

## STANDARD CONTRACT TERMS AND CONDITIONS FOR PERFORMERS/SPEAKERS

### **1. TERM OF CONTRACT (“Contractor” shall mean “producer” as defined on the attached Contract/Artist Rider”)**

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.

### **2. INDEPENDENT CONTRACTOR**

In performing the services required by the Contract, the Contractor will act as an independent contractor and not as an employee or agent of the Commonwealth.

### **3. COMPLIANCE WITH LAW**

The Contractor shall comply with all applicable federal and state laws and regulations and local ordinances in the performance of the Contract.

### **4. ENVIRONMENTAL PROVISIONS**

In the performance of the Contract, the Contractor shall not interfere with efforts to minimize pollution and shall strictly comply with all applicable environmental laws and regulations.

### **5. COMPENSATION/EXPENSES**

The Contractor shall be required to perform the specified services at the price(s) quoted in the Contract. All services shall be performed within the time period(s) specified in the Contract. The Contractor shall be compensated in accordance with contract terms. The Contractor shall not be allowed or paid travel or per diem expenses except as specifically set forth in the Contract.

### **6. INVOICE (Subject to terms of the contract/Artist rider.)**

### **7. PAYMENT**

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.

### **8. TAXES**

The Commonwealth is exempt from all excise taxes imposed by the Internal Revenue Service and has accordingly registered with the Internal Revenue Service to make tax free purchases under Registration No. 23740001-K. With the exception of purchases of the following items, no exemption certificates are required and none will be issued: undyed diesel fuel, tires, trucks, gas guzzler emergency vehicles, and sports fishing equipment. The Commonwealth is also exempt from Pennsylvania state sales tax, local sales tax, public transportation assistance taxes and fees and vehicle rental tax. The Department of Revenue regulations provide that exemption certificates are not required for sales made to governmental entities and none will be issued. Nothing in this paragraph is meant to exempt a construction contractor from the payment of any of these taxes or fees which are required to be paid with respect to the purchase, use, rental, or lease of tangible personal property or taxable services used or transferred in connection with the performance of a construction contract.

## **9. ASSIGNMENT OF ANTITRUST CLAIMS**

To the extent required by law, the Contractor and the Commonwealth recognize that in actual economic practice, overcharges by the 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 the Contract, and intending to be legally bound, the Contractor assigns to the Commonwealth all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the products and services which are the subject of this Contract.

## **10. HOLD HARMLESS PROVISION**

Neither the contractor nor the University assumes any liability to each other. As to liability to each other or death to persons, or damages to property, the University and the contractor do not waive any defenses as a result of entering into this contract. This provision shall not be construed to limit the Commonwealth's rights, claims or defenses which arise as a matter of law pursuant to any provisions of this contract. This provision shall not be construed to limit the sovereign immunity of the Commonwealth or of the State System of Higher Education or the University.

## **11. AUDIT PROVISIONS**

The Commonwealth shall have the right, at reasonable times and at a site designated by the Commonwealth, to audit the books, documents and records of the Contractor to the extent that the books, documents and records directly relate to costs or pricing data for the Contract. The Contractor agrees to maintain records which will support the prices charged and costs incurred for the Contract. The Contractor shall preserve books, documents, and records that relate to costs or pricing data for the Contract for a period of three (3) years from date of final payment. The Contractor shall give full and free access to all records to the Commonwealth and/or their authorized representatives.

## **12. DEFAULT**

Excluding reasons of force majeure or breach by the Commonwealth, the Commonwealth may in addition to its other rights under the Contract declare Contractor is in default if contractor fails to perform any of its material obligations under the contract and contractor has failed to cure such default within reasonable time upon written notice to contractor.

## **13. FORCE MAJEURE**

Neither party will incur any liability to the other if its performance of any obligation under this Contract is prevented or delayed by causes beyond its reasonable control and without the fault or negligence of either party. Causes beyond a party's control may include, but aren't limited to, acts of God or war, changes in controlling law, regulations, orders or the requirements of any governmental entity, severe weather conditions, civil disorders, natural disasters, fire, epidemics and quarantines, general strikes throughout the trade, and freight embargoes, rendering performance impossible, infeasible or unsafe.

The Contractor shall notify the Commonwealth orally within five (5) days and in writing within ten (10) days of the date on which the Contractor becomes aware, or should have reasonably become aware, that such cause would prevent or delay its performance. Such notification shall (i) describe fully such cause(s) and its effect on performance, (ii) state whether performance under the contract is prevented or delayed and contractor's obligations shall be deemed waived.

In the event of a declared emergency by competent governmental authorities, the Commonwealth, by notice to the Contractor, may suspend all or a portion of the Contract.

## **14. TERMINATION PROVISIONS (subject to Contract/Artist's Rider)**

The Commonwealth has the right to terminate this Contract for any of the following reasons. Termination shall be effective upon written notice to the Contractor.

- a. **NON-APPROPRIATION:** The Commonwealth's obligation to make payments during any Commonwealth fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds for this engagement. When funds (state and/or federal) are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the Commonwealth shall have the right to terminate the contract. The contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under this contract. Such reimbursement shall not include loss of profit, loss of use of money. The reimbursement amount may be paid for any appropriations available for that purpose.
- b. **TERMINATION FOR CAUSE:** The Commonwealth shall have the right to terminate the Contract for Contractor default under Paragraph 12, Default, upon written notice to the Contractor. The Commonwealth shall also have the right, upon written notice to the Contractor, to terminate the Contract for other cause as specified in this Contract or by law.

## 15. CONTRACT CONTROVERSIES

- a. To the extent required by law in the event of a controversy or claim arising from the Contract, the Contractor must, within six months after the cause of action accrues, file a written claim with the contracting officer for a determination. The claim shall state all grounds upon which the Contractor asserts a controversy exists. If the Contractor fails to file a claim or files an untimely claim, the Contractor is deemed to have waived its right to assert a claim in any forum.
- b. The contracting officer shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within 120 days of the receipt of the claim, unless extended by consent of the contracting officer and the Contractor. The contracting officer shall send his/her written determination to the Contractor. If the contracting officer fails to issue a final determination within the 120 days (unless extended by consent of the parties), the claim shall be deemed denied. The contracting officer's determination shall be the final order of the purchasing agency.
- c. Within fifteen (15) days of the mailing date of the determination denying a claim or within 135 days of filing a claim if, no extension is agreed to by the parties, whichever occurs first, the Contractor may file a statement of claim with the Commonwealth Board of Claims. Pending a final judicial resolution of a controversy or claim, the Contractor shall proceed diligently with the performance of the Contract in a manner consistent with the determination of the contracting officer and the Commonwealth shall compensate the Contractor pursuant to the terms of the Contract.

## 16. ASSIGNABILITY AND SUBCONTRACTING

- a. Subject to the terms and conditions of this Paragraph 16, this Contract shall be binding upon the parties and their respective successors and assigns.
- b. The Contractor shall not subcontract with any person or entity to perform all or any part of the work to be performed under this Contract without the prior written consent of the Contracting Officer, which consent maybe withheld at the sole and absolute discretion of the Contracting Officer.
- c. The Parties may not assign, in whole or in part, this Contract or its rights, duties, obligations, or responsibilities hereunder without the prior written consent of the other.
- d. Notwithstanding the foregoing, the Contractor may, without the consent of the Contracting Officer, assign its rights to payment to be received under the Contract, provided that the Contractor provides written notice of such assignment to the

Contracting Officer together with a written acknowledgement from the assignee that any such payments are subject to all of the terms and conditions of this Contract.

- e. For the purposes of this Contract, the term "assign" shall include, but shall not be limited to, the sale, gift, assignment, pledge, or other transfer of any ownership interest in the Contractor provided, however, that the term shall not apply to the sale or other transfer of stock of a publicly traded company.
- f. Any assignment consented to by the Contracting Officer shall be evidenced by a written assignment agreement executed by the Contractor and its assignee in which the assignee agrees to be legally bound by all of the terms and conditions of the Contract and to assume the duties, obligations, and responsibilities being assigned.
- g. A change of name by the Contractor, following which the Contractor's federal identification number remains unchanged, shall not be considered to be an assignment hereunder. The Contractor shall give the Contracting Officer written notice of any such change of name.

#### **17. NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE**

During the term of the Contract, the Contractor agrees as follows:

- a. In the hiring of any employees 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. The Contractor and any 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. The Contractor 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 Department of General Services' 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, it shall furnish such information on reporting forms supplied by the contracting officer 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. To the extent required by the Governor's Management Directives 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.

## **18. CONTRACTOR INTEGRITY PROVISIONS**

- a. Definitions. For purposes of these Contractor 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. "Contractor" means the individual or entity, that has entered into this contract with the University.
  - iii. "Contractor Related Parties" means any Affiliates of the Contractor and the Contractor's executive officers, Pennsylvania officers and directors, or owners of five percent or more interest in the Contractor.
  - 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-bid Basis" means a contract awarded or executed by the University with Contractor without seeking bids or proposals from any other potential bidder or offeror.
- b. Representations and Warranties.
- i. Contractor Representation and Warranties. The Contractor represents, to the best of its knowledge and belief, and warrants that within the last five years neither the Contractor nor Contractor 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 Contractor cannot make the representations and warranties set forth above at the time of its submission of its bid or proposal or if this contract is awarded on a non-bid basis at the time of the execution of the contract, the Contractor shall submit a written explanation outlining the reasons why it cannot make those representations and warranties. The University may, based on its evaluation of the explanation provided, determine whether it is in the University's best interest to execute the contract.
  - iii. Further Representations. By submitting any bills, invoices, or requests for payment pursuant to this contract, the Contractor further represents that it has not violated any of these Contractor Integrity Provisions during the term of the contract.

- iv. Notice. The Contractor shall immediately notify the University, in writing, if at any time during the term of the contract it becomes aware of any event that would cause the Contractor's certification or explanation to change. The Contractor acknowledges that the University may, in its sole discretion, terminate the contract for cause if it learns that any of the certifications made in these 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 contract.
- c. Contractor Responsibilities. During the term of this contract, the Contractor 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 Contractor that govern Commonwealth of Pennsylvania contracting and procurement.
  - iii. establish and implement a written business integrity policy that includes, at a minimum, the requirements of these provisions as they relate to the Contractor's activity with the University and University 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 provision of goods or services under this contract.
  - v. not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material under this contract, unless the financial interest is disclosed to the University in writing and the University consents to Contractor's financial interest. The Contractor must disclose the financial interest to the University at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than the date the Contractor signs the contract. The University 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 contract was awarded on a Non-bid Basis.
  - viii. immediately notify the University contracting officer or the Office of the State Inspector General, in writing, when the Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or these Contractor Integrity Provisions has occurred or may occur, including, but not limited to, contact by a University officer or employee, which, if acted upon, would violate the ethical standards.
- d. Investigations. If a State Inspector General investigation is initiated, the Contractor shall:
- i. reimburse the Commonwealth of Pennsylvania for the reasonable costs of investigation incurred by the Office of the State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and any agency of the Commonwealth of Pennsylvania that results in the suspension or debarment of the Contractor. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
  - ii. cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth of Pennsylvania agency or employee breach of ethical standards and any alleged Contractor non-compliance with these Contractor Integrity Provisions and make identified Contractor employees 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 Contractor's integrity and compliance with these provisions. This information may include, but is not limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this contract.
- e. Termination. For violation of any of these Contractor Integrity Provisions, the University may terminate this and any other contract with the Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these Contractor Integrity provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend the Contractor from doing business with the University, the State System of Higher Education, and Commonwealth of Pennsylvania. 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 University may have under law, statute, regulation, or contract.
- f. Subcontracts. The Contractor shall include these Contractor Integrity Provisions in its contracts with all subcontractors providing goods or services under this contract. The incorporation of this provision in the Contractor's subcontracts does not create privity of contract between the University and any subcontractor, and no third-party beneficiaries are created by the inclusion of these provisions. If the Contractor becomes aware of a subcontractor's violation of these provisions, the Contractor shall use its best efforts to ensure the subcontractor's compliance with these provisions.

## **19. CONTRACTOR RESPONSIBILITY PROVISIONS**

- 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 of Pennsylvania ("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 subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot make this representation, the Contractor shall submit, along with its contract, a written explanation of why such certification cannot be made.
  - ii. The Contractor represents that as of the date of its execution of this contract it has no tax liabilities or other Commonwealth of Pennsylvania obligations or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.
- c. Notification. The Contractor shall notify the University if, at any time during the term of this contract, it becomes delinquent in the payment of taxes, or other Commonwealth of Pennsylvania obligations, or if it or, to the best of its knowledge, any of its subcontractors are suspended or debarred by the State System of Higher Education, the Commonwealth of Pennsylvania, 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 University of its suspension or debarment by the Commonwealth of Pennsylvania, any other state, or the federal government constitutes an event of default of the contract with the University.
- e. Reimbursement. The Contractor shall reimburse the Commonwealth of Pennsylvania 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 contract or any other agreement between the Contractor and the Commonwealth of Pennsylvania 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.

## **20. 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 contract.
- b. Compliance. For all goods and services provided pursuant to this contract, the Contractor 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 Contractor shall indemnify the University 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 Contractor's failure or its employee's or agent's failure to comply with the provisions of paragraph a, as determined by the University in its sole discretion.

## **21. APPLICABLE LAW**

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 University's rights or defenses.

## **22. INTEGRATION**

The Contract and Artist's rider, including all referenced documents, constitutes the entire agreement between the parties. No agent, representative, employee or officer of either the Commonwealth or the Contractor has authority to make, or has made, any statement, agreement or representation, oral or written, in connection with the Contract, which in any way can be deemed to modify, add to or detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of the Contract. No modifications, alterations, changes, or waiver to the Contract or any of its terms shall be valid or binding unless accomplished by a written amendment signed by both parties. All such amendments will be made using the appropriate Commonwealth form.



## **23. MANDATORY REPORTING REQUIREMENTS**

All employees and subcontractors of Contractor who provide a program, activity, or service to the University that are responsible for the care, supervision, guidance, or control of children are considered mandatory reporters of suspected cases of child abuse under Pennsylvania law if the individual has reasonable cause to suspect that a child is the victim of child abuse under any of the following circumstances: (i) the mandated reporter comes into contact with the child in the course of employment, occupation and practice of a profession or through a regularly scheduled program, activity or service; (ii) the mandated reporter is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with an agency, institution, organization, school, regularly established church or religious organization or other entity that is directly responsible for the care, supervision, guidance or training of the child; (iii) a person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse; or (iv) an individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse. Nothing in this section shall require a child to come before the mandated reporter in order for the mandated reporter to make a report of suspected child abuse. Nothing in this section shall require the mandated reporter to identify the person responsible for the child abuse to make a report of suspected child abuse.

Mandated reporters must immediately make an oral report of suspected child abuse to the Department of Human Services (DHS), formerly the Department of Public Welfare, by calling 1-800-932-0313, or by filing a written report with DHS through Pennsylvania's Child Welfare Information Solution portal (<https://www.compass.state.pa.us/CWIS>). If an oral report is made, a written report shall also be made within 48 hours to DHS or the county agency assigned to the case as prescribed by DHS.

In addition to the mandatory reporting requirements above, employees and subcontractors of Contractor must immediately notify the University that a report of suspected child abuse has been made.

## **24. RIGHT TO KNOW LAW**

- a. Applicability. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, ("RTKL") applies to this contract.
- b. Contractor Assistance. If the University needs the Contractor's assistance in any matter arising out of the RTKL related to this contract, the University shall notify the Contractor that it requires the Contractor's assistance, and the Contractor shall provide to the University:
  - i. access to, and copies of, any document or information in the Contractor's possession (Requested Information) arising out of this contract that the University 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 University may reasonably request, in order to comply with the RTKL with respect to this contract.
- c. Trade Secret or Confidential Proprietary Information. If the Contractor 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 Contractor shall notify the University and provide, within seven calendar days of receipt of the written notice a written statement, signed by a representative of the Contractor, that explains why the requested material is exempt from public disclosure under the RTKL. If the University determines that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information to the University within five business days of receipt of written notice of the University's determination.
- d. Reimbursement.
  - i. University Reimbursement. If the Contractor fails to provide the Requested Information and the University is ordered to produce the Requested Information, the Contractor shall reimburse the University for any damages, penalties, or costs that the University

- may incur as a result of the Contractor's failure, including any statutory damages assessed against the University.
- ii. Contractor Reimbursement. The University will reimburse the Contractor for any costs that the Contractor 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 University Release. The Contractor may file a legal challenge to any University decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall reimburse the University for any legal expenses incurred by the University as a result of the challenge, including any damages, penalties or costs that the University may incur as a result of the Contractor's legal challenge, regardless of the outcome.
  - f. Waiver. As between the parties, the Contractor waives all rights or remedies that may be available to it as a result of the University's disclosure of Requested Information pursuant to the RTKL.
  - g. Survival. The Contractor's obligations contained in this Section survive the termination or expiration of this contract.