

Commonwealth of Pennsylvania
Department of Conservation and Natural Resources
Minerals Section, Bureau of Forestry
P.O. Box 8552
Harrisburg, PA 17105-8552

CONTRACT NO.
M-2102021-12

**OIL AND GAS LEASE AND OIL AND UNITIZATION AGREEMENT
NONDEVELOPMENT STATE STREAMBED TRACT 2021**

THIS AGREEMENT is made and entered into on this 19th day of June, 2018 (the "Effective Date") by and between the COMMONWEALTH OF PENNSYLVANIA (the "Commonwealth"), acting through the **DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES** (the "Department" or "Lessor"), and **PENNSYLVANIA GENERAL ENERGY COMPANY, L.L.C.**, with its principal place of business at 120 Market Street, Warren, PA 16365, and authorized to do business within the Commonwealth of Pennsylvania (the "Lessee").

WITNESSETH:

WHEREAS, the Lessor is authorized pursuant to Section 302(a)(13) of the Conservation and Natural Resources Act ("CNRA"), Act of June 28, 1995, P.L. 89, No. 18 (71 P.S. § 1340.302(a)(13)), to enter into agreements with owners or lessees of property or property rights located in the same area as land owned or leased by the Commonwealth for the protection, preservation or recovery of fuel, oil, natural gas or any other mineral deposits owned by the Commonwealth underlying those lands;

WHEREAS, Lessee has entered into certain oil and gas leases on lands adjacent to or near Little Pine Creek located in Lycoming County (the "Streambed Tract") as shown in "**Exhibit A**", "**Exhibit A-1**", and "**Exhibit A-2**" and more particularly described in "**Exhibit B**";

WHEREAS, the Commonwealth owns the land between the ordinary low water marks of Little Pine Creek, which is a navigable waterway, for the benefit of its citizens; and

WHEREAS, in order to properly develop and produce the oil and natural gas beneath, adjacent to, and near the Streambed Tract, the Department has determined that leasing the Streambed Tract to allow oil and natural gas development solely by directional, including horizontal, drilling on a non-development basis that does not disturb the stream or its bed is in the best interest of the Commonwealth.

NOW THEREFORE, in consideration of the sum of **ONE HUNDRED THIRTEEN THOUSAND SIX HUNDRED DOLLARS (\$113,600.00)**, paid by Lessee to Department, and other mutual covenants and agreements hereinafter set forth, Department does hereby grant, demise, lease, and let, exclusively unto Lessee for the purposes only of exploring, drilling, operating, producing and removing on a non-development basis oil, natural gas, and other liquid hydrocarbons solely by directional, including horizontal, drilling in a manner that does not disturb the waterway or the bed of the Streambed Tract, **TRACT NO. 2021**, containing **28.4** acres, more particularly shown in the tract maps in "**Exhibit A**", "**Exhibit A-1**", and "**Exhibit A-2**" and more particularly described in "**Exhibit B**", attached hereto and made a part hereof, hereinafter referred to as the "Leased Premises".

The parties hereto acknowledge that the aforesaid acreage and the location shown on the maps identified as "**Exhibit A**", "**Exhibit A-1**", and "**Exhibit A-2**" and the description of the Leased Premises included in "**Exhibit B**" are approximate.

1. TERM OR PERIOD

1.01 This Lease shall remain in force for a primary term of five (5) years from the Effective Date, subject to the conditions hereinafter set forth, and shall continue from year to year thereafter so long as oil or gas is produced in paying quantities from lands with which the Leased Premises are unitized or consolidated, or so long as Lessee demonstrates to the Department's satisfaction that it is engaged in bona fide attempts to secure or restore the production of oil or gas from land unitized with the Leased Premises, or reworking operations involving the Leased Premises.

2. LIMITATIONS ON LEASED PREMISES

2.01 Department shall retain ownership of the gas storage rights in the Lease Premises, and further reserves all minerals within the Lease Premises other than the oil, gas, and liquid hydrocarbons, and shall have the right to lease those mineral rights to third parties insofar as Department is otherwise legally entitled to lease the same, subject to rights granted to Lessee under this Lease.

3. LEASE RECORDING AND PUBLIC NOTICE

3.01 Within ninety (90) days following the receipt by Lessee of a fully executed copy of this Lease, Lessee shall both record the Lease or a memorandum of lease in the county or counties in which the Lease Premises lie, and also provide a copy of the recorded Lease or memorandum of lease to the Department which clearly shows the recorded reference data. Thereafter, Department shall publish at least the following information in the *Pennsylvania Bulletin*:

- (a) The subject of this Lease;
- (b) the general location of the Leased Premises;
- (c) the names of Department and Lessee; and
- (d) the recording reference data for this Lease.

3.02 If Lessee chooses to record a memorandum of lease in place of a fully executed copy of this Lease, Lessee shall provide a draft copy of the memorandum of lease to be recorded to the Department prior to recording for the Department's review and approval.

4. RENTALS

4.01 Lessee shall pay to Department a rental for the Leased Premises at the following rate: the first through and including the fifth years' rental shall consist of and be satisfied by the bonus payment which was made by Lessee and shall be payable to Department prior to delivery of this fully executed Lease to Lessee. For the sixth and all subsequent years thereafter, the rental shall be THIRTY-FIVE DOLLARS (\$35.00) per acre each year, payable upon the anniversary date of this Lease unless waived as provided for in Section 4.02.

4.02 The drilling of each well in or through the Leased Premises shall reduce the rental set out in the preceding paragraph for the sixth and all subsequent years by the amount of rental on the number of acres attributable to each well as provided in Section 19 (Acreage Attributable to a Well), which reduction shall become effective on the next rental date, provided the well is producing in paying quantities on that rental date.

4.03 If at any time a well capable of producing oil or natural gas is present on the Leased Premises and the well is shut-in, suspended, or otherwise not produced and the oil or natural gas is not used or marketed therefrom during any year ending on an anniversary date of this Lease, Lessee shall pay Department at the expiration of each year a rental payment for that year for each such well at the full rental rate per acre as referred to in Section 4.01 above.

5. GAS ROYALTY

5.01 The Lessee must operate each well with a discrete well meter at the well site, which will measure all natural gas, casinghead gas, or other gaseous substances, referred to collectively for purposes of this Lease as natural gas.

5.02 For purposes of this Lease, the term "fair market value" shall be defined as the first point of sale where the natural gas is transferred from the Lessee to a nonaffiliated third-party purchaser in an arms-length, commercially reasonable transaction free of all expenses of production and post-production expenses and deductions.

5.03 The Lessee shall pay to the Department, as royalty, whichever is higher, THIRTY-FIVE CENTS (\$0.35) per thousand cubic feet (Mcf) or TWENTY PERCENT (20%) of the fair market value, multiplied by the Department's fractional interest for all natural gas, produced and measured from each natural gas well drilled on the Leased Premises, free of all expenses of production and post-production expenses and deductions. The Lessee's obligation to pay royalties to the Department shall commence upon the date a well is placed into production, regardless of the Effective Date of this Lease. [Back-due royalty payments for any wells that were placed into production prior to the Effective Date of this Lease shall be paid within ninety (90) days of the Effective Date of this Lease.]

5.04 There shall be no deductions from any royalty payment for any costs of post-production handling, processing, fuel use on or off the leased premises, or conditioning that may be necessary to deliver a marketable product, between the wellhead and the point of sale where "fair market value" is received.

5.05 Any sales of natural gas to any related parties, evidenced by but not limited to: stock ownership, affiliation, internal division, subsidiary, or any other common ownership, shall be considered for the purposes of royalty payments as if they were also the Lessee and those entities sales to actual third parties would provide the pricing basis for royalty calculation. The price received by the Lessee, or related party as previously described, in the first arms-length commercial sale to a third party or parties not related to the Lessee in any way except by contract shall be the price used for calculation of royalty due to the Department.

5.06 The Department may, at its option, however, demand that the Lessee deliver to the credit of Department, as royalty, free of cost, in the pipeline to which the Lessee may connect its wells, the equal 20% part of all marketable gas and other marketable gaseous substances produced and saved from the Leased Premises; the amount to be delivered to the Department will be the equal TWENTY PERCENT (20%) part of the gas produced multiplied by the fractional interest held by the Department in the oil and gas rights. The Lessee shall calculate and deliver a gas balancing statement on a quarterly basis to the Department in order to ensure that the Department receives its equal TWENTY PERCENT (20%) share of the marketable gas production. Adjustments for overage or underage delivery of the Department's TWENTY PERCENT (20%) royalty share shall be made by reducing or increasing future delivery gas volumes to the Department's account.

6. ROYALTY ON OTHER WELL PRODUCTS

6.01 If oil, condensate, natural gas liquids or other liquid hydrocarbons (referred to collectively, for purposes of this Lease, as liquid products), each in paying quantities, should be produced from any natural gas well drilled on the Leased Premises, then said liquid products shall be saved, and royalty shall be paid on said products, as described below.

6.02 The Lessee shall provide tanks for accurately measuring and storing any liquid products produced from the Leased Premises. The Lessee shall gauge, measure, sample, and test all petroleum and petroleum products in accordance with API Standard 2500, "Measuring, Sampling, and Testing Crude Oil," Second Edition, March 1961, as amended or updated, or another method consistent with industry standards prescribed, or approved, in writing by the Department. Observed gravity at the observed temperature shall be corrected to (API) gravity and volume at sixty degrees Fahrenheit (60° F) as per the American Society for Testing Materials and the Institute of Petroleum, "ASTM-IP petroleum measurement tables" (ASTM designation No. 1250; IP designation 200), as amended or updated, or another method consistent with industry standards prescribed, or approved, in writing by the Department.

6.03 The Lessee shall pay to the Department, as royalty, TWENTY PERCENT (20%) of the field price per barrel (42 U.S. Gallons) at 60° F, produced and saved from the Leased Premises for all

liquid products of like grade and gravity which prevails in that area on the day such liquid products are run into the pipeline or into storage tanks; the amount to be paid to the Department will be the TWENTY PERCENT (20%) royalty multiplied by the fractional interest held by the Department, free of all expenses of production and post-production expenses and deductions.

6.04 The Department may, at its option, however, demand that the Lessee deliver to the credit of the Department, as royalty, free of cost, in the pipeline to which Lessee may connect its wells, the equal of TWENTY PERCENT (20%) part of all liquid products produced and saved from the Leased Premises; the amount to be delivered to the Department will be the TWENTY PERCENT (20%) part of the liquid products produced multiplied by the fractional interest held by the Department.

7. PAYMENTS

7.01 Lessee shall be held responsible for the payment of all rentals and royalties. **Payments shall be mailed to:**

Commonwealth of Pennsylvania
Department of Conservation and Natural Resources
Bureau of Forestry - Minerals Section
P.O. Box 8552
Harrisburg, PA 17105-8552

All checks shall be made payable to the Commonwealth of Pennsylvania. Payments of royalties shall be made monthly within ninety (90) days after each monthly sales period.

7.02 Lessee shall submit statements by individual wells of the production and sales of oil, natural gas, other hydrocarbon products, and other products within ninety (90) days after each monthly sales period.

7.03 Once it has been determined by Department that Lessee is in default in the payment of any sum of money payable under the provision of this Lease for thirty (30) calendar days after having received notice of default by the Department, Lessee agrees to pay an additional twelve percent (12%) annual interest on the defaulted amount calculated from the time of such default. This provision is in no way a waiver of the requirement to pay on time.

8. UNITIZATION AND POOLING

8.01 Department grants Lessee the right to pool, unitize or combine all or parts of the leasehold with other lands, leased or unleased, whether owned by Lessee or by others, at a time before or after drilling to create drilling or production units either by contract right or pursuant to governmental authorization. Pooling or unitizing in one or more instances shall not exhaust Lessee's pooling and unitizing rights hereunder, and Lessee is granted the right to change the size, shape and conditions of operation or payment of any unit created upon written agreement by the Department.

Lessor agrees to accept and receive out of the production or the revenue realized from the production of such unit, such proportional share of the royalty from each unit well as the number of leasehold acres included in the unit bears to the total number of acres in the writ. Otherwise, as to any part of the unit, or payment of royalty or rental attributable to any part of the unit (including non-leasehold land) shall have the same effect upon the terms of this Lease as if a well were located on, or the subject activity attributable to, the leasehold.

8.02 If all units anticipated to be covered by this Lease have not been established at the time of execution of this Lease, both parties agree to automatically incorporate said unit agreements as addenda to this document, using the standardized unitization form included as "**Exhibit C**".

8.03 Prior to recording any unitization form including lands of the Leased Premises, Lessee shall provide a copy of the form to the Department for the Department's review and approval. Lessee shall also provide any subsequent revisions to an approved unitization form to the Department for review and approval prior to recording the revised form.

9. OTHER HOLDERS OF GAS RIGHTS ADJACENT TO LEASED PREMISES

9.01 To the extent the natural gas rights on land adjacent to or near the Leased Premises are not held by Lessee and the holder of such rights seeks to develop its natural gas, including natural gas on the Leased Premises, Lessee shall negotiate in good faith with the holder of the adjacent natural gas rights to allow development of the Leased Premises in accordance with the terms of this Lease. Lessee shall obtain Department's consent to any assignment of the Leased Premises pursuant to Section 15 of this Lease.

10. GAS MEASUREMENT

10.01 The volume of gas produced, saved, and marketed shall be measured according to American Gas Association (AGA) standards and according to Boyle's Law for the measurement of gas under varying pressures with deviations therefrom as provided in Paragraph "e" below, on the measurement basis hereinafter specified and shall be determined as follows:

- (a) The unit of volume for the purpose of measurement shall be one (1) cubic foot of gas at a temperature of sixty degrees Fahrenheit (60° F) and an absolute pressure of 14.73 pounds per square inch.
- (b) The average absolute atmospheric pressure shall be assumed to be 14.4 pounds to the square inch, regardless of actual elevation or location of Point of Delivery above sea level or variations in such atmospheric pressure from time to time.
- (c) The temperature of the gas passing the meters shall be determined by the continuous use of a recording thermometer so installed that it may properly record the temperature of the gas flowing through the meters. The arithmetic average of the temperature recorded each 24-

hour day shall be used in computing gas volumes. If a recording thermometer is not installed, or if installed and not operating properly, an average flowing temperature of sixty degrees Fahrenheit (60° F) shall be used in computing gas volume.

- (d) The specific gravity of the gas shall be determined by tests made by the use of an Edwards or Acme gravity balance, annually, or at such intervals as are found necessary in practice. Specific gravity so determined shall be used in computing gas volumes.
- (e) The deviation of the natural gas from Boyle's Law shall be determined by tests annually or at such other shorter intervals as are found necessary in practice. The apparatus and the method to be used in making said test shall be in accordance with recommendations of the Natural Bureau of Standards of the Department of Commerce, or Report No. 3 of the Gas Measurement Committee of the American Gas Association, or any amendments thereof, or any other mutually agreed upon method. The results of such tests shall be used in computing the volume of gas delivered hereunder.
- (f) Gas compositional analyses by chromatograph or other approved methods shall be completed as necessary or upon written request and within a timeframe specified by the Department, for the determination of gas composition, specific gravity and BTU content. A copy of the results of all such analyses, whether completed at the specific request of the Department or not, shall be provided by the Lessee to the Department for its records within ninety (90) days of the date of the test.
- (g) The following factors used in the calculation of produced gas volumes shall be clearly specified on the meter statements:

Basic orifice factor (F_b)
Reynolds number factor (F_r)
Expansion factor (Y)
Pressure base factor (F_{pb})
Temperature base factor (F_{tb})
Flowing Temperature factor (F_{tr})
Specific gravity factor (F_g)
Supercompressibility factor (F_{pv})

11. AUDITS

11.01 Lessee shall furnish to Department, at its request, the meter charts covering the production of each well on the Lessee Premises. Department may keep such charts for examination for a period not to exceed one-hundred and twenty (120) days. Lessee shall furnish or secure for Department promptly any statements furnished to Lessee by any person or corporation to whom Lessee delivers for sale or transport any oil, gas, or other products produced from the Leased Premises.

11.02 Lessee further authorizes and directs any person, association, company, partnership, corporation, or other entity to whom it sells or furnishes oil, gas, or liquid hydrocarbons, produced from any well covered by this Lease to disclose and exhibit accounts and other instruments to representatives of Department at Department's request having to do with the transactions involving payment to Lessee, its heirs, administrators, executors, successors, and assigns for oil, gas, or liquid hydrocarbons from wells covered by this Lease.

11.03 Lessee further grants to Department or Department's designated representative the right, at any time, to examine, audit, or inspect books, records, and accounts of Lessee pertinent to the purpose of verifying the accuracy of the reports and statements furnished to Department, and for checking the amount of payments lawfully due under the terms of this Lease. Lessee agrees to provide every aid or facility to enable such audit to be made by Department. If such audit should disclose any gross error ($\pm 3\%$) or fraud by Lessee in payment of royalties, then Lessee shall pay the cost and expense of the audit together with the deficiency. However, in case of fraud by Lessee, such payments shall not preclude Department in its discretion from canceling this Lease upon delivery to Lessee of written notice of Department's intention.

12. LIMITATION ON WARRANTY

12.01 The Commonwealth owns the oil and gas rights under the Leased Premises but makes no warranty as to the presence of oil and gas, nor as to its ownership thereof. In the event it is determined by compromise or by a final judgment of a court of competent jurisdiction that the Commonwealth does not have title to all or part of the oil and gas rights on the lands hereby leased, the royalties thereafter accruing from any part as to which this Lease covers less than the full interest in such oil and gas rights, shall thereafter be paid only in the portion which the interest therein, if any, covered by this Lease bears to the whole and undivided fee simple estate therein; but any sums of money previously paid pursuant to the terms of the Lease shall not be reimbursable to Lessee, except as hereinafter provided in this paragraph. In the event of an adverse claim to the premises affecting title to all or a portion of the oil and gas rights under the Leased Premises, notice of such claim will be given to Department and Lessee may escrow future royalties accruing to such disputed portion until such dispute is resolved to the satisfaction of the Lessee. In the event an adverse claimant files suit against the Commonwealth or against Lessee claiming title to all or a portion of the oil and gas rights under the Leased Premises, or if the Lessee, after receiving notice of an adverse claim, institutes litigation in a court of competent jurisdiction to secure an adjudication of the validity of the claim, the royalties accruing to the litigated portion shall be placed in an escrow account until such time as the ownership of the disputed interest shall be determined by a court of competent jurisdiction. The royalties placed in escrow shall be refunded at the direction of the court in an amount proportionate to the outstanding title if it is finally determined by compromise or by a court of competent jurisdiction that all or part of such rights are not owned by the Commonwealth.

12.02 This proportionate reduction clause shall not apply to and shall not reduce the bonus payments or rents payable under this Lease.

13. LAWS, RULES AND REGULATIONS

13.01 Nothing in this Lease shall in any way be so construed as to impair the powers, privileges or duties of the Commonwealth, or its representatives, in the execution of the laws of the Commonwealth or the applicable rules and regulations promulgated thereunder, now in force or hereafter enacted or adopted.

13.02 The Lessee is solely responsible for obtaining any and all local, State or Federal permits or other approvals necessary for and associated with any of the operations related to this Lease, and shall be held liable by the Commonwealth of Pennsylvania, any agency of the Commonwealth, or any other local or Federal authority for the violation or non-compliance of any relevant laws, rules, and regulations.

13.03 This Lease does not constitute an estate or interest in submerged lands pursuant to Section 15 of the Dam Safety and Encroachment Act, act of November 26, 1978, P.L. 1375, No. 325, as amended, 32 P.S. §693.15.

14. LIABILITY

14.01 Lessee shall be alone liable and responsible for any pollution or other damage to any portion of the environment in or adjacent to the Leased Premises which occurs as a result or consequence of Lessee's occupation and use of the Leased Premises, regardless of whether or not such pollution or damage is due to negligence or to the inherent nature of Lessee's operations, unless an independent intervening cause is found to be the sole proximate cause of the pollution or damage. Any action for civil damages on account of such pollution brought by Department against Lessee shall not bar Department from bringing other actions under the Clean Streams Law or other pertinent laws, rules, or regulations of the Commonwealth.

14.02 Department shall not be liable to Lessee for any time during which the Leased Premises cannot be used.

15. ASSIGNMENTS

15.01 Lessee shall not use, or allow to be used, the Leased Premises for any other purpose than those specifically authorized by this Lease and shall not assign or sublet the Leased Premises in whole or in part at any time or from time to time without the prior written consent of Department. Lessee shall make application to obtain such consent in writing accompanied by a plat to Department describing the land to be assigned and the interest therein if less than the whole, together with the interest retained by assignor. Assignee shall agree in writing to be bound by all of the terms and provisions of the Lease and shall furnish a surety or performance bond satisfactory to Department. Upon Department's consent to the assignment and assignee's assumption of all liability under this Lease arising or accruing subsequent to the date of such assignment as to the part or parts so assigned, Lessee shall be released from all such liability, and assignee shall be deemed to have assumed and be responsible for the covenants, conditions, and obligations of this Lease as to the part or parts assigned. In the event that a portion only of the Leased

Premises is assigned, the default of any of the covenants, conditions, or obligations of *this* Lease by one of the holders of a portion of the Leased Premises created by an assignment will not affect the interests of a party not in default.

15.02 In the event that the Lessee enters into a "Farmout Agreement" with a third party for the purpose of allowing a "Farmee" to explore, develop, or produce oil and/or gas from the Leased Premises, or any portion thereof, Lessee shall be liable for enforcing all the provisions of this Lease, including the posting of the required plugging sureties for each and every well drilled and operated by the Farmee. Although the Department recognizes a right of the Lessee to farmout its Leased Premises or portions thereof from time-to-time, Department will hold the Lessee solely responsible for the enforcement of all the provisions of this Lease.

16. FINANCIAL SECURITY

16.01 PERFORMANCE SECURITY- Lessee shall provide Department with financial security in a form acceptable to Department (*i.e.*, surety bond, irrevocable letter of credit with evergreen provisions, bank certificate of deposit, *etc.*), for the principal sum of **TEN THOUSAND DOLLARS (\$10,000.00)** conditioned on the faithful performance by Lessee of the covenants of this Lease.

17. OPERATIONS

17.01 Lessee shall carry on all operations under this Lease with all due diligence and in a good and workmanlike manner, in accordance with the best and most up-to-date oil and gas field practices.

17.02 This agreement is a non-development lease, which means that the Lessee shall not locate any well or use the surface lands of the Leased Premises for any purpose. This Lease specifically grants no right to the waters in Little Pine Creek.

17.03 Department may grant Lessee, on a case-by-case basis, the right to lay gas gathering pipelines within the confines of the Leased Premises, as long as such pipeline would be proposed to be bored beneath the streambed. Such pipeline shall be constructed in accordance with all laws, rules, and regulations of any entity having jurisdictional authority of such activity. In no case does this Lease grant to Lessee any right or option to construct a mainline transmission pipeline within the Leased Premises.

17.04 Any production and removal of oil, gas or liquid hydrocarbons from the Leased Premises shall be accomplished by the directional, including horizontal, drilling of wells from locations outside the Lease Premises or by drainage from unitized wells located totally outside the Leased Premises.

18. FIRST WELL

18.01 Lessee shall commence a well ("First Well") on acreage containing a portion of the Leased Premises, including that within any established unit, within five (5) years of the Effective Date of this Lease and shall proceed with due diligence to complete the First Well. In the event the First Well is not commenced within the five (5) year period, this Lease shall automatically terminate in its entirety, unless the Department, in its sole discretion, provides Lessee with written notice of an extension of the period to commence the First Well at least thirty (30) days prior to the fifth anniversary date of this Lease. An extension shall be granted only when the Department considers it to be in the best interests of the Commonwealth.

18.02 If the First Well as described in Section 19.01 is not drilled, and no extension is granted by the Department, any amount paid as an advance bonus rental and made previous to the effective date of lease termination shall be deemed liquidated damages due Department and shall be in no way prorated or subject to claim by Lessee for return to Lessee.

18.03 The rental rate provision of the Lease shall not be affected by such extension of the 5-year first-well deadline. Additionally, the granting of such extension period shall in no way affect the anniversary dates of this Lease, or the rights and responsibilities of Department and Lessee associated therewith.

19. ACREAGE ATTRIBUTABLE TO A WELL

19.01 The amount of acreage around the subsurface location where oil and gas enters the well bore, commonly referred to as the "take point", included in a spacing unit ordered by the Department of Environmental Protection's Bureau of Oil and Gas Management, shall be referred to elsewhere in this Lease as "acreage attributable to a well," and shall be determined as follows:

- (a) forty (40) acres around each well from which oil is produced as the principal product;
- (b) three-hundred twenty (320) acres around each well completed above the top of the Onondaga Formation from which gas is being produced as the principal product; or
- (c) six-hundred forty (640) acres around each well completed below the top of the Onondaga Formation from which gas is being produced as the principal product.

20. WELL RECORDS, LOGS AND REPORTS

20.01 Lessee shall keep a daily drilling record which describes the formations penetrated, and the depth and volumes of water, oil, gas, and liquid hydrocarbons found while drilling each well

on the Leased Premises. An accurate well location plat and any other data that are acquired during the drilling and completion operations for each well shall be provided to the Department within ninety (90) days of the data's collection, or upon oral or written request by the Department and within a timeframe specified by the Department. All above-described data shall be submitted in both hard-copy and digital forms. Digital well logs shall be submitted in .LAS format.

20.02 Upon Department's request, samples of all formations penetrated and parts of cores taken from the Leased Premises, accurately labeled with the API number of the well and depth interval of collection, shall be furnished to Department at Lessee's expense within one (1) year after completion of each well.

20.03 If the Lessee collects rock samples including but not limited to whole rock core, parts of core, and cuttings from any well borehole(s) on the Leased Premises and no longer plans to retain the samples at its own or contracted storage facility, Lessee must first offer said rock samples to the Department before their disposal or sale. The rock samples shall be accurately labeled with the API number of the well and depth interval of collection. The Department shall make arrangements for the collection and transport of the rock samples at its own expense.

20.04 Upon written request and within a timeframe specified by the Department, Lessee shall provide Department with production and pressure test data, production and pressure decline curves, gas analysis data including BTU value determinations, water and waste disposal records, well stimulation and treatment records, maintenance records and reports, and/or any other data or records for any well(s) which the Department deems necessary to protect its interests.

21. CONFIDENTIALITY

21.01 Records that Lessee provides to the Department may be subject to public disclosure under the Pennsylvania Right-To-Know Law, act of February 14, 2008, P.L. 6, No.3, 65 P.S. § 67.101 *et seq.* Lessee shall advise Department in writing of any records submitted pursuant to this Lease that contain trade secrets or confidential proprietary information. Department shall maintain such records solely for use by the Commonwealth as provided below and shall not disclose such records to any third party unless Lessee consents, the Department determines such records are not protected from disclosure under Pennsylvania Right-To-Know Law, or Department is directed to do so pursuant to an order of court and/or the Pennsylvania Office of Open Records. The Department shall notify Lessee of any request received for such records. In the event the Department determines such records are not protected from disclosure under Pennsylvania Right-To-Know-Law, the Department shall advise the Lessee of such determination within five (5) business days.

21.02 Department shall maintain the following well-related documents solely for use by the Commonwealth for a period of three years from the date the well is spud unless (1) Lessee does not advise Department that such records contain trade secrets or confidential proprietary information, (2) Lessee does so advise Department, but nevertheless consents to disclosure of the records, (3) Department determines such documents are clearly not protected from disclosure under Pennsylvania

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Right-To-Know Law, or (4) Department is directed to disclose these records by court order and/or the Pennsylvania Office of Open Records:

- (a) all drill time logs
- (b) all electric well logs
- (c) all nuclear well logs
- (d) all acoustic or sonic well logs
- (e) all caliper or hole diameter measurement logs
- (f) all cement bond or integrity logs
- (g) all mud or geologic well logs
- (h) all dip measurement well logs
- (i) all well flow or production test data
- (j) all well completion data
- (k) all well fracturing and stimulation data
- (l) all well pressure tests or pressure data
- (m) all record of lost circulation zones and caving strata
- (n) all well casing records
- (o) all core analysis, mud log analysis
- (p) all well perforation records
- (q) all lithologic well logs
- (r) all written well history
- (s) all well cutting samples requested by Department
- (t) drill stem tests and charts
- (u) formation water analysis
- (v) and any other geophysical well data not specifically named.

21.03 Department shall maintain the following well-related documents solely for use by the Commonwealth unless (1) Lessee does not advise Department that such records contain trade secrets or confidential proprietary information, (2) Lessee does so advise Department, but nevertheless consents to disclosure of the records, (3) Department determines such documents are clearly not protected from disclosure under Pennsylvania Right-To-Know Law, or (4) Department is directed to disclose these records by court order and/or the Pennsylvania Office of Open Records:

- (a) all raw preprocessed data on tapes, discs, or other storage devices
- (b) all processed data on tapes, discs, or other storage devices
- (c) all paper or reproducible copies of stacked seismic data presentations
- (d) all paper or reproducible copies of migrated seismic data presentations
- (e) all paper or reproducible copies of relative amplitude seismic data presentations
- (f) all paper or reproducible copies of premigrated stacked seismic data presentations
- (g) all paper or reproducible copies of depth conversion seismic data presentations
- (h) all paper or reproducible copies of amplitude versus offset seismic data presentations
- (i) all paper or reproducible copies of any attribute seismic data presentations
- (j) all post plot shot point and receiver location maps

- (k) all time-depth conversion charts or calculations
- (l) all velocity charts and calculations
- (m) all sonic/acoustic well charts and data calculated from well logs
- (n) all synthetic seismograms
- (o) all seismic models for tuning and velocity variation
- (p) and all other incidental or miscellaneous seismic related data or presentations.

21.04 Department shall maintain the following well-related documents solely for use by the Commonwealth for the life of the Lease unless (1) Lessee does not advise Department that such records contain trade secrets or confidential proprietary information, (2) Lessee does so advise Department, but nevertheless consents to disclosure of the records, (3) Department determines such documents are clearly not protected from disclosure under Pennsylvania Right-To-Know Law, or (4) Department is directed to disclose these records by court order and/or the Pennsylvania Office of Open Records:

- (a) meter charts
- (b) all third party statements related to Commonwealth's royalty volumes and payments
- (c) all internal account statements of Lessee or third party related to Commonwealth's royalty volumes and payments
- (d) all business books of the Lessee or third parties provided to the Commonwealth to substantiate Commonwealth's royalty volumes and payments
- (e) all Lessee and third party contracts related to the Commonwealth's royalty volumes and payments
- (f) all production agreements between Lessee and third parties related to Commonwealth's royalty volumes and payments
- (g) all farmout agreements between Lessee and third parties related to Commonwealth's royalty volumes and payments
- (h) all purchase and sale agreements between Lessee and potential purchaser of the Leased Premises
- (i) all agreements providing for areas of mutual interest between Lessee and third parties
- (j) and all other business documents and agreements provided to the Commonwealth that Lessee or a third party consider confidential trade secrets.

22. PLUGGING

22.01 Lessee shall properly and effectively plug all wells within the unitized acreage on the lands pooled or unitized with the Lease, before abandoning, in accordance with the regulations of the Department of Environmental Protection's Bureau of Oil and Gas Management and all applicable laws of the Commonwealth. A copy of the Certificate of Well Plugging showing the plugging procedure used and submitted to the Bureau of Oil and Gas Management shall be supplied to the Minerals Section, Bureau of Forestry for each well plugged and abandoned.

23. DEPARTMENT'S TERMINATION

23.01 Unless Lessee invokes the dispute resolution process set forth in Section 26, if Lessee fails or refuses to satisfy or provide justification responding to Lessor's demand to pay any rental or royalty due under the terms of this Lease or violates or fails to perform any other term of condition of this Lease within thirty (30) calendar days after Lessee's receipt of written notification from Department of such refusal, violation or failure, Department shall have the right to terminate the Lease.

24. LESSEE'S TERMINATION

24.01 Lessee may, at any time, or from time to time, surrender this Lease or any portion thereof if Lessee is not then in default of any obligations under this Lease; provided, however, that such surrender must be evidenced by written notice delivered to Department thirty (30) calendar days prior to the effective date thereof, and that Lessee has performed all commitments with which Lessee is charged to the effective date of surrender. Any amount paid as an advance bonus or land rental, previous to the effective date of the surrender, shall be deemed liquidated damages due Department and shall be in no way prorated or subject to claim by Lessee for return to Lessee.

25. FORCE MAJEURE

25.01 In the event that Lessee is prevented from conducting drilling or other operations, or complying in a timely manner with any time limit imposed in the Agreement solely because of a strike, fire, flood, act of God, governmental action that delays drilling operations across the Commonwealth, or other circumstances beyond Lessee's control and which Lessee, by the exercise of all reasonable diligence, is unable to prevent, then Lessee may petition Department for an extension of time. An increase in the cost of performing the obligations set forth in this Lease shall not constitute circumstances beyond Lessee's control. Lessee's financial inability to comply with any of the obligations of this Lease shall not be grounds for any extension of time.

25.02 Lessee shall only be entitled to the benefits of this section if it notifies Department within ten (10) working days by telephone and within twenty (20) working days in writing of the date it becomes aware or reasonably should have become aware of the event impeding performance. The written submission shall include all necessary documentation, as well as a notarized affidavit from an authorized representative of Lessee specifying the reasons for the delay, the expected duration of the delay, and the efforts which have been made and are being made by Lessee to mitigate the effects of the event and to minimize the length of the delay. The initial written submission may be supplanted within ten (10) working days of its submission. Lessee's failure to comply with the requirements of this paragraph specifically and in a timely fashion shall render this paragraph null and of no effect as to the particular incident involved.

25.03 Department shall decide whether to grant all or part of the extension requested on the basis of all documentation submitted by Lessee and other information available to Department. In any subsequent litigation, Lessee shall have the burden of proving that Department's refusal to grant the requested extension was an abuse of discretion based upon the information then available to it.

26. DISPUTE RESOLUTION

26.01 In the event that Lessee wishes to dispute a decision made by Department, the following procedure shall be used:

- (a) Lessee shall notify the Department in writing of the decision in dispute and provide Department with Lessee's position on the issue along with all appropriate supporting documentation.
- (b) Within ten (10) business days from the date of the Department's receipt of the Lessee's written notice of the dispute, Department shall fix a time and place for a conference with Lessee to discuss the disputed decision.
- (c) The conference shall be held within thirty (30) days of the Department's receipt of the Lessee's written notice of the dispute, unless Department and Lessee agree to an extension of time for the conference.
- (d) At such conference, the Director of the Bureau of Forestry or his/her representative shall represent Department.
- (e) Department may continue the conference if supplemental data, maps or other information are required to evaluate the basis for Lessee's objections, if further review is needed to ascertain whether a mutually agreed upon settlement is consistent with the terms of the Lease, or if all parties to the conference agree that a continuance is beneficial to the resolution of the objection.
- (f) Any agreement(s) reached at the conclusion of the conference or follow-up discussions shall be consistent with the provisions of this Lease. A record of such agreement(s) shall be documented in writing by the Department, copies of which shall be provided to the Lessee, the appropriate District Forester, and all other parties involved.

26.02 In the event that a party is dissatisfied with the decision(s) made as a result of the dispute resolution conference, it may submit the dispute to an appropriate forum, including a court, for further consideration or review. Any judicial review or court action shall be de novo.

27. COMMONWEALTH CONTRACT TERMS AND CONDITIONS

27.01 Lessee agrees to comply with the COMMONWEALTH CONTRACT TERMS AND CONDITIONS, attached hereto in "**EXHIBIT D**", and made a part hereof.

28. HEADINGS

28.01 The paragraph headings herein are for reference only and are not intended to have any legal force or effect.

29. SUCCESSORS AND ASSIGNS

29.01 This Lease shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and permitted assigns, provided the assignment has been approved in accordance with this Lease.

30. AMENDMENTS AND MODIFICATIONS

30.01 No alterations or variations to this Lease shall be valid unless made in writing and assigned by the parties. Amendments to this Lease shall be accomplished through a formal written document signed by the parties with the same formality as the original Lease.

31. SEVERABILITY

31.01 The provisions of this Lease shall be severable. If any phrase, clause, sentence or provision of this Lease is declared to be contrary to the Constitution of Pennsylvania or of the United States or of the laws of the Commonwealth or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Lease and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby.

32. NO WAIVER

32.01 Either party may elect not to enforce its rights and remedies under this Lease in the event of a breach by other parties of any term or condition of this Lease. In any event, the failure by either party to enforce its rights and remedies under this Lease shall not be construed as a waiver of any subsequent breach of the same or any other term or condition of this Lease.

33. INDEPENDENCE OF THE PARTIES

33.01 It is understood by and between the parties that nothing contained herein is intended to be construed to, in any respect, create or establish the relationship of partners between the Lessee and the Department, or as constituting the Department as the representative or general agent of the Lessee for any purpose whatsoever.

34. NOTICES

34.01 All notices and reports arising out of, or from, the provisions of this Lease shall be in writing, unless otherwise provided in a provision of this Lease, and given to the parties at the address provided under this Lease, either by regular mail, facsimile, e-mail or delivery in person.

35. INTEGRATION AND MERGER

35.01 This Lease, when executed, approved and delivered, shall constitute the final, complete and exclusive Lease between the parties containing all the terms and conditions agreed on by the parties. All representations, understandings, promises and agreements pertaining to the subject matter of this Lease made prior to or at the time this Lease is executed are superseded by this Lease unless specifically accepted by any other term or provision of this Lease. There are no conditions precedent to the performance of this Lease except as expressly set forth herein.

36. RELEASE

36.01 Lessee shall not be granted a final release from the terms of this Lease until all records and reports and other data described above have been provided to the Department, all wells required by the Pennsylvania Department of Environmental Protection to be plugged have been plugged and plugging certificates provided, and all other terms of this Lease have been met.

37. BINDING EFFECT

37.01 This Lease shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and permitted assigns.

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M-O & G (8-09)
Lease Agreement Navigable Streams

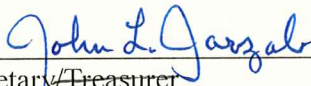
IN WITNESS WHEREOF, Department and Lessee have caused this Lease to be duly executed by their proper officers, all hereunto duly authorized, on the date first above written.

Lessee Name
Pennsylvania General Energy Company, L.L.C.

ATTEST:

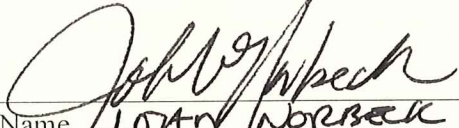


Douglas E. Kuntz
President & CEO



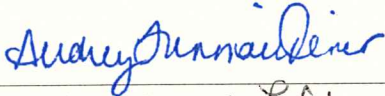
Asst. Secretary/Treasurer
Typed Name: John L. Jarzab

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CONSERVATION AND
NATURAL RESOURCES



Name: John L. Jarzab
Title: Asst. Secretary, DCMR


APPROVED AS TO LEGALITY AND FORM:



Chief/Assistant Counsel EC
Department of Conservation and Natural Resources

 6/26/18

Office of General Counsel

 1/4/19

Office of Attorney General

APPROVED:



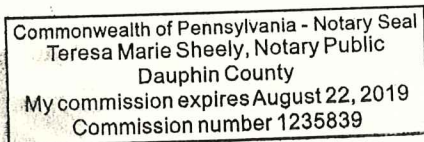
GOVERNOR OF PENNSYLVANIA

M-O & G (8-09)
Lease Agreement Navigable Streams

COMMONWEALTH OF PENNSYLVANIA, :
: ss.
COUNTY OF DAUPHIN :

On this the 19th day of June, 2018 before me, the undersigned officer, personally appeared John Norbeck, the Deputy Secretary, Commonwealth of Pennsylvania, Department of Conservation and Natural Resources, known to me to be the person described in the foregoing instrument, and acknowledged that he/she executed the same in the capacity therein stated and for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



[Signature]
Notary Public

Lease Agreement Navigable Streams

LESSEE'S ACKNOWLEDGMENT
(LIMITED LIABILITY COMPANY)

COMMONWEALTH OF PENNSYLVANIA }
COUNTY OF WARREN } SS:

On this 3 day of April, 2018, before me, a Notary Public, the undersigned officer, personally appeared **Douglas E. Kuntz**, who acknowledged himself/herself to be the President & CEO of **Pennsylvania General Energy Company, L.L.C.**, a limited liability company, and that he, as such President & CEO, being authorized to so do, executed the foregoing instrument for the purposes therein contained by signing the name of the limited liability company by himself as President & CEO.

In Witness Whereof, I hereunto set my hand and official seal.

My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
Jessica Lookenhouse, Notary Public
City of Warren, Warren County
My Commission Expires June 7, 2018
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

Jessica Lokenhouse
Notary Public

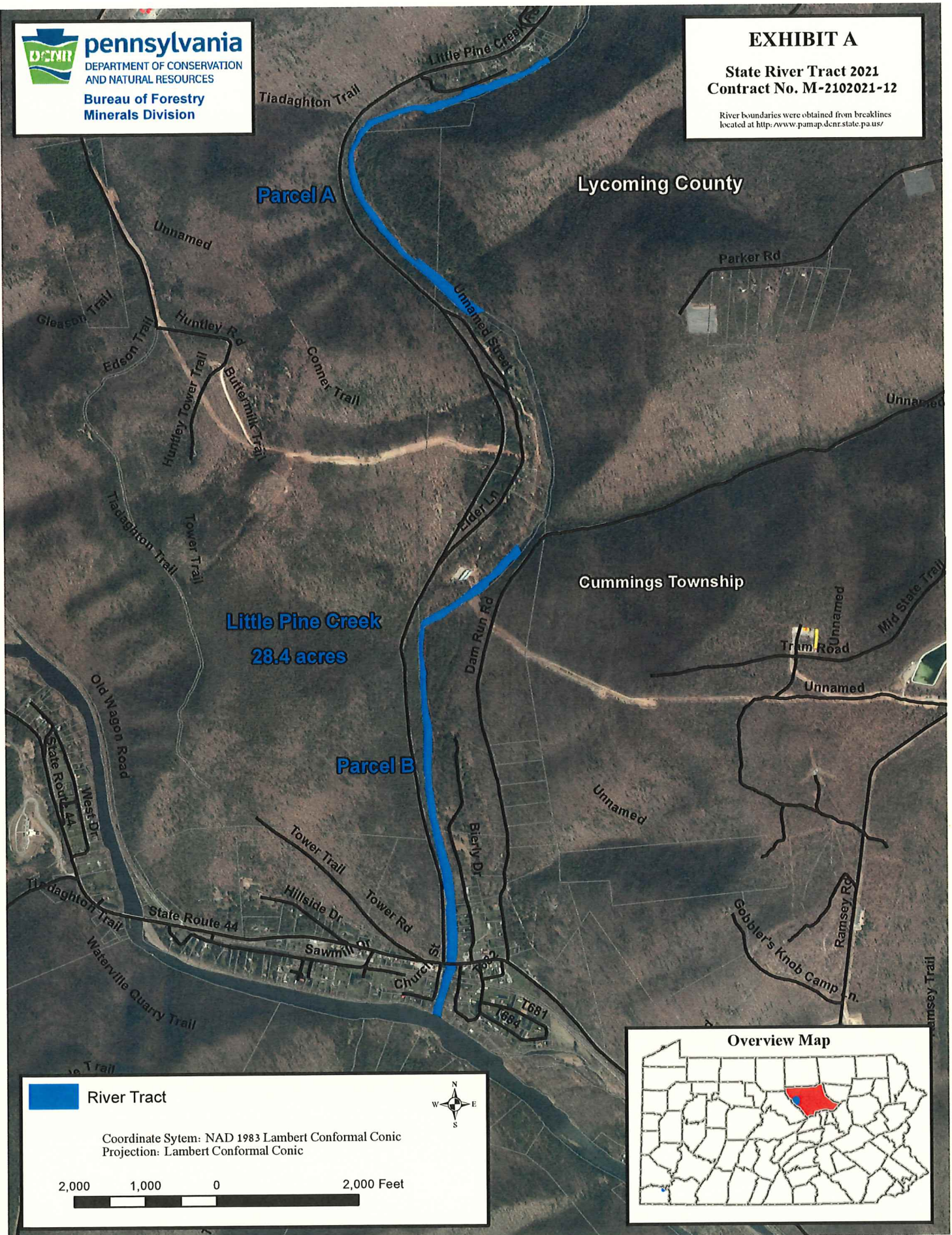


pennsylvania
DEPARTMENT OF CONSERVATION
AND NATURAL RESOURCES
Bureau of Forestry
Minerals Division

EXHIBIT A

State River Tract 2021
Contract No. M-2102021-12

River boundaries were obtained from breaklines
located at <http://www.pamap.dcnr.state.pa.us/>





pennsylvania

DEPARTMENT OF CONSERVATION
AND NATURAL RESOURCES

Bureau of Forestry
Minerals Division

EXHIBIT A-1

State River Tract 2021
Contract No. M-2102021-12

River boundaries were obtained from breaklines
located at <http://www.pamap.dcnr.state.pa.us/>

Lycoming County

Tiadaghton Trail

Unnamed

Haverly Rd

Little Pine Creek
Parcel A
12.0 acres

Cummings Township

Mid State Trail

Little Pine Creek Rd

Unnamed

41.33494°N, 77.360645°W

41.334756°N, 77.361313°W

Unnamed Street

River Tract

Coordinate Sytem: NAD 1983 Lambert Conformal Conic
Projection: Lambert Conformal Conic

1,000 500 0 1,000 Feet



Overview Map





pennsylvania

DEPARTMENT OF CONSERVATION
AND NATURAL RESOURCES

Bureau of Forestry
Minerals Division

EXHIBIT A-2

State River Tract 2021
Contract No. M-2102021-12

River boundaries were obtained from breaklines
located at <http://www.pamap.dcnr.state.pa.us/>

41.325877°N, 77.359109°W

41.325555°N, 77.358943°W

**Little Pine Creek
Parcel B
16.4 acres**

41.307828°N, 77.363813°W

41.307681°N, 77.363364°W

River Tract

Coordinate Sytem: NAD 1983 Lambert Conformal Conic
Projection: Lambert Conformal Conic

1,500 750 0 1,500 Feet



Overview Map



**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES**

OIL AND GAS LEASE FOR PUBLICLY-OWNED STREAMBEDS

EXHIBIT "B"

DESCRIPTION OF LEASED PREMISES FOR TRACT 2021

Attached to and made a part of that certain Oil and Gas Lease, Streambed Tract 2021, Contract No. M-2102021-12, by and between: **COMMONWEALTH OF PENNSYLVANIA**, Lessor, and **PENNSYLVANIA GENERAL ENERGY COMPANY, L.L.C.**, Lessee.

The following two parcels collectively containing approximately 28.4 acres of submerged lands and extant islands lying within the bed of Little Pine Creek between the ordinary low water marks within Cummings Township, Lycoming County, Pennsylvania, bounded and described as follows:

Parcel A:

BEGINNING at a point on the eastern bank of Little Pine Creek located north of Waterville, PA within Cummings Township, Lycoming County (**latitude 41.344506 N, longitude -77.357087 W**); thence continuing downstream along the eastern bank of Little Pine Creek to a point on the eastern bank of said creek (**latitude 41.33494 N, longitude -77.360645 W**); thence crossing Little Pine Creek to a point on the western bank of said creek located in Cummings Township, Lycoming County (**latitude 41.334756 N, longitude -77.361313**); thence continuing upstream along the western bank of Little Pine Creek to a point on the western bank of said creek (**latitude 41.344693 N, longitude -77.357198 W**); thence crossing Little Pine Creek to a point on the eastern bank of said creek, the place of beginning, containing approximately 12.0 acres.

Parcel B:

BEGINNING at a point on the eastern bank of Little Pine Creek located within Cummings Township, Lycoming County (**latitude 41.325555 N, longitude -77.358943 W**); thence continuing downstream along the eastern bank of Little Pine Creek to a point on the eastern bank of Little Pine Creek (**latitude 41.307681 N, longitude -77.363364 W**) at the approximate confluence between Little Pine Creek and Pine Creek located in Waterville, PA; thence crossing Little Pine Creek to a point on the western bank of said creek located in Cummings Township, Lycoming County (**latitude 41.307828, longitude -77.363813 W**); thence continuing upstream along the western bank of Little Pine Creek to a point on the western bank of said creek located in Cummings Township, Lycoming County (**latitude 41.325877°N, longitude -77.359109 W**); thence crossing Little Pine Creek to a point on the eastern bank of said creek, the place of beginning, containing approximately 16.4 acres.

All latitude and longitude coordinates cited above are in NAD 1983 Lambert Conformal Conic projection.

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES**

**OIL AND GAS LEASE AND OIL AND UNITIZATION AGREEMENT
NONDEVELOPMENT STATE STREAMBED TRACT 2021**

EXHIBIT "C"

RATIFICATION OF DECLARATION AND NOTICE OF POOLED UNIT

RATIFICATION OF DECLARATION AND NOTICE OF POOLED UNIT

The Commonwealth of Pennsylvania ("COP"), by and through the Department of Conservation and Natural Resources ("DCNR"), and [Enter Lessee Name], entered into an oil and gas lease ("Lease"), dated [Enter Date of Lease], for COP Lease Contract No.: M-XXXXXX-XX, Tract [Enter Tract Number].

Subject to the following terms and conditions, DCNR hereby ratifies the [Full Name of Unit] ("Unit"), effective [Enter DPU Effective Date], and attached hereto as Exhibit A.

1. The total acreage in the Unit is _____ acres.
2. The total acreage in the Unit attributable to COP is _____ acres.
3. The total percentage of the Unit attributable to COP is _____ % or [decimal].
4. Pursuant to the terms of the Lease, the royalty rate is _____%.
5. The Net Royalty Interest in the Unit attributable to COP is [decimal], which is the number that shall be used to calculate the royalty due to COP pursuant to the terms of the Lease.
6. Any modification by Lessee of the terms and conditions listed in paragraphs 1 through 5, above, shall not be binding on COP unless DCNR, in writing, ratifies the Unit.
7. This Ratification is effective as of the _____ day of _____, 20__.

WITNESS:

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CONSERVATION AND
NATURAL RESOURCES**

Name
Title

APPROVED AS TO LEGALITY AND FORM:

CHIEF/ASSISTANT COUNSEL
DEPARTMENT OF CONSERVATION AND
NATURAL RESOURCES

ACKNOWLEDGMENT

COMMONWEALTH OF PENNSYLVANIA :
: ss:
COUNTY OF DAUPHIN :

On this the ____ day of _____, 20__, before me, the undersigned officer, personally appeared _____, _____, Commonwealth of Pennsylvania, Department of Conservation and Natural Resources, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, and acknowledged that s/he executed the same in the capacity therein and for the purposes herein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

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Exhibit A

[Full Name of Unit]

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES**

Exhibit D

Commonwealth Contract Terms and Conditions

1. COMMONWEALTH HELD HARMLESS

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

2. NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

The Contractor agrees:

- a. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- b. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.
- c. The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where

the contracted services are performed shall satisfy this requirement for employees with an established work site.

- d. The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
- e. The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws, regulations and policies relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report (“EEO-1”) with the U.S. Equal Employment Opportunity Commission (“EEOC”) and shall file an annual EEO-1 report with the EEOC as required for employers’ subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.
- f. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.
- g. The Contractor’s and each subcontractor’s obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.
- h. 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.

3. CONTRACTOR INTEGRITY PROVISIONS

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

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

- 1) “Affiliate” means two or more entities where (a) a parent entity owns more than fifty percent of the voting stock of each of the entities; or (b) a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.
 - 2) “Consent” means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of the execution of this contract.
 - 3) “Contractor” means the individual or entity, that has entered into this contract with the Commonwealth.
 - 4) “Contractor Related Parties” means any affiliates of the Contractor and the Contractor’s executive officers, Pennsylvania officers and directors, or owners of 5 percent or more interest in the Contractor.
 - 5) “Financial Interest” means either:
 - a) Ownership of more than a five percent interest in any business; or
 - b) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
 - 6) “Gratuity” means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the [*Governor’s Code of Conduct, Executive Order 1980-18*](#), the *4 Pa. Code §7.153(b)*, shall apply.
 - 7) “Non-bid Basis” means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.
- b. In furtherance of this policy, Contractor agrees to the following:
- 1) Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting or procurement with the Commonwealth.
 - 2) Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to the Contractor activity with the Commonwealth and Commonwealth employees and which is made known to all Contractor employees. Posting these Contractor Integrity Provisions conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.
 - 3) Contractor, its affiliates, agents, employees and anyone in privity with Contractor shall not accept, agree to give, offer, confer, or agree to confer or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to

influence any person in violation of any federal or state law, regulation, executive order of the Governor of Pennsylvania, statement of policy, management directive or any other published standard of the Commonwealth in connection with performance of work under this contract, except as provided in this contract.

- 4) Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material under this contract, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor's financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor's submission of the contract signed by Contractor.
- 5) Contractor certifies to the best of its knowledge and belief that within the last five (5) years Contractor or Contractor Related Parties have not:
 - a) been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
 - b) been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;
 - c) had any business license or professional license suspended or revoked;
 - d) had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
 - e) been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

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

- 6) Contractor shall comply with the requirements of the *Lobbying Disclosure Act (65 Pa.C.S. §13A01 et seq.)* regardless of the method of award. If this contract was awarded on a Non-bid Basis, Contractor must also comply with the requirements of the *Section 1641 of the Pennsylvania Election Code (25 P.S. §3260a)*.
- 7) When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or these Contractor Integrity Provisions has occurred or may

occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or the Office of the State Inspector General in writing.

- 8) Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these Contractor Integrity Provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract, to include any extensions thereof. Contractor shall immediately notify the Commonwealth in writing of any actions for occurrences that would result in a violation of these Contractor Integrity Provisions. Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- 9) Contractor shall cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Contractor non-compliance with these Contractor Integrity Provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of an Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this contract. Contractor shall incorporate this paragraph in any agreement, contract or subcontract it enters into in the course of the performance of this contract/agreement solely for the purpose of obtaining subcontractor compliance with this provision. The incorporation of this provision in a subcontract shall not create privity of contract between the Commonwealth and any such subcontractor, and no third party beneficiaries shall be created thereby.
- 10) For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these Provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

4. CONTRACTOR RESPONSIBILITY PROVISIONS

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

- a. The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.
- b. The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.
- c. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.
- d. The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.
- e. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- f. The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the Internet at <http://www.dgs.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

5. 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.

6. APPLICABLE LAW

This Contract shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions) and the decisions of the Pennsylvania courts. The Contractor consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania, waiving any claim or defense that such forum is not convenient or proper. The Contractor agrees that any such court shall have in personam jurisdiction over it, and consents to service of process in any manner authorized by Pennsylvania law.

7. RIGHT TO KNOW LAW

- a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, ("RTKL") applies to this Contract. For the purpose of these provisions, the term "the Commonwealth" shall refer to the contracting Commonwealth agency.
- b. If the Commonwealth needs the Contractor's assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.
- c. Upon written notification from the Commonwealth that it requires the Contractor's assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor's possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information"), the Contractor shall:
 - 1) Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor's possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
 - 2) Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.
- d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a

representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.

- e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth's determination.
- f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.
- g. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.
- h. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.
- i. The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

8. OFFSET PROVISION

The Contractor agrees that the Commonwealth of Pennsylvania (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.