COMMONWEALTH OF PENNSYLVAINA
POSTING AUTHORITY
EXCESS MAINTENANCE AGREEMENT

Agreement Number __730076_____ Executed Date November 30 , 2011

This Excess Maintenance Agreement ("Agreement") is made and entered into, by, and between the **POSTING AUTHORITY** and the **USER,** _____INFLECTION ENERGY, LLC_____, FID/SS Number ___263104994_____, with offices located at ____1125 17TH Street, Suite 2540, Denver, Co. 80202-2501_____.

DEFINITIONS

Appurtenance means the property lying within the right-of-way of a highway, together with any improvement placed within this right of way.

Bridge means any structure including supports, erected over a depression or an obstruction, such as, but not limited to, water, highway, or railway and having a track or passageway for carrying traffic or other moving loads and having an opening measured along the center of the roadway of more than eight feet between supports Publication 100A (Bridge Management System 2 Coding Manual).

Excess Maintenance means maintenance or restoration or both that is in excess of normal maintenance (but not improvements beyond the state of repair existing at the date of the initial inspection) that is necessary to maintain the roadway, shoulders, drainage facilities, and other appurtenances of because the use of over-posted-weight-vehicles, and in accordance with the attached Exhibit "A".

Execution Date is the date this Agreement has been fully executed by both the **USER** and the **POSTING AUTHORITY.**

Existing State of Repair shall be the condition of the highway(s), on the date upon which the initial inspection document is signed by the **USER** and the **POSTING AUTHORITY**.

Highway means any highway or bridge on the **POSTING AUTHORITY'S** system of highways and bridges, including the entire width between right-of-way lines, over which the **POSTING AUTHORITY** has assumed, or has been legislatively given, jurisdiction.

Maintenance Plan means a comprehensive schedule of **USER'S** duties relating to excess maintenance, preventative maintenance and restoration of the highway or appurtenance.

Normal Maintenance means the usual and typical activities necessary to maintain the roadway, shoulders, drainage facilities, and other appurtenances in the state of repair existing at the date of the inspection, and in accordance with the attached Exhibit "A".

Over-Posted-Weight-Vehicle means a vehicle or combination having a gross weight in excess of a posted weight restriction.

POSTING AUTHORITY means the Commonwealth of Pennsylvania, acting through the Department of Transportation as to State highways, and appropriate state or local authorities as to all other streets and highways.

Preventative Maintenance means maintenance and restoration or both (including betterment) of a posted highway beyond and above excess maintenance, and in accordance with the attached Exhibit "A".

Type of Permits

Type 1 Permit - A Type 1 permit authorizes use of a particular posted highway or portion thereof by an over-posted-weight vehicle. It is valid only when carried in the **USER'S** over-posted-weight-vehicle.

Type 2 Permit - A Type 2 permit authorizes use of a particular posted highway or portion thereof by any number of over-posted-weight vehicles being driven to or from a common destination and is valid only when conspicuously displayed at the **USER'S** place of business.

Type 3 Permit - A Type 3 permit authorizes use of a number of specified posted highways or portion thereof by over-posted-weight vehicles and is valid only when carried in the **USER'S** over-posted-weight-vehicle.

BACKGROUND

The **USER** wishes to operate vehicles or combinations, together with loads, in excess of posted weight restrictions. The **POSTING AUTHORITY**, pursuant to 75 Pa CS § 4902 and 67 Pa. Code, Chapter 189, *Hauling in Excess of Posted Weight Limit,* is willing to permit the movement of the **USER'S** vehicles or combinations, together with loads, in excess of the posted weight restrictions, conditioned upon the execution of an approved form of security by the **USER** in favor of the **POSTING AUTHORITY,** to cover the costs of excess and preventative maintenance and restoration and all related costs, in accordance with the terms, conditions, and provisions of this Agreement.

AGREEMENT

For and in consideration of the mutual promises hereinafter set forth, the parties, intending to be legally bound, agree for themselves and their successors and assigns as follows:

Permission to Move Vehicles

1. The **POSTING AUTHORITY** will permit the **USER** to move vehicles or combinations, together with loads, in excess of the posted weight restrictions on the portion(s) of highway(s) in __District 3-0__ (Geographic Location), subject to all provisions of the *Vehicle Code*, 75 Pa CS § 4902 and 67 Pa Code, Chapter 189, in accordance with Permit Type _3__. The specific highways authorized for use by over-posted-weight vehicles and the security amount(s), for the purposes of this Agreement, shall be listed on the document titled "Authorization to Exceed Posted Weight Restrictions" and made a part of this Agreement by reference as though physically attached.

Multiple Users

2. If more than one **USER** seeks to obtain a Type 1 or Type 2 permit to operate overweight vehicles on weight restricted highways that are the subject of an active permit held by another **USER**, the prospective and current **USERS** may agree among themselves as to their relative responsibility for the cost of excess maintenance and each **USER** may then enter into an Agreement with the **POSTING AUTHORITY** to be billed according to their agreed upon shares. If the **USERS** cannot agree upon on their relative responsibility, the **POSTING AUTHORITY** will determine the relative shares and will enter into Agreements with and accept security from any **USER** agreeing to such determination. The preceding shall apply even if one or more **USERS** have already entered into an Agreement and posted security when another **USER** expresses the desire to obtain a permit to operate on the same highway.

Haulers Without Permits

3. The **USER** will promptly notify the **POSTING AUTHORITY** if it becomes aware of any unpermitted haulers that are exceeding the posted weight limits on the roadways that are the subject of this Agreement.

Responsibility of USER

4. The portion(s) of posted highway(s) and appurtenances shall be maintained to a level consistent with the existing state of repair and the requirements included in the attached Exhibit "A". The **USER** may be required to provide a Maintenance Plan detailing expected maintenance procedures and related items to be employed by the **USER**. The Exhibit "A" may include a maintenance plan or a reference to a maintenance plan, which if referenced shall be a part of Exhibit "A" as though physically attached. The nonperformance of normal maintenance by the **POSTING AUTHORITY** shall under no circumstances constitute grounds for an offset or credit against any excess maintenance, preventative maintenance or restoration responsibilities of the **USER**.

The **POSTING AUTHORITY** shall determine, in its discretion, whether the excess and preventative maintenance and restoration are satisfactory.

Inspections and Roadway Condition Surveys

5. The **USER** and the **POSTING AUTHORITY** agree inspections shall be made in order to determine the condition of the portion(s) of the posted highway(s) and appurtenances. The inspections should be conducted jointly by the **POSTING AUTHORITY** and the **USER;** however, the absence of the **USER** shall not prevent the inspection from being conducted. The **POSTING AUTHORITY** shall prepare a document describing the condition of the posted highways(s) and appurtenances together with the nature and extent of any repairs needed to correct any existing damage for which the **USER** may be liable. Photographs and video may also be taken. The documents and photographs and video (if taken), of the initial inspection, shall be incorporated by reference as though physically attached and made a part of this Agreement. The **USER** shall pay all costs associated with the inspections and roadway condition surveys.

a) **Initial Inspection** - Upon full execution of this Agreement and prior to any hauling activity, an initial inspection shall be made. The inspection is used to determine the existing state of repair of the posted highways(s) and appurtenances together with the nature and extent of any repairs needed to correct any existing damage for which the **USER** will not be liable.
b) **Interim Inspection** - The **POSTING AUTHORITY** may, at its discretion, conduct periodic interim or re-inspections to determine the extent of any repairs for which the **USER** may be liable and require immediate attention and to ensure the damages do not exceed the amount of surety provided.
c) **Final Inspection** - A final inspection of the posted highway(s) and appurtenances will be conducted to determine the extent of any repairs needed to correct damages for which the **USER** may be liable.
d) **Roadway Condition Survey** – The **POSTING AUTHORITY** may conduct frequent, but less detailed surveys of the roadway to determine overall condition and identify any areas in need of repair. The survey will be performed when the type or volume of the hauling operation poses an increased risk of roadway damage or threat to public safety.

Performance of Excess and Preventative Maintenance and Restoration

6. Excess and preventative maintenance and restoration shall be performed in accordance with maintenance option A /(B) (circle one) below.

OPTION "A"

The excess and preventative maintenance and restoration shall be performed by the **POSTING AUTHORITY'S** maintenance forces and/or a contractor(s) selected by the **POSTING AUTHORITY** through its prescribed procedures. The excess and preventative maintenance and restoration shall be performed to a level consistent with that agreed to in Paragraph 4 (above). The work shall be in conformance with Pennsylvania Department of Transportations' specifications (*Publication 408* and supplements thereto) and shall be supervised and inspected by the **POSTING AUTHORITY**

The **POSTING AUTHORITY** may invoice the **USER** for the estimated cost of repairs using either the latest maintenance contract prices or the latest average monthly maintenance unit prices. These estimated costs shall be computed for all damages noted on the roadway condition survey, interim inspection and/or final inspection. The **USER** agrees to reimburse the **POSTING AUTHORITY** for all estimated costs. The **POSTING**

AUTHORITY will provide a final invoice, or reimbursement for over-payment, when the actual maintenance and/or restoration work have been completed and actual costs are known.

The **USER** shall submit full payment to the **POSTING AUTHORITY** within 15 calendar days from the date of invoice. If the **USER** fails to make full payment, the **POSTING AUTHORITY** may in its discretion exercise its right under paragraph 10 below.

OPTION "B"

All excess and preventative maintenance and restoration shall be performed by the **USER** and/or its contractor(s). All excess and preventative maintenance and restoration shall be performed to a level consistent with that agreed to in Paragraph 4 (above). The work shall be in conformance with Pennsylvania Department of Transportation Specifications (*Publication 408* and supplements thereto).

The **USER** shall notify the **POSTING AUTHORITY** not less than three working days in advance of performing any excess and preventative maintenance and restoration. The **POSTING AUTHORITY** reserves the right to monitor or direct any excess and preventative maintenance or restoration. The **USER** shall reimburse the **POSTING AUTHORITY** for any expenses so incurred by the **POSTING AUTHORITY**.

All excess, preventative maintenance, and restoration associated with bridges, shall be specifically developed in a memorandum by the **POSTING AUTHORITY** and directed to the **USER** for completion.

If performance Option B has been agreed to, the **USER** shall:

a) Provide proper traffic protection at all times during excess and preventative maintenance and restoration. This protection shall comply with the work area traffic control requirements as contained in the Pennsylvania Department of Transportation's specifications (*Publication 408* and supplements thereto and the Pennsylvania Department of Transportation's *Publication 213).*

b) Provide proper environmental and erosion and sedimentation controls in accordance with Publication 408, Section 107.

c) Comply with the requirements of 25 Pa Code Chapter 102, *Erosion and Sediment Control and Stormwater Management,* 25 Pa Code Chapter 92a, *National Pollutant Discharge Elimination System Permitting, Monitoring and Compliance,* 25 Pa. Code Chapter 105, *Water Obstruction and Encroachment Permitting;* and any other applicable Federal, State, or local laws, ordinances or regulations.

d) Obtain all applicable permits and comply with the conditions included in said permits.

e) Indemnify, save harmless, and defend (if requested) the **POSTING AUTHORITY** and its officers, agents, and employees, from all suits, actions, civil penalties, or claims of any character, name, or description brought for or on account of any violation of law/permit, injuries, death, or damages received or sustained by any person, persons, or property, during the performance of the work on portion(s) of the posted highway(s) and appurtenances to be repaired, by or for the **USER** or its officers, agents, employees, contractors, or representatives, whether the same be due to the use of defective materials, defective workmanship, neglect in safeguarding the work or by or on account of any act, omission, neglect, or misconduct of the **USER** or its officers, agents, employees, contractors, or representatives, during the performance of the work. In addition to any notice provided by a third party insurance company, the **USER** shall also notify the **POSTING AUTHORITY** of any change in insurance coverage, including but not limited to the **USER's** cancellation of its policy. In no event shall any maintenance or restoration activities be performed by the **USER**, or its officers, agents, employees, contractors, or representatives, without the requisite level of insurance and there shall be no lapse in coverage at any time during the duration of this Agreement.

f) Provide evidence to the **POSTING AUTHORITY** of public liability insurance for bodily injury and property damage in the minimum amounts of $250,000 per each person and $1,000,000 each occurrence. This insurance shall be occurrence based. The insurance policy shall cover any loss that might occur during the performance of any excess and preventative maintenance or restoration by the **USER**, or its officers, agents, employees, contractors, or representatives. The **POSTING AUTHORITY** shall be named as an additional insured on the certificate of insurance. A copy of the certificate of insurance shall be attached to this Agreement as Exhibit "H". This insurance shall neither be changed nor cancelled without thirty (30) calendar days' advance written notice of such change or cancellation, excepting fifteen (15) days' advance written notice of cancellation for nonpayment of premium. This advance written notice of change or cancellation shall be forwarded to the **POSTING AUTHORITY'S** office located at _715 Jordan Avenue, Montoursville, PA 17754____.

g) Promptly perform excess and preventative maintenance and restoration as needed pursuant to the requirements included in Exhibit "A". If the **POSTING AUTHORITY** determines that the **USER** is not maintaining or restoring the portion(s) of the of the posted highway(s) and appurtenances to the level agreed to in Paragraph 4 (above), the **POSTING AUTHORITY** will notify the **USER**, in writing, of this determination and the **USER** shall promptly perform the required excess maintenance, preventative maintenance or restoration.

Security

7. To secure the performance of the **USER'S** obligations, the **USER** shall execute and deliver to the **POSTING AUTHORITY** the following type(s) of security, pursuant to 67 PA Code, Chapter 189, *Hauling in Excess of Posted Weight Limit.*

A. Irrevocable Letter of Credit
B. Performance Bond
C. Other Security Acceptable to the **POSTING AUTHORITY**. (Specify Type) __CASHIER'S CHECK_- 9064607031_____.

This Agreement, together with the type(s) of security provided, may be filed in the appropriate prothonotary's office or other registry in a manner and at such time and frequency as the **POSTING AUTHORITY** deems proper. The **USER** shall pay the costs of such filings.

A copy of the security(s) and any supplemental security Agreement shall be attached to this Agreement as an Exhibit "G".

USER irrevocably authorizes any prothonotary, clerk of court, or attorney, in any action commenced for recovery of any amounts due and payable under this Agreement, to assess damages, confess a judgment, and issue writs of execution and/or attachment, without further notice or process, in favor of the **POSTING AUTHORITY**, from time to time and in such amounts as determined by the **POSTING AUTHORITY**. **USER** hereby releases **POSTING AUTHORITY** or any person acting on behalf of **POSTING AUTHORITY** from any liability whatsoever related to entering judgment and executing upon said judgment against **USER**.

Liability of USER

8. The **USER** shall be liable for all costs of excess maintenance and restoration and all other expenses incurred pursuant to this Agreement, including but not limited to costs related to inspections, roadway condition surveys and administration costs.

The **USER** agrees to pay all invoices promptly.

The **USER'S** liability shall not be limited to the total amount of security provided.

The **USER** shall be responsible for third party vehicle and property claims that arise as a result of the **USER** activities.

For maintenance and restoration costs, the **USER** agrees that the **POSTING AUTHORITY** is under no obligation to prove that the **USER** caused the damage.

Termination

9. The **USER** and the **POSTING AUTHORITY** retain the right to terminate their future obligations under this Agreement at any time by submitting a written notice of intent to terminate. As soon as possible after receipt of such notice, the **POSTING AUTHORITY** and the **USER** shall conduct a final inspection of the posted highway(s) and appurtenances.

The posted highway(s) and appurtenances shall be restored to a level consistent with that agreed to in Paragraph 4 (above). Restoration shall be performed by the party(s) agreed to in Paragraph 6 (above).

Upon notice of completion of all required work and reimbursement of all costs incurred by the **POSTING AUTHORITY**, this Agreement shall be terminated and of no further force or effect and all security delivered to the **POSTING AUTHORITY** by the **USER** shall be released.

Remedies

10. If the **USER** fails to comply with any provisions of the Agreement, the **POSTING AUTHORITY** may at its discretion:

a) Notify the **USER** of noncompliance with the Agreement.
b) Require additional security pursuant to Paragraph 12, below.
c) Require additional plans or details to show how the **USER** will restore compliance with this Agreement.
d) Suspend the **USER'S** permission to move vehicles or combinations, together with loads, in excess of the posted weight restriction over and across any posted highway(s) until the **USER** is in compliance with this Agreement.
e) Revoke the **USER's** permission to move vehicles or combinations, together with loads, in excess of the posted weight restriction over and across any posted highway(s).
f) The **POSTING AUTHORITY** may elect to maintain or restore the portion(s) of the posted highway(s) and appurtenances with the **USER** reimbursing the **POSTING AUTHORITY** for all costs so incurred.
g) Proceed against security provided pursuant to Paragraphs 7 and 12 (below)
h) Terminate this Agreement pursuant to Paragraph 9.
i) Any other remedies allowed by law.
j) Any or all of the above.

Closing of Highways

11. This Agreement shall not prohibit the **POSTING AUTHORITY** from closing a highway or bridge to any vehicle or combination in excess of a specific weight if such closing is authorized by law and is necessary for safety, or is a temporary closing due to climatic conditions or an Act of God or war.

Additional Security

12. The **POSTING AUTHORITY** shall have the right to require additional security upon that date the **POSTING AUTHORITY** determines, in its discretion, that the aggregate amount of damage to the posted highway(s) exceeds 75% of the face amount of the security furnished, or the amount published in 67 PA Code Chapter 189(d)(4), as amended, as of the date the **POSTING AUTHORITY** requires the additional security. If additional security is required, it shall be retained by the **POSTING AUTHORITY** until all excess maintenance and/or restorations have been completed. Failure to provide such additional security as is required shall constitute a breach of this Agreement.

Right-to-Know

13. The *Pennsylvania Right-to-Know Law*, 65 P.S. §§ 67.101-3104, as amended, applies to this Agreement. This Agreement is subject to, and the **USER** shall comply with, the clause entitled *Contract Provisions-Right to Know Law 8-K-1532,* as amended, which is attached as Exhibit "B" and made part of this Agreement.

Contractor Provisions

14. The **USER** agrees to comply with the *Contractor Responsibility Provisions,* current version, which is attached as Exhibit "C" and made part of this Agreement, the *Provisions Concerning the Americans with Disabilities Act,* current version, which is attached as Exhibit "D" and made a part of this Agreement, the *Contractor Integrity Provisions,* current version, which is attached as Exhibit "E" and made a part of this Agreement, the *Commonwealth Nondiscrimination/Sexual Harassment Clause,* current version, which is attached as Exhibit "F" and made a part of this Agreement.

Compliance with all Federal, State, and Local Law

15. If the **USER** is notified by any federal, state, or local agency that it is not in full compliance with any federal, state, or local law, regulation, or ordinance associated with preventative and excess maintenance, the **USER** shall immediately correct any such violation or deficiency and shall cease all preventative and excess maintenance until the **USER** is in full compliance. The **USER** shall provide the **POSTING AUTHORITY** with written notice within one working day of any such notification.

Non-waiver

16. The failure by the **POSTING AUTHORITY** to require performance by the **USER** of any provision of this Agreement shall not affect the **POSTING AUTHORITY'S** right to require performance at a time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default, or a waiver of the provision itself.

Severability

17. If any provisions of this Agreement are held unenforceable, then such provision will be modified to reflect the parties' intention. All remaining provisions of this Agreement shall remain in full force and effect.

Choice of Law and Forum

18. This Agreement shall be interpreted under the laws of the Commonwealth of Pennsylvania. Venue for any dispute arising under this Agreement shall be in the Commonwealth of Pennsylvania.

Agreement Supplementation

19. This Agreement and the exhibits attached hereto constitute the entire Agreement between the parties and may not be transferred or assigned without the prior written consent of the parties hereto. This Agreement may be modified or amended by letter amendment to add or subtract routes, increase or decrease the security amount or type, or amend any maintenance plan submitted pursuant to this Agreement or its exhibits. For Commonwealth parties, letter amendments may be signed solely by the District Administrator or his or her authorized designee.

COMMONWEALTH OF PENNSYLVAINA
POSTING AUTHORITY
EXCESS MAINTENANCE AGREEMENT

▼ DO NOT WRITE BELOW THIS LINE--FOR USER USE ONLY ▼

IN WITNESS WHEREOF, the parties have executed this Agreement the date first above written.

USER Phone Number: **USER** Fax Number:

ATTEST:

Signature 10-19-11 Date

EVP
Attest Title

BY
Signature 10-19-11 Date

VP of ENGINEERING
Authorized Signatory Title

If a Corporation, the President or Vice-president must sign and the Secretary, Treasurer, Assistant Secretary or Assistant Treasurer must attest; if a Sole Proprietorship, only the owner must sign; if a Partnership, only one partner need sign; if a Limited Partnership, only the general partner must sign. If a Municipality, Authority or other entity, please attach a resolution.

▼ DO NOT WRITE BELOW THIS LINE--FOR POSTING AUTHORITY USE ONLY ▼

_PA Department of Transportation, District 3-0_____
Name of **POSTING AUTHORITY**

By: Sandra Toda 11/28/2011
Signature Date

▼ DO NOT WRITE BELOW THIS LINE--FOR COMMONWEALTH USE ONLY ▼

APPROVED AS TO LEGALITY AND FORM

BY Michael A. Kline
For Chief Counsel GR 11/29/11 Date 11/30/11

Preapproved Form:
OGC No. 18-K-4040
Approved OAG April 21, 2011

pennsylvania
DEPARTMENT OF TRANSPORTATION

M-4902-A (08/2010)

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
EXCESS MAINTENANCE AGREEMENT

SPECIAL CONDITIONS AND/OR RESTRICTIONS

EXHIBIT "A"

Posting Authority Agreement # _730076____ issued against/for Permit #: _various_____
is subject to the below listed special conditions and/or restrictions set forth and attached hereto.

Special Conditions and/or Restrictions:

EMERGENCY CONTACT INFORMATION FOR ROAD REPAIRS FOR INFLECTION ENERGY, LLC

FORCE INCORPORATED
1077 RTE 119 HWY NORTH
INDIANA, PA 15701
(724) 465-9399

BUSINESS PARTNER ID# 005149

ADAM BOTSFORD
PROJECT MANAGER
(412) 289-2281

BRYAN FORCE
PRESIDENT
(412) 289-0069

BY Sandra Tosca
District Executive or Authorized Signatory

Date: 11 / 28 /20 11

Form M-4902A (6-10) – Exhibit ""A"

Reproduce Locally

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

EXHIBIT B

Contract Provisions – Right to Know Law 8-K-1532

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.

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.

THE AMERICANS WITH DISABILITIES ACT

During the term of this contract, 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 contract or from activities provided for under this contract. As a condition of accepting and executing this contract, 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 of Pennsylvania through contracts with outside contractors.

2. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Contractor's failure to comply with the provisions of paragraph 1.

EXHIBIT D

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 procurement process.

In furtherance of this policy, Contractor agrees to the following:

1. 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 with the Commonwealth.

2. Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to Contractor employee activity with the Commonwealth and Commonwealth employees, and which is distributed and made known to all Contractor employees.

3. Contractor, its affiliates, agents and employees shall not influence, or attempt to influence, any Commonwealth employee to breach the standards of ethical conduct for Commonwealth employees set forth in the *Public Official and Employees Ethics Act, 65 Pa.C.S. §§1101 et seq.*; the *State Adverse Interest Act, 71 P.S. §776.1 et seq.*; and the *Governor's Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq.*, or to breach any other state or federal law or regulation.

4. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person at the direction or request of any Commonwealth official or employee.

5. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person, the acceptance of which would violate the *Governor's Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq.* or any statute, regulation, statement of policy, management directive or any other published standard of the Commonwealth.

6. Contractor, its affiliates, agents and employees shall not, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any Commonwealth official or employee.

7. Contractor, its affiliates, agents, employees, or anyone in privity with him or her shall not accept or agree to accept from any person, any gratuity in connection with the performance of work under the contract, except as provided in the contract.

8. Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project, 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.

9. Contractor, its affiliates, agents and employees shall not disclose to others any information, documents, reports, data, or records provided to, or prepared by, Contractor under this contract without the prior written approval of the Commonwealth, except as required by the *Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104*, or other applicable law or as otherwise provided in this contract. Any information, documents, reports, data, or records secured by Contractor from the Commonwealth or a third party in connection with the performance of this contract shall be kept confidential unless disclosure of such information is:

   a. Approved in writing by the Commonwealth prior to its disclosure; or

   b. Directed by a court or other tribunal of competent jurisdiction unless the contract requires prior Commonwealth approval; or

   c. Required for compliance with federal or state securities laws or the requirements of national securities exchanges; or

   d. Necessary for purposes of Contractor's internal assessment and review; or

   e. Deemed necessary by Contractor in any action to enforce the provisions of this contract or to defend or prosecute claims by or against parties other than the Commonwealth; or

   f. Permitted by the valid authorization of a third party to whom the information, documents, reports, data, or records pertain: or

   g. Otherwise required by law.

10. Contractor certifies that neither it nor any of its officers, directors, associates, partners, limited partners or individual owners has not been officially notified of, charged with, or convicted of any of the following and agrees to immediately notify the Commonwealth agency contracting officer in writing if and when it or any officer, director, associate, partner, limited partner or individual owner has been officially notified of, charged with, convicted of, or officially notified of a governmental determination of any of the following:

   a. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.

b. Commission of fraud or a criminal offense or other improper conduct or knowledge of, approval of or acquiescence in such activities by Contractor or any affiliate, officer, director, associate, partner, limited partner, individual owner, or employee or other individual or entity associated with:

(1) obtaining;

(2) attempting to obtain; or

(3) performing a public contract or subcontract.

Contractor's acceptance of the benefits derived from the conduct shall be deemed evidence of such knowledge, approval or acquiescence.

c. Violation of federal or state antitrust statutes.

d. Violation of any federal or state law regulating campaign contributions.

e. Violation of any federal or state environmental law.

f. Violation of any federal or state law regulating hours of labor, minimum wage standards or prevailing wage standards; discrimination in wages; or child labor violations.

g. Violation of the *Act of June 2, 1915 (P.L.736, No. 338)*, known as the *Workers' Compensation Act,* 77 P.S. 1 *et seq.*

h. Violation of any federal or state law prohibiting discrimination in employment.

i. Debarment by any agency or department of the federal government or by any other state.

j. Any other crime involving moral turpitude or business honesty or integrity.

Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause upon such notification or when the Commonwealth otherwise learns that Contractor has been officially notified, charged, or convicted.

11. If this contract was awarded to Contractor on a non-bid basis, Contractor must, (as required by *Section 1641* of the *Pennsylvania Election Code*) file a report of political contributions with the Secretary of the Commonwealth on or before February 15 of the next calendar year. The report must include an itemized list of all political contributions known to Contractor by virtue of the knowledge possessed by every officer, director, associate, partner, limited partner, or individual owner that has been made by:

a. Any officer, director, associate, partner, limited partner, individual owner or members of the immediate family when the contributions exceed an aggregate of one thousand dollars ($1,000) by any individual during the preceding year; or

b. Any employee or members of his immediate family whose political contribution exceeded one thousand dollars ($1,000) during the preceding year.

To obtain a copy of the reporting form, Contractor shall contact the Bureau of Commissions, Elections and Legislation, Division of Campaign Finance and Lobbying Disclosure, Room 210, North Office Building, Harrisburg, PA 17120.

12. Contractor shall comply with requirements of the *Lobbying Disclosure Act, 65 Pa.C.S. § 13A01 et seq.*, and the regulations promulgated pursuant to that law. Contractor employee activities prior to or outside of formal Commonwealth procurement communication protocol are considered lobbying and subjects the Contractor employees to the registration and reporting requirements of the law. Actions by outside lobbyists on Contractor's behalf, no matter the procurement stage, are not exempt and must be reported.

13. When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or in these 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 Commonwealth Inspector General in writing.

14. 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.

15. Contractor shall cooperate with the Office of Inspector General in its investigation of any alleged Commonwealth employee breach of ethical standards and any alleged Contractor non-compliance with these provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of the Office of 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 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 refers to or concern this contract.

16. 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.

17. For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Paragraph 17.

a. "Confidential information" means information that a) is not already in the public domain; b) is not available to the public upon request; c) is not or does not become generally known to Contractor from a third party without an obligation to maintain its confidentiality; d) has not become generally known to the public through a act or omission of Contractor; or e) has not been independently developed by Contractor without the use of confidential information of the Commonwealth.

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 pre-qualification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this contract.

c. "Contractor" means the individual or entity that has entered into this contract with the Commonwealth, including those directors, officers, partners, managers, and owners having more than a five percent interest in Contractor.

d. "Financial interest" means:

(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.

e. "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.

f. "Immediate family" means a spouse and any unemancipated child.

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.

h. "Political contribution" means any payment, gift, subscription, assessment, contract, payment for services, dues, loan, forbearance, advance or deposit of money or any valuable thing, to a candidate for public office or to a political committee, including but not limited to a political action committee, made for the purpose of influencing any election in the Commonwealth of Pennsylvania or for paying debts incurred by or for a candidate or committee before or after any election.

NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE [Contracts]

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, by reason of gender, race, creed, or color, discriminate 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 against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract on account of gender, race, creed, or color.
3. The Contractor and each subcontractor shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
4. The Contractor and each subcontractor shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the contracts relates.
5. The Contractor and each subcontractor shall, within the time periods requested by the Commonwealth, furnish all necessary employment documents and records and permit access to their books, records, and accounts by the contracting agency and the Bureau of Minority and Women Business Opportunities (BMWBO), for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause. Within fifteen (15) days after award of any contract, the Contractor shall be required to complete, sign and submit Form STD-21, the "Initial Contract Compliance Data" form. If the contract is a construction contract, then the Contractor shall be required to complete, sign and submit Form STD-28, the "Monthly Contract Compliance Report for Construction Contractors", each month no later than the 15th of the month following the reporting period beginning with the initial job conference and continuing through the completion of the project. Those contractors who have fewer than five employees or whose employees are all from the same family or who have completed the Form STD-21 within the past 12 months may, within the 15 days, request an exemption from the Form STD-21 submission requirement from the contracting agency.
6. 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.
7. 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.

EXHIBIT F

Check is in District 3-0
Safe

282111107 NEW 01/08 8810004306

HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK

CHASE

CASHIER'S CHECK

HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK

9064607031 25-3/440

Date 11/21/2011

Remitter INFLECTION ENERGY LLC

Pay: TEN THOUSAND DOLLARS AND 00 CENTS

$ *********10,000.00 ***

Pay To The Order Of COMMONWEALTH OF PENNSYLVANIA
AGREEMENT #730076

Drawer: **JPMORGAN CHASE BANK, N.A.**

Michael Andrews

Senior Vice President
JPMorgan Chase Bank, N.A.
Columbus, OH

Security Features Details on Back.

⑈9064607031⑈ ⑆044000037⑆ 7586613 83⑈

Client#: 30753 INFLENE

ACORD™ # CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 11/15/2011

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
IMA of Colorado, Inc.
1550 17th Street, Suite 600
Denver, CO 80202
303 534-4567

CONTACT NAME:
PHONE (A/C, No, Ext): 303 534-4567 FAX (A/C, No): 303-534-0600
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Federal Insurance Company	20281
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Inflection Energy LLC
1125 17th Street, Suite 2540
Denver, CO 80202

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY			35907613	05/29/2011	05/29/2012	EACH OCCURRENCE	$1,000,000
	X COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	$1,000,000
	CLAIMS-MADE X OCCUR						MED EXP (Any one person)	$10,000
							PERSONAL & ADV INJURY	$1,000,000
							GENERAL AGGREGATE	$2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COMP/OP AGG	$2,000,000
	X POLICY PRO-JECT LOC							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	ANY AUTO						BODILY INJURY (Per person)	$
	ALL OWNED AUTOS / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS / NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB / OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB / CLAIMS-MADE						AGGREGATE	$
	DED / RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATU-TORY LIMITS / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N	N / A					E.L. EACH ACCIDENT	$
	(Mandatory in NH)						E.L. DISEASE - EA EMPLOYEE	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Commonwealth of PA is included as Additional Insured on the General Liability policy if required by written contract or agreement subject to the policy terms and conditions.
The Insurer will provide 30 days written notice of cancellation to the Certificate Holder for cancellation reasons other than non-payment of premium. The Insurer will provide 15 days written notice of cancellation to the Certificate Holder for non-payment of premium. The Insurer will provide 60 days written notice of non-renewal to the Certificate Holder.

CERTIFICATE HOLDER

Commonwealth of PA
PenDOT District 3
715 Jordan Avenue
Attn: Dave Neylon
Montoursville, PA 17754

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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