

Overview for Contract

Prior to utilizing a contract, the user should read the contract in it's entirety.

CONTRACT DESCRIPTION

- Only Commonwealth executive agencies shall issue purchase orders under this Agreement for requested Pennsylvania State University consulting services.
- The requested consulting services are to be defined by the individual agencies.
- This Agreement shall govern the provision of resources and services by the Pennsylvania State University, in the furtherance of its educational mission to the Commonwealth.
- The specified Terms and Conditions shall apply to all purchase orders issued from this contract.

CONTRACT INFO

Material or Service	Consulting, research, and surveying.
Title & Contract # (s)	9990-12, Penn State University Master Agreement, 4600009190
Number of Suppliers	(1) – Penn State University (PSU), Pcard enabled: NO vendor #141597
Validity Period	October 3, 2005 – June 30, 2009
DGS BOP Point of Contact	James H. Kling, Commodity Specialist 717.703.2939 jkling@state.pa.us
Contact Phone #	
Email	

PRICING HIGHLIGHTS

Including Minimum Order Amount (in dollars and/or quantity, if applicable):

- The costs and scope of requested services shall be individually quoted by Pennsylvania State University on an as-needed basis. There is no minimum order.
- Agencies are encouraged to request a quote prior to issuing a purchase order, which includes the scope, a statement of work (SOW), and desired outcomes or deliverables.
- Any project with a total value of \$100,000.00 or greater shall be submitted to James Kling, Contracting Officer, for review prior to creation of the purchase order. The using Agency shall email the Contracting Officer the project statement of work and affiliated information, including any and all attachments to be used when the purchase order is generated along with the quote received from PSU.

PROCESS TO ORDER

CONTRACT TYPE: SRM: NORMAL(has material masters).

Contact information:

Tim Stodart, Lead Contracts and Proposal Specialist
 Telephone: 814.865.1027
 Fax: 814.865.3377
 Email: TMS21@psu.edu

Mail purchase orders to:

Tim Stodart, Contracts/Proposal Spelst
 The Pennsylvania State University
 Office of Sponsored Programs
 110 Technology Center Building
 University Park, PA 16802-7000

Payments:

The Pennsylvania State University
 Continuing Education
 777 W. Hbg. Pike
 Middletown, Pa 17057

Contract: 9990-12
SAP Contract #: 4600009190

INSTRUCTIONS FOR UTILIZING THE PENN STATE MASTER CONTRACT AGREEMENT

1. A statement of work (SOW) shall be developed for the project and provided to the contact person listed on the contract for Penn State University by email or mail.
2. If the projected cost quote of the project is for \$100,000 or more, the SOW, any attachments and the quote must be emailed to the DGS Contracting Officer for review.
3. Upon review, the DGS Contracting Officer will provide its review in writing to the Agency.
4. The SOW, attachments, quote and DGS review will be attached to the SRM Purchase order created.

PROBLEMS WITH THE CONTRACT

Any issues or problems that become apparent that an Agency can not resolve directly with PSU Agency should notify the DGS Contracting Officer for assistance.

CONTRACT TERMS AND CONDITIONS

No other terms and conditions can be added to the contract.

Exhibit A

SPECIAL TERMS AND CONDITIONS

These **SPECIAL TERMS AND CONDITIONS** shall be a part of the Master Agreement between the Commonwealth of Pennsylvania, acting through the Department of General Services (“COMMONWEALTH”), and The Pennsylvania State University (“UNIVERSITY”).

1. AGREEMENT SCOPE/OVERVIEW:

This Agreement will govern the provision of resources and services by the UNIVERSITY, in the furtherance of its educational mission, to the COMMONWEALTH.

2. TERM OF CONTRACT:

The term of this Agreement will commence on the Effective Date (as defined herein) and will have an initial term of Two (2) years. The Effective Date shall be fixed after the Agreement has been fully executed by the UNIVERSITY and all signatures required by Commonwealth contracting procedures have been obtained.

3. OPTION TO RENEW:

This Agreement may be renewed for two additional two (2) year terms by mutual agreement between the COMMONWEALTH and the UNIVERSITY. If the Agreement is renewed, the same terms and conditions shall apply.

4. SERVICES TO BE PROVIDED UNDER THIS AGREEMENT:

A. Purchase Orders:

Commonwealth executive agencies will issue purchase orders under this Agreement for requested services. These purchase orders constitute the UNIVERSITY’S authority to perform services and provide resources. The UNIVERSITY shall not start the performance of any work under this Agreement until it has received a purchase order from a Commonwealth executive agency. The COMMONWEALTH shall not be liable to pay the UNIVERSITY for any service or work performed or expenses incurred prior to the effective date listed on a purchase order. Any purchase order issued during the effective period of this Agreement and not completed within that period shall be completed by the UNIVERSITY within the time period specified in the purchase order. This Agreement shall govern the UNIVERSITY’S and COMMONWEALTH’S rights and obligations with respect to that purchase order to the same extent as if the purchase order were completed during the Agreement’s effective period. The COMMONWEALTH will expect a standard outline of methodology to be utilized in the performance of work as part of the initial proposal.

Each purchase order will be deemed to incorporate the terms and conditions set forth in this Agreement.

If a Commonwealth executive agency issues a purchase order through the Commonwealth's SAP system, it will not include an "ink" signature by the COMMONWEALTH. The electronically printed name of the purchaser represents the signature of that individual who has the authority, on behalf of the COMMONWEALTH, to authorize the UNIVERSITY to proceed.

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The COMMONWEALTH and the UNIVERSITY specifically agree as follows:

1. No handwritten signature shall be required in order for the purchase order to be legally enforceable.
2. Upon receipt of a purchase order, the UNIVERSITY shall promptly and properly transmit an acknowledgement in return to the address stated on the purchase order. Any purchase order which is issued electronically shall not give rise to any obligation to perform services or provide resources on the part of the UNIVERSITY, or any obligation to receive and pay for services or resources on the part of the Commonwealth executive agency, unless and until the Commonwealth executive agency transmitting the purchase order has properly received an acknowledgement. In the event a change to a unilateral purchase order or any modification thereto is required, the UNIVERSITY shall contact the awarding Commonwealth executive agency to request approval to make the change. The UNIVERSITY shall make the change, initial, sign, and forward a copy of the revised bilateral purchase order (or modification) to the awarding Commonwealth executive agency.
3. The parties agree that original signatures shall not be required in order to make the order legally binding, notwithstanding contrary requirements in any law. The parties hereby agree not to contest the validity or enforceability of a genuine purchase order or acknowledgement issued electronically under the provisions of a statute of frauds or any other applicable law relating to whether certain agreements must be in writing and signed by the party bound thereby. A purchase order or acknowledgment shall be deemed to be genuine for all purposes if it is transmitted to the location designated for such documents.

4. Each party will immediately take steps to verify any document that appears to be obviously garbled in transmission or improperly formatted to include re-transmission of any such document if necessary.

Purchase orders under three thousand dollars (\$3,000) in total amount may also be made in person or by telephone using a Commonwealth Procurement VISA Card. When a purchase order is placed by telephone, the Commonwealth agency shall provide the agency name, employee name, credit card number, and expiration date of the card. The UNIVERSITY agrees to accept payment through the use of the Commonwealth Procurement VISA card.

The process described above for the issuance of purchase orders also shall apply to any modifications made thereto.

B. Invoicing:

1. Unless the UNIVERSITY has been authorized by the COMMONWEALTH for Evaluated Receipt Settlement or Vendor Self-Invoicing, the UNIVERSITY shall send its standard automated invoice itemized by major budget category and listing a standard unit of measure to which the invoice refers to the address referenced on the purchase order on a monthly basis. The purchase order number must be included on all invoices. In addition, the COMMONWEALTH shall have the right to require the UNIVERSITY to prepare and submit a quarterly "Work In Progress" sheet prepared by the lead faculty member or project director. This "Work in Progress" shall contain, at a minimum, the tasks performed, percentage of time expended, and the purchase order number. The final invoice for any Purchase Order shall be submitted within sixty (60) days after the termination date.
2. The UNIVERSITY shall be compensated only for work performed in accordance with the statement of work. The UNIVERSITY shall not be allowed or paid travel or per diem expenses except as specifically set forth in the Purchase Order and then only in accordance with current University travel policy. The UNIVERSITY's travel policies are available for review at: <http://guru.psu.edu/policies/#TRAVEL>

C. Change Orders:

The COMMONWEALTH reserves the right to make changes at any time during the term of this Agreement or any renewals thereof: 1) to change the scope of work as deemed necessary by the awarding Commonwealth executive agency. Any such mutually agreed upon change resulting in a material increase or decrease to the scope of work will require an adjustment to the cost to be mutually agreed upon by the parties and such revised cost will be incorporated into the purchase order via a written modification. 2) to notify the UNIVERSITY that the COMMONWEALTH is exercising any contract renewal option; or 3) to modify the time of performance to extend the completion date beyond the expiration date of the Agreement or any

renewals thereof. Any such change shall be made by notifying the UNIVERSITY in writing. The change shall be effective as of the date of the change, unless the notification of change specifies a later effective date. Such increases, decreases, changes, modifications or exercises of options will not invalidate the Agreement. The UNIVERSITY agrees to perform services or provide resources in accordance with such changes.

5. CONTRACTING OFFICER:

The COMMONWEALTH'S Contracting Officer for this Agreement is:

Bureau of Procurement-Department of General Services
Att: Chief Procurement Officer
555 Market Street-6th Floor
Harrisburg, PA 17105

UNIVERSITY shall direct all notices or inquiries to the Contracting Officer.

6. INSURANCE AND LIABILITY:

The UNIVERSITY shall perform its services under this Agreement as an independent contractor and be responsible for Worker's Compensation, Unemployment Compensation, and any other insurance required by law. It is the intent of the UNIVERSITY that the COMMONWEALTH will not be liable for any damages resulting from UNIVERSITY'S acts of negligence or willful misconduct in the performance of work under this Agreement.

7. SUBCONTRACTS:

If the purchase order's Scope of Work and budget has provisions for a specific subcontractor, this constitutes the approval of the awarding Commonwealth executive agency for that subcontract. If the original purchase order does not contain reference to a specific subcontractor, then a modification to the purchase order is required before initiating the subcontract.

8. ASSIGNABILITY:

The UNIVERSITY shall not assign any interest in this Agreement.

9. BACKGROUND CHECKS

The COMMONWEALTH reserves the right to request background checks on all personnel assigned to projects if requested in the Scope of Work portion of the Purchase Order. The cost for background checks required by the COMMONWEALTH will be a reimbursable cost under a resulting Purchase Order.

10. CONFIDENTIALITY:

The UNIVERSITY agrees to use reasonable efforts to hold in confidence any and all written confidential, and otherwise non-public information as defined in the Scope of Work presented to PSU from the COMMONWEALTH, in writing, during the course of work under this Agreement. If designated as confidential by the COMMONWEALTH, UNIVERSITY further agrees not to disclose same to third parties, and to use same only during the term of this Agreement and only for the purpose of this Agreement. The obligation to hold such information in confidence shall apply to all such information except that which:

- (1) is or becomes public knowledge through no fault of the UNIVERSITY;
- (2) was in possession of the UNIVERSITY before receipt from the COMMONWEALTH, such possession being documented prior to the date of such receipt;
- (3) is lawfully received from a third party; or
- (4) must be lawfully disclosed under the laws of the Commonwealth of Pennsylvania or the United States of America.

The obligation to hold such information in confidence shall survive the termination of this Agreement.

11. INFORMATION:

A. During the period of this agreement, all information obtained by the UNIVERSITY through its services under this agreement will be made available to the COMMONWEALTH upon reasonable notice. The COMMONWEALTH shall have access to background material prepared or obtained by the UNIVERSITY that is directly related to the services being rendered. Background material is defined as original work papers, notes and drafts, prepared by the UNIVERSITY to support the data and conclusions in the final reports, and includes completed questionnaires, all raw data, etc., and material in electronic data processing form, computer programs, other printed materials, pamphlets, maps, drawings, and books acquired by the UNIVERSITY during the term of and funded under this agreement and directly related to the services being rendered. The term “information” and “background material” shall not include any client identifying information, an attorney’s case files, any attorney’s work product or any similar data, the confidentiality of which is protected by laws, regulations, or rules governing the attorney client relationship.

B. Except as provided in this Agreement and consistent with the UNIVERSITY’S publication and associated rights identified in Article 11.A, the ownership of all

substantive working papers, files and other documents relating to this Agreement shall vest in the COMMONWEALTH, and, upon completion or termination of this Agreement, at the COMMONWEALTH'S option, shall be delivered to the COMMONWEALTH. The University shall only be required to retain such material for a period of four (4) years from such completion date or termination date, after which any material not delivered to the COMMONWEALTH shall become the property of the University. The COMMONWEALTH agrees that it has no ownership rights to the University's proprietary materials, methodologies or software productivity tools that the University brings to or enhances during this Agreement unless paid for by the Commonwealth, in which case the COMMONWEALTH retains ownership rights.

12. OWNERSHIP RIGHTS:

The parties agree to the following ownership rights:

A. If, in the conduct of work pursuant to this Agreement, the UNIVERSITY produces copyrightable or patentable items (including software), processes, inventions or discoveries then the rights thereto become the property of the COMMONWEALTH. The COMMONWEALTH hereby assigns its rights to all the above, including patent rights, copyrights, and publication rights to the UNIVERSITY; but, in the event that the UNIVERSITY obtains a copyright or patent, the UNIVERSITY agrees to grant to the COMMONWEALTH, at no cost, a license or all rights necessary for the COMMONWEALTH to use such copyrighted or patented items for governmental purposes, including the right to sublicense or authorize the use by other governmental agencies for governmental purposes.

B. The COMMONWEALTH shall retain all ownership rights to any software or modifications thereof and any associated documentation that is designed, developed or installed under this agreement, except that any modification unrelated to this agreement, made after completion of work pursuant to this agreement, which substantively changes the character of the software, shall be deemed a new product; and ownership thereof shall be with the UNIVERSITY. In addition, the UNIVERSITY reserves a royalty free, nonexclusive and irrevocable license, with rights to sublicense (if approved in writing by the COMMONWEALTH), to reproduce, publish or otherwise use such software, modifications and any associated documentation.

C. Except as provided in this Agreement and consistent with the UNIVERSITY'S publication and associated rights identified in 12A above, the ownership of all substantive working papers, files and other documents relating to this Agreement shall vest in the COMMONWEALTH, and, upon completion or termination of this Agreement, at the COMMONWEALTH'S option, shall be delivered to the COMMONWEALTH. The University shall only be required to retain such material for a period of four (4) years from such completion date or termination date, after which any material not delivered to the COMMONWEALTH shall become the property of the University. The COMMONWEALTH agrees that it has no ownership rights to the University's proprietary materials, methodologies or software productivity tools that the

University brings to or enhances during this Agreement unless paid for by the Commonwealth, in which case the COMMONWEALTH retains ownership rights.

13. AUDIT AND RECORDS REQUIREMENTS:

- A. In the event that the Commonwealth executive agency deems it necessary to require a specific audit, all costs incurred in the performance of this Agreement will be subject to audit by the awarding Commonwealth executive agency. If federal funds are involved the appropriate federal agency will be permitted to audit in accordance with OMB Circular A-133. The UNIVERSITY shall be responsible for payment of any and all audit exceptions which are identified during the audit by the Commonwealth executive agency. The Commonwealth executive agency that conducts or contracts for a purchase order specific audit shall arrange for funding the full cost of such a purchase order specific audit.
- B. The Commonwealth and the UNIVERSITY agree that audit requirements shall be covered by the Single Audit Act. The UNIVERSITY agrees to comply with the requirements of the Single Audit Act of 1984, as amended, 31 U.S.C. § 7501 et seq., and OMB Circular A-133. The UNIVERSITY shall provide the COMMONWEALTH with a copy of its annual audit report, which shall include any exceptions noted on the audit. The UNIVERSITY will correct all audit exceptions within six months following such audit, and shall advise the COMMONWEALTH, in writing, as soon as all exceptions have been corrected, and that the UNIVERSITY is in compliance with OMB Circular A-133
- C. The UNIVERSITY shall maintain and make available accounting records and other verifiable evidence pertaining to the costs it incurs under this Agreement. The UNIVERSITY shall also require, in any subcontracts entered into for the Agreement, its subcontractors to maintain and make available accounting records and other verifiable evidence pertaining to the costs that they incur under this Agreement.
- D. Except for documents delivered to the COMMONWEALTH, the UNIVERSITY shall preserve and make available the records for a period of four (4) years or as required by the COMMONWEALTH from the date of final payment under this Agreement, and for such period, if any, as specified by Paragraphs (1) and (2) below. The University may preserve all records on electronic media in lieu of hardcopy form. Records will be made available for inspection by the COMMONWEALTH, its authorized representatives, the Auditor General, and federal auditors at all reasonable times at the office of the UNIVERSITY or any subcontractor; and copies thereof shall be furnished, as requested.
 - (1) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of (4)

four years or as required by the COMMONWEALTH from the date of any resulting final settlement.

(2) Records which relate to costs under this Agreement as to which exception has been taken by the auditors, shall be retained by the UNIVERSITY until such exceptions have reached final disposition.

E. The provisions of this paragraph shall be applicable to and included in each subcontract hereunder.

14. TERMINATION OF AGREEMENT:

A. This Agreement may be terminated by the COMMONWEALTH for non-performance, inadequate performance, non-appropriation, unavailability of funds, or breach of any material terms and conditions by giving written notice to the UNIVERSITY of such termination and specifying the effective date thereof.

B. If this agreement is breached, the COMMONWEALTH will allow the UNIVERSITY a forty five (45) day period to correct its breach of the agreement. If the UNIVERSITY does not correct its breach of the agreement as specified, the COMMONWEALTH may terminate the agreement in whole or in part upon at least five day's notice.

C.. This Agreement may be cancelled without cause by either party upon thirty (30) days' advance written notice.

15. AGREEMENT SUBJECT TO LAWS AND REGULATIONS:

This Agreement is subject to the provisions of all applicable federal, Commonwealth of Pennsylvania, and local laws and regulations and all amendments made thereto.

16. INTERESTS OF MEMBERS OF THE COMMONWEALTH AND OTHERS:

No officer, member, or employee of the Commonwealth or member of its General Assembly who exercises any functions or responsibilities under this Agreement shall participate in any decision relating to this Agreement which affects his/her personal interest or the interest of any corporation, partnership, or association in which he/she is, directly or indirectly, interested; nor shall any such officer, member, or employee of the Commonwealth or member of its General Assembly have any interest, direct or indirect, in this Agreement or the proceeds thereof.

17. INTEREST OF CONTRACTOR:

The UNIVERSITY hereby assures the COMMONWEALTH that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The UNIVERSITY further assures that in the performance of this Agreement, it will not knowingly employ any person having such interest. The UNIVERSITY further certifies to the best of its knowledge and belief that no member of the board of the UNIVERSITY or any of its officers or directors has such an adverse interest.

18. SUSPENSION OR DEBARMENT:

The UNIVERSITY certifies that it is not currently under suspension or debarment by the Commonwealth, any other state, or the federal government.

If the UNIVERSITY enters into any subcontracts under this contract with subcontractors who are currently suspended or debarred by the Commonwealth or federal government during the term of this Agreement or any renewals thereof, the COMMONWEALTH shall have the right to require the UNIVERSITY to terminate such subcontracts.

The UNIVERSITY represents that no taxes are owed by it to the Department of Revenue and/or the Department of Labor and Industry.

MASTER AGREEMENT

THIS AGREEMENT is made this day of _____, 2005, by and between the Commonwealth of Pennsylvania, acting through the Department of General Services, hereinafter called the COMMONWEALTH,

and

The Pennsylvania State University, hereinafter called the UNIVERSITY;

WITNESSETH:

WHEREAS, the UNIVERSITY, in furtherance of its academic mission, provides resources in faculty, practical and academic research, and education services; and,

WHEREAS, the UNIVERSITY has made these resources available to various agencies of the COMMONWEALTH; and,

WHEREAS, offering such assistance to agencies of the COMMONWEALTH benefits the UNIVERSITY's academic mission by enabling faculty members to apply the results of their research and by affording students practical experience in their field of study; and,

WHEREAS, the COMMONWEALTH is a public procurement unit pursuant to Section 1901 of the Commonwealth Procurement Code, 62 P.S. §1901; and,

WHEREAS, the UNIVERSITY, with respect to the services to be performed pursuant to this Master Agreement, is also a public procurement unit pursuant to Section 1901 of the Commonwealth Procurement Code, 62 P.S. §1901, because it is acting in furtherance of its educational mission in performing them; and,

WHEREAS, pursuant to Section 1906(b) of the Commonwealth Procurement Code, 62 P.S. §1906(b), the UNIVERSITY, as a public procurement unit, may provide the COMMONWEALTH, as another public procurement unit, with the types of services described above, provided that the

COMMONWEALTH compensates the UNIVERSITY for the expenses of the services in accordance with an agreement between the parties; and

WHEREAS, the parties desire to enter into an agreement for the provision of the services by the UNIVERSITY in exchange for payment by the COMMONWEALTH to compensate the UNIVERSITY for the expenses of the services in accordance with Section 1906(b) of the Commonwealth Procurement Code, 62 P.S. §1906(b).

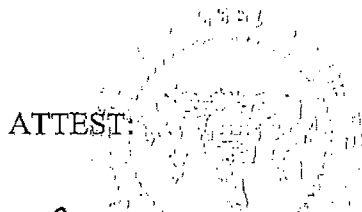
NOW, THEREFORE, for and in consideration of the foregoing premises and of the mutual promises set forth below, the parties agree, with the intention of being legally bound, as follows:

1. The foregoing recitals are incorporated by reference as a material part of this Agreement.
2. UNIVERSITY shall, in accordance with the terms and conditions of this Agreement, supply and deliver resources and services, as more fully defined in agency purchase orders issued pursuant to this Agreement, to Commonwealth executive agencies.
3. Commonwealth executive agencies shall procure their requirements for UNIVERSITY resources and services in accordance with the terms and conditions of this Agreement.
4. COMMONWEALTH and UNIVERSITY agree to be bound to the Special Terms and Conditions attached hereto as Exhibit A and made part of this Agreement.
5. UNIVERSITY agrees to comply with the following standard Commonwealth contract provisions, which are attached as Exhibit "B" and made part of this Agreement: Nondiscrimination/Sexual Harassment Clause, Contractor Integrity Provisions, Contractor Responsibility Provisions, Provisions Concerning the Americans with Disabilities Act, and Offset Provision. As used in these provisions, the term "Contractor" refers to the UNIVERSITY.

6. This Agreement will not be effective until all necessary Commonwealth officials as required by law have executed it.
7. Upon execution, this document, together with all exhibits and attachments annexed to it, constitutes the entire agreement between the parties and completely expresses their intent. All prior or contemporaneous agreements are hereby merged into this document. No amendment or modification of this Agreement shall be valid unless it is in writing and duly executed and approved by the parties.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Master Agreement the date first above written.



ATTEST:

THE PENNSYLVANIA STATE UNIVERSITY

Paula R. Ammerman 9/27/05
Name: Paula R. Ammerman DATE
Title: Associate Secretary

BY David F. Marshall 9/27/05
Name: David F. Marshall DATE
Title: Assistant Treasurer

COMMONWEALTH OF PENNSYLVANIA

APPROVED AS TO LEGALITY AND FORM

DEPARTMENT OF GENERAL SERVICES

BY _____
Chief Counsel DATE

BY _____
Secretary DATE

BY _____
Deputy Attorney General DATE

BY _____
Deputy General Counsel DATE

Exhibit A

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The UNIVERSITY shall perform its services under this Agreement as an independent contractor and be responsible for Worker's Compensation, Unemployment Compensation, and any other insurance required by law. It is the intent of the UNIVERSITY that the COMMONWEALTH will not be liable for any damages resulting from UNIVERSITY'S acts of negligence or willful misconduct in the performance of work under this Agreement.

7. SUBCONTRACTS:

If the purchase order's Scope of Work and budget has provisions for a specific subcontractor, this constitutes the approval of the awarding Commonwealth executive agency for that subcontract. If the original purchase order does not contain reference to a specific subcontractor, then a modification to the purchase order is required before initiating the subcontract.

8. ASSIGNABILITY:

The UNIVERSITY shall not assign any interest in this Agreement.

9. BACKGROUND CHECKS

The COMMONWEALTH reserves the right to request background checks on all personnel assigned to projects if requested in the Scope of Work portion of the Purchase Order. The cost for background checks required by the COMMONWEALTH will be a reimbursable cost under a resulting Purchase Order.

10. CONFIDENTIALITY:

The UNIVERSITY agrees to use reasonable efforts to hold in confidence any and all written confidential, and otherwise non-public information as defined in the Scope of Work presented to PSU from the COMMONWEALTH, in writing, during the course of work under this Agreement. If designated as confidential by the COMMONWEALTH, UNIVERSITY further agrees not to disclose same to third parties, and to use same only during the term of this Agreement and only for the purpose of this Agreement. The obligation to hold such information in confidence shall apply to all such information except that which:

- (1) is or becomes public knowledge through no fault of the UNIVERSITY;
- (2) was in possession of the UNIVERSITY before receipt from the COMMONWEALTH, such possession being documented prior to the date of such receipt;
- (3) is lawfully received from a third party; or
- (4) must be lawfully disclosed under the laws of the Commonwealth of Pennsylvania or the United States of America.

The obligation to hold such information in confidence shall survive the termination of this Agreement.

11. INFORMATION:

A. During the period of this agreement, all information obtained by the UNIVERSITY through its services under this agreement will be made available to the COMMONWEALTH upon reasonable notice. The COMMONWEALTH shall have access to background material prepared or obtained by the UNIVERSITY that is directly related to the services being rendered. Background material is defined as original work papers, notes and drafts, prepared by the UNIVERSITY to support the data and conclusions in the final reports, and includes completed questionnaires, all raw data, etc., and material in electronic data processing form, computer programs, other printed materials, pamphlets, maps, drawings, and books acquired by the UNIVERSITY during the term of and funded under this agreement and directly related to the services being rendered. The term "information" and "background material" shall not include any client identifying information, an attorney's case files, any attorney's work product or any similar data, the confidentiality of which is protected by laws, regulations, or rules governing the attorney client relationship.

B. Except as provided in this Agreement and consistent with the UNIVERSITY'S publication and associated rights identified in Article 11.A, the ownership of all

substantive working papers, files and other documents relating to this Agreement shall vest in the COMMONWEALTH, and, upon completion or termination of this Agreement, at the COMMONWEALTH'S option, shall be delivered to the COMMONWEALTH. The University shall only be required to retain such material for a period of four (4) years from such completion date or termination date, after which any material not delivered to the COMMONWEALTH shall become the property of the University. The COMMONWEALTH agrees that it has no ownership rights to the University's proprietary materials, methodologies or software productivity tools that the University brings to or enhances during this Agreement unless paid for by the Commonwealth, in which case the COMMONWEALTH retains ownership rights.

12. OWNERSHIP RIGHTS:

The parties agree to the following ownership rights:

A. If, in the conduct of work pursuant to this Agreement, the UNIVERSITY produces copyrightable or patentable items (including software), processes, inventions or discoveries then the rights thereto become the property of the COMMONWEALTH. The COMMONWEALTH hereby assigns its rights to all the above, including patent rights, copyrights, and publication rights to the UNIVERSITY; but, in the event that the UNIVERSITY obtains a copyright or patent, the UNIVERSITY agrees to grant to the COMMONWEALTH, at no cost, a license or all rights necessary for the COMMONWEALTH to use such copyrighted or patented items for governmental purposes, including the right to sublicense or authorize the use by other governmental agencies for governmental purposes.

B. The COMMONWEALTH shall retain all ownership rights to any software or modifications thereof and any associated documentation that is designed, developed or installed under this agreement, except that any modification unrelated to this agreement, made after completion of work pursuant to this agreement, which substantively changes the character of the software, shall be deemed a new product; and ownership thereof shall be with the UNIVERSITY. In addition, the UNIVERSITY reserves a royalty free, nonexclusive and irrevocable license, with rights to sublicense (if approved in writing by the COMMONWEALTH), to reproduce, publish or otherwise use such software, modifications and any associated documentation.

C. Except as provided in this Agreement and consistent with the UNIVERSITY'S publication and associated rights identified in 12A above, the ownership of all substantive working papers, files and other documents relating to this Agreement shall vest in the COMMONWEALTH, and, upon completion or termination of this Agreement, at the COMMONWEALTH'S option, shall be delivered to the COMMONWEALTH. The University shall only be required to retain such material for a period of four (4) years from such completion date or termination date, after which any material not delivered to the COMMONWEALTH shall become the property of the University. The COMMONWEALTH agrees that it has no ownership rights to the University's proprietary materials, methodologies or software productivity tools that the

University brings to or enhances during this Agreement unless paid for by the Commonwealth, in which case the COMMONWEALTH retains ownership rights.

13. AUDIT AND RECORDS REQUIREMENTS:

- A. In the event that the Commonwealth executive agency deems it necessary to require a specific audit, all costs incurred in the performance of this Agreement will be subject to audit by the awarding Commonwealth executive agency. If federal funds are involved the appropriate federal agency will be permitted to audit in accordance with OMB Circular A-133. The UNIVERSITY shall be responsible for payment of any and all audit exceptions which are identified during the audit by the Commonwealth executive agency. The Commonwealth executive agency that conducts or contracts for a purchase order specific audit shall arrange for funding the full cost of such a purchase order specific audit.
- B. The Commonwealth and the UNIVERSITY agree that audit requirements shall be covered by the Single Audit Act. The UNIVERSITY agrees to comply with the requirements of the Single Audit Act of 1984, as amended, 31 U.S.C. § 7501 et seq., and OMB Circular A-133. The UNIVERSITY shall provide the COMMONWEALTH with a copy of its annual audit report, which shall include any exceptions noted on the audit. The UNIVERSITY will correct all audit exceptions within six months following such audit, and shall advise the COMMONWEALTH, in writing, as soon as all exceptions have been corrected, and that the UNIVERSITY is in compliance with OMB Circular A-133
- C. The UNIVERSITY shall maintain and make available accounting records and other verifiable evidence pertaining to the costs it incurs under this Agreement. The UNIVERSITY shall also require, in any subcontracts entered into for the Agreement, its subcontractors to maintain and make available accounting records and other verifiable evidence pertaining to the costs that they incur under this Agreement.
- D. Except for documents delivered to the COMMONWEALTH, the UNIVERSITY shall preserve and make available the records for a period of four (4) years or as required by the COMMONWEALTH from the date of final payment under this Agreement, and for such period, if any, as specified by Paragraphs (1) and (2) below. The University may preserve all records on electronic media in lieu of hardcopy form. Records will be made available for inspection by the COMMONWEALTH, its authorized representatives, the Auditor General, and federal auditors at all reasonable times at the office of the UNIVERSITY or any subcontractor; and copies thereof shall be furnished, as requested.
 - (1) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of (4)

four years or as required by the COMMONWEALTH from the date of any resulting final settlement.

(2) Records which relate to costs under this Agreement as to which exception has been taken by the auditors, shall be retained by the UNIVERSITY until such exceptions have reached final disposition.

E. The provisions of this paragraph shall be applicable to and included in each subcontract hereunder.

14. TERMINATION OF AGREEMENT:

A. This Agreement may be terminated by the COMMONWEALTH for non-performance, inadequate performance, non-appropriation, unavailability of funds, or breach of any material terms and conditions by giving written notice to the UNIVERSITY of such termination and specifying the effective date thereof.

B. If this agreement is breached, the COMMONWEALTH will allow the UNIVERSITY a forty five (45) day period to correct its breach of the agreement. If the UNIVERSITY does not correct its breach of the agreement as specified, the COMMONWEALTH may terminate the agreement in whole or in part upon at least five day's notice.

C.. This Agreement may be cancelled without cause by either party upon thirty (30) days' advance written notice.

15. AGREEMENT SUBJECT TO LAWS AND REGULATIONS:

This Agreement is subject to the provisions of all applicable federal, Commonwealth of Pennsylvania, and local laws and regulations and all amendments made thereto.

16. INTERESTS OF MEMBERS OF THE COMMONWEALTH AND OTHERS:

No officer, member, or employee of the Commonwealth or member of its General Assembly who exercises any functions or responsibilities under this Agreement shall participate in any decision relating to this Agreement which affects his/her personal interest or the interest of any corporation, partnership, or association in which he/she is, directly or indirectly, interested; nor shall any such officer, member, or employee of the Commonwealth or member of its General Assembly have any interest, direct or indirect, in this Agreement or the proceeds thereof.

17. INTEREST OF CONTRACTOR:

The UNIVERSITY hereby assures the COMMONWEALTH that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The UNIVERSITY further assures that in the performance of this Agreement, it will not knowingly employ any person having such interest. The UNIVERSITY further certifies to the best of its knowledge and belief that no member of the board of the UNIVERSITY or any of its officers or directors has such an adverse interest.

18. SUSPENSION OR DEBARMENT:

The UNIVERSITY certifies that it is not currently under suspension or debarment by the Commonwealth, any other state, or the federal government.

If the UNIVERSITY enters into any subcontracts under this contract with subcontractors who are currently suspended or debarred by the Commonwealth or federal government during the term of this Agreement or any renewals thereof, the COMMONWEALTH shall have the right to require the UNIVERSITY to terminate such subcontracts.

The UNIVERSITY represents that no taxes are owed by it to the Department of Revenue and/or the Department of Labor and Industry.

EXHIBIT "B"

NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

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

- a. In the hiring of any employees for the manufacture of supplies, performance of work, or any other activity required under the Contract or any subcontract, the Contractor, subcontractor or any person acting on behalf of the Contractor or subcontractor shall not by reason of gender, race, creed, or color discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- b. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work or any other activity required under the Contract on account of gender, race, creed, or color.
- c. The Contractor and subcontractors shall establish and maintain a written sexual harassment policy and shall inform its employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
- d. The Contractor shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
- e. The Contractor and each subcontractor shall furnish all necessary employment documents and records to and permit access to its books, records, and accounts by the contracting officer and the Department of General Services' Bureau of Contract Administration and Business Development for purposes of investigation to ascertain compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause. If the Contractor or any subcontractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the contracting officer or the Bureau of Contract Administration and Business Development.
- f. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that such provisions will be binding upon each subcontractor.
- g. 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.

CONTRACTOR INTEGRITY PROVISIONS

- a. For purposes of this clause only, the words "confidential information," "consent," "contractor," "financial interest," and "gratuity" shall have the following definitions.
 - 1) **Confidential information** means information that is not public knowledge, or available to the public on request, disclosure of which would give an unfair, unethical, or illegal advantage to another desiring to contract with the Commonwealth.

- 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 execution of this agreement.
 - 3) **Contractor** means the individual or entity that has entered into the Contract with the Commonwealth, including directors, officers, partners, managers, key employees and owners of more than a five percent interest.
 - 4) **Financial interest** means:
 - 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 the like, or holding any position of management.
 - 5) **Gratuity** means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.
- b. The Contractor shall maintain the highest standards of integrity in the performance of the Contract and shall take no action in violation of state or federal laws, regulations, or other requirements that govern contracting with the Commonwealth.
 - c. The Contractor shall not disclose to others any confidential information gained by virtue of the Contract.
 - d. The Contractor shall not, in connection with this or any other agreement with the Commonwealth, directly, or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any officer or employee of the Commonwealth.
 - e. The Contractor shall not, in connection with this or any other agreement with the Commonwealth, directly or indirectly, offer, give, or agree or promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer or employee of the Commonwealth.
 - f. Except with the consent of the Commonwealth, neither the Contractor nor anyone in privity with him or her shall accept or agree to accept from, or give or agree to give to, any person, any gratuity from any person in connection with the performance of work under the Contract except as provided therein.
 - g. Except with the consent of the Commonwealth, the Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project.
 - h. The Contractor, upon being informed that any violation of these provisions has occurred or may occur, shall immediately notify the Commonwealth in writing.
 - i. The Contractor, by execution of the Contract and by the submission of any bills or invoices for payment pursuant thereto, certifies, and represents that he or she has not violated any of these provisions.
 - j. The Contractor, upon the inquiry or request of the Inspector General of the Commonwealth or any of that official's agents or representatives, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any

type or form deemed relevant by the Inspector General to the Contractor's integrity or responsibility, as those terms are defined by the Commonwealth's statutes, regulations, or management directives. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents or files of any type or form, which refers to or concern the Contract. The Contractor shall retain such information for a period of three years beyond the termination of the Contract unless otherwise provided by law.

- k. For violation of any of the above provisions, the Commonwealth may terminate this and any other agreement with the Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all expenses incurred in obtaining another Contractor to complete performance hereunder, and debar and suspend the Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or nonuse of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

CONTRACTOR RESPONSIBILITY PROVISIONS

- a. The Contractor certifies, for itself and all its subcontractors, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid, a written explanation of why such certification cannot be made.
- b. The Contractor must also certify, in writing, that as of the date of its execution of this Bid/Contract, it has no tax liabilities or other Commonwealth obligations.
- 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 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, which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- f. The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the internet at <http://www.dqs.state.pa.us> or contacting the:

Department of General Services
Office of Chief Counsel

603 North Office Building
Harrisburg, PA 17125
Telephone No. (717) 783-6472
FAX No. (717) 787-9138

AMERICANS WITH DISABILITIES ACT

- 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 it shall not cause any individual with a disability to be excluded from participation in this Contract or from activities provided for under this Contract on the basis of the disability. As a condition of accepting 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 all benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.
- b. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Contractor's failure to comply with the provisions of subparagraph a above.

OFFSET PROVISION

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

Exhibit A

SPECIAL TERMS AND CONDITIONS

These **SPECIAL TERMS AND CONDITIONS** shall be a part of the Master Agreement between the Commonwealth of Pennsylvania, acting through the Department of General Services (“COMMONWEALTH”), and The Pennsylvania State University (“UNIVERSITY”).

1. AGREEMENT SCOPE/OVERVIEW:

This Agreement will govern the provision of resources and services by the UNIVERSITY, in the furtherance of its educational mission, to the COMMONWEALTH.

2. TERM OF CONTRACT:

The term of this Agreement will commence on the Effective Date (as defined herein) and will have an initial term of Two (2) years. The Effective Date shall be fixed after the Agreement has been fully executed by the UNIVERSITY and all signatures required by Commonwealth contracting procedures have been obtained.

3. OPTION TO RENEW:

This Agreement may be renewed for two additional two (2) year terms by mutual agreement between the COMMONWEALTH and the UNIVERSITY. If the Agreement is renewed, the same terms and conditions shall apply.

4. SERVICES TO BE PROVIDED UNDER THIS AGREEMENT:

A. Purchase Orders:

Commonwealth executive agencies will issue purchase orders under this Agreement for requested services. These purchase orders constitute the UNIVERSITY’S authority to perform services and provide resources. The UNIVERSITY shall not start the performance of any work under this Agreement until it has received a purchase order from a Commonwealth executive agency. The COMMONWEALTH shall not be liable to pay the UNIVERSITY for any service or work performed or expenses incurred prior to the effective date listed on a purchase order. Any purchase order issued during the effective period of this Agreement and not completed within that period shall be completed by the UNIVERSITY within the time period specified in the purchase order. This Agreement shall govern the UNIVERSITY’S and COMMONWEALTH’S rights and obligations with respect to that purchase order to the same extent as if the purchase order were completed during the Agreement’s effective period. The COMMONWEALTH will expect a standard outline of methodology to be utilized in the performance of work as part of the initial proposal.

Each purchase order will be deemed to incorporate the terms and conditions set forth in this Agreement.

If a Commonwealth executive agency issues a purchase order through the Commonwealth's SAP system, it will not include an "ink" signature by the COMMONWEALTH. The electronically printed name of the purchaser represents the signature of that individual who has the authority, on behalf of the COMMONWEALTH, to authorize the UNIVERSITY to proceed.

Purchase Orders may be issued electronically or through facsimile equipment. The electronic transmission of a purchase order shall require acknowledgement of receipt of the transmission by the UNIVERSITY. Receipt of the electronic or facsimile transmission of the purchase order shall constitute receipt of a purchase order. Purchase orders received by the UNIVERSITY after 4:00 p.m. will be considered received the following business day.

The COMMONWEALTH and the UNIVERSITY specifically agree as follows:

1. No handwritten signature shall be required in order for the purchase order to be legally enforceable.
2. Upon receipt of a purchase order, the UNIVERSITY shall promptly and properly transmit an acknowledgement in return to the address stated on the purchase order. Any purchase order which is issued electronically shall not give rise to any obligation to perform services or provide resources on the part of the UNIVERSITY, or any obligation to receive and pay for services or resources on the part of the Commonwealth executive agency, unless and until the Commonwealth executive agency transmitting the purchase order has properly received an acknowledgement. In the event a change to a unilateral purchase order or any modification thereto is required, the UNIVERSITY shall contact the awarding Commonwealth executive agency to request approval to make the change. The UNIVERSITY shall make the change, initial, sign, and forward a copy of the revised bilateral purchase order (or modification) to the awarding Commonwealth executive agency.
3. The parties agree that original signatures shall not be required in order to make the order legally binding, notwithstanding contrary requirements in any law. The parties hereby agree not to contest the validity or enforceability of a genuine purchase order or acknowledgement issued electronically under the provisions of a statute of frauds or any other applicable law relating to whether certain agreements must be in writing and signed by the party bound thereby. A purchase order or acknowledgment shall be deemed to be genuine for all purposes if it is transmitted to the location designated for such documents.

4. Each party will immediately take steps to verify any document that appears to be obviously garbled in transmission or improperly formatted to include re-transmission of any such document if necessary.

Purchase orders under three thousand dollars (\$3,000) in total amount may also be made in person or by telephone using a Commonwealth Procurement VISA Card. When a purchase order is placed by telephone, the Commonwealth agency shall provide the agency name, employee name, credit card number, and expiration date of the card. The UNIVERSITY agrees to accept payment through the use of the Commonwealth Procurement VISA card.

The process described above for the issuance of purchase orders also shall apply to any modifications made thereto.

B. Invoicing:

1. Unless the UNIVERSITY has been authorized by the COMMONWEALTH for Evaluated Receipt Settlement or Vendor Self-Invoicing, the UNIVERSITY shall send its standard automated invoice itemized by major budget category and listing a standard unit of measure to which the invoice refers to the address referenced on the purchase order on a monthly basis. The purchase order number must be included on all invoices. In addition, the COMMONWEALTH shall have the right to require the UNIVERSITY to prepare and submit a quarterly "Work In Progress" sheet prepared by the lead faculty member or project director. This "Work in Progress" shall contain, at a minimum, the tasks performed, percentage of time expended, and the purchase order number. The final invoice for any Purchase Order shall be submitted within sixty (60) days after the termination date.
2. The UNIVERSITY shall be compensated only for work performed in accordance with the statement of work. The UNIVERSITY shall not be allowed or paid travel or per diem expenses except as specifically set forth in the Purchase Order and then only in accordance with current University travel policy. The UNIVERSITY's travel policies are available for review at: <http://guru.psu.edu/policies/#TRAVEL>

C. Change Orders:

The COMMONWEALTH reserves the right to make changes at any time during the term of this Agreement or any renewals thereof: 1) to change the scope of work as deemed necessary by the awarding Commonwealth executive agency. Any such mutually agreed upon change resulting in a material increase or decrease to the scope of work will require an adjustment to the cost to be mutually agreed upon by the parties and such revised cost will be incorporated into the purchase order via a written modification. 2) to notify the UNIVERSITY that the COMMONWEALTH is exercising any contract renewal option; or 3) to modify the time of performance to extend the completion date beyond the expiration date of the Agreement or any

renewals thereof. Any such change shall be made by notifying the UNIVERSITY in writing. The change shall be effective as of the date of the change, unless the notification of change specifies a later effective date. Such increases, decreases, changes, modifications or exercises of options will not invalidate the Agreement. The UNIVERSITY agrees to perform services or provide resources in accordance with such changes.

5. CONTRACTING OFFICER:

The COMMONWEALTH'S Contracting Officer for this Agreement is:

Bureau of Procurement-Department of General Services
Att: Chief Procurement Officer
555 Market Street-6th Floor
Harrisburg, PA 17105

UNIVERSITY shall direct all notices or inquiries to the Contracting Officer.

6. INSURANCE AND LIABILITY:

The UNIVERSITY shall perform its services under this Agreement as an independent contractor and be responsible for Worker's Compensation, Unemployment Compensation, and any other insurance required by law. It is the intent of the UNIVERSITY that the COMMONWEALTH will not be liable for any damages resulting from UNIVERSITY'S acts of negligence or willful misconduct in the performance of work under this Agreement.

7. SUBCONTRACTS:

If the purchase order's Scope of Work and budget has provisions for a specific subcontractor, this constitutes the approval of the awarding Commonwealth executive agency for that subcontract. If the original purchase order does not contain reference to a specific subcontractor, then a modification to the purchase order is required before initiating the subcontract.

8. ASSIGNABILITY:

The UNIVERSITY shall not assign any interest in this Agreement.

9. BACKGROUND CHECKS

The COMMONWEALTH reserves the right to request background checks on all personnel assigned to projects if requested in the Scope of Work portion of the Purchase Order. The cost for background checks required by the COMMONWEALTH will be a reimbursable cost under a resulting Purchase Order.

10. CONFIDENTIALITY:

The UNIVERSITY agrees to use reasonable efforts to hold in confidence any and all written confidential, and otherwise non-public information as defined in the Scope of Work presented to PSU from the COMMONWEALTH, in writing, during the course of work under this Agreement. If designated as confidential by the COMMONWEALTH, UNIVERSITY further agrees not to disclose same to third parties, and to use same only during the term of this Agreement and only for the purpose of this Agreement. The obligation to hold such information in confidence shall apply to all such information except that which:

- (1) is or becomes public knowledge through no fault of the UNIVERSITY;
- (2) was in possession of the UNIVERSITY before receipt from the COMMONWEALTH, such possession being documented prior to the date of such receipt;
- (3) is lawfully received from a third party; or
- (4) must be lawfully disclosed under the laws of the Commonwealth of Pennsylvania or the United States of America.

The obligation to hold such information in confidence shall survive the termination of this Agreement.

11. INFORMATION:

A. During the period of this agreement, all information obtained by the UNIVERSITY through its services under this agreement will be made available to the COMMONWEALTH upon reasonable notice. The COMMONWEALTH shall have access to background material prepared or obtained by the UNIVERSITY that is directly related to the services being rendered. Background material is defined as original work papers, notes and drafts, prepared by the UNIVERSITY to support the data and conclusions in the final reports, and includes completed questionnaires, all raw data, etc., and material in electronic data processing form, computer programs, other printed materials, pamphlets, maps, drawings, and books acquired by the UNIVERSITY during the term of and funded under this agreement and directly related to the services being rendered. The term “information” and “background material” shall not include any client identifying information, an attorney’s case files, any attorney’s work product or any similar data, the confidentiality of which is protected by laws, regulations, or rules governing the attorney client relationship.

B. Except as provided in this Agreement and consistent with the UNIVERSITY’S publication and associated rights identified in Article 11.A, the ownership of all

substantive working papers, files and other documents relating to this Agreement shall vest in the COMMONWEALTH, and, upon completion or termination of this Agreement, at the COMMONWEALTH'S option, shall be delivered to the COMMONWEALTH. The University shall only be required to retain such material for a period of four (4) years from such completion date or termination date, after which any material not delivered to the COMMONWEALTH shall become the property of the University. The COMMONWEALTH agrees that it has no ownership rights to the University's proprietary materials, methodologies or software productivity tools that the University brings to or enhances during this Agreement unless paid for by the Commonwealth, in which case the COMMONWEALTH retains ownership rights.

12. OWNERSHIP RIGHTS:

The parties agree to the following ownership rights:

A. If, in the conduct of work pursuant to this Agreement, the UNIVERSITY produces copyrightable or patentable items (including software), processes, inventions or discoveries then the rights thereto become the property of the COMMONWEALTH. The COMMONWEALTH hereby assigns its rights to all the above, including patent rights, copyrights, and publication rights to the UNIVERSITY; but, in the event that the UNIVERSITY obtains a copyright or patent, the UNIVERSITY agrees to grant to the COMMONWEALTH, at no cost, a license or all rights necessary for the COMMONWEALTH to use such copyrighted or patented items for governmental purposes, including the right to sublicense or authorize the use by other governmental agencies for governmental purposes.

B. The COMMONWEALTH shall retain all ownership rights to any software or modifications thereof and any associated documentation that is designed, developed or installed under this agreement, except that any modification unrelated to this agreement, made after completion of work pursuant to this agreement, which substantively changes the character of the software, shall be deemed a new product; and ownership thereof shall be with the UNIVERSITY. In addition, the UNIVERSITY reserves a royalty free, nonexclusive and irrevocable license, with rights to sublicense (if approved in writing by the COMMONWEALTH), to reproduce, publish or otherwise use such software, modifications and any associated documentation.

C. Except as provided in this Agreement and consistent with the UNIVERSITY'S publication and associated rights identified in 12A above, the ownership of all substantive working papers, files and other documents relating to this Agreement shall vest in the COMMONWEALTH, and, upon completion or termination of this Agreement, at the COMMONWEALTH'S option, shall be delivered to the COMMONWEALTH. The University shall only be required to retain such material for a period of four (4) years from such completion date or termination date, after which any material not delivered to the COMMONWEALTH shall become the property of the University. The COMMONWEALTH agrees that it has no ownership rights to the University's proprietary materials, methodologies or software productivity tools that the

University brings to or enhances during this Agreement unless paid for by the Commonwealth, in which case the COMMONWEALTH retains ownership rights.

13. AUDIT AND RECORDS REQUIREMENTS:

- A. In the event that the Commonwealth executive agency deems it necessary to require a specific audit, all costs incurred in the performance of this Agreement will be subject to audit by the awarding Commonwealth executive agency. If federal funds are involved the appropriate federal agency will be permitted to audit in accordance with OMB Circular A-133. The UNIVERSITY shall be responsible for payment of any and all audit exceptions which are identified during the audit by the Commonwealth executive agency. The Commonwealth executive agency that conducts or contracts for a purchase order specific audit shall arrange for funding the full cost of such a purchase order specific audit.
- B. The Commonwealth and the UNIVERSITY agree that audit requirements shall be covered by the Single Audit Act. The UNIVERSITY agrees to comply with the requirements of the Single Audit Act of 1984, as amended, 31 U.S.C. § 7501 et seq., and OMB Circular A-133. The UNIVERSITY shall provide the COMMONWEALTH with a copy of its annual audit report, which shall include any exceptions noted on the audit. The UNIVERSITY will correct all audit exceptions within six months following such audit, and shall advise the COMMONWEALTH, in writing, as soon as all exceptions have been corrected, and that the UNIVERSITY is in compliance with OMB Circular A-133
- C. The UNIVERSITY shall maintain and make available accounting records and other verifiable evidence pertaining to the costs it incurs under this Agreement. The UNIVERSITY shall also require, in any subcontracts entered into for the Agreement, its subcontractors to maintain and make available accounting records and other verifiable evidence pertaining to the costs that they incur under this Agreement.
- D. Except for documents delivered to the COMMONWEALTH, the UNIVERSITY shall preserve and make available the records for a period of four (4) years or as required by the COMMONWEALTH from the date of final payment under this Agreement, and for such period, if any, as specified by Paragraphs (1) and (2) below. The University may preserve all records on electronic media in lieu of hardcopy form. Records will be made available for inspection by the COMMONWEALTH, its authorized representatives, the Auditor General, and federal auditors at all reasonable times at the office of the UNIVERSITY or any subcontractor; and copies thereof shall be furnished, as requested.
 - (1) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of (4)

four years or as required by the COMMONWEALTH from the date of any resulting final settlement.

(2) Records which relate to costs under this Agreement as to which exception has been taken by the auditors, shall be retained by the UNIVERSITY until such exceptions have reached final disposition.

E. The provisions of this paragraph shall be applicable to and included in each subcontract hereunder.

14. TERMINATION OF AGREEMENT:

A. This Agreement may be terminated by the COMMONWEALTH for non-performance, inadequate performance, non-appropriation, unavailability of funds, or breach of any material terms and conditions by giving written notice to the UNIVERSITY of such termination and specifying the effective date thereof.

B. If this agreement is breached, the COMMONWEALTH will allow the UNIVERSITY a forty five (45) day period to correct its breach of the agreement. If the UNIVERSITY does not correct its breach of the agreement as specified, the COMMONWEALTH may terminate the agreement in whole or in part upon at least five day's notice.

C.. This Agreement may be cancelled without cause by either party upon thirty (30) days' advance written notice.

15. AGREEMENT SUBJECT TO LAWS AND REGULATIONS:

This Agreement is subject to the provisions of all applicable federal, Commonwealth of Pennsylvania, and local laws and regulations and all amendments made thereto.

16. INTERESTS OF MEMBERS OF THE COMMONWEALTH AND OTHERS:

No officer, member, or employee of the Commonwealth or member of its General Assembly who exercises any functions or responsibilities under this Agreement shall participate in any decision relating to this Agreement which affects his/her personal interest or the interest of any corporation, partnership, or association in which he/she is, directly or indirectly, interested; nor shall any such officer, member, or employee of the Commonwealth or member of its General Assembly have any interest, direct or indirect, in this Agreement or the proceeds thereof.

17. INTEREST OF CONTRACTOR:

The UNIVERSITY hereby assures the COMMONWEALTH that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The UNIVERSITY further assures that in the performance of this Agreement, it will not knowingly employ any person having such interest. The UNIVERSITY further certifies to the best of its knowledge and belief that no member of the board of the UNIVERSITY or any of its officers or directors has such an adverse interest.

18. SUSPENSION OR DEBARMENT:

The UNIVERSITY certifies that it is not currently under suspension or debarment by the Commonwealth, any other state, or the federal government.

If the UNIVERSITY enters into any subcontracts under this contract with subcontractors who are currently suspended or debarred by the Commonwealth or federal government during the term of this Agreement or any renewals thereof, the COMMONWEALTH shall have the right to require the UNIVERSITY to terminate such subcontracts.

The UNIVERSITY represents that no taxes are owed by it to the Department of Revenue and/or the Department of Labor and Industry.



All using Agencies of the Commonwealth, Participating Political
Subdivision, Authorities, Private Colleges and Universities

REPRINT Page 1 of 2
Contract No. 4600009190
Contract Original Approval Date: 01/09/2006

Purchasing Agent:
Name: James Kling
Phone: 717-705-2939
Fax:

Your SAP Vendor Number With Us: 141597

Valid from/to: 10/03/2005 - 06/30/2009

Supplier Name/Address:
PENNSYLVANIA STATE UNIVERSITY
408 OLD MAIN
UNIVERSITY PARK PA 16802-1505
USA
Supplier Telephone No: 717-948-6704
Supplier Fax No.:

Please Deliver To:

To be determined at the
time of the Purchase Order
unless specified below

Your Quotation: Date:
Collective No.:
Our Quotation:

Payment Terms:
NET 30

The Commonwealth of Pennsylvania, through the Department of General Services, accepts the submission of the Bidder/Contractor for the awarded item(s) at the price(s) set forth below in accordance with: 1) the RFQ submitted by the Bidder/Contractor, if any; 2) the documents attached to this Contract or incorporated by reference, if any, and 3) the contract terms and conditions stored on the website address at www.dgs.state.pa.us for this type of Contract as of the date of the RFQ, if any, or other solicitation for this Contract, all of which, as appropriate, are incorporated herein by reference. When the Bidder/Contractor receives an order from a Commonwealth agency, the order constitutes the Bidder/Contractor's authority to furnish the item(s) to the agency at the time(s) and place(s) specified in the order. RFQ, as used herein, means Request for Quotations, Invitation for Bids, Invitation to Qualify, or Request for Proposals, as appropriate.

Item	Material/Service Desc	Est Qty	UOM	Net Price	Per Unit	Total
80	FACULTY - do not use	0.00		0.00	1	0.00
90	TRAVEL	0.00		0.00	1	0.00
100	RESEARCH - do not use	0.00		0.00	1	0.00
110	EDUCATION - do not use	0.00		0.00	1	0.00
120	OPERATIONAL - other direct costs	0.00		0.00	1	0.00
130	PERSONNEL	0.00		0.00	0	0.00

SEE LAST PAGE FOR ESTIMATED
TOTAL VALUE INFORMATION



Supplier Name:
PENNSYLVANIA STATE UNIVERSITY

Item	Material/Service Desc	Est Qty	UOM	Net Price	Per Unit	Total
140	SUB-CONTRACTING	0.00		0.00	0	0.00

General Requirements for all Items:

Header Text

On 10/25/07 the contract was modified and Research, Education and Faculty were placed in a DO NOT USE mode. Upon ability to trash can these lines, they will be trashcanned. Sub-contracts were also added. Equipment and Administrative were added for the future.

All projects for \$100,000 or more must be reviewed by DGS Contract Officer.

On 6/5/2007 the contract was renewed by mutual agreement between the Commonwealth and the University for one (1) two-year term. This renewal covers the period of July 1, 2007 through June 30, 2009.

On 4/27/2006 the contract was modified by adding two (2) more categories: line item #00120 Operating(Operational) and line item #00130 Personnel. The modifications were made based on a request to PSU and a response received from Tim Stodart dated 4/24/2006 and the concurrence of my supervisor. (by L.E. Scott, Commodity Specialist, 4/27/2006)

On 02/08/2006 the contract was modified to correct administrative errors. Please use either line items 0080 thru 0110.

LINE ITEMS 0010 THRU 0070 HAVE BEEN OR WILL BE DELETED.
(by L.E. Scott, Commodity Specialist, 02-08-2006)

Contact Person: Tim Stodart
Telephone: 814-865-1027
fax 814-865-3377
Email: TMS21@psu.edu

Mail to: The Pennsylvania State University,
Office of Sponsored Programs,
110 Technology Center Building,
University Park, PA 16802-7000
Attn: Tim Stodart, Lead Contracts & Proposal Specialist

Penn State University Consulting Services are to be defined by individual agencies. Cost and Scope to be individually quoted on an as needed basis. Terms and Conditions will apply to all POs issued from this contract.

No further information for this contract.

**Estimated Total Value
Not Applicable**

Contract Reference Number: **9990-12**
Collective Number:
SAP Contract Number: **460009190**
Change Number: **1**
Change Effective Date: **5/23/2007**

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES
HARRISBURG**

For: All using Agencies of the Commonwealth
Subject: Pennsylvania State University Master Agreement Contract
Contract Period: 10/03/2005 – 06/30/2007
Commodity Specialist: James H. Kling

CHANGE SUMMARY:

Commodity specialist change from Leland Scott to James H. Kling.

Contact information

Phone: 717.703.2939
Fax: 717.214.9505
Email: jkling@state.pa.us

ALL OTHER TERMS AND CONDITIONS OF THIS AGREEMENT NOT CHANGED BY THIS CHANGE NOTICE REMAIN AS ORGINALLY WRITTEN.

Contract Reference Number: 9990-12

SAP Contract Number: **4600009190**

Change Number: # **2**

Change Effective Date: 06/05/2007

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES
HARRISBURG**

For: All using Agencies of the Commonwealth
Subject: Pennsylvania State University Master Agreement Contract
Contract Period: October 3, 2005 – June 30, 2009 (by renewal)
Commodity Specialist: James H. Kling 717-703-2939

CHANGE SUMMARY:

Effective immediately:

In accordance with the option to renew clause this Agreement has been renewed for one additional two (2) year term by mutual agreement between the COMMONWEALTH and PENN STATE UNIVERSITY.

ALL OTHER TERMS AND CONDITIONS OF THIS AGREEMENT NOT CHANGED BY THIS CHANGE NOTICE REMAIN AS ORIGINALLY WRITTEN.

Contract Reference Number: **9990-12**
Collective Number:
SAP Contract Number: **460009190**
Change Number: **#3**
Change Effective Date: **06/26/2007**

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES
HARRISBURG**

For: All using Agencies of the Commonwealth
Subject: Pennsylvania State University Master Agreement Contract
Contract Period: October 3, 2005 – June 30, 2009 (by renewal)
Commodity Specialist: James H. Kling 717-703-2939

CHANGE SUMMARY:

Effective immediately:

Any project with a total value of \$100,000.00 or greater shall be submitted to Jim Kling, Contracting Officer for review prior to creation of the purchase order. The using Agency shall email the contracting office the project and quote appropriate information:

James Kling, Commodity Specialist
jkling@state.pa.us

The contracting officer will then provide an email of the review for the agency to proceed with the project to attach to the purchase order.

Department of General Services
Bureau of Procurement
Forum Place, 6th Floor
555 Walnut Street
Harrisburg, PA 17101-1914

ALL OTHER TERMS AND CONDITIONS OF THIS AGREEMENT NOT CHANGED BY THIS CHANGE NOTICE REMAIN AS ORIGINALLY WRITTEN.

Contract Reference Number: **9990-12**
Collective Number:
SAP Contract Number: **4600009190**
Change Number: **#4**
Change Effective Date: **01/30/2008**

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES
HARRISBURG**

For: All using Agencies of the Commonwealth
Subject: Pennsylvania State University Master Agreement Contract
Contract Period: October 3, 2005 – June 30, 2009 (by renewal)
Commodity Specialist: James H. Kling

CHANGE SUMMARY:

Effective immediately:

Amendment 1 to the Pennsylvania State University Master Agreement Contract is to be added to the Department of General Services website that changes language on Ownership Rights.

Amendment 2 to the Pennsylvania State University Master Agreement Contract is to be added to the Department of General Services website which add and Equipment category and language and a line item to the contract.

ALL OTHER TERMS AND CONDITIONS OF THIS AGREEMENT NOT CHANGED BY THIS CHANGE NOTICE REMAIN AS ORIGINALLY WRITTEN.

AMENDMENT NUMBER 1 TO CONTRACT NO. 4600009190

MASTER AGREEMENT BETWEEN COMMONWEALTH OF PENNSYLVANIA AND
PENNSYLVANIA STATE UNIVERSITY

THIS CONTRACT AMENDMENT NUMBER 1 to Contract No. 4600009190 ("Contract") is entered into this 7th day of June, 2007, by and between the **Commonwealth of Pennsylvania**, acting through the Department of General Services ("DGS"), and **Pennsylvania State University** ("University").

WHEREAS, DGS and University negotiated and entered into Contract Number 4600009190 for the provision of resources in faculty, practical and academic research, and education services to the Commonwealth; and

WHEREAS, DGS and the University desire to amend this Agreement.

NOW, THEREFORE, for and in consideration of the foregoing premises and the mutual promises set forth below, the Parties agree, with the intention of being legally bound, to the following:

1. Section 12, *OWNERSHIP RIGHTS*, in Exhibit A of the Agreement, *Special Terms and Conditions*, is replaced in its entirety with the following:

All proprietary materials and methodologies brought by the UNIVERSITY to the projects and work assignments under this Agreement and all documents, sketches, drawings, designs, works, papers, files, reports, computer programs, data, computer documentation and other tangible materials authored and prepared by UNIVERSITY as the work product covered in the scope of work shall be treated in accordance with the following principles:

(a) **PREEXISTING MATERIALS BROUGHT BY THE UNIVERSITY TO PROJECT TASKS:** The COMMONWEALTH shall have no ownership rights to UNIVERSITY'S proprietary materials, data, software, methodologies or other intellectual property that the UNIVERSITY brings to the Projects and work assignments or has previously developed with or obtained from third parties. ("UNIVERSITY PROPERTY");

(b) **COPYRIGHT OWNERSHIP – OWNERSHIP OF MATERIALS DEVELOPED AS PART OF THE SCOPE OF WORK FOR PROJECT TASKS:** Since this is a Purchase Order generated Agreement, the Parties shall earmark each purchase order in accordance with one of the following provisions:

(1) **Work Made for Hire/UNIVERSITY Non-Exclusive License:** Prior to commencement of the work under an individual purchase order, the Parties shall determine whether a purchase order shall be considered a work for hire. All documents, sketches, drawings, designs, works, papers, files, reports, computer

programs, data, computer documentation and other tangible materials authored and prepared by the UNIVERSITY as the Work Product covered in the scope of work for the individual Purchase Orders for the Project Tasks (collectively the "Works") including Works developed by subcontractors are the sole and exclusive property of the COMMONWEALTH and shall be considered works made for hire within the meaning of the federal Copyright Act of 1976, as amended, set forth in Title 17 of the United States Code. In the event that such Works do not fall within the specifically enumerated works that constitute works made for hire under the United States copyright laws, the UNIVERSITY agrees to assign and, upon their authorship or creation, expressly and automatically assigns all copyright interests, proprietary rights, and other right, title and interest in and to such Works to the COMMONWEALTH. COMMONWEALTH shall have all rights accorded a holder of copyright under the United States copyright laws including, but not limited to, the exclusive right to reproduce the Works in copies, the right to distribute copies by sale or other transfers, the right to register all copyrights in its own name as author in the United States and in foreign countries, the right to prepare derivative works based upon the Works, and the right to display the Works. Upon completion or termination of this Agreement, all working papers, files and other documentation shall immediately be delivered by the UNIVERSITY to the COMMONWEALTH. UNIVERSITY warrants that the Works are original and to the best of its knowledge do not infringe the rights of any other work.

(2) UNIVERSITY/Cosponsor LICENSE: Notwithstanding the foregoing, UNIVERSITY/Cosponsor and any subcontractors shall retain a royalty free non-exclusive license to use for research purposes, reproduce, disseminate, publish, prepare derivative works, sublicense (including research sponsors), and to publish the Works for theses, dissertations or journal articles, provided that such usage by UNIVERSITY/Cosponsor is not designed for commercial or pecuniary gain and is subject to the limitations of Section 19 ("Publications") of this Agreement. This license shall expire three (3) years after the expiration of the Agreement. In no way shall this license be construed as an authorization to produce derivative works. Furthermore, in no event shall the license retained by any Cosponsor result in rights greater in extent than those expressly provided for, and granted in, the license retained by the UNIVERSITY or any subcontractors. In addition, COMMONWEALTH reserves all rights not expressly set forth in this paragraph. This license is conditioned on the licensee's compliance with the provisions of the intellectual property laws of the United States. All copies of reproductions and publications made pursuant to this license shall bear appropriate proprietary notices.

(3) Purchase Orders Vesting Title in the UNIVERSITY and Granting a Non-Exclusive License to COMMONWEALTH: For those Purchase Orders not intended to create works made for hire, the right, title, and interest in any original work of authorship of Intellectual Property (the "Works") developed as part of the scope of work for the Project shall vest in the UNIVERSITY. The

UNIVERSITY shall be accorded all rights provided to the owner of copyright under the federal Copyright Act.

The UNIVERSITY agrees to grant a royalty-free, perpetual, irrevocable, non-exclusive license to COMMONWEALTH to reproduce, disseminate, publish, display, and prepare derivative works based upon the Works including the right to sublicense the Works. If the UNIVERSITY transfers ownership of all or any portion of the Project to another entity, it shall ensure that its successors in interest afford COMMONWEALTH the same license as set forth in this Paragraph. This Paragraph shall survive the term of this Agreement.

(c) **PATENT OWNERSHIP:** The UNIVERSITY and its subcontractors shall retain ownership to patentable items, patents, processes, inventions of discoveries (collectively the "Patentable Items") made by the UNIVERSITY during the performance of this Agreement. Notwithstanding the foregoing, the COMMONWEALTH is granted a non-exclusive, non-transferable, royalty free license to use or practice the Patentable Items. COMMONWEALTH may disclose to third parties any such Patentable Items made by the UNIVERSITY or any of its subcontractors under the scope of work for the Project and work assignments that have been previously publicly disclosed. COMMONWEALTH understands that any third party disclosure will not confer any license under such Patentable Items.

(d) **FEDERAL GOVERNMENT INTERESTS:** It is understood that certain funding under this Agreement may be provided by the Federal government. Accordingly, the rights to Works or Patentable Items of UNIVERSITY or its subcontractors hereunder will be further subject to government rights as set forth in 37 C.F.R. Section 401, and other applicable statutes. Notwithstanding the foregoing, the COMMONWEALTH retains the right to share information relating to Works or Patentable Items developed under the scope of work for a wholly state-funded contract with the federal government in accordance with the terms of this Agreement in general and this paragraph relating to ownership rights in particular.

2. A new Section 19, *PUBLICATIONS*, is added to Exhibit A of the Agreement, *Special Terms and Conditions*, and shall read:

19. **PUBLICATIONS:** All publications and their dissemination are subject to and governed by the provisions of Section 12, Ownership Rights. Therefore, both parties must adhere to and abide by the terms of their ownership rights or license rights in all instances involving publication. Where publication is authorized under Section 12, both written and oral releases are considered to be within the context of publication. However, the following general provisions apply to any publications not specified as confidential information by COMMONWEALTH. Confidential information is defined in Section 10 of this Agreement; confidential information also includes any information identified by the Commonwealth as

confidential information in the Purchase Order. The UNIVERSITY reserves the right not to participate in any Purchase Order initiated by COMMONWEALTH that contains confidential information.

(a) Neither party shall publish or otherwise disclose, or permit to be published or disclosed, the project/service results contemplated in this Agreement, or any particulars of thereof, during the period of this Agreement, including supplements, without providing in writing to the other party and, as applicable, to the federal agency providing funding, the opportunity, with a minimum of two (2) weeks' notice, to review and comment thereon. Abstracts may be used for notification of intent to present a publication based on the Project Tasks.

Publications, or any parts thereof, released by either party shall give credit to the other party and, as applicable, to the federal agency providing funding, unless, upon failure of agreement on any publication of this Project, either of the parties or the federal agency providing funding, as applicable, requests that its credit acknowledgment be omitted.

(b) All publications by the UNIVERSITY shall contain a statement in the credit sheet that gives credit to the Commonwealth of Pennsylvania and, to the extent applicable, to the federal agency providing funding.

In addition to the credit specified above at the beginning of this Subparagraph 19(b), all reports must also contain the following disclaimers:

“The contents of this report reflect the views of the author(s) who is (are) responsible for the facts and the accuracy of the data presented herein. The contents do not necessarily reflect the official views or policies of the **[Insert Name of Federal Agency Providing Funding]** or the Commonwealth of Pennsylvania at the time of publication. This report does not constitute a standard, specification or regulation.”

(c) Subject to the provisions of Subparagraph 19(a) above, publication by the UNIVERSITY shall be within the province of the UNIVERSITY'S policy. However, if the UNIVERSITY does elect to publish, the nonconcurrence, if any, of COMMONWEALTH shall be set forth, if requested by COMMONWEALTH.

(d) This disclaimer identified in Subparagraph 19(b) applies to and must be included in any and all subcontracts.

3. A new Section 20, *LIABILITY OBLIGATION OF THE UNIVERSITY*, is added to Exhibit A of the Agreement, *Special Terms and Conditions*, and shall read:

20. LIABILITY OBLIGATION OF THE UNIVERSITY: The UNIVERSITY agrees to pay for any loss, liability or expense, which arises out of or relates to the UNIVERSITY's acts or omissions with respect to its obligations hereunder, where a final determination of liability on the part of the UNIVERSITY is established by a court of law or where settlement has been agreed to by the UNIVERSITY. This provision shall not be construed to limit the UNIVERSITY's rights, claims or defenses which arise as a matter of law or pursuant to any other provision of this Agreement. This provision shall not be construed to limit the immunity rights of the UNIVERSITY under the Procurement Code 62 PA.C.S. §1911 or otherwise.

4. Once the Contractor signs this Amendment Number 1, the Commonwealth's Contracting Officer will enter this document into the Commonwealth's SAP system to obtain the required Commonwealth approvals. This Amendment Number 1 will be effective following the final required Commonwealth approval.
5. Except as amended by this Amendment Number 1, all other terms and conditions of the Agreement shall remain as originally written.

IN WITNESS WHEREOF, the parties have signed this Amendment No. 1.


Witness:

CONTRACTOR:

By: 
~~(Assistant) Secretary~~

Paula R. Ammerman
Associate Secretary

Printed Name/Date

By: 
~~(Vice) President~~

David F. Marshall
Assistant Treasurer

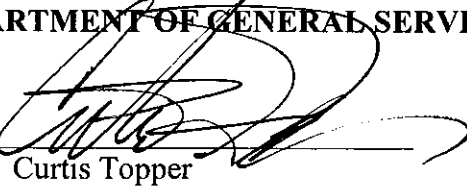
Printed Name/Date

24-6000376

Federal I.D. Number

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES**

By: _____



Curtis Topper
Deputy Secretary for Procurement

APPROVED AS TO FORM AND LEGALITY:

Pamela J. Cross 7/3/07
Office of Chief Counsel Date

[Signature] 7.16.07
Office of General Counsel Date

[Signature]
Office of Attorney General Date

**APPROVED FOR FISCAL RESPONSIBILITY,
BUDGETARY APPROPRIATENESS AND
AVAILABILITY OF FUNDS:**

[Signature] 6/28/07
Comptroller Date

AMENDMENT NUMBER 2 TO CONTRACT NO. 4600009190

**MASTER AGREEMENT BETWEEN COMMONWEALTH OF PENNSYLVANIA AND
PENNSYLVANIA STATE UNIVERSITY**

THIS CONTRACT AMENDMENT NUMBER 2 to Contract No. 4600009190 ("Contract") is entered into this 23rd day of January, 2008, by and between the **Commonwealth of Pennsylvania**, acting through the Department of General Services ("DGS"), and **Pennsylvania State University** ("University").

WHEREAS, DGS and University negotiated and entered into Contract Number 4600009190 for the provision of resources in faculty, practical and academic research, and education services to the Commonwealth; and

WHEREAS, DGS and the University want to make changes to the Agreement.

NOW THEREFORE, intending to be legally bound hereby, DGS and University agree as follows:

1. A new Section 21, *PERSONAL PROPERTY - EQUIPMENT*, is added to Exhibit A of the Agreement, *Special Terms and Conditions*, and shall read:

21. PERSONAL PROPERTY - EQUIPMENT

Accounting for personal property – Personal property required by the UNIVERSITY in its performance of this contract that is not already owned by the UNIVERSITY must be acquired in the following manner:

- a. Expendable items shall be purchased by the Agency.
- b. Capital goods and capital equipment of a non-expendable nature which shall be required for use by the UNIVERSITY which the UNIVERSITY does not already possess shall be acquired alternatively either by rental or by purchase. The decision of rental or purchase shall be at the sole discretion of the Agency. If the decision is that the necessary non-expendable property be procured on a rental basis, then the rental cost of such property shall be included in the budget. If said property is to be purchased, it shall be included in the budget and, with the approval of the Agency, shall be purchased by the UNIVERSITY in the manner directed by the Agency. Title to all such property purchased shall be taken in the name of the Agency and a copy of the Bill of Sale promptly returned to the Agency.
- c. Capital goods and equipment are defined as equipment or goods exceeding \$5,000.00 per item.
- d. Upon cancellation or termination of the project, the Agency shall take possession of such property. Upon completion of any purchase order where

capital goods were acquired by UNIVERSITY, the Agency will contact the UNIVERSITY within sixty (60) days after the completion date to arrange disposition to the Agency.

2. Once the Contractor signs this Amendment Number 2, the Commonwealth's Contracting Officer will enter this document into the Commonwealth's SAP system to obtain the required Commonwealth approvals. This Amendment Number 2 will be effective following the final required Commonwealth approval.
3. Except as amended by this Amendment Number 2, all other terms and conditions of the Agreement and Amendment Number 1 shall remain as originally written.

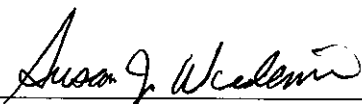
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IN WITNESS WHEREOF, the parties have signed this Amendment No. 2.

Witness:

CONTRACTOR:

By: 
(Assistant) Secretary

By: 
~~(Vice) President~~
Assistant Treasurer

Paula R. Ammerman 1/11/08
Printed Name/Date

Susan J. Wiedemer 1/11/08
Printed Name/Date

24-6000376
Federal I.D. Number

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES**

By: To be affixed electronically
Curtis Topper Date
Deputy Secretary for Procurement

APPROVED AS TO FORM AND LEGALITY:

To be affixed electronically
Office of Chief Counsel Date

To be affixed electronically
Office of General Counsel Date

To be affixed electronically
Office of Attorney General Date

**APPROVED FOR FISCAL RESPONSIBILITY,
BUDGETARY APPROPRIATENESS AND
AVAILABILITY OF FUNDS:**

To be affixed electronically
Comptroller Date