

**INSTRUCTIONS FOR COMPLETING  
MINE RESCUE TEAM TRAINING AGREEMENT**

- ⇒ Please type the name of the company on Page 1 of each agreement EXACTLY as it appears on the corporate seal. **DO NOT DATE THE AGREEMENT.**
- ⇒ Identify the liaison with DEP on Page 4 of each agreement, include a name and business address. Please note: All correspondence and contacts will be with the person named here.
- ⇒ Have your company's secretary, treasurer, or secretary/treasurer sign the last page of the agreements. **BE SURE TO INDICATE THE TITLE OF THE PERSON SIGNING.**
- ⇒ Signature sign the last page of the agreements.  
⇒ **BE SURE TO INDICATE THE TITLE OF THE PERSON SIGNING.**  
⇒ Corporation: company's president or vice-president  
⇒ Limited Liability Company: member or manager  
⇒ Limited Partnership: General Partner  
⇒ Sole Proprietorship: Owner
- ⇒ Return the completed Agreements, Statement of Insurance, and the Emergency Notification and Operations Information form electronically to: **RA-EPBMSREG@pa.gov**  
⇒ Or by mail to the **Bureau of Mine Safety, 131 Broadview Road, New Stanton, PA 15672**

**Please return promptly**

- ✓ PLEASE CHECK THAT ALL ITEMS ARE COMPLETED OR THE AGREEMENT MAY BE RETURNED TO YOU DELAYING THE FINAL ROUTING FOR SIGNATURE.

Thank you.



724.404.3143

**PLEASE PROVIDE VITAL EMERGENCY NOTIFICATION AND OPERATIONS INFORMATION BELOW**

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Company Phone: \_\_\_\_\_  
Please Include Area Code

List *two* (2) responsible company officials (first one being the Liaison):

Name	Home Phone	Work Phone
<b>Liaison:</b>		

Operations data:

Mine Name	Fed ID No.	No. of Underground Employees	Name of Mine Rescue Team Member (s)	Home Phone	Work Phone

**NOTE: Processing of this Agreement will not proceed unless the above information is provided.**



**pennsylvania**  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION

**STATEMENT OF INSURANCE MAINTAINED BY OPERATOR**

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**WRITE IN NAME OF COMPANY**

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**WRITE IN NAME OF MINE OPERATION**

This Statement of Insurance Maintained by Operator covers the above-named company and operation.

This Statement is submitted by the mine operator pursuant to Section V, “Effect Upon Status Employee” of the mine rescue agreement entered into with the Commonwealth of Pennsylvania year January 1, 2023, to December 31, 2023.

**\* INSTRUCTIONS \***

This Statement contains six (6) Paragraphs, each describing a type of insurance that your company may carry to cover its employees.

Paragraphs 1 and 2 pertain to Workmen’s Compensation Insurance. Paragraphs 3, 4 and 5 pertain to Occupational Disease Insurance. Paragraph 6 pertains to additional insurances carried by your company not covered in Paragraphs 1 through 5.

Your company representative must choose which paragraphs describe the types of insurance carried by your company and SIGN IN INK those paragraphs that apply. The company representative must be authorized to bind the company by his or her signature on these pages.

If a paragraph specifies that an insurance certificate or endorsement be attached, your representative should see that it is attached. If a paragraph does not pertain to your situation, simply leave it blank.

1. On behalf of the Operator, \_\_\_\_\_ certifies that the Mine Operator has accepted the Workmen’s Compensation Act, of July 18, 1917, P.L. 1083, as amended, and that the Operator has insured its liability under that Act in accordance with the terms of the statute.

***NOTE: PLEASE SIGN THIS PARAGRAPH IF YOUR COMPANY HAS ACCEPTED THE ACT AND IS INSURED. YOU MUST THEN ATTACH AN INSURANCE ENDORSEMENT OR CERTIFICATE.***

2. On behalf of the Operator, \_\_\_\_\_ certifies that the Mine Operator holds a current and valid certificate of exemption from insurance from the Bureau of Workmen’s Compensation of the Pennsylvania Department of Labor and Industry.

***NOTE: PLEASE SIGN THIS PARAGRAPH IF YOUR COMPANY IS EXCEMPT FROM THE ACT AND IS SELF-INSURED. YOU MUST THEN ATTACH A CERTIFICATE OF EXEMPTION FROM THE BUREAU OF WORKMEN’S COMPENSATION.***

3. On behalf of the Operator, \_\_\_\_\_ certifies that the Mine Operator has accepted “The Pennsylvania Occupational Disease Act,” of June 21, 1939, P.L. 566, as amended.

***NOTE: PLEASE SIGN THIS PARAGRAPH IF YOUR COMPANY HAS ACCEPTED THE OCCUPATIONAL DISEASE ACT.***

4. On behalf of the Operator, \_\_\_\_\_ certifies that the Mine Operator has elected to insure itself for liability for occupational disease by entering into an agreement with one of the following: 1) the State Workmen’s Insurance Fund, b) Insurance Company, c) Mutual Association or Company; known as:

\_\_\_\_\_  
Name of Fund, Company or Association

\_\_\_\_\_  
Policy No.

\_\_\_\_\_  
Address

***NOTE: PLEASE SIGN THIS PARAGRAPH IF YOU ARE INSURED FOR OCCUPATIONAL DISEASE. ALSO, INDICATE THE FUND, COMPANY OR ASSOCIATION WITH WHICH YOU CARRY THIS INSURANCE. THEN YOU MUST ATTACH AN INSURANCE ENDORSEMENT OR CERTIFICATE.***

5. On behalf of the Operator, \_\_\_\_\_ certifies that the Mine Operator possesses a current and valid permit from the Pennsylvania Department of Labor and Industry, exempting the Operator from the responsibility of maintaining insurance for death or disability arising from occupational disease.

***NOTE: PLEASE SIGN THIS PARAGRAPH IF YOUR COMPANY IS EXEMPT FROM OCCUPATIONAL DISEASE INSURANCE. YOU THEN MUST ATTACH A CERTIFICATE OF EXEMPTION.***

6. On behalf of the Operator, \_\_\_\_\_ certifies that the Mine Operator maintains the following insurance policies for claims of property damage, bodily injury, disability, or death of persons engaged in activities at the mine operation:

\_\_\_\_\_  
Name of Company Policy No.

\_\_\_\_\_  
Address

\_\_\_\_\_  
Name of Company Policy No.

\_\_\_\_\_  
Address

***NOTE: PLEASE SIGN THIS PARAGRAPH IF YOUR COMPANY CARRIES INSURANCES OTHER THAN THOSE (OR ADDITIONAL TO THOSE) DESCRIBED IN PARAGRAPHS 1 THROUGH 5. THEN YOU MUST ATTACH PERTINENT INSURANCE ENDORSEMENTS OR CERTIFICATES.***

The Mine Operator has read and authorized this statement consisting of three (3) pages. In recognition, thereof, the operator or a corporate officer signs below.

\_\_\_\_\_  
Operator or Corporate Officer  
(Please indicate title of person signing this form.)

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
BUREAU OF MINE SAFETY**

**INDUSTRIAL MINERALS  
MINE RESCUE TEAM AGREEMENT**

This AGREEMENT entered into by and between the Commonwealth of Pennsylvania, Department of Environmental Protection, Bureau of Mine Safety (hereinafter "DEP or Department"), and \_\_\_\_\_ (hereinafter "OPERATOR"), on this \_\_\_\_\_ day of \_\_\_\_\_, consists of the following:

WHEREAS, DEP has experience in training members of mine rescue teams regarding the use of self-contained breathing apparatus, first-aid, and mine rescue techniques and principles;

WHEREAS, DEP employs mine rescue instructors who have been approved by the U. S. Department of Labor, Mine Safety and Health Administration (hereinafter "MSHA");

WHEREAS, the OPERATOR desires to provide the mine rescue teams required by 30 CFR Part 49 by participating in mine rescue teams serving more than one mine;

WHEREAS, the Department desires to facilitate the OPERATOR's participation in mine rescue teams serving more than one mine; and

WHEREAS, the OPERATOR desires to have the Commonwealth train the OPERATOR'S mine employee(s) in mine rescue techniques and principles;

NOW, THEREFORE, in mutual consideration of the premises contained herein, the parties hereto intending to be legally bound hereby contract and agree as follows:

**I. A. Designation of employees for training.**

For each mine covered by this agreement, the OPERATOR agrees to provide one employee for each mine employing no more than 25 persons underground, and 2 or more persons for each mine employing 25 persons or more underground to serve on mine rescue team.

Each employee designated by the OPERATOR shall be approved by DEP before the employee begins training.

The Operator shall give DEP a list of all mines to be covered by this agreement. This list shall identify the number of employees at each mine. The Operator shall, within 15 days, notify the Department of any change in the mines to be covered or the number of employees at a mine.

**B. Qualifications for designation as a trainee.**

In order to qualify for training in mine rescue and be a member of a mine rescue team, an individual must:

1. Be an employee of the OPERATOR's mine and have been employed in an underground mine for one year in the past 5 years.

Miners who are employed on the surface but work regularly underground at the mine shall meet the experience requirement.

2. Be able to meet any physical or experience requirements contained in 30 CFR Part 49 or otherwise established by MSHA.
3. Submit to DEP a copy of MSHA Form 5000-3 annual physician's examination and certification that the individual is "physically fit to perform mine rescue and recovery activities for prolonged periods under strenuous conditions".

The OPERATOR shall not allow the designated team member's annual physical to lapse. The first such physical examination shall be completed within 60 days prior to the scheduled initial training. This report shall be filed with DEP prior to receiving training.

### **C. Dismissal from training.**

Any non-compliance with the requirements will result in the designated employee being ineligible to be a mine rescue team member and may result in the loss of mine rescue coverage for the represented mine.

### **D. Attendance; Substitute for dismissed individual.**

The OPERATOR is responsible for seeing that individuals designated by the OPERATOR are made aware of the site for training sessions selected by DEP. The OPERATOR is responsible for seeing that designated employees attend the entire training session scheduled by DEP.

In the event that an individual is dismissed or resigns from training, the OPERATOR shall submit the name of another qualified individual for approval by DEP, prior to the next scheduled training session.

The OPERATOR may only send employees for training who are approved by DEP and who are designated to receive all the training scheduled by and provided by DEP during the period of the contract year remaining after the employee is approved.

Nothing in this AGREEMENT shall be construed to permit the OPERATOR to send a temporary substitute to one or more training sessions, in the place of an employee who is approved by DEP and who is designated permanently as a trainee (i.e., an employee who has not been dismissed from future training sessions, who does not wish to be dismissed from training or to resign from training, and who wishes to receive training again during the contract year.)

## **II. SITE**

The OPERATOR agrees to permit DEP to conduct training at its underground mine for purposes of this AGREEMENT.

DEP agrees to schedule monthly training sessions at sites to be designated by DEP. DEP will notify the OPERATOR or its liaison of the location prior to each training session.

In addition, training sessions, in which a portion of the training is to be conducted underground, will be conducted at each underground mine to be covered by the mine rescue team at least semi-annually.

## **III. TRAINING**

Training will be provided by DEP staff persons who have been approved as mine rescue instructors by the Office of Education and Training, MSHA. DEP will provide at least the following training:

## **A. Initial training.**

Prior to serving on a mine rescue team, each member shall complete, at a minimum, an initial 20-hour course of instruction as prescribed by MSHA's Office of Educational Policy and Development, in the use, care, and maintenance of the type of breathing apparatus which will be used by the mine rescue team.

## **B. Annual training requirements**

DEP will schedule and provide, and the designated trainees will attend all scheduled training sessions.

During the course of the contract year, DEP will provide the following training.

- (1) Sessions underground at least once each 6 months.
- (2) The wearing and use of the breathing apparatus by team members for a period of at least 2 hours every 2 months.
- (3) Where applicable, the use, care, capabilities, and limitations of auxiliary mine rescue equipment, or a different breathing apparatus.
- (4) Advanced mine rescue training and procedures, as prescribed by MSHA's Office of Educational Policy and Development.
- (5) Mine map training and ventilation procedures.
- (6) The wearing of mine rescue apparatus while in smoke, simulated smoke, or an equivalent environment at least once during each 12-month period.
- (7) Each trainee will participate in at least two (2) local mine rescue contests and/or a Mine Emergency Response Development (MERD) each year.
- (8) Mine site training sessions, a portion of which is to be conducted underground, will be conducted at each underground mine at least annually.

Training at the mine shall include:

- Identifying the designated escapeways, intakes, returns,
- the ventilation system,
- locations and types of fire fighting equipment,
- the communication system,
- mine-wide monitoring system,
- the type of transportation equipment used at the mine.
- The location of stored self contained self rescuers, lifelines, breathable air, hardened rooms, and other emergency response equipment or supplies



**IV. LIAISON**

The OPERATOR shall designate a full-time management employee, other than a designated mine rescue trainee, to act as agent for the OPERATOR and to be the liaison with DEP for purposes of implementing this AGREEMENT. The name and business address of this liaison is as follows:

(Name): \_\_\_\_\_

(Address): \_\_\_\_\_

\_\_\_\_\_

(Telephone) \_\_\_\_\_

(Emergency telephone) \_\_\_\_\_

**V. LIAISON TRAINING**

A. DEP shall provide training to persons acting as the OPERATOR’s liaison. The training provided will include, but not be limited to, emergency declaration, notification, and the procedures established by DEP to call out mine rescue teams.

B. Such training shall be held semi-annually and shall be attended by each liaison.

C. Attendance at these training sessions is mandatory.

**VI. MUTUAL AID**

A. As of the date of this Agreement and thereafter, upon notification by an authorized representative of DEP to the OPERATOR of an emergency situation, the OPERATOR will make its designated trainee available immediately to aid the party suffering such emergency in accordance with 30 CFR §49.2(a)(2), provided, however, that its designated trainee shall not then be responding to or engaged in another emergency situation.

B. The mine rescue personnel of the OPERATOR will be subject to the direction of the individual or individuals in charge at the site of rescue operations.

C. For purposes of this Agreement, “mine rescue operations” shall mean services or work to search for, rescue, or transport a person or persons endangered, trapped, injured, or killed in a mine disaster or emergency situation.

The term shall also include:

- Any rehabilitation work in the mine which is necessary to search for, rescue, or transport any person or persons in the mine.
- Fire fighting and mine recovery work which requires the use of personnel with self-contained breathing apparatus until such time the OPERATOR requesting mine rescue services reasonably determines that additional mine rescue services will not significantly impact the ability of the mine to be preserved or recovered.

D. The mine rescue team member’s employer shall be responsible for compensation of said employee for all hours worked related to responding to, and performing work at, mine emergencies. The employer shall also be responsible for providing Workmen’s Compensation insurance as well as any claims against the trainee which may result from such emergency.

E. The OPERATOR who may suffer an emergency, as a condition of its entitlement to the services of a mine rescue team member, whose employer has entered into a Mine Rescue Team Agreement with the DEP, shall agree to the following:

1. Reimbursement to the providing operator of wages of team members and all costs related to the services of the team, including but not limited to transportation costs, and out-of pocket expenses while en-route to or from, or at the emergency site.
2. Wage hours and rates of the team members shall be the same as if they had worked a like emergency at the team members' own mine.
3. Reimbursement to the providing operator of wages and costs shall be by invoice of separate costs submitted to the party suffering the emergency with reasonable detail and backup information.
4. Workers' Compensation and Occupational Disease coverage of each team member shall be provided and paid for by such mine rescue team member's regular employer.
5. Forever indemnify and hold the party providing the team member and their successors, heirs, legal representatives, and assigns harmless from and against all claims, demands, suits, actions, or cause of action, judgments and all other liabilities of whatever nature on account of the injury to or death of any person or persons and/or the damage to or destruction of any property or properties arising out of or in any manner connected with or as a result of the transportation of the team to or from the mine of the party requesting team services, their acts and omissions, while both on and off the emergency site and from all matters and things in connection therewith or in consequence thereof.

## **VII. EMERGENCY NOTIFICATION**

A. By executing this Mine Rescue Training Agreement, the OPERATOR authorizes DEP to notify mine rescue team members on its behalf to respond to declared emergencies. The OPERATOR agrees to notify DEP at the first indication of an emergency or other similar incident requiring mine rescue teams and equipment, and authorizes DEP to notify mine rescue team members to respond.

Further, the OPERATOR agrees to provide its designated team members to other participating operations where a declared emergency has occurred.

B. The OPERATOR agrees to indemnify, defend, and hold harmless the DEP from and against any and all claims and causes of action arising from actions, omissions, or activities resulting from such notification.

## **VIII. PERSONAL PROTECTIVE EQUIPMENT**

The OPERATOR shall provide to each designated mine rescue trainee, personal protective equipment for use during training and mine emergencies.

Such equipment, which shall be made immediately accessible, shall include items necessary for the personal protection of the employee when attending training sessions and responding to mine emergencies.

## **IX. COMPENSATION AND EXPENSES**

The OPERATOR agrees to compensate designated trainees for all hours worked, including travel in excess of his/her normal travel time, related to scheduled mine rescue training. The OPERATOR further agrees to reimburse designated trainees for personal automobile mileage in

excess of mileage incurred commuting from home to work and return, at the current federal IRS rate.

#### **X. HEALTH AND SAFETY**

In the twenty-four (24) hour period of the scheduled mine rescue training date, the OPERATOR agrees to refrain from scheduling designated trainees for work hours other than that directly related to mine rescue training, unless it is mutually agreed upon between the OPERATOR and the designated trainee.

#### **XI. EFFECT UPON STATUS OF EMPLOYEE**

The employee designated by the OPERATOR to receive training in accordance with this AGREEMENT shall continue to be considered the employee of the OPERATOR for all purposes while the employee is carrying out the activities of this agreement. A designated employee in mine rescue activity is deemed to be in furtherance of the OPERATOR'S interests and business.

Nothing in this AGREEMENT shall be construed to give the DEP the right to hire or fire individuals from his or her employment by the OPERATOR. Nothing in this AGREEMENT shall be construed to exempt or preclude the employee from coverage by or participation in insurance or benefits offered by the OPERATOR employing the mines rescue team member, including but not limited to, the employee's right to coverage under Workmen's Compensation agreements or Unemployment Compensation or Occupational Diseases agreements or other insurance programs and responsibilities, the employee's right to accumulation of seniority rights, and the employee's job assignment or wages, etc.; additionally, nothing in this AGREEMENT shall be construed to alter the employee's status in these regards.

The OPERATOR shall maintain such insurances as will protect it from claims of Workmen's Compensation Acts, Occupational Diseases Acts, and from any such other claims for property damage, bodily injury or death which may arise from activities under this AGREEMENT; the DEP shall not be liable for any such claims. Certificates of such insurances shall be filed with the DEP before training begins.

The OPERATOR agrees to indemnify, defend, and hold harmless the DEP from and against any and all claims and causes of action arising from actions, omissions, or activities of mine employers or operators; mine-rescue related or DEP personnel; and mine employees; if these activities, actions, or omissions are undertaken in fulfillment of or in connection with activities performed pursuant to this AGREEMENT.

#### **XII. TERM OF AGREEMENT**

This AGREEMENT shall be effective from the date of signing, indicated in the first paragraph of this **AGREEMENT, from January 1, 2023 until December 31, 2023.** The term of this AGREEMENT may be extended by submitting an "Amendment to the Mine Rescue Team Agreement" signed by all the parties or their successors. The extension shall be in writing. Each extension shall be effective for no longer a period than one year.

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

OPERATOR agrees to comply with the provisions applicable to "contractor" in the Nondiscrimination Sexual Harassment Clause attached hereto as Exhibit A.

#### **XIV. PROVISIONS FOR COMMONWEALTH CONTRACTS**

OPERATOR agrees to comply with the provisions applicable to “contractor” in the Provisions for Commonwealth Contracts attached hereto as Exhibit B.

#### **XV. DEPARTMENT OF ENVIRONMENTAL PROTECTION -FEDERAL REQUIREMENTS**

OPERATOR agrees to comply with the provisions applicable to “contractor” in the Department of Environmental Protection - Federal Requirements attached hereto as Exhibit C.

#### **XVI. TERMINATION**

##### **A. Initial Notice**

Either party promptly shall inform the other party whenever there is reason to believe that termination of the contract is indicated because of the existence of circumstances or conditions such as, but not limited to, failure to perform obligations described in this AGREEMENT, varying from the proposal without approval, lack of sufficient students, or the program not being fulfilled or reaching a stage where further efforts would produce little or no results as contemplated by the enabling legislation.

##### **B. Final Notice and Termination**

In such event, the contract may be terminated in whole or in part by either party hereto, after consultation of the parties by giving advanced written notice of at least thirty (30) days to the other party of a specified date of termination.

##### **C. Termination upon initial notice in certain circumstances**

If this contract is to be funded either partially or completely by federal funds, it may be terminated by DEP if federal funds are not provided to the Commonwealth for the contract purpose. Additionally, this AGREEMENT may be terminated by DEP should funds for the program be exhausted or terminated or further legislation alter the present status of the program. Any such termination shall be effected by delivery to the OPERATOR of a Notice of Termination specifying the reason for termination and the date such termination is to be effective.

#### **XVII. EMERGENCY RESPONSE PLANS**

The Operator shall provide the following to DEP:

1. A list of responsible person(s) for each underground mine
2. The mine’s Emergency Response Plan
3. The Mine Rescue Notification Plan
4. The Mine Emergency Evacuation and Firefighting Program of Instruction

**NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE [Contracts]**

The Contractor agrees:

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not discriminate 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.
2. Neither the Contractor nor any subcontractor nor any person on their behalf shall 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 employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.
3. Neither the Contractor nor any subcontractor nor any person on their behalf shall 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 the contract.
4. Neither the Contractor nor any subcontractor nor any person on their behalf shall 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 such Acts' enforcement, and shall comply with any provision of law establishing organizations as employees' exclusive representatives.
5. The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contracted services are performed shall satisfy this requirement for employees with an established work site.
6. The Contractor and each subcontractor shall not 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 subcontractor or supplier who is qualified to perform the work to which the contract relates.
7. The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws, regulations and policies relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report ("EEO-1") with the U.S. Equal Employment

Opportunity Commission ("EEOC") and shall file an annual EEO-1 report with the EEOC as required for employers' subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor 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 their books, records, and accounts by the contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.

- 8.** The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.
- 9.** The Contractor's and each subcontractor'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 and each subcontractor shall have an obligation to inform the commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.
- 10.** The commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

## Exhibit B Provisions for Commonwealth Contracts

1. **CONTRACTOR INTEGRITY PROVISIONS** (For the purpose of these Contractor Integrity Provisions, the term Contractor is defined to include GRANTEE and the term Contract is defined to include GRANT AGREEMENT.)

It is essential that those who seek to contract with the Commonwealth of Pennsylvania (“Commonwealth”) observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the Commonwealth contracting and procurement process.

- a. **DEFINITIONS.** For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Section:

- 1) **“Affiliate”** means two or more entities where (a) a parent entity owns more than fifty percent of the voting stock of each of the entities; or (b) a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.
- 2) **“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 the execution of this contract.
- 3) **“Contractor”** means the individual or entity, that has entered into this contract with the Commonwealth.
- 4) **“Contractor Related Parties”** means any affiliates of the Contractor and the Contractor’s executive officers, Pennsylvania officers and directors, or owners of 5 percent or more interest in the Contractor.
- 5) **“Financial Interest”** means either:
  - a) Ownership of more than a five percent interest in any business; or
  - b) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
- 6) **“Gratuity”** means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the *Governor’s Code of Conduct, Executive Order 1980-18*, the *4 Pa. Code §7.153(b)*, shall apply.

- 7) **“Non-bid Basis”** means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.

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

- 1) Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting or procurement with the Commonwealth.
- 2) Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to the Contractor activity with the Commonwealth and Commonwealth employees and which is made known to all Contractor employees. Posting these Contractor Integrity Provisions conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.
- 3) Contractor, its affiliates, agents, employees and anyone in privity with Contractor shall not accept, agree to give, offer, confer, or 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 of the Governor of Pennsylvania, statement of policy, management directive or any other published standard of the Commonwealth in connection with performance of work under this contract, except as provided in this contract.
- 4) Contractor shall 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 Commonwealth in writing and the Commonwealth consents to Contractor’s financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor’s submission of the contract signed by Contractor.
- 5) Contractor certifies to the best of its knowledge and belief that within the last five (5) years Contractor or Contractor Related Parties have not:
  - a) been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
  - b) been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;
  - c) had any business license or professional license suspended or revoked;



- d) 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
- e) been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

If Contractor cannot so certify to the above, then it must submit along with its bid, proposal or contract a written explanation of why such certification cannot be made and the Commonwealth will determine whether a contract may be entered into with the Contractor. The Contractor's obligation pursuant to this certification is ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to immediately notify the Commonwealth in writing if at any time during the term of the contract if becomes aware of any event which would cause the Contractor's certification or explanation to change. Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause if it learns that any of the certifications made herein are currently false due to intervening factual circumstances or were false or should have been known to be false when entering into the contract.

- 6) Contractor shall comply with the requirements of the *Lobbying Disclosure Act (65 Pa.C.S. §13A01 et seq.)* regardless of the method of award. If this contract was awarded on a Non-bid Basis, Contractor must also comply with the requirements of the *Section 1641 of the Pennsylvania Election Code (25 P.S. §3260a)*.
- 7) When 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 Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or the Office of the State Inspector General in writing.
- 8) Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these Contractor Integrity Provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract, to include any extensions thereof. Contractor shall immediately notify the Commonwealth in writing of any actions for occurrences that would result in a violation of these Contractor Integrity Provisions. Contractor agrees to reimburse the Commonwealth 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 the Commonwealth that results in the suspension or debarment of the Contractor. Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

- 9) Contractor shall 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 Contractor non-compliance with these Contractor Integrity Provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of an Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this contract. Contractor shall incorporate this paragraph in any agreement, contract or subcontract it enters into in the course of the performance of this contract/agreement solely for the purpose of obtaining subcontractor compliance with this provision. The incorporation of this provision in a subcontract shall not create privity of contract between the Commonwealth and any such subcontractor, and no third party beneficiaries shall be created thereby.
- 10) For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these Provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

## **2. CONTRACTOR RESPONSIBILITY PROVISIONS**

For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee or lessor, who has furnished or performed or seeks to furnish or perform, goods, supplies, services, leased space, construction or other activity, under a contract, grant, lease, purchase order or reimbursement agreement with the Commonwealth of Pennsylvania (Commonwealth). The term contractor includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.

- a. The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.

- b. The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.
- c. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.
- d. The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.
- e. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- f. The Contractor may search the 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.

### **3. PROVISIONS CONCERNING THE AMERICANS WITH DISABILITIES ACT**

For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, supplier, or grantee, who will furnish or perform or seeks to furnish or perform, goods, supplies, services, construction or other activity, under a purchase order, contract, or grant the Commonwealth of Pennsylvania (Commonwealth).

During the term of this contract, the Contractor agrees as follows:

- a. 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 through contracts with outside contractors.

- b. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth as a result of the Contractor’s failure to comply with the provisions of subparagraph a above.

#### 4. COMMONWEALTH HELD HARMLESS CLAUSE

- a. The Contractor/Grantee shall hold the Commonwealth harmless from and indemnify the Commonwealth against any and all third party claims, demands and actions based upon or arising out of any activities performed by the Contractor/Grantee and its employees and agents under this Contract/Grant Agreement, provided the Commonwealth gives Contractor/Grantee prompt notice of any such claim of which it learns. Pursuant to the Commonwealth Attorneys Act (71 P.S. Section 732-101, et seq.), the Office of Attorney General (OAG) has the sole authority to represent the Commonwealth in actions brought against the Commonwealth. The OAG may, however, in its sole discretion and under such terms as it deems appropriate, delegate its right of defense. If OAG delegates the defense to the Contractor/Grantee, the Commonwealth will cooperate with all reasonable requests of Contractor/Grantee made in the defense of such suits.
- b. Notwithstanding the above, neither party shall enter into any settlement without the other party's written consent, which shall not be unreasonably withheld. The Commonwealth may, in its sole discretion, allow the Contractor/Grantee to control the defense and any related settlement negotiations.

#### 5. RIGHT TO KNOW LAW

**For the purpose of these Right to Know Law provisions, the term Contractor is defined to include GRANTEE, SUBGRANTEE and/or LESSOR and the term Contract is defined to include GRANT AGREEMENT and/or LEASE AGREEMENT.**

- a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, (“RTKL”) applies to this Contract. For the purpose of these provisions, the term “the Commonwealth” shall refer to the contracting Commonwealth agency.

- b. If the Commonwealth needs the Contractor's assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.
- c. Upon written notification from the Commonwealth that it requires the Contractor's assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor's possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information"), the Contractor shall:
  - 1) Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor's possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
  - 2) Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.
- d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.
- e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth's determination.
- f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.
- g. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule

established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.

- h. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.
- i. The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

**6. OFFSET PROVISION**

The Contractor/Grantee agrees that the Commonwealth of Pennsylvania (Commonwealth) may set off the amount of any state tax liability or other obligation of the Contractor/Grantee or its subsidiaries to the Commonwealth against any payments/funds due the Contractor/Grantee under any contract or under any grant agreement with the Commonwealth.

**7. APPLICABLE LAW**

This Contract/Grant 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) and the decisions of the Pennsylvania courts. The Contractor/Grantee consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania, waiving any claim or defense that such forum is not convenient or proper. The Contractor/Grantee agrees that any such court shall have in person jurisdiction over it, and consents to service of process in any manner authorized by Pennsylvania law.

**8. ENHANCED MINIMUM WAGE PROVISIONS (as applicable to Contractors and For-Profit Grantees)**

- a. **Enhanced Minimum Wage.** Contractor/Lessor agrees to pay no less than \$15.00 per hour to its employees for all hours worked directly performing the services called for in this Contract/Lease, and for an employee's hours performing ancillary services necessary for the performance of the contracted services or lease when such employee spends at least twenty per cent (20%) of their time performing ancillary services in a given work week.

- b. **Adjustment.** Beginning July 1, 2023, and annually thereafter, the minimum wage rate shall be increased by an annual cost-of-living adjustment using the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for Pennsylvania, New Jersey, Delaware, and Maryland. The applicable adjusted amount shall be published in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.
  
- c. **Exceptions.** These Enhanced Minimum Wage Provisions shall not apply to employees:
  - 1. exempt from the minimum wage under the Minimum Wage Act of 1968;
  - 2. covered by a collective bargaining agreement;
  - 3. required to be paid a higher wage under another state or federal law governing the services, including the Prevailing Wage Act and Davis-Bacon Act; or
  - 4. required to be paid a higher wage under any state or local policy or ordinance.
  
- d. **Notice.** Contractor/Lessor shall post these Enhanced Minimum Wage Provisions for the entire period of the contract conspicuously in easily-accessible and well-lighted places customarily frequented by employees at or near where the contracted services are performed.
  
- e. **Records.** Contractor/Lessor must maintain and, upon request and within the time periods requested by the Commonwealth, furnish all employment and wage records necessary to document compliance with these Enhanced Minimum Wage Provisions.
  
- f. **Sanctions.** Failure to comply with these Enhanced Minimum Wage Provisions may result in the imposition of sanctions, which may include, but shall not be limited to, termination of the contract or lease, nonpayment, debarment or referral to the Office of General Counsel for appropriate civil or criminal referral.
  
- g. **Subcontractors.** Contractor/Lessor shall include the provisions of these Enhanced Minimum Wage Provisions in every subcontract so that these provisions will be binding upon each subcontractor.

**9. AUTOMATED CLEARING HOUSE PAYMENTS**

**A. For Procurement Contracts and Purchase Orders**

- 1) The Commonwealth will make contract payments through Automated Clearing House (ACH). Within 10 days of award of the contract or purchase order, the contractor must submit or must have already submitted their ACH information within their user profile in the Commonwealth's procurement system (SRM).
- 2) The contractor must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth of Pennsylvania's ACH remittance advice to enable the contractor to properly apply the state agency's payment to the invoice submitted.
- 3) It is the responsibility of the contractor to ensure that the ACH information contained in SRM is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.

**B. For Grant Agreements**

- 1) The Commonwealth will make payments to the recipient through ACH. Within 10 days of the grant award, the grantee must submit or must have already established its ACH information in the Commonwealth's Master Database. The grantee will also be able to enroll to receive remittance information via electronic addenda and email (e-Remittance). ACH and e-Remittance information is available at:  
<https://www.budget.pa.gov/Services/ForVendors/Pages/Direct-Deposit-and-e-Remittance.aspx>.
- 2) The recipient must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth's ACH remittance advice to enable the recipient to properly apply the state agency's payment to the respective invoice or program.
- 3) It is the responsibility of the recipient to ensure that the ACH information contained in the Commonwealth's Master Database is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.



EXHIBIT C  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

FEDERAL REQUIREMENTS

If this Agreement is funded in whole or in part with funds from the Federal Government, or by non-Federal funds used to match a Federal grant, the following provisions apply:

1. All work under this Agreement shall be performed in accordance with applicable statutes, rules and regulations of the Federal Government. All applicable Federal statutes and provisions of the Code of Federal Regulations (CFR) in effect on the date of execution of this Agreement are an integral part of this Agreement, including 2 CFR PART 200, UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS, AS ADOPTED PURSUANT TO 2 CFR §1327.101, AS APPLICABLE.
2. All applicable contract provisions specified by the Federal Government are an integral part of this Agreement.
3. If this Agreement is funded in whole or in part by a grant from the United States Environmental Protection Agency (EPA), all applicable provisions of 40 CFR Parts 31 and 35 (Subpart O), in effect on the date of the Assistance Award for this project, are an integral part of this Agreement, as applicable. Further, Contractor shall comply with the provisions pertaining to conflict of interest as required by 2 CFR §200.112. EPA has established a policy regarding conflicts of interest for applicants and recipients of Federal financial assistance awards from EPA. The policy can be found at:

[http://www.epa.gov/ogd/epa\\_interim\\_financial\\_assistance\\_coi\\_policy.htm](http://www.epa.gov/ogd/epa_interim_financial_assistance_coi_policy.htm)

Contractors should review this policy and its requirements which include certain disclosure requirements. Contractors must complete the applicable disclosure requirements.

4. Rights to Inventions Made Under a Contract or Agreement – Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the Federal Grantor Agency. Further this Agreement is subject to Federal Grantor Agency requirements and regulations pertaining to reporting and patent rights if the Agreement involves research, developmental, experimental or demonstration work with respect to any discovery or invention

which arises or is developed in the course of or under this Agreement, as well as Federal Grantor Agency requirements and regulations pertaining to copyrights and rights in data.

5. Equal Employment Opportunity – Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

6. Audit/Compliance Review Requirements

The Contractor must comply with all applicable federal and state grant requirements including The Single Audit Act Amendments of 1996; 2 CFR Part 200 as amended; and any other applicable law or regulation, and any amendment to such other applicable law or regulation that may be enacted or promulgated by the federal government.

If the Contractor is a local government or non-profit organization that expends \$750,000 or more in federal awards during its fiscal year, the Contractor is required to provide the appropriate single or program specific audit in accordance with the provisions outlined in 2 CFR Part 200.501.

If the Contractor expends total federal awards of less than the threshold established by 2 CFR 200.501, it is exempt from federal audit requirements for that year, but records must be available for review or audit by appropriate officials (or designees) of the federal agency, pass-through entity, and Government Accountability Office (GAO).

If the Contractor is a for-profit entity, it is not subject to the auditing and reporting requirements of 2 CFR Part 200, Subpart F – Audit Requirements (Subpart F). However, the pass-through commonwealth agency is responsible for establishing requirements, as necessary, to ensure compliance by for-profit subrecipients. The contract with the for-profit subrecipient should describe applicable compliance requirements and the for-profit subrecipient’s compliance responsibility. Methods to ensure compliance for federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the contract and post-award audits. The post-award audits may be in the form of a financial audit in accordance with Government Auditing Standards, a single audit report or program-specific audit report in accordance with Subpart F. However, these post-award audits must be submitted directly to the affected commonwealth agency that provided the funding. Only single audit reports for local governmental and

non-profit subrecipients are electronically submitted to the Federal Audit Clearinghouse.

#### ADDITIONAL POTENTIAL COMPONENTS OF THE SINGLE AUDIT REPORTING PACKAGE

In instances where a federal program-specific audit guide is available, the audit report package for a program-specific audit may be different and should be prepared in accordance with the appropriate audit guide, Government Auditing Standards, and Subpart F.

In addition to the requirements of Subpart F, commonwealth agencies may require that the single audit reporting packages include additional components in the SEFA, or supplemental schedules, as identified through the respective grant agreement.

#### SUBMISSION OF THE AUDIT REPORT

The Contractor must submit an electronic copy of the audit report package to the Federal Audit Clearinghouse, which shall include the elements outlined in Subpart F.

#### SUBMISSION OF THE FEDERAL AUDIT CLEARINGHOUSE CONFIRMATION

The subrecipients must send a copy of the confirmation from the Federal Audit Clearinghouse to the resource account RA-BOASingleAudit@pa.gov.

#### AUDIT OVERSIGHT PROVISIONS.

The Contractor is responsible for obtaining the necessary audit and securing the services of a certified public accountant or independent governmental auditor.

The commonwealth reserves the right for federal and state agencies or their authorized representatives to perform additional audits of a financial or performance nature, if deemed necessary by commonwealth or federal agencies. Any such additional audit work will rely on work already performed by the Contractor's auditor and the costs for any additional work performed by the federal or state agencies will be borne by those agencies at no additional expense to the Contractor.

Audit documentation and audit reports must be retained by the Contractor's auditor for a minimum of five years from the date of issuance of the audit report, unless Contractor's auditor is notified in writing by the Commonwealth, the

cognizant federal agency for audit, or the oversight federal agency for audit to extend the retention period. Audit documentation will be made available upon request to authorized representatives of the commonwealth, the cognizant federal agency for audit, the oversight federal agency for audit, the federal funding agency, or the GAO.

7. Submission of Audit Information to the Commonwealth

The Contractor shall submit copies of the audit report package to the Commonwealth, which shall include:

1. Data Collection Form.
2. Financial statements and schedule of expenditures of Federal awards.
3. Auditor's reports on the financial statements and schedule of expenditures of Federal awards, internal control, and compliance as well as a schedule of findings and questioned costs.
4. Summary schedule of prior audit findings.
5. Corrective action plan.
6. Management letter comments.

The number of copies to be submitted shall equal one for the Bureau of Audits (archival copy) plus one for each Commonwealth agency which provided Federal pass-through awards to the entity, as reflected in the entity's Schedule of Expenditures of Federal Awards. The audit report package should be submitted to:

Office of the Budget/Bureau of Audits  
Division of Subrecipient Audit Review  
Verizon Tower - 6th Floor  
303 Walnut Street  
Harrisburg, PA 17101  
Phone: 717-783-9120 Fax: 717-783-0361

In instances where a Federal program-specific audit guide is available, the audit report package for a program-specific audit may be different and should be prepared in accordance with the audit guide.

8. Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) - Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended— Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
9. Contractor shall comply with mandatory standards and policies relating to energy efficiency in compliance with the U.S. Energy Policy and Conservation Act (Pub. L. 94-163).
10. Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) – Where applicable, all contracts awarded by recipients in excess of \$100,000 for construction contracts and in excess of \$2500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR Part 5). Under section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
11. Copeland “Anti-Kickback” Act (18 U.S.C. 874 and 40 U.S.C. 276c) – All contracts and subgrants in excess of \$100,000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland “Anti-Kickback” Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal Grantor Agency.
12. Davis-Bacon Act (40 U.S.C. 276a to a-7) – When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than \$2000 shall include a provision for compliance with the Davis-

Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal Grantor Agency.

13. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) – Contractors who apply or bid for an award of more than \$100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.
14. Debarment and Suspension (Executive Orders 12549 and 12689) - No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with Executive Orders 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than Executive Order 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.
15. This commitment is contingent upon funds being appropriated by the legislature for each succeeding fiscal year and Federal funds being provided to the Commonwealth for the contract purpose.
16. Federal Funding Accountability and Transparency Act (FFATA or Transparency Act)

For all federally funded grants that DEP issues (except ARRA grants):

A. Registration and Identification Information

Grantee must maintain current registration in the System for Award Management ([www.sam.gov](http://www.sam.gov)) at all times during which it has active federal awards funded

pursuant to this agreement. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (www.dnb.com) is one of the requirements for registration in the System for Award Management.

Grantee must provide its assigned DUNS number, and DUNS + 4 number if applicable, to the Commonwealth along with Grantee's return of the signed grant agreement. The Commonwealth will not process this grant until such time that Grantee provides this information.

B. Primary Location

Grantee must provide to the Commonwealth the primary location of performance under the award, including the city, State, and zip+4. If performance is to occur in multiple locations, then Grantee must list the location where the largest amount of the grant award is to be expended pursuant to this grant agreement.

Grantee must provide this information to the Commonwealth along with Grantee's return of the signed grant agreement. The Commonwealth will not process this grant until such time that Grantee provides this information.

C. Compensation of Officers

Grantee must provide to the Commonwealth the names and total compensation of the five most highly compensated officers of the entity if—

- (i) the entity in the preceding fiscal year received—
  - (I) 80 percent or more of its annual gross revenues in Federal awards; and
  - (II) \$25,000,000 or more in annual gross revenues from Federal awards; and
- (ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

If the Grantee does not meet the conditions listed above, then it must specifically affirm to the Commonwealth that the requirements of this clause are inapplicable to the Grantee.

Grantee must provide information responding to this question along with Grantee's return of the signed grant agreement. The Commonwealth will not process this grant until such time that Grantee provides the information responding to this question.

IN WITNESS WHEREOF, the parties hereto set their hands and seals to this AGREEMENT the date written above.

FOR THE COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

ATTEST: \_\_\_\_\_  
John J. Stefanko  
Deputy Secretary for  
Active and Abandoned Mine Operations

FOR THE OPERATOR: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Secretary/Treasurer  
Title:  
(See Instructions)

SEAL:

Approved as to Legality and Form by

\_\_\_\_\_  
Chief/Assistant Counsel  
Department of Environmental Protection

\_\_\_\_\_  
Office of the Attorney General