New York State Department of Motor Vehicles

MEMORANDUM OF UNDERSTANDING — DRIVER'S PRIVACY PROTECTION ACT

This Memorandum of Understanding ("MOU") is made and entered into this_____day of _____,_____,

(1st, 2nd, 3rd...)   (month)   (year)

by and between _____ , herein referred to as the

(Name of Organization)

"Contractor", located at _____

(Address of Organization)

acting herein by _____ , its duly authorized

(Person authorized to execute contracts)

_____ and the New York State Department of Motor Vehicles, located at 6 Empire

(Title)

State Plaza, Albany, New York 12228 (hereinafter referred to as the "Department"). The Contractor shall not represent itself as an agent or employee of the Department. For the purposes of this agreement, the Contractor includes the officers, agents, partners, owners and employees of the Contractor.

This MOU pertains to records furnished by the Department to the Contractor. The Department and the Contractor hereby mutually agree as follows:

1. The Contractor represents and warrants that it has read the Driver's Privacy Protection Act (18 U.S.C. Sec. 2721 *et seq.*) and will comply fully with terms of such law and all other applicable laws and regulations regarding access to, and use of, motor vehicle records.

2. The Contractor agrees that it shall only request and use information provided by the Department pursuant to this MOU that is specifically authorized by the Driver's Privacy Protection Act, as indicated in **Appendix "A"** on page 2 of this document. (Appendix "A" ***must*** be completed.) The Contractor shall notify the Department in writing if there is any change in the intended use of information to be provided by the Department.

3. **The Contractor agrees to keep (for a period of 5 years) records identifying each person or entity that receives information from the Department, and the permitted purpose for which the information will be used. The Department shall have the right to audit and examine such records upon reasonable notice to the Contractor. The Contractor agrees to make such records available to the Department for such purpose. If the Contractor does not have an office location in New York State, it will forward to the Department all records requested, at the time, place and location designated by the Department. The Contractor shall notify the Department in writing of any changes of name or in the physical address where the Contractor's records will be maintained.**

4. The parties hereto mutually agree that the State shall not be responsible for any omissions or errors in the information furnished to the Contractor by the State.

5. The Contractor agrees to defend, hold harmless and indemnify the Department and its employees or agents from any and all claims, actions, damages, or losses which may be brought or alleged against its employees or agents for the negligent, improper, or unauthorized use or dissemination by the Contractor of information provided by the Department to the Contractor.

6. The Commissioner of the Department shall, in his/her discretion, terminate this agreement at any time if he/she finds that the Contractor has made a material false statement, or concealed a material fact, in connection with this agreement, or has violated any of its terms.

7. This MOU may be executed in several duplicate copies, each of which so executed shall be deemed to be an original, and all such duplicates shall constitute but one MOU binding on all parties hereto, notwithstanding that all parties are not signatories to this original or to the same duplicate copy.

8. This MOU shall govern the Contractor's use of DMV accounts listed in **Appendix "B"** on page 3 of this document.

Contractor (Name of Organization)

by: _____ Date:_____

(Signature of person named above, signed in the presence of a notary)

<table>
<tr><td>DMV USE ONLY
DEPARTMENT OF MOTOR VEHICLES

by_____Date: _____</td></tr>
</table>

***REMEMBER TO INITIAL YOUR PERMISSIBLE USE(S) ON PAGE 2,
AND TO COMPLETE THE ACKNOWLEDGMENTS ON PAGE 3.***

Appendix "A"
Contractor's Use(s) For Motor Vehicles Records
Contractor will limit its use to the items initialed below.

NOTE:
Contractor <u>must</u> complete this page.

———— Use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of non-owner records from the original owner records of motor vehicle manufacturers to carry out the purposes of titles I and IV of the Anti-Car Theft Act of 1992, the Automobile Information Disclosure Act (15 U.S.C. 1231 *et seq.*), the Clean Air Act (42 U.S.C. 7401 *et seq.*), and chapters 301, 305, and 321-331 of title 49. (49 U.S.C.S. 30101 *et seq.*, 30501 et seq., 32101 et seq.-33101 *et seq.*)

———— Use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a Federal, State, or local agency in carrying out its functions. [18 U.S.C. Sec. 2721 (b)(1)]

———— Use in connection with matters of:
- motor vehicle or driver safety and theft; ● motor vehicle emissions; ● motor vehicle product alterations, recalls, or advisories;
- performance monitoring of motor vehicles, motor vehicle parts and dealers;
- motor vehicle market research activities, including survey research; and
- removal of non-owner records from the original owner records of motor vehicle manufacturers. [18 U.S.C. Sec. 2721 (b)(2)]

———— Use in the normal course of business by a legitimate business or its agents, employees, or contractors in the normal course of business **ONLY:**
- to verify the accuracy of personal information submitted by the individual to the business; **AND**
- if such information as so submitted is not correct or is no longer correct, to obtain the correct information, **BUT ONLY** <u>for the purposes of preventing fraud by, pursuing legal remedies or recovering on a debt or security interest against the individual</u>. [18 U.S.C. Sec. 2721 (b)(3)]

———— Use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulating body, including:
- the service of process; ● investigation in anticipation of litigation; ● the execution or enforcement of judgments and orders; **OR**
- pursuant to an order of a Federal, State or local court. [18 U.S.C. Sec. 2721 (b)(4)]

———— Use ● in research activities; and ● in producing statistical reports,
so long as the personal information is not published, redisclosed or used to contact individuals. [18 U.S.C. Sec. 2721 (b)(5)]

———— Use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors in connection with:
- claims investigation activities; ● antifraud activities; ● rating; or ● underwriting. [18 U.S.C. Sec. 2721 (b)(6)]

———— Use in providing notice to the owners of towed or impounded vehicles. [18 U.S.C. Sec. 2721 (b)(7)]

———— Use by a licensed private investigative agency or licensed security service for any purpose permitted under the Driver's Privacy Protection Act. [18 U.S.C. Sec. 2721 (b)(8)]

———— Use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under Chapter 313 of Title 49.

———— Use in connection with the operation of private toll transportation facilities. [18 U.S.C. Sec. 2721 (b)(10)]

———— Use by any requester if the requester demonstrates that it has obtained written consent of the individual to whom the information pertains. [18 U.S.C. Sec. 2721 (b)(13)]

Use specifically authorized under NYS law if such use is related to the operation of a motor vehicle or public safety. [18 U.S.C. Sec. 2721 (b)(14)]

    ———— Vehicle and Traffic Law Sec. 509(a) *et seq.* (Article 19A - Special Requirements for Bus Drivers)

    ———— Vehicle and Traffic Law Sec. 509(p) *et seq.* (Article 19B - Special Requirements for Commercial Motor Carriers)

    ———— Other - Cite the law here: _____

ACKNOWLEDGMENTS
TO BE COMPLETED BY CONTRACTOR'S NOTARY

STATE OF _____ COUNTY OF _____ ss.:

On this _____ day of _____ , _____ , before me personally came _____
      (1st, 2nd, 3rd...)   (month)   (year)   (Person authorized to execute contracts)

_____ , to me known and, who by me being duly sworn, deposes and says: that

he/she works/resides at _____ ;
                                  (address)

that he/she is the _____ of the organization described in the attached document; and
                    (Title from above)

that he/she signed his/her name thereto.

_____ Notary Public

DMV USE ONLY

STATE OF NEW YORK , COUNTY OF ALBANY ss.:

On this _____ day of _____ , _____ , before me personally came _____ to me

known and, who by me being duly sworn, deposes and says: that he/she works/resides at _____

_____ ; that he/she is the _____ of

the Department of Motor Vehicles; and that he/she has signed his/her name to the attached document in his/her official capacity as such

_____ of the Department of Motor Vehicles.

_____ Notary Public

Location where contractor maintains auditable records

Contact Person	
Address	
City State Zip Code	
Telephone Number (Include Area Code) ( )	
Fax Number (Include Area Code) ( )	
E-Mail Address (if any)	

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APPENDIX "B" - Account Numbers