

## **Section A. Purpose and Limits of this Agreement**

This Agreement is granted by [State] (**hereinafter “we/us/our”**) to the below named entity or organization (**hereinafter “you/your”**) authorizing you to conduct on behalf of us Commercial Driver License (**hereinafter CDL**) skills tests to qualified applicants for a CDL. Results of tests conducted by you submitted to us will be valid and binding in the same manner as if submitted by our examiners, subject to internal review. This agreement automatically terminates (**one/two/three/four/five – state chooses and adjusts text accordingly**) years after the date it is approved and signed by both parties but may be renewed upon a new application. Additionally, we may terminate the agreement at any time for any reason or no reason. We have the sole authority to amend this agreement.

## **Section B. Your Duties**

By our entering into this agreement, you agree to:

- 1.** comply with all applicable statutes and regulations of this state.
- 2.** comply with all applicable federal statutes and regulations, including Parts 380, 383 and 384 as applicable of Title 49 of the Code of Federal Regulations (i.e. 384.228, 383.75).
- 3.** comply with the testing guidelines, instructions, and directives issued by us to you as to how tests shall be administered including but not limited to. ensuring that the Entry Level Driver Training (ELDT) has been completed prior to the skills test (or that the driver is not required to complete ELDT).
- 4.** allow us or agents of the Federal Motor Carrier Safety Administration (FMCSA) conduct random examinations, inspections, and audits of your records including but not limited to, examiner qualifications, performance of third party CDL tests, and any other records required by 49 CFR Parts 380 and 384 without prior notice, during ordinary business hours.
- 5.** be a resident of this state (**this requirement may be deleted by the state**) and maintain a primary place of business in this state at which is located at least one permanent structure.
- 6.** employ at least one safety officer or official responsible for overseeing the administration of the skills tests conducted under this agreement by third party examiners. (**the name of the safety person as well as contact information must be provided and remain current for the duration of this agreement**)
- 7.** employ at least one third-party examiner who has been certified in accordance with state regulations and/or FMCSRs providing to us the person’s name, address, telephone number, and email address. The safety officer and the examiner may be the same person.

8. administer at least 10 tests per year in each segment (i.e., Vehicle Inspection (VI), Basic Control Skills (BCS), and Road Test (RT)).

9. maintain at your primary place of business an alphabetical file for each tested person for the current year and at least **(two/three/four/five – must be at least two years - state chooses and adjusts text accordingly)** years from the date the person was last tested. This file shall include each person's application to be tested, written statement of all fees that may be charged by you, and a warning that the person may be randomly retested by us or an FMCSA representative. Any driver who fails the re-test, shall have his/her CDL operating privilege suspended to until re-tested and receiving a passing score by us before being issued or reissued a CDL. The fees and warning may be included on your application form. The applicant must sign the application thereby indicating a full understanding of the fees and warning if included on the application.

10. maintain at your primary place of business an annual log/record of CDL skills tests administered including at a minimum the name of the applicant, the name of the examiner administering the test, the type of test, and the date that the test was administered. Additionally, you must maintain a file with the following documents:

1. A copy of the State certificate authorizing the third-party tester to administer a CDL skills testing program for the classes and types of commercial motor vehicles listed.
2. A copy of each third-party examiner's State certificate authorizing the third-party examiner to administer CDL skills tests for the classes and types of commercial motor vehicles listed.
3. A copy of the current third-party agreement.
4. A copy of the third-party tester's State-approved Road test route(s); and
5. A copy of each third-party examiner's training record.

11. maintain at your primary place of business a file for each third-party examiner in your employ containing all required documents gathered in the preceding **(one/two/three/four/five – state chooses and adjusts text accordingly)** years. Required documents shall be gathered by you at least annually and must include the following:

1. A copy of the third-party examiner's Training Certificate issued by us.
2. A copy of the third-party examiner's driver's abstract, no more than one year old.
3. Evidence that the third-party examiner is employed by you (e.g., a W-4).
4. Each completed skills test score sheet signed by the applicant and the examiner.

12. use only vehicles that are properly registered, not modified from original manufactured condition, meet the minimum safety requirements of federal and state law, and meet the definition of a CMV (Commercial Motor Vehicle) set forth by 49 CFR 383.5.

- 13.** inspect for safety **(at least weekly/monthly/prior to each test - state chooses and adjust text accordingly)** each vehicle used for the administration of a skills test.
- 14.** schedule CDL testing appointments into the Commercial Skills Testing Information System (CSTIMS) and/or local database at least two days before the test.
- 15.** conduct each skills test in conformity with state and federal requirements, using only tests and score sheets approved by us.
- 16.** notify us using CSTIMS, ROOSTR or state-owned local database within 48 hours each time a person passes or fails a CDL skills test.
- 17.** use only CDL skills test routes, contents, and procedures authorized by us.
- 18.** immediately advise us of any change to the location at which you will conduct examinations,
- 19.** maintain an email address for communication to and from us. Promptly notify us of email change.
- 20.** notify us, by email or in writing, of any of the following at least 30 days prior to the change:
  1. any change to your name, address, or responsible party.
  2. any change in the Examiners employed by you.
  3. discontinuation of business or CDL testing in this state.
  4. Upon discontinuation, you will provide us with all the records that this agreement requires you to keep. Failure to do so will result in an administrative penalty of **(X dollars - state chooses and adjusts text accordingly);**
  5. examiner discontinuation of CDL testing in this state.
  6. examiner's failure to comply with the CDL skills test requirements.
  7. examiner's failure to meet any of the physical requirements necessary to conduct skills tests.

**(21) You shall not advertise or suggest that your testing program is endorsed by us.**

**(22)** you shall not advertise, suggest, or imply in any manner:

1. that you can issue or guarantee the issuance of a CDL.
2. that you can influence our decision on whether to issue a CDL.
3. that you can obtain preferential treatment from us for a driver applicant.

**(23)** You understand that a state or representative from FMCSA may covertly take the skills test administered by your examiners as if the state or the FMCSA employee were an ordinary applicant being tested.

**(24)** you shall allow state and/or FMCSA representatives to compare pass/fail results.

**(25)** you shall not charge more than: **(For use only if state chooses to impose limits)**

1. **(X dollars - state chooses and adjusts text accordingly)** for each complete CDL skills test (VI, BCS, and RT);
2. **(X dollars - state chooses and adjusts text accordingly)** for each segment (VI, BCS, and RT) of a CDL skills test retaken.
3. **(X dollars - state chooses and adjusts text accordingly)** for each abbreviated school bus test.
4. **(X dollars - state chooses and adjusts text accordingly)** for each lift airbrake restriction test (VI), each lift manual transmission restriction test (RT), or **(X dollars - state chooses and adjusts text accordingly)** for each lift tractor-trailer restriction test (VI, BCS, and RT);
5. **(X dollars - state chooses and adjusts text accordingly)** for each segment (VI, BCS, and RT) when person fails to show for a scheduled appointment without at least 24 hours advance notice to you.
6. you may charge IRS mileage rates for all miles traveled to and from locations where skills test are administered that are more than 25 miles from your primary place of business.

**(27)** refuse to accept anything of value from a person who is taking a CDL skills test administered by you except the regular fee charged by you.

**(28)** prohibit examiners from conducting tests for immediate family members of the examiner. An immediate family member is defined as spouse or domestic partner, parent, grandparent, foster parent, child, stepchild, foster child, brother, stepbrother, brother-in-law, sister, stepsister, sister-in-law, aunt, or uncle. Any such conducted test shall be deemed invalid.

**(29)** prohibit examiners from testing persons whom they trained.

**(30)** maintain proper motor vehicle liability insurance and a **(X dollars - and adjusts text accordingly)** surety bond. By law you will be required to reimburse us for all costs associated with retesting driver applicants improperly passed by you. You are also required annually to provide us with proof of indemnify which shall hold harmless this state and all of this state's officers, employees, and agents from and against any and all claims, actions, demands, and losses, which may be brought or alleged against us or our employees by reason of the negligent or unauthorized certification of passing a skills test conducted by you

### **Section C. Communications**

**(1)** Notices and communications to you from us may be made by regular mail to the address that you provided in your application. Notices and communications from you to us shall be made to us at **(insert mailing address)**. Additionally, notices and communications may be made using email.

#### **Section D. Additional Terms**

**(1)** This is the sole and entire agreement issued to you and no terms and conditions in any document, acceptance, or acknowledgement shall be effective or binding unless expressly agreed to in writing by us.

**(2)** This contract will be governed under the laws of the State of **[State]**.

**(3)** You shall observe and comply with all federal, state, and local laws, regulations, and ordinances that are in effect during the period of this contract and which in any manner affect your work or conduct.

**(4)** No right or duty in whole or in part under this agreement may be assigned without our express written consent. Any assignee approved by us shall be subject to all of the provisions of this agreement.

**(5)** This agreement does not confer upon you any status as an officer, employee, or agent of us, and you shall not represent yourself as such.

**(6)** The provisions of this agreement are severable, and the unenforceability of any provision shall not affect the enforceability of the remaining agreement provisions.

The signature area should include the names of the entities entering into the agreement; a place for an authorized person representing each entity to sign the agreement; the printed name of each signatory signing the agreement; the title of each signatory; the address of each entity; the email address of each signatory; and the telephone number of each signatory.

**Third Party Skills Testing Company**

\_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
(Print or Type Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Telephone Number of Authorized Person)

\_\_\_\_\_  
(E-mail address of Authorized Person)

**[State] Representative**

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
(Print or Type Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Telephone Number of Authorized Person)

\_\_\_\_\_  
(E-mail address of Authorized Person)

**[State may add requirement for witness(es) or notary if desired]**

\_\_\_\_\_

[Signature]

\_\_\_\_\_

(Print or Type Name)

\_\_\_\_\_

(Title)

\_\_\_\_\_

(Telephone Number of Authorized Person)

\_\_\_\_\_

(E-mail address of Authorized Person)