

Affiliation Agreement for Supervised Practice Facilities

COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF HEALTH (“Department”)

And

(“FACILITY”)

This Affiliation Agreement (“Agreement”) is entered into by and between the Department and the FACILITY.

WHEREAS, the Department, through the Bureau of Women, Infants and Children (“WIC Program” or “WIC”) serves income eligible pregnant, breastfeeding, or postpartum women, infants, and children up to five years of age who are at nutritional risk because of medical problems or poor diets. The WIC Program provides eligible individuals with nutrition education and nutritious foods to supplement their diets during critical stages of growth and development. The United States Department of Agriculture has delegated to the Department the responsibility of effectively and efficiently administering the WIC Program in the Commonwealth. Regulations governing the WIC Program in the Commonwealth are codified in 28 Pa. Code §§ 1101, et seq. The Department administers the Commonwealth's WIC Program with the assistance of local agencies located throughout the Commonwealth.

WHEREAS, the Department is committed to its mission to promote healthy behaviors, prevent injury and disease, and to assure the safe delivery of quality health care for all people in Pennsylvania. WIC is responsible for administering a Dietetic Internship Program (“PROGRAM”). The PROGRAM provides an opportunity for WIC employees and, if circumstances permit, non-WIC employees, to obtain eligibility requirements to sit for the Registered Dietitian Examination that is administered by the Commission on Dietetic Registration (“CDR”). The PROGRAM accepts only those individuals who have met eligibility criteria, including didactic verification, and are current WIC employees, unless vacancies exist, at which time non-WIC employee applications will be accepted and individually selected by the WIC Selection Committee. The PROGRAM refers to selected applicants as “Interns.”

WHEREAS, the PROGRAM is accredited by the Accreditation Council for Education in Nutrition and Dietetics (“ACEND”). The PROGRAM, in accordance with ACEND curriculum standards, requires Interns to complete supervised practice experiences, known as rotations, in Community Nutrition/Public Health, Food Service and Clinical settings. To provide the opportunity for rotations, the Department, in the administration of the PROGRAM, must enter into agreements with supervised practice sites such as hospitals, school food service departments, and other community programs.

A. PURPOSE

The purpose of this Agreement is to outline the minimum terms and conditions required of the parties respecting their affiliation and working relationship, inclusive of anticipated future arrangements and agreements as it relates to the provision of high-quality experiences for Interns participating in the PROGRAM. The execution of this Agreement is a requirement of any facility that hosts an Intern.

B. RESPONSIBILITIES OF THE DEPARTMENT

1. **Participation:** The Department will make every effort to provide the FACILITY with Interns for rotations who are prepared for effective participation and will retain ultimate responsibility for the training and education of Interns. PROGRAM representatives will visit and evaluate each supervised practice site to assure each site provides adequate facilities for Interns in accordance with the rotation experience objectives and plan developed by the PROGRAM. Upon reasonable notice to the FACILITY, the FACILITY shall permit the PROGRAM Director or his/her designee to conduct a site visit to review the FACILITY and its services available for the rotation. The Department will ensure that the PROGRAM provides the FACILITY with a clear, concise, and well-organized program curriculum that includes PROGRAM objectives, suggested activities, ACEND competencies, and evaluation criteria no less than thirty (30) calendar days prior to the start of each rotation unless otherwise agreed upon by the parties in writing.
2. **Supervision:** The Department will designate a PROGRAM designee to act as the liaison between the FACILITY and the Intern, where appropriate. The PROGRAM designee will ensure the FACILITY and Intern are both prepared and oriented to the curriculum, objectives, and ACEND Core Competencies, as well as assure that all required paperwork, assignments and evaluations throughout and after the rotation are sufficiently completed. The PROGRAM designee will maintain open channels of communication for exchange of information and status through emails or phone communication and designated scheduled on-site visits.
3. **Preceptor:** The Department, through the PROGRAM, will require the FACILITY to appoint an employee from within the FACILITY to supervise the Intern (“Preceptor”). The Preceptor shall be in good standing with the FACILITY, have appropriate education, training, credentials and continued learning experiences appropriate for the job function and be comfortable and willing to provide direct and indirect supervision of the Intern. The PROGRAM, through on-going evaluation and Intern feedback, may deem, at any time, an employee of the FACILITY who is serving as the Preceptor as not qualified to act as the Preceptor and require the FACILITY to designate a Preceptor who is acceptable to and approved by the PROGRAM.
4. **Schedule:** The Department, through the PROGRAM, will provide a rotation schedule to the FACILITY to assure confirmation of supervised practice days and will discuss any days when supervised practice may not occur due to holidays, in-service days, or closings.

5. **Curriculum:** The Department, through the PROGRAM, will determine the curriculum appropriate to and consistent with ACEND Core Competencies and desired outcomes and communicate the curriculum to the FACILITY, in writing, no later than thirty (30) calendar days prior to the commencement of the rotation.
6. **Professional Conduct:** The Department, through the PROGRAM, will require all Interns and PROGRAM staff to abide by the rules, regulations, policies and procedures, and standards of conduct of both the PROGRAM and the FACILITY at all times in which they are representing the PROGRAM or participating in activities within or on behalf of the FACILITY. The PROGRAM will take appropriate action regarding any Intern whose performance or conduct does not meet PROGRAM standards.
7. **Insurance:** The Department, through the PROGRAM, will require that Interns have obtained and maintain insurance policies covering the following types of liability in the following amounts:
 - a. Professional liability insurance in the amount of one million dollars (\$1,000,000.00) per occurrence and three million dollars (\$3,000,000.00) in the annual aggregate.
 - b. Health Insurance: Evidence of health insurance shall be provided upon request to the FACILITY. In the event an Intern fails to provide documentation or evidence of health insurance information within five (5) business days, the Intern shall not be permitted to work at the FACILITY until said documentation or evidence is produced to the satisfaction of the FACILITY. All such policies must remain in full force and effect for the duration of the internship.
8. **Health Status:** The Department, through the PROGRAM, will require each Intern to furnish proof of current physical examination, screenings, and relevant immunizations including, but not limited to, vaccines for childhood communicable diseases, tuberculosis skin test, tetanus booster, MMR vaccine, Varicella vaccine, Tdap vaccine, Hepatitis B vaccine, and seasonal flu vaccinations, the results of which shall be made available to the FACILITY, upon request. In the event an Intern fails to provide documentation or evidence of the requested medical information within five (5) business days of request, the Intern shall not be permitted to work at the FACILITY until said documentation or evidence is produced to the satisfaction of the FACILITY.

The PROGRAM will provide notification to Interns in the event the FACILITY requires additional checks, screens, immunizations, or evidence of compliance prior to the commencement of the Intern's rotation.

C. RESPONSIBILITIES OF THE FACILITY

1. **Participation:** The FACILITY shall accept the Intern(s) selected for the rotation and provide instruction and supervision consistent with the activities provided by the PROGRAM to meet the ACEND Core Competencies. The FACILITY shall, at all times, retain ultimate control of its facility and responsibility for patient care.

2. **Preceptor:** The FACILITY shall assure that a qualified individual, in accordance with the minimum PROGRAM Preceptor Requirements set forth in the PROGRAM Handbook, a copy of which will be provided to FACILITY upon request, is appointed as Preceptor throughout the rotation. The Preceptor shall be responsible for reviewing ACEND Core Competencies and the activities provided by the PROGRAM prior to the commencement of each rotation to assure an organized experience that meets the rotation objectives. The FACILITY agrees to notify the PROGRAM of any changes to staffing or services that may impact the Intern's rotation. The Preceptor shall be required to attend or review Preceptor training provided by the PROGRAM and sign the acknowledgment form upon completion of the training.
3. **Orientation:** The FACILITY shall provide the Intern with an orientation on rules, regulations, policies, procedures, and other pertinent information required to allow the Intern to effectively carry out his/her rotation and satisfy the ACEND Core Competencies. Written documentation confirming an Intern's completion of orientation shall be provided by FACILITY at the request of PROGRAM.
4. **Facilities/Site Reviews:** The FACILITY shall provide the Intern with access to physical facilities and equipment necessary to satisfy the ACEND Core Competencies and fulfill the curriculum including, whenever possible, the use of library resources, parking, and cafeteria consistent with the FACILITY policies regarding employee or faculty use of these facilities. Upon reasonable notice, the FACILITY shall permit the PROGRAM Director or his/her designee to conduct a site visit to review the facilities and services available to the Intern during the rotation.
5. **Evaluation/Performance Reports:** The FACILITY agrees to complete all required evaluations and reviews within the deadlines outlined by the PROGRAM in its rotation curriculum, which shall be provided to the FACILITY prior to the rotation. Evaluations are a necessary component for the PROGRAM to assure that Interns are meeting the minimum requirements of entry level Registered Dietitians as well as provide feedback to assure continued improvement of the overall learning experience for the Intern. The FACILITY shall, at all times, maintain supervision over the Intern's work at the FACILITY and shall immediately communicate, in writing, to the PROGRAM any concerns with an Intern's performance.
6. **Intern Limits:** The FACILITY shall permit Interns to assist in the provision of direct patient, student, or client care services but may restrict an Intern's activities at the FACILITY. The FACILITY retains sole responsibility for patient, student, and client treatment and care at all times. Interns in patient care areas shall, at all times, be under the guidance of the Preceptor or other FACILITY designee.
7. **Removal of Interns:** The FACILITY may refuse access to its facilities to any Intern who the FACILITY determines poses an immediate threat or danger to the FACILITY's staff, patients, or students or to the quality of services the FACILITY provides; who conducts himself/herself in an unprofessional manner or engages in disruptive or detrimental behavior to the FACILITY's patients, students, staff or clients; who conducts

himself/herself in a manner that is not in accordance with acceptable standards of performance; or, who otherwise fails to abide by the FACILITY's policies and procedures. In such an event, said Intern's participation in the rotation shall immediately cease, and the FACILITY shall notify the PROGRAM in writing. In the event the Department removes an Intern from the PROGRAM or an Intern voluntarily withdraws from the PROGRAM and the Intern becomes obligated to reimburse the Department for costs associated with the Intern's involvement in the PROGRAM pursuant to the terms of the PROGRAM's Intern Agreement, any funds inadvertently disbursed by an Intern to the FACILITY that are due and owing to the Department shall be transferred from the FACILITY to the Department within thirty (30) calendar days of receipt.

8. **Emergency Medical Treatment:** The FACILITY shall provide the Intern with access to any emergency medical care related to accidents or illnesses while on FACILITY premises. The Intern shall be responsible for any expenses incurred during the emergency services. However, this obligation is not intended to serve as a waiver of any rights that the Intern(s) may have resulting from negligence or any other willful acts of the FACILITY or its employees, subcontractors, or members.
9. **Facility License:** The FACILITY agrees that, throughout the duration of this Agreement, the FACILITY shall have and retain appropriate licensure, if required, to conduct business as advertised and shall remain compliant with all appropriate and applicable federal, state, and local laws, regulations, and requirements. In the event that FACILITY no longer retains the appropriate licensure, the FACILITY shall immediately notify the PROGRAM in writing.
10. **Evidence of Intern(s) Health Status and Clearances:** The FACILITY shall notify the PROGRAM Director and Intern of any required screens, checkups, vaccinations or trainings required of Interns that are beyond the requirements of the PROGRAM, including drug screens, HIPAA training, and/or seasonal flu immunization. In the event additional screens, checks, vaccinations or trainings are required and must be conducted by the FACILITY's provider(s), the FACILITY shall provide the PROGRAM Director and Intern with the FACILITY's provider's necessary contact information in sufficient time prior to the commencement of the rotation.
11. **Commonwealth Standard Terms and Conditions:** The FACILITY shall comply with the Commonwealth's Standard Terms and Conditions attached to this Agreement as Attachment 1. All references therein to "Contractor" are applicable to the FACILITY.

D. MISCELLANEOUS

1. **Cooperation:** The parties shall work together to continuously promote a high-quality experience for the Interns, while enhancing the resources available to the FACILITY for the provision of care to its patients, students, and/or clients. At the request of either party, a meeting will be held between their designated representatives to resolve any problems or to develop any improvements in the operation of the rotation.

2. **Rotation:** Each rotation shall include content and cover such periods of time as mutually agreed upon, in writing, by both parties. The starting and ending dates for the rotation shall be agreed upon at least thirty (30) calendar days before the commencement of the rotation unless otherwise agreed to by the parties in writing.
3. **Protection of Interns:** Both parties acknowledge that the protection of Interns for the duration of the rotation from exposure to blood borne pathogens and bodily fluids is a joint concern of the parties and Intern. Therefore, the FACILITY shall make available to Interns for use within the FACILITY, all personal protective equipment, including gloves, gowns, masks and other supplies, as appropriate to the Intern's clinical experience. The FACILITY shall provide Interns with necessary education regarding blood borne pathogens and bodily fluids appropriate to the Intern's supervised practice experience. Documentation of such training shall be maintained by the FACILITY. In the event of an exposure, to the extent required by law, the FACILITY shall be responsible for offering appropriate testing to the affected Intern, providing appropriate medical care, counseling, and record-keeping. The FACILITY shall use its best efforts to appropriately test a source patient, student, or client and to obtain that patient's, student's or client's consent to disclosure of test results to the PROGRAM and Intern.
4. **Interns:** The number of Interns designated for participation in rotations will be determined by the PROGRAM with written approval by the FACILITY and may, at any time, be altered by written agreement of the parties. An Intern participating at the FACILITY as part of the PROGRAM shall not be considered an employee of the FACILITY for the purposes of compensation, worker's compensation, insurance, or for any other purpose or benefit flowing from employment status. An Intern shall not hold himself or herself out to be an employee or agent of the FACILITY in the event the Intern performs any act without direct supervision of his or her Preceptor at the FACILITY or performs any act outside the scope of the rotation experience. During each rotation, Interns shall not be used to replace FACILITY employees except when required to demonstrate competency learning activities under the direction and supervision of the Preceptor or other FACILITY designee. The FACILITY agrees to provide a qualified Preceptor and supervisors in sufficient numbers as agreed upon by the parties in writing. The FACILITY retains overall responsibility and authority for rotation services furnished by Interns under this Agreement.
5. **Independent Contractors:** The relationship between the parties to this Agreement to each other is that of independent contractors. The relationship of the parties to this Agreement to each other shall not be construed to constitute a partnership, joint venture or any other relationship, other than that of independent contractors.
6. **Confidentiality:** The Department acknowledges that Interns may acquire medical, financial, economic, propriety, and confidential information in the process of completing a rotation with the FACILITY and, therefore, agrees that all Interns will be educated regarding the concepts of privilege and confidentiality appropriate to the rotation.
7. **Term:** The Effective Date of this Agreement shall be the date that it has been fully executed

by both parties and all approvals required by the Department's contracting procedures have been obtained, as evidenced by the date of the last signature. This Agreement shall continue for a period of five (5) years unless either party gives written notice of termination to the other party at least ninety (90) calendar days prior to the desired termination date. In the event of a breach, either party may immediately terminate this Agreement.

8. **Amendments:** No alterations or variations to this Agreement shall be valid unless made in writing and signed by the parties. Amendments to this Agreement shall be accomplished through a formal written document signed by the parties with the same formality as the original Agreement.
9. **Liability:** Except as otherwise provided in this Agreement, neither of the parties shall assume any liabilities to each other. As to liability to each other for injury or death to persons, or damages to property, the Department and the FACILITY do not waive any defenses as a result of entering into this Agreement. This provision shall not be construed to limit the Department's rights, claims, or defenses, which arise as a matter of law pursuant to any provisions of this Agreement. This provision shall not be construed to limit the sovereign immunity of the Commonwealth or the Department.
10. **Assignment:** Nothing contained in this Agreement shall be construed to permit the assignment by either party of its rights or obligations set forth herein without prior written consent of the other party. Any attempted assignment shall be void and of no effect if not in accordance with this Agreement.
11. **Severability:** The provisions of this Agreement shall be severable. If any phrase, clause, sentence or provision of this Agreement is declared to be contrary to the Constitution of Pennsylvania or of the United States or of the laws of the Commonwealth and the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected.
12. **Integration:** When fully executed by the parties, this Agreement shall be the final and complete Agreement between the parties containing all the terms and conditions agreed on by the parties. All representations, understandings, promises and agreements pertaining to the subject matter of this Agreement made prior to or at the time this Agreement is executed are superseded by this Agreement, unless specifically accepted by any other term or provision of this Agreement. There are no conditions precedent to the performance of this Agreement, except as expressly set forth in this Agreement.
13. **Compliance with Laws:** Both parties shall comply with all applicable local, state and federal laws, rules and regulations, as well as any and all governing agencies, pertaining to the WIC Program and the PROGRAM.
14. **Health Insurance Portability and Accountability Act of 1996:** Notwithstanding anything in this Agreement to the contrary, the PROGRAM is aware of and will fully comply with, and ensure compliance by its Interns, the Health Insurance Portability and

Accountability Act of 1996 (“HIPAA”), as amended from time to time, in its dealings with the FACILITY under this Agreement. The parties agree that during the term of this Agreement, either party shall have the right to amend this Agreement by adding or deleting any provisions in this Agreement to ensure compliance with HIPAA and its implementing regulations.

- 15. **Parties Bound:** This Agreement is binding upon all employees, agents, and third- party vendors of the PROGRAM and the FACILITY and will bind the respective heirs, successors and assigns of each party.

E. NOTICES

Any written notice to the FACILITY under this Agreement shall be sufficient if mailed or e-mailed to:

Name of Recipient: _____

Title: _____

Facility: _____

Address: _____

Telephone: _____

Email: _____

Any written notice to the Department under this Agreement shall be sufficient if mailed or e-mailed to:

Attn: _____

Address: 625 Forster Street

7 West, Health and Welfare Building

Harrisburg, PA 17120

Telephone: _____

Email: _____

SIGNATURE PAGE FOLLOWS

The parties, through their authorized representatives, have signed this Agreement below.

FACILITY: _____

Signature

Name

Date

Title

Signature

Name

Date

Title

COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF HEALTH:

For Agency Head

Date

APPROVED AS TO FORM AND LEGALITY:

Office of Chief Counsel

Date

N/A

Office of General Counsel

Date

N/A

Office of the Attorney General

Date

ATTACHMENT 1

Commonwealth Standard Terms and Conditions (Revised - 10/1/2023)

The parties agree that this Attachment 1 supersedes and takes precedence over any conflicting provision found elsewhere in this Agreement.

1. DEFINITIONS.

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

2. ENHANCED MINIMUM WAGE. [Omitted]

3. INDEMNIFICATION. [Omitted]

4. NONDISCRIMINATION/SEXUAL HARASSMENT.

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

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

5. CONTRACTOR INTEGRITY. [Omitted]

6. CONTRACTOR RESPONSIBILITY. [Omitted]

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

8. APPLICABLE LAW AND FORUM.

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

9. 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 Commonwealth needs the Contractor's assistance in any matter arising out of the RTKL related to this contract, the Commonwealth shall notify the Contractor that it requires the Contractor's assistance, and the Contractor shall provide to the Commonwealth:
 - i. access to, and copies of, any document or information in the Contractor's possession (Requested Information) arising out of this contract that the Commonwealth reasonably believes is a public record under the RTKL, within ten calendar days after receipt of written notification; and
 - ii. any other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this contract.
- c. **Trade Secret or Confidential Proprietary Information.** If the 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 Commonwealth

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 Commonwealth determines that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information to the Commonwealth within five business days of receipt of written notice of the Commonwealth's determination.

d. **Reimbursement.**

i. **Commonwealth Reimbursement.** If the Contractor fails to provide the Requested Information and the Commonwealth is ordered to produce the Requested Information, the Contractor shall reimburse the Commonwealth for any damages, penalties, or costs that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.

ii. **Contractor Reimbursement.** The Commonwealth 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 Commonwealth Release.** 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 reimburse the Commonwealth for any legal expenses incurred by the Commonwealth as a result of the challenge, including any damages, penalties or costs that the Commonwealth may incur as a result of the 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 Commonwealth'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.

10. OFFSET.

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

11. AUTOMATED CLEARING HOUSE (ACH) PAYMENTS.

a. **Payment Method.** The Commonwealth shall make contract payments through the Automated Clearing House (ACH). Within 10 days of award of the contract or purchase order, the Contractor must submit or must have submitted its ACH information within its user profile in the Commonwealth's procurement system (SRM).

b. **Unique Identifier.** The Contractor must submit a unique invoice number with each invoice submitted. The Commonwealth shall list the Contractor's unique invoice number on its ACH remittance advice to enable the Contractor to properly apply the state agency's payment to the invoice submitted.

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

12. WORKER PROTECTION AND INVESTMENT.

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

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