter referred to as ELT, by the Business Partner and the Department. 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 the Department and the Business Partner 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.

6. This agreement shall become effective on the date of execution and shall continue in force until modified, amended or terminated.

7. 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 Business Partner agrees that upon written notice from the Department 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 five (5) of this agreement. The Department will advise the Business Partner of any such actions taken by the Florida Legislature as soon as possible, but lack of notification by the Department does not negate the legal requirement to comply with all applicable provisions of law. The Business Partner may immediately terminate this agreement if it decides not to comply with the modifications or amendments to this agreement.

8. 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.

9. 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 Business Partner must be directed to the attention of the Director, Bureau of Issuance Oversight, Neil Kirkman Building, 2900 Apalachee Parkway, Room A334A, MS 68, Tallahassee, Florida 32399-0500. Termination initiated by the Department must be directed to the attention of:

10. This agreement is not assignable by the Business Partner either in whole or in part, without the written consent of the Department.

11. The Business Partner agrees that this agreement is subject to section 119.0712 (2), Florida Statutes, and the Federal Driver's Privacy Protection Act (18 U. S. C. § 2721 et seq.), including any amendments thereto effective after the execution of this agreement. The Business Partner further agrees that all personal information governed by these statutes disclosed to the Business Partner under this agreement will be used or redisclosed by the Business Partner only as permitted by these statutes. Any use or redisclosure of such personal information by the Business Partner except as permitted by these statutes will result in the Department terminating this agreement. Furthermore, the Business Partner will fully indemnify and hold harmless the Department, its officers and employees for any damage or loss resulting from the Business Partner's unauthorized use or redisclosure. Notwithstanding any other time limits herein, the Department may terminate this agreement for such unauthorized use or disclosure by written notice to the Business Partner, such notice to be effective upon facsimile (FAX) transmission to Business Partner or five (5) days from the date of mailing of such notice.
12. The Business Partners agrees to contact the Department's Information Service Administration Technical Assistance Center, herein referred to as TAC, at 850-617-3801, and in writing via email (TAC@flhsmv.gov) upon discovering that the Department as disclosed to the Business Partners by electronic or any other means any data or records intended to be sent to another entity. Notwithstanding any other time limits set forth herein, the Department may terminate this agreement by written notice to the Business Partners for failure to immediately report such error to the Department, such notice to be effective five (5) days after mailing or upon facsimile (FAX) transmission by the Department.
13. The Business Partner agrees to obtain written permission from each registered owner prior to forwarding a change of address to the Department.
14. The Business Partner may use the electronic mailbox to complete the following transactions:
 - a. Lien satisfaction, first lien only and request paper title.
 - b. Lien satisfaction for first lien and subsequent liens move up in priority. No paper title will be issued.
 - c. Paper title print requests prior to lien(s) being satisfied.
 - d. Notice to the Department of ELT lien being perfected in error.

When the Business Partner sends an electronic lien satisfaction to the Department, the Business Partner assumes full responsibility for its accuracy and holds harmless and indemnifies the Department, its officers and employees for any damage or loss, resulting from issuing a certificate of title based upon such electronic lien satisfaction.

15. The transmission of on-line file transfer to Business Partner by the Department and to the Department by the Business Partner will be accomplished utilizing Secure File Transfer Protocol (SFTP) in a format designated by the Department.

16. All costs incurred by the Business Partner to participate in ELT will be its sole responsibility.
17. Each Department business day, the Department will produce and send electronically to the Business Partner, after the close of business, data consisting of lien notification entered onto the Department record files that same day. In response, the Business Partner will match lien notification to its files and will send electronically an acknowledgment of the lien notification from its ELT file as well as any corrections or changes made to existing records on its ELT file.
18. When the Department and the Business Partner agree to convert existing paper titles with liens to electronic titles, a separate Memorandum of Understanding will be entered into by such parties to govern the process and the destruction of the paper title documents.
19. Until the Certificate of Title is printed on secure paper by the Department at the request of the Business Partner, all information and data currently required to appear on such Certificate of Title will be electronically transmitted to the Business Partner's electronic mailbox. This transmission of information will be considered by the parties to be a delivery of an electronic title. The Business Partner will then retain that information or any other information held by the Business Partner which may then be configured in any electronic format as the Business Partner may deem appropriate to fit within its system.
20. Once the lien has been satisfied electronically by the Business Partner, the title will be maintained electronically unless the owner(s) or Business Partner requests a paper title be printed and pays the appropriate fees set forth in s. 319.32, F.S. or s.319.323, F.S. The Business Partner holds harmless and indemnifies the Department, its officers and employees for any damage or loss resulting from the Business Partner's failure to notify the Department to mail to an address other than that of the registered owner.
21. Effective July 1, 2010 any lienholder who has repossessed a motor vehicle in Florida in compliance with the provisions of section 319.28, Florida Statutes, must apply to a Tax Collector's office in Florida or to the Department for a certificate of repossession or for a certificate of title pursuant to section 319.323, Florida Statutes. Any person found guilty of violating any requirements of section 319.28(2)(b), Florida Statutes, shall be guilty of a felony of the third degree, punishable as provided in section 775.082, section 775.083 or section 775.084, Florida Statutes.
22. If the Department decides to terminate the ELT concept, all ELT records of ownership shall have a paper title produced and delivered or mailed to the Business Partner without cost.
23. If the Business Partner decides to terminate its participation in this process or if the Department terminates this agreement for cause and paper titles are requested, the Department will print, deliver or mail such titles to the Business Partner without cost.

24. If the Business Partner sells or otherwise transfers ELT Titles to another financial institution, the transaction must comply with the provisions of Chapter 319, Florida Statutes. Said transfer must be submitted to a Tax Collector's office or the Department's Fast Title Service Center on the proper forms and is to be accompanied by all required fees.
25. Except to the extent the Department or its officers, employees or agents are liable under section 768.28, Florida Statutes, the Business Partner agrees to indemnify and hold harmless the Department and its officers, agents and employees from any and all claims, actions, damages or losses which may be brought or alleged against the Department, 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.
26. If the Business Partner uses a service bureau or software provider for the performance of this agreement, the Business Partner agrees to assume full responsibility and liability for the actions of the service bureau or software provider for lack of actions pursuant to this agreement. Further, the Business Partner agrees to enter into an agreement with any service bureau or software provider ("Provider") in which the provider will agree to be bound by the terms of this agreement, including but not limited to paragraph eleven (11) of this agreement.
27. The Department shall not be liable for any error or transmission of inaccurate information by the Business Partner or any Third Party Vendor of the Business Partner resulting in erroneous release or satisfaction of lien by any the Department. The Business Partner agrees to indemnify and hold harmless the Department, its officers and employees for any damage or loss sustained by the Department or any other party due to such error or transmission.
28. This agreement is entered into in the State of Florida and is governed by the provisions of the laws of the State of Florida.

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

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 # _____
(Federal Employee Identification Number)

Email Address _____

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