

STANDARD BLUEBACK CONTRACT  
COMMONWEALTH OF PENNSYLVANIA  
STATE SYSTEM OF HIGHER EDUCATION  
CHEYNEY UNIVERSITY OF PENNSYLVANIA

CONTRACT FOR  
On-Campus Banking Service Center

Contract Inquiry No. 02-003

THIS AGREEMENT, made and entered into this 1<sup>st</sup> day of JULY 2008, between Cheyney University of Pennsylvania of the State System of Higher Education (1837 University Circle, Cheyney, PA 19319), (hereinafter "University," "Commonwealth," or "Agency"),

and

Pennsylvania State Employees Credit Union (PSECU), a corporation, 1 Credit Union Place, Harrisburg, PA 17110-2990, acting through its proper officials, hereinafter referred to as the Contractor, Federal I.D. #23 09611 40.

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

The University desires to obtain an on-campus banking service center from the Contractor.

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

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1. CONTRACTOR DUTIES. The University's Request for Proposal dated August 14, 2007, and the Contractor's Proposal dated October 23, 2007, incorporated hereto shall be made part of this agreement. The Contractor, subject to the terms and conditions set forth, shall perform the following specified duties:

CONTRACTOR:

(a) Contractor will use the guidelines when operating the on-campus banking service center located in the Marcus Foster Student Student-Alumni Center, Room 106, on Cheyney University's main Campus, Cheyney and Creek Roads, Cheyney, PA 19319 as follows:

- 1) Contractor is the exclusive provider of financial services on campus. The facility will operate as an "e-Center" that promotes the Contractor's automated systems and services.
- 2) Hours of Operation will be no greater than 12-hours per week. The Operation will be managed by a Business Advisor. When the University is closed, the e-Center will be closed.
- 3) The business advisor will demonstrate the online banking for new and existing members. Online loan applications are also available. These requests will be accommodated with three PC booths. The e-Center will be constructed with room for expansion if necessary. The Self-Service Telephone and Interactive Voice Response Unit will be available through a telephone bank. Contractor's ATM, located in close proximity to the University Center, will be available for deposits, withdrawals and marketing promotions.
- 4) The facility will have limited counter functions. New member applications will be accepted at the e-Center and the \$6 fee (\$1 entrance fee and \$5 initial share purchase or deposit) for a new account will be waived. No cash or checks will be handled at the e-Center; all deposits will be directed to the ATM. All brochures, applications and literature available in Contractor's lobbies located at other institutions will be available in the e-Center at the University.
- 5) Share and loan applications will be reviewed for completeness and forwarded to the appropriate department for further processing. Special handling for applications will be provided by Contractor.

6) Contractor will provide five (5) one thousand dollar scholarships for a total of \$5,000.00 in scholarship funds to students who are members. Contractor will play an active roll in student orientations

7) The University will provide Contractor with a list of incoming freshmen and new transfer students for marketing purposes 90-days prior to students arriving on campus.

(b) Contractor, at its expense, agrees to obtain all licenses from Federal, State, and local authorities permitting it to carry on its activities hereunder and further agrees that it will, at all times, comply with all Federal, State and Municipal Laws, Regulations, and Ordinances relative to its activities hereunder and all rules and regulations of the Board of Health and Board of Fire Underwriters having jurisdiction over the premise.

(c) Contractor is responsible for any construction and repair of the service center and installation of all computers, furniture, etc. Contractor and University shall mutually agree to the exact date on which construction and installation will begin. If applicable, prevailing wage shall apply. Contractor and University shall mutually agree to the exact date on which the e-Center will be operational and open to students and staff of the University.

(d) Contractor shall provide the following banking services to the University's students, faculty, and staff:

#### Membership

Contractor will waive the \$1 membership/entrance fee for University's new members that respond from membership mailings or from membership taken at Contractor's banking service center.

Contractor will fund the required \$5 minimum balance in Regular Shares for the University's new members that respond from membership mailings or from membership taken at Contractor's banking service center.

#### Services

Contractor will offer faculty, staff, students and alumni the same range of services that it offers its members at the same low costs:

##### a. Checking

1. No minimum balance to earn dividends
2. No Monthly service charge
3. No check writing limits
4. Free PSECU custom checks
5. Free overdraft transfer service
6. Free archiving of cancelled checks
7. Online cleared check images through our online account access
8. Check search capability through our online account access

##### b. ATM / Check card ID card

1. CUS is a trademark of Pennsylvania credit unions that identifies an ATM that will not surcharge a PSECU member even if the ATM is not

owned by PSECU. Over 800 CU\$ surcharge free ATM's including PSECU on campus ATM's

2. Rebate program on foreign ATM surcharges-up to \$4.00 a month
3. Free ATM transactions-up to 15 transactions(withdraws or deposits) per month
4. No account maintenance fees
5. Point of sale purchases at merchants displaying the STAR® or Visa® logos
6. Welcome at merchants accepting VISA debit cards
7. Zero liability for lost or stolen cards

c. Additional Deposit Services

1. Regular Shares
2. Money Market
3. Certificates
4. IR'S
5. Christmas/Vacation Shares
6. Investment Services

d. Auto Loans

1. New and used vehicle purchases
2. Pre-Approved auto drafts
3. Online applications with 30 second responses
4. Apply with Loan by Phone
5. Low interest rates
6. Terms from 24-84 months

e. Home Equity

1. No application fee
2. No Closing costs
3. No Appraisal fee
4. No credit report fee
5. Competitive fixed or variable rate

f. Additional Loan Services

1. Personal service loans
2. Mortgages
3. Convenient electronic debit for fast repayment with direct payment

g. [www.psecu.com](http://www.psecu.com)

1. Online membership applications
2. 30 second responses on loan applications
3. Auto Buying center
4. Financial Calculators
5. CU\$,online deposit service

h. Free online Account Access

1. 24 hour account access with online account access [psecu@home](mailto:psecu@home)
2. Free bill payer; pay up to 80 bills per account
3. View monthly deposits, checks and statement images
4. Reorder Checks
5. Transfer funds

6. View your PSECU account and not PSECU accounts in one place with AccountNET
7. Easy, Secure, Safe

i. PSECU Pocket Teller

1. Wireless internet banking
2. View balances and transactions, transfer funds, pay bills

UNIVERSITY:

(a) University shall provide adequate space for the e-Center on the Main campus, first floor, Room 106 of the Marcus Foster Student-Alumni Center. Such space is provided pursuant to a personal, revocable license only. The license for the building space is not transferable and cannot be assigned or conveyed in any way. The Parties agree that no leasehold or other property interest in the space is created or conferred by this Agreement.

(b) University shall provide all utilities, including water, light, heat and air conditioning. The University shall not be liable for any loss that may result from the interruption or failure of any such utilities or service. In case of an emergency, the University reserves the right to enter Contractor's designated space only to keep Contractor from incurring additional loss caused by fire, water damage, or other unforeseen situations. The University shall notify the Contractor of the emergency prior to such entry if time allows. The Contractor agrees to keep energy consumption at a minimum and will comply with the University efforts regarding energy conservation practices and policies.

(c) University agrees that Contractor retains the right to control the management of the e-Center; provided, however, that under no circumstance shall Contractor, its employees or representatives, tamper with or have any access (other than commercial use) to any other University equipment or facilities without prior written consent from University.

(d) University shall have no responsibility for the security of the e-Center, other than to act in accordance with its customary practices and procedures with respect to the e-Center and its property contained therein, and shall not be responsible for the operation of the e-Center. However, University agrees to contact Contractor if security is breached during hours when e-Center is not open. The University agrees to report the date, time, and manner of any such material breach, the effect of the breach on Contractor, and any specific corrective action the University will be taking in response. Contractor will provide a list of contact names and telephone numbers for this purpose.

(e) The University retains the right to inspect the e-Center at reasonable times to determine compliance with University rules and regulations.

(f) University shall provide a Contractor's marketing brochure and application provided by the Contractor in the orientation package provided to each incoming student.

(g) University shall give permission to Contractor to conduct membership drives for the students and their families, as well as University faculty and staff.

(h) Confidentiality: The University agrees, acknowledges, and recognizes that the Contractor is a highly regulated financial institution under a strict duty of confidentiality with regard to its operations and its member records, specifically any "confidential member information". Confidential member information shall specifically include all non-public member data, account or personal information, such as account numbers, access codes, financial transactions conducted within those accounts. The University will not sell, transfer or share with any third parties any confidential member information which it receives during the ordinary course of conducting business through the Service Center or otherwise, unless it receives prior written consent from Contractor following notice given to Contractor by the University specifying exactly what information is to be shared and with whom it will be shared and the permission to disclose is being requested. Any confidential member information received by the University, or any Contractor-approved recipients, may be used only as is necessary to complete the stated purpose of this Agreement. Notwithstanding anything in this Agreement to the contrary, the rights and responsibilities regarding confidential member information as herein stated shall survive indefinitely the termination of this Agreement unless required by law.

2. TERM OF CONTRACT. The term of the Contract shall commence on the Effective Date (as defined below) and shall end on, June 30, 2013, subject to the other provisions of the Contract.

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

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

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

(a) Notwithstanding anything contained in this Agreement to the contrary, either party (the "Terminating Party") may terminate this contract at any time for any or no reason. The Terminating Party shall send not less than 90 days written notification ("Termination Notice") to the other party indicating the intent to terminate the Agreement.

3. RENEWALS. This agreement may not be renewed.

4. COST OF AGREEMENT. Contractor shall provide in exchange for the on-campus space provided by the University for the e-Center, the following financial support:

(a) Contractor shall pay start-up costs for the equipment and furnishings, including any construction or renovation costs in this provision (the contents of the e-Center shall remain the property of Contractor at all times and shall not be construed as fixtures).

(b) Contractor shall pay, no later than 15 days after the end of each month, for the immediately ended month, the following license fee: One hundred dollars (\$100.00) for each calendar month (or partial month to be prorated). Contractor agrees to pay a late payment penalty of five (5) percent for each payment of license fee that is not paid when due.

(c) Contractor shall pay the University the following cash donations for services set up within one year of the account being opened: New Account \$5.00; Real Estate Equity Loan \$20.00; Auto Loan \$10.00; Check Card \$5.00; Checking \$5.00; Visa \$5.00.

(d) Contractor shall provide five scholarships annually to be administered totally by the University for academic or sports-related needs, each in the amount of \$1,000 to be awarded to five University students who have membership with the Contractor.

(e) Contractor shall pay the salary of the Business Advisor.

5. COMPENSATION/EXPENSES. 15 days after the end of each month, for the immediately ended month License fee shall be due in the Office of Budget. All other payments due will be as directed in c and d above. Contractor will deliver to the Comptroller an itemized statement supporting the calculation for each payment. On request, the Contractor will meet with the Comptroller and review each period statement. Any adjustments will be reflected on the next period statement.

6. INVOICES. Not Applicable to this Agreement.

7. PAYMENT. Not Applicable to this Agreement

8. TAXES. The Commonwealth is exempt from all excise taxes imposed by the Internal Revenue Service and has accordingly registered with the Internal Revenue Service to make tax free purchases under Registration No. 2374001-K. With the exception of purchases of the following items, no exemption certificates are required and none will be issued: undyed diesel fuel, tires, trucks, gas guzzler emergency vehicles and sports fishing equipment. The Commonwealth is also exempt from Pennsylvania state sales tax, local sales tax, public transportation assistance taxes and fees and vehicle rental tax. The Department of Revenue regulations provide that exemption certificates are not required for sales made to governmental entities and none will be issued. Nothing in this paragraph is meant to exempt a construction contractor from the payment of any of these taxes or fees which are required to be paid with respect to the purchase, use, rental, or lease of tangible personal property or taxable services used or transferred in connection with the performance of a construction contract.

9. ASSIGNMENT OF ANTITRUST CLAIMS. The Contractor and the Commonwealth recognize that in actual economic practice, overcharges by the Contractor's suppliers resulting from violations of state or federal antitrust laws are in fact borne by the Commonwealth. As part of the consideration for the award of the Contract, and intending to be legally bound, the Contractor assigns to the Commonwealth all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the products and services which are the subject of the Contract.

10. OWNERSHIP RIGHTS. The Commonwealth shall have unrestricted authority to reproduce, distribute, and use any submitted report, data or material, and any software or modifications and any associated documentation that is designed or developed and delivered to the Commonwealth as part of the performance of the Contract.

11. TERMINATION OF AGREEMENT. The Commonwealth has the right to terminate the Contract for any of the following reasons. Termination shall be effective upon written notice to the Contractor:

(a) Termination for Convenience. The Commonwealth shall have the right to terminate the Contract for its convenience if the Commonwealth determines termination to be in its best interest. The Contractor shall be paid for work satisfactorily completed prior to the effective date of the termination, but in no event shall the Contractor be entitled to recover lost profits.

(b) Non-appropriation. The Commonwealth's obligation to make payments during any Commonwealth fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds. When funds (state and/or federal) are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the Commonwealth shall have the right to terminate the Contract. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under this Contract. Such reimbursement shall not include loss of profit, loss of use of money, or administrative or overhead costs. The reimbursement amount may be paid from any appropriations available for that purpose.

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

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

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

13. CONTRACTOR RESPONSIBILITY.

(a) The Contractor certifies for itself and all its subcontractors, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth, or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid, a written explanation of why such certification cannot be made.

(b) The Contractor also certifies, that as of the date of its execution of this Bid/Contract, it has no tax liabilities or other Commonwealth obligations.

(c) The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.

(d) The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.

(e) The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with terms of the Contract or any other agreement between the Contractor and the Commonwealth which result in the suspension or debarment of the Contractor. Such costs shall include, but not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witnesses and documentary fees. The Contractor shall not be responsible for investigative costs for investigations which do not result in the Contractor's suspension or debarment.

(f) The Contractor may obtain a current list of suspended and debarred Commonwealth Contractors by either searching the internet at <http://www.dgs.state.pa.us/debarment.htm>; or contacting the:

Department of General Services  
Office of Chief Counsel  
603 North Office Building  
Harrisburg, PA 17125

Telephone No. (717) 783-6472; Fax No. (717) 787-9138

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

**Contractor Responsibility Certification**

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

Gregory A. Smith/President *[Signature]*  
Contractor/Vendor Title

4-24-08  
Date



*[Signature]*  
Contractor/Vendor Title

4-24-08  
Date

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

14. CONTRACTOR INTEGRITY.

(a) For purposes of this clause only, the words "confidential information," "consent," "Contractor," "financial interest," and "gratuity" shall have the following definitions:

1) *Confidential information* means information that is not public knowledge, or available to the public on request, disclosure of which would give an unfair, unethical, or illegal advantage to another desiring to contract with the Commonwealth.

2) *Consent* means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this agreement.

3) *Contractor* means the individual or entity that has entered into the Contract with the Commonwealth, including directors, officers, partners, managers, key employees and owners of more than a 5% interest.

4) *Financial Interest* means:

(a) Ownership of more than a 5% interest in any business;

or

(b) Holding a position as an officer, director, trustee, partner, employee, or the like, or holding any position of management.

5) *Gratuity* means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.

(b) The Contractor shall maintain the highest standards of integrity in the performance of the Contract and shall take no action in violation of state or federal laws, regulations, or other requirements that govern contracting with the Commonwealth.

(c) The Contractor shall not disclose to others any confidential information gained by virtue of the Contract.

(d) The Contractor shall not, in connection with this or any other agreement with the Commonwealth, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any officer or employee of the Commonwealth.

(e) The Contractor shall not, in connection with this or any other agreement with the Commonwealth, directly or indirectly, offer, give, or agree to promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer or employee of the Commonwealth.

(f) Except with the consent of the Commonwealth, neither the Contractor nor anyone in privity with him or her shall accept or agree to accept from, or give or agree to give to, any person, any gratuity from any person in connection with the performance of work under the Contract except as provided therein.

(g) Except with the consent of the Commonwealth, the Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project.

(h) The Contractor, upon being informed that any violation of these provisions has occurred or may occur, shall immediately notify the Commonwealth in writing.

(i) The Contractor, by execution of the Contract and by the submission of any bills or invoices for payment pursuant thereto, certifies and represents that he or she has not violated any of these provisions.

(j) The Contractor, upon the inquiry or request of the Inspector General of the Commonwealth or any of that official's agents or representatives, shall provide, or if appropriate, make promptly available for inspection and copying, any information of any type or form deemed relevant by the Inspector General to the Contractor's integrity or responsibility, as those terms are defined by the Commonwealth's statutes, regulations, or management directives. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents and files of any type or form which refers to or concern the Contract. Such information shall be retained by the Contractor for a period of three years beyond the termination of the Contract unless otherwise provided by law.

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

#### 15. AMERICANS WITH DISABILITIES ACT.

(a) Pursuant to Federal Regulations promulgated under the authority of The Americans with Disabilities Act, 28 C.F.R. § 35.101, et seq., the Contractor understands and agrees that it shall not cause any individual with a disability to be excluded from participation in this Contract or from activities provided for under this Contract on the basis of the disability. As a condition of accepting this Contract, the Contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. §35.130, and all other regulations promulgated under Title II of The American with Disabilities Act which are applicable to all benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.

(b) The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from all losses, damages, expenses, claims, demands, suits and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Contractor's failure to comply with the provisions of subparagraph (a) above.

16. ASSIGNABILITY AND SUBCONTRACTING.

- (a) Subject to the terms and conditions of Paragraph 21, this Contract shall be binding upon the parties and their respective successors and assigns.
- (b) The Contractor shall not subcontract with any person or entity to perform all or any part of the work to be performed under this Contract without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.
- (c) The Contractor may not assign, in whole or in part, this Contract or its rights, duties, obligations, or responsibilities hereunder without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.
- (d) Notwithstanding the foregoing, the Contractor may, without the consent of the Contracting Officer, assign its rights to payment to be received under the Contract, provided that the Contractor provides written notice of such assignment to the Contracting Officer together with a written acknowledgement from the assignee that any such payments are subject to all the terms and conditions of the Contract.
- (e) For the purposes of this Contract, the term "assign" shall include, but shall not be limited to, the sale, gift, assignment, pledge, or other transfer of any ownership interest in the Contractor, provided, however, that the term shall not apply to the sale or other transfer of stock of a publicly traded company.
- (f) Any assignment consented to by the Contracting Officer shall be evidenced by a written assignment agreement executed by the Contractor and its assignee in which the assignee agrees to be legally bound by all of the terms and conditions of the Contract and to assume the duties, obligations, and responsibilities being assigned.
- (g) A change of name by the Contractor, following which the Contractor's federal identification number remains unchanged, shall not be considered to be an assignment hereunder. The Contractor shall give the Contracting Officer written notice of any such change of name.

17. NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE.

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

- (a) In the hiring of any employees for the manufacture of supplies, performance of work, or any other activity required under the Contract or any subcontract, the Contractor, subcontractor or any person acting on behalf of the Contractor or subcontractor shall not by reason of gender, race, creed, color discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- (b) Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work or any other activity required under the Contract on account of gender, race, creed, color.

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

(d) The Contractor shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the contract relates.

(e) The Contractor and each subcontractor shall furnish all necessary employment documents and records to and permit access to its books, records, and accounts by the Contracting Officer and the Department of General Services' Bureau of Contract Administration and Business Development for purposes of investigation to ascertain compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause. If the Contractor or any subcontractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the Contracting Officer or the Bureau of Contract Administration and Business Development.

(f) The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that such provisions will be binding upon each subcontractor.

(g) The Commonwealth may cancel or terminate the Contract, and all money due or to become due under the Contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

18. **FORCE MAJEURE.** Neither party will incur any liability to the other if its performance of any obligation under this Contract is prevented or delayed by causes beyond its control and without the fault or negligence of either party. Causes beyond a party's control may include, but are not limited to, acts of God or war, changes in controlling law, regulations, orders or the requirements of any governmental entity, severe weather conditions, civil disorders, natural disasters, fire, epidemics and quarantines, general strikes throughout the trade, and freight embargoes.

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

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

19. DEFAULT.

(a) The Commonwealth may, subject to the provisions of Paragraph 18, Force Majeure, and in addition to its other rights under the Contract, declare the Contractor in default by written notice thereof to the Contractor, and terminate (as provided in Paragraph 11, Termination of Agreement) the whole or any part of this Contract for any of the following reasons:

- 1) Failure to begin work within the time specified in the Contract or as otherwise specified;
- 2) Failure to perform the work with sufficient labor, equipment, or material to insure the completion of the specified work in accordance with the Contract terms;
- 3) Unsatisfactory performance of the work;
- 4) Failure or refusal to remove material, or remove and replace any work rejected as defective or unsatisfactory;
- 5) Discontinuance of work without approval;
- 6) Failure to resume work, which has been discontinued, within a reasonable time after notice to do so;
- 7) Insolvency or bankruptcy;
- 8) Assignment made for the benefit of creditors;
- 9) Failure or refusal within 10 days after written notice by the Contracting Officer, to make payment or show cause why payment should not be made, of any amounts due for materials furnished, labor supplied or performed, for equipment rentals, or for utility services rendered;
- 10) Failure to protect, to repair, or to make good any damage or injury to property; or
- 11) Breach of any provision of this Contract.

(b) In the event that the Commonwealth terminates this Contract in whole or in part as provided in Subparagraph (a) above, the Commonwealth may procure, upon such terms and in such manner as it determines, services similar or identical to those so terminated, and the Contractor shall be liable to the Commonwealth for any reasonable excess costs for such similar or identical services included within the terminated part of the Contract.

(c) If the Contract is terminated as provided in Subparagraph (a) above, the Commonwealth, in addition to any other rights provided in this paragraph, may require the Contractor to transfer title and deliver immediately to the Commonwealth in the manner and to the extent directed by the Issuing Office, such partially completed work, including, where applicable, reports, working papers, and other documentation, as the Contractor has specifically produced or specifically acquired for the performance of such part of the Contract as has been terminated. Except as provided below, payment for completed work accepted by the Commonwealth shall be at the Contract price. Except as provided below, payment for partially completed work including, where applicable, reports and working papers, delivered to and accepted by the Commonwealth shall be in an amount agreed upon by the Contractor and Contracting

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

(d) The rights and remedies of the Commonwealth provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

(e) The Commonwealth's failure to exercise any rights or remedies provided in this paragraph shall not be construed to be a waiver by the Commonwealth of its rights and remedies in regard to the event of default or any succeeding event of default.

(f) Following exhaustion of the Contractor's administrative remedies as set forth in Paragraph 21, the Contractor's exclusive remedy shall be to seek damages in the Board of Claims.

20. HOLD HARMLESS PROVISION. The Contractor shall hold the Commonwealth harmless from and indemnify the Commonwealth against any and all claims, demands and actions based upon or arising out of any activities performed by the Contractor and its employees and agents under this Contract and shall, at the request of the Commonwealth, defend any and all actions brought against the Commonwealth based upon any such claims or demands.

21. CONTRACT CONTROVERSIES. In the event of a controversy or claim arising from the Contract, the Contractor must, within six months after the cause of action accrues, file a written notice of controversy or claim with the Contracting Officer for a determination. The Contracting Officer shall send his/her written determination to the Contractor. The decision of the Contracting Officer shall be final and conclusive unless, within thirty (30) days after receipt of such written determination, the Contractor files a claim with the Commonwealth Board of Claims. Pending a final judicial resolution of a controversy or claim, the Contractor shall proceed diligently with the performance of the Contract in a manner consistent with the interpretation of the Contracting Officer and the Commonwealth shall compensate the Contractor pursuant to the terms of the Contract.

22. AMENDMENTS. This Agreement represents the complete agreement between the parties, superseding any other prior or contemporaneous written or oral agreements. Any changes, corrections or additions to this Agreement shall be in writing in the form of a supplemental agreement signed by all necessary parties and setting forth therein the proposed change, correction or addition.

23. SEVERABILITY. Should any term of this Contract be rendered unlawful by a court of competent jurisdiction or any legislative act, then the parties shall give effect to the balance of the agreement to the extent possible.

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

25. INDEPENDENT CONTRACTOR. In performing the services required by the Contract, the Contractor will act as an independent Contractor and not as an employee or agent of the Commonwealth.

26. POST-CONSUMER RECYCLED CONTENT. Except as specifically waived by the Department of General Services in writing, any products which are provided to the Commonwealth as a part of the performance of the Contract must meet the minimum percentage levels for the total recycled content as specified in Exhibits A-1 through A-3 to this Contract.

27. ENVIRONMENTAL PROVISIONS. In the performance of the Contract, the Contractor shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations.

28. HAZARDOUS SUBSTANCES. The Contractor shall provide information to the Commonwealth about the identity and hazards of hazardous substances supplied or used by the Contractor in the performance of the Contract. The Contractor must comply with Act 159 of October 5, 1984, known as the "Worker and Community Right to Know Act" (the "Act") and the regulations promulgated pursuant thereto at 4 Pa. Code § 301.1 et seq.

(a) Labeling. The Contractor shall insure that each individual product (as well as the carton, container or package in which the product is shipped) of any of the following substances (as defined by the Act and the regulations) supplied by the Contractor is clearly labeled, tagged or marked with the information listed in Paragraph (1) through (4) below:

1) Hazardous substances:

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

2) Hazardous mixtures:

- a) The common name, but if none exists, then the trade name,
- b) The chemical or common name of special hazardous substances comprising .01% or more of the mixture,
- c) The chemical or common name of hazardous substances consisting of 1.0% or more of the mixture,
- d) A hazard warning, and
- e) The name, address, and telephone number of the manufacturer.

3) Single Chemicals:

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

4) Chemical Mixtures:

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

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

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

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

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

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

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

29. WARRANTY. The Contractor warrants that all services performed by the Contractor, its agents and subcontractors shall be free and clear of any defects in workmanship or materials. Unless otherwise stated in the Contract, all services and parts are warranted for a period of one year following completion of performance by the Contractor and acceptance by the Commonwealth. The Contractor shall correct any problem with the service and/or replace any defective part with a part of equivalent or superior quality without any additional cost to the Commonwealth.

30. COMPLIANCE WITH LAW. The Contractor shall comply with all applicable federal and state laws and regulations and local ordinances in the performance of the Contract.

31. INTEGRATION. The Contract including all referenced documents, constitutes the entire agreement between the parties. No agent, representative, employee or officer of either the Commonwealth or the Contractor has the authority to make, or has made, any statement, agreement or representation, oral or written, in connection with the Contract, which in any way can be deemed to modify, add to and detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, shall be permitted to

modify or contradict any of the terms and conditions of the Contract. No modifications, alterations, changes, or waiver to the Contract or any of its terms shall be valid or binding unless accomplished by a written amendment signed by both parties. All such amendments shall be made using the appropriate Commonwealth form.

**32. PATENT, COPYRIGHT AND TRADEMARK INDEMNITY.** The Contractor warrants that it is the sole owner or author of, or has entered into a suitable legal agreement concerning either: a) the design of any product or process provided or used in the performance of the Contract which is covered by a patent, copyright, or trademark registration or other right duly authorized by state or federal law or b) any copyrighted matter in any report document or other material provided to the Commonwealth under the Contract. The Contractor shall defend any suit or proceeding brought against the Commonwealth on account of any alleged patent, copyright or trademark infringement in the United States of any of the products provided or used in the performance of the Contract. This is under the condition that the Commonwealth shall provide prompt notification in writing of such suit or proceedings; full right, authorization and opportunity to conduct the defense thereof; and full information and all reasonable cooperation in the defense of same. As principles of governmental or public law are involved, the Commonwealth may participate in or choose to conduct, in its sole discretion, the defense of any such action. If information and assistance are furnished by the Commonwealth at the Contractor's written request, it shall be at the Contractor's expense, but the responsibility for such expense shall be only that within the Contractor's authorization.

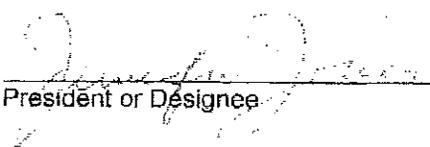
The Contractor shall indemnify and hold the Commonwealth harmless from all damages, costs, and expenses, including attorney's fees that the Contractor or the Commonwealth may pay or incur by reason of any infringement or violation of the rights occurring to any holder of copyright, trademark, or patent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

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

PENNSYLVANIA STATE EMPLOYEE  
CREDIT UNION

CHEYNEY UNIVERSITY OF  
PENNSYLVANIA

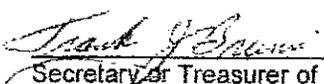
\_\_\_\_\_  
Individual or Partner (if Contract  
Is an individual or partnership)

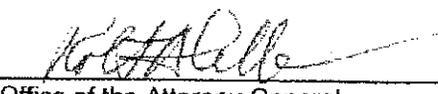
  
\_\_\_\_\_  
President or Designee

  
\_\_\_\_\_  
President or Vice President of  
Corporate Contractor  
(Circle Title)

APPROVED AS TO FORM AND  
LEGALITY

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

  
\_\_\_\_\_  
Secretary or Treasurer of Corporate  
Contractor  
(Circle Title)

  
\_\_\_\_\_  
Office of the Attorney General

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

OF CONTRACT

JUN 10 2008

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