

**COMMONWEALTH OF PENNSYLVANIA
STATE EMPLOYEES' RETIREMENT SYSTEM**

Funds Management Agreement

SERS # 08-001

This Agreement made as of January 7, 2008, by and between the **COMMONWEALTH OF PENNSYLVANIA STATE EMPLOYEES' RETIREMENT SYSTEM** (herein "SERS"), and **DLJ MB ADVISORS, INC.**, with its principal place of business at 11 Madison Avenue, New York, New York, 10010 (herein "MANAGER"),

WITNESSETH:

WHEREAS, pursuant to Title 71, Sections 5101, et seq. of the Pennsylvania Consolidated Statutes (the "Retirement Code") and specifically Section 5931(a) thereof, SERS' Board has exclusive control and management of the Pennsylvania State Employees' Retirement Fund, with full power to invest the same, subject to terms and conditions imposed by law; and

WHEREAS, pursuant to Section 5902(b) of the Retirement Code, SERS' Board has authority to Agreement for such professional services as it deems advisable in order to fulfill its duties; and

WHEREAS, MANAGER possesses and will employ in a fiduciary capacity, professional knowledge, experience and expertise in Funds management services to preserve and enhance the financial integrity of the Pennsylvania State Employees' Retirement Fund; and

WHEREAS, MANAGER has qualified personnel, facilities, materials and other resources to fulfill its obligations to SERS in accordance with the terms and conditions hereinafter set forth,

NOW THEREFORE, for and in consideration of the foregoing recitals, which are incorporated herein, and the covenants and conditions hereinafter set forth, and intending to be legally bound, the parties hereto agree as follows:

1. Engagement. SERS hereby engages MANAGER and MANAGER hereby accepts SERS' engagement to provide back office, accounting and reporting services to SERS with respect to existing investments as well as future investments in certain Alternative Investment funds (each, a "Fund" and collectively the "Funds") listed in Exhibit A, as amended from time to time.

2. Services to be Furnished. MANAGER agrees to perform professional services as set forth herein:

(a) Subject to its receipt from SERS of a list of contacts for each Fund, MANAGER will provide a letter to SERS to be mailed by SERS to each Fund introducing MANAGER and adding MANAGER to the Fund's contact list;

(b) MANAGER will scan and post documents received from the Funds or SERS to the System.

MANAGER will provide to SERS the following services with respect to each Fund on an ongoing basis:

(e) On a going forward basis, MANAGER will track all cashflow activity for the Funds and will work with SERS to develop appropriate categorizations for all activity with respect to the Funds;

(f) MANAGER will review and reconcile all capital calls and distributions made by the Funds in accordance with the relevant partnership agreements;

(g) Promptly upon receipt, MANAGER will prepare documentation for SERS to process capital call requests;

(h) Within fifteen (15) days following receipt from the relevant Fund, MANAGER will record quarterly capital account adjustments with respect to the Funds;

- (i) Within thirty (30) days following receipt from the relevant Fund, MANAGER will reconcile the quarterly report received from the general partners of the Fund;
- (j) MANAGER will provide journal entries for input of capital call, distribution and quarterly valuation data into SERS' database;
- (k) MANAGER will report to and coordinate stock distributions with SERS' stock distribution manager.

Throughout the term of this Agreement, MANAGER will provide to SERS on an ongoing basis, the following services with respect to each Fund:

- (m) As agreed with SERS, MANAGER will attend and participate in limited partner advisory board and annual meetings of the Funds. For those meetings that MANAGER attends, MANAGER will prepare reports summarizing such meetings and provide them to SERS within thirty (30) days after each such meeting.
- (n) MANAGER will conduct periodic update calls and meetings with the Funds to monitor the investment performance of each underlying fund. MANAGER will provide SERS with a summary of the findings of such calls and meetings within thirty (30) days.
- (o) As authorized by SERS in Exhibit B, attached hereto and made a part hereof, and as amended from time to time, MANAGER will review, negotiate and approve certain legal documents for limited or routine matters as they relate to the Funds. If there is any question as to the applicability of such documents to Exhibit B, the question should be referred to SERS for clarification.

3. Compliance with Laws. MANAGER's conduct and actions for and on behalf of SERS shall be in compliance at all times with federal and state securities laws and regulations and all other applicable laws and regulations.

4. Approval of Documents. Except as authorized by Paragraph 2(p), any document requiring SERS' signature must be approved by SERS.

5. Compensation. MANAGER shall be compensated for its services and reimbursed for its reasonable out of pocket expenses as more completely described in Exhibit C, attached hereto and made a part hereof.

6. Non-Appropriation. Any payment obligation of SERS or any portion thereof created by this Agreement is conditioned upon the availability of Commonwealth funds appropriated or allocated for the payment of such obligation or any portion thereof. SERS shall notify MANAGER at the earliest practicable opportunity in the event Commonwealth funds will not be available to support this Agreement, whereupon, in MANAGER's discretion, either: (a) this Agreement shall terminate and MANAGER shall be entitled to payment for the value of services rendered hereunder prior to such termination; or (b) this Agreement shall not terminate and MANAGER shall be entitled to payment(s) as per this Agreement with the understanding that such payment(s) will be delayed until the funds become available. If this Agreement is to be terminated under this provision, no penalty shall accrue to SERS, and SERS shall not be obligated or liable for any future payments due or for any damages resulting from such termination.

7. Manager's Insurance. MANAGER represents and warrants that the insurance coverage submitted to SERS prior to execution of this Agreement is in full force and effect and is unmodified and that such representation and warranty will survive execution of this Agreement. MANAGER shall maintain such insurance coverage, at a minimum, in effect throughout the term of this Agreement. MANAGER shall submit evidence of continued coverage as mutually agreed upon by SERS and MANAGER.

MANAGER shall be expected to comply with such reasonable procedures and requirements relating to insurance and bond coverage for the protection of SERS and the Fund as SERS may convey to MANAGER in writing. SERS may require changes to insurance coverage and bonding as it deems appropriate for the protection of SERS and the Fund by giving written notice of such changes to MANAGER at least thirty (30) days in advance of the effective date of such changes.

8. MANAGER as Independent Contractor. MANAGER shall perform its services hereunder as an Independent Contractor and shall provide worker's compensation insurance where

the same is required. MANAGER accepts full responsibility for the payment of, and shall pay when due, taxes of any nature or jurisdiction upon MANAGER's property and income, premiums for worker's compensation insurance, Social Security taxes, all income taxes and other taxes or payroll deductions required by law for its employees, servants or agents who perform services under this Agreement.

9. Changes in MANAGER's Status. In the event of any actual or proposed material change in MANAGER's status, including without limitation, change in officers or employees who furnish any material advice; material modification of corporate structure; the filing of a formal complaint, issuance of a summons or other evidence of the commencement of litigation alleging gross negligence or fraud in the performance of MANAGER's services for other clients, and material deterioration in financial condition including but not limited to the filing of a petition in bankruptcy, MANAGER shall immediately notify SERS in writing.

10. Conflicts. To the extent of any conflict between any current or future Website User Agreement of MANAGER and this Agreement, the terms of this Agreement shall control.

11. Indemnification of SERS. MANAGER shall indemnify and forever hold harmless the Commonwealth of Pennsylvania, SERS and its fund, Board members, officers and employees, from and against any and all losses, claims, demands, actions, or liability of any nature, including, but not limited to, attorneys' fees, expenses and court costs, based upon, arising out of or in connection with the negligent, reckless, willfully improper or illegal performance of services or failure to perform services under this Agreement, actions outside the scope of authority, or other breach of this Agreement, by MANAGER, an Affiliate, or their respective partners, directors, officers, employees and agents. Notwithstanding the preceding, MANAGER will not be liable for acts and omissions performed or omitted in good faith pursuant to the agreement, where the act or omission is undertaken at SERS' direction. At SERS' option, and in its sole discretion, MANAGER shall defend at its expense actions brought against the Commonwealth of Pennsylvania, SERS and its fund, Board members, officers and employees arising out of or in connection with any services performed or the failure to perform services, or other breach of this Agreement, by MANAGER, an Affiliate, their respective partners, directors, officers, employees

and agents selected by MANAGER and performing services for or on behalf of SERS, and the costs of such defense shall be borne by MANAGER and shall not constitute an expense of, and shall not be paid out of, the Account; except that legal fees for litigation involving SERS assets will be paid by the Account unless it has been determined that MANAGER has acted in a grossly negligent, reckless, or willfully improper manner, or has acted outside the scope of its authority.

12. Confidentiality of Reports and Other Information. All information furnished by SERS, or by a Fund with respect to SERS' investment therein, to MANAGER under this Agreement shall be the property of SERS or the Fund, as applicable, and shall be deemed and treated as non-public, confidential and proprietary by MANAGER, except: (a) as otherwise required by applicable law, regulation, domestic national securities exchange rule, or court order; (b) if such information becomes known to the public other than as a result of a breach of such obligations by the MANAGER; or (c) if such information is known or available to MANAGER via legitimate means other than through or on behalf of SERS. MANAGER shall not disclose such information but shall maintain such information in the strictest confidence and shall use not less than the same degree of care to avoid disclosure of such information as it uses with respect to its own proprietary and confidential information of like importance and, at a minimum, shall exercise reasonable care. Prior to making any disclosure of such information as contemplated in this Section, MANAGER shall (i) use its commercially reasonable efforts to notify SERS and the Fund (if applicable) of such disclosure, except to the extent that such notice is prohibited by applicable law and (ii) give SERS and the Fund (if applicable) appropriate opportunity to contest such disclosure, as permitted by law. If a protective order or other remedy cannot be obtained, MANAGER shall, to the fullest extent permitted by law, disclose only such information as its counsel advises in writing that it is legally required to disclose. MANAGER further agrees to use commercially reasonable efforts to cooperate with SERS and the Fund (if applicable) with any effort to obtain a protective order or other remedy.

MANAGER shall not use such information except in connection with providing the services described herein. Upon the request of SERS, but in any case upon termination of this Agreement, MANAGER shall return all such information to SERS and shall delete all such information from its files except as otherwise required to be retained pursuant to applicable law or regulation. SERS

shall be permitted to delay final payment to MANAGER until successful verification of this Section is provided.

MANAGER and SERS further agree that SERS and each of the Funds shall be entitled to the benefits of the terms and provisions of this Section 12 as though a party to this Agreement. The obligation to maintain the confidentiality of information contained in this Section may be further supplemented from time to time by written notice from SERS and acknowledged and agreed to by MANAGER; provided that any amendment, modification or supplement of this Section 12 shall require the consent of any Fund upon which such amendment would have a material adverse effect.

13. Conflict of Interest. MANAGER covenants that it has no interest or obligation and shall not acquire any direct or indirect interest or obligation that conflicts in any material manner or degree with the performance of its services hereunder, it being understood MANAGER's receipt of fees from certain funds that may invest side by side in the same investments as SERS and any actions taken by affiliates of MANAGER shall not be deemed conflicts of interest for purposes of this Agreement. MANAGER further covenants that in the performance of this Agreement it will not knowingly employ any person having any such conflicting interest and that it will immediately notify SERS if it becomes aware of a conflict or potential conflict.

14. Assignment or Other Transfer. The rights and obligations of MANAGER under this Agreement including any interest herein or any claim arising hereunder, may not be assigned or otherwise transferred by it, whether in whole or in part, whether to any subsidiary or affiliate of MANAGER, or any partnership, trust or other entity controlling, controlled by or under common control with MANAGER, or to any other party or parties, and whether voluntarily or by operation of law, and whether by sale, merger, division, consolidation, encumbrance or sale of stock or of partnership interests, or otherwise, without the prior written consent of SERS, which consent SERS may grant or withhold in its sole discretion. Any assignment or attempted assignment in contravention of this provision shall be null and void *ab initio*.

15. Subcontract. No contract shall be made by MANAGER with any other person, firm or company for the furnishing or production of any of MANAGER's services described herein

without the prior written consent of SERS. Such consent, in addition to any other writing, must be evidenced by a notation and dated signature of the Executive Director of SERS appearing on the first page or cover of any subcontract.

16. Commonwealth Agreement Provisions. In performing services hereunder, MANAGER shall comply with the Commonwealth Agreement provisions attached hereto and incorporated herein as Exhibit D. Due to the specific nature of this Agreement, SERS and the MANAGER agree that Paragraph 15 of Exhibit D as it relates to the retention of records after termination is inapplicable to the MANAGER and that any reference to Contractor is intended to apply to MANAGER or MANAGER's affiliates as they relate to the business of MANAGER as contemplated under this Agreement.

17. Maintenance, Preservation and Review of Records. MANAGER shall maintain such records, books and accounts pertaining to services and payments hereunder on SERS' accounting system in accordance with generally accepted accounting principles consistently applied. All records, books and accounts relating to SERS shall be maintained and preserved for the longer of (a) the term of this Agreement or (b) four (4) years after their creation. During such period SERS or any other department or representative of the Commonwealth of Pennsylvania, from time to time upon reasonable notice, shall have the right to inspect, duplicate and audit such records, books and accounts for all purposes authorized and permitted by law. MANAGER may preserve such records, books and accounts in original form or on microfilm, magnetic tape, CD-ROM or any other generally recognized and accepted process.

18. Notices. Any notice, demand, direction, instruction and other communications required or permitted hereunder shall be confirmed in writing and shall be sufficiently given for all purposes when sent (a) by certified or registered U. S. mail, postage prepaid, (b) by a nationally recognized courier service that maintains written verification of actual delivery, (c) by facsimile or e-mail, with a copy of the communication sent by first class U.S. mail, postage prepaid (provided that if the date of dispatch is not a business day, the facsimile or e-mail shall be deemed to have been received at the opening of business of the addressee on the next business

day) or, (d) by delivering the same in person to any party at the following addresses or such other addresses as may be designated from time to time by the parties:

If to SERS: COMMONWEALTH OF PENNSYLVANIA
STATE EMPLOYEES' RETIREMENT SYSTEM
30 North Third Street, Suite 150
Harrisburg, Pennsylvania 17101-1716
Attn: Executive Director
Facsimile: (717) 783-7300

With copies to: COMMONWEALTH OF PENNSYLVANIA
STATE EMPLOYEES' RETIREMENT SYSTEM
30 North Third Street, Suite 150
Harrisburg, Pennsylvania 17101-1716
Attn: Director of Alternative Investments
Facsimile: (717) 772-3741

And

COMMONWEALTH OF PENNSYLVANIA
STATE EMPLOYEES' RETIREMENT SYSTEM
30 North Third Street, Suite 150
Harrisburg, Pennsylvania 17101-1716
Attn: Chief Counsel
Facsimile: (717) 787-5751

If to MANAGER: DLJ MB Advisors, Inc.
11 Madison Avenue
New York, New York 10010
Attn: Matthew Kelly
Facsimile: (646) 935-7485

19. Expiration and Termination. This Agreement shall be effective from the date hereof through the fifth anniversary of such date (the "Initial Term"). Prior to the termination of the Initial Term and each five-year anniversary thereof thereafter, the Investor may elect to renew the term of this Agreement for an additional five-year period from the last day of the Initial Term and each anniversary thereof thereafter by providing written notice to MANAGER at least 30 days prior to the end of the Initial Term or any such anniversary unless MANAGER provides written notice to SERS of a) its desire to terminate this Agreement, or b) its desire to have a

good-faith renegotiation of Exhibit C, at least 180 days prior to the end of the Initial Term or any such anniversary. SERS may terminate this Agreement at any time upon at least 30 days prior written notice to MANAGER of SERS' desire to terminate this Agreement.

Upon termination of this Agreement for any reason, or upon expiration, MANAGER will provide SERS, within thirty (30) days of the effective date of termination or expiration, with a copy of all Funds data and documents in such a form and format as requested by SERS, and will in general provide reasonable assistance to SERS in connection with SERS' transfer of its Funds to another management system. In the event of termination, MANAGER's fees for services under this Agreement shall be prorated and paid, provided that, notwithstanding any other provision of this Agreement, Investor may withhold such payment of fees until MANAGER has fully complied, in SERS' sole discretion, made in good faith, with the above condition.

20. No Finder's, Solicitor's or Similar Fee. Neither MANAGER nor any Affiliate, nor any of their respective partners, directors, officers, or employees have employed or retained any company or person, other than a bona fide employee working solely for MANAGER, to solicit or secure this Agreement, and none of the aforementioned parties have paid or agreed to pay, and shall not pay, any company or person, other than a bona fide employee working solely for MANAGER, any fee, commission, percentage, brokerage fee, gift, or any other compensation contingent upon or resulting from the award or making of this Agreement, except where: (A) MANAGER has disclosed, in writing to SERS, that it has engaged such a company or person other than a bona fide employee to secure this Agreement, and (B) the cost of such engagement is not charged to SERS under the terms of compensation under this Agreement or any subsequent agreement. For breach or violation of this representation, SERS shall have the right to void this Agreement without liability, entitling SERS to recover all monies paid hereunder, and MANAGER shall not make claim for, or be entitled to recover, any sum or sums due under this Agreement or for any services which it may have provided under this Agreement. This remedy, if effected, shall not constitute the sole remedy afforded to SERS for such breach or violation, nor shall it constitute a waiver of SERS' rights to claim damages or to take any other action provided for by law or pursuant to this Agreement.

21. Applicable Law. This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions). MANAGER hereby (a) consents to exclusive jurisdiction in any court of the Commonwealth of Pennsylvania, any federal courts in Pennsylvania, and the Board of Claims ("Board of Claims") of the Commonwealth of Pennsylvania, hereby waiving any claim or defense that such forum is not convenient or proper and (b) agrees that any claim asserted against SERS shall only be brought before and subject to the exclusive jurisdiction of the Board of Claims pursuant to Section 1721 et seq. of Title 62 of Pa. Statutes. MANAGER agrees that the Board of Claims and any such court shall have in personam jurisdiction over it, and consents to service of process in any manner authorized by Pennsylvania law.

22. Reservation of Immunities. SERS hereby reserves all immunities, defenses, rights or actions arising out of its status as an instrumentality of a sovereign state or entity, or under the Eleventh Amendment to the United States Constitution, and no waiver of any such immunities, defenses, rights or actions shall be implied or otherwise deemed to exist by its entry into this Agreement, by any express or implied provision of this Agreement or by any actions or omissions to act of SERS or any representative or agent of SERS, whether taken pursuant hereto, prior to or after the entry by SERS into this Agreement; provided that nothing contained herein shall relieve SERS of any obligation it may have to make payments to MANAGER when and as required under the terms of this Agreement.

23. Binding Effect. This Agreement inures to the benefit of and binds all parties hereto and their respective successors and assigns.

24. Future Cooperation. Each of the parties hereto hereby agrees to reasonably cooperate at all times from and after the date hereof with respect to the matters described herein, and to execute such other documents as may be reasonably requested for the purpose of giving effect to, or evidencing or giving notice of, the transactions contemplated by this Agreement.

25. Amendment. No amendment or modification of this Agreement shall have any force or effect unless it is in writing and signed by the parties hereto.

26. Counterparts. This Agreement may be executed in any number of separate counterparts, each of which shall be deemed an original, but the several counterparts shall together constitute but one and the same instrument.

27. Severability. If any one or more of the covenants, agreements, provisions or terms of this Agreement shall be held contrary to any express provision of law, or contrary to the policy of express law though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements, provisions or terms shall be deemed severable from the remaining covenants, agreements, provisions or terms of this Agreement and shall in no way affect the validity or enforceability of the remainder of this Agreement or the rights of the parties hereto.

28. Headings. The headings and captions in this Agreement are for convenience and reference purposes only and shall not be construed or deemed to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions hereof.

29. Entire Agreement. Except as hereinabove expressly provided, this Agreement supersedes all prior Agreements and undertakings, written or oral, between the same parties concerning the same subject matter.

(Signature Page Immediately Follows Hereafter)

IN WITNESS WHEREOF, the Parties to this Funds Management Agreement have executed it by their respective duly authorized officers, to be effective as of the date first above written. This Agreement will not legally bind SERS unless and until all Commonwealth signatures are affixed hereto.

WITNESS:

DLJ MB ADVISORS, INC.

Federal Tax Identification No.: [REDACTED]

BY: Rose Osorio
Name: Rose Osorio
Title: Paralegal
Date: January 7, 2008

BY: [Signature]
Name: Jason Karlinksky
Title: Vice President
Date: January 7, 2008

COMMONWEALTH OF PENNSYLVANIA
STATE EMPLOYEES' RETIREMENT SYSTEM

Federal Tax Identification Number: [REDACTED]

BY: [Signature]
TITLE: Chairman
Date

Approved for form and legality:

[Signature]
Chief Deputy Attorney General
Office of Attorney General

Deputy General Counsel
Office of General Counsel

IN WITNESS WHEREOF, the Parties to this Funds Management Agreement have executed it by their respective duly authorized officers, to be effective as of the date first above written. This Agreement will not legally bind SERS unless and until all Commonwealth signatures are affixed hereto.

WITNESS:

DLJ MB ADVISORS, INC.

Federal Tax Identification No.: [REDACTED]

BY: Rose Osorio
Name: Rose Osorio
Title: Paralegal
Date: January 7, 2008

BY: [Signature]
Name: Jason Karlinsky
Title: Vice President
Date: January 7, 2008

**COMMONWEALTH OF PENNSYLVANIA
STATE EMPLOYEES' RETIREMENT SYSTEM**

Federal Tax Identification Number: [REDACTED]

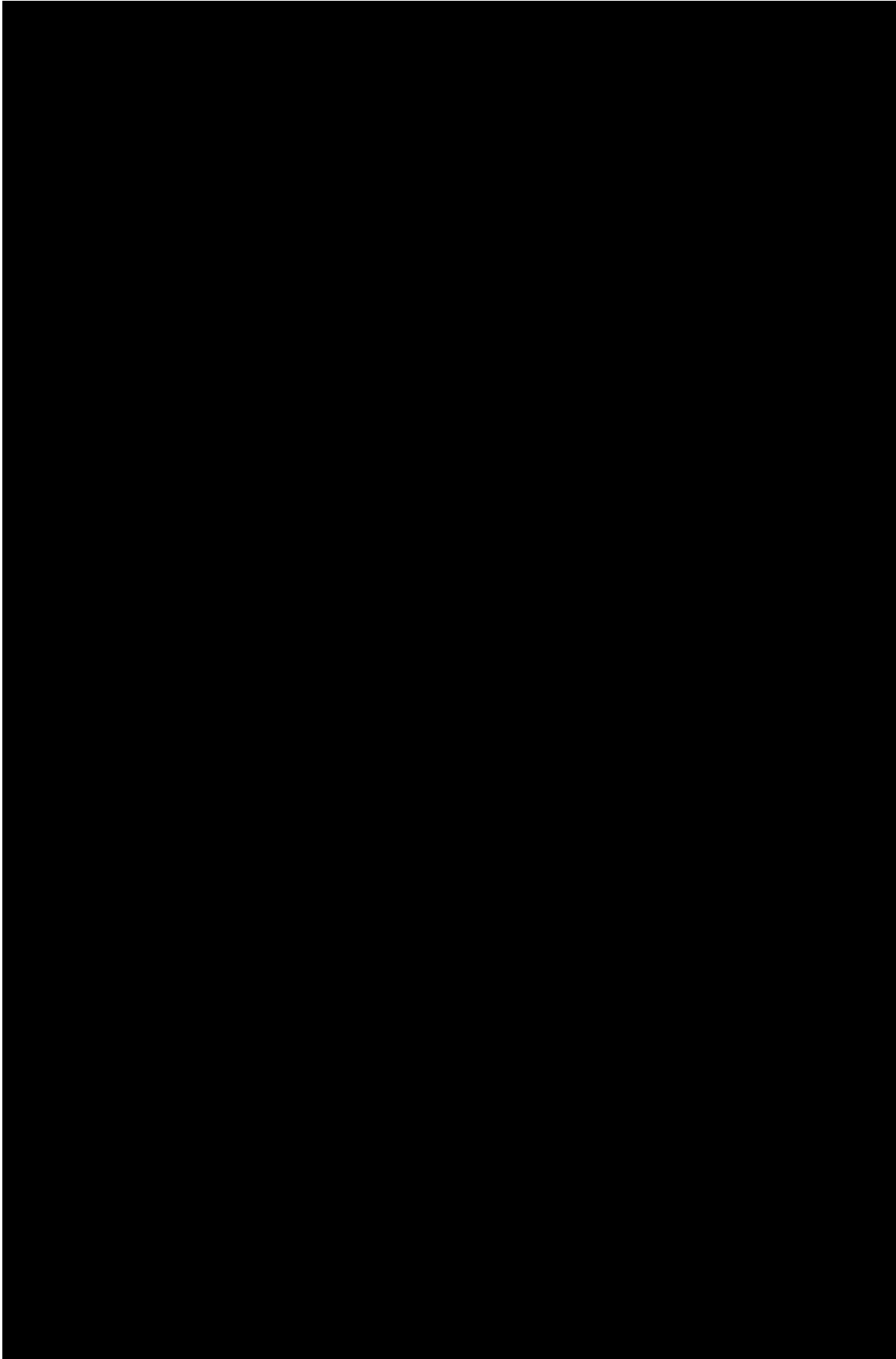
BY: [Signature]
TITLE: Chairman Date

Approved for form and legality:

Chief Deputy Attorney General
Office of Attorney General

[Signature]
Deputy General Counsel
Office of General Counsel

Exhibit A



NO EXHIBIT B

Reference eliminated in Amendment 1 Sec. 2

EXHIBIT C

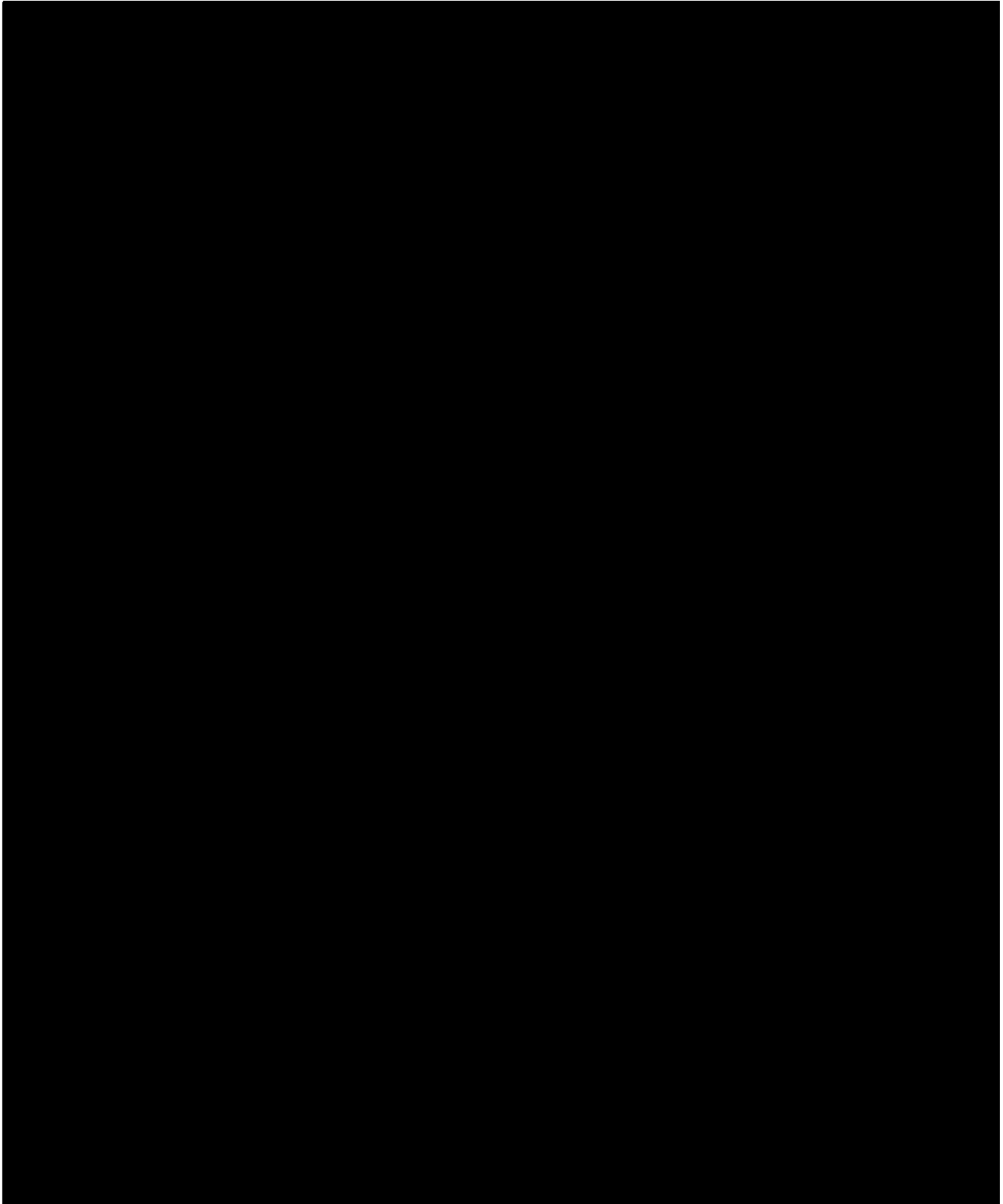


Exhibit D

**COMMONWEALTH OF PENNSYLVANIA
CONTRACT PROVISIONS**

- I. Term of Contract**
- II. Contractor Integrity Provisions**
- III. Non-Discrimination/Sexual Harassment Clause**
- IV. Contractor Responsibility Provisions**
- V. Assignment of Anti-Trust Claims**
- VI. Offset Provision**
- VII. Certification of Taxpayer Identification Number**
- VIII. The Americans With Disabilities Act**
- IX. Minority and Women Business Utilization**
- X. Recycled Content Products Provision**
- XI. Reporting of Political Contributions**
- XII. Hold Harmless Provision**

COMMONWEALTH CONTRACT PROVISIONS

I. TERM OF CONTRACT

The term of the Contract shall commence on the Effective Date (as defined below) and shall end on the Expiration Date identified in the Contract, subject to the other provisions of the Contract.

The Effective Date shall be fixed by the Contracting Officer after the Contract has been fully executed by the Contractor and by the Commonwealth and all approvals required by Commonwealth contracting procedures have been obtained. The Contract shall not be a legally binding contract until after the Effective Date is affixed and the fully executed Contract has been sent to the Contractor.

The Commonwealth reserves the right, upon notice to the Contractor, to extend the term of the Contract for up to three (3) months upon the same terms and conditions. This will be utilized to prevent a lapse in Contract coverage and only for the time necessary, up to three (3) months, to enter into a new contract.

II. CONTRACTOR INTEGRITY PROVISIONS

1. Definitions.

a. Confidential information means information that is not public knowledge, or available to the public on request, disclosure of which would give an unfair, unethical, or illegal advantage to another desiring to contract with 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 prequalification, 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 directors, officers, partners, managers, key employees, and owners of more than a 5% interest.

d. Financial interest means:

(1) ownership of more than a 5% interest in any business; or

(2) holding a position as an officer, director, trustee, partner, employee, or the like, or holding any position of management.

e. Gratuity means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.

2. The contractor shall maintain the highest standards of integrity in the performance of this contract and shall take no action in violation of state or federal laws, regulations, or other requirements that govern contracting with the Commonwealth.

3. The contractor shall not disclose to others any confidential information gained by virtue of this contract.

4. The contractor shall not, in connection with this or any other contract with the Commonwealth, 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 officer or employee of the Commonwealth.

5. The contractor shall not, in connection with this or any other contract with the Commonwealth, directly or indirectly, offer, give or agree or promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer or employee of the Commonwealth.

6. Except with the consent of the Commonwealth, neither the contractor nor anyone in privity with him or her shall accept or agree to accept from, or give or agree to give to, any person, any gratuity from any person in connection with the performance of work under this contract except as provided therein.

7. Except with the consent of the Commonwealth, the contractor, shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project.

8. The contractor, upon being informed that any violation of these provisions has occurred or may occur, shall immediately notify the Commonwealth in writing.

9. The contractor, by execution of this contract and by the submission of any bills or invoices for payment pursuant thereto, certifies and represents that he has not violated any of these provisions.

10. The contractor, upon the inquiry or request of the Inspector General of the Commonwealth or any of that official's agents or representatives, 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 the contractor's integrity or responsibility, as those terms are defined by the Commonwealth's statutes, regulations, or management directives. Such information may include, but shall not be limited to, the contractor's business or financial records, documents or files of any type or form which refer to or concern this contract. Such information shall be retained by the contractor for a period of three years beyond the termination of the contract unless otherwise provided by law.

11. For violation of any of the above provisions, the Commonwealth may terminate this and any other contract with the contractor, claim liquidated damages in any amount equal to the value of anything received in breach of these provisions, claim damages for all expenses incurred in obtaining another contractor to complete performance hereunder, and debar and suspend the contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or nonuse 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.

III. NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

Each contract entered into by a governmental agency shall contain the following provisions by which the contractor agrees:

a. 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, 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.

b. 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.

c. Contractors and subcontractors 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.

d. Contractors 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 contract relates.

e. The Contractor and each subcontractor shall furnish all necessary employment documents and records to and permit access to its books, records, and accounts by the contracting officer and the Bureau of Contract Administration and Business

Development, for purposes of investigation, to ascertain compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause. If the Contractor or any subcontractor does not possess documents or records reflecting the necessary information requested, the Contractor or subcontractor shall furnish such information on reporting forms supplied by the contracting agency or the Bureau of Contract Administration and Business Development.

f. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that such provisions will be binding upon each subcontractor.

g. 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.

IV. CONTRACTOR RESPONSIBILITY PROVISIONS

For purposes of these provisions, the term Contractor is defined as any person, including, but not limited to, a bidder, offerer, loan recipient, grantee, or subgrantee, who has furnished or seeks to furnish goods, supplies, services or leased space, or who has performed or seeks to perform construction activity under contract, subcontract, grant, or subgrant with the Commonwealth, or with a person under contract, subcontract, grant, or subgrant with the Commonwealth or its state-affiliated entities, and state-related institutions. The term Contractor may include a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other entity of the Commonwealth.

The Contractor must certify, in writing, for itself and all its subcontractors, that as of the date of its execution of any Commonwealth contract, that neither the Contractor, nor any subcontractors, nor any suppliers 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 the bid/proposal, a written explanation of why such certification cannot be made.

The Contractor must also certify, in writing that, as of the date of its execution of any Commonwealth contract it has no tax liabilities or other Commonwealth obligations.

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 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.

The failure of the Contractor to notify the Contracting agency 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.

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, which 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.

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/debarment.htm> or contacting the:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
Telephone No. (717) 783-6472
Facsimile No. (717) 787-9138

V. ASSIGNMENT OF ANTITRUST CLAIMS

Contractor and the Commonwealth recognize that in actual economic practice, overcharges by Contractor's suppliers resulting from violations of state or federal antitrust laws are in fact borne by the Commonwealth. As part of the consideration for the award of this contract, and intending to be legally bound, Contractor assigns to the Commonwealth all right, title and interest in and to any claims Contractor now has or may hereafter acquire under state or federal antitrust laws relating to the goods or services which are the subject of the contract.

VI. OFFSET PROVISION

The Contractor agrees that the Commonwealth may set off the amount of any state tax liability or other obligation of the Contractor or its subsidiaries to the Commonwealth against any payments due the Contractor under any contract with the Commonwealth.

VII. CERTIFICATION OF TAXPAYER IDENTIFICATION NUMBER

Execution of this Contract constitutes certification by the Contractor that:

- A. The number appearing on the Contract is the Contractor's correct taxpayer identification number (if no number is present, Contractor is waiting for a number to be issued) and,
- B. Contractor is not subject to backup withholding because: (i) Contractor is exempt from backup withholding, or (ii) Contractor has not been notified by the I.R.S. that it is subject to backup withholding as result of a failure to report all interest or dividends, or (iii) the I.R.S. has notified Contractor that it is no longer subject to backup withholding.

VIII. 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 above.

IX. MINORITY AND WOMEN BUSINESS UTILIZATION

Contractor acknowledges the Commonwealth of Pennsylvania encourages the participation of certified Minority Business Enterprises and Women Business Enterprises for the performance of services or the provision of materials and supplies under the Contract. To the extent that Contractor can do so in accordance with the terms and conditions of the Contract, Contractor is also encouraged to utilize certified minority and women businesses in the performance of services or the provision of materials

and supplies under this Contract. For information and assistance on certified minority and women businesses, including a current list of the same, Contractor should contact:

Department of General Services
Bureau of Contract Administration and Business Development
Room 502, North Office Building
Harrisburg, Pennsylvania 17125
Phone: (717) 787-7830
Facsimile: (717) 787-7052

X. RECYCLED CONTENT PRODUCTS PROVISION

The Commonwealth of Pennsylvania State Employees' Retirement System has determined that the recycled content products provision is not applicable to this Contract for the type of service being provided by this Contractor. This determination was based on the fact that no material type products included on the Department of General Services "List of Products and Procurement Guidelines" are being requested under this Contract.

XI. REPORTING OF POLITICAL CONTRIBUTIONS

Pennsylvania law provides, at 25 P.S. §3260a:

(a) Any business entity including but not limited to a corporation, company, association, partnership or sole proprietorship, which has been awarded non-bid contracts from the Commonwealth or its political subdivisions during the preceding calendar year, shall report by February 15 of each year to the Secretary of the Commonwealth an itemized list of all political contributions known to the business entity by virtue of the knowledge possessed every officer, director, associate, partner, limited partner or individual owner that has been made by:

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

(2) any employe or members of his immediate family whose political contribution exceeded one thousand dollars (\$1,000) during the preceding year.

For the purposes of this subsection, "immediate family" means a person's spouse and any unemancipated child.

(b) It shall be the duty of the Secretary of the Commonwealth to publish sixty (60) days after February 15 of each year a complete itemized list of all contributions given under the provisions of subsection (a). This list shall be a matter of public record open to public inspection and copies made available at cost to any individual who requests them.

XII. HOLD HARMLESS PROVISION

The Contractor shall hold the Commonwealth harmless from and indemnify the Commonwealth against any and all claims, demands and actions based upon or arising out of any activities performed by the Contractor and its employees and agents pursuant to the Contract and shall, at the request of the Commonwealth, defend any and all actions brought against the Commonwealth based upon any such claims or demands.