

**STANDARD BLUEBACK CONTRACT  
COMMONWEALTH OF PENNSYLVANIA  
STATE SYSTEM OF HIGHER EDUCATION**

**CONTRACT FOR  
COMPREHENSIVE PRIMARY HEALTH CARE SERVICES**

**Contract No. 4300000438**

**THIS AGREEMENT**, made and entered into this 10th day of September 2007, between Shippensburg University of Pennsylvania of the State System of Higher Education, 1871 Old Main Drive, Shippensburg, PA 17257 (hereinafter "University"), Federal ID # [REDACTED]

and

Johnson G. Coyle, M.D., P.C.; 31 South Thrush Drive, Carlisle, PA 17013-7652, a professional corporation, hereinafter referred to as the Contractor, Federal ID # [REDACTED]

Both the University and Contractor, when used together, are hereinafter referred to as Parties. The University is an instrumentality of the Commonwealth of Pennsylvania, established by and existing pursuant to Article XX-A of the Public School Code of 1949, as amended, 24 P.S. § 20-2001-A, et seq., and is authorized thereby to enter into this Contract.

The University desires to obtain Comprehensive Primary Health Care Services from the Contractor.

**NOW THEREFORE**, for and in consideration of the foregoing and the mutual promises hereinafter expressed and intending to be legally bound hereby, the Parties agree as follows:

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1. CONTRACTOR DUTIES. The Contractor, subject to the terms and conditions set forth below, shall perform the following specified duties:
  - A. The Contractor shall provide comprehensive primary health care services to registered students, workshop and camp participants and function as the Director of Medical Services for the University. Emergency/special medical care will be provided for athletes, faculty, staff and official guests of the University. Only physicians with M.D. degrees are required and preferred for all services rendered under the awarded contract; however, a combination of physicians with M.D. or D.O. degrees will be considered. If the Contractor has a female physician within the practice, it is preferred that this doctor be included in the schedule of shift rotations established to meet the required coverage.
  - B. Health care services as defined above shall be provided at no additional charge above the contracted price. If follow-up or continued treatment is required or requested by faculty/staff or official guests or invitees, the Contractor shall bill such individuals directly.
  - C. Health care services shall be provided according to the following schedule:
    1. Academic Year  
A physician will be in the Health Center Monday through Thursday preferably from 9:00 a.m. until 12:00 noon. In addition, a Physician's Assistant will be available Monday through Thursday from 12:00 noon until 5:00 p.m. and from 10:00 a.m. through 2:00 p.m. on Fridays.
    2. Summer Sessions – A physician will be in the Health Center Monday through Friday, as patient load requires. A minimum of five (5) hours per week is required.

3. When the University is Not in Session – A physician will be available, by appointment, as required.
4. A Director of Medical Services must be identified and must be available approximately three (3) hours per week to assist with clinical staff evaluations and program and policy development and review. The hours would be in addition to the hours required above, during the academic year. The Director of Medical Services duties shall include the following:
  - Direct the medical care received at Shippensburg University's Health Center by providing on-site supervision, instruction, guidance, collaboration, and counseling of the Etter Health Center medical and support staff.
  - Serve as collaborating physician for nurses.
  - Responsible for identifying the need for new and or additional equipment, supplies and or services at the Health Center.
  - Assists in developing and implementing the operating policies and procedures of the Health Center according to the implicit and or explicit specification and standards of the PA State System of Higher Education, Shippensburg University, Pennsylvania Medical Board, American College Health Association, Pennsylvania Department of Health and the Commission on Disease Control, to assure the continued high quality of medical care to students.
  - Serves as a member of the Health Advisory Board.
  - Advises in coordinating health services with other health-related programs at the University and provides needed health education and wellness programming for all members of the campus community.
  - Follows established Health Center policies, procedures and objectives, quality improvement and safety objectives, and environmental infection control standards.
  - Provides leadership in assessment of public health and communicable disease emergency readiness. Coordinates efforts to design response plans and supports the Director of Public Safety, the President, and other University Officials in the development and testing of emergency preparedness plans and projects.
  - Attends all Student Affairs and other pertinent meetings.
  - Participate in specified health promotion, education and prevention programs and performs other duties as may be reasonably assigned, to promote the health and safety of the University community.
5. The University and Contractor shall request that all students and workshop and camp participants see the physician on duty at the Health Center at designated times; however, at other times when the Contractor physicians are available at the Contractor's premises, nurses may refer students to the Contractor at no charge. The Contractor further shall have a physician on call 24 hours per day who can

receive calls from a University official and, if deemed necessary by the physician, will come to the campus within thirty (30) minutes. There will be other coverage available 12 hours per week and 3 weekends during every 6 weeks, provided by the University.

- D. The primary health care services to be provided by the Contractor, at no additional charge to students and workshop and camp participants on a 24-hour basis 7 days per week and to faculty/staff and official guests or invitees of the University needing emergency care, shall include but not be limited to the following services:
  - 1. Primary evaluation and diagnosis, prescription or treatment, and, where necessary examination by a physician and/or referral to specialists.
  - 2. Vision examinations.
  - 3. Immunization and vaccination, when required.
  - 4. Routine laboratory testing, including, but not limited to urinalysis, blood-glucose, hematocrit, strep-screen, mono, pregnancy, and occult blood. A part time licensed laboratory technician will be provided by the University during the 9 month academic year, as scheduled by the University.
  - 5. Treatment which can be performed in the University Health Center.
  - 6. Surgical procedures which can be performed in the University Health Center.
  - 7. Personal health counseling, including dietary counseling, personal hygiene counseling and family planning counseling.
  
- E. The University shall provide medical devices and clinical supplies as well as those antibiotics, antihistamines, anti-inflammatory medications, steroids, analgesic preparations, ophthalmic preparations and cold/cough preparations as recommended by the Contractor.
  
- F. The Contractor must make its staff available for consultation with Shippensburg University counselors on matters involving students who are identified as having mental, emotional or behavioral difficulties. The University has a contract with a psychiatrist on a consulting basis.
  
- G. The Contractor must provide assistance with wellness programming for students in areas such as nutrition, physical fitness, disease prevention, etc., approximately 10 hours per academic semester.
  
- H. The Contractor appointed Director of Medical Services, will be available to meet with students registering complaints about service rendered and in conjunction with the University Student Affairs Staff will effect corrective action as deemed necessary.
  
- I. The Contractor must agree to provide health care services in the area of sports medicine as follows:
  - 1. The Contractor shall provide physical examinations for all intercollegiate participants at the necessary times and dates as required by the Department of Athletics.

2. The Contractor will provide physician coverage at all home intercollegiate football games (5-6 games per year).
  3. A physician from the Contractor shall consult and assist the Director of Sports Medicine as needed.
  4. The Contractor will assist in making medical referrals as needed.
  5. The Contractor will make every effort to utilize the Shippensburg University Health Center facility during "on call" time. Minor suturing and examinations required during athletic practices and contests should be administered in the Health Center whenever possible.
  6. The Contractor will provide written physician advice and standing orders for all treatment to be provided for students by the Director of Sports Medicine.
- J. Shippensburg University will require students to submit medical records prior to admissions that will be placed in the Health Center and made available to the Contractor. The Contractor will update health records on students as necessary. Such records will include a health form and a complete record of all health care provided by the Contractor. The Contractor will comply with all state and federal laws and regulations regarding the confidentiality of medical records.
- K. Shippensburg University will provide the Contractor with an inventory of University-owned health service equipment that may be used by the Contractor or issued to individuals covered by these services, provided that the Contractor maintains the inventory at current levels and returns the health service equipment to the University in the condition in which it is originally received, normal wear excluded.
- L. The Contractor must maintain and continue the operation of its health care facilities at the level necessary to provide, in full, the health care services required.
- M. The Contractor must obtain all licenses and authorizations required by federal, state and local laws, ordinances, rules and regulations for the performance of the services specified. The Contractor must assure that all physicians have full doctor's privileges at a local hospital.
- N. The Contractor must comply with all federal, state, and local laws, ordinances, rules and regulations relating to the delivery of health care services and to wage and employment conditions.
- O. The Contractor must secure professional liability insurance for its officers, employees and agents in the amount of \$1,000,000.00 per occurrence and \$3,000,000.00 per annual aggregate. The Contractor shall provide the University/Commonwealth with proof of its insurance coverage.
- P. Shippensburg University's nursing staff, consisting of nine (9) registered nurses, will be made available to the Contractor for full time assignment at no additional cost for the period of services specified. Their assignment must be consistent with

the Commonwealth of Pennsylvania Personnel Rules and the Collective Bargaining Agreement between the Commonwealth of Pennsylvania and the Pennsylvania Nurses Association.

Q. A part-time physician, provided by the University, may be on duty in the Health Center 10:00 a.m. to 12:00 noon on Monday and Wednesday and on-call from 6:00 p.m. Monday to 6:00 a.m. Tuesday and three of every six weekends.

2. TERM OF CONTRACT. The term of the Contract shall commence on October 24, 2007 and shall end one year thereafter, with the University's option to renew the contract for four (4) additional one year periods.

The Effective Date shall be fixed by the Contracting Officer after the Contract has been fully executed by the Contractor and by the Commonwealth, and all approvals required by Commonwealth contracting procedures have been obtained. The Contract shall not be a legally binding contract until after the Effective Date is affixed and the fully-executed Contract has been sent to the Contractor.

The Contracting Officer shall issue a written Notice to Proceed to the Contractor directing the Contractor to start performance on a date which is on or after the Effective Date. The Contractor shall not start the performance of any work prior to the date set forth in the Notice to Proceed and the Commonwealth shall not be liable to pay the Contractor for any service or work performed or expenses incurred before the date set forth in the Notice to Proceed. No agency employee has the authority to verbally direct the commencement of any work under this Contract.

The Commonwealth reserves the right, upon notice to the Contractor, to extend the term of the Contract for up to three (3) months upon the same terms and conditions. This will be utilized to prevent a lapse in Contract coverage and only for the time necessary, up to three (3) months, to enter into a new contract.

3. RENEWALS. The University reserves the right to renew the contract for four (4) additional one year periods, (not to exceed a total of five years), at the following rates.

Renewal Year Periods and Costs:

Option Year 1 – \$206,000.00

Option Year 2 – \$213,210.00

Option Year 3 – \$220,672.00

Option Year 4 – \$229,499.00

**Dr. Coyle reserves the right to terminate this agreement without cause following completion of the first year. A 120 day advance written notice will be given to the University in such case.**

4. COST OF AGREEMENT. It is understood that the cost of this Agreement to the

University shall not exceed \$200,000.00 for the original one year contract term. There are four available renewal periods at prices stated above in Paragraph 3 entitled "Renewals." The total shall be paid in twelve (12) equal monthly amounts.

5. COMPENSATION/EXPENSES. The Contractor shall be required to perform the specified services at the price(s) quoted in the Contract. All services shall be performed within the time period(s) specified in the Contract. The Contractor shall be compensated only for work performed to the satisfaction of the Commonwealth. The Contractor shall not be allowed or paid travel or per diem expenses except as specifically set forth in the Contract.
6. INVOICES. The Contractor shall send an itemized invoice to the "Provide Service and Bill To" address promptly after services are satisfactorily completed. The invoice should include only amounts due under the Contract. The Contract inquiry number shall be included on all invoices.
7. PAYMENT.

The Commonwealth shall put forth reasonable efforts to make payment by the required payment date. The required payment date is: (a) the date on which payment is due under the terms of the Contract; (b) thirty (30) days after a proper invoice actually is received at the "Provide Service and Bill To" address if a date on which payment is due is not specified in the Contract (a "proper" invoice is not received until the Commonwealth accepts the service as satisfactorily performed); or (c) the payment date specified on the invoice if later than the dates established by (a) and (b) above. Payment may be delayed if the payment amount on an invoice is not based on the price(s) as stated in the Contract. If any payment is not made within fifteen (15) days after the required payment date, the Commonwealth may pay interest as determined by the Secretary of Budget in accordance with Act No. 266 of 1982 and regulations promulgated pursuant thereto. Payment should not be construed by the Contractor as acceptance of the service performed by the Contractor. The Commonwealth reserves the right to conduct further testing and inspection after payment, but within a reasonable time after performance, and to reject the service if such post payment testing or inspection discloses a defect or a failure to meet specifications. 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.

(B) The Commonwealth shall have the option of using the Commonwealth purchasing card to make purchases under the Contract or purchase order. The Commonwealth's purchasing card is similar to a credit card in that there will be a small fee which the Contractor will be required to pay and the Contractor will receive payment directly from the card issuer rather than the Commonwealth. Any and all fees related to this type of payment are the responsibility of the Contractor. In no case will the Commonwealth allow increases in prices to offset credit card fees paid by the Contractor or any other charges incurred by the Contractor, unless specifically state in the terms of the Contract or purchase order.

8. TAXES. The Commonwealth is exempt from all excise taxes imposed by the Internal Revenue Service and has accordingly registered with the Internal Revenue Service to make tax free purchases under Registration No. 2374001-K. With the exception of purchases of the following items, no exemption certificates are required and none will be issued: undyed diesel fuel, tires, trucks, gas guzzler emergency vehicles and sports fishing equipment. The Commonwealth is also exempt from Pennsylvania state sales tax, local sales tax, public transportation assistance taxes and fees and vehicle rental tax. The Department of Revenue regulations provide that exemption certificates are not required for sales made to governmental entities and none will be issued. Nothing in this paragraph is meant to exempt a construction contractor from the payment of any of these taxes or fees which are required to be paid with respect to the purchase, use, rental, or lease of tangible personal property or taxable services used or transferred in connection with the performance of a construction contract.
  
9. ASSIGNMENT OF ANTITRUST CLAIMS. The Contractor and the Commonwealth recognize that in actual economic practice, overcharges by the Contractor's suppliers resulting from violations of state or federal antitrust laws are in fact borne by the Commonwealth. As part of the consideration for the award of the Contract, and intending to be legally bound, the Contractor assigns to the Commonwealth all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the products and services which are the subject of the Contract.
  
10. OWNERSHIP RIGHTS. The Commonwealth shall have unrestricted authority to reproduce, distribute, and use any submitted report, data or material, and any software or modifications and any associated documentation that is designed or developed and delivered to the Commonwealth as part of the performance of the Contract.
  
11. TERMINATION OF AGREEMENT. The Commonwealth has the right to terminate the Contract for any of the following reasons. Termination shall be effective upon written notice to the Contractor:
  - (a) Termination for Convenience. The Commonwealth shall have the right to terminate the Contract for its convenience if the Commonwealth determines termination to be in its best interest. The Contractor shall be paid for work satisfactorily completed prior to the effective date of the termination, but in no event shall the Contractor be entitled to recover lost profits.
  - (b) Non-appropriation. The Commonwealth's obligation to make payments during any Commonwealth fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds. When funds (state and/or federal) are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the Commonwealth shall have the right to terminate the Contract. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under this Contract. Such reimbursement shall not include loss of profit, loss of use of money, or administrative or overhead costs. The reimbursement amount may be paid from any appropriations available for that purpose.

(c) Termination for Cause. The Commonwealth shall have the right to terminate the Contract for Contractor default under paragraph 19, Default, upon written notice to the Contractor. The Commonwealth shall also have the right, upon written notice to the Contractor, to terminate the Contract for other cause as specified in this Contract or by law. If it is later determined that the Commonwealth erred in terminating the Contract for cause, then, at the Commonwealth's discretion, the Contract shall be deemed to have been terminated for convenience under subparagraph (a).

12. AUDIT PROVISIONS. The Commonwealth shall have the right, at reasonable times and at a site designated by the Commonwealth, to audit the books, documents and records of the Contractor to the extent that the books, documents and records relate to costs or pricing data for the Contract. The Contractor agrees to maintain records which will support the prices charged and costs incurred for the Contract.

The Contractor shall preserve books, documents and records that relate to costs or pricing data for the Contract for a period of three (3) years from date of final payment. The Contractor shall give full and free access to all records to the Commonwealth and/or their authorized representatives.

13. CONTRACTOR RESPONSIBILITY.

(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 also certifies, 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 terms of the Contract or any other agreement between the Contractor and the Commonwealth which result in the suspension or debarment of the Contractor. Such costs shall include, but not be limited to, salaries

of investigators, including overtime; travel and lodging expenses; and expert witnesses and documentary fees. The Contractor shall not be responsible for investigative costs for investigations which 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/debarment.htm> 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

All Contractors (if a corporate entity both signatories to this Contract must execute) with the State System shall sign the certification below:

**Contractor Responsibility Certification**

I certify that I, the Contractor identified herein, am not currently debarred or suspended by the Commonwealth of Pennsylvania, and am eligible to contract with the Commonwealth of Pennsylvania for the goods and/or services contained in this contract.

[Redacted Signature]

Contractor/Contractor Title

9/13/07  
Date

[Redacted Signature]

\_\_\_\_\_  
Contractor/Contractor Title

\_\_\_\_\_  
Date

**ALL PARTIES WHO SIGN THIS CONTRACT ON BEHALF OF THE CONTRACTOR MUST SIGN THE STATEMENT ABOVE.**

14. CONTRACTOR INTEGRITY.

- (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 5% interest.
- (4) *Financial Interest* means:
- (a) Ownership of more than a 5% 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.
- (a) 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.
  - (b) The Contractor shall not disclose to others any confidential information gained by virtue of the Contract.
  - (c) 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.
  - (d) The Contractor shall not, in connection with this or any other agreement with the Commonwealth, directly or indirectly, offer, give, or agree to 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.
  - (e) 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.
  - (f) 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.
  - (g) The Contractor, upon being informed that any violation of these provisions has occurred or may occur, shall immediately notify the Commonwealth in writing.
  - (h) 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.

- (i) 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 and 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 and files of any type or form which refers to or concern the Contract. Such information shall be retained by the Contractor for a period of three years beyond the termination of the Contract unless otherwise provided by law.
- (j) 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.

15. 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 American 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.

16. ASSIGNABILITY AND SUBCONTRACTING.

- (a) Subject to the terms and conditions of Paragraph 21, this Contract shall be binding upon the parties and their respective successors and assigns.
- (b) The Contractor shall not subcontract with any person or entity to perform all or any part of the work to be performed under this Contract without the prior written consent

of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.

- (c) The Contractor may not assign, in whole or in part, this Contract or its rights, duties, obligations, or responsibilities hereunder without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.
- (d) Notwithstanding the foregoing, the Contractor may, without the consent of the Contracting Officer, assign its rights to payment to be received under the Contract, provided that the Contractor provides written notice of such assignment to the Contracting Officer together with a written acknowledgement from the assignee that any such payments are subject to all the terms and conditions of the Contract.
- (e) For the purposes of this Contract, the term "assign" shall include, but shall not be limited to, the sale, gift, assignment, pledge, or other transfer of any ownership interest in the Contractor, provided, however, that the term shall not apply to the sale or other transfer of stock of a publicly traded company.
- (f) Any assignment consented to by the Contracting Officer shall be evidenced by a written assignment agreement executed by the Contractor and its assignee in which the assignee agrees to be legally bound by all of the terms and conditions of the Contract and to assume the duties, obligations, and responsibilities being assigned.
- (g) A change of name by the Contractor, following which the Contractor's federal identification number remains unchanged, shall not be considered to be an assignment hereunder. The Contractor shall give the Contracting Officer written notice of any such change of name.

17. NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE.

During the term of the Contract, 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, 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, color.
- (c) Contractors and any subcontractors shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.

- (d) The Contractor shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
  - (e) The Contractor and each subcontractor shall furnish all necessary employment documents and records to and permit access to its books, records, and accounts by the Contracting Officer and the Department of General Services' Bureau of Contract Administration and Business Development for purposes of investigation to ascertain compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause. If the Contractor or any subcontractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the Contracting Officer or the Bureau of Contract Administration and Business Development.
  - (f) The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that such provisions will be binding upon each subcontractor.
  - (g) The Commonwealth may cancel or terminate the Contract, and all money due or to become due under the Contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.
18. FORCE MAJEURE. Neither party will incur any liability to the other if its performance of any obligation under this Contract is prevented or delayed by causes beyond its control and without the fault or negligence of either party. Causes beyond a party's control may include, but are not limited to, acts of God or war, changes in controlling law, regulations, orders or the requirements of any governmental entity, severe weather conditions, civil disorders, natural disasters, fire, epidemics and quarantines, general strikes throughout the trade, and freight embargoes.

The Contractor shall notify the Commonwealth orally within five (5) days and in writing within ten (10) days of the date on which the Contractor becomes aware, or should have reasonably become aware, that such cause would prevent or delay its performance. Such notification shall (i) describe fully such cause(s) and its effect on performance, (ii) state whether performance under the Contract is prevented or delayed, and (iii) if performance is delayed, state a reasonable estimate of the duration of the delay. The Contractor shall have the burden of proving that such cause(s) delayed or prevented its performance despite its diligent efforts to perform and shall produce such supporting documentation as the Commonwealth may reasonably request. After receipt of such notification, the Commonwealth may elect either to cancel the Contract or to extend the time for performance as reasonably necessary to compensate for the Contractor's delay.

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

19. DEFAULT.

- (a) The Commonwealth may, subject to the provisions of Paragraph 18, Force Majeure, and in addition to its other rights under the Contract, declare the Contractor in default by written notice thereof to the Contractor, and terminate (as provided in Paragraph 11, Termination of Agreement) the whole or any part of this Contract for any of the following reasons:
- (1) Failure to begin work within the time specified in the Contract or as otherwise specified;
  - (2) Failure to perform the work with sufficient labor, equipment, or material to insure the completion of the specified work in accordance with the Contract terms;
  - (3) Unsatisfactory performance of the work;
  - (4) Failure or refusal to remove material, or remove and replace any work rejected as defective or unsatisfactory;
  - (5) Discontinuance of work without approval;
  - (6) Failure to resume work, which has been discontinued, within a reasonable time after notice to do so;
  - (7) Insolvency or bankruptcy;
  - (8) Assignment made for the benefit of creditors;
  - (9) Failure or refusal within 10 days after written notice by the Contracting Officer, to make payment or show cause why payment should not be made, of any amounts due for materials furnished, labor supplied or performed, for equipment rentals, or for utility services rendered;
  - (10) Failure to protect, to repair, or to make good any damage or injury to property; or
  - (11) Breach of any provision of this Contract.
- (b) In the event that the Commonwealth terminates this Contract in whole or in part as provided in Subparagraph (a) above, the Commonwealth may procure, upon such terms and in such manner as it determines, services similar or identical to those so terminated, and the Contractor shall be liable to the Commonwealth for any reasonable excess costs for such similar or identical services included within the terminated part of the Contract.
- (c) If the Contract is terminated as provided in Subparagraph (a) above, the Commonwealth, in addition to any other rights provided in this paragraph, may require the Contractor to transfer title and deliver immediately to the Commonwealth in the manner and to the extent directed by the Issuing Office, such partially completed work, including, where applicable, reports, working papers, and other documentation, as the Contractor has specifically produced or specifically acquired for the performance of such part of the Contract as has been terminated. Except as provided below, payment for completed work accepted by the Commonwealth shall be at the Contract price. Except as provided below, payment for partially completed work including, where applicable, reports and working papers, delivered to and accepted by the Commonwealth shall be in an amount agreed upon by the Contractor

and Contracting Officer. The Commonwealth may withhold from amounts otherwise due to the Contractor for such completed or partially completed works, such sums as the Contractor Officer determines to be necessary to protect the Commonwealth against loss.

- (d) The rights and remedies of the Commonwealth provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
  - (e) The Commonwealth's failure to exercise any rights or remedies provided in this paragraph shall not be construed to be a waiver by the Commonwealth of its rights and remedies in regard to the event of default or any succeeding event of default.
  - (f) Following exhaustion of the Contractor's administrative remedies as set forth in Paragraph 21, the Contractor's exclusive remedy shall be to seek damages in the Board of Claims.
20. HOLD HARMLESS PROVISION. The Contractor shall hold the Commonwealth harmless from and indemnify the Commonwealth against any and all claims, demands and actions based upon or arising out of any activities performed by the Contractor and its employees and agents under this Contract and shall, at the request of the Commonwealth, defend any and all actions brought against the Commonwealth based upon any such claims or demands.
21. CONTRACT CONTROVERSIES. In the event of a controversy or claim arising from the Contract, the Contractor must, within six months after the cause of action accrues, file a written notice of controversy or claim with the Contracting Officer for a determination. The Contracting Officer shall send his/her written determination to the Contractor. The decision of the Contracting Officer shall be final and conclusive unless, within thirty (30) days after receipt of such written determination, the Contractor files a claim with the Commonwealth Board of Claims. Pending a final judicial resolution of a controversy or claim, the Contractor shall proceed diligently with the performance of the Contract in a manner consistent with the interpretation of the Contracting Officer and the Commonwealth shall compensate the Contractor pursuant to the terms of the Contract.
22. AMENDMENTS. This Agreement represents the complete agreement between the parties, superceding any other prior or contemporaneous written or oral agreements. Any changes, corrections or additions to this Agreement shall be in writing in the form of a supplemental agreement signed by all necessary parties and setting forth therein the proposed change, correction or addition.
23. SEVERABILITY. Should any term of this Contract be rendered unlawful by a court of competent jurisdiction or any legislative act, then the parties shall give effect to the balance of the agreement to the extent possible.
24. 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.

25. INDEPENDENT CONTRACTOR. In performing the services required by the Contract, the Contractor will act as an independent Contractor and not as an employee or agent of the Commonwealth.
26. POST-CONSUMER RECYCLED CONTENT. Except as specifically waived by the Department of General Services in writing, any products which are provided to the Commonwealth as a part of the performance of the Contract must meet the minimum percentage levels for the total recycled content as specified in Exhibits A-1 through A-8 to this Contract.
27. ENVIRONMENTAL PROVISIONS. In the performance of the Contract, the Contractor shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations.
28. HAZARDOUS SUBSTANCES. The Contractor shall provide information to the Commonwealth about the identity and hazards of hazardous substances supplied or used by the Contractor in the performance of the Contract. The Contractor must comply with Act 159 of October 5, 1984, known as the "Worker and Community Right to Know Act" (the "Act") and the regulations promulgated pursuant thereto at 4 Pa. Code § 301.1 et seq.
  - (a) Labeling. The Contractor shall insure that each individual product (as well as the carton, container or package in which the product is shipped) of any of the following substances (as defined by the Act and the regulations) supplied by the Contractor is clearly labeled, tagged or marked with the information listed in Paragraph (1) through (4) below:
    - (1) Hazardous substances:
      - (a) The chemical name or common name,
      - (b) A hazard warning, and
      - (c) The name, address, and telephone number of the manufacturer.
    - (2) Hazardous mixtures:
      - (a) The common name, but if none exists, then the trade name,
      - (b) The chemical or common name of special hazardous substances comprising .01% or more of the mixture,
      - (c) The chemical or common name of hazardous substances consisting of 1.0% or more of the mixture,
      - (d) A hazard warning, and
      - (e) The name, address, and telephone number of the manufacturer.

(3) Single Chemicals:

- (a) The chemical name or the common name,
- (b) A hazard warning, if appropriate, and
- (c) The name, address and telephone number of the manufacturer.

(4) Chemical Mixtures:

- (a) The common name, but if none exists, then the trade name,
- (b) A hazard warning, if appropriate,
- (c) The name, address, and telephone number of the manufacturer, and
- (d) The chemical name or common name of either the top five substances by volume or those substances consisting of 5.0% or more of the mixture.

A common name or trade name may be used only if the use of the name more easily or readily identifies the true nature of the hazardous substance, hazardous mixture, single chemical, or mixture involved.

Container labels shall provide a warning as to the specific nature of the hazard arising from the substance in the container.

The hazard warning shall be given in conformity with one of the nationally recognized and accepted systems of providing warnings, and hazard warnings shall be consistent with one or more of the recognized systems throughout the workplace. Examples are:

- NFPA 704, Identification of the Fire Hazards of Materials.
- National Paint and Coatings Association: Hazardous Materials Identification System.
- American Society for Testing Materials, Safety Alert Pictorial Chart.
- American National Standard Institute, Inc., for the Precautionary Labeling of Hazardous Industrial Chemicals.

Labels must be legible and prominently affixed to and displayed on the product and the carton, container, or package so that employees can easily identify the substance or mixture present therein.

- (b) Material Safety Data Sheet. The Contractor shall provide Material Safety Data Sheets (MSDS) with the information required by the Act and the regulations for each hazardous substance or hazardous mixture. The Commonwealth must be provided an appropriate MSDS with the initial shipment and with the first shipment after an MSDS is updated or product changed. For any other chemical, the Contractor shall provide an appropriate MSDS, if the manufacturer, importer, or supplier produces or possesses the MSDS. The Contractor shall also notify the Commonwealth when a substance or mixture is subject to the provisions of the Act. Material Safety Data Sheets may be attached to the carton, container, or package mailed to the Commonwealth at the time of shipment.

29. WARRANTY. The Contractor warrants that all services performed by the Contractor, its agents and subcontractors shall be free and clear of any defects in workmanship or materials. Unless otherwise stated in the Contract, all services and parts are warranted for a period of one year following completion of performance by the Contractor and acceptance by the Commonwealth. The Contractor shall correct any problem with the service and/or replace any defective part with a part of equivalent or superior quality without any additional cost to the Commonwealth.
30. COMPLIANCE WITH LAW. The Contractor shall comply with all applicable federal and state laws and regulations and local ordinances in the performance of the Contract.
31. INTEGRATION. The Contract including all referenced documents, constitutes the entire agreement between the parties. No agent, representative, employee or officer of either the Commonwealth or the Contractor has the authority to make, or has made, any statement, agreement or representation, oral or written, in connection with the Contract, which in any way can be deemed to modify, add to and detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of the Contract. No modifications, alterations, changes, or waiver to the Contract or any of its terms shall be valid or binding unless accomplished by a written amendment signed by both parties. All such amendments shall be made using the appropriate Commonwealth form.
32. PATENT, COPYRIGHT AND TRADEMARK INDEMNITY. The Contractor warrants that it is the sole owner or author of, or has entered into a suitable legal agreement concerning either: (a) the design of any product or process provided or used in the performance of the Contract which is covered by a patent, copyright, or trademark registration or other right duly authorized by state or federal law or (b) any copyrighted matter in any report document or other material provided to the Commonwealth under the Contract. The Contractor shall defend any suit or proceeding brought against the Commonwealth on account of any alleged patent, copyright or trademark infringement in the United States of any of the products provided or used in the performance of the Contract. This is under the condition that the Commonwealth shall provide prompt notification in writing of such suit or proceedings; full right, authorization and opportunity to conduct the defense thereof; and full information and all reasonable cooperation in the defense of same. As principles of governmental or public law are involved, the Commonwealth may participate in or choose to conduct, in its sole discretion, the defense of any such action. If information and assistance are furnished by the Commonwealth at the Contractor's written request, it shall be at the Contractor's expense, but the responsibility for such expense shall be only that within the Contractor's authorization.

The Contractor shall indemnify and hold the Commonwealth harmless from all damages, costs, and expenses, including attorney's fees that the Contractor or the Commonwealth may pay or incur by reason of any infringement or violation of the rights occurring to any holder of copyright, trademark, or patent interests and rights in any products provided or used in the performance of the Contract. If any of the products provided by the

Contractor in such suit or proceedings are held to constitute infringement and the use is enjoined, the Contractor shall, at its own expense and at its option, either procure the right to continue use of such infringement products, replace them with non-infringement equal performance products or modify them so that they are no longer infringing. If the Contractor is unable to do any of the preceding, the Contractor agrees to remove all the equipment or software which are obtained contemporaneously with the infringing product, or, at the option of the Commonwealth, only those items of equipment or software which are held to be infringing, and to pay the Commonwealth: (1) any amounts paid by the Commonwealth towards the purchase of the product, less straight line depreciation; (2) any license fee paid by the Commonwealth for the use of any software, less an amount for the period of usage; and (3) the pro rata portion of any maintenance fee representing the time remaining in any period of maintenance paid for. The obligations of the Contractor under this paragraph continue without time limit. No costs or expenses shall be incurred for the account of the Contractor without its written consent.

33. COVENANT AGAINST CONTINGENT FEES. The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Commonwealth shall have the right to terminate the Contract without liability or in its discretion to deduct from the Contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.
34. CHANGE ORDERS. The Commonwealth reserves the right to issue change orders at any time during the term of the Contract or any renewals or extensions thereof: (1) to increase or decrease the quantities resulting from variations between any estimated quantities in the Contract and actual quantities; (2) to make changes to the services within the scope of the Contract; (3) to notify the Contractor that the Commonwealth is exercising any Contract renewal or extension option; or (4) to modify the time of performance that does not alter the scope of the Contract to extend the completion date beyond the Expiration Date of the Contract or any renewals or extensions thereof. Any such change order shall be in writing signed by the Contracting Officer. The change order shall be effective as of the date appearing on the change order, unless the change order specifies a later effective date. Such increases, decreases, changes, or modifications will not invalidate the Contract, nor, if performance security is being furnished in conjunction with the Contract, release the security obligation. The Contractor agrees to provide the service in accordance with the change order. Any dispute by the Contractor in regard to the performance required under any change order shall be handled through Paragraph 21, "Contract Controversies." For purposes of this Contract, "change order" is defined as a written order signed by the Contracting Officer directing the Contractor to make changes authorized under this clause.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed pursuant to due and legal action authorizing the same to be done the date first written above.

FOR THE CONTRACTOR:

\_\_\_\_\_  
Individual or Partner (if Contractor is an individual or partnership)

[Redacted Signature]

\_\_\_\_\_  
President or Vice President of Corporate Contractor

[Redacted Signature]

\_\_\_\_\_  
Secretary or Treasurer of Corporate Contractor

FOR THE UNIVERSITY:

[Redacted Signature]

Deborah K. Martin  
Director, Purchasing & Contracting

APPROVED AS TO FISCAL RESPONSIBILITY, BUDGETARY APROPRIATENESS AND AVAILABILITY OF FUNDS:

[Redacted Signature]

\_\_\_\_\_  
Meminda D. Fawks  
Fiscal Officer

APPROVED AS TO FORM AND LEGALITY:

[Redacted Signature]

\_\_\_\_\_  
University Legal Counsel

[Redacted Signature]

\_\_\_\_\_  
Deputy Attorney General  
Commonwealth of Pennsylvania

*Note regarding signatures above. If a corporation, two signatures are required, one being the President or Vice President, the second being the Secretary or Treasurer. Signatory authority of either signatures can be delegated provided there is a certified Board resolution presented with this contract.*

SEP 25 2007

**ALL SIGNATORIES ON BEHALF OF CONTRACTOR MUST EXECUTE CONTRACTOR RESPONSIBILITY CERTIFICATION IN PARAGRAPH 13(f) OF THIS CONTRACT.**

**RECYCLED CONTENT**

**(A) REQUIREMENT**

All construction products offered by the bidder, or included in the final product offered by the bidder, and sold to the Commonwealth **must** contain the minimum percentage of post-consumer and recovered material content as shown below for the applicable products:

EXHIBIT A-1 CONSTRUCTION PRODUCTS		<b>% of Post Consumer Materials</b>	<b>% of Total Recovered Materials</b>
Construction Products	Material		
Structural Fiberboard	Recovered Materials	-	80
Laminated Paperboard	Post-consumer Paper	100	-
Rock Wool Insulation	Slag	-	75
Fiberglass Insulation	Glass Cullet	-	20
Cellulose Insulation (loose-fill and spray-on)	Post-consumer Paper	75	-
Perlite Composite Board Insulation	Post-consumer Paper	23	-
Plastic Rigid Foam, Polyisocyanurate/ Polyurethane: Rigid Foam Insulation	Recovered Material	-	9
Foam-in-Place Insulation	Recovered Material	-	5
Glass Fiber Reinforced Insulation	Recovered Material	-	6
Phenolic Rigid Foam Insulation	Recovered Material	-	5
Floor Tiles (heavy duty/commercial use)	Rubber Plastic	90 -	- 90
Patio Blocks	Rubber or Rubber Blends Plastic or Plastic Blends	90 -	- 90
Polyester Carpet Fiber Face	Polyethylene terephthalate (PET) resin	25	-
Latex Paint:			
--Consolidated:	Recovered Material	100	-
--Reprocessed:			
---White, Off-White, Pastel Colors	Recovered Material	20	-
---Grey, Brown, Earthtones, and Other Dark Colors	Recovered Material	50	-
Shower and Restroom Dividers/Partitions:	Plastic Steel <sup>1</sup>	20 16 67	- 9 33
Carpet Cushion:			
--Bonded Polyurethane	Old Carpet Cushion	15	-
--Jute	Burlap	40	-
--Synthetic Fibers	Carpet Fabrication Scrap	-	100
--Rubber	Tire Rubber	60	-
Railroad Grade Crossing Surfaces			
--Concrete	Coal Fly Ash	-	15
--Rubbers	Tire Rubber	-	85
--Steel <sup>1</sup>	Steel	16 67	9 33

"Post-consumer" material is "material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item. Post-consumer material is part of the broader category of recovered material."

"Recovered Materials" refers to waste materials and by-products which have been recovered or diverted from solid waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process

<sup>1</sup> Consolidated latex paint used for covering graffiti, where color and consistency of performance are not primary concerns. <sup>2</sup> Reprocessed latex paint used for interior and exterior architectural applications such as wallboard, ceiling, and trim; gutterboards; and concrete, stucco, masonry, wood, and metal surfaces.

<sup>3</sup>The recommended recovered materials content for rubber railroad grade crossing surfaces are based on the weight of the raw materials, exclusive of any additives such as binders or additives. <sup>4</sup> The recommended recovered materials content levels for steel in this table reflect the fact that the designated items can be made from steel manufactured from either a Basic Oxygen Furnace (BOF) or an Electric Arc Furnace (EAF). Steel from the BOF process contains 2530% total recovered materials, of which 16% is post-consumer steel. Steel from the EAF process contains a total of 100% recovered steel, of which 67% is post-consumer.

**(B) BIDDER'S CERTIFICATION**

Bidder certifies that the construction product(s) which the bidder is offering contains the required minimum percentage of post-consumer and recovered material content as shown above for the product.

**(C) MANUFACTURER/MILL CERTIFICATION**

In addition to the Bidders Certification in Subsection (B), a manufacturer certification must be completed and signed by the manufacturer before payment will be made to the successful bidder for the delivered items. The enclosed **Manufacturer/Mill** Certification form must be used. Bidders are not required to submit the completed and signed **Manufacturer/Mill** Certification form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE DELIVERED ITEM.**

**(D) ENFORCEMENT**

Awarded bidders may be required, after delivery of the construction product(s), to provide the Commonwealth with documentary evidence that the construction product(s) were in fact produced with the required minimum percentage of post-consumer and recovered material content.

**EXHIBIT A-2 VEHICULAR PRODUCTS  
RECYCLED CONTENT**

**(A) REQUIREMENT**

All vehicular products offered by the bidder, or included in the final product offered by the bidder, and sold to the Commonwealth **must** contain the minimum percentage of post-consumer and recovered material content as shown below for the applicable products:

"Post-consumer" material is "material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item. Post-consumer material is part of the broader category of recovered material."

"Recovered Materials" refers to waste materials and by-products which have been recovered or diverted from solid waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

"Re-refined oil" is oil that is manufactured with a minimum of twenty-five percent basestock made from used oil that has been recovered and processed to make it reusable as oil. Once the oil has been refined, no difference can be detected between re-refined and virgin oil.

**(B) BIDDER'S CERTIFICATION**

Bidder certifies that the vehicular product(s) which the bidder is offering contains the required minimum percentage of post-consumer and recovered material content as shown above for the product.

**(C) MANUFACTURER/MILL CERTIFICATION**

In addition to the Bidder's Certification in Subsection (B), a manufacturer certification must be completed and signed by the manufacturer before payment will be made to the successful bidder for the delivered items. The enclosed **Manufacturer/Mill** Certification form must be used. Bidders are not required to submit the completed and signed **Manufacturer/Mill** Certification form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE REFERENCED ITEM.**

**(D) ENFORCEMENT**

Awarded bidders may be required, after delivery of the vehicular product(s), to provide the Commonwealth with documentary evidence that the vehicular product(s) were in fact produced with the required minimum percentage of post-consumer and recovered material content.

(A) REQUIREMENT

All paper offered by the bidder, or included in the final product offered by the bidder, and sold to the Commonwealth **must** contain the minimum percentage of post-consumer content as shown below for the applicable products: **Post-Consumer Content Item Notes (%)**

EXHIBIT A-3 PAPER PRODUCTS RECYCLED CONTENT Printing and Writing Papers		
Reprographic	Business papers such as bond, electrostatic, copy, mimeo, duplicator and reproduction	30
Offset	Used for book publishing, commercial printing, direct mail, technical documents, and manuals	30
Tablet	Office paper such as note pads and notebooks	30
Forms bond	Bond type papers used for business forms such as continuous, cash register, sales book, unit sets, and computer printout, excluding carbonless	30
Envelope	Wave Kraft, white and colored (Including manila) Kraft, unbleached Excludes custom envelopes	30 10 10
Cotton fiber	High-quality papers used for stationery, invitations, currency, ledgers, maps, and other specialty items	30
Text and cover	Premium papers used for cover stock, books, and stationery and matching envelopes	30
Supercalendered	Groundwood paper used for advertising and mail order inserts, catalogs, and some magazines	10
Machine finished groundwood	Groundwood paper used in magazines and catalogs	10
Papeteries	Used for invitations and greeting cards	30
Check safety	Used in the manufacture of commercial and government checks	10
Coated	Used for annual reports, posters, brochures, and magazines. Have gloss, dull, or matte finishes	10
Carbonless	Used for multiple-impact copy forms	30
File folders	Manila or colored	30
Dyed filling products	Used for multicolored hanging folders and wallet files	20
Index and card stock	Used for index cards and postcards	20
Pressboard	High-strength paperboard used in binders and report covers	20

Tags and tickets	Used for toll and lottery tickets, licenses, and identification and tabulating cards	20
<b>Newsprint</b>		
Newsprint	Groundwood paper used in newspapers	20
<b>Commercial Sanitary Tissue Products</b>		
Bathroom tissue	Used in rolls or sheets	20
Paper towels	Used in rolls or sheets	40
Paper napkins	Used in food service applications	30
Facial tissue	Used for personal care	10
General-purpose industrial wipers	Used in cleaning and wiping applications	40
<b>Paperboard and Packaging Products</b>		
Corrugated containers (<300 psi)	Used for packaging and shipping a variety of goods	25
(300 psi)		25
Solid fiber boxes	Used for specialized packaging needs such as dynamite packaging and army ration boxes	40
Folding cartons	Used to package a wide variety of foods, household products, cosmetics, pharmaceuticals, detergent, and hardware	40
Industrial paperboard	Used to create tubes, cores, cans and drums	45
Miscellaneous	Includes "chipboard" pad backings, book covers, covered binders, mailing tubes, game boards, and puzzles	75
Padded mailers	Made from kraft paper that is usually brown but can be bleached white	5
Carrierboard	A type of folding carton designed for multipack beverage cartons	10
Brown papers	Used for bags and wrapping paper	5
<b>Miscellaneous Paper Products</b>		
Tray liners	Used to line food service trays. Often contain printed information.	50

"Post-consumer" content is "material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item. Post-consumer content is part of the broader category of recovered material." The Commonwealth of Pennsylvania recognizes that paper products are universally made with scrap material recovered from the manufacturing process; use of such materials is a standard practice, both efficient and economical for the paper maker; therefore, bidders of paper products need not certify that their products are made with "preconsumer," "recovered," or "secondary" paper fiber.

**(B) BIDDER'S CERTIFICATION**

Bidder certifies that the paper product(s) which the bidder is offering contains the required minimum percentage of post-consumer content as shown above for the product.

**(C) MANUFACTURER/MILL CERTIFICATION**

In addition to the Bidders Certification in Subsection (B), a mill certification must be completed and signed by the mill before payment will be made to the successful bidder for the delivered items. The enclosed **Manufacturer/Mill** Certification form must be used. Bidders are not required to submit the completed and signed **Manufacturer/Mill** Certification form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE DELIVERED ITEM.**

**(D) ENFORCEMENT**

Awarded bidders may be required, after delivery of the paper product(s), to provide the Commonwealth with documentary evidence that the paper product(s) were in fact produced with the required minimum percentage of post-consumer content.

**EXHIBIT A-4 LANDSCAPING PRODUCTS  
RECYCLED CONTENT**

**(A) REQUIREMENT**

All landscaping products offered by the bidder, or included in the final product offered by the bidder, and sold to the Commonwealth **must** contain the minimum percentage of post-consumer and recovered material content as shown below for the applicable products:

<b>Landscaping Products</b>	<b>Recovered Material Content</b>
Hydraulic Mulch: ——Paper ——Wood/Paper	100% (post-consumer) 100% (total)
Compost Made From Yard Trimmings and/or Food Waste	Purchase or use compost made from yard trimmings, leaves, grass clippings and/or food wastes for applications such as landscaping, seeding of grass or other plants, as nutritious mulch under trees and shrubs, and in erosion control and soil reclamation. DGS further recommends implementing a composting system for these materials when agencies have an adequate volume and sufficient space.
Garden Hose: ——Rubber and/or Plastic  Soaker Hose: ——Rubber and/or Plastic	60% (post-consumer)  60% (post-consumer)
Lawn and Garden Edging: ——Rubber and/or Plastic	30% (post-consumer)/30-100% (total)
Landscaping Timber and Posts: ——HDPE ——Mixed Plastics/Sawdust ——HDPE/Fiberglass ——Other mixed Resins	25% (post-consumer) + 50% (recovered) 50% (post-consumer) + 50% (recovered) 75% (post-consumer) + 20% (recovered) 50% (post-consumer) + 45% (recovered)

"Post-consumer" material is "material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item. Post-consumer material is part of the broader category of recovered material."

"Recovered Materials" refers to waste materials and by-products which have been recovered or diverted from solid waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process

**(B) BIDDER'S CERTIFICATION**

Bidder certifies that the landscaping product(s) which the bidder is offering contains the required minimum percentage of post-consumer and recovered material content as shown above for the product.

**(C) MANUFACTURER/MILL CERTIFICATION**

In addition to the Bidders Certification in Subsection (B), a manufacturer certification must be completed and signed by the manufacturer before payment will be made to the successful bidder for the delivered items. The enclosed **Manufacturer/Mill** Certification form must be used. Bidders are not required to submit the completed and signed **Manufacturer/Mill** Certification form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE DELIVERED ITEM.**

**(D) ENFORCEMENT**

Awarded bidders may be required, after delivery of the landscaping product(s), to provide the Commonwealth with documentary evidence that the landscaping product(s) were in fact produced with the required minimum percentage of post-consumer and recovered material content.

(A) **REQUIREMENT**

All miscellaneous products offered by the bidder, or included in the final product offered by the bidder, and sold to the Commonwealth **must** contain the minimum percentage of post-consumer and recovered material content as shown below for the applicable products:

<b>EXHIBIT A-5 MISCELLANEOUS PRODUCTS RECYCLED CONTENT Miscellaneous Products</b>	<b>Recovered Material Content</b>
Awards and Plaques -----Glass -----Wood -----Paper -----Plastic and Plastic/Wood Composites	75% (post-consumer) + 25% (recovered) 100% (total) 40% (post-consumer) 50% (post-consumer) + 45% (recovered)
Industrial Drums -----Steel -----Plastic (HDPE) -----Fiber (paper)	16% (post-consumer) + 9% (recovered) 30% (post-consumer) 100% (post-consumer)
Mats -----Rubber -----Plastic -----Rubber/Plastic Composite	75% (post-consumer) + 10% (recovered) 10% (post-consumer) + 90% (recovered) 100% (post-consumer)
Pallets -----Wood -----Plastic -----Thermoformed -----Paperboard	95% (post-consumer) 100% (post-consumer) 25% (post-consumer) 50% (post-consumer)
Signage -----Plastic -----Aluminum -----Plastic Sign Posts/Supports -----Steel Sign Posts/Supports <sup>2</sup>	80% (post-consumer) 25% (post-consumer) 80% (post-consumer) 16% (post-consumer) + 9% (recovered) 67% (post-consumer) + 33% (recovered)
Sorbents -----Paper -----Textiles -----Plastics -----Woods -----Other Organics/Multimaterials <sup>4</sup>	90% (post-consumer) + 10% (recovered) 95% (post-consumer) 25% (total) 100% (total) 100% (total)
Manual-Grade Strapping -----Polyester -----Polypropylene -----Steel <sup>2</sup>	50% (post-consumer) 10% (total) 16% (post-consumer) + 9% (recovered) 67% (post-consumer) + 33% (recovered)

<sup>1</sup> "Post-consumer" material is "material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item. Post-consumer material is part of the broader category of recovered material."

"Recovered Materials" refers to waste materials and by-products which have been recovered or diverted from solid waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process

<sup>2</sup> Steel used in steel drums is manufactured using the Basic Oxygen Furnace (BOF) process, which contains 25-30% total recovered material,

of which 16% is post-consumer steel. Steel used in manual-grade strapping is manufactured using either the BOF process or the Electric Arc Furnace (EAF) process, which contains 100% total recovered materials, of which 67% is post-consumer steel.

<sup>3</sup> The recommended recovered materials content levels for steel in this table reflect the fact that the designated items can be made from

steel manufactured in either a Basic Oxygen Furnace (BOF) or an Electric Arc Furnace (EAF). Steel from the BOF process contains 25-30% total recovered materials, of which 16% is post-consumer steel. Steel from the EAF process contains a total of 100% recovered steel, of which 67% is post-consumer.

<sup>4</sup> "Wood" includes materials such as sawdust and lumber mill trimmings.

<sup>5</sup> Examples of other organics include, but are not limited to, peanut hulls and corn stover. An example of multimaterial sorbents would include, but not be limited to, a polymer and cellulose fiber combination.

<sup>6</sup> The recommended recovered materials content levels for steel in this table reflect the fact that the designated items can be made from steel manufactured in either a Basic Oxygen Furnace (BOF) or an Electric Arc Furnace (EAF). Steel from the BOF process contains 25-30% total recovered materials, of which 16% is post-consumer steel. Steel from the EAF process contains a total of 100% recovered steel, of which 67% is post-consumer.

**(B) BIDDER'S CERTIFICATION**

Bidder certifies that the miscellaneous product(s) which the bidder is offering contains the required minimum percentage of post-consumer and recovered material content as shown above for the product.

**(C) MANUFACTURER/MILL CERTIFICATION**

In addition to the Bidders Certification in Subsection (B), a manufacturer certification must be completed and signed by the manufacturer before payment will be made to the successful bidder for the delivered items. The enclosed **Manufacturer/Mill** Certification form must be used. Bidders are not required to submit the completed and signed **Manufacturer/Mill** Certification form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE DELIVERED ITEM.**

**(D) ENFORCEMENT**

Awarded bidders may be required, after delivery of the miscellaneous product(s), to provide the Commonwealth with documentary evidence that the miscellaneous product(s) were in fact produced with the required minimum percentage of post-consumer and recovered material content.

(A) **REQUIREMENT**

All nonpaper office products offered by the bidder, or included in the final product offered by the bidder, and sold to the Commonwealth **must** contain the minimum percentage of post-consumer and recovered material content as shown below for the applicable products:

<b>EXHIBIT A-6 NONPAPER OFFICE PRODUCTS RECYCLED CONTENT</b> <b>Nonpaper Office Product</b>	<b>Recovered Material Content</b>
Recycling Containers and Waste Receptacles: -----Plastic -----Steel <sup>1</sup> -----Paper  -----Corrugated -----Solid Fiber Boxes -----Industrial Paperboard	20% (post-consumer) 16% (post-consumer) + 9% (recovered)  25% (post-consumer) 40% (post-consumer) 40% (post-consumer) + 60% (recovered)
Plastic Desktop Accessories (polystyrene) including desk organizers, sorters, and trays, and memo, note, and pencil holders.	25% (post-consumer)
Binders: -----Plastic-Covered -----Paper-Covered -----Pressboard -----Solid Plastic  -----HDPE -----PE -----PET -----Misc. Plastics	25% 75% (post-consumer) + 15% (recovered) 20% (post-consumer) + 30% (recovered)  90% (post-consumer) 30% (post-consumer) 100% (post-consumer) 80% (post-consumer)
Trash Bags (plastic)	10% (post-consumer)
Toner Cartridges	Return used toner cartridges for remanufacturing and reuse or purchase a remanufactured or recycled-content replacement cartridge.
Printer Ribbons	Procure printer ribbon reinking or reloading services or procure reinked or reloaded printer ribbons.
Plastic Envelopes	25% (post-consumer)
Plastic Clipboards: -----HDPE -----PS -----Misc. Plastics	90% (post-consumer) 50% (post-consumer) 15% (post-consumer)
Plastic File Folders -----HDPE	90% (post-consumer)
Plastic Clip Portfolios -----HDPE	90% (post-consumer)
Plastic Presentation Folders -----HDPE	90% (post-consumer)

"Post-consumer" material is "material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item. Post-consumer material is part of the broader category of recovered material."

<sup>1</sup> The recommended recovered materials content levels for steel in this table reflect the fact that the designated item is made from steel manufactured from in a Basic Oxygen Furnace (BOF). Steel from the BOF process contains 25-30% total recovered materials, of which 16% is post-consumer steel.

"Recovered Materials" refers to waste materials and by-products which have been recovered or diverted from solid waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process

**(B) BIDDER'S CERTIFICATION**

Bidder certifies that the nonpaper office products which the bidder is offering contains the required minimum percentage of post-consumer and recovered material content as shown above for the product.

**(C) MANUFACTURER/MILL CERTIFICATION**

In addition to the Bidders Certification in Subsection (B), a manufacturer certification must be completed and signed by the manufacturer before payment will be made to the successful bidder for the delivered items. The enclosed **Manufacturer/Mill** Certification form must be used. Bidders are not required to submit the completed and signed **Manufacturer/Mill** Certification form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE DELIVERED ITEM.**

**(D) ENFORCEMENT**

Awarded bidders may be required, after delivery of the paper, to provide the Commonwealth with documentary evidence that the nonpaper office product(s) were in fact produced with the required minimum percentage of post-consumer and recovered material content.

**EXHIBIT A-7  
PARK & RECREATION PRODUCTS RECYCLED CONTENT**

**(A) REQUIREMENT**

All park and recreation products offered by the bidder, or included in the final product offered by the bidder, and sold to the Commonwealth **must** contain the minimum percentage of post-consumer and recovered material content as shown below for the applicable products:

<b>Park &amp; Recreation Product</b>	<b>Recovered Material Content</b>
Park Benches & Picnic Tables: ---Plastic <sup>2</sup> ---Plastic Composites ---Aluminum ---Concrete ---Steel <sup>3</sup>	90% (post -consumer) + 10% (recovered) 50% (post -consumer) + 50% (recovered) 25% (post -consumer) 15% (total) 16% (post -consumer) + 9% (recovered) 67% (post -consumer) + 33% (recovered)
Plastic Fencing for Specified Uses <sup>4</sup>	60% (post -consumer) + 30% (recovered)
Playground Equipment ---Plastic <sup>3</sup> ---Plastic Composites ---Steel <sup>4</sup>  ---Aluminum	90% (post -consumer) + 10% (recovered) 50% (post -consumer) + 45% (recovered) 16% (post -consumer) + 9% (recovered) 67% (post -consumer) + 33% (recovered)  25% (post -consumer)
Playground Surfaces: ---Plastic or Rubber	90% (post -consumer)
Running Tracks: ---Plastic or Rubber	90% (post -consumer)

"Post-consumer" material is "material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item. Post-consumer material is part of the broader category of recovered material."

"Recovered Materials" refers to waste materials and by-products which have been recovered or diverted from solid waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process

**(B) BIDDER'S CERTIFICATION**

Bidder certifies that the park and recreational product(s) which the bidder is offering contains the required minimum percentage of post-consumer and recovered material content as shown above for the product.

**(C) MANUFACTURER/MILL CERTIFICATION**

In addition to the Bidders Certification in Subsection (B), a manufacturer certification must be completed and signed by the manufacturer before payment will be made to the successful bidder for the delivered items. The enclosed **Manufacturer/Mill** Certification form must be used. Bidders are not required to submit the completed and signed **Manufacturer/Mill** Certification form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE DELIVERED ITEM.**

**(D) ENFORCEMENT**

Awarded bidders may be required, after delivery of the park and recreational product(s), to provide the Commonwealth with documentary evidence that the park and recreational product(s) were in fact produced with the required minimum percentage of post-consumer and recovered material content.

<sup>1</sup> The recommended recovered materials content levels are based on the dry weight of the raw materials, exclusive of any additives such as adhesives, binders, or coloring agents. <sup>2</sup> "Plastic" includes both single and mixed plastic resins. Park benches and picnic tables made with recovered plastic may also contain other recovered materials such as sawdust, wood, or fiberglass. The percentage of these materials contained in the product would also count toward the recovered materials content level of the item. <sup>3</sup> The recommended recovered materials content levels for steel in this table reflect the fact that the designated items can be made from steel manufactured from either a Basic Oxygen Furnace (BOF) or an Electric Arc Furnace (AF). Steel from the BOF process contains 2530% total recovered materials, of which 16% is post-consumer steel. Steel from the EAF process contains a total of 100% recovered steel, of which 67% is post-consumer. <sup>4</sup> Designation includes fencing containing recovered plastic for use in controlling snow or sand drifting and as a warning/safety barrier in construction or other applications.

**EXHIBIT A-8  
TRANSPORTATION PRODUCTS RECYCLED CONTENT**

**(A) REQUIREMENT**

All transportation products offered by the bidder, or included in the final product offered by the bidder, and sold to the Commonwealth **must** contain the minimum percentage of post-consumer and recovered material content as shown below for the applicable products:

<b>Transportation Products</b>	<b>Recovered Material Content</b>
Traffic Cones: ----Plastic (PVC and LDPE) ----Crumb Rubber	50% (recovered) 50% (recovered)
Traffic Barricades (type I and II only): ----Plastic (HDPE, LDPE, PET) ----Steel <sup>2</sup>  ----Fiberglass	80% (post-consumer) + 20% (recovered) 16% (post-consumer) + 9% (recovered) 67% (post-consumer) + 33% (recovered) 100% (recovered)
Parking Stops: ----Plastic and/or Rubber ----Concrete Containing Coal Fly Ash  ----Concrete Containing Ground Granulated Blast Furnace Slag	100% (recovered) 20% (recovered) 15% when used as a partial cement replacement as an admixture in concrete. 25% (recovered)
Traffic Control Devices:  ----Channelizers: ----Plastic ----Rubber (base only) ----Delineators: ----Plastic ----Rubber (base only) ----Steel (base only) <sup>2</sup>  ----Flexible Delineators	25% (post-consumer) 100% (post-consumer)  25% (post-consumer) 100% (post-consumer) 16% (post-consumer) + 9% (recovered) 67% (post-consumer) + 33% (recovered) 25% (post-consumer)

"Post-consumer" material is "material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item. Post-consumer material is part of the broader category of recovered material."

"Recovered Materials" refers to waste materials and by-products which have been recovered or diverted from solid waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process

**(B) BIDDER'S CERTIFICATION**

Bidder certifies that the transportation product(s) which the bidder is offering contains the required minimum percentage of post-consumer and recovered material content as shown above for the product.

**(C) MANUFACTURER/MILL CERTIFICATION**

In addition to the Bidders Certification in Subsection (B), a manufacturer certification must be completed and signed by the manufacturer before payment will be made to the successful bidder for the delivered items. The enclosed **Manufacturer/Mill Certification** form must be used. Bidders are not required to submit the completed and signed **Manufacturer/Mill Certification** form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE DELIVERED ITEM.**

**(D) ENFORCEMENT**

Awarded bidders may be required, after delivery of the transportation product(s), to provide the Commonwealth with documentary evidence that the transportation product(s) were in fact produced with the required minimum percentage of post-consumer and recovered material content.

<sup>1</sup> Content levels are based on the dry weight of the raw materials, exclusive of any additives such as adhesives, binders, or coloring agents. <sup>2</sup> The recommended recovered materials content levels for steel in this table reflect the fact that the designated items can be made from steel manufactured from either a Basic Oxygen Furnace (BOF) or an Electric Arc Furnace (EAF). Steel from the BOF process contains 2530% total recovered materials, of which 16% is post-consumer steel. Steel from the EAF process contains a total of 100% recovered steel, of which 67% is post-consumer.

**MANUFACTURER/MILL CERTIFICATION**

(To be submitted with invoice for each order)

**TO BE COMPLETED BY MANUFACTURER/MILL:**

NAME OF **MANUFACTURER/MILL**: \_\_\_\_\_

ADDRESS OF **MANUFACTURER/MILL**: \_\_\_\_\_

FEDERAL EMPLOYER I.D. NO.: \_\_\_\_\_

CONTRACT OR REQUISITION NO. \_\_\_\_\_

NAME OF CONTRACTOR: \_\_\_\_\_

ADDRESS OF CONTRACTOR: \_\_\_\_\_

**Type of product(s)** which the **manufacturer/mill** furnished to the contractor:

\_\_\_\_\_

**CERTIFICATION:** I, the undersigned officer of the above-named **manufacturer/mill**, do hereby certify that I am authorized to provide this certification on behalf of the above-named **manufacturer/mill** and that the **type of product(s)** listed above which my company furnished to the contractor named above for the referenced contract or purchase requisition, contained not less than \_\_\_\_\_% post-consumer materials and \_\_\_\_\_% recovered materials as those terms are defined in the invitation for bids. I understand that this document is subject to the provisions of the Unsworn Falsification of Authorities Act (18 P.S. Section 4904).

Signature

Name of Signatory

Title Date