ATTACHMENT A

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

1. DEFINITIONS.

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

2. ENHANCED MINIMUM WAGE.

a. **Enhanced Minimum Wage.** Contractor shall pay no less than $15.00 per hour to its employees for all hours worked directly performing the services called for in this contract/lease, and for an employee's hours performing ancillary services necessary for the performance of the services or lease when the employee spends at least 20% of their time performing ancillary services in a given work week.

b. **Adjustment.** Beginning July 1, 2023, and annually thereafter, the minimum wage rate will be increased by an annual cost-of-living adjustment using the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for Pennsylvania, New Jersey, Delaware, and Maryland. The Commonwealth will publish applicable adjusted amount in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.

c. **Exceptions.** These Enhanced Minimum Wage Provisions do not apply to employees

   i. Exempt from minimum wage under the Minimum Wage Act of 1968;

   ii. covered by a collective bargaining agreement;

   iii. required to be paid a higher wage under another state or federal law governing the services, including the Prevailing Wage Act and Davis-Bacon Act; or

   iv. required to be paid a higher wage under any state or local policy or ordinance.

d. **Notice.** The Contractor shall: (1) post this Enhanced Minimum Wage Provision for the entire period of the contract conspicuously in easily-accessible and well-lighted places customarily frequented by employees at or near where the contracted services are performed; or (2) for the entire period of the contract, provide electronic notice of this clause to its employees not less than annually.

e. **Records.** Contractor must maintain and, upon request and within the time periods requested by the Commonwealth, provide to the LIPA all employment and wage records necessary to document compliance with these Enhanced Minimum Wage Provisions.

f. **Sanctions.** Contractor's failure to comply with these Enhanced Minimum Wage Provisions may result in the imposition of sanctions, which may include, but are not limited to, termination of the contract or lease, nonpayment, debarment, or referral to the Office of General Counsel for appropriate civil or criminal referral.

g. **Subcontractors.** The Contractor shall include these Enhanced Minimum Wage Provisions in its subcontracts under this contact or lease to ensure that these provisions are binding on its subcontractors.

3. INDEMNIFICATION.

a. **Contractor Obligations.** The Contractor shall indemnify the LIPA against all third-party claims, suits, demands, losses, damages, costs, and expenses, including without limitation, litigation expenses, attorneys' fees, and liabilities, arising out of or in connection with any activities performed by the Contractor or its employees and agents that are related to this contract, as determined by the LIPA in its sole discretion.

b. **Commonwealth Attorneys Act.** The LIPA shall provide the Contractor with prompt notice of any claim or suit 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 LIPA in actions brought against the LIPA. The OAG may, however, in its sole discretion and under any terms as it deems appropriate, delegate its right of defense. If OAG delegates the defense to the Contractor, the LIPA will cooperate with all reasonable requests of Contractor made in the defense of such suits.

c. **Settlement.** Notwithstanding the above, neither party may enter a settlement of any claim or suit without the other party's written consent, which will not be unreasonably withheld. The LIPA may, in its sole discretion, allow the Contractor to control the defense and any related settlement negotiations.

4. NONDISCRIMINATION/SEXUAL HARASSMENT.

a. **Representations.** The Contractor represents that it is presently in compliance with and will remain in compliance with all applicable federal, state, and local laws, regulations, and policies relating to nondiscrimination and sexual harassment for the term of the contract. The Contractor shall, upon request and within the time periods requested by the LIPA, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to its books,

records, and accounts by the LIPA for the purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.

b. **Nondiscrimination/Sexual Harassment Obligations.** The Contractor shall not:

   i. in any manner discriminate in the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under this contract or any subcontract, by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the Pennsylvania Human Relations Act ("PHRA") and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.

   ii. in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under this contract.

   iii. in any manner discriminate by race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, in the provision of services under this contract.

   iv. in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which this contract relates.

   v. in any manner discriminate against employees by reason of participation in or decision to refrain from participating in labor activities protected under the Public Employee Relations Act, Pennsylvania Labor Relations Act or National Labor Relations Act, as applicable and to the extent determined by entities charged with such Acts' enforcement and shall comply with any provision of law establishing organizations as employees' exclusive representatives.

c. **Establishment of Contractor Policy.** The Contractor shall establish and maintain a written nondiscrimination and sexual harassment policy that complies with the applicable law and these Nondiscrimination/Sexual Harassment provisions and shall inform its employees in writing of the policy. The policy must contain a provision that states that sexual harassment will not be tolerated and employees who practice it will be disciplined. For the entire period of the contract, the Contractor shall: (1) post its written nondiscrimination and sexual harassment policy or these Nondiscrimination/Sexual Harassment provisions conspicuously in easily accessible and well-lighted places customarily frequented by employees

at or near where the contracted services are performed; or (2) provide electronic notice of the policy or this clause to its employees not less than annually.

d. **Notification of Violations.** The Contractor's obligations pursuant to these provisions are ongoing from the effective date and through the termination date of the contract. Accordingly, the Contractor shall notify the LIPA if, at any time during the term of this contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.

e. **Cancellation or Termination of Contract.** The LIPA may cancel or terminate this contract and all money due or to become due under this contract may be forfeited for a violation of the terms and conditions of these Nondiscrimination/Sexual Harassment provisions. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

f. **Subcontracts**. The Contractor shall include these Nondiscrimination/Sexual Harassment provisions in its contracts with all subcontractors providing goods or services under this contract. The incorporation of these provisions in the Contractor's subcontracts does not create a contract between the LIPA and any subcontractor, and no third-party beneficiaries are created by those provisions. If the Contractor becomes aware of a subcontractor's violation of this clause, the Contractor shall use its best efforts to ensure the subcontractor's compliance with these provisions.

5. CONTRACTOR INTEGRITY.

a. **Definitions.** For purposes of these Contractor Integrity Provisions, the following definitions apply:

i. "Affiliate" means two or more entities where (a) a parent entity owns more than 50% of the voting stock of each of the entities; (b) a common shareholder or group of shareholders owns more than 50% of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.

ii. "Contractor" means the individual or entity, that has entered into this contract with the Commonwealth.

iii. "Contractor Related Parties" means any Affiliates of the Contractor and the Contractor's executive officers, Pennsylvania officers and directors, or owners of five percent or more interest in the Contractor.

iv. "Financial Interest" means ownership of more than a five percent interest in any business or holding a position as an officer, director, trustee, partner, employee, or holding any position of management.

v. "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, as may be amended, 4 Pa. Code §7.153(b), apply.

vi. "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. **Representations and Warranties.**

i. **Contractor Representation and Warranties.** The Contractor represents, to the best of its knowledge and belief, and warrants that within the last five years neither the Contractor nor Contractor Related Parties have:

1. been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
2. been suspended, debarred, or otherwise disqualified from entering into any contract with any governmental agency;
3. had any business license or professional license suspended or revoked;
4. 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
5. been, and are not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency or civil anti-trust investigation by any federal, state, or local prosecuting or investigative agency.

ii. **Contractor Explanation**. If the Contractor cannot make the representations and warranties set forth above at the time of its submission of its bid or proposal or if this contract is awarded on a non-bid basis at the time of the execution of the contract, the Contractor shall submit a written explanation outlining the reasons why it cannot make those representations and warranties. The LIPA may, based on its evaluation of the explanation provided, determine whether it is in the LIPA's best interest to execute the contract.

iii. **Further Representations**. By submitting any bills, invoices, or requests for payment pursuant to this contract, the Contractor further represents that it has not violated any of these Contractor Integrity Provisions during the term of the contract.

iv. **Notice.** The Contractor shall immediately notify the LIPA, in writing, if at any time during the term of the contract it becomes aware of any event that would cause the Contractor's certification or explanation to change. The Contractor acknowledges that the LIPA may, in its sole discretion, terminate the contract for cause if it learns that any of the certifications made in these provisions are currently false or misleading due to intervening factual circumstances or were false or misleading or should have been known to be false or misleading when entering into the contract.

c. **Contractor Responsibilities.** During the term of this contract, the Contractor shall:

i. maintain the highest standards of honesty and integrity.

ii. take no action in violation of any applicable laws, regulations, or other requirements applicable to the Contractor that govern LIPA contracting and procurement.

iii. establish and implement a written business integrity policy that includes, at a minimum, the requirements of these provisions as they relate to the Contractor's activity with the LIPA and LIPA members and ensure that its employees comply with the policy.

iv. not accept, agree to give, offer, confer, 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, statement of policy, management directive, or bulletin applicable to the provision of goods or services under this contract.

v. 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 LIPA in writing and the LIPA consents to Contractor's financial interest. The Contractor must 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 the date the Contractor signs the contract. The LIPA shall be deemed to have consented if the required disclosure is received and all of the required LIPA signatures are affixed.

vi. comply with the requirements of the Lobbying Disclosure Act (65 Pa.C.S. §13A01 et seq.) regardless of the method of award.

vii. comply with the requirements of Section 1641 of the Pennsylvania Election Code (25 P.S. §3260a) if this contract was awarded on a Non-bid Basis.

viii. immediately notify the LIPA contracting officer or the Office of the State Inspector General, in writing, when the 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 the ethical standards.

d. **Investigations.** If a State Inspector General investigation is initiated, the Contractor shall:

i. reimburse the LIPA 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. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

ii. 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 and make identified Contractor employees available for interviews at reasonable times and places.

iii. upon the inquiry or request of an Inspector General, 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. This information may include, but is not limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this contract.

e. **Termination.** For violation of any of these Contractor Integrity Provisions, the LIPA may terminate this and any other contract with the Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these Contractor Integrity provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend the Contractor from doing business with LIPA These rights and remedies are cumulative, and the use or non-use of any one does not preclude the use of all or any other. These rights and remedies are in addition to those the LIPA may have under law, statute, regulation, or contract.

f. **Subcontracts.** The Contractor shall include these Contractor Integrity Provisions in its contracts with all subcontractors providing goods or services under this contract. The incorporation of this provision in the Contractor's subcontracts does not create privity of contract between the LIPA and any subcontractor, and no third-party beneficiaries are created by the inclusion of these provisions. If the Contractor becomes aware of a subcontractor's violation of these provisions, the Contractor shall use its best efforts to ensure the subcontractor's compliance with these provisions.

6. CONTRACTOR RESPONSIBILITY.

a. **Definition**. For the purpose of these provisions, the term "Contractor" means 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 LIPA. The term also includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the LIPA.

b. **Contractor Representations.**

i. The Contractor represents for itself and its subcontractors required to be disclosed or approved by the LIPA, that as of the date of its execution of this 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 make this representation, the Contractor shall submit, along with its contract, a written explanation of why such certification cannot be made.

ii. The Contractor represents that as of the date of its execution of this 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. **Notification.** The Contractor shall notify the LIPA if, at any time during the term of this contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best of its knowledge, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. The Contractor shall provide this notification within 15 days of the date of suspension or debarment.

d. **Default.** The Contractor's failure to notify the LIPA of its suspension or debarment by the Commonwealth, any other state, or the federal government constitutes an event of default of the contract with the LIPA.

e. **Reimbursement.** The Contractor shall reimburse the LIPA 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 contract or any other agreement between the Contractor and the LIPA that results in the suspension or debarment of the Contractor. These costs include, but are not 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. **Suspension and Debarment List.** The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by visiting the eMarketplace website at http://www.emarketplace.state.pa.us and clicking the Debarment list tab.

7. AMERICANS WITH DISABILITIES ACT.

a. **No Exclusion.** Pursuant to the Americans with Disabilities Act, 42 U.S. Code § 12101, et seq., no qualified individual with a disability may, on the basis of the disability, be excluded from participation in this contract or from activities provided for under this contract.

b. **Compliance.** For all goods and services provided pursuant to this contract, the Contractor shall comply with Title II of the Americans with Disabilities Act, the "General Prohibitions Against Discrimination" set forth in 28 C. F. R. § 35.130, and all other regulations promulgated under Title II of the Americans with Disabilities Act that apply to state and local governments.

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

8. APPLICABLE LAW AND FORUM.

This contract is governed by and must be interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions) and the decisions of the Pennsylvania courts. The Contractor consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania, and waives any claim or defense that such forum is not convenient or

proper. Any Pennsylvania court or tribunal has in personam jurisdiction over the Contractor, and the Contractor consents to service of process in any manner authorized by Pennsylvania law. This provision may not be interpreted as a waiver or limitation of the LIPA's rights or defenses.

9. RIGHT TO KNOW LAW.

a. **Applicability**. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, ("RTKL") applies to this contract.

b. **Contractor Assistance.** If the LIPA needs the Contractor's assistance in any matter arising out of the RTKL related to this contract, the Commonwealth shall notify the Contractor that it requires the Contractor's assistance, and the Contractor shall provide to the LIPA:

i. access to, and copies of, any document or information in the Contractor's possession (Requested Information) arising out of this contract that the LIPA reasonably believes is a public record under the RTKL, within ten calendar days after receipt of written notification; and

ii. any other assistance as the LIPA may reasonably request, in order to comply with the RTKL with respect to this contract.

c. **Trade Secret or Confidential Proprietary Information.** If the Contractor considers the Requested Information to include a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor shall notify the LIPA and provide, within seven calendar days of receipt of the written notice a written statement, signed by a representative of the Contractor, that explains why the requested material is exempt from public disclosure under the RTKL. If the LIPA determines that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information to the LIPA within five business days of receipt of written notice of the LIPA's determination.

d. **Reimbursement.**

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

ii. **Contractor Reimbursement**. The LIPA will reimburse the Contractor for any costs that the Contractor incurs as a direct result of complying with these provisions only to the extent allowed under the fee schedule

established by the Office of Open Records or as otherwise provided by the RTKL.

e. **Challenges of LIPA Release.** The Contractor may file a legal challenge to any LIPA decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall reimburse the LIPA for any legal expenses incurred by the LIPA as a result of the challenge, including any damages, penalties or costs that the LIPA may incur as a result of the Contractor's legal challenge, regardless of the outcome.

f. **Waiver.** As between the parties, the Contractor waives all rights or remedies that may be available to it as a result of the LIPA's disclosure of Requested Information pursuant to the RTKL.

g. **Survival.** The Contractor's obligations contained in this Section survive the termination or expiration of this contract.

10. Reserved

11. Reserved

12. WORKER PROTECTION AND INVESTMENT.

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

a. Construction Workplace Misclassification Act;

b. Employment of Minors Child Labor Act;

c. Minimum Wage Act;

d. Prevailing Wage Act;

e. Equal Pay Law;

f. Employer to Pay Employment Medical Examination Fee Act;

g. Seasonal Farm Labor Act;

h. Wage Payment and Collection Law;

i. Industrial Homework Law;

j. Construction Industry Employee Verification Act;

k. Act 102: Prohibition on Excessive Overtime in Healthcare;

l. Apprenticeship and Training Act; and

m. Inspection of Employment Records Law.