

Effective Date: _____
(PennDOT will insert)

Agreement No. _____
Federal ID No: _____

SAFETY INSPECTOR CERTIFICATION TRAINING PROGRAM PERFORMANCE AGREEMENT

This Safety Inspector Certification Training Program Performance Agreement (“Agreement”) is made by and between the Commonwealth of Pennsylvania (“Commonwealth”), acting through the Department of Transportation (“PennDOT”) and _____, a _____ (“Educational Provider”).

BACKGROUND

PennDOT is responsible for the development, implementation and operation of the Safety Inspector Certification Training Program as set forth in 67 Pa. Code Chapter 175 (“Vehicle Equipment and Inspection Regulations”); 75 Pa C.S. §§ 101 et seq. To fulfill this responsibility, PennDOT is utilizing public and private educational providers and other entities as appropriate, which meet PennDOT’s standards to provide a formal presentation of this instruction and possible certification testing. PennDOT may solicit assistance from the Bureau of Vocational Education, located within the Pennsylvania Department of Education, in reviewing the selection of public vocational and post-secondary institutions to carry out this program. To provide for a standardized Safety Inspector Certification Training Program, PennDOT is requiring specific services, standards, and overall instruction performance requirements. PennDOT has determined that the Educational Provider is qualified to provide the necessary instruction and, if applicable, testing services.

The parties, intending to be legally bound, agree as follows:

1. **Program Content and Certification.** PennDOT shall provide the Educational Provider with the Safety Inspector Certification Training Program content. PennDOT shall be the sole authority able to certify Safety Inspection Instructors and Safety Inspectors.
2. **Class Administration.** All classes or testing, where applicable, shall be administered by a certified safety inspection instructor who has attended and passed all requirements of the Safety Inspection Instructor Training Program prescribed by PennDOT.
3. **Instructor Requirements.** The Educational Provider shall provide PennDOT with instructor transcripts and resumes containing automotive and teaching credentials and work experience for each certified instructor who wishes to participate in this program.
4. **Technical Assistance.** Technical assistance shall be available to the Educational Provider through PennDOT’s Bureau of Motor Vehicles.

5. **Technical Assistance (Pennsylvania Department of Education).** PennDOT may be assisted by the Pennsylvania Department of Education in providing technical assistance to the Educational Provider.
6. **Program Instruction.** The Educational Provider shall present the Safety Inspector Certification Training Program by the method as indicated in the official instruction outline. Changes in presentation shall be approved by PennDOT before they can be implemented. Materials may be web-based and accessible through <https://www.patrainportal.com/> or provided in hard-copy form by PennDOT.

FACILITIES

7. **Facility Maintenance.** The Educational Provider shall always maintain a facility which is acceptable in appearance to PennDOT and is in compliance with all applicable federal, state, and local laws, some of which shall include, local zoning ordinances and building codes, and is fully accessible to persons with disabilities in accordance with the provisions of Title II of the Americans with Disabilities Act.
8. **Facility Security.** The Educational Provider's facility shall include secure storage for instructional supplies, testing materials, and student records subject to approval by PennDOT. PennDOT expressly reserves the right to amend this Agreement to provide for the implementation of additional security measures as shall be determined to be required by PennDOT at its discretion.
9. **Adequate Classroom Facilities.** The Educational Provider shall provide adequate classroom facilities, which shall comply with all applicable state and federal laws and regulations to accommodate the group size of participating students.
10. **Required Teaching Supplies.** The Educational Provider shall provide necessary teaching supplies for training purposes including computer access with internet connectivity, seating, white boards, audio aids, and visual aids.
11. **Adequate Tactile Training Facility and Equipment.** The Educational Provider shall provide an adequate garage facility with tools and equipment to provide any necessary tactile training and testing as required by 67 Pa. Code Chapter 175.
12. **Tactile Testing Vehicles.** The Educational Provider shall provide vehicles for tactile testing.
13. **Requirement for Tactile Testing at Official Inspection Station.** The Educational Provider may hold student tactile testing at any official inspection station appointed by PennDOT if the facilities are conveniently located for accessibility for students, and prior approval is obtained from station officials and PennDOT. To obtain approval from PennDOT, the Educational Provider shall provide a written description of the measures that shall be taken to ensure the security of instructional material, testing supplies and student records. The Educational Provider shall bear full responsibility for all arrangements and must

ensure that the facility is an adequate size to hold the tactile tests.

14. **Additional Tools and Equipment.** PennDOT may require other tools and equipment as deemed appropriate and based on changes to the tools and equipment required by the Vehicle Equipment and Inspection Regulations. PennDOT shall provide written notification to the Educational Provider of additional tools and equipment required under this Agreement and shall establish a timeline for obtaining the required tools and equipment.
15. **Satellite Locations.** The Educational Provider may hold training at satellite locations only if the facilities are conveniently located for accessibility for students. The Educational Provider request a site visit by a PennDOT representative or submit a formal request on letterhead for a change in the approved-facility to be approved by PennDOT. Approval must be sought thirty (30) days prior to planned use. Once approved, the Educational Provider shall notify PennDOT within twenty four (24) to forty eight (48) hours prior to conducting a class or testing at the approved, off-campus site.

PERSONNEL

16. **Personnel Criminal Record Check Requirements.** Prior to execution of this Agreement, and annually thereafter, the Educational Provider shall provide to PennDOT a list of all personnel to be engaged in executing or administering the terms of this Agreement and in providing training under it. The Educational Provider shall, prior to execution of this Agreement, obtain a criminal record check for each of the Educational Provider's owners, officers, administrators, certified safety inspection instructors, and employees involved in executing or administering the terms of this Agreement and in providing training under it. Criminal record checks shall be obtained from the Pennsylvania State Police and shall be made available to PennDOT. Subsequent criminal record checks shall be required upon request by PennDOT. PennDOT shall review the criminal history of all personnel involved in executing or administering the terms of this Agreement and may refuse execution of this Agreement based on past criminal activity of such personnel if it is determined that execution of this Agreement is not in the best interest of the Commonwealth or the Safety Inspector Certification Training Program. The Educational Provider shall provide timely written notification to PennDOT of all personnel changes, as they occur, and criminal record checks for new personnel.
17. **Personnel Violation Disclosures.** The Educational Provider shall disclose to PennDOT, in writing, any violations by the Educational Provider, any of its owners, officers, administrators, certified safety inspection instructors, or employees of the Vehicle Equipment and Inspection Regulations. Such violations shall be considered by PennDOT and, at PennDOT's discretion, may be cause to refuse execution of this Agreement if it is determined that execution of this Agreement is not in the best interest of the Commonwealth or the Safety Inspector Certification Training Program.
18. **Instructor Certification.** The Educational Provider shall request certification of safety inspection instructor candidates by submission of a letter of intent on the Educational

Provider's letterhead. PennDOT shall be the sole authority for approval of safety inspection instructor candidates, regardless of whether the safety inspection instructor candidates' relationship to the Educational Provider is that of employee, subcontractor, independent contractor, or otherwise. The Educational Provider shall provide to PennDOT each safety inspection instructor candidate's educational transcript, current safety inspector certification card and resume containing automotive and teaching credentials, and work experience for each safety inspection instructor candidate who wishes to participate in this program. Any violations of the Vehicle Equipment and Inspection Regulations shall be disclosed to PennDOT by the safety inspection instructor candidate and Educational Provider and may be cause for disapproval of a safety inspection instructor candidate. In addition, the Educational Provider shall obtain criminal record checks for each safety inspection instructor candidate from the Pennsylvania State Police and make them available to PennDOT. PennDOT may solicit assistance from the Bureau of Vocational Education, Pennsylvania Department of Education, in reviewing the instructor approval process for public vocational and post-secondary Educational Providers.

19. **Selection of Educational Provider.** PennDOT may solicit information from the Educational Provider regarding PennDOT's preference of an Educational Provider to provide instruction and evaluation of the safety inspection instructor candidate. PennDOT shall be the sole authority for selecting the Educational Provider to provide instruction and evaluation of safety inspection instructor candidates. Educational Providers shall not provide instruction and evaluation of safety inspection instructor candidates employed or expected to be employed by the requesting Educational Provider.
20. **Safety Inspection Instructor Candidates' Course Requirements.** Instruction and evaluation of safety inspection instructor candidates shall consist of a minimum of twelve (12) hours of classroom observation with a certified safety inspection instructor. Safety inspection instructor candidates shall participate in teaching the classroom instruction to be evaluated by the certified safety inspection instructor. Safety inspection instructor candidates shall observe tactile testing conducted by a certified safety inspection instructor. Safety inspection instructor candidates shall participate in a minimum of a one (1) hour question and answer session with a certified safety inspection instructor to show proficiency and knowledge of this Agreement, the Instructor Course Outline, and to demonstrate a sufficient knowledge of Pennsylvania's Safety Inspection Program requirements, automotive technology, testing criteria and completion of Forms **MV-409** and **MV-409S**. No fee shall be charged for certification of safety inspection instructor candidates. Qualified safety inspection instructor candidates shall receive a Safety Inspection Instructor Certification from PennDOT upon successful completion of the safety inspection instructor training, receipt of a favorable recommendation from the evaluating certified safety inspection instructor, and final approval from PennDOT.
21. **License Requirements for Certified Safety Inspection Instructors Authorized to Teach Programs.** PennDOT's Safety Inspection Instructor Certification authorizes certified safety inspection instructors to teach the Safety Inspector Certification Training Program. Certified safety inspection instructors shall have a valid Pennsylvania photo driver's

license. Out-of-state resident certified safety inspection instructors shall have a valid Pennsylvania Photo Identification number and out-of-state driver's license.

22. **Affidavits.** The Educational Provider shall, at the time of hiring and annually thereafter, secure an affidavit from each person engaged in activities under this Agreement indicating that he or she has reviewed the terms of this Agreement and is properly certified as required by PennDOT. Completed affidavits shall be made available to PennDOT upon request. The Educational Provider shall be responsible for the conduct of all personnel engaged in activities under this Agreement.
23. **Certification Validity.** Safety Inspection Instructor Certification will remain valid as long as a certified safety inspection instructor continues to teach the program in accordance with this Agreement and the provisions of the Vehicle Equipment and Inspection Regulations. If a certified safety inspection instructor does not teach the Safety Inspector Certification Program within three (3) years, violates provisions of the Vehicle Equipment and Inspection Regulations, or fails to remedy deficiencies in instruction as required by PennDOT, PennDOT reserves the right to revoke the certified safety inspection instructor's certification. Safety inspector certifications obtained in conjunction with certification as a safety inspection instructor (without course instruction and testing) may also be revoked, at the discretion of PennDOT.
24. **Certified Safety Inspection Instructor Identification Number.** Each certified safety inspection instructor shall use his or her safety certification ID number. This number shall be assigned by PennDOT. This number shall be used to identify the certified safety inspection instructor on all documents submitted to PennDOT.
25. **Instructor Clinics.** Periodic safety inspection instructor clinics may be required by PennDOT to provide program updates and information to the Educational Provider, its administrators and certified safety inspection instructors. When feasible, these clinics may be held in conjunction with the annual curriculum workshop held by the Pennsylvania Department of Education.
26. **Program Performance Standards.** Certified safety inspection instructors shall meet program performance standards as previously stated. Special attention must be given to student identification, course and certification categories.
27. **Substitute Safety Inspection Instructor.** PennDOT reserves the right to require the Educational Provider to substitute a certified safety inspection instructor if the current certified safety inspection instructor is in violation of any of the terms and conditions of this Agreement, is under any civil or criminal investigation, or engages in unethical conduct. The Educational Provider shall provide PennDOT the name of any substitute safety inspection instructor for approval prior to the Educational Provider conducting a class.

SECURITY

28. **Record Maintenance.** The Educational Provider, its administrators, supervisors, and certified safety inspection instructors shall maintain proper program records and materials in a secure location, under lock and key, to prevent unauthorized access to student information. Where electronic data relating to training offered through this Agreement is stored or transmitted by the Educational Provider, the Educational Provider shall comply with all Commonwealth IT Policies relative to contractor personnel and records. Commonwealth IT Policies can be found at <http://www.oa.pa.gov/Policies/Pages/itp.aspx>.
29. **Testing Materials.** Testing materials, if applicable, shall not be provided to any unauthorized personnel or to any student for purposes other than testing. Tests shall be secured at the conclusion of each class.

STUDENT REQUIREMENTS AND ELIGIBILITY

30. **Who May Register.** Any interested person may register and apply for the Safety Inspector Certification Training Program. Registration is for all students with or without previous mechanical training.
31. **Requirements to Become a Certified Safety Inspector.** A person must successfully complete the Safety Inspector Certification Program to become a certified Safety Inspector.
32. **Age Requirement.** The Educational Provider shall ensure that all students are at least eighteen (18) years of age to be eligible to apply for certification from PennDOT. A student shall provide proof of age by presenting a current driver's license which shall be verified by the Educational Provider prior to beginning instruction. Information for students less than eighteen (18) years of age shall be entered on Form **MV-409** or **MV-409S** and submitted to PennDOT. When the student becomes eighteen (18) years of age, the Educational Provider or the student may notify PennDOT so certification can be processed. If the student does not meet the age requirement within one (1) year of successfully completing the Base Line Course written test and the category-specific test, the Educational Provider may be required to re-register the student to take the course and waive all relevant fees.
33. **Program Requirements Made Known Prior to Admission.** All students shall be made aware of program requirements and responsibilities prior to admission through written material published by the Educational Provider. The Educational Provider shall inform all students prior to admission that the required training materials must be obtained and read prior to class via the online training portal before instruction begins.
34. **Initial Certification Forms.** Forms **MV-409** and **MV-409S** shall be submitted by the Educational Provider on behalf of each student for registration purposes. Form **MV-409** shall be completed for students requesting certification under Categories 1, 2, and 3. Form

MV-409S shall be completed for students requesting certification under Category 4. Forms **MV-409** and **MV-409S** shall be provided by PennDOT to the Educational Provider and may be photocopied by the Educational Provider. These forms may be accessed online via the training portal in lieu of hard copies.

35. **Student Identity Verification.** The Educational Provider, its certified safety inspection instructors and any personnel involved in registering students entering the Safety Inspector Certification Training Program shall verify the identification ("ID") of every student requesting registration.
36. **Driver's License Requirement.** The Educational Provider or certified safety inspection instructor shall verify the ID of every registered student entering the Safety Inspector Certification Training Program during the initial class period and at all examinations and tactile test periods. All students shall provide their valid Pennsylvania photo driver's license secured from PennDOT. Out-of-state students shall provide a valid out-of-state driver's license and a copy of the license must be attached to Form **MV-501**. Students failing to provide required ID shall not be allowed to participate in the instruction or take the required tests. If the student presents a driver's license which is not valid, or does not have valid driving privileges upon successful completion of all course examinations, no certification credentials shall be issued. The Educational Provider or certified safety inspection instructor shall contact PennDOT prior to beginning instruction to determine the eligibility of any student who is unable to present a valid driver's license or any student with restricted driving privileges that may make them ineligible for certification, i.e., Occupational Limited License ("OLL"), Probationary License ("PL"), or Ignition Interlock ("II"). If the student presents proof of valid driving privileges within one (1) year of successful completion of all course examinations, certification credentials will be issued. If unable to provide proof of valid driving privileges within the specified time frame, the exam results shall become invalid.
37. **Driver's License Restrictions.** The Educational Provider shall notify students with driver's license restrictions 3 (automatic transmission) and 4 (special equipment) that they may register for the course and, upon satisfactory completion, apply for certification. However, course completion and application shall not guarantee certification; each application with any of the above restrictions shall be reviewed by PennDOT on a case-by-case basis. Students with restrictions may have their application rejected by PennDOT and are urged to determine their eligibility for certification prior to registering for the course.
38. **Educational Provider Restrictions.** Unless otherwise approved by PennDOT in writing, Educational Providers that are private licensed schools or seminar providers may not instruct, test and apply for certification for employees of the Educational Provider.

INSTRUCTIONAL AND TESTING MATERIALS

39. **Materials and Supplies.** Training materials and exams may be made available on-line or in hard copy form. On-line instructor materials will be provided free of charge to the Educational Provider. Test and answer sheets, as well as program report forms, shall

remain the property of PennDOT.

40. **Training Material Availability.** Training materials shall be made available on-line or in hard copy form. On-line instructor materials will be provided free of charge to the Educational Provider. Orders for textbooks shall require pre-payment by the Educational Provider. Master answer sheets and tests shall not be reproduced without prior written approval from PennDOT. All other materials may be reproduced as needed. Requests for additional master materials may require payment. Publication 45, Vehicle Equipment and Inspection Regulations, is available on-line for schools to download and print.
41. **Textbooks.** The regulation textbook may be purchased from the Educational Provider.
42. **Training Material Fees.** Training materials may be made available on-line for the student for a fee; however, the Educational Provider shall not charge for materials provided on-line to the student by PennDOT.

CLASSROOM INSTRUCTION, TESTING, AND CERTIFICATION

43. **Educational Provider and Certified Safety Inspector Instructor Identification Numbers.** The Educational Provider and each certified safety inspection instructor shall have an identification number. The identification number for the Educational Provider shall be the VEMIS number or a number assigned by PennDOT. The certified safety inspection instructor number shall be the same as the certified safety inspection instructor's inspector number. These numbers shall be used to identify the Educational Provider and certified safety inspection instructor(s) on all documents submitted to PennDOT.
44. **Administration of Program.** PennDOT recommends that the Educational Provider offers all category written and tactile tests. The Educational Provider may request approval from PennDOT to participate in less than all category written and tactile tests, prior to the beginning of instruction, if conditions warrant, such as inadequate demand.
45. **Program Content.** The Safety Inspector Certification Training Program shall cover all required program content listed in the official instruction outline as designated by PennDOT.
46. **Minimum Training Hours Requirement.** The initial Safety Inspector Certification Training Program requires a total of twelve (12) hours class work and testing. One (1) hour shall be used for a tactile certification test.
47. **Variation of Classroom Training Times.** The Educational Provider understands that although two (2) four- (4-) hour and one (1) three- (3-) hour classes are suggested for the Safety Inspector Certification Program, instruction presentations may vary between longer classes and shorter classes requiring the same or more frequent class meetings. In all cases, classes for the Safety Inspector Certification Program shall total twelve (12) hours.

48. **Scheduled Training.** The Educational Provider officials shall work to their best ability to schedule students for the training course as soon as possible. Students must be notified of all open classes.
49. **Adequate Classroom Facilities.** The Educational Provider shall provide adequate classroom facilities that accommodate the group size of participating students and comply with all applicable local, state, and federal laws and regulations.
50. **Instruction Cancellation Prohibited.** Once instruction has officially begun, it shall not be cancelled because of student dropouts.
51. **Class and Test Administration.** All classes and testing shall be administered by a safety inspection instructor certified by PennDOT.
52. **Passing Score for Category 1, 2, and 3.** The Educational Provider shall require students applying for certification under Category 1, 2, or 3 to pass the Base Line Course written test and the category-specific test with a percentage amount to be determined by PennDOT.
53. **Passing Score for Category 4.** The Educational Provider shall require students applying for certification under Category 4 to pass the category-specific test with a percentage amount to be determined by PennDOT. No Base Line Course written test is required for students applying for certification solely under Category 4.
54. **Content Covered in Classroom Instruction.** The Educational Provider shall inform students that the content covered in the classroom will meet program objectives for all course and certification categories. However, exams and tactile testing shall require coordination and special scheduling. Exams shall require a thirty (30) question Base Line Course test covering generalized questions involving classroom and homework information for Category 1, 2 and 3 certification types; and a category-specific exam, consisting of no less than twenty (20) questions, covering specific certification questions in the specific area in which the student wishes to be certified. Category-specific testing shall be required for the following course and certification categories:
- I. CATEGORY 1
 - A. PASSENGER CARS
 - B. TRUCKS 17,000 POUNDS OR LESS GROSS VEHICLE WEIGHT
 - C. TRAILERS 10,000 POUNDS OR LESS REGISTERED GROSS WEIGHT
 - II. CATEGORY 2
 - A. MOTORCYCLES
 - III. CATEGORY 3
 - A. TRUCKS 17,001 POUNDS OR MORE GROSS VEHICLE WEIGHT
 - B. TRAILERS 10,001 POUNDS OR MORE REGISTERED GROSS WEIGHT
 - C. SCHOOL BUSES

D. MASS TRANSIT VEHICLES

IV. CATEGORY 4 (FOR THE PURPOSE OF ISSUING A BRANDED CERTIFICATE OF TITLE)

- A. RECONSTRUCTED VEHICLES
- B. SPECIALLY CONSTRUCTED VEHICLES
- C. FLOOD VEHICLES
- D. RECOVERED THEFT VEHICLES
- E. STREET RODS
- F. MODIFIED VEHICLES
- G. COLLECTIBLE VEHICLES

55. **Failure of Written Test.** Failure to pass the Base Line Course exam shall require the student to retake the exam at the time of another regularly scheduled exam period. A student who fails the final exam twice shall retake the entire Base Line Course and exam. Once the required written tests are passed, the corresponding tactile tests may be taken. Students who fail a category-specific tactile test can retake the tactile test up to two (2) times before being required to retake the category-specific exam.
56. **Tactile Testing.** A one- (1-) hour safety inspection tactile test is required for each corresponding category-specific test under Category 1, 2, and 3 certification types. No more than three (3) students may be tested simultaneously per certified safety inspection instructor but not on the same vehicle. PennDOT recommends that only two (2) students should be tested when feasible. Students shall perform the required tactile inspection test during this one- (1-) hour test. Each additional tactile test for students testing in multiple categories shall require an additional one- (1-) hour tactile test. Tactile tests are not required for students applying for certification under Category 4.
57. **Tuition-Free Testing.** The Educational Provider shall administer one (1) category-specific test and corresponding tactile test under the program tuition fee.
58. **Tactile Testing Timeframe.** Students shall be given tactile tests as soon as possible after the completion of the course requirements and written test requirements. In no case shall the tactile test period be scheduled more than fifteen (15) days after all course requirements and written test requirements are completed.
59. **Posted Test Scores.** Written exam grades shall be posted and made available to students within seven (7) days after the tests are given. Online exams will post the grades upon exam completion.
60. **Open Book Testing Prohibited.** Open book testing is prohibited.
61. **Pre-Test Review Prohibited.** Pretest reviews of certification test questions is prohibited.

62. **Additional Testing.** Students may apply for and complete additional category-specific and tactile tests with more than one (1) Educational Provider if:
- a) The student has completed the proper registration forms.
 - b) Certified documentation of the student's current eligibility is provided by an approved Educational Provider.
 - c) The student pays all costs required for this transaction.
 - d) The certified safety inspection instructor verifies the identification of the student.
63. **Completion of Safety Inspector Certification.** Safety Inspector Certification shall be based on the successful completion of the Safety Inspector Certification Program, applicable testing, the age of a student, and the valid driver's license class(es). Students must hold a valid driver's license corresponding to the type of vehicle they intend to safety inspect. In cases where the student's driver's license class does not include all vehicle types and weights included in the safety inspection certification category, it shall be the responsibility of the student, upon certification as a safety inspector, to perform safety inspections on only those vehicles for which the student holds a corresponding valid driver's license.
64. **Scoring and Administration of Tests.** The Educational Provider shall grade the category-specific exams before the corresponding tactile test is given. If a student fails a category-specific exam with a percentage of incorrect answers as determined by PennDOT, the Educational Provider shall not administer the corresponding tactile test. The Educational Provider is not required to reimburse the category-specific exam or tactile test fee to the student. Students failing a category-specific exam or tactile test may register to retake the failed category-specific exam or tactile test, up to two (2) times. The Educational Provider may charge a student re-taking the category-specific exam or tactile test.
65. **Category Completion Prior to Certification.** If a student chooses to complete two (2) or all categories prior to the certification application, the Educational Provider shall list all successfully completed categories on Forms **MV-409** and **MV-409S**.
66. **Additional Testing After Initial Certification.** Students may choose to take additional category-specific exams and tactile tests for other class certifications without additional classroom instruction at any time after initial certification. Forms **MV-409** or **MV-409S** should be processed as appropriate for additional class certification testing. The Educational Provider may charge a fee to the student taking the additional category-specific exam or tactile test.
67. **Completing Full-Tuition Fee Program Prior to Certification.** Students may choose to take the full-tuition fee program category and all additional categories prior to applying for certification from PennDOT. This may be done as long as students complete the necessary requirements within the valid time allotted to them. Applicants shall have one (1) year from passing the Base Line Course test and the category-specific exam in which to complete all

required testing and apply for certification.

68. **Course and Test Credit Validity.** Course and test credits will remain valid for one (1) year from the date the student passed the Base Line Course exam and the category-specific exam. If application for certification is not made within this one (1) year or if the student has not successfully completed all required testing within this one (1) year, the student shall be required to re-register to take the course and all testing and be responsible for all fees.
69. **Program Completion.** Upon successful completion of the Safety Inspector Certification Training Program, the certified safety inspection instructor and responsible Educational Provider official shall complete and sign Forms **MV-409** or **MV-409S**. A date of instruction completion shall also be entered. Forms **MV-409** and **MV-409S** must be mailed to PennDOT by the Educational Provider as soon as possible but not more than ten (10) days from the classroom completion date.
70. **Certification Card and Validity.** Upon meeting all eligibility criteria and successfully completing all testing, students shall receive a safety inspector certification card indicating the vehicle types they are certified to inspect. Initial certification shall be valid for a period of not more than five (5) years or, in the case of subsequent class certification, as stated on the inspector's valid certification card or certificate of completion. In all cases, the expiration date listed on the valid inspector certification card is the expiration date for all certification classes, regardless of when additional exams and tactile tests were taken.
71. **Category 4 Certification Card.** Upon successful completion of Category 4 testing, students who hold a valid safety inspector certification in at least one (1) other category prior to being tested for Category 4 shall receive a safety inspector certification card and be certified to perform enhanced vehicle safety inspections on reconstructed, specially constructed, modified, flood, recovered theft, collectible vehicles, and street rods, as well as review, assemble and complete related applications and documents.
72. **Category 4 Certificate of Completion.** Upon successful completion of Category 4 testing, students who do not hold a valid safety inspector certification in at least one (1) other category prior to being tested for Category 4 shall receive a certificate of completion and shall be certified as a Certified Document Reviewer to review, assemble and complete applications and documents related to reconstructed, specially constructed, modified, flood, recovered theft, collectible vehicles, and street rods.
73. **Inspector Refresher Instruction.** While not a certification requirement under any category, the Educational Provider may make basic inspector refresher instruction available. This instruction should cover the basics of the steering system, the brake system, the lighting and electrical system, the fuel system, the exhaust system, the suspension system, and proper use of tools. Students enrolling in this class may be required to pay fees for this instruction.

FEES

- 74. **Permissible Tuition Fees.** To offset financial requirements for the purchase of equipment, instruction materials, and instructor and administrative processes, the Educational Provider may secure revenues through tuition fees.
- 75. **Notification of Tuition Fees.** The Educational Provider shall notify all students that a tuition fee may be required for the instruction. Pennsylvania State Police officers assigned as Vehicle Fraud Investigators and PennDOT employees or authorized representatives of PennDOT assigned as Quality Assurance Officers are not required to pay a tuition fee for the instruction.
- 76. **Government Monies.** The Educational Provider shall use available federal, state and local monies that can be applied for this specific program to offset costs of presenting the instruction.
- 77. **Tuition Variance.** Students enrolling in the Safety Inspector Certification Training Program residing in a non-participating district ("non-sponsored student") may be required to pay additional tuition fees ("tuition variance").

AUDITS AND OVERSIGHT

- 78. **Audit Visits.** PennDOT reserves the right to make visits for the audit, observation, and evaluation of the Educational Provider's facilities and certified safety inspection instructor presentation (this includes both secondary and adult education courses). The visit may include the examination of the records which are subject to the record keeping requirements of this Agreement and PennDOT regulations, as well as the examination of vehicles used by the Educational Provider for the purpose of tactile testing. The Educational Provider may be notified prior to the visit(s). The Educational Provider shall make every reasonable effort to make records available to PennDOT upon demand.
- 79. **Audit-Ready Status Required.** The Education Provider shall maintain an audit-ready status at all times, as audits may be unannounced.
- 80. **Program Implementation Assistance.** Periodic visits may be arranged to meet with the Educational Provider administrators and certified safety inspection instructors to review and assist in the implementation and presentation of the program.
- 81. **Periodic Bulletins.** PennDOT shall periodically send bulletins to the Educational Provider, its certified safety inspection instructors, and administrators concerning the Safety Inspector Certification Training Program. PennDOT shall also send all inspection bulletins that clarify regulations to certified safety inspection instructors to ensure their knowledge is current.
- 82. **Pennsylvania Department of Education Audits.** The Pennsylvania Department of Education may make periodic audits of Safety Inspector Certification Training Program

records maintained at public vocational and post-secondary Educational Providers.

83. **Compliance with Laws and Regulations.** The Educational Provider shall comply with all applicable federal and state laws and regulations and local ordinances in carrying out its obligations under this Agreement.
84. **Indemnification.** The Educational Provider shall indemnify, and defend (if requested) the Commonwealth of Pennsylvania, PennDOT, its officers, agents and employees, from all suits, actions or claims of any character, name or description, brought for or on account of any injuries to or damages received or sustained by any person(s), or property by or from the Educational Provider and its administrator, certified safety inspection instructors, employees, servants, agents, as a result of any obligations under this Agreement or resulting from the instruction provided for, or performed under, this Agreement.
85. **Applicable Law.** This Agreement shall be construed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania, without regard to conflicts of law principles.
86. **Conflict Between Agreement and Attachments.** In the event of conflict between the provisions of this Agreement and any attachment to this Agreement, the provisions of this Agreement shall control.
87. **Termination for Good Cause.** PennDOT reserves the right to terminate this Agreement for any specific campus(es) or the Educational Provider as a whole for good cause shown. Good cause shall include, but not be limited to, nonperformance or inadequate performance; activity or conduct engaged in by the Educational Provider, any of its owners, officers, administrators, certified safety inspection instructors, or employees involved in executing or administering the terms of this Agreement, that is not in the best interest of PennDOT, demonstrates a failure to exercise due care or an appropriate degree of responsibility, or is contrary to the Terms and Conditions of this Agreement; misrepresentation or fraud on the part of the Educational Provider, any of its owners, officers, administrators, certified safety inspection instructors, or employees involved in executing or administering the terms of this Agreement; or the existence of circumstances after execution of this Agreement that would have caused PennDOT to refuse execution of this Agreement.
88. **PennDOT's Right to Suspend, Terminate, or Revoke this Agreement.** If a certified safety inspection instructor or member of the Educational Provider acts in a manner in violation of the goals and mission of PennDOT, PennDOT reserves the right to suspend, terminate, or revoke this Agreement for any specific campus(es) or the Educational Provider as a whole as well as the inspector certifications of any of the individuals in question.
89. **Educational Provider's Notice of Termination.** The Educational Provider may terminate this Agreement by providing a written notice thirty (30) days prior to the proposed termination date.

90. **PennDOT's Notice of Termination.** PennDOT may terminate this Agreement for good cause as provided in this Agreement, by providing a written notice of termination. The written notice shall state that termination of the Agreement shall be effective in thirty-one (31) days from the mail date specified in the notice, unless the Educational Provider appeals the notice of termination under 2 Pa. C.S. §§ 501-508 (relating to general rules of administrative practice and procedure of administrative agencies); 1 Pa. Code Part II (relating to general rules of administrative practice and procedure); and 67 Pa. Code Chapter 491 (relating to administrative practice and procedure) by filing a written request for a hearing within thirty (30) days of the mail date to:

Administrative Docket Clerk
Office of Chief Counsel
400 North Street, 9th Floor
Harrisburg, PA 17120-0096

A copy of the termination notice must accompany the request for a hearing.

91. **Suspension of Educational Provider Operations.** PennDOT reserves the right to suspend the Educational Provider's operations under this Agreement on an interim basis prior to the termination date or a hearing, where it determines that the Educational Provider's conduct presents an immediate and substantial threat of harm to the public or PennDOT's interests. Any such interim suspension shall be subject to review as provided in 67 Pa. Code Chapter 491 (relating to administrative practice and procedure).
92. **Standard Provisions.** The Educational Provider shall comply with and be bound by the Contractor Integrity Provisions, Contractor Responsibility Provisions, Commonwealth Nondiscrimination/Sexual Harassment Clause, and the Provisions Concerning the Americans With Disabilities Act, which are attached to and made part of this Agreement as Exhibits A, B, C, and D, respectively. The term "Contractor" as used in these Exhibits shall mean the Educational Provider.
93. **Information Technology Policies.** The Educational Provider shall comply with all applicable IT standards and policies issued by the Governor's Office of Administration. These standards and policies are contained in Information Technology Policies (ITPs), and are posted at: <http://www.oa.pa.gov/Policies/Pages/itp.aspx>. The ITPs are incorporated by reference herein as though set forth at length.
94. **Right-to-Know Law.** The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, applies to this Agreement and is attached to and made part of this Agreement as Exhibit E. The Educational Provider shall abide by the requirements in Exhibit E. The term "Contractor" as used in this Exhibit shall mean the Educational Provider.
95. **Severability.** The provisions of this Agreement shall be severable. If any phrase, clause, sentence or provision of this Agreement is declared to be contrary to the Constitution of Pennsylvania or of the United States or of the laws of the Commonwealth the applicability

thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby.

96. **Term.** This Agreement shall become effective from the date of the last signature to the Agreement and shall remain in effect unless terminated pursuant to the terms of this Agreement.
97. **Amendments.** Any changes, corrections, or additions to the Agreement, with exception of the Notice section, shall be in writing in the form of a letter amendment signed by both parties, setting forth the proposed change, correction, or addition. The letter amendment shall be considered fully executed when signed by the authorized representatives of the parties as well as PennDOT's Office of Chief Counsel.
98. **Notice.** Any written notice to any party under this Agreement shall be deemed sufficient if delivered personally; or by certified or registered United States mail, postage prepaid, return receipt requested; or by a recognized overnight courier service (e.g., Federal Express, United Parcel Service or DHL) with confirmed receipt; or by facsimile, telecopy, electronic or digital transmission (provided such delivery is confirmed), and sent to the Educational Provider's main campus and to PennDOT at the following addresses:

For PennDOT:
Pennsylvania Department of Transportation
Vehicle Inspection Division
ATTN: Schools and Instructors Unit Manager
P O Box 69003
Harrisburg, PA 17106-9003
RA-PDSCHOOLINSTRUCT@pa.gov
Fax: 717-705-6990

For the Educational Provider (main campus):
Title
Address
Email
Fax number

or to such other address as a party may designate in writing to the other party. Except for the notices to be given under the "Termination" section above, notice shall be deemed given when received.

99. **Titles Not Controlling.** Titles of sections are for reference only, and shall not be used to construe the language in the Agreement.
100. **No Waiver.** Either party may elect not to enforce its rights and remedies under this Agreement in the event of a breach by the other party of any term or condition of this Agreement. In any event, the failure by either party to enforce its rights and remedies under

this Agreement shall not be construed as a waiver of any subsequent breach of the same or any other term or condition of this Agreement.

101. **Independence of the Parties.** It is understood by and between the parties that nothing contained herein is intended or shall be construed to, in any respect, create or establish the relationship of partners between the Educational Provider and PennDOT, or as constituting PennDOT as the representative or general agent of the Educational Provider for any purpose whatsoever.
102. **Assignment.** This Agreement may not be assigned by the Educational Provider, either in whole or in part, without the written consent of PennDOT.
103. **No Third Party Beneficiary Rights.** The parties to this Agreement understand that this Agreement does not create or intend to confer any rights in or on persons or entities not a party to this Agreement.
104. **Force Majeure.** Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays. This provision shall not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming party.
105. **Integration and Merger.** This Agreement and, if applicable, any exhibits and attachments when executed, approved and delivered, shall constitute the final, complete and exclusive Agreement between the parties containing all the terms and conditions agreed on by the parties. All representations, understandings, promises and agreements pertaining to the subject matter of this Agreement made prior to or at the time this Agreement is executed are superseded by this Agreement unless specifically accepted by any other term or provision of this Agreement. There are no conditions precedent to the performance of this Agreement except as expressly set forth herein.

[The remainder of this page is intentionally left blank.]

The parties have executed this Agreement to be effective as of the date of the last signature affixed below.

ATTEST:

EDUCATIONAL PROVIDER*:

Title: _____ Date

BY _____
Title: _____ Date

Educational Provider must complete the attached resolution or provide its own resolution authorizing signature authority.

DO NOT WRITE BELOW THIS LINE – FOR COMMONWEALTH USE ONLY

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

BY _____
Deputy Secretary Date

APPROVED AS TO LEGALITY
AND FORM

BY _____
for Chief Counsel Date

BY _____
Deputy General Counsel Date

BY _____
Deputy Attorney General Date

BY _____
Office of Comptroller Operations Date

RESOLUTION

BE IT RESOLVED, by authority of the _____ of the
(Name of governing body*)

_____ in _____ County, and it is hereby
(Name of Educational Provider)

resolved by authority of the same, that the _____ be authorized and
(Designate official title)

directed to sign the attached agreement on its behalf and that the _____
(Designate official title)

be authorized to attest the same.

ATTEST:

EDUCATIONAL PROVIDER:

(Signature and designation of official title) By: _____
(Signature and designation of office title)

*Governing Body- Board of Trustees, Board of Directors, etc.

I _____ , _____
(Name) (Official Title)

of the _____ , do hereby certify that
(Name of governing body and Educational Provider)

the foregoing is a true and correct copy of the Resolution adopted at a regular meeting of the

_____ held on the _____ day of _____ , 20 _____.
(Name of governing body)

DATE: _____ , 20 _____. _____
(Signature and designation of official title)

CONTRACTOR INTEGRITY PROVISIONS

It is essential that those who seek to contract with the Commonwealth of Pennsylvania ("Commonwealth") observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the Commonwealth contracting and procurement process.

1. **DEFINITIONS.** For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Section:
 - a. **"Affiliate"** means two or more entities where (a) a parent entity owns more than fifty percent of the voting stock of each of the entities; or (b) a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.
 - b. **"Consent"** means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of the execution of this contract.
 - c. **"Contractor"** means the individual or entity, that has entered into this contract with the Commonwealth.
 - d. **"Contractor Related Parties"** means any affiliates of the Contractor and the Contractor's executive officers, Pennsylvania officers and directors, or owners of 5 percent or more interest in the Contractor.
 - e. **"Financial Interest"** means either:
 - (1) Ownership of more than a five percent interest in any business; or
 - (2) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
 - f. **"Gratuity"** means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the [Governor's Code of Conduct, Executive Order 1980-18](#), the 4 Pa. Code §7.153(b), shall apply.
 - g. **"Non-bid Basis"** means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.
2. In furtherance of this policy, Contractor agrees to the following:
 - a. Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting or procurement with the Commonwealth.

- b. Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to the Contractor activity with the Commonwealth and Commonwealth employees and which is made known to all Contractor employees. Posting these Contractor Integrity Provisions conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.
- c. Contractor, its affiliates, agents, employees and anyone in privity with Contractor shall not accept, agree to give, offer, confer, or agree to confer or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order of the Governor of Pennsylvania, statement of policy, management directive or any other published standard of the Commonwealth in connection with performance of work under this contract, except as provided in this contract.
- d. Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material under this contract, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor's financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor's submission of the contract signed by Contractor.
- e. Contractor certifies to the best of its knowledge and belief that within the last five (5) years Contractor or Contractor Related Parties have not:
 - (1) been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
 - (2) been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;
 - (3) had any business license or professional license suspended or revoked;
 - (4) had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
 - (5) been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

If Contractor cannot so certify to the above, then it must submit along with its bid, proposal or contract a written explanation of why such certification cannot be made and the Commonwealth will determine whether a contract may be entered into with the Contractor. The Contractor's obligation pursuant to this certification is ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to immediately notify the Commonwealth in writing if at any time during the term of the contract if becomes aware of any event which would cause the Contractor's certification or explanation to change. Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause if it learns that any of the certifications made herein are currently false due to intervening factual circumstances or were false or should have been known to be false when entering into the contract.

- f. Contractor shall comply with the requirements of the *Lobbying Disclosure Act (65 Pa.C.S. §13A01 et seq.)* regardless of the method of award. If this contract was awarded on a Non-bid Basis, Contractor must also comply with the requirements of the *Section 1641 of the Pennsylvania Election Code (25 P.S. §3260a)*.
- g. When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or these Contractor Integrity Provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or the Office of the State Inspector General in writing.
- h. Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these Contractor Integrity Provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract, to include any extensions thereof. Contractor shall immediately notify the Commonwealth in writing of any actions for occurrences that would result in a violation of these Contractor Integrity Provisions. Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- i. Contractor shall cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Contractor non-compliance with these Contractor Integrity Provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of an Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this contract. Contractor shall incorporate this paragraph in any agreement, contract or subcontract it enters into in the course of the performance of this contract/agreement solely for the purpose of obtaining subcontractor compliance with this provision. The incorporation of this provision in a subcontract shall not create privity of contract between the Commonwealth and any such subcontractor, and no third party beneficiaries shall be created thereby.
- j. For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these Provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

Contractor Responsibility Provisions

For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee or lessor, who has furnished or performed or seeks to furnish or perform, goods, supplies, services, leased space, construction or other activity, under a contract, grant, lease, purchase order or reimbursement agreement with the Commonwealth of Pennsylvania (Commonwealth). The term contractor includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.

- 1.** The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.
- 2.** The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.
- 3.** The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.
- 4.** The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.
- 5.** The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- 6.** The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the Internet at <http://www.dgs.state.pa.us/> or contacting the:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
Telephone No: (717) 783-6472
FAX No: (717) 787-9138

**Nondiscrimination/Sexual Harassment Clause
(August 2018)**

The Contractor agrees:

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
2. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.
3. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, in the provision of services under the contract.
4. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against employees by reason of participation in or decision to refrain from participating in labor activities protected under the *Public Employee Relations Act*, *Pennsylvania Labor Relations Act* or *National Labor Relations Act*, as applicable and to the extent determined by entities charged with such Acts' enforcement, and shall comply with any provision of law establishing organizations as employees' exclusive representatives.
5. The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contracted services are performed shall satisfy this requirement for employees with an established work site.
6. The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
7. The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws, regulations and policies

relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report (“EEO-1”) with the U.S. Equal Employment Opportunity Commission (“EEOC”) and shall file an annual EEO-1 report with the EEOC as required for employers’ subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.

8. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.

9. The Contractor’s and each subcontractor’s obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.

10. The Commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

PROVISIONS CONCERNING THE *AMERICANS WITH DISABILITIES ACT*

For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, supplier, or grantee, who will furnish or perform or seeks to furnish or perform, goods, supplies, services, construction or other activity, under a purchase order, contract, or grant with the Commonwealth of Pennsylvania (Commonwealth).

During the term of this agreement, the contractor agrees as follows:

1. Pursuant to federal regulations promulgated under the authority of the *Americans with Disabilities Act*, 28 C. F. R. § 35.101 et seq., the contractor understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this agreement or from activities provided for under this agreement. As a condition of accepting and executing this agreement, the contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C. F. R. § 35.130, and all other regulations promulgated under Title II of the *Americans with Disabilities Act* which are applicable to the benefits, services, programs, and activities provided by the Commonwealth through contracts with outside contractors.
2. The contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth as a result of the contractor's failure to comply with the provisions of paragraph 1.

EXHIBIT D

Contract Provisions – Right to Know Law

- a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, (“RTKL”) applies to this Contract. For the purpose of these provisions, the term “the Commonwealth” shall refer to the contracting Commonwealth agency.
- b. If the Commonwealth needs the Contractor’s assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.
- c. Upon written notification from the Commonwealth that it requires the Contractor’s assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor’s possession, constituting, or alleged to constitute, a public record in accordance with the RTKL (“Requested Information”), the Contractor shall:
 - 1. Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor’s possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
 - 2. Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.
- d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.
- e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth’s determination.
- f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor’s failure, including any statutory damages assessed against the Commonwealth.

EXHIBIT E

- g. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.
- h. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.
- i. The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

EXHIBIT E