



**DriveON Program Performance Contract
for
Private Fleet Vehicle Inspection Centres**

B E T W E E N:

HIS MAJESTY THE KING IN RIGHT OF ONTARIO, as represented by the Director of Vehicle Inspection Standards, Ministry of Transportation

(Ministry)

- and -

[Legal name of the business entity]

(Contractor)

IN CONSIDERATION of the accreditation of the Contractor as a Vehicle Inspection Centre for the DriveON Program, and subject to the terms and conditions set out below, the Ministry and the Contractor agree as follows:

1. TERM

1.1 The term of this Performance Contract (**Contract**) for participation in the Ministry's DriveON Program (**Program**) begins on the date of its acceptance by the Ministry, as set out on the last page of this Contract, and continues until May 26, 2028, subject to the provisions of this Contract (**Term**).

2. OPERATION OF A VEHICLE INSPECTION CENTRE

2.1 The Contractor agrees to operate a Stationary or Mobile Vehicle Inspection Centre (**VIC**) and to keep the books and records of the VIC at the address identified on the DriveON Portal as its principal place of business.

2.2 The Contractor agrees to equip and operate the VIC and conduct vehicle safety and/or emissions Inspections (**Inspections**) for the issuance of Annual Inspection

Certificates (**AIC**), Semi-Annual Inspection Certificates (**SAIC**), Safety Standards Certificates (**SSC**), Structural Inspection Certificates (**SIC**), and/or Emissions Inspection Certificates (**EIC**) in accordance with the DriveON Standard Operating Procedures established by the Ministry, as amended from time to time by the Ministry (**SOP**) and the Directive made pursuant to Section 100.7 of the Highway Traffic Act, as amended from time to time by the Ministry (**Directive**).

- 2.3 The Contractor agrees to operate the VIC in a safe, reasonable, and prudent manner using qualified and experienced staff, including at least one trained and registered Technician as outlined in the SOP and the Directive, and in accordance with good business practices.
- 2.4 The Contractor agrees to operate in compliance with all federal, provincial, and municipal laws and regulations including, without limitation, the tax laws of Ontario and Canada. The Contractor agrees that the Ministry may confirm tax compliance with the tax authorities of Ontario and Canada at any time during the Term.
- 2.5 The Contractor agrees not to provide Inspection services to the public and will exclusively inspect and service their own private vehicles.

3. DOCUMENTS

- 3.1 This Contract includes the application and any documents submitted by the Contractor to the Ministry on the DriveON Portal in connection with accreditation as a VIC.
- 3.2 The provisions of the SOP and the Directive are incorporated into, and deemed to be part of, this Contract.
- 3.3 This Contract supersedes all other prior agreements, understandings, negotiations, and discussions, whether oral or written, of the parties.

4. INSURANCE

- 4.1 The Contractor agrees to maintain, in force, at all times during the Term, a policy of insurance which includes all of the following insurance coverage:
 - (a) commercial general liability of not less than \$3 million per occurrence on property damage, bodily injury, and personal injury
 - (b) for a Mobile VIC, the additional automobile insurance for any vehicle used to transport the Inspection equipment, with a limit of not less than \$3 million for third party property damage and bodily injury

Further, the Contractor agrees to add "His Majesty the King in right of Ontario as represented by the Minister of Transportation" as an Additional Insured in respect of the commercial general liability coverage described in (a) above, and shall provide to the Ministry upon request, certificates of insurance evidencing the types and amounts of insurance required by this Article and a copy of the insurance policy(ies).

4.2 The Contractor agrees to inform the Ministry immediately upon the cancellation of the above-stated policy of insurance or the removal of the Ministry as an Additional Insured.

5. INDEMNITY

5.1 The Contractor agrees to indemnify and save harmless the Ministry and its officers, employees, and agents from and against any claim, demand, damage, loss, expense, (including all costs incurred as a result of), or cause of action of any nature resulting from, or relating to, any of the following:

- (a) the operation of the VIC or the existence of any dangerous condition at the VIC
- (b) any breach or non-performance by the Contractor of any provision of this Contract
- (c) any damage to property, real or personal, owned by the Ministry or others, including any member of the public, caused by, or resulting from the Contractor's performance or non-performance under this Contract or the Contractor's operation of the VIC
- (d) any personal or bodily injury to, or death of, any person, including any member of the public, caused by or resulting from the Contractor's performance or non-performance under this Contract or the Contractor's operation of the VIC.

5.2 The Contractor agrees that any express or implied reference to the Ministry providing an indemnity or any other form of indebtedness or contingent liability that would directly or indirectly increase the indebtedness or contingent liabilities of the Ministry, whether at the time of execution of this Contract, or at any time during the Term, shall be void and of no legal effect.

6. EQUIPMENT

6.1 The Contractor agrees that all Inspections conducted at the VIC will be performed with equipment approved by the Ministry and such equipment will be purchased by the Contractor from the Program services vendor, Parsons Inc. (**Parsons**).

6.2 The Contractor agrees to enter into an Equipment Purchase and Maintenance Agreement (**EPMA**) with Parsons that specifies Inspection equipment pricing, configurations, replacement parts, maintenance and repair services, and warranties. The EPMA will include rights and responsibilities of the VIC and Parsons including a Ministry-approved appeal process for the Ministry to arbitrate disputes.

6.3 The Contractor agrees to provide and maintain appropriate computer hardware, software, and peripherals to provide an electronic link to the Ministry's information technology system operated by Parsons.

7. INSPECTION SERVICES

- 7.1 The Contractor agrees that every Inspection will be conducted by a Technician that has successfully completed training provided by Parsons and is registered with the Ministry. An emissions Technician must successfully complete the online emissions training, approved by the Director and can only conduct emissions Inspections as set out in the Directive, Schedule 1. All other Inspections, set out in the Directive, Schedules 2 through 5, will be conducted by Technicians according to their Certificate of Qualification as per the Building Opportunities in the Skilled Trades Act, 2021, if applicable (**Technician**).
- 7.2 The Contractor acknowledges that it is providing the Inspection services on a non-exclusive basis and that the Ministry makes no representation or guarantee that the Contractor will conduct any particular number of Inspections.

8. INSPECTION CERTIFICATES & PAYMENT UNDER CONTRACT

- 8.1 The Contractor agrees to issue an approved Vehicle Inspection Report (**VIR**) for every vehicle Inspected. A VIR for a vehicle that passes an Inspection will contain a Vehicle Inspection Certificate Number (**VICN**). The Contractor agrees that the Ministry will charge a fee as set out in Regulation 170/22 for each VIR that contains a VICN that applies to an AIC, SAIC, SSC, SIC, or EIC. Fails, aborts, or incomplete Inspection results will generate a VIR without a VICN and will not trigger a fee chargeable to the Contractor.
- 8.2 Payments by the Contractor pursuant to Section 8.1 of this Contract shall be made in accordance with the SOP and a Pre-Authorized Debit (**PAD**) Agreement which outlines the process for the Ministry to draw on the Contractor's Canadian bank account to pay for an AIC, SAIC, SSC, SIC, or EIC. The debits will occur on a weekly basis. Contractors are responsible for correctly inputting their banking data into the system to authorize the PAD. Where a Contractor has input incorrect banking information, the Contractor's Inspection equipment will be locked out until the Ministry is satisfied that the bank account information has been corrected. It is the Contractor's responsibility to alert Parsons that their bank account has been updated to initiate removal of the lockout of the Inspection equipment.
- 8.3 Non-Sufficient Funds (**NSF**) Policy - Contractors must ensure that their account balance is sufficient to cover weekly Inspection volume for their VIC, plus any amounts due to Parsons in accordance with the EPMA.

Contractors are responsible for any NSF charges incurred. Where a Contractor has a frozen or closed bank account or insufficient funds to enable a debit, the Contractor's Inspection equipment will be locked out until the Ministry is satisfied that their bank account has been sufficiently replenished, and any outstanding amounts have been collected. It is the Contractor's responsibility to alert Parsons that the account is ready to be drawn upon to remove a lockout of the Inspection equipment.

9. INCREASE OR DECREASE BY MINISTRY

- 9.1 Notwithstanding Article 8, the Ministry may from time to time during the Term, on at least 10 calendar days written notice, increase or decrease the fee as set out in regulation by such amount as the Ministry may determine.

10. AUDIT, INSPECTION AND COOPERATION

- 10.1 The Contractor agrees to permit the Ministry, Parsons, the Ministry's independent auditor, or such other persons as the Ministry may specify to audit, inspect, or review the books, records, and operations of the Contractor by covert or overt means, electronically, by telephone, or otherwise, from time to time, with or without notice, and the Contractor agrees to provide all reasonable access, cooperation and assistance for such purposes.
- 10.2 The Contractor agrees to provide reasonable cooperation to all contractors retained by the Ministry to provide services related to the Program, as identified by the Ministry.
- 10.3 Upon receipt of a request from the Director of Vehicle Inspection Standards, Ministry of Transportation, or such other person as the Ministry may designate, the Contractor agrees to provide all reasonable information and documentation to the Ministry and its contractors in respect of the operation of the VIC.

11. DATA AND INFORMATION

- 11.1 The Contractor acknowledges that the data collected as a result of an Inspection are the sole and exclusive property of the Ministry.
- 11.2 The Contractor agrees that all information obtained by the Contractor in conducting Inspections will be used solely for the purposes of the Program and will not otherwise be used or disclosed.

12. INSPECTION EQUIPMENT LOCKOUT

- 12.1 The Contractor acknowledges that the Ministry or Parsons may lockout the Contractor's Inspection equipment in accordance with the SOP. A lockout will prevent the Contractor from providing Inspections. If the Contractor resolves the matter that caused the lockout, to the satisfaction of the Ministry or Parsons, the Contractor may thereafter resume operation as a VIC.

13. PERFORMANCE INTERVIEW

- 13.1 The Ministry, on not less than 3 business days notice, may require the Contractor to attend before the Director of Vehicle Inspection Standards, Ministry of Transportation, or such other person as the Ministry may designate, for a performance interview to review the operation of the VIC. The Contractor agrees to attend any performance interview and to bring such books, records, and staff of the VIC as the Ministry may specify in the notice.

14. SUSPENSION AND TERMINATION

14.1 The Contractor agrees that, in the event that it breaches any provision of this Contract, the Ministry may in its sole discretion:

- (a) issue a suspension notice immediately suspending the accreditation of the Contractor for such period of time as may be set out in the suspension notice; or
- (b) issue a termination notice immediately terminating this Contract and revoking the accreditation of the Contractor,

and the Contractor acknowledges that the Ministry is not required to conduct a performance interview before issuing either a suspension notice or a termination notice.

14.2 If the Ministry issues a suspension notice or a termination notice, the Contractor shall immediately complete all of the following:

- (a) cease to operate or hold itself out as an accredited VIC
- (b) cover or remove from the VIC the Program sign and Program materials obtained from the Ministry
- (c) cover or remove the Official Marks from any other sign or materials, including websites, of the Contractor, and cease the display or use of any sign or materials containing an Official Mark
- (d) upload all offline Inspections.

14.3 If the Contractor resolves to the satisfaction of the Ministry the matter that caused the Ministry to issue the suspension notice, then the Ministry may on written notice to the Contractor revoke the suspension notice and the Contractor may thereafter resume operation as a VIC.

14.4 The Contractor agrees to allow the Ministry, or such other persons as the Ministry may specify, to enter and inspect the VIC immediately upon the issuance of a suspension notice or a termination notice, and to cover or remove the Program sign and Program materials if the Contractor has not immediately done so, and to remove, cover, or destroy any sign or materials of the Contractor that display an Official Mark.

14.5 The Contractor acknowledges and agrees that it is responsible for and can be suspended or terminated in respect of the actions of its partners, directors, officers, agents, and employees, including Technicians.

15. APPEAL PROVISION

15.1 The Ministry and the Contractor agree that the Contractor may appeal the issue of a suspension notice or termination notice issued under Article 14 to a single arbitrator under an arbitration established pursuant to the Arbitration Act, 1991 (Ontario).

15.2 An appeal under Section 15.1 shall be made by notice in writing delivered to the Ministry within 15 calendar days of the issue of the suspension notice or termination notice, as the case may be.

15.3 The Contractor agrees that the arbitration must be established by an executed arbitration agreement and concluded within 12 months from the date of the issued suspension notice or termination notice. If the arbitration is not concluded within the 12-month period, then the appeal right shall be considered waived by both the Ministry and Contractor.

16. EXPERTS

16.1 The Contractor acknowledges that the Ministry may obtain advice and assistance from experts and advisors, including Parsons, for the purposes of administering this Contract, conducting a performance interview, issuing a suspension notice or issuing a termination notice, or in an arbitration.

17. REPRESENTATION AND WARRANTY

17.1 The Contractor represents and warrants that all information contained in the application and in any documents submitted by the Contractor to the Ministry in connection with accreditation as a VIC, or the administration of the Contract, or inputted into the DriveON Portal, is true, correct, and accurate.

18. NOT AGENTS

18.1 The Contractor and its partners, directors, officers, agents, and employees, which include Technicians, are not employees or agents of the Ministry.

19. CONFLICT OF INTEREST

19.1 The Contractor and its partners, directors, officers, agents, and employees, which include Technicians, shall not engage in any activity or provide any product or service in respect of the Program where such activity, or the provision of such product or service, creates an actual or potential conflict of interest (in the sole opinion of the Ministry) with the Contractor's obligations as a VIC. For certainty, it is a conflict of interest to offer a product or service that removes, bypasses, defeats or renders inoperative all or part of a motor vehicle's emission control system or modifies a motor or motor vehicle in any way that results in increased emissions from the level to which it was originally designed or certified by the manufacturer of the motor or motor vehicle.

19.2 The Contractor acknowledges that the Ministry may engage contractors to provide services related to the Program including Inspection equipment, training, contact centre, information systems, quality assurance/quality control auditing, independent auditing, and any other services required to carry out the Program, and the Contractor agrees that no shareholder, partner, director, officer, or key management employee shall directly or indirectly, own, have an interest in or participate in the management of any of the contractors providing such services.

19.3 The Contractor must disclose to the Ministry without delay any actual or potential situation which may reasonably be interpreted as either a conflict of interest or a

potential conflict of interest, and the Contractor shall not engage in the conduct out of which it is conflicted unless and until the Ministry notifies the Contractor to proceed notwithstanding the actual, apparent or potential conflict.

- 19.4 The Ministry may terminate this Contract in the event of a breach of this section by the Contractor, in addition to any other remedies that the Ministry may have in law or in equity.

20. PROMOTION RESTRICTIONS & NON-DISPARAGEMENT

- 20.1 Any publicity or publications related to the Contract shall be at the sole discretion of the Ministry. The Ministry may, in its sole discretion, acknowledge the services provided by the Contractor pursuant to this Contract in any such publicity or publication, including a Program website. The Contractor shall not make use of its association with the Ministry or the Program without the prior written consent of the Ministry. Without limiting the generality of this section, the Contractor shall not, among other things, at any time directly or indirectly communicate with the media in relation to the Contract or the Program, unless it has first obtained the express written authorization to do so by the Ministry.

- 20.2 The Contractor shall not disparage the Program orally or in writing, and will not publish, post, or otherwise release any material in written or electronic format (including social media posts), make speeches, gain interviews, or make public statements that mention the Program without the prior written consent of the Ministry.

- 20.3 The Contractor shall not use or attempt to use its association with the Program or the Ministry which would be contrary to law, common decency or good morals or otherwise be improper or detrimental to the Program or the Ministry.

21. NON-TRANSFERABLE

- 21.1 The Contractor acknowledges that accreditation as a VIC and this Contract are not transferable or assignable, in whole or in part, to another person or to another location without the prior written approval of the Ministry.

22. TERMINATION OF CONTRACT ON NOTICE

- 22.1 The Ministry, in its sole and absolute discretion, may terminate this Contract at any time prior to May 26, 2028, on not less than six (6) months written notice to the Contractor. In that event, all of the following apply:

- (a) this Contract is terminated as of the date set out in the notice
- (b) the Contractor shall comply with all the obligations set out in Article 14
- (c) the Ministry has no further obligation or liability to the Contractor in connection with this Contract or the Program.

- 22.2 Article 15 (Appeal Provision) does not apply to a termination notice issued under Article 22.

23. CROSS-DEFAULT CLAUSE

- 23.1 The Contractor acknowledges that a breach by the Contractor of any provision of this Contract shall be deemed to be a breach of any other contract that the Contractor has entered into with the Ministry. Further, the Contractor acknowledges that a breach by the Contractor of a provision of any other such contract shall be deemed to be a breach under this Contract.

24. OFFICIAL MARKS & PROGRAM SIGNAGE

- 24.1 The Official Marks created for the Program and registered in accordance with the Trade-marks Act (Canada) are set out in the SOP.

The Ministry hereby licenses the Contractor to use the Official Marks solely for the purposes of its activities as a VIC. The Ministry may on written notice permit the Contractor to use other marks of the Ministry for the Program. Use of the Official Marks shall be in accordance with all directives and policies outlined in the SOP. This licence expires immediately upon the suspension, termination, or expiration of this Contract.

- 24.2 The Ministry will not supply the Contractor with a Program sign, nor is the Contractor permitted to display a Program sign as it may cause confusion to the public.

25. SECURITY CLEARANCE CHECKS

- 25.1 Upon notification from the Ministry, the Contractor shall require any director, officer, agent, contractor, sub-contractor, or employee including Technician, engaged in the delivery of goods or performance of services under this Contract to undergo security clearance checks in accordance with the Ontario government's policy at the Contractor's cost.

- 25.2 Upon notification from the Ministry, the Contractor shall be required to provide the necessary information for each individual requiring security clearance by the Security Services and Contingency Planning Branch of the Ministry of Public and Business Service Delivery.

26. OTHER PROVISIONS

- 26.1 This Contract is governed by the laws of the Province of Ontario and the laws of Canada.

- 26.2 Counterparts - The Contract may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

- 26.3 All notices and documents required or permitted to be given by one party to the other party under this Contract shall be in writing and delivered personally, by courier or sent by email:

(a) in the case of the Ministry, to it at:

Director of Vehicle Inspection Standards
Ministry of Transportation
87 Sir William Hurst Avenue, Suite 211
Toronto, ON M3M 0B4
Email: VehicleOversight@Ontario.ca

(b) in the case of the Contractor, to the address set out on the DriveON Portal or such other address as the party has provided by written notice to the other party.

26.4 Time shall be of the essence of this Contract.

26.5 Condonation Not a Waiver - Occurrences where the Ministry has previously forgiven or condoned the Contractor's failure to perform any of the terms or conditions of the Contract does not mean that the Ministry has waived its right to require the Contractor to perform the terms and conditions of the Contract, and the obligations of the Contractor with respect to such performance will continue in full force and effect.

26.6 For certainty, this Contract may be assigned by the Ministry to any person on not less than 60 calendar days notice to the Contractor.

26.7 **Article 3** (Documents), **Article 5** (Indemnity), **Article 8** (Inspection Certificates & Payment Under Contract), **Article 10** (Audit, Inspection and Cooperation), **Article 11** (Data and Information), **Article 14** (Suspension and Termination), **Article 15** (Appeal Provision), **Article 17** (Representation and Warranty), **Article 18** (Not Agents), **Article 19** (Conflict of Interest), **Article 20** (Promotion Restrictions & Non-Disparagement), **Article 22** (Termination of Contract on Notice), and **Article 24** (Official Marks & Program Signage) survive the expiration or termination of this Contract.

26.8 If any provision of this Contract is invalid or unenforceable, the remainder of this Contract shall not be affected.

26.9 This Contract expires on May 26, 2028.

EXECUTED on behalf of the Contractor at _____ on

(City/Town)
_____, 20____.
(Month Day)

Print Name

Signature on behalf of Contractor

Title

I have the authority to bind the Contractor.

ACCEPTED AND APPROVED by His Majesty the King in Right of Ontario, as represented by the Director of Vehicle Inspection Standards, Ministry of Transportation

Date

Name: