

AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 199__, by and between the STATE OF HAWAII, by its Director of Transportation, hereinafter referred to as "STATE"; and [_____] whose business address is _____, hereinafter referred to as the "THIRD PARTY EXAMINER";

WITNESSETH THAT:

WHEREAS, Act 320, Session Laws of Hawaii, 1989 has charged the Department of Transportation with the responsibility of implementing a Commercial Driver's License (CDL) program; and

WHEREAS, the CDL program contemplates the use of third party examiners to conduct driver examinations of category 4 and CDL applicants; and

WHEREAS, Act 342, Session Laws of Hawaii, 1990 requires third party examiners to be certified by the State before they can examine applicants for category 4 licenses under Section 286-102(b) Hawaii Revised Statutes and commercial driver's licenses; and

WHEREAS, Chapter 19-137, Hawaii Administrative Rules, entitled, "Category 4 and Commercial Driver Third Party Examiner Requirements" allows for a third party examiner to administer the CDL skill tests; and

WHEREAS, the THIRD PARTY EXAMINER has submitted an application to administer skill tests required for licensing category 4 and commercial driver license applicants; and

WHEREAS, the THIRD PARTY EXAMINER has met the requirements of 49 C.F.R. 383.75, Act 320, Session Laws of Hawaii, 1989 and Act 342, Session Laws of Hawaii, 1990;

NOW, THEREFORE, in consideration of the mutual promises the STATE and the THIRD PARTY EXAMINER mutually agree to the following:

1. The THIRD PARTY EXAMINER agrees to:

A. Conform its skill tests with all applicable statutes and regulations of the State of Hawaii and of the Federal Highway Administration.

B. Abide by and conform to all applicable requirements of Chapter 19-137, Hawaii Administrative Rules, entitled "Category 4 and Commercial Driver Third Party Examiner Requirements".

C. Save, indemnify, defend and hold harmless the STATE, its officers, agents, representatives, successors and assigns, and other governmental agencies from any and all suits or actions of every nature and kind which may be brought for or on account of any injury, death, or physical or psychological damage arising or growing out of the acts or omissions of the THIRD PARTY EXAMINER under this Agreement. Acceptance and approval of the THIRD PARTY EXAMINER'S performance under this Agreement shall not be deemed to be a waiver of the right of the STATE to take any action deemed appropriate for any act or omission of said THIRD PARTY EXAMINER.

D. Allow the Federal Highway Administration or its representatives and the STATE or its representatives to conduct random monitors, examinations, inspections and audits of its activities under this Agreement, without prior notice.

E. Allow the STATE or its representatives to conduct on-site inspections of its skill tests locations and examinations at least once annually.

F. Allow, not less often than once a year, county driver licensing employees and state employees to take the tests actually administered by the THIRD PARTY EXAMINER to test for compliance with this Agreement.

G. Obtain written permission prior to administering the skill tests from the county examiner of drivers who will issue the driver's license.

H. Display the third party examiner identification card to all applicants prior to conducting the skill tests. See attached sample.

I. Provide the county driver licensing agency and the driver applicant documented proof of the driver's skill tests results.

2. The STATE agrees to:

A. Certify the THIRD PARTY EXAMINER to administer driver license skill tests as specified in this Agreement and Chapter 19-137, Hawaii Administrative Rules, entitled "Category 4 and Commercial Driver Third Party Examiner Requirements" who has met all third party examiner requirements and qualifications.

B. Administer and enforce the provisions of Chapter 19-137, Hawaii Administrative Rules, entitled "Category 4 and Commercial Driver Third Party Examiner Requirements" to ensure that the THIRD PARTY EXAMINER is in compliance with this Agreement.

3. The STATE reserves the right to take prompt and appropriate action against the THIRD PARTY EXAMINER in the event the THIRD PARTY EXAMINER fails to comply with the terms of this

Agreement or with the requirements set forth in Chapter 19-137, Hawaii Administrative Rules, entitled "Category 4 and Commercial Driver Third Party Examiner Requirements".

4. This Agreement constitutes the sole and entire Agreement between the STATE and the THIRD PARTY EXAMINER relating to the authority to administer the driver license category 4 and CDL skill tests. No other terms or conditions shall form a part hereof, and this Agreement shall not be modified except by written amendment to this Agreement, duly signed by the authorized representatives of both parties. This Agreement may be terminated at any time with 30 days prior written notice, from either party to the other.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

State of Hawaii

Edward Y. Hirata
Its Director of Transportation

Third Party Examiner

THIRD PARTY EXAMINER
IDENTIFICATION CARD

state
seal

dept
seal

STATE OF HAWAII
THIRD PARTY EXAMINER

The above named person, having met the re-
quirements of Chapter 19-137, Hawaii Adminis-
trative Rules, is authorized to conduct the
skill tests required of driver license appli-
cants for category _____ and endorsement
_____. Authorization expires _____.

Third Party Examiner State
 Dept of Transportation