

MEMORANDUM OF UNDERSTANDING AND COOPERATIVE AGREEMENT**BY AND BETWEEN****FLORIDA DEPARTMENT OF TRANSPORTATION****AND****FLORIDA DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEIDCLES****AND****GEORGIA DEPARTMENT OF PUBLIC SAFETY****(Inspection Station Data Share System)**

THIS MEMORANDUM OF UNDERSTANDING and COOPERATIVE AGREEMENT ("Agreement") made and entered into this 19th day of February, 2021, by and among the Florida Department of Transportation, an executive agency of the State of Florida, whose address for purposes of this Agreement is 605 Suwanee Street, Tallahassee, Florida 32399 ("FDOT"), the Georgia Department of Public Safety, an executive agency of the State of Georgia, whose address for purposes of this Agreement is 959 United Avenue SE, Atlanta, Georgia 30316 ("DPS"), and the Florida Department of Highway Safety and Motor Vehicles, an executive agency of the State of Florida, whose address for purposes of this Agreement is 2900 Apalachee Parkway, Tallahassee, Florida 32399 ("FLHSMV"). FDOT, DPS and FLHSMV may be collectively referred to herein as the "Parties" and each may be referred to individually as a "Party".

Article I. Background and Objectives

WHEREAS, Georgia DPS, by its Motor Carrier Compliance Division ("MCCD"), has authority throughout the State of Georgia to enforce laws, rules and regulations relating to commercial motor vehicle ("CMV") and CMV driver safety; size and weights of motor vehicles, trailers and loads; the transportation of hazardous materials; CMV/driver registrations, certifications, licensing; and fuel tax requirements; and

WHEREAS, Georgia DPS/MCCD controls, operates and maintains 20 CMV inspection stations throughout the State of Georgia, and utilizes statewide and federal database information systems to enforce CMV/driver registrations, certifications, licensing, and safety requirements, as well as virtual weigh-in-motion ("WIM") scales and database software to enforce CMV weight regulations; and

WHEREAS, FDOT owns, operates and maintains 27 CMV inspection stations throughout the State of Florida and, by its Office of Maintenance and Motor Carrier Size and Weight division ("MCSAW"), enforces laws, rules and regulations relating to size and weights of motor vehicles, trailers and loads, and utilizes WIM scales and database software to enforce CMV weight regulations; and

WHEREAS, FLHSMV, through its division of the Florida Highway Patrol ("FHP") and its office of Commercial Vehicle Enforcement ("CVE"), is responsible for enforcing laws, rules and regulations relating to CMV/driver safety on the highway system of Florida, thereby utilizing statewide and federal database information systems to enforce CMV/driver registrations, certifications, licensing, and fuel tax requirements; and

WHEREAS, DPS/MCCD, FDOT/MCSAW and FLHSMV/FHP/CVE desire to facilitate the sharing, for law enforcement purposes, of certain data and information of those CMV/drivers traveling between Georgia and Florida inspection stations; and

WHEREAS, implementation of a system of data share by and between the Parties will lead to more efficient and effective motor carrier oversight, improved highway safety, oversize and overweight compliance, and protection of the infrastructure in Georgia and Florida; and

WHEREAS, the Parties desire to share data and information owned, aggregated, or collected by the other Parties and contained within their electronic data systems into available and custom-developed data integration systems (hereinafter "Inspection Station Data Share System"), under the conditions set forth in this Agreement;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the Parties do hereby agree that the following terms and conditions govern their understanding:

Article II. Basic Agreement

This is an Agreement for an Inspection Station Data Share System whereby Data respectively owned, aggregated or collected by DPS/MCCD, FDOT/MCSAW and FLHSMV/FHP/CVE for purposes of CMV/driver safety and regulatory compliance shall be subject to electronic transfer by query from one Party to another Party for law enforcement purposes.

Article III. Definitions

- A. The Inspection Station Data Share System** is the collective group of Parties to this Agreement that are utilizing and sharing certain CMV/driver Data by means of an application programming interface and subject to the terms and conditions of this Agreement.
- B. Data** includes electronic facts, records, analysis, images or other information provided and shared by a Contributing Party to this Agreement, which originates from or is aggregated and collected by the Contributing Party's electronic database information systems, including vendors providing intelligent transportation systems.
- C. Accessing Party** represents the Party that seeks and receives Data that is owned, aggregated or collected by the Contributing Party.

D. Contributing Party represents the Party that owns, aggregated or collected the original Data and is providing it to the Accessing Party.

E. Application Program Interface ("API") is the implemented process that allows the transfer of lawfully queried inspection Data from one Party to another Party.

Article IV.

Administration of Inspection Station Data Share

A. Responsibilities:

1. The Parties shall provide sufficient efforts and cooperation, and shall coordinate and work together to enforce and ensure the terms of this Agreement. The parties are responsible for their own costs related to this Agreement. This Agreement is not intended to create any financial obligations between the Parties.
2. DPS shall serve as the lead party in financing, implementing, installing and maintaining an API in Georgia for transfer of Data from DPS/MCCD to FDOT/MCSAW or FLHSMV/FHP/CVE.
3. FDOT shall serve as the lead party in financing, implementing, installing and maintaining an API in Florida for transfer of Data from FDOT/MCSAW or FLHSMV/FHP/CVE to DPS/MCCD.
4. DPS shall maintain ownership of all DPS/MCCD Data recorded by DPS/MCCD servers, wherever such data is housed by DPS;
5. FDOT shall maintain ownership of all FDOT/MCSAW or FLHSMV/FHP/CVE Data recorded by their servers;
6. The Parties shall jointly identify and implement standard operating procedures, protocols and policies to ensure an effective, legal and efficient Inspection Station Data Share System.
7. The Parties are each responsible for their own acquisition and maintenance of software specific to their own needs, including maintenance, licenses, registration and persistence software.
8. The Parties are each responsible for ensuring that their own personnel are trained and operate in compliance with all federal laws, rules and regulations, respective state statutes and applicable guidelines and restrictions provided by the Federal Motor Carrier Safety Administration and the Unified Carrier Registration Board. The training must include the appropriate use and dissemination of Data obtained from the Inspection Station Data Share System.

B. Access to Data

1. An Accessing Party may not query or obtain Data from the Inspection Station Data Share System unless the personnel accessing it has been vetted, credentialed, licensed and trained by the requirements of every applicable regulation, state and federal law, and trained to properly access the Inspection Station Data Share System.
2. A Party may not access Data from the Inspection Station Data Share System unless the Accessing Party has a legitimate official need to know for an authorized, current law enforcement purpose.

C. Acceptable Use and Dissemination of Data

1. Any release of Data from the Inspection Station Data Share System shall be in conformance with the obligations and exemptions from dissemination imposed by applicable law.
2. A Party that desires to incorporate in its own separate information or file that Data received from the Contributing Party must first determine the current status of that Data and advise the Contributing Party of its intent to use the Data.
3. The Parties acknowledge that any Party having custody of Data obtained from the Contributing Party remains responsible for responding to public records requests for that Data in accordance with applicable public records law.
4. Data from the Inspection Station Data Share System may be shared with a non-participating law enforcement agency, but only in the furtherance of a legitimate law enforcement investigation.
5. General descriptive processes of the Inspection Station Data Share System may be utilized by either party for the purpose obtaining state or federal grant funding, for statistical purposes, internal studies, and violation trend mapping. Specific data from the cooperative State, obtained through the system, may not be utilized by either party for competitive grants, published studies, articles, or interviews unless the contributing party gives prior written authorization.
6. Data from the Inspection Station Data Share System may only be used by any Party in an official case file or in the preparation of judicial or administrative law processes to the extent permissible by the rules governing admissibility of evidence in the forum in which a Party seeks to use such data.

Article V.

Term

A. Fifteen Years

The Term of this Agreement shall commence on the date of the last signature of a duly authorized Party representative and shall expire at 11:59 p.m., Eastern Standard

Time, on December 31, 2035, unless earlier terminated or extended as specified herein.

B. Renewal

The Parties may renew or extend the Term at the expiration of the aforementioned Term, for eight (8) additional periods of one (1) year each. Unless otherwise specified, the initial Term as provided above and any and all effective Renewals are hereinafter collectively referred to as the "Term."

C. Termination for Any Reason

This Agreement and the Inspection Data Share System may be terminated by any Party at any time and for any reason by providing sixty (60) days' written Notice of termination to all other Parties. All rights, obligations, responsibilities, limitations and other understandings with respect to the disclosure and use of all Data received during the Parties' participation in this Agreement shall survive any such termination.

D. Termination for Cause

If a Party shall violate or breach, or shall fail fully and completely to observe, keep, satisfy, perform and comply with any reasonable material term, covenant, condition, requirement, restriction or provision of this Agreement or any applicable law or regulation, and shall not cure such failure within ten (10) business days after a Party gives the breaching Party written notice thereof, or, if such failure shall be incapable of cure within ten (10) business days, the Agreement and use of the Inspection Station Data Share System may be terminated by any non-breaching Party. All rights, obligations, responsibilities, limitations and other understandings with respect to the disclosure and use of all Data received during the Parties' participation in this Agreement shall survive any such termination.

Article VI. Notice

All notices, requests, demands and other communications shall be in writing, signed by or on behalf of the Party giving same and shall be deemed delivered when personally served on the other Parties to this Agreement, or when deposited in the United States Mail, postage prepaid, registered or certified, return receipt requested, addressed to the Parties at their respective official state address. The point of contact for Notice under this Agreement shall be as follows:

DPS/MCCD: Major Jeremy Vickery
Commanding Officer
Motor Carrier Compliance Division (MCCD)
Georgia Department of Public Safety
P.O. Box 1456
Atlanta, Georgia 30371

(404) 624-7212
jvickery@gsp.net

FDOT/MCSAW: Paul Clark
Statewide Scale Operations Manager
Motor Carrier Size and Weight Program
Florida Department of Transportation
605 Suwannee St, MS 52
Tallahassee, FL 32399-0450
(850) 410-5540
paul.clark@dot.state.fl.us

FLHSMV/FHP/CVE: Chief Jeffrey Dixon
Florida Highway Patrol
Office of Commercial Vehicle Enforcement
2900 Apalachee Parkway, Room B457
Tallahassee, Florida 32399
(850) 617-2349
jeffreydixon@tlhsmv.gov

Article VII. Liability

This Agreement neither establishes nor acknowledges liability of the Parties for death, personal injury, or property damage sustained by any entity or individual in the course of the performance of this Agreement. Each Party will be responsible for maintaining its own insurance, including worker's compensation coverage, and will be responsible for the acts and omissions of its own employees. No Party to this Agreement shall, on account of this Agreement, become liable for employees of any other Party. A Party's employees shall not be considered an agent, employee or officer of any other Party. Nothing herein is intended to waive or limit sovereign immunity under federal or state statutory or constitutional authority. This agreement creates no liability on the part of the State of Georgia, DPS/MCCD, or any other agency or department of the State of Georgia or the State of Florida, FDOT/MCSAW or FLHSMV/FHP/CVE, or any other agency or department of the State of Florida for any claims, demands, suits, liabilities and causes of action of whatever kind and designation, and wherever located.

The Parties agree that neither their officers, employees nor any department, institution, agency, instrumentality, or other unit of the governments of Georgia or Florida assume any liability or responsibility for the acts, errors or omissions of the other, their employees, subcontractors or agents during the term of this Agreement.

Article VIII. Benefits

No benefits shall accrue to any FDOT/MCSAW employee or FLHSMV/FHP/CVE employee from the State of Florida or to any DPS/MCCD employee from the State of Georgia due to participation in any activity under this Agreement. This Agreement is intended only to benefit DPS/MCCD, FDOT/MCSAW, and FLHSMV/FHP/CVE. There are no third-party beneficiaries to this Agreement.

Article IX.

Miscellaneous Provisions

- A. The persons signing this Agreement represent and warrant to each Party that (1) he/she has the right, power and authority to enter into and perform obligations under the Agreement; and (2) he/she has taken all requisite action (statutory or otherwise) to approve execution, delivery and performance of the Agreement.
- B. The captions of each enumerated paragraph are for purposes of identification and convenience only and should be completely disregarded in construing this Agreement.
- C. The Parties certify that each shall abide by the terms of U.S. Department of Labor Executive Order 11246 on nondiscrimination and will not discriminate against any person because of race, color, religion, gender or national origin. The Parties will affirmatively ensure that applicants are employed without regard to their race, color, religion, gender or national origin.
- D. The Parties certify that each provides a drug-free workplace for all employees.
- E. The Parties certify that each is not currently engaged in, and agree for the duration of this Agreement not to engage in, a boycott of Israel.
- F. The Parties certify that they shall, at all times, conform to the applicable Federal and State laws, rules, regulations, orders, approvals, procedures and requirements relating to labor standards, equal employment opportunity, nondiscrimination, compliance with the Americans with Disabilities Act, anti-solicitation, information, auditing and reporting provisions.
- G. Neither this Agreement nor any rights hereunder shall be assignable or otherwise transferable by any Party in whole or in part without prior written consent by the other Parties, and provided that such assignee agrees in writing to be bound by the terms and conditions hereof. Any assignment to the contrary is void.

Article X.

Complete, Entire and Final Agreement and Execution

- A. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter. No member, officer, employee or agent of the Parties has the 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 to, this Agreement will be properly authorized unless in writing, properly signed by all Parties. However, the Parties may, without the need of a formal Agreement modification, cooperatively address and resolve administrative, technical and operational details relating to this Agreement, provided that any such resolution does not conflict with the spirit, intent or provisions of this Agreement and is sufficiently memorialized to meet the purposes of the Inspection Station Data Share System.

- B. The Parties agree that the Agreement has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.
- C. Any changes, amendments, corrections, or additions to this Agreement shall be in writing; shall be executed and approved by the same officials (or their designees) of the Parties who execute and approve this original Agreement and in accordance with applicable law; and shall become effective upon complete approval of all Parties.

[SIGNATURE PAGES TO FOLLOW]


IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in three counterparts, each to be considered as an original by their authorized representative, the day and date hereinabove written.

Georgia Department of Public Safety

By: 
Colonel Chris Wright, Commissioner

Date: 03/15/2021

Florida Department of Transportation

By: 
Courtney Drummond, Assistant Secretary Engineering and Operations

Date: 2/15/2021

Florida Department of Highway Safety and Motor Vehicles

By: 
Mark Hernandez, Chief
Bureau of Purchasing and Contracts

Date: 2/26/2021