

**STATE OF GEORGIA;
COUNTY OF FULTON:**

**AGREEMENT FOR ELECTRONIC LIEN AND TITLE PROGRAM
BY AND BETWEEN THE GEORGIA DEPARTMENT OF REVENUE
AND _____, Security Interest Holder**

This AGREEMENT FOR ELECTRONIC LIEN AND TITLE PROGRAM (hereinafter the "Agreement"), is made and entered into as of this ____ day of _____, 20____, by and between the Georgia Department of Revenue (hereinafter the "Department"), an agency of the State of Georgia, whose address for purposes of this Agreement is Suite 15300, 1800 Century Blvd., Atlanta, GA 30345-3205 and _____, (hereinafter "Security Interest Holder"), a _____ corporation, whose address for purposes of this Agreement is _____ (the Department and Security Interest Holder collectively referred to as the "Parties").

WHEREAS, O.C.G.A. § 40-3-23 empowers the Department to issue certificates of title and maintain records regarding motor vehicles that are titled in the State of Georgia; and

WHEREAS, pursuant to O.C.G.A. § 40-3-26 the Department is required to issue certificates of title to first security interest holders or lienholders, who record their security interests or liens in the title; and

WHEREAS, pursuant to O.C.G.A. § 40-3-26 the Department is authorized to enter into agreements with security interest holders or lienholders to provide an electronic means to deliver certificates of title, whereby security interests or liens are recorded with the Department without issuing paper certificates of title to security interest holders or lienholders; and

WHEREAS, the Security Interest Holder is a security interest holder or lienholder in certain motor vehicle titles, and desires to receive certificates of title electronically by noticing its security interests or liens with the Department; and

WHEREAS, the Parties desire to process and receive electronic certificates of title through the Department's Electronic Lien and Title Program Process (hereinafter "ELT"), whereby the Third Party Provider gives notice of the security interests or liens of the security interests holder or lienholders it represents, and the Department issues an electronic acknowledgement of the security interests or liens without issuing paper certificates of title; and

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual promises, covenants, and agreement contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Purpose, Term, Consideration

1.1 The purpose of this agreement is to establish the parameters for the use of the Department's ELT.

1.2 The term of this Agreement shall commence on the date hereof and shall expire at 11:59 P.M. on June 30, 2010 (hereinafter the "Initial term") unless earlier terminated or extended as specified herein.

1.3 Upon the mutual agreement of the parties, provided this Agreement is not earlier terminated and that the Security Interest Holder is not in default, the term of this Agreement may be extended for a period of five (5) consecutive one-year terms beyond the Initial Term. Each term shall begin on July 1st and end on the next subsequent June 30th and shall be upon the terms and conditions contained herein. The Initial Term and each subsequent term shall be collectively referred to as the "Term."

1.4 The Agreement may be extended, as provided for in Section 1.3 above, by the Security Interest Holder notifying the Department of its desire to extend the Agreement for one additional year, on or before May 1st of the year on which this Agreement is due to terminate. In order for an extension to be effective, the Department must notify the Security Interest Holder of its acceptance no later than June 15th of the same year. Should the Department not provide such notification; the Agreement will terminate according to the terms set forth herein.

1.5 Notwithstanding any provision herein, the Department shall have the absolute right to terminate this Agreement, with or without cause, by giving the Security Interest Holder thirty (30) days written notice (hereinafter referred to as the "Termination Letter"). Upon such termination, the Department shall provide the Security Interest Holder with a final invoice for all records not previously billed for but made available to Security Interest Holder on or before the date of the Termination letter. Security Interest Holder shall remit payment in full satisfaction of the final invoice within thirty (30) days of receipt of the Termination Letter.

1.6 In consideration of _____n/a_____, the Security Interest Holder shall pay the Department the amount of \$0.00.

2. Confidentiality of Motor Vehicle Records.

2.1 The Security Interest Holder agrees that this agreement is subject to O.C.G.A. § 40-2-130 and § 40-3-23, and the Federal Driver Privacy Protection Act, 18 U.S.C. § 2721, and that all personal information and vehicle information which is considered privileged and confidential under federal and Georgia law, and is contained in any title information forwarded to the Security Interest Holder under this agreement will not be released by the Security Interest Holder to any individual or other legal entity who would not otherwise have access to such information. Any release of information by the Security Interest Holder to any unauthorized individual or other legal entity will result in the Department terminating this agreement immediately. Notwithstanding any other time limits herein, the Department may terminate this agreement for such unauthorized use or disclosure by written notice to the Security Interest Holder, such notice to be effective upon facsimile (FAX) transmission to Security Interest Holder or five (5) days from the date of mailing of such notice.

2.2 The Security Interest Holder agrees to contact the Department's Motor Vehicle Division immediately upon discovering that the Department has sent to the Security Interest Holder by electronic or any other means ELT 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 Security Interest Holder for failure to immediately report such error to the Department, such notice to be effective upon facsimile (FAX) transmission to Security Interest Holder or five (5) days from the date of mailing of such notice.

3. Certification Testing

The Security Interest Holder agrees to participate in certification testing either with their chosen Third Party Provider or as a standalone entity as established by the Department. Further, it is expressly understood that ELT participation is subject to passing the certification test and no ELT transactions will be accepted until the Department's Information Technology Division advises the Security Interest Holder in writing all requirements have been satisfied.

4. The ELT Process

4.1 The Department agrees to provide the Security Interest Holder access to its secure website for certain ELT transactions, security administration, and maintenance of contact information.

4.2 The transmission of on-line file transfer to Security Interest Holder by the Department and to the Department by the Security Interest Holder will be in a format designated by the Department.

4.3 All costs incurred by the Security Interest Holder to participate in ELT will be their sole responsibility including certification testing.

4.4 After the close of business of each Department business day, the Department will produce and send electronically to the Security Interest Holder, data consisting of lien notification entered onto the Department record files that same day. In response, the Security Interest Holder will match lien notification to its files and will send electronically any errors concerning these transactions.

4.5 Should the Department and the Security Interest Holder agree to convert existing paper titles with liens to electronic titles, a separate agreement will be entered into by such parties to govern the process and the destruction of the paper title documents.

4.6 Once the lien has been satisfied and the Security Interest Holder authorizes the Department to release the Certificate of Title, the Department will print such Certificate of Title on secured paper and mail it to the registered owner at the address on the Department's file or to another address designated by the Security Interest Holder. The Security Interest Holder assumes full responsibility for the accuracy of information sent to the Department regarding lien satisfaction and the authorization to release the Certificate of Title. If there is a hold or other reason that the title can not print, the Department will send an exception error back to the Security Interest Holder.

5. Termination

5.1 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. This agreement may be immediately terminated by the Department if the Department determines that the Security Interest Holder has failed to provide information security safeguards herein defined. Notice is effective from the date sent by facsimile (FAX) transmission or, if served by mail, five (5) days from the date of mailing.

5.2 Termination initiated by the Security Interest Holder must be directed to the attention of the Commissioner, State Revenue Commissioner, 1800 Century Blvd, Suite 15300, Atlanta, Georgia 30345.

5.3 IF the Department decides to terminate the ELT process, all ELT records of ownership shall have a paper title produced and delivered or mailed to the Security Interest Holder without cost.

5.4 If the Security Interest Holder decides to terminate its participation in the ELT 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 Security Interest Holder without cost.

5.5 If the Security Interest Holder sells or otherwise transfers ELT Titles to another financial institution, the transaction must comply with the provisions of the Motor Vehicle Certificate of Title Act, OCGA § 40-3-1 et seq. Said transfer must be submitted to the Department on the Department forms and be accompanied by all required fees.

6. Indemnification and Hold Harmless Clause

6.1 Security Interest Holder shall be responsible to the Department for all injury or damage of any kind to the Department, resulting from any negligent act or omission or breach, failure or other default regarding the use of the Records by Security Interest Holder, or any of its agents, employees or other working at the direction of Security Interest Holder or on Security Interest Holder's behalf, or any third party to whom Security Interest Holder furnished the Records or any part thereof.

6.2 Security Interest Holder hereby agrees to indemnify and hold harmless the Department, the State of Georgia and its departments, agencies and instrumentalities and all of their respective officers, members, employees and directors (hereinafter collectively referred to as the "Indemnities") from and against any and all claims, demands, liabilities, losses, cost or expenses, including attorneys' fees, due to liability to a third party or parties, for any loss due to any injury arising out of or resulting from the performance of this contract or any act or omission on the part of Security Interest Holder, its agents, employees or others working at the direction of Security Interest Holder or on its behalf, or due to any breach of this contract by Security Interest Holder, or due to the application or violation of any pertinent Federal, State or local law, rule or regulation. This indemnification extends to the successors and assigns of Security Interest Holder. This indemnification obligation survives the termination of the contract and the dissolution or, to the extent allowed by law, the bankruptcy of Security Interest Holder. If and to the extent such damage or loss (including cost and expenses) as covered by this indemnification is paid by the State Tort Claims Trust Fund, the State Authority Liability Trust Fund, the State Employee Board Form Liability Fund, the State Insurance and Hazard Reserve Fund, and other self-insured funds (all such funds hereinafter collectively referred to as "Funds") established and maintained by the State of Georgia Department of Administrative Services Risk Management Division (hereinafter "DOAS") Security Interest Holder agrees to reimburse the Funds for such monies paid out by the Funds.

6.3 This indemnification applies where the Indemnities are partially responsible for the situation giving rise to the claim, provided however, that this indemnification does not apply to the extent of the sole negligence of the indemnities.

6.4 This indemnification does not extend beyond the scope of this Agreement and the uses undertaken there under. Nor does this indemnification extend to claims for losses or injuries or damages incurred directly by the indemnities due to sole breach or default by the indemnities under the terms and conditions of this Agreement.

6.5 Omitted

6.6 Security Interest Holder agrees to indemnify and hold harmless the Department and its officers, agents and employees, for any resulting damage or loss due to any error or transmission of inaccurate information by the Security Interest Holder to the Department, resulting in erroneous release or satisfaction of lien by the Department.

6.7 Security Interest Holder 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.

7. Third-Party Contracts.

If the Security Interest Holder will be using a third party service bureau or software provider for the performance of this agreement, the Security Interest Holder agrees to assume full responsibility and liability for the actions of the service bureau or software provider for any breach of this agreement. This Agreement shall be incorporated into and made a part of any agreement with a third party relating to the duties and obligations hereunder. Security Interest Holder shall notify the Department in writing 30 days prior to any change in its service bureau or software provider. The service bureau or software provider must sign an Agreement with the Department and be certified by the Department for ELT.

8. Security.

8.1 The Security Interest Holder shall develop procedures for controlling access to the website so that only personnel authorized by such Security Interest Holder has access to communication data flow hardware and software. Authorized users will be appropriately identified. The Security Interest Holder will maintain a list of its employees with authorized access to information provided by the Department under this agreement. Such list will be provided to the Department upon request.

8.2 The Security Interest Holder agrees to preserve the security of the communications data flow to and from the Department. This agreement shall be incorporated into any contract between Security Interest Holder and a third-party contractor performing any services whatsoever connected to the ELT Program.

9. Miscellaneous

9.1 This Agreement will be governed, construed under, performed and enforced in accordance with the laws of the State of Georgia. Venue for any action under this Agreement shall be in the Superior Court of Fulton County, Georgia.

9.2 This agreement shall become effective on the date of execution and shall continue in force until modified, amended or terminated pursuant to the termination date set forth above.

9.3 This agreement is subject to any restrictions, limitations or conditions enacted by the Georgia Legislature, which may affect any or all terms or provisions of this agreement in any manner. The Security Interest Holder agrees that upon written notice from the Department of any such restrictions, limitations or conditions as may be enacted by the Georgia 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 Section 9.13 of this agreement. The Department will advise the Security Interest Holder of any such actions taken by the Georgia 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 Security Interest Holder may immediately terminate this agreement if it decides not to comply with the modifications or amendments to this agreement. Notice is effective from the date sent by facsimile (FAX) transmission or, if served by mail, five (5) days from the date of mailing.

9.4 Any and all notices, requests, demands and other communications provided for hereunder shall be in writing and sent by facsimile transmission to the facsimile number indicated below (which shall be followed by an immediate telephone call to confirm delivery); mailed by first class United States certified mail, return receipt requested; delivered by overnight carrier (such as, but not limited to, UPS, Federal Express or DHL); or personally delivered to the applicable party at the addresses indicated. All notices shall be addressed to the party to be notified at the address set forth below, and the date upon which such notice is delivered will be deemed the date hereof. Either party may, from time to time, by five (5) days prior notice to the other party, specify a different address to which notices will be sent. Rejection or refusal to accept a notice or inability to deliver a notice because of a changed address of which no notice was given will be deemed a delivery of the notice on the date when postmarked.

If to Department:

Department of Revenue
Attention: Motor Vehicle Director
1200 Tradeport Blvd.
Hapeville, GA. 30354

If to Security Interest Holder:

9.5 This agreement is not assignable by the Security Interest Holder either in whole or in part, without the written consent of the Department.

9.6 During the performance of this Agreement, the parties agree to abide by the terms of Executive Order 11246 on nondiscrimination and will not discriminate against any person because of race, color, religion, sex or national origin. The participants will take affirmative action to ensure that applicants are employed without regard to their race, color, religion, or national origin.

9.7 The parties agree that in any contracts to be developed and awarded pursuant to this Agreement all work and procedures related to said contract shall, at all times, conform to the applicable Federal and State laws, rules, regulations, orders, and approvals, including specifically procedures and requirements relating to labor standards, equal employment opportunity, nondiscrimination, compliance with Americans with Disabilities Act, anti-solicitation, information, auditing and reporting provisions.

9.8 All rights, powers and privileges conferred hereunder will be cumulative and not restrictive of those given by law.

9.9 No failure of the Department to exercise any right or power given under this Agreement, or to insist upon strict compliance by the Security Interest Holder with the provisions of this Agreement, and no custom or practice of the Department at variance with the terms and conditions of this Agreement, will constitute a waiver of the Department's right to demand exact and strict compliance by Security Interest Holder with the terms and conditions of this Agreement.

9.10 All time limits stated herein are of the essence of this Agreement.

9.11 If any one or more of the provisions contained herein will for any reason be held by any court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect any other provision hereof, and this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

9.12 The individuals executing this Agreement on behalf of the Department and Security Interest Holder, respectively, represent that they are authorized to execute this Agreement.

9.13 This Agreement supersedes all prior negotiations, discussion, statements, and agreements between the Department and Security Interest Holder and constitutes the full, complete and entire agreement between the Department and Security Interest Holder with respect hereto; no member, officer, employee or agent of the Department or Security Interest Holder has authority to make, or has made, any statement, agreement, representation or contemporaneous agreement, oral or written, in connection herewith, amending, supplementing, modifying, adding to, deleting from, or changing the terms

and conditions of this Agreement. No modification of or amendment will be properly authorized unless in writing, properly signed by both the Department and Security Interest Holder and incorporated herein by reference. No oral understanding or agreement not incorporated herein shall be binding on either party.

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

THE GEORGIA DEPARTMENT OF REVENUE:

Bart L. Graham, State Revenue Commissioner

Date

Witness

Date

SECURITY INTEREST HOLDER:

Name: _____

FEIN # _____
(Federal Employer Identification Number)

Signature

Date

Print Name

Title

Attest: _____

By: _____

Date: _____

Title: _____

**AGREEMENT FOR ELECTRONIC LIEN AND TITLE PROGRAM
SECURITY INTEREST HOLDER APPLICATION**

Date: _____

Company Name: _____

Business Address: _____

City, State, Zipcode _____

Mailing Address: _____

City, State, Zip code _____

Corporate Officer responsible for this Agreement:

Name: _____

Address: _____

City, State, Zip code _____

Phone: () _____ **Fax:** () _____

Email: _____

Business Contact:

Name: _____

Phone: () _____ **Fax:** () _____

Email: _____

Alternative for Business Contact:

Name: _____

Phone: () _____ **Fax:** () _____

Email: _____

Technical Contact:

Name: _____

Phone: () _____ **Fax:** () _____

Email: _____

Alternative for Technical Contact:

Name: _____

Phone: () _____ **Fax:** () _____

Email: _____

Which of the above contacts is the Security Administrator? _____

Which of the above contacts is the Alternative Security Administrator? _____

OTHER INFORMATION:

GRATIS Customer ID: _____

Do you plan or expect to use a third party vendor or the Department? _____

If yes,

Name: _____

Contact Person: _____

Phone: () _____ **Fax:** () _____

Email: _____

Approximate number of titles currently in inventory: _____

Do you plan or expect to convert your current title inventory to electronic form? _____

Approximate number of title transactions expected per week: _____