

CONTRACT FOR LEGAL SERVICES

This Contract for Legal Services is between Blank Rome LLP and the Commonwealth of Pennsylvania, acting through the Pennsylvania Insurance Department and the Governor's Office of General Counsel.

Pursuant to the Commonwealth Attorneys Act, 71 P.S. §§ 732-301 *et seq.*, the General Counsel is responsible for the provision of legal advice and representation to the Governor and Executive Agencies under the Governor's jurisdiction. The Department is an Executive Agency that has a need for professional and specialized legal services.

OGC has chosen the Law Firm to provide the legal services required by the Department following a competitive procurement process in accordance with Executive Order 2015-02 and Section 518 of the Commonwealth Procurement Code. OGC and the Law Firm have negotiated fair and reasonable compensation for those services.

The parties, intending to be legally bound, agree as follows:

1. **Definitions.** The following definitions apply to this contract:
 - a. "Appointment Letter" means a written notice to proceed provided by OGC to the Law Firm stating that the contract has been fully executed and that the Law Firm may commence performance of the services, or indicating that OGC has authorized the Law Firm to begin work immediately.
 - b. "Commonwealth" means the Commonwealth of Pennsylvania and its agencies, to include OGC and the Department.
 - c. "Department" means the Pennsylvania Insurance Department.
 - d. "Emergency Procurement" means the acquisition of goods or services when circumstances outside the control of the Department create an urgency of need that does not permit the delay involved in using more formal, competitive procurement methods.
 - e. "Effective Date" means the date of the last required Commonwealth signature on this contract or, in the case of an Emergency Procurement, the date of the Appointment Letter.
 - f. "Executive Agency" means: a) the Governor and the departments, boards, commissions, authorities and other officers and agencies of the Commonwealth government, but the term does not include any court, officer, or agency of the unified judicial system, the General Assembly and its officers and agencies, or any independent agency; and b) those agencies whose legal services are under the jurisdiction of the General Counsel pursuant to the Commonwealth Attorneys Act.

g. “General Counsel” means the chief legal advisor appointed by the Governor who supervises, coordinates, and administers the legal services for each Executive Agency pursuant to the Commonwealth Attorneys Act, 71 P.S. §§ 732-101 *et seq.*

h. “Law Firm” means Blank Rome LLP.

i. “OGC” means the Governor’s Office of General Counsel.

2. **Services.** The Law Firm shall provide the services described in Appendix A of this contract to the Department.

3. **Consultation.** The Law Firm shall consult with and keep the General Counsel and the Department fully informed as to the progress of all matters covered by this contract. The Law Firm shall consult and cooperate with, and shall be responsible directly to, the General Counsel, the Department, and other officials as designated by the General Counsel on all matters of strategy and tactics. The Law Firm shall advise, counsel, and recommend actions to the Department and the General Counsel or the other officials designated by the General Counsel, and shall carry out, to the best of its ability, their directions. The Law Firm shall not make any offer, settlement, or compromise without the written consent of the General Counsel. The Law Firm shall offer the General Counsel the opportunity to review court documents and briefs prior to filing. The Law Firm shall promptly furnish the Department and the General Counsel with copies of all correspondence and all court documents and briefs prepared in connection with the services rendered under this contract and such additional documents as may be requested. Upon notification of its availability by the General Counsel, the Law Firm shall make all of its work product prepared in connection with the services rendered under this contract, and other parties’ pleadings, discovery, correspondence, and other relevant documents and materials, available to the General Counsel via the OGC LawNet extranet in PDF or other format acceptable to the General Counsel.

4. **Department Contact.** The Department’s Office of Chief Counsel shall serve as the Law Firm’s point of contact for the Department. The Law Firm shall direct its communications with the Department to the Chief Counsel or the Chief Counsel’s designee.

5. **Term.**

a. **Contract Term.** The term of this contract commences on 1 July 2023 and shall end on the conclusion of the *April 29, 2013 Approving Determination and Order, Order No. ID RC13-06 re: Highmark, Inc. and West Penn Allegheny Health System, Inc. Transactions* unless sooner terminated in accordance with paragraph 15 of this contract. With the approval of the General Counsel, the parties may extend or renew the term of this contract in accordance with paragraph 27 of this contract.

b. **Not Binding Until Delivery to Law Firm.** Except when an Emergency Procurement has been authorized by the General Counsel in accordance with Paragraph 5(c) of this contract, this contract is not legally binding on the Commonwealth until the Commonwealth has provided both a fully executed copy of this contract and an Appointment Letter to the Law Firm.

c. **Emergency Procurement.** If the General Counsel determines that the circumstances are sufficiently urgent to warrant an Emergency Procurement, OGC may authorize the Law Firm to begin providing services to the Department before the date this contract is fully executed. In such a circumstance, OGC shall direct the Law Firm to immediately commence the provision of services in an Appointment Letter. Upon the full execution of this contract, all services provided between the date of the Appointment Letter and the Effective Date of this contract will merge into and are covered by the terms of this contract.

6. **Compensation.** The Department shall compensate the Law Firm for the services provided in accordance with the provisions established in Appendices B and C of this contract. Except as otherwise specifically provided in this contract, the Commonwealth shall not be liable to pay the Law Firm for any services or work performed or expenses incurred by the Law Firm before the Effective Date of this contract and not authorized in the Appointment Letter.

7. **Billing and Invoices.**

a. **Billing.** The Law Firm shall submit monthly invoices to the Department for services provided during each billing period. The Law Firm shall send invoices to the following contact and address:

Kathryn McDermott Speaks

Chief Counsel
1341 Strawberry Square
Harrisburg, PA 17120

Each invoice must be accompanied by a cover letter on the Law Firm's letterhead and include an itemized listing of the services performed by attorneys and other professionals, by date, by hours worked, and by rate.

b. **Invoices.** Invoices must also include the following information:

i. Law Firm Information, including -

- Firm name
- Firm's federal employer identification number
- Firm's relationship manager and e-mail address
- Firm's address
- Firm's telephone number
- Firm's file number or matter number (if applicable)

ii. Administrative Information, including -

- Date of invoice
- Unique Invoice Number
- Name of Department Chief Counsel (or designee)
- Name of Department

- Department's address
- RFP number
- Contract number
- Funds Commitment number (if applicable)
- Specific matter or project name for which services were performed (only one per invoice, even if the contract is being used for more than one matter)
- Service dates (i.e, start and end dates for services covered by invoice)
- Total fees for professional services rendered regarding invoice
- Total expenses incurred regarding invoice
- Prior balance due (if applicable)
- Total amount due

c. **Labor Costs.** The amount shown on each invoice for labor costs must be in accordance with the rates set forth in Appendix B of this contract.

d. **Non-Labor Costs.** Invoices must list non-labor costs such as those incurred for travel, food, and lodging, as described in Appendix C of this contract. The Commonwealth shall reimburse the Law Firm for travel, meal costs, and lodging costs for which supporting documentation is provided, in reasonable amounts incurred by the Law Firm in connection with the performance of services under the contract, as described in Appendix C.

e. **Law Firm Certification.** Invoices must contain a statement that reads substantially as follows:

The Law Firm hereby certifies that the services supplied and expenses incurred, as stated in the attached invoice, have met all of the required standards set forth in the Contract for Legal Services.

f. **Firm Signature.** Invoices or accompanying cover letters must be signed by the Law Firm.

g. **Progress Reports.** Separate and apart from the invoice, the Law Firm must include a progress report with itemized details regarding the engagement to the Department, including tasks performed and time spent.

h. **Effect of Non-Conformance.** The Law Firm's failure to include all of the required invoicing information will result in the return of the invoice and a request for the submission of a new invoice that conforms with the requirements set forth in this paragraph.

8. **Payment.**

a. **Payment Timeframe.** The Department will use its best efforts to make payments on invoices that conform with the requirements set forth in paragraph 7 within 45 days of receipt. For the avoidance of doubt, OGC is not responsible for the payment of the Law Firm invoices.

b. **Automated Clearing House.** The Commonwealth will make invoice payments through the Automated Clearing House ("ACH"). Within 10 days of award of this contract, the Law Firm must submit or must have already submitted its ACH information within its user profile in the Commonwealth's procurement system ("SRM").

c. **Unique Invoice Number.** The Commonwealth shall list the Law Firm's unique invoice number on the Commonwealth's ACH remittance advice to enable the Law Firm to properly apply the payment to the invoice submitted.

d. **ACH Information Accuracy.** The Law Firm shall ensure that the ACH information contained in SRM is accurate and complete. The Law Firm's failure to maintain accurate and complete information may result in delays in payments.

9. **Subcontracting, Assignment, Key Personnel, and Experts.**

a. **Subcontracting.** The Law Firm may not subcontract all or any portion of the services to be provided to the Department under this contract without the prior written consent of the General Counsel. In the event that the General Counsel provides the necessary prior written consent, the Law Firm shall ensure that its contract with the subcontractor contains a written acknowledgement of the subcontractor that the terms and conditions of this contract apply to and bind the subcontractor as fully and completely as the Law Firm is bound and obligated by this contract.

b. **Assignment.** The Law Firm may not assign all or any portion of its rights or duties under this contract to a third party without the prior written consent of the General Counsel. In the event that the General Counsel provides the necessary prior written consent, the Law Firm shall ensure that its assignment agreement with the assignee contains a provision that states that all of the terms and conditions of this contract apply to and bind the assignee as fully and completely as the Law Firm is bound and obligated by this contract. Any assignment or transfer not in accordance with this paragraph is void.

c. **Replacement of Key Personnel.** The Law Firm must consult with and obtain the consent of the Department prior to the replacement of key personnel assigned to provide services to the Department. The Department's consent to any proposed replacement is required and may not be unreasonably withheld.

d. **Experts.** Notwithstanding the foregoing, the Law Firm may, with the prior written consent of the General Counsel, engage experts in various fields related to the subject matter of any matter(s) assigned to the Law Firm to assist it in the performance of its duties under this contract. The hourly rates, fees, or other compensation to be paid to any such experts are also subject to the prior approval of the General Counsel. The Law Firm shall ensure that its contract with any expert it engages contains a written acknowledgement of the expert that the terms and conditions of this contract apply to and bind the expert as fully and completely as the Law Firm is bound and obligated by this contract. The Law Firm shall include approved compensation for experts, as incurred, in the Law Firm's invoices in accordance with the provisions of paragraph 7 of this contract, without addition, surcharge, or increase by the Law Firm of the actual fees billed to the Law Firm by such experts.

10. **Ownership Rights.**

a. **Ownership and Use.** All documents, data, and records produced by the Law Firm and any subcontractor or expert while performing the services or their duties under this contract, without limitation and whether preliminary or final, are and will remain the property of the Commonwealth. The Commonwealth may use all such documents, data, and records without restriction or limitation and without additional compensation to the Law Firm, subcontractor, or expert and the Law Firm, subcontractor, and experts shall have no right or interest in the documents, data, and records.

b. **Delivery of Commonwealth Property.** Upon completion of the services or at the expiration or termination of this contract, the Law Firm shall, if requested by the General Counsel or the Department, appropriately gather, arrange, index, and deliver all of the Commonwealth's documents, data, and records to OGC or the Department.

c. **Disclosure.** Neither the Law Firm nor any subcontractor or expert shall disclose any documents, data, and records provided to it or prepared by the Law Firm, subcontractor, or expert that relates to this contract or the services provided under this contract to any individual or organization without the prior approval of the General Counsel. Neither the Law Firm nor any subcontractor or expert shall disclose any information secured by the Law Firm, subcontractor, or expert from the Commonwealth in connection with the provision of services under this contract unless the disclosure is approved in writing by the General Counsel or is directed by a court or other tribunal of competent jurisdiction.

d. **Retention of Copies.** Notwithstanding the provisions of paragraph 10 of this contract, the Law Firm may retain copies of the documents, data, and records delivered to OGC or to the Department.

11. **Conflict of Interest.** The Law Firm represents and warrants that it has no conflicting representation that has not been fully disclosed to and waived by the General Counsel. The Law Firm warrants that it shall not undertake any representation that conflicts with its performance of the services or its duties under this contract unless the conflicting representation has been fully disclosed to and waived by the General Counsel. The Law Firm shall promptly disclose any conflicting representation to the General Counsel. The General Counsel shall determine whether the disclosed conflict is cause for the termination of this contract. The Law Firm shall request a conflict waiver utilizing the process set forth in the Office of General Counsel Conflict Waiver Procedure, which is attached to this contract as Appendix D.

12. **Inability to Perform.** If, because of death or any other occurrence beyond the control of the Law Firm, it becomes impossible for any principal(s) and, in particular, the principal(s) assigned to provide services under this contract, to render the services set forth in this contract, neither the Law Firm nor the surviving principal(s) are relieved of the duty to complete performance under this contract. The Law Firm shall consult the General Counsel regarding any replacement principal(s) that it proposes to assign to provide the services. The Law Firm must obtain the General Counsel's consent before assigning a replacement. The General Counsel may not unreasonably withhold his or her consent.

13. **Licensing.** The Law Firm represents and warrants that attorneys involved in the representation of the Department are duly licensed and in good standing to practice before the judicial forum, court, board, or tribunal before which they will appear or practice on behalf of the Department. When necessary and in accordance with subparagraph 9(a), the Law Firm may retain a subcontractor to act as co-counsel where appearance by the Department is required in a forum or jurisdiction where the Law Firm's attorneys are not licensed to practice.

14. **Independent Contractor.** In performing the services required by this contract, the Law Firm and its employees and agents will act as an independent contractor and not as an employee or agent of the Commonwealth.

15. **Termination.**

a. **Termination for Convenience.** If the Commonwealth determines that termination of this contract is in its best interest, the Commonwealth may terminate this contract for convenience by providing written notice of termination to the Law Firm. The Commonwealth shall pay the Law Firm for work satisfactorily completed prior to the effective date of the termination, but in no event is the Law Firm entitled to recover loss of profits.

b. **Non-Appropriation.** The Commonwealth's obligation to make payments during any Commonwealth fiscal year following the current fiscal year is subject to the availability and appropriation of funds. When funds (state, federal, or both) are not appropriated or otherwise made available to support the continuation of performance in a subsequent fiscal year period, the Commonwealth may terminate this contract by providing written notice of termination to the Law Firm. The Commonwealth shall reimburse the Law Firm for the reasonable value of any nonrecurring costs incurred, but not amortized, in the price of the supplies or services delivered under this contract. The Commonwealth will not reimburse the Law Firm for loss of profit, loss of use of money, or administrative or overhead costs. The Commonwealth shall pay the reimbursement amount using any appropriation(s) available for that purpose.

c. **Termination for Cause.** The Commonwealth may terminate this contract for Law Firm default by providing written notice of termination to the Law Firm. The Commonwealth may also terminate this contract for any other cause, as specified in this contract or by law, by providing written notice of termination to the Law Firm. If it is later determined that the Commonwealth erred in terminating this contract for cause, this contract will be deemed to have been terminated for convenience under subparagraph 15(a) at the Commonwealth's discretion,.

d. **Effective Date of Termination.** Any notice of termination provided to the Law Firm will be effective on the date it is mailed or emailed to the Law Firm.

16. **Nondiscrimination/Sexual Harassment.** The Law Firm shall comply with all applicable provisions of state and federal constitutions, laws, regulations, and judicial orders pertaining to nondiscrimination, sexual harassment, and equal employment opportunity. The Law Firm shall also comply with the provisions of the Nondiscrimination/Sexual Harassment Clause attached to this contract as Appendix E. All references to "Contractor" in the provisions refer to the Law Firm.

17. **Integrity Provisions.** The Law Firm shall comply with the Integrity Provisions attached to this contract as Appendix F.

18. **Responsibility Provisions.** The Law Firm shall comply with the Responsibility Provisions attached to this contract as Appendix G.

19. **The Americans With Disabilities Act.** The Law Firm shall comply with The Americans With Disabilities Act Provisions attached to this contract as Appendix H.

20. **Retention Guidelines For Outside Counsel.** The Law Firm shall comply with the Retention Guidelines for Outside Counsel attached to this contract as Appendix I.

21. **Enhanced Minimum Wage Provisions.** The Law Firm shall comply with the Enhanced Minimum Wage Provisions attached to this contract as Appendix J.

22. **Audit Provisions.** The Commonwealth may, at reasonable times and at a site designated by the Commonwealth, audit the books, documents, and records of the Law Firm to the extent that the books, documents, and records relate to fees, costs, or pricing data for this contract. The Law Firm shall maintain records that support the fees charged and costs incurred under this contract.

23. **Preservation of Books, Documents and Records.** The Law Firm shall preserve all books, documents, and records that relate to fees, costs, or pricing data for this contract for a period of three years from the date of final payment under this contract. The Law Firm shall give full and free access to all records to the Commonwealth and its authorized representatives.

24. **Offset Provision.** The Commonwealth may set off the amount of any state tax liability or other obligation of the Law Firm or its subsidiaries to the Commonwealth against any payments due the Law Firm under any contract with the Commonwealth.

25. **Indemnification.** The Law Firm shall indemnify and defend the Commonwealth against all third-party claims, suits, demands, actions, losses, costs, and expenses, including without limitation, litigation expenses, attorneys' fees, and liabilities ("Claims"), arising out of or in connection with any negligent or intentional act or omission of the Law Firm or any of its officers, agents, employees, representatives, or combination thereof in relation to professional services provided to the Commonwealth by the Law Firm under this contract. This indemnification provision does not apply to Claims for which payment is available under the Law Firm's professional liability insurance policies.

26. **Insurance.** The Law Firm represents and warrants that it carries malpractice insurance in the amount usual and customary for law firms of its size and practice areas, subject to normal deductibles. The Law Firm shall maintain the coverage throughout its representation of the Commonwealth.

27. **Amendments and Modification.** With the approval of the General Counsel, the parties may amend or modify this contract. Amendments or modifications regarding the total estimated amount of this contract set forth in Appendix C may be accomplished through a funding adjustment in accordance with Commonwealth procedures. Amendments or

modifications regarding the funding of this contract that do not exceed the amount set forth in Appendices C or regarding a change in the term of this contract may be accomplished by a letter of mutual consent signed by the Department and the Law Firm. All other amendments and modifications to this contract, including changes in the scope of work, must be accomplished through a formal written amendment to this contract, signed by the parties, and executed in the same manner as this original contract and in accordance with applicable law.

28. **Notice.** Any written notice or communication provided under this contract is sufficient if delivered to the party personally, or by facsimile or by email (provided such delivery is confirmed), or by a recognized overnight courier service (e.g., United Parcel Service, FedEx, etc.), with confirmed receipt, or by certified or registered United States mail, postage prepaid, return receipt requested, sent to the address set forth below or to any other address the party may designate by notice given pursuant to this paragraph:

a. **To the Commonwealth -**

Kathryn McDermott Speaks

[REDACTED]
Chief Counsel

1341 Strawberry Square
Harrisburg, PA 17120

with a copy to -

Theron R. Perez
First Deputy General Counsel
333 Market Street, 17th Floor
Harrisburg, Pennsylvania 17101

b. **To the Law Firm -**

Christopher A. Lewis
Blank Rome, LLP
130 North 18th Street
Philadelphia, Pennsylvania 19103

29. **Contract Controversies.** In the event of a controversy or claim arising from this contract, the Law Firm must, within six months after the cause of action accrues, file a written notice of the controversy or claim with the General Counsel for a determination. The General Counsel shall send a written determination to the Law Firm. The decision of the General Counsel will be final and conclusive unless, within 15 days after receipt of such written determination, the Law Firm files a claim with the Commonwealth's Board of Claims. Pending a final judicial resolution of a controversy or claim, the Law Firm shall proceed diligently with the performance of this contract in a manner consistent with the interpretation of the General Counsel, and the Commonwealth shall compensate the Law Firm pursuant to the terms of this contract.

30. **Applicable Law.** 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 Law Firm 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. Any Pennsylvania court has *in personam* jurisdiction over the Law Firm and service of process is valid in any manner authorized by Pennsylvania law.

31. **Waiver.** Failure or delay on the part of a party to exercise any right, remedy, power, or privilege under this contract may not be construed as a waiver of the right, remedy, power, or privilege. In order for a waiver to be deemed effective, it must be in writing and must be signed by the party waiving the right, remedy, power, or privilege. A written waiver of a default will not operate as a waiver of the same type of default or any other default on a future occasion.

32. **Titles Not Controlling.** The titles of the paragraphs and subparagraphs in this contract have been inserted as a matter of convenience and reference only and do not control or affect the meaning or construction of any of the terms or provisions of this contract.

33. **Severability.** If any article, clause, or provision of this contract, or any part of this contract, is declared to be invalid, void, or unenforceable by any tribunal having jurisdiction, the invalidity or unenforceability will not affect the validity or enforceability of the remaining portions of this contract, unless the result would be manifestly inequitable or unconscionable.

34. **Integration Clause.** This contract, including all referenced documents, constitutes the entire agreement between the parties. Terms used in appendices to this contract have the same meanings as are ascribed to them in this contract, unless otherwise defined in the appendix. No agent, representative, employee, or officer of either the Commonwealth or the Law Firm has authority to make, or has made, any statement, agreement, or representation, oral or written, in connection with this contract, which in any way can be deemed to modify, add to, detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, is permitted to modify or contradict any of the terms and conditions of this contract. No modifications, alterations, changes, or waivers to the contract or any of its terms are valid or binding unless accomplished pursuant to paragraph 27 of this contract.

35. **Counterparts.** This contract may be signed in counterparts, each of which, for all purposes, will be considered an original of this contract. Faxed and scanned signatures are enforceable as original signatures.

[SIGNATURE PAGE FOLLOWS.]

The parties have caused this contract to be executed by their duly authorized representative as of the last date below.

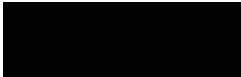
Blank Rome LLP

COMMONWEALTH OF
PENNSYLVANIA,
PA Insurance Department

By: Christopher A. Lira

Title: Partner

Date: Aug 2, 2023

Federal Employer ID #: 

By: Kathy McDermott Speaks

Kathryn McDermott Speaks
Chief Counsel

Date: 8/3/2023

GOVERNOR'S OFFICE OF GENERAL
COUNSEL

By: DAKL
Digitally signed by jkessling
DN: dc=LCL, dc=PA, ou=CWOPA,
ou=GC, ou=OGC, ou=USERS,
cn=jkessling
Date: 2023.08.09 14:44:54 -04'00'

NAME Derek Riker
Deputy General Counsel

Date: 8/9/2023

APPROVED AS TO FORM AND LEGALITY

Kathy McDermott Speaks 8/3/2023

Chief Counsel Date
Department of

David E. Stover
Digitally signed by David E. Stover,
Assistant Chief Deputy Attorney General
Date: 2023.08.29 13:55:45 -04'00'

Deputy Attorney General Date

Elizabeth S. Peltier
Digitally signed by epeltis
DN: dc=LCL, dc=PA, ou=CWOPA, ou=GC,
ou=OGC, ou=USERS, cn=epeltis
Date: 2023.08.09 16:19:28 -04'00'

Deputy General Counsel Date

APPROVED BY COMPTROLLER OPERATIONS

N/A
Comptroller Operations Date

APPENDIX A
DESCRIPTION OF SERVICES

1. The Law Firm shall represent the Commonwealth of Pennsylvania, in matters relating to providing representation and legal advice to the Insurance Commissioner, the Department and the Office of General Counsel with respect to a potential transaction and arrangement between Highmark, Inc. and West Penn Allegheny Health System, Inc.
2. The Law Firm shall consult with the General Counsel and the Department on legal issues involved in the matters referenced to in Paragraph 1 of this Appendix and in other matters requested by the General Counsel of the Department.
3. The General Counsel reserves the right to represent the Commonwealth in any specific claims and determinations as she, in her sole judgment, might determine.

APPENDIX B
BILLING RATE INFORMATION

Partners: \$715/hr

Associates: \$495/hr

Paralegals: \$240/hr

APPENDIX C

COMPENSATION

Highmark shall pay the Law Firm for the services under this Contract and reimbursement of the Law Firm's eligible costs. Payments of additional amounts may be made, and continued performance by the Law Firm will be required pursuant to paragraph 9 of this Contract.

1. The Law Firm shall be reimbursed for all reasonable, actual, direct labor costs incurred in fulfilling the terms of this contract in accordance with the rates established in paragraphs 6 and 7 and Appendices B, C, and I of this contract.

2. The Law Firm shall be reimbursed for all reasonable, actual, ordinary, and necessary direct non-labor costs incurred in fulfilling the terms of this contract, subject to specific limitations such as those set forth in the Retention of Outside Counsel Guidelines, attached to this contract as Appendix I, and paragraph 7 of this contract including, but not limited to, the following:

a. Reasonable, actual, ordinary, and necessary expenses for travel, meals, and lodging incurred by the Law Firm to fulfill the Law Firm's duties under this contract. The Law Firm shall retain all receipts for these expenses and shall provide copies to the Department if requested. Mileage reimbursement will be made in accordance with the travel regulations applicable to the Commonwealth for the use of personally owned motor vehicles. Expenses for lodging and meals will be reimbursed at rates limited to the single-occupancy rate at the nearest Holiday Inn or other major moderately priced hotel or motel chain and the amount of reimbursement for meals will be limited to the price of a moderately-priced meal at that hotel or motel. No reimbursement will be allowed for any alcoholic beverages.

b. Reasonable, actual, ordinary, and necessary expenses for:

(1) Communications, including telephone, facsimile transmissions, telegraph, postage, parcel post, and freight and package express;

(2) Photocopies made by the Law Firm "in house," to be reimbursed at the maximum rate of \$.15 per page;

(3) Other reproduction costs (including, but not limited to, photographs, photocopies, prints, and offset work); and

(4) Document control and analysis contracted for with outside firms.

The Law Firm shall retain all receipts for these expenses and shall, upon request of the Department, provide any necessary documentation.

c. Reasonable, actual, ordinary, and necessary expenses for other specific materials required for and used solely in the fulfillment of this contract. The Law Firm shall retain all

receipts for these expenses and shall, upon request of the Department, provide any necessary documentation.

3. Travel, meals, lodging, and other direct non-labor costs, which the Law Firm expects to incur under this contract outside of the Commonwealth of Pennsylvania, with the exception of telephone, mailing, and other similar communication expenses, require the prior approval of the General Counsel. The General Counsel's approval will not be unreasonably withheld. Prior approval by the General Counsel of travel to be undertaken by the Law Firm outside of the Commonwealth of Pennsylvania as an incident of the Law Firm's performance of services under this contract constitutes approval for the Law Firm to incur reasonable, actual, ordinary, and necessary expenses for travel, meals, lodging, and other ordinary and necessary direct non-labor costs. The Law Firm shall retain all receipts and shall, upon request of the Department, provide any necessary documentation.

4. The Law Firm shall require approval by the General Counsel before incurring any extraordinary or unusual expenses.

5. The Law Firm shall advise the General Counsel and the Department when direct labor and other costs reach 50% of the amount initially encumbered for performance of this contract and also 50% of any amount encumbered by any amendment.

APPENDIX D
OFFICE OF GENERAL COUNSEL CONFLICT WAIVER PROCEDURE
(January 2023)

1. OGC's standard Contract for Legal Services requires the lawyer or law firm (referred to hereafter as "Law Firm") to promptly disclose any conflicting representation, unless it has been otherwise waived. (See the attached paragraph from the Contract for Legal Services.) Failure to disclose a conflict or undertaking a conflicting representation without obtaining a waiver is cause for termination of the contract.
2. The Law Firm's request for a waiver shall be submitted in writing to the Chief Counsel of each agency the Law Firm represents, with a contemporaneous copy to the Deputy General Counsel responsible for outside counsel management. Requests must be in letter form, and should be sent electronically in PDF format to ogc-outsidecounsel@pa.gov.
3. The waiver request must:
 - a. Identify all existing representations of Commonwealth agencies;
 - b. Describe the nature of the conflict;
 - c. Set forth the measures the Law Firm will take to protect the Commonwealth, its agencies, officials, or employees from any prejudice or detriment if the conflict is waived; and
 - d. State that the other party the Law Firm represents or seeks to represent has granted a waiver (or a waiver has been sought, and if sought, a written notice of the granting of the waiver must be provided).
4. Each affected Chief Counsel shall analyze the request and submit his or her recommendation to approve or disapprove the request to the Deputy General Counsel responsible for outside counsel management, with supporting legal analysis, including any applicable references to the Rules of Professional Conduct.
5. The General Counsel or, upon designation, the Deputy General Counsel responsible for outside counsel management, will make all waiver decisions and issue a letter to the Law Firm approving or disapproving the waiver request.
6. The decision to approve the Law Firm's waiver request in a matter is not binding on the General Counsel with respect to future matters unless the General Counsel so states.
7. Each affected Chief Counsel will receive a copy of the General Counsel's letter.
8. A file for each waiver request and the resolution of each request will be maintained in the Office of General Counsel.

Conflict of Interest Provision

Conflict of Interest. The Law Firm represents and warrants that it has no conflicting representation that has not been fully disclosed to and waived by the General Counsel. The Law Firm warrants that it shall not undertake any representation that conflicts with its performance of the services or its duties under this contract unless the conflicting representation has been fully disclosed to and waived by the General Counsel. The Law Firm shall promptly disclose any conflicting representation to the General Counsel. The General Counsel shall determine whether the disclosed conflict is cause for the termination of this contract. The Law Firm shall request a conflict waiver utilizing the process set forth in the Office of General Counsel Conflict Waiver Procedure, which is attached to this contract as Appendix D.

APPENDIX E
NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE
(August 2018)

The Law Firm agrees:

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Law Firm, each subcontractor, or any person acting on behalf of the Law Firm or subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
2. Neither the Law Firm nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.
3. Neither the Law Firm nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, in the provision of services under the contract.
4. Neither the Law Firm nor any subcontractor nor any person on their behalf shall 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.
5. The Law Firm and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contracted services are performed satisfies this requirement for employees with an established work site.
6. The Law Firm and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
7. The Law Firm and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws, regulations and policies relating to nondiscrimination and sexual harassment. The Law Firm and each subcontractor further

represents that it has filed a Standard Form 100 Employer Information Report ("EEO-1") with the U.S. Equal Employment Opportunity Commission ("EEOC") and shall file an annual EEO-1 report with the EEOC as required for employers' subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Law Firm and each subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.

8. The Law Firm shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.

9. The Law Firm's and each subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date of the contract. Accordingly, the Law Firm and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.

10. 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 Law Firm in the Contractor Responsibility File.

APPENDIX F
INTEGRITY PROVISIONS
(dated May 2023)

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

1. **DEFINITIONS.** For purposes of these Integrity Provisions, the words "confidential information," "consent," "financial interest," "gratuity," and "Law Firm" shall have the following definitions.

a. "Confidential information" means information that: (1) is not already in the public domain; (2) is not available to the public upon request; (3) is not or does not become generally known to the Law Firm from a third party without an obligation to maintain its confidentiality; (4) has not become generally known to the public through an act or omission of the Law Firm; or (5) has not been independently developed by the Law Firm without the use of confidential information of the Commonwealth.

b. "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 is deemed to have consented by virtue of execution of the contract.

c. "Financial Interest" means:

- (1) ownership of more than a 5% interest in any business; or
- (2) holding a position as an officer, director, trustee, partner, employee, or the like, or holding any position of management.

d. "Gratuity" means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the Governor's Code of Conduct, Executive Order 1980-18, the 4 Pa. Code §7.153(b) apply.

e. "Law Firm" means the individual or entity that has entered into this Contract with the Commonwealth, including directors, officers, partners, managers, key employees, and owners of more than a 5% interest.

2. The Law Firm shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to the Law Firm or that govern contracting with the Commonwealth.

3. The Law Firm shall be subject to the obligations of confidentiality with which lawyers must comply under the applicable Rules of Professional Conduct.

4. The Law Firm shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to the Law Firm's employee activity with the Commonwealth and Commonwealth employees, and which is distributed and made known to all employees of the Law Firm.

5. The Law Firm, its affiliates, agents and employees and anyone in privity with the Law Firm shall not accept, agree to give, offer, confer, or agree to confer or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order of the Governor of Pennsylvania, statement of policy, management directive or any other published standard of the Commonwealth in connection with performance of work under this contract, except as provided in this contract.

6. The Law Firm shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material under this contract, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to the Law Firm's financial interest prior to Commonwealth execution of the contract. The Law Firm shall disclose the financial interest to the Commonwealth at the time of any proposal submission, or if no proposals are solicited, no later than the Law Firm's submission of the contract signed by the Law Firm.

7. The Law Firm, certifies to the best of its knowledge and belief that within the last five years that it, its officers, and its affiliates have not:

a. been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;

b. been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;

c. had any business license or professional license suspended or revoked;

d. had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and

e. been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

If the Law Firm cannot so certify to the above, then it must submit along with its contract a written explanation of why such certification cannot be made and the Commonwealth will determine whether a contract may be entered into with the Law Firm. The Law Firm's obligation pursuant to this certification is ongoing from and after the effective date of the contract through the termination date of the contract. Accordingly, the Law Firm shall have an obligation to immediately notify the

Commonwealth in writing if at any time during the term of the contract it becomes aware of any event which would cause the Law Firm's certification or explanation to change. The Law Firm acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause if it learns that any of the certifications made in this contract are currently false due to intervening factual circumstances or were false or should have been known to be false when entering into the contract.

8. The Law Firm shall comply with requirements of the *Lobbying Disclosure Act*, 65 Pa.C.S. § 13A01 et seq., and the regulations promulgated pursuant to that law. Actions by outside lobbyists on behalf of the Law Firm are not exempt and must be reported. The Law Firm also must comply with the requirements of Section 1641 of the *Pennsylvania Election Code* (25 P.S. §3260a).

9. When the Law Firm has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or in these provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, the Law Firm shall immediately notify the Commonwealth in writing.

10. The Law Firm, by execution of this contract and by the submission of any bills or invoices for payment pursuant to this contract, certifies and represents that it has not violated any of these Integrity Provisions.

11. The Law Firm shall cooperate with the Office of the Inspector General in its investigation of any alleged Commonwealth employee breach of ethical standards and any alleged Law Firm non-compliance with these provisions. The Law Firm shall make identified employees of the Law Firm available for interviews at reasonable times and places. The Law Firm, upon the inquiry or request of the Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to the Law Firm's integrity and compliance with these provisions. Such information may include, but shall not be limited to, the Law Firm's business or financial records, documents or files of any type or form that refer to or concern this contract. The Law Firm shall incorporate this paragraph in any agreement, contract or subcontract it enters into in the course of the performance of this contract/agreement solely for the purpose of obtaining subcontractor compliance with this provision. The incorporation of this provision in a subcontract does not create privity of contract between the Commonwealth and any such subcontractor, and no third party beneficiaries are created thereby.

12. For violation of any of the above provisions, the Commonwealth may terminate this and any other Contract with the Law Firm, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all additional costs and expenses incurred in obtaining another Law Firm to complete performance hereunder, and debar and suspend the Law Firm 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.

APPENDIX G
RESPONSIBILITY PROVISIONS
(December 2020)

1. The Law Firm certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this contract, that neither the Law Firm, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Law Firm cannot so certify, then it shall submit, along with its contract, a written explanation of why the certification cannot be made.

2. The Law Firm also certifies, 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..

3. The Law Firm's obligations pursuant to these provisions are ongoing from and after the effective date of this contract through the termination date of this contract. Accordingly, the Law Firm shall have an obligation to inform the Commonwealth 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 knowledge of the Law Firm, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. The Law Firm shall provide notification within 15 days of the date of suspension or debarment.

4. The failure of the Law Firm to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government constitutes an event of default of this contract with the Commonwealth.

5. The Law Firm shall reimburse the Commonwealth for the reasonable costs of investigation incurred by the Pennsylvania Office of State Inspector General for investigations of the Law Firm's compliance with the terms of this or any other contract between the Law Firm and the Commonwealth, which results in the suspension or debarment of the Law Firm. The costs shall include, but shall not be limited to, salaries of investigators, including overtime, travel, and lodging expenses; and expert witness and documentary fees. The Law Firm shall not be responsible for investigative costs for investigations that do not result in the Law Firm's suspension or debarment.

6. The Law Firm may search the 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.

APPENDIX H
THE AMERICANS WITH DISABILITIES ACT PROVISIONS
(October 2011)

1. Pursuant to federal regulations promulgated under the authority of *The Americans With Disabilities Act*, 28 C.F.R. § 35.101, *et seq.*, the Law Firm understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this contract or from activities provided for under this contract. As a condition of accepting and executing this contract, the Law Firm shall comply with the *General Prohibitions Against Discrimination*, 28 C.F.R. § 35.130, and all other regulations promulgated under Title II of *The Americans With Disabilities Act* that are applicable to all benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.

2. The Law Firm shall be responsible for and shall indemnify the Commonwealth from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth as a result of the Law Firm's failure to comply with the provisions of paragraph 1 of this Appendix.

APPENDIX I
RETENTION GUIDELINES FOR OUTSIDE COUNSEL
(January 2021)

The Office of General Counsel (“OGC”) expects to have a productive, professional, and cost-effective relationship with outside counsel. These guidelines apply to all engagements for services between OGC (and any of its agency offices) and your law firm, regardless of the office from which those legal services are performed. Any exception must be approved in advance by OGC.

I. MATTER MANAGEMENT AND REPORTING

A. The Contract for Legal Services

Your law firm has been retained by OGC to perform legal services as set forth in the Contract for Legal Services. The contract defines the scope of services covered by the matter that is the subject of the contract; a “matter” may consist of a single representation or the provision of legal services in connection with a relatively routine, high volume practice area (e.g., workers’ compensation). The contract identifies the principal OGC in-house attorney responsible for managing the work. For complex litigation matters, a senior-level OGC litigation manager also may be assigned or otherwise involved in the case. For high volume matters, a third party administrator also may have a defined role in managing the work. Outside counsel is expected to keep the responsible OGC attorney(s) informed of all significant developments that arise, as well as seek his or her direction on strategy and tactics.

Throughout the course of your law firm’s representation, the law firm must be mindful of conflict issues and disclose promptly any conflicting representation. The Conflict Waiver Procedure that is a part of the contract sets forth the process for disclosure. Failure to disclose a conflict or undertaking a conflicting representation without obtaining a waiver from the General Counsel is cause for termination of the contract.

B. Effective Utilization of Personnel

OGC generally expects a single outside lawyer to be primarily responsible for each matter. Outside counsel should discuss with OGC the staffing requirements for each matter, including the number of attorneys and staff that may work on the matter. OGC encourage the use of law clerks and paralegals for those aspects of any matter that do not need to be performed by an attorney. Staffing should reflect management practices that are consistent with the delivery of the appropriate level and type of legal services required in order to achieve effective results and resource efficiency.

OGC generally expects one lawyer to attend all relevant depositions, meetings, hearings, trial, and other proceedings. In more complex matters, additional lawyers may be necessary to represent the Commonwealth.

In concert with the Commonwealth’s commitment to workforce diversity, OGC expects each law firm it engages to use its best efforts to: (1) consider persons from diverse backgrounds

for assignment to its OGC engagements; and (2) actively promote full and equal participation of women, racial and ethnic minority groups, and all other persons of diverse backgrounds in the legal profession, as evidenced by the law firm's employment practices.

C. Matter Management, Budget and Reports

OGC expects regular communications with its counsel. The most effective representation results from a true partnership between the OGC lawyer and outside counsel. The law firm must send to OGC an initial report within 45 days of the retention of the law firm's services covering the following areas:

- Management Plan and Budget – The Management Plan and Budget ("Plan") should include an initial assessment of the assigned matter (see below) and a detailed strategy for handling the matter, including the feasibility of employing alternative dispute resolution techniques in litigation matters. The Plan must include an initial budget that estimates the legal fees and other costs to be incurred for the current calendar year as well as projected legal fees and costs for the entire duration of any matter that continues beyond the end of a calendar year. The firm must identify all personnel assigned to the matter, and their respective billing rates. An updated budget and personnel list, on firm stationery, must be submitted at the start of each subsequent calendar year or more frequently if there is a known material variance in the budget. OGC recognizes that it may be difficult at an early stage to project all the resources required for a matter; however, OGC believes that the plan and budget are important management tools.

- Initial Assessment of Litigation Claims¹ – The Initial Assessment must include a detailed description of the claim, applicable defenses, an assessment of potential liability and possible verdict range, any settlement demand by opposing counsel, and estimated trial date/time (if applicable).

The law firm is expected to keep the responsible OGC attorney advised of the status of the matter. In the absence of material developments that require immediate notification, the law firm should submit, at least quarterly, a confidential matter status report that: (1) summarizes developments to date; (2) identifies actions that are planned to be taken in the forthcoming six months; and (3) updates the previously submitted Management Plan and Budget. In those instances where the responsible OGC attorney is not present at a meeting, hearing, deposition or any other relevant event, the law firm must send a prompt report of the event by telephone or electronic mail as directed by the responsible OGC attorney.

¹ If the matter involves litigation of a routine, high volume nature (e.g., workers' compensation), the responsible OGC attorney shall define for the firm the level of reporting required for each individual claim

D. Correspondence and Pleadings²

No significant correspondence or pleading should be sent or filed without prior approval of the responsible OGC attorney. In general, outside counsel should keep the responsible OGC attorney fully informed of all developments on a timely basis and consult with him or her on all matters of strategy, planning and proposed disposition by motion, trial or settlement.

- *Correspondence:* Copies of all correspondence received or sent on OGC's behalf by the law firm to opponents or other third parties should be sent to the responsible OGC attorney.

- *Pleadings:* Copies of all pleadings received or filed on OGC's behalf by the law firm should be sent to the responsible OGC attorney.

The responsible OGC attorney should have the opportunity to discuss the preparation of pleadings with the law firm sufficiently in advance of filing deadlines to determine who will perform the work. The responsible OGC attorney, or her/his designee, may elect to prepare draft answers, motions, request for discovery and other pleadings. In such instances, such items will be forwarded to the law firm either in final form for filing or in draft form, and the law firm are expected to place them in final form in accordance with local rules.

E. Discovery

All discovery, electronic or otherwise, should be coordinated with the responsible OGC attorney.³ Commonwealth personnel are not to be contacted directly without prior approval of the responsible OGC attorney.

OGC may prefer to have someone from its offices present during the preparation for and deposition of Commonwealth personnel. OGC believes its knowledge of the Commonwealth's business can be beneficial to the law firm in preparing the witness and in the course of questioning by opposing parties. The law firm is not permitted to waive the right of Commonwealth personnel to review and sign their depositions and must not enter into any stipulations to the contrary.

All discovery requests should be forwarded to the responsible OGC attorney immediately, indicating the response date. OGC can better assist in preparing responses if outside counsel can, preliminarily, identify objectionable questions and indicate these questions for which information is requested, as well as a recommended approach for completing the response. Outside counsel must consult with the responsible OGC attorney regarding anticipated electronic discovery (e-discovery) requests and use of any e-discovery computer programs, whether owned by the firm or provided by third-party vendors. OGC will not pay for any such programs without advance approval.

² If the matter involves litigation of a routine, high volume nature, the responsible OGC attorney shall define for the firm the level of reporting required for each individual claim

³ If the matter involves litigation of a high volume nature, the responsible OGC attorney shall define for the firm his or her role in coordinating discovery, which may be minimal.

Many internal Commonwealth documents are confidential or protected by privilege. Accordingly, the responsible OGC attorney may require that a Confidentiality Agreement and/or Protective Order be secured to insure that the confidential nature of the information is maintained.

F. Expert Witnesses or Consultants

Where outside counsel determines that an expert witness or a special consultant is necessary for any matter, the responsible OGC attorney must be consulted prior to any engagement, and prior written approval must be obtained. In making such recommendation, outside counsel should provide the responsible OGC attorney with a written description of the study or testimony the expert is expected to provide, the expert's qualifications, the rationale for using an expert in the matter and an estimate of the expert's fees and expenses. As with the law firm's staffing and time on any matter, OGC expects that recommendations concerning the use of expert witnesses and consultants will be at appropriate levels for the risk and exposure involved in the matter.

G. Negotiations, Settlements and Appeals

The decision to try, settle or appeal a case rests solely with OGC. All settlement opportunities and demands must be brought promptly to the attention of the responsible OGC attorney, along with your recommendations. Under no circumstances may the law firm agree to settle any case on the Commonwealth's behalf, enter into a consent decree or stipulation, release any substantial right, or otherwise commit the Commonwealth on any issue without OGC's prior approval.

II. BILLING REQUIREMENTS; OTHER CONSIDERATIONS

A. In General

Billing invoice requirements have been developed to clearly advise the law firm as to how OGC would like the bills submitted. Specific provisions are set forth in the Contract for Legal Services in paragraph 7. These requirements must be followed with respect to all bills unless the responsible OGC attorney has pre-authorized another arrangement.

OGC expects that any firm retained to perform services on behalf of OGC will accomplish its goals and objectives in a manner that maximizes value and minimizes expense without sacrificing quality. Compensation arrangements are set forth in the Contract for Legal Services.

If OGC inadvertently pays an invoice, which on review does not comply with these guidelines, OGC retains the right to obtain reimbursement of the payment.

B. Rates

Unless a different billing arrangement is provided in the Contract for Legal Services, OGC will pay specified hourly rates, as set forth in the contract by attorneys and paralegals.

In matters where fees are based upon hourly rates, actual time in units of 1/10 of an hour is the maximum acceptable time unit to be used in billing. No changes in billing methodology or hourly rates will be made without the express written approval of the General Counsel.

C. Billing Cycle

Bills for legal services should be submitted on a monthly basis, for services through the last day of the month in which services are performed. Departments will use best efforts to make payment on invoices within 45 days of receipt, in final form with requisite documentation.

D. Billing Format

Specific billing instructions are set forth in the Contract for Legal Services in paragraph 7. At a minimum, a copy should be directed to the responsible OGC attorney, and the assigned senior-level OGC litigation manager, where applicable. Invoices should not be sent to the General Counsel.

All billing statements should include:

- Contract number
- Date task performed
- Identification of attorney/paralegal performing the task with full name and title listed on the statement
- Specific task description
- Time being billed per task
- Hourly rate being charged by the attorney/paralegal
- A summary of the total time and amount charged for each attorney/paralegal
- A specific description of all expenses incurred including the rate charged for copying as limited by the Contract for Legal Services. This description of services should be as specific as possible.

E. Disbursements/Expenses

OGC expects the hourly billing rate to include overhead and internal charges associated with the law firm's practice. The law firm shall require written approval by the responsible OGC attorney before incurring any extraordinary or unusual expenses. Functions such as legal research or photocopying must be billed at cost and may not be profit centers.

OGC **will not pay** separate charges for the following expenses:

- Word processing
- Overtime charges (including overtime local transportation and meal charges)
- Secretarial/clerical time or functions such as collating, scheduling, indexing, creating files or typing, opening or closing files, data entry, updating pleading binders or retrieval of documents from files
- File organization
- Basic overhead charges (local telephone charges, local fax charges, ordinary postage, courier services to OGC)
- Books, subscriptions or educational expenses
- Professional association memberships
- Office supplies
- Preparation and review of bills
- Mark-ups for computerized databases (such as Westlaw and Lexis)
- Storage charges
- Re-education of a new attorney if a file is transferred
- Cellular phone charges
- Training on and maintenance of computer systems

OGC **will pay** for the following when incurred specifically for OGC matters:

- Filing fees
- Court reporter fees
- Expert witness fees, if approved in advance by the responsible OGC attorney
- Computerized/database research, if approved in advance by the responsible OGC attorney
- Long distance telephone charges and long distance fax charges
- Air freight/express mail deliveries, where necessary to meet applicable deadlines, or as may otherwise be approved by the responsible OGC attorney**
- Outside photocopying, binding and printing services, if approved in advance by the responsible OGC attorney
- Outside messenger services**

** While OGC may pay for messenger and express service where warranted, as a general matter, OGC encourages use of e-mail and regular U.S. mail service whenever possible.

F. Travel

Reasonable, actual, ordinary, and necessary expenses for travel, meals, and moderately-priced lodging incurred by the law firm to fulfill its obligations under the contract will be permitted as set forth in the Contract for Legal Services. Prior approval is needed for any air travel and only coach air rates will be reimbursed. Prior approval is needed for any overnight stay. Local travel expenses, such as taxis and trains, are reimbursable. Personal auto travel will be reimbursed at the mileage rate authorized by the Commonwealth. The law

firm is expected to expense only reasonable amounts for meals and non-alcoholic beverages. OGC also does not pay for minibar expenses, sundries, in-hotel movies or similar entertainment charges. The law firm shall retain all receipts and shall, upon request of the requisite OGC agency legal office or the Department for whom the work is being performed, provide any necessary documentation.

G. Legal Research

Counsel should know the legal aspects of the Commonwealth's business for which the law firm has been retained, particularly the areas in which the case or transaction arises, and should keep abreast of developments in the law that may impact its OGC engagement. Prior approval for extensive legal research is required. If it is anticipated that more than two hours will be spent on computerized legal research, the law firm must secure the approval of the responsible OGC attorney. OGC should not be charged for routine research on matters of common knowledge among reasonably experienced counsel in the same geographical location. Where circumstances exist that enable the law firm to use its own data or brief banks, OGC should only be charged for updating the previously researched material. OGC expects that paralegals or more junior associates will be used on research matters. All research completed on an OGC matter is the property of OGC and a copy of all significant research projects should be submitted to OGC.

H. Confidentiality and Media Coverage

OGC expects absolute confidentiality regarding legal matters handled by each outside counsel. In addition, no statement may be made to the press or any other media – on or off the record - unless prior express written approval is secured from OGC. Under no circumstances should a law firm use OGC representation in firm promotional or other informational material without the prior approval of OGC.

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APPENDIX J

ENHANCED MINIMUM WAGE PROVISIONS (July 2022)

1. **Enhanced Minimum Wage.** The Law Firm 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, and for an employee's hours performing ancillary services necessary for the performance of the services when such employee spends at least 20% of their time performing ancillary services in a given work week.
2. **Adjustment.** Beginning July 1, 2023, and annually thereafter, the minimum wage rate must 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 applicable adjusted amount will be published in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.
3. **Exceptions.** These Enhanced Minimum Wage Provisions do not apply to employees:
 - a. exempt from the minimum wage under the Minimum Wage Act of 1968;
 - b. covered by a collective bargaining agreement;
 - c. 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
 - d. required to be paid a higher wage under any state or local policy or ordinance.
4. **Notice.** The Law Firm shall post these Enhanced Minimum Wage Provisions for the entire period of the contract conspicuously in easily-accessible and well-lighted places customarily frequented by employees at or near where the services are performed.
5. **Records.** The Law Firm shall maintain and, upon request and within the time periods requested by the Commonwealth, furnish all employment and wage records necessary to document compliance with these Enhanced Minimum Wage Provisions.
6. **Sanctions.** 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.

7. **Subcontractors.** The Law Firm shall include the provisions of these Enhanced Minimum Wage Provisions in every subcontract so that these provisions will be binding upon each subcontractor.

CONTRACTOR RESPONSIBILITY VERIFICATION

Document No. PID/BR-001

BLANK ROME LLP

This contract has been reviewed and the Law Firm has been determined to be responsible in accordance with the procedures outlined in Management Directive 215.9 Amended, dated December 1, 2020.



Designated Senior Manager
NAME OF AGENCY

Date