

State of New Hampshire

DEPARTMENT OF SAFETY OFFICE OF THE COMMISSIONER

33 HAZEN DR. CONCORD, NH 03305 603/271-2791

JOHN J. BARTHELMES COMMISSIONER

March 14, 2013

Her Excellency, Governor Margaret Wood Hassan and the Honorable Council State House Concord, New Hampshire 03301

Requested Action

Pursuant to RSA 263:34-b, authorize the Department of Safety (DOS), Division of Motor Vehicles, to enter into an agreement with the Motorcycle Safety Foundation (MSF) (VC# 170324-B001), 2 Jenner Street, Irvine, California 92618-3806, for an amount not to exceed \$27,605.00 to provide liability insurance and training materials for the Motorcycle Rider Education Program and to accept the terms and conditions of the MSF Rider Education Recognition Program Agreement. The contract will be effective upon Governor and Executive Council approval through December 15, 2013. Funding Source: 100% Agency Income.

Funds are available in the SFY2013 operating budget and are contingent upon availability and continued appropriations in SFY2014 with the authority to adjust between fiscal years through the Budget Office if needed and justified.

02-23-23-233010-82000000	Dept. of Safety	Division of Motor	Vehicles	Motorcycle Ride	r Educ Prog
Motorcycle Rider Education	Fund		SFY2013	SFY2014	TOTAL
020-500250 Current Expense	, Insurance & Bond	Premium	\$11,116.10	\$11,116.10	\$22,232.20
020-500200 Supplies			\$ 2,686.40	\$ 2,686.40	\$ 5,372.80
					\$27,605.00

Explanation

The Motorcycle Safety Foundation is a nationally recognized non-profit, national association with a standardized program developed to educate motorcycle riders, incorporating both classroom and riding exercise skills and evaluations, in the Basic Rider Course (BRC) and Basic Rider Course 2 (BRC2), under the terms and conditions of the MSF Rider Education Recognition Program Agreement. MSF also provides classroom materials including student workbooks and other supplies and forms to comply with the requirements of the MSF Rider Education Recognition Program Agreement.

The Department of Administrative Services, Risk Management Unit recommended that liability insurance be obtained for the Motorcycle Rider Education Program's training courses. FIAI, Inc., d/b/a Ferdinando Insurance Associates, Inc., arranged for this insurance purchase in accordance with its contract with the State for Producer Services for Property and Casualty Insurance. Grady Crews, the account executive from FIAI, Inc., met with the Risk Management Unit to discuss the Motorcycle Rider Education Program liability insurance needs and budget. The Department of Safety, Division of Motor Vehicles, indicated to the Risk Management Unit that the Department was interested in securing the same coverage terms and conditions as the previous term.

Mr. Crews made inquiries to specific insurance markets about the program. Two markets were interested and supplied quotations. The Motorcycle Safety Foundation offered the most competitive rates at \$0.94 per class and \$5.90 per student for the BRC students and \$0.94 per class and \$5.84 per student for the BRC2 students. The insurance premium is based upon up to 310 BRC and BRC2 classes at \$0.94 per class, and up to 3,600 BRC students and up to 120 BRC2 students. There is a \$0.02 increase per class and a \$0.02 decrease per student from the 2012 season. Mr. Crews recommends securing insurance coverage with the Motorcycle Safety Foundation. He notes that the Motorcycle Safety Foundation is a unique program that specifically meets the needs of the Department of Safety's Motorcycle Rider Education Program. The Risk Management Unit concurs with Mr. Crews' recommendation.

Her Excellency, Governor Margaret Wood Hassan and the Honorable Council March 14, 2013 Page 2 of 2

The training season is from April 1 through October 31, 2012, contingent upon weather conditions, with our first classes scheduled on the weekend of April 6, 2013. Approval of this contract will accept the terms and conditions of the MSF Rider Education Recognition Program Agreement; provide liability insurance coverage for all students and instructors at the Motorcycle Rider Education Program training facilities located throughout New Hampshire during the 2013 training season; and provide the necessary classroom supplies and materials for the 2013 training season.

Respectfully submitted,

John J. Barthelmes Commissioner of Safety Concurred,

Linda M. Hodgdon

Commissioner of Administrative Services

MARKETING RESULTS

FIAI, Inc conducted marketing for the Motorcycle Safety Foundation - Rider Education Program insurance purchase in accordance with its contract with the State for Producer Services for Property and Casualty Insurance. Grady Crews, the account executive from FIAI, Inc made inquiries to specific insurance markets about the program. Two markets were interested and provided quotes.

Market Approached	RESULTS	
Motorcycle Safety Foundation (MSF)	\$27,605.00	
Philadelphia via US Insurance	\$31,750.80	

Subject	MSF	Philadelphia	
Liability: \$1,000,000 / \$2,000,000		\$21,333	
Liability: \$2,000,000 / \$2,000,000	\$22,232.20		
Educators Professional	Included	2,838	
Medical Payments \$10,000	Included	Included	
Total- including terrorism	\$22,232.20	\$24,171	
Terrorism - will be declined		-\$49	
SubTotal	\$22,232.20	\$24,122	
Umbrella - \$1,000,000 / \$1,000,000		\$2,256	
Classroom Supplies provided by MSF	\$5,372.80	\$5,372.80	
Total cost	\$27,605.00	\$31,750.80	

Optional Coverage	MSF	Philadelphia
Inland Marine		\$7,162
		\$250 deductible

Mr. Crews secured an optional quote through Philadelphia Insurance for physical damage for the motorcycle units used in the Rider Education Program. Mr Crews recommends that the State should consider this option as they have no means to handle a physical damage loss within their budget process. The Department of Safety has declined this option.

Mr. Crews recommends securing insurance coverage with Motorcycle Safety Foundation (MSF) because they presented the most competitive and comprehensive terms in comparison to the other market approached. The Risk Management Unit agrees with Mr. Crews' recommendation.



Subject:

Motorcycle Rider Training Program Liability Insurance

FORM NUMBER P-37 (version 1/09)

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATION.				
1.1 State Agency Name	1.2 State Agency Address			
Department of Safety	33 Hazen Drive, Concord, NH 03305			
1.3 Contractor Name	1.4 Contractor Address			
Motorcycle Safety Foundation	2 Jenner, Suite 150, Irvine, California 92618-3806			
1.5 Contractor Phone 1.6 Account Number	1.7 Completion Date 1.8 Price Limitation			
Number 949-727-3227 see Exhibit B	December 15, 2013 not to exceed \$27,605.00			
1.9 Contracting Officer for State Agency	1.10 State Agency Telephone Number			
John T. Beardmore	603-227-4050			
1.11 Contractor Signature	1.12 Name and Title of Contractor Signatory			
Tim Buch	Tim Buche, President			
1.13 Acknowledgement: State of CALIFORNIA, County of	OPANGE			
On FERNAM 12,2013, before the undersigned officer, person	ally appeared the person identified in block 1.12, or satisfactorily			
proven to be the person whose name is signed in block 1.11, and	acknowledged that s/he executed this document in the capacity			
proven to be the person whose name is signed in block 1.11, and indicated in block 1.12. 1.13.1 Signature of Notary Public or Justice of the Peace [Seal]	LENORE D. STJERNE Commission # 1888898 Notary Public - California Orange County			
proven to be the person whose name is signed in block 1.11, and indicated in block 1.12. 1.13.1 Signature of Notary Public or Justice of the Peace [Seal] 1.13.2 Name and Title of Notary or Justice of the Peace	LENORE D. STJERNE Commission # 1888898 Notary Public - California Orange County My Comm. Expires Jun 6, 2014			
proven to be the person whose name is signed in block 1.11, and indicated in block 1.12. 1.13.1 Signature of Notary Public or Justice of the Peace [Seal]	LENORE D. STJERNE Commission # 1888898 Notary Public - California Orange County My Comm. Expires Jun 6, 2014			
proven to be the person whose name is signed in block 1.11, and indicated in block 1.12. 1.13.1 Signature of Notary Public or Justice of the Peace [Seal] 1.13.2 Name and Title of Notary or Justice of the Peace	LENORE D. STJERNE Commission # 1888898 Notary Public - California Orange County My Comm. Expires Jun 6, 2014			
proven to be the person whose name is signed in block 1.11, and indicated in block 1.12. 1.13.1 Signature of Notary Public or Justice of the Peace [Seal] 1.13.2 Name and Title of Notary or Justice of the Peace [LENDRE D. STJERNE NOTARY RUE] 1.14 State Agency Signature	LENORE D. STJERNE Commission # 1888898 Notary Public - California Orange County My Comm. Expires Jun 6, 2014 1.15 Name and Title of State Agency Signatory John Bandmore, Dilector of Alminshing			
proven to be the person whose name is signed in block 1.11, and indicated in block 1.12. 1.13.1 Signature of Notary Public or Justice of the Peace [Seal] 1.13.2 Name and Title of Notary or Justice of the Peace [LENDRE D. STJERNE NOTARY RUE] 1.14 State Agency Signature	LENORE D. STJERNE Commission # 1888898 Notary Public - California Orange County My Comm. Expires Jun 6, 2014 1.15 Name and Title of State Agency Signatory John Bandmore, Dilector of Alminshing			
proven to be the person whose name is signed in block 1.11, and indicated in block 1.12. 1.13.1 Signature of Notary Public or Justice of the Peace [Seal] 1.13.2 Name and Title of Notary or Justice of the Peace [LENDRE D. STJERNE NOTARY RUE] 1.14 State Agency Signature 1.16 Approval by the N.H. Department of Administration, Divi	LENORE D. STJERNE Commission # 1888898 Notary Public - California Orange County My Comm. Expires Jun 6, 2014 1.15 Name and Title of State Agency Signatory John Backmare, Dilector of Alminghan sion of Personnel (if applicable) Director, On:			
proven to be the person whose name is signed in block 1.11, and indicated in block 1.12. 1.13.1 Signature of Notary Public or Justice of the Peace [Seal] 1.13.2 Name and Title of Notary or Justice of the Peace [Seal] 1.14 State Agency Signature 1.16 Approval by the N.H. Department of Administration, Divi By:	LENORE D. STJERNE Commission # 1888898 Notary Public - California Orange County My Comm. Expires Jun 6, 2014 1.15 Name and Title of State Agency Signatory John Boundary Sion of Personnel (if applicable) Director, On: Execution)			

2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("Effective Date"). 3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.
5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination. 6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

Contractor Initials
Date 2.12.13

8. EVENT OF DEFAULT/REMEDIES.

- 8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):
- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or 8.1.3 failure to perform any other covenant, term or condition of this Agreement.
- 8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions: 8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination; 8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;
- 8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or
- 8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

9. DATA/ACCESS/CONFIDENTIALITY/ PRESERVATION.

- 9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.
- 9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason. 9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data
- requires prior written approval of the State.
- 10. TERMINATION. In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination

Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

11. CONTRACTOR'S RELATION TO THE STATE. In

the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Contractor without the prior written consent of the State.

13. INDEMNIFICATION. The Contractor shall defend. indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

- 14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:
- 14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 per occurrence; and
- 14.1.2 fire and extended coverage insurance covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property. 14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.
- 14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be

attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy.

15. WORKERS' COMPENSATION.

- 15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("Workers' Compensation").
- 15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.
- 16. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.
- 17. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.
- **18. AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire.

19. CONSTRUCTION OF AGREEMENT AND TERMS.

This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual

- intent, and no rule of construction shall be applied against or in favor of any party.
- **20. THIRD PARTIES.** The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.
- 21. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.
- **22. SPECIAL PROVISIONS.** Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.
- 23. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.
- **24. ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

Exhibit A

Motorcycle Rider Education Program Motorcycle Safety Foundation – Liability Insurance - Course Materials & Rider Education Recognition Program Agreement

Scope of Services

The Motorcycle Safety Foundation (MSF), 2 Jenner Street, Suite 150, Irvine, California, 92618-3806, (VC# 170324-B001) shall provide liability insurance through an authorized agent, and classroom books, materials and supplies, for the Department of Safety, Division of Motor Vehicles, Motorcycle Rider Education Program (MREP) under the terms and conditions of the MSF - Rider Education Recognition Program Agreement.

- 1. The MSF Rider Education Recognition Program Agreement is accepted by the MREP and is included under Attachments and is hereby made part of this agreement.
- Liability insurance shall be provided through an authorized agent, BB&T Insurance Services, or other approved agent licensed to transact business in the State of New Hampshire, for the MREP.
 - 2.1. Liability insurance shall be provided as described in the MSF proposal.
 - 2.2. Liability insurance shall be provided at the (3) Concord, Laconia, Whitefield, North Haverhill, Portsmouth, Hooksett, Keene, Londonderry and Nashua training sites. Any additional training sites added during the term of the agreement shall be provided to the MSF.
- 3. Classroom books, materials and supplies shall be ordered as required by the MREP, throughout the 2013 training season.
- 4. This agreement shall be effective upon its approval by the New Hampshire Governor and Executive Council through December 15, 2013.
- 5. The contact person for the MSF is Laurie Longville or her designee, telephone # 949-727-3227 ext. 3002, or llongville@msf-usa.org
- 6. The contact person for BB&T Insurance Services is Sanjay Mehta or his designee, telephone 714-578-7247
- 7. The contact person for the MREP program is Kathleen Daley or her designee, telephone # 603-227-4025, or <u>kathleen.daley@dos.nh.gov</u>.

Exhibit B

Motorcycle Rider Education Program Motorcycle Safety Foundation – Liability Insurance - Course Materials &

Rider Education Recognition Program Agreement

Payment Schedule

The payment schedule for transfer of funds from the Department of Safety to the Motorcycle Safety Foundation, 2 Jenner Street, Suite 150, Irvine, California, 92618-3806 is contingent upon approval of this agreement by the New Hampshire Governor and Executive Council and the following.

- 1. Liability insurance payments shall be made on a quarterly basis, based on the number of classes presented by the MREP and number of students trained, upon receipt of invoices by the MREP program from the MSF.
- 2. Classroom books, supplies and materials payments shall be made on invoices from the MSF for orders received, by the MREP
- 3. Payments shall be made to the MSF as follows:
 - 3.1. Liability Insurance payments

Per class cost and per student cost is for the Basic Rider Course (BRC) and Basic Rider Course 2 (BRC2).

	Pe Pe	Each er class cost BRC er class cost BRC2 er student cost BRC er student cost BRC2	Estima \$0.94 \$0.94 \$5.90 \$5.84	300 10 3,600 120	Total \$ 282.00 \$ 9.40 \$21,240.00 \$ 700.80
	023-23-23-8200-020-50	0250			\$22,232.20
3.2.	Classroom supplies BRC workbooks RC Guide Stop watch BRC range cards BRC2 range cards Training DVD Whistle	\$ 1.60 2,500 \$50.00 12 \$29.58 10 \$15.00 2 \$19.00 2 \$40.00 16 \$ 3.00 13)	\$ 259 \$ 30 \$ 38 \$ 400	0.00 0.00 0.80 0.00 3.00 0.00 5.00
	023-23-23-820	0-020-500200			\$ <u>5,372.80</u>

4. Total Agreement not to exceed.

\$27,605.00

Date 2 · 12 · 13 Initials

Page 6 of 8

Exhibit C

$\begin{tabular}{ll} Motorcycle Rider Education Program \\ Motorcycle Safety Foundation — Liability Insurance - Course Materials & & \\ \end{tabular}$

Rider Education Recognition Program Agreement

Special Provisions

There are no special provisions.

State of New Hampshire Bepartment of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that Motorcycle Safety Foundation, Inc. a(n) District of Columbia corporation, is authorized to transact business in New Hampshire and qualified on October 23, 2006. I further certify that all fees and annual reports required by the Secretary of State's office have been received.



In TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 20th day of February, A.D. 2013

William M. Gardner Secretary of State



February 8, 2013

To Whom it May Concern:

The authority granted to Tim Buche as president in the Motorcycle Safety Foundation Resolution dated September 19, 1996, is still in full force today and was in full force on February 8, 2013 giving Tim Buche full authorization to sign off on agreements and to give other authorized individuals authorization to enter into agreements on behalf of the Motorcycle Safety Foundation.

Sincerely,

Russ Brenan Board of Trustee

Motorcycle Safety Foundation

September 19, 1996

MOTORCYCLE SAFETY FOUNDATION

RESOLUTION

WHEREAS, the president of the Foundation, Mr. Alan Isley, has given notice of his intent to retire from his employment at the Motorcycle Industry Council, and

WHEREAS, the Foundation has a contract with the Motorcycle Industry Council for the services of a shared-time president, and the Motorcycle Industry Council has, after a careful executive search and selection process, employed Mr. Tim Buche as president, it is hereby

RESOLVED, that the Motorcycle Safety Foundation Board of Trustees elect Tim Buche as president to serve under the existing contract with the Motorcycle Industry Council.

☐ **Disagree**

Trustee Signature

Member Company

RESOLUTION

WHEREAS, the Motorcycle Safety Foundation, Inc. member dues are collected periodically in advance of actual expenditures, and,

WHEREAS, it is the intent of the Board of Trustees to maximize the earning potential of the corporation consistent with a conservative investment policy and efficient administration, it is hereby

RESOLVED to authorize Tim Buche, President; Roger Hagie, Secretary/Treasurer; and Carol A. Kington, Vice President, Administration to sign documents in the form prescribed by Banks and/or Savings and Loan companies to open operating accounts, money market accounts, certificates of deposit and/or other short term investment accounts, so long as these institutions are insured by the FDIC or FSLIC. In addition, Thomas S. Yager, Vice President, Safety Programs and Laurie Longville, Program Administrator are authorized as additional second signers on any bank accounts opened.

By this resolution the Secretary is authorized to sign resolutions as printed on the individual standard forms to open such accounts in the wording specified by each Bank or Savings and Loan company.

I Urates Stoughnus

Member Company

□ Disagree

☐ Abstalr

CALIFORNIA JURAT WITH AFFIANT STATEMENT

See Attached Document (Notary to cross out lines 1-6 below) See Statement Below (Lines 1–5 to be completed only by document signer[s], not Notary) Signature of Document Signer No. 1 Signature of Document Signer No. 2 (if any) State of California County of Subscribed and sworn to (or affirmed) before me on this (1)proved to me on the basis of satisfactory evidence to be the person who appeared before me (.) (,) MELISSA J. LIPPAND Commission # 1891649 Notary Public - California **Orange County** (2)Comm. Expires Jun 28, 201 proved to me on the basis of satisfactory evidence to be the person who appeared before me.) Place Notary Seal Above OPTIONAL -Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent OF SIGNER #2 OF SIGNER #1 fraudulent removal and reattachment of this form to another document. Top of thumb here Top of thumb here **Further Description of Any Attached Document** Title or Type of Document: Signer(s) Other Than Named Above:

305MOTORSAF

ACORD.

CERTIFICATE OF LIABILITY INSURANCE

Client#: 1245467

DATE (MM/DD/YYYY) 2/12/2013

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		CONTACT NAME:				
BB&T Insurance Services		PHONE 744 579 7000 FAX				
of Orange County			o):			
of Orange County		E-MAIL ADDRESS:				
680 Langsdorf Drive Suite 10	0	AUUNESS.				
		INSURER(S) AFFORDING COVERAGE	NAIC#			
Fullerton, CA 92831		INSURER A: Federal Insurance Company	20281			
Motorcycle Safety Foundation 2 Jenner, Ste 150 Irvine, CA 92618	Foundation	INSURER B: Hartford Underwriters Insurance	30104			
		INSURER C: ACE American Insurance Company	22667			
		INSURER D :				
		INSURER E :				
		INSURER F:				
COVERAGES	CERTIFICATE NUMBER:	REVISION NUMBER:	·			

	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		ADDL SUBR		POLICY EFF (MM/DD/YYYY)		LIMIT	s		
Α	GENERAL LIABILITY		79497162			EACH OCCURRENCE	s 2,000,000		
	X COMMERCIAL GENERAL LIABILITY			1		DAMAGE TO RENTED PREMISES (Ea occurrence)	s100,000		
	CLAIMS-MADE X OCCUR					MED EXP (Any one person)	s O		
						PERSONAL & ADV INJURY	s 2,000,000		
						GENERAL AGGREGATE	s 2,000,000		
	GEN'L AGGREGATE LIMIT APPLIES PER.	!				PRODUCTS - COMP/OP AGG	s 2,000,000		
	POLICY PRO- JECT LOC						\$		
	AUTOMOBILE LIABILITY					COMBINED SINGLE LIMIT (Ea accident)	\$		
	ANY AUTO					BODILY INJURY (Per person)	\$		
	ALL OWNED SCHEDULED AUTOS					BODILY INJURY (Per accident)	\$		
	HIRED AUTOS NON-OWNED AUTOS					PROPERTY DAMAGE (Per accident)	\$		
							\$		
	UMBRELLA LIAB OCCUR					EACH OCCURRENCE	\$		
	EXCESS LIAB CLAIMS-MADE	<u>'</u>				AGGREGATE	\$		
	DED RETENTION \$						\$		
В	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY		72WEES1017	04/01/2012	04/01/2013	X WC STATU- TORY LIMITS ER			
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?	N/A				E.L. EACH ACCIDENT	s1,000,000		
	(Mandatory in NH)	"				E.L. DISEASE - EA EMPLOYEE	s1,000,000		
	If yes, describe under DESCRIPTION OF OPERATIONS below					E.L. DISEASE - POLICY LIMIT	s1,000,000		
С	C Accident		BINDERPTPN04963106	12/15/2012	12/15/2013	AD&D Principal Sum \$10K			
		:				Medical \$10K Denta	I \$1K		
DES	DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)								

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach accept on), Additional Remarks Schedule, if more space is required)
This OPERATIONATE DEDIT A CEC ANY DESCRIPTION OF A CEC ANY DESCRIPTION

THIS CERTIFICATE REPLACES ANY PREVIOUSLY ISSUED

The Certificate Holder is an additional insured as respects to the General Liability coverage as required by

written contract subject to policy terms, conditions and exclusions. Professional Liability for Instructors is Included.

CERTIFICATE HOLDER	CANCELLATION
State of NH - Department of Safety 23 Hazen Drive	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
Concord, NH 03305	AUTHORIZED REPRESENTATIVE
	Roger Wilber
	C 4000 0040 4000D CORDODATION AND I I

CANCELLATION

CERTIFICATE UOI DER



680 Langsdorf Drive, Suite 100 P.O. Box 34009 Fullerton, CA 92834-9409 (714) 578-7000 (877) 297-1101 CA License #0619252

March 8, 2013

Mr. Arthur Garlow Assistant Director Division of Motor Vehicles 23 Hazen Drive Concord, NH 03305

RE: Motorcycle Safety Foundation Workers Compensation Policy

To Whom It May Concern:

Please be advised that the Workers Compensation Policy that expires on 4/1/13 is currently in the renewal process. Once coverage is bound a renewal certificate will be issued. Please feel free to contact me directly at 714-578-7246 if you have any questions at all.

Thank you,

Valarie Maddox, CISR, AINS

Account Manager

TITLE XXI MOTOR VEHICLES

CHAPTER 263 DRIVERS' LICENSES

Motorcycle Rider Education Program

Section 263:34-b

263:34-b Motorcycle Rider Education Program. -

- I. The director shall establish standards for and shall administer the motorcycle rider education program. The standards shall include, but not be limited to, standards for a nationally accepted and state-approved rider training course. The director may expand the program to include public awareness, alcohol and drug effects, driver improvement for motorcyclists, licensing improvement, program promotion, or other motorcycle safety programs.
- II. The director shall appoint a program coordinator who shall oversee and direct the program by setting program and funding guidelines, and conduct an annual evaluation.
- III. The director may also appoint one or more training specialists who shall assist in establishing rider training courses throughout the state, support and implement program and funding guidelines and supervise instructors and other personnel as necessary. The training specialist may be a trained chief instructor. Rider training courses shall meet minimum standards established by the director, designed to develop and instill the knowledge, attitudes, habits, and skills necessary for the safe operation of a motorcycle.
- IV. Rider training courses shall be open to all residents of the state who either hold a current valid driver's license for any classification or who are eligible for a motorcycle learner's permit. The director may allow residents of other states who hold a current valid driver's license to take a rider training course only if an adequate number of rider training courses have been provided for New Hampshire residents.
- V. An adequate number of rider training courses shall be provided to meet the reasonably anticipated needs of all persons in the state who are eligible and who desire to participate in the program. The division shall issue certificates of completion in the manner and form prescribed by the director to persons who satisfactorily complete the requirements of the course. Program delivery may be phased in over a reasonable period of time.
- VI. The director may enter into contracts with either public or private institutions for technical assistance in conducting rider training courses, if the course is administered and taught by a trained motorcycle rider instructor as established in RSA 263:34-d. If necessary, an organization conducting a rider training course may charge a reasonable tuition fee. The director shall determine the largest tuition fee a private organization may charge.

Source. 1989, 331:1, eff. July 1, 1989. 2006, 174:1, eff. July 23, 2006. 2008, 282:11, eff. June 27, 2008. 2010, 368:26, eff. Dec. 31, 2010.

Attachments

Motorcycle Safety Foundation - Rider Education Recognition Program Agreement.



RIDER EDUCATION RECOGNITION PROGRAM AGREEMENT (RERP) – Public Entity

This Agreement is entered into between the Motorcycle Safety Foundation ("MSF") and the Sponsoring organization ("Sponsor"). This Agreement becomes effective on the date when executed by MSF and expires on 12/31/2015 unless renewed upon mutual written consent of the parties, specifying the renewal terms.

The Sponsor agrees to:

- A. Teach the most current MSF RiderCourses according to MSF standards, including the following:
 - The Motorcycle Safety Foundation's Basic RiderCoursesm and the BRC2 Suite are used as the core curricula.
 - 2. Only MSF-certified RiderCoaches teach the curricula.
 - 3. Provide a training motorcycle for use by each student who has not brought his or her own motorcycle. (Each student must use a separate motorcycle.) Training motorcycles must meet MSF criteria as published in the current MSF RiderCoach Guide.
 - 4. Motorcycles are properly maintained in safe operating condition for the safety of the students.
 - 5. The range training facility is free from pedestrian, animal or vehicle traffic. The pavement is suitable for riding maneuvers such as sharp turns, braking and safe vehicle travel. The surface provides good traction. There are no obstacles that present an unsafe environment. Ranges must be correctly laid out to meet curriculum and safety standards.
 - 6. Take reasonable precautions to ensure the safety of each student.
 - Ensure all students and RiderCoaches wear protective gear when riding during the course, to include:
 - a) a helmet designed to meet DOT standards, and proper eye protection.
 - b) over-the-ankle footwear.
 - c) long-sleeved shirt or jacket.
 - d) long non-flare denim pants or material of equivalent or better durability.
 - e) full-fingered gloves, preferably leather.
 - 8. Ensure students, motorcycles, Sponsors and RiderCoaches are adequately insured.
 - 9. Distribute a personal copy of the BRC Rider Handbook to each BRC student for them to keep.
 - 10. Distribute MSF-issued RiderCourse completion cards, or approved state/MSF combined completion cards, only to students successfully completing the course and to return any unused MSF-issued cards upon cancellation of this Agreement.
 - 11. Notify the MSF of any proposed changes or additions to the *RiderCourse* for review and approval prior to use.
- B. Maintain accurate information with MSF as contained in the Rider Education Recognition Program Application (available in RETSORG library) and report numbers and other requested data for riders trained upon request. Sponsor shall not transfer any part of Sponsor's rights and responsibilities under this Agreement without the written consent of MSF.
- C. Monitor courses regularly through a quality assurance program to ensure RiderCoaches are following established guidelines and standards for the *RiderCourse*.
- D. Pay all invoices within 30 days of the date of invoice, or in compliance with applicable public entity procurement guidelines.
- E. Prior to training, have each student sign the MSF waiver/indemnification form (available in RETSORG library) or the waiver/indemnification form required by the State, provided that MSF is given an opportunity to review the form prior to use.
- F. Assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement. All liabilities assumed in this clause shall remain in effect after the termination of this agreement.

!

II. MSF agrees to:

- A. Support the Sponsor by making the following products available at MSF's prevailing prices:
 - 1. MSF's recommended curriculum materials, which at present include:
 - a) the Basic RiderCourse
 - b) the Basic RiderCourse2 Suite (BRC2 Suite).
 - c) RiderCoach Preparation Course.
 - 2. MSF RiderCourse student Completion Cards.
 - RiderCourse Insurance.
- B. Support the Sponsor by making the following services available at no cost:
 - Maintaining certification of RiderCoaches who are trained to MSF standards.
 - 2. Technical, administrative, and promotional assistance to support high-quality training.
 - 3. Assistance with obtaining loan motorcycles.
 - 4. Providing a national toll-free number and website for student referrals.
 - 5. Website-based Online Resource Guide (www.retsorg.org).
 - 6. Professional Development Activities.
- C. Assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement. All liabilities assumed in this clause shall remain in effect after the termination of this agreement.

III. Use Of MSF PROPERTY

MSF will make available to Sponsor MSF curriculum materials, including RiderCoach Guides, Range Cards, Rider Handbooks, videotapes, and other printed and audio/visual training aids (collectively, "MSF PROPERTY").

- A. Sponsor shall not use or promote MSF PROPERTY in a manner which, in MSF's sole judgment and discretion, affects in a negative and detrimental manner MSF's business or goodwill, or tends to deceive or mislead the public, or which creates a likelihood of confusing the public. Sponsor shall discontinue any use or promotion that MSF finds to be negative or injurious to MSF.
- B. For the term of this Agreement, and thereafter, Sponsor agrees not to use names, trademarks, or images identical with, or substantially or confusingly similar to MSF PROPERTY.
- C. Sponsor shall not modify MSF PROPERTY in any manner without prior written permission of MSF. This prohibition includes any modification to the content or sequence of any exercise, or substantial deviation (as determined solely by MSF) from the recommended duration of any exercise. In some circumstances, MSF may authorize Sponsor to test a proposed modification to the MSF PROPERTY for a limited time as part of an MSF Research Laboratory (RESLAB) initiative.
- D. MSF may modify MSF PROPERTY at any time. MSF will give Sponsor reasonable time to incorporate revisions or replacements to the curriculum, training aids, or range, and to have RiderCoaches attend applicable update sessions.
- E. In the event that MSF supersedes or ceases to recommend any MSF PROPERTY in possession of Sponsor, Sponsor agrees to cease all use of such MSF PROPERTY. Sponsor may return up to a one-year supply of Rider Handbooks in its possession (based on prior 12-month training volume) to MSF, and MSF agrees to repurchase such Rider Handbooks at MSF's prevailing prices.
- F. Upon termination of this Agreement, or upon non-renewal or non-replacement of this Agreement, Sponsor agrees to cease all use of MSF PROPERTY. Sponsor may return up to a one-year supply of Rider Handbooks in its possession (based on prior 12-month training volume) to MSF, and MSF agrees to repurchase such Rider Handbooks at MSF's prevailing prices.

- IV. This Agreement shall remain in full force and effect until the expiration date or until such time as either party shall deliver to the other written notice of their intent to terminate this Agreement for any or no reason, according to these schedules:
 - A. Either Sponsor or MSF may terminate this Agreement, without cause, upon sixty (60) days written notice to the other party.
 - B. MSF may terminate or suspend this Agreement immediately for (1) breach of any provision of the Agreement; (2) the existence of an unsafe condition at the Site; or (3) failure to implement supplements or modifications prescribed by MSF as described in Section III.D.
- V. Both parties agree to the following:
 - A. Sponsor maintains sole responsibility for, and control of, the operation of the training site and the supervision and oversight of the RiderCoaches. MSF has no role in ensuring the safe operation of motorcycles by those participating in the *RiderCourses* or the safe operation of the training site and no role in supervising or overseeing the Sponsor or its RiderCoaches.
 - B. Recognition of the RERP Sponsor does not imply any endorsement by MSF of the Sponsor or any other Sponsor, supporting organizations, equipment, motorcycles or other materials involved in the presentation of a *RiderCourse*.
 - C. Should any disagreement arise between the parties regarding the enforcement or interpretation of any provision of this Agreement, and should the parties not be able to resolve it themselves, that the matter may be handled by arbitration. The arbitration shall be handled under the rules of the American Arbitration Association.

The parties agree to be bound by the terms of this Agreement, and execute it on the date set next to the MSF representative signature.

Upon approval of this application the Motorcycle Safety Foundation will issue a RERP identification number and make available Student Completion Cards. Violations of this Agreement, willful misstatements of information, or failure to report information may result in cancellation of this RERP Agreement and the use of MSF's *RiderCourses* or other MSF PROPERTY, the suspension of loan motorcycles and other assistance from manufacturers, dealers, insurers, and others who support the Motorcycle Safety Foundation.

For the Training Sponsor:		For the Motorcyc	ation:	
Authorized Signature		Authorized Signate	lu	2 <u>.12.13</u> Date
John Beardmon		Rober Sladden	_	iche
Print Name Director of Admir		Print Name	Presid	dent
Title / 1/65	NH	<u>Vice Bresident</u> Title		1 - 1
RERP Number Sta	ite			



December 19, 2012

To: MSF RiderCourse Insurance Plan Participants

From: Laurie Longville, Senior Coordinator,

Subject: 2013 RiderCourse Insurance Plan

Thank each of you for your continuing relationship with MSF. Following is information on the 2013 insurance coverage.

RERP sponsors who had coverage under this program in 2012 are automatically renewed with an effective date of December 15, 2012. Your continuing coverage is contingent upon returning the 2013 *RiderCourse* Insurance Plan Agreement that is currently being revised to reflect the 2013 rates and will be sent to you in January 2013.

2013 RiderCourse® Insurance Plan Rates

The rates listed below are for the following curriculum offerings: BRC, SBRC, and 3WBRC *RiderCourses*.

Per Class Rate \$0.94 Per Student Rate \$5.90

The rates listed below are for the following curriculum offerings: BRC2, RRBRC, BBBRC, UBBRC, IME, IS, and ARC *RiderCourses*.

Per Class Rate \$0.94 Per Student Rate \$5.84

Optional Loss/Physical Damage Plan:

If 350 cc or under (per student) \$1.50 If over 350cc (per student) \$1.75

• The per class fee is for medical coverage for the RiderCoaches/Range aides

Enclosed are the insurance certificate(s) for 2013 for your RERP.

If you have any questions regarding the MSF insurance policy, please contact myself at MSF email: llongville@msf-usa.org or 949.727.3227 ext. 3002.