

Attachment A
Commonwealth Standard Terms and Conditions
Grant Version
(Revised - 10/1/2023)

1. DEFINITIONS

Capitalized terms used in these Commonwealth standard terms and conditions that are not otherwise defined in these provisions have the meanings specified in the agreement to which they are attached.

2. INDEMNIFICATION

The Grantee shall indemnify and defend the Commonwealth against all third-party claims, suits, demands, losses, damages, costs, and expenses, including without limitation, litigation expenses, attorneys' fees, and liabilities, arising out of or in connection with any activities performed by the Grantee or its employees and agents pursuant to this agreement, as determined by the Commonwealth in its sole discretion.

3. NONDISCRIMINATION/SEXUAL HARASSMENT

- a. **Representations.** The Grantee represents that it is presently in compliance with and will remain in compliance with all applicable federal, state, and local laws, regulations, and policies relating to nondiscrimination and sexual harassment for the term of the agreement. The Grantee shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to its books, records, and accounts by the Commonwealth for the purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.
- b. **Nondiscrimination/Sexual Harassment Obligations.** The Grantee shall not:
 - i. in any manner discriminate in the hiring of any employee(s) for the performance of the activities required under this agreement or any subgrant agreement, contract, or subcontract, by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the Pennsylvania Human Relations Act ("PHRA") and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
 - ii. in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any of its employees.
 - iii. in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and

applicable federal laws, in the provision of services under this agreement or any subgrant agreement, contract, or subcontract.

- iv. in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subgrantee, contractor, subcontractor, or supplier who is qualified to perform the work to which this agreement relates.
 - v. in any manner discriminate against employees by reason of participation in or decision to refrain from participating in labor activities protected under the Public Employee Relations Act, Pennsylvania Labor Relations Act, or National Labor Relations Act, as applicable, and to the extent determined by entities charged with the Acts' enforcement and shall comply with any provision of law establishing organizations as employees' exclusive representatives.
- c. **Establishment of Grantee Policy.** The Grantee shall establish and maintain a written nondiscrimination and sexual harassment policy that complies with the applicable law and these Nondiscrimination/Sexual Harassment provisions and shall inform its employees in writing of the policy. The policy must contain a provision that states that sexual harassment will not be tolerated and employees who practice it will be disciplined. For the entire period of this agreement, the Grantee shall: (1) post its written nondiscrimination and sexual harassment policy or these Nondiscrimination/Sexual Harassment provisions conspicuously in easily accessible and well-lighted places customarily frequented by employees at or near where the grant activities are performed; or (2) provide electronic notice of the policy or this clause to its employees not less than annually.
- d. **Notification of Violations.** The Grantee's obligations pursuant to these provisions are ongoing from the effective date and through the termination date of the agreement. Accordingly, the Grantee shall notify the Commonwealth if, at any time during the term of this agreement, it becomes aware of any actions or occurrences that would result in violation of these provisions.
- e. **Cancellation or Termination of Agreement.** The Commonwealth may cancel or terminate this agreement and all money due or to become due under this agreement may be forfeited for a violation of the terms and conditions of these Nondiscrimination/Sexual Harassment provisions. In addition, the granting agency may proceed with debarment or suspension and may place the Grantee in the Contractor Responsibility File.
- f. **Subgrant Agreements, Contracts, and Subcontracts.** The Grantee shall include these Nondiscrimination/Sexual Harassment provisions in its subgrant agreements, contracts, and subcontracts with all subgrantees, contractors, and subcontractors providing goods or services under this agreement. The incorporation of these provisions in the Grantor's subgrants, contracts, or subcontracts does not create privity of contract between the Commonwealth and any subgrantee, contractor, or subcontractor, and no third-party

beneficiaries are created by those provisions. If the Grantee becomes aware of a subgrantee's, contractor's, or subcontractor's violation of these provisions, the Grantee shall use its best efforts to ensure the subgrantee's, contractor's, or subcontractor's compliance with these provisions.

4. GRANTEE INTEGRITY

a. **Definitions.** For purposes of these Grantee Integrity Provisions, the following definitions apply:

- i. "Affiliate" means two or more entities where (a) a parent entity owns more than 50% of the voting stock of each of the entities; (b) a common shareholder or group of shareholders owns more than 50% of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.
- ii. "Grantee" means the individual or entity, that has entered into this agreement with the Commonwealth.
- iii. "Grantee Related Parties" means any Affiliates of the Grantee and the Grantee's executive officers, Pennsylvania officers and directors, or owners of five percent or more interest in the Grantee.
- iv. "Financial Interest" means ownership of more than a five percent interest in any business or holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
- v. "Gratuity" means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the Governor's Code of Conduct, Executive Order 1980-18, as may be amended, 4 Pa. Code §7.153(b), apply.
- vi. "Non-Solicitation Award Process" means a method of awarding grants based on predetermined criteria, without the solicitation of grant applications.

b. **Representations and Warranties.**

- i. **Grantee Representation and Warranties.** The Grantee represents, to the best of its knowledge and belief, and warrants that within the last five years neither the Grantee nor Grantee Related Parties have:
 1. been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
 2. been suspended, debarred, or otherwise disqualified from entering into any contract with any governmental agency;

3. had any business license or professional license suspended or revoked;
 4. had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
 5. been, and are not currently, the subject of a criminal investigation by any federal, state, or local prosecuting or investigative agency or civil anti-trust investigation by any federal, state, or local prosecuting or investigative agency.
- ii. **Contractor Explanation.** If the Grantee cannot make the representations and warranties set forth above at the time of its submission of its grant application or if the agreement is awarded pursuant to a Non-Solicitation Award Process at the time of the execution of the agreement, the Grantee shall submit a written explanation outlining the reasons why it cannot make those representations and warranties. The Commonwealth may, based on its evaluation of the explanation provided, determine whether it is in the Commonwealth's best interest to execute the agreement.
 - iii. **Further Representations.** By submitting any bills, invoices, or requests for payment pursuant to the agreement, the Grantee further represents that it has not violated any of these Grantee Integrity Provisions during the term of the agreement.
 - iv. **Notice.** The Grantee shall immediately notify the Commonwealth, in writing, if at any time during the term of the agreement it becomes aware of any event that would cause the Contractor's certification or explanation to change. The Grantee acknowledges that the Commonwealth may, in its sole discretion, terminate the agreement for cause if it learns that any of the certifications made in these Grantee Integrity Provisions are currently false or misleading due to intervening factual circumstances or were false or misleading or should have been known to be false or misleading when entering into the agreement.
- c. **Grantee Responsibilities.** During the term of this agreement, the Grantee shall:
- i. maintain the highest standards of honesty and integrity.
 - ii. take no action in violation of any applicable laws, regulations, or other requirements applicable to the Grantee that govern Commonwealth contracting or grant administration.
 - iii. establish and implement a written business integrity policy that includes, at a minimum, the requirements of these Grantee Integrity Provisions as they relate to the Grantee's activity with the Commonwealth and Commonwealth employees and ensure that its employees comply with the policy.

- iv. not accept, agree to give, offer, confer, agree to confer, or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order, statement of policy, management directive, or bulletin applicable to the award of grants or the administration of this agreement.
 - v. not have a financial interest in any other subgrantee, contractor, subcontractor, or supplier providing services, labor, or material under this agreement, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Grantee's financial interest. The Grantee must disclose the financial interest to the Commonwealth at the time of submission of its grant application, or if a Non-Solicitation Award Process is used, no later than the date the Grantee signs the agreement. The Commonwealth shall be deemed to have consented if the required disclosure is received and all of the required Commonwealth signatures are affixed.
 - vi. comply with the requirements of the Lobbying Disclosure Act (65 Pa.C.S. § 13A01 et seq.) regardless of the method of award.
 - vii. comply with the requirements of Section 1641 of the Pennsylvania Election Code (25 P.S. § 3260a) if this agreement was awarded pursuant to a Non-Solicitation Award Process.
 - viii. immediately notify the Commonwealth or the Office of the State Inspector General, in writing, when the Grantee has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or these Grantee Integrity Provisions has occurred or may occur, including, but not limited to, contact by a Commonwealth officer or employee, which, if acted upon, would violate the ethical standards.
- d. **Investigations.** If a State Inspector General investigation is initiated, the Grantee shall:
- i. reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the State Inspector General for investigations of the Grantee's compliance with the terms of this or any other agreement between the Grantee and the Commonwealth that results in the suspension or debarment of the Grantee. The Grantee shall not be responsible for investigative costs for investigations that do not result in the Grantee's suspension or debarment.
 - ii. cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Grantee non-compliance with these Grantee Integrity Provisions and make identified Grantee employees and volunteers available for interviews at reasonable times and places.

- iii. upon the inquiry or request of an Inspector General, provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to Grantee's integrity and compliance with these provisions. This information may include, but is not be limited to, the Grantee's business or financial records, documents or files of any type or form that refer to or concern this agreement.
- e. **Termination.** For violation of any of these Grantee Integrity Provisions, the Commonwealth may terminate this agreement and any other contract with the Grantee, claim liquidated damages in an amount equal to the value of anything received in breach of these Grantee Integrity provisions, claim damages for all additional costs and expenses incurred in obtaining another grantee to complete performance under this agreement, and debar and suspend the Grantee from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one does 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.
- f. **Subcontracts.** The Grantee shall include these Grantee Integrity Provisions in its subgrant agreements, contracts, and subcontracts with all subgrantees, contractors, and subcontractors providing goods or services under this agreement. The incorporation of this provision in the Grantee's subgrant agreements, contracts, and subcontracts shall not create privity of contract between the Commonwealth and any subgrantee, contractor, or subcontractor, and no third-party beneficiaries are created by the inclusion of these provisions. If the Grantee becomes aware of a subgrantee's, contractor's, or subcontractor's violation of these provision, the Grantee shall use its best efforts to ensure their compliance with these provisions.

5. CONTRACTOR RESPONSIBILITY

- a. **Definition.** For the purpose of these provisions, the term "Contractor" means as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee or lessor, who has furnished or performed or seeks to furnish or perform, goods, supplies, services, leased space, construction or other activity, under a contract, grant, lease, purchase order or reimbursement agreement with the Commonwealth. The term also includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.
- b. **Contractor Representations.**
 - i. The Contractor represents for itself and its subgrantees, contractors, and subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this agreement, that neither the Contractor, nor any of its subgrantees, contractors, and subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot make this representation, the Contractor

shall submit, along with the agreement, a written explanation of why the certification cannot be made.

- ii. The Contractor represents that, as of the date of its execution of this agreement, it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal, if any liabilities or obligations exist, or is subject to a duly approved deferred payment plan if any liabilities exist.
- c. **Notification.** The Contractor shall notify the Commonwealth if, at any time during the term of the agreement, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best of its knowledge, any of its subgrantees, contractors, or subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. The Contractor shall provide this notification within 15 days of the date of suspension or debarment.
- d. **Default.** The Contractor's failure to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government constitutes an event of default of the agreement with the Commonwealth.
- e. **Reimbursement.** The Contractor shall 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 agreement or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. These costs include, but are not 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.
- f. **Suspension and Debarment List.** The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by visiting the eMarketplace website at <http://www.emarketplace.state.pa.us> and clicking the Debarment list tab.

6. AMERICANS WITH DISABILITIES ACT

- a. **No Exclusion.** Pursuant to the Americans with Disabilities Act, 42 U.S. Code § 12101, et seq., no qualified individual with a disability may, on the basis of the disability, be excluded from participation in this contract or from activities provided for under this agreement.
- b. **Compliance.** For all goods and services provided pursuant to this agreement, the Grantee shall comply with Title II of the Americans with Disabilities Act, the "General Prohibitions Against Discrimination" set forth in 28 C. F. R. § 35.130, and all other regulations promulgated under Title II of the Americans with Disabilities Act that apply to state and local governments.

- c. **Indemnification.** The Grantee shall indemnify the Commonwealth against all third-party claims, suits, demands, losses, damages, costs, and expenses, including without limitation, litigation expenses, attorneys' fees, and liabilities, arising out of or in connection with the Grantee's failure or its employee's or agent's failure to comply with the provisions of paragraph a, as determined by the Commonwealth in its sole discretion.

7. APPLICABLE LAW AND FORUM

This contract is governed by and must be interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions) and the decisions of the Pennsylvania courts. The Contractor consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania and waives any claim or defense that such forum is not convenient or proper. Any Pennsylvania court or tribunal has in personam jurisdiction over the Contractor, and the Contractor consents to service of process in any manner authorized by Pennsylvania law. This provision may not be interpreted as a waiver or limitation of the Commonwealth's rights or defenses.

8. RIGHT TO KNOW LAW

- a. **Applicability.** The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, ("RTKL") applies to this contract.
- b. **Grantee Assistance.** If the Commonwealth needs the Grantee's assistance in any matter arising out of the RTKL related to this contract, the Commonwealth shall notify the Grantee that it requires the Grantee's assistance, and the Grantee shall provide to the Commonwealth:
 - i. access to, and copies of, any document or information in the Grantee's possession (Requested Information) arising out of this contract that the Commonwealth reasonably believes is a public record under the RTKL, within ten calendar days after receipt of written notification; and
 - ii. any other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this contract.
- c. **Trade Secret or Confidential Proprietary Information.** If the Grantee considers the Requested Information to include a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Grantee shall notify the Commonwealth and provide, within seven calendar days of receipt of the written notice a written statement, signed by a representative of the Grantee, that explains why the requested material is exempt from public disclosure under the RTKL. If the Commonwealth determines that the Requested Information is clearly not exempt from disclosure, the Grantee shall provide the Requested Information to the Commonwealth within five business days of receipt of written notice of the Commonwealth's determination.

d. **Reimbursement**

- i. **Commonwealth Reimbursement.** If the Grantee fails to provide the Requested Information and the Commonwealth is ordered to produce the Requested Information, the Grantee shall reimburse the Commonwealth for any damages, penalties, or costs that the Commonwealth may incur as a result of the Grantee's failure, including any statutory damages assessed against the Commonwealth.
 - ii. **Contractor Reimbursement.** The Commonwealth will reimburse the Grantee for any costs that the Grantee incurs as a direct result of complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL.
- e. **Challenges of Commonwealth Release.** The Grantee may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Grantee shall reimburse the Commonwealth for any legal expenses incurred by the Commonwealth as a result of the challenge, including any damages, penalties or costs that the Commonwealth may incur as a result of the Grantee's legal challenge, regardless of the outcome.
- f. **Waiver.** As between the parties, the Grantee waives all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.
- g. **Survival.** The Grantee's obligations contained in this Section survive the termination or expiration of this contract.

9. **OFFSET**

The Commonwealth may set off the amount of any state tax liability or other obligation of the Grantee, or its subsidiaries, owed to the Commonwealth against any payments due the Grantee under any contract between the Commonwealth and Grantee.

10. **AUTOMATED CLEARING HOUSE (ACH) PAYMENTS**

- a. **Payment Method.** The Commonwealth shall make payments to the Grantee through the Automated Clearing House (ACH). Within 10 days of the grant award, the Grantee must submit or must have submitted its ACH information within its user profile in the Commonwealth's Master Database. The Grantee may enroll to receive remittance information via electronic addenda and email (e-Remittance). ACH and e-Remittance information is available at the following:

<https://www.budget.pa.gov/Services/ForVendors/Pages/Direct-Deposit-and-e-Remittance.aspx>

- b. **Unique Identifier.** The Grantee must submit a unique invoice number with each invoice submitted. The Commonwealth shall list the Grantee's unique invoice number on its

ACH remittance advice to enable the Grantee to properly apply the state agency's payment to the respective invoice or program.

- c. **ACH Information in the Commonwealth's Master Database.** The Grantee shall ensure that the ACH information contained in Commonwealth's Master Database is accurate and complete. The Grantee's failure to maintain accurate and complete information may result in delays in payments.

11. WORKER PROTECTION AND INVESTMENT

The Grantee shall comply with all applicable Pennsylvania state labor laws and worker safety laws including, but not limited to, the following:

- a. Construction Workplace Misclassification Act;
- b. Employment of Minors Child Labor Act;
- c. Minimum Wage Act;
- d. Prevailing Wage Act;
- e. Equal Pay Law;
- f. Employer to Pay Employment Medical Examination Fee Act;
- g. Seasonal Farm Labor Act;
- h. Wage Payment and Collection Law;
- i. Industrial Homework Law;
- j. Construction Industry Employee Verification Act;
- k. Act 102: Prohibition on Excessive Overtime in Healthcare;
- l. Apprenticeship and Training Act; and
- m. Inspection of Employment Records Law.

ATTACHMENT B
DEPARTMENT OF ENVIRONMENTAL PROTECTION
GENERAL GRANT CONDITIONS

1. Legality. The Grantee shall perform all work under this agreement in accordance with applicable statutes, rules, and regulations of the Federal, State, and local governments.

2. Subcontracts. The Grantee may not enter into contract or agreement for the execution of the Project activities or provision of services to the Project (other than purchases of supplies, or standard commercial or maintenance services) that is not incorporated in the approved Project Scope of Work or approved in advance by the Department. The approved contract or agreement must provide that the Grantee will retain ultimate control and responsibility for the Project, and that the subcontractor is bound by these conditions and any other requirements applicable to the Contractor in the conduct of the Project.

3. Changes. Minor adjustments to this agreement may be made via a letter of mutual consent signed by the parties. Any significant adjustments to this agreement must be in made in the form of a formally executed amendment. Significant adjustments include:
 - A. Changes to the scope of work involving the addition of specific deliverables. The addition of work tasks incidental to the original scope of work will be considered minor adjustments if no changes to the contract budget or period of performance are required.

 - B. Changes in payment terms. However, reallocation of budget category dollar amounts to and from other budget categories are considered minor adjustments if the maximum grant award amount payable by Department to Grantee is not exceeded.

 - C. Increase in the maximum grant dollar amount to be paid by the Department to the Grantee.

4. Suspension. If the Department determines, in its sole discretion, that the terms and conditions of the agreement are not materially being met, the Department may, upon written notice to the Grantee, suspend the agreement until the Grantee has taken corrective action to the satisfaction of the Department, or until the agreement is terminated.

5. Assignment. In actual economic practice, overcharges by the Grantee'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 the grant, the Grantee assigns to the Commonwealth all right, title, and interest in and to any claims the Grantee now has or may hereafter acquire under State or Federal antitrust laws relating to the goods or services that are the subject of this agreement.

6. Termination. The Department may terminate the agreement, in whole or in part, at any time before the Project Completion Date:
 - A. if it, in its sole discretion, determines that terms and conditions of the Agreement have not been met, by providing written notice of termination to the Grantee. Payments or recoveries by the Department will be in accordance with the legal rights and obligations of the parties.
 - B. if anticipated state or Federal funds are not obtained or continued at a sufficient level, by providing written notice of termination to the Grantee.
 - C. for its convenience or for any other reason if the Department determines, in its sole discretion, that termination is in the best interest of the Commonwealth, or is otherwise appropriate, by providing written notice of termination to the Grantee. Payments or recoveries by the Department will be in accordance with the legal rights and obligations of the parties.
7. Extension of Time. Extensions of the period of performance are minor adjustments that may be accomplished by a letter of mutual consent signed by the parties, subject to the approval of the Commonwealth's Comptroller.
8. Conflict of Interest
 - A. Interest of Parties and Others. No officer, member, employee, independent contractor, or elected official of the Commonwealth and no member of its governing body who exercises any functions or responsibilities in the review or approval of activities being performed under this agreement may participate in any decision relating to this agreement that affects his or her personal interest or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested; nor may any such officer, member, elected official, or employee of the Commonwealth or any member of its governing body have any interest, direct or indirect, in this agreement or the proceeds of the grant award.
 - B. Interest of Contractor. The Grantee represents and warrants that it presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of its work under this agreement. The Grantee further covenants that in the performance of this agreement, it shall not knowingly employ any person having such interest. The Grantee further represents and warrants that no member of the board of directors of the Grantee or any of its officers have an adverse interest.
9. Payments. The Department shall make payment to the Grantee as stipulated in the agreement or Attachment A, as applicable. The Grantee shall pay its subcontractors or vendors for purchases or work performed under this agreement within 45 days of receipt of payment from the Department for the applicable reimbursement request. If the Grantee has a current environmental violation, the

Department may withhold payment until the environmental violation is resolved to the satisfaction of the Department.

10. Interest Payments. For purposes of the interest payments required under 72 P.S. § 1507, if the Department directs the Grantee to perform additional work that is not included in the agreement, and no amendment to the agreement has been executed by the parties for the additional work, or if the term of the agreement has expired, payment is not due under the agreement until after the required amendment for the additional work or time extension has been fully executed by all of the parties.
11. Fiscal Records. The Grantee shall maintain complete and accurate books, records, documents, correspondence, and other evidence pertaining to the costs and expenses of this agreement ("Records") at its principal office or place of business. The Records must properly reflect all costs, direct and indirect, of labor, materials, equipment, supplies, and services, and other costs and expenses of whatever nature for which funding has been provided under this agreement, and in accordance with generally accepted accounting principles and the Department's fiscal regulations and guidelines.
12. Retention of Records. The Grantee shall maintain the Records retain and make them available for audit for a period of three years after final payment is made and the agreement has expired or terminated, and all other pending matters are resolved.
13. Right to Audit. The Grantee shall grant the Department and the Office of Auditor General, or any of their duly authorized representatives, access to the Records for the purpose of conducting an audit of financial transactions, compliance with the terms of the agreement, and evaluation of the Grantee's performance. The Department may choose to examine excerpts, copies, and transcriptions of the Records during the course of an audit.
14. Copyright and Patent Indemnity. The Grantee shall indemnify and defend the Commonwealth against all claims, suits, demands, losses, damages, costs, and expenses, including without limitation, litigation expenses, attorneys' fees, and liabilities, arising out of or in connection with any alleged infringement of any copyright or patent related to the work, services, materials, reports, supplies, and computer programs provided by the Grantee under this agreement.
15. Copyright and Publication Rights. All publication rights and copyrights, in the documentation produced by the Grantee in connection with the grant activities or work performed under this agreement, rests with the Department. The Grantee shall not publish any of the results of the work without the written permission of the Department.
16. Sensitive Information. The Grantee shall not publish or otherwise disclose, any information or data obtained under the agreement from private individuals, organizations, or public agencies, including the Department, ("Sensitive Information") in a publication whereby Sensitive Information furnished by or about any person or establishment can be identified, except with the consent of that

person or establishment. This limitation does not apply to information that the Grantee solely discloses to the Commonwealth or to matters of public record. Personal data, including names and addresses obtained in conjunction with grant activities (“Personal Data”), may not be used in any manner other than that contained in the scope of work. The Grantee shall not sell or use Personal Data to create solicitation lists of any kind, including donor solicitation lists.

17. Indirect Costs – If the Grantee requests payment for indirect costs it incurred performing the Project work set forth in the Statement of Work, the Grantee shall specify the method of determining those costs and provide sufficient documentation to support those costs. Regardless of the method used to calculate indirect costs, the amount charged must not exceed actual costs incurred.
18. Independent Contractor - Nothing contained in this agreement is intended or may be construed to, in any respect, create or establish the relationship of partners between the parties, or as constituting the Grantee as the representative or general agent of the Department for any purpose whatsoever.
19. Severability - The provisions of this agreement are severable. If any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the Constitution of Pennsylvania or of the United States or of the laws of the Commonwealth the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance will not be affected.
20. Non-English Translations - This agreement has been prepared and written in English. Any non-English translation provided is for convenience only and is not valid or legally binding.