

CONTRACT FOR LEGAL SERVICES

THIS AGREEMENT, effective the 1st day of December, 2015 by and between the law firm of BuckleySandler LLP, hereinafter called "Firm," and the Office of Attorney General of the Commonwealth of Pennsylvania, hereinafter called the "OAG,"

Whereas, the OAG requires professional and specialized legal services in matters described in this Agreement; and

Whereas, the Firm is qualified and has agreed to perform such professional and specialized legal services;

Whereas, given the urgency of need for these legal services and the high degree of specialized expertise necessary, it is appropriate to proceed with this Agreement; and

NOW, THEREFORE, the OAG and the Firm, with the intention of being legally bound hereby, agree as follows:

1. **Services:** The Firm shall perform the services described in this Agreement and in Appendix A to this Agreement and otherwise shall comply with the provisions of this Agreement and the provisions of Appendices B through E of this Agreement.

2. **Compensation:** The Firm shall be compensated for its services in accordance with the provisions of Appendix B of this Agreement.

3. **Term of Agreement:** The term of this Agreement shall be from the effective date above through the conclusion of the work as set forth in Appendix A. The OAG shall not be liable to pay the Firm for any services or work performed or expenses incurred before the effective date of this Agreement or after its termination.

4. **Control and Management of the Matter:**

(a) The Firm shall perform the services described in this Agreement at such times and in such sequence as may be reasonably directed by the OAG and in compliance with any deadlines set by any court and by any applicable rules.

(b) All press and other media inquiries received by the Firm concerning the Matter shall be referred to the OAG for response.

5. **Records:**

(a) The Firm shall maintain and preserve all data, records and other information pertaining to expenses for a period of three (3) years after the date of final payment to the Firm, and during that period shall produce, upon request of the OAG, all data, records and other evidence pertaining to expenses incurred by the Firm in connection with this Agreement for the purpose of an audit or other examination.

(b) The Firm agrees to maintain contemporaneous time and expense records in a

form acceptable to the OAG.

- (c) The Firm shall submit a monthly statement to the OAG setting forth for that period a description of the services performed, the time spent in performance of the services, and all disbursements. The Firm may redact information from its monthly statements as necessary to protect the independence of its investigation.
- (d) The Firm shall prepare and provide a final accounting of all disbursements at the conclusion of the Matter, including all appeals, in a form acceptable to the OAG.

6. **Conflicts:** The Firm is engaged by the OAG, and will work primarily on the matters set out in Appendix A and not represent the Commonwealth generally or its agencies. The Firm has performed a detailed conflict of interest check prior to performing any services, and on or before the effective date of this Agreement, shall have reported the results to the OAG, which shall have determined that there is no conflict of interest that will materially affect the Firm's duties or obligations to the OAG. During the course of this Agreement, the Firm shall not undertake to represent any other client if such representation will materially affect its duties or obligations. It is understood that, by entering into this Agreement, the Firm shall not automatically be disqualified from representing other clients in unrelated litigation and other matters in which OAG is a party and the OAG has no objection based on any actual or potential conflict of interest in such matters as long as those other engagements are not the same or substantially related to the Firm's services under this Agreement. The Firm shall notify the OAG of any proposed or current representation of another client which is adverse to the OAG and might involve the same or a substantially related matter to the services provided by the Firm under this Agreement so that the OAG can assess the circumstances to make a conflict determination. Where there is a disagreement between the parties to this Agreement as to whether or not the Firm has or may in the foreseeable future have a conflict of interest based on the same or a substantially related matter, the OAG's determination shall be final and dispositive of the issue. Where the OAG determines that the Firm's representation of any client constitutes a conflict of interest because it involves the same or a substantially related matter, the Firm shall, within five days of receiving notice from the OAG of such conflict, withdraw from the representation of the client, unless such a withdrawal is barred by law, order of a court of competent jurisdiction, the applicable Rules of Professional Conduct, or the OAG waives such conflict.

7. **Contract Changes:** Any modification or change to this Agreement shall be incorporated in a written amendment to this Agreement signed by both parties and executed in the same manner as this original Agreement and in accordance with applicable law.

8. **Insurance:** The Firm warrants that it carries malpractice insurance in the amount usual and customary for firms of their size and practice areas, subject to normal deductibles.

9. **Employment Status with OAG:**

- (a) Services rendered pursuant to this Agreement are not rendered as an employee of the OAG, Commonwealth of Pennsylvania, and amounts paid pursuant to this Agreement do not constitute compensation or wages paid to an employee.
- (b) The Firm is an independent contractor. The OAG assumes no liability for actions of the Firm under this Agreement.

10. Subcontracting: Subcontracting, assignment, or transfer of all or part of the interest of the Firm in this Agreement or in the services provided for by this Agreement is prohibited without the prior written approval of the OAG.

11. Indemnity: The Firm shall indemnify and defend the OAG from and against any and all claims, demands, actions, liabilities, losses, costs, and expenses, including but not limited to reasonable attorneys' and other fees, asserted by third parties ("Claims"), which Claims are caused by or arise from injuries or damages sustained by such third parties resulting or arising from negligent act or omission or intentionally wrongful act of the Firm or any of its officers, agents, employees and/or representatives in relation to professional services provided pursuant to Appendix A. This indemnity provision shall not apply to Claims for which payment is available under the Firm's professional liability insurance policies. The indemnity obligation set forth in this paragraph only arises after a final adjudication of liability or an agreement to settle a claim covered by this indemnity provision.

12. Termination: Notwithstanding any contrary provision in this Agreement, this Agreement may be terminated by the OAG for good cause upon written notice to the Firm. If the OAG elects to terminate for good cause, the Firm shall be entitled to reimbursement for any approved expenses prior to the date of termination.

13. Termination by the Firm: The Firm may withdraw from this Agreement for any reason with the consent of the OAG or, without the consent of the OAG, for nonpayment of an invoice more than 45 days after submission of an invoice or as required by the rules of professional responsibility. However, in the event of a lack of appropriation, the OAG shall be excused from timely payment. Any such withdrawal must comply with the ethics standards applicable to the practice of law. The OAG's consent to withdrawal shall not be withheld unreasonably.

14. Nondiscrimination: The Firm shall comply with all applicable provisions of state and federal constitutions, laws, regulations and judicial orders pertaining to nondiscrimination and equal employment opportunity, including the provisions of the Nondiscrimination Clause, which is attached hereto as Appendix C and incorporated by reference.

15. Contractor Integrity Provisions: The Firm agrees to comply with the Contractor Integrity Provisions which are attached hereto as Appendix D and incorporated by reference.

16. Audit Provisions: The OAG shall have the right, at reasonable times and at a site designated by the OAG, to audit the books, documents, and records of the Firm to the extent that the books, documents, and records relate to costs or pricing data for this Agreement. The Firm agrees to maintain records that will support the prices charged and costs incurred for this Agreement.

The Firm shall preserve books, documents, and records that relate to costs or pricing data for this Agreement for a period of three years from date of final payment. The Firm shall give full and free access to all records to the OAG and/or its authorized representatives. All such information shall be maintained as confidential and not disclosed by the OAG to any other party without the prior written consent of the Firm.

17. Campaign Contributions: The Firm is prohibited from making campaign contributions to the Attorney General during the term of this Agreement.

18. **Dispute Resolution:** Any dispute arising out of, in connection with, or in relation to the interpretation, performance or breach of this Agreement, shall be resolved as provided pursuant to article 77 P.S. 4651-1.

19. **Attorney-Client Privilege:** Nothing in this Agreement shall be construed to require the Firm or any member thereof to violate the attorney-client privilege or Rule 1.8 of the Pennsylvania Rules of Professional Responsibility.

20. **Applicable Law:** The Agreement and the Firm's obligations and services hereunder are hereby made and must be performed in compliance with all applicable federal and state laws. This Agreement shall be construed in accordance with the laws of the Commonwealth of Pennsylvania in regard to venue, jurisdiction and substantive law.

IN WITNESS WHEREOF, the Office of Attorney General of the Commonwealth of Pennsylvania and the law firm of BuckleySandler LLP, have caused this Agreement to be executed.

OFFICE OF ATTORNEY GENERAL OF
THE COMMONWEALTH OF
PENNSYLVANIA

By: Kathleen F. Kane
Kathleen F. Kane

Title: Attorney General

Date: Dec. 8, 2015

OFFICE OF ATTORNEY GENERAL OF
THE COMMONWEALTH OF
PENNSYLVANIA

By: Shari L. McCreaw
Shari L. McCreaw MBE, SMPS

Title: Director of Management Services

Date: December 8, 2015

BUCKLEYSANDLER LLP

By: Byron B. Kelly

Title: Co-Managing Partner

Date: 12/8/15

V# 508428

Approved as to form and legality:

By: RITA R. A.
Office of Attorney General

Date: 12/9/15

I hereby certify that funds in the amount of \$750,000.00
are available under expenditure symbol:
1006300000-2015-1411001119-6342100

Doreen Ottobene
Comptroller Section

12/10/15
Date

APPENDIX A

DESCRIPTION OF SERVICES

1. The services referenced herein shall consist of the following:

Provide legal services in support of investigative and prosecutorial work as set forth in paragraphs 1 and 2 below.

1. ... conducting an independent investigation and prosecution of any crimes under the Pennsylvania Crimes Code arising from or related to the use of Commonwealth e-mail communications systems reflected in the tens of thousands of e-mails, including those that Attorney General Kathleen G. Kane provided to Supreme Court Chief Justice Ronald D. Castille on October 8, 2014, relating to matters including, but not limited to, improper disclosure of criminal investigative or grand jury matters and the viewing or transmission of sexually explicit, racially or otherwise discriminatory or illegal materials by any current or former member of the Office of Attorney General, any member of the Judiciary of the Commonwealth of Pennsylvania and other public officials, or other related acts that may include evidence of improper collusion, lack of impartiality and independence, or obstruction of court proceedings or other government functions

Powers of [Attorney General's Appointee]

2. Pursuant to Sections 205 and 206 of the Commonwealth Attorneys Act, [the Attorney General's Appointee] shall have all the investigative and prosecutorial powers to investigate the matters described above and prosecute any crimes under the Pennsylvania Crimes Code related to or arising therefrom the powers that the Attorney General possesses, including, but are not limited to:
 - a. Conducting proceedings before grand juries and other investigations;
 - b. Participating in court proceedings and engaging in any litigation, including civil and criminal matters;

- c. Appealing any decision of a court in any case or proceeding in which the [Appointee] participates in an official capacity;
- d. Reviewing all documentary evidence available from any source;
- e. Determining whether to contest the assertion of any testimonial privilege;
- f. Receiving appropriate security clearances and, if necessary, contesting in court, including, where appropriate, participating in an in camera proceeding, any claim of privilege or attempt to withhold evidence on grounds of security;
- g. Making applications to any State court for a grant of immunity to any witness, consistent with applicable statutory requirements, or for warrants, subpoenas or other court orders and exercising the authority vested in the Attorney General or a district attorney;
- h. Inspecting, obtaining or using the original or a copy of any tax return in accordance with applicable statutes and regulations; and

Initiating and conducting prosecutions in any court of competent jurisdiction, framing and signing indictments, filing information and handling all aspects of any case in the name of the Commonwealth.

APPENDIX B

FEE STRUCTURE AND EXPENSES

1. The Firm shall submit monthly invoices to the OAG for services performed to the following person:

Shari McGraw MBE, SPHR
Director of Management Services
14th Floor
Strawberry Square
Harrisburg, Pennsylvania 17120

2. The OAG shall make best efforts to make payments on the invoices within 30 days.
3. The Firm's costs, expenses and compensation are to include the following:

- (a) Reasonable costs incurred in the course of performing the services as assigned under this Agreement shall be reimbursed.
- (b) Reasonable expenses for travel, meals and lodging, incurred by the Firm to fulfill the Firm's obligations under this Agreement.
- (c) When Court Reporters are required to be used by the Firm, it shall order the court reporting services from the list of Court Reporters maintained by the Department of General Services.
- (d) The Firm shall be compensated at a 15% discount from the 2013 normal hourly rate of its partners, counsel and associates. With respect to this matter, the following attorneys are anticipated to work on this matter at the following hourly rates:

Benjamin B. Klubes	\$880
Caitlin Kasmar	\$740
Antonio Reynolds	\$685
Elizabeth R. Bailey	\$480
Leah Kuo	\$205

- (e) Other attorneys at the Firm may work on the matter at the discretion of the Special Deputy Attorney General.

APPENDIX C

NONDISCRIMINATION CLAUSE/SEXUAL HARASSMENT CLAUSE

During the term of this Contract, the Firm agrees as follows:

1. In the hiring of any employees for the manufacture of supplies, performance of work, or any other activity required under this Contract or any subcontract, the Firm, subcontractor, or any person acting on behalf of the Firm or subcontractor, shall not, by reason of gender, race, creed, or color, discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
2. Neither the Firm 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 this Contract on account of gender, race, creed, or color.
3. The Firm and each subcontractor 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.
4. The Firm and each subcontractor 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 this Contract related.
5. The Firm and each subcontractor shall, within the time periods requested by the OAG, furnish all necessary employment documents and records to and permit access to its books, records, and accounts by the OAG or the Department of General Services, Bureau of Small Business Opportunities, for purposes of investigation to ascertain compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause. If the Firm or subcontractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the OAG or the Department of General Services, Bureau of Small Business Operations.
6. The Firm shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract relating to this Agreement so that those provisions applicable to subcontractors will be binding upon each subcontractor.
7. The OAG may cancel or terminate this Contract, and all money due or to become due under this Contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause.

APPENDIX D
INTEGRITY PROVISIONS

1. For purposes of these Integrity Provisions, the words "confidential information," "consent," "financial interest," "gratuity," and "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 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 Contractor; or (5) has not been independently developed by the 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 shall be deemed to have consented by virtue of execution of this Contract.

c. "Financial Interest" means:

(1) ownership of more than 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), shall apply.

e. "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 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 Firm or that govern contracting with the Commonwealth.

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

4. The 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 Firm's employee activity with the Commonwealth and Commonwealth employees, and which is distributed and made known to all employees of the Firm.

5. The Firm, its affiliates, agents and employees and anyone in privity with the 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 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 Firm's financial interest prior to Commonwealth execution of the contract. The 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 Firm's submission of the contract signed by the Firm.

7. The Firm certifies to the best of its knowledge and belief that within the last five (5) years that it, its officers, and its affiliates have not:

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

b. been suspended, disbarred 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 self-dealing; 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 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 Firm. The Firm's obligation pursuant to this certification is ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the 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 Firm's certification or explanation to change. The Firm acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause if it learns that any of the certifications made herein are currently false due to intervening factual circumstances or were false or should have been known to be false when entering into the contract.

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

9. When the 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 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 thereto, certifies and represents that it has not violated any of these Integrity

Provisions.

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

12. For violation of any of the above provisions, the Commonwealth may terminate this and any other Contract with the 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 Firm to complete performance hereunder, and debar and suspend the 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 of the Commonwealth may have under law, statute, regulation or otherwise.

APPENDIX E
RESPONSIBILITY PROVISIONS

1. The Firm certifies, for itself and all its subcontractors related to the Agreement, that as of the date of its execution of this Contract, that neither the Firm, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Firm cannot so certify, then it agrees to submit, along with its Contract, a written explanation of why such certification cannot be made.
2. The Firm also certifies, that as of the date of its execution of this Contract, it has no tax liabilities or other Commonwealth obligations.
3. The Firm's obligations pursuant to these provisions are ongoing from and after the effective date of this Contract through the termination date thereof. Accordingly, the 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 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.
4. The failure of the Firm 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 this Contract with the Commonwealth.
5. The Firm agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Pennsylvania Office of Inspector General for investigations of the Firm's compliance with the terms of this Contract between the Firm and the Commonwealth, which result in the suspension or debarment of the Firm. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime, travel, and lodging expenses; and expert witness and documentary fees. The Firm shall not be responsible for investigative costs for investigations that do not result in the Firm's suspension or debarment.
6. The Firm may obtain a current list of suspended and debarred Commonwealth contractors either by searching the Internet at www.dgs.state.pa.us, or by contacting the:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, Pennsylvania 17125
Phone: (717) 783-6472
Fax: (717) 787-9138