

**SERVICE PROVIDER SUBCONTRACT**

THIS AGREEMENT made as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between

\_\_\_\_\_, a \_\_\_\_\_  
(Contractor's name) (State)

\_\_\_\_\_, having its registered office at  
(Corporation, limited liability company,  
sole proprietorship, other)(Choose one)

\_\_\_\_\_  
(Address)  
(hereinafter referred to as "Contractor").

**AND**

\_\_\_\_\_, a \_\_\_\_\_  
(Subcontractor's name) (State)

\_\_\_\_\_, having its registered office at  
(Corporation, limited liability company,  
sole proprietorship, other)(Choose one)

\_\_\_\_\_  
(Address)  
(hereinafter referred to as "Subcontractor").

**WITNESSETH**

WHEREAS, Subcontractor desires to render services to Contractor on the terms provided in this Agreement (this "Agreement");

NOW, THEREFORE, the parties hereto, intending to be legally bound, hereby agrees as follows:

**1. JOB ORDERS TO WHICH THIS AGREEMENT APPLIES**

Subcontractor and Contractor acknowledge and agree that from time to time, pursuant to a contract between Contractor and Philadelphia Corporation for Aging ("PCA") ("PCA Contract"), Subcontractor may be asked to do work under job orders given to Contractor by PCA. The parties agree that this Agreement and all of the terms and conditions set forth hereafter in this Agreement, shall be applicable to all job orders given to Subcontractor by Contractor under the PCA Contract. If Contractor intends to engage the services of Subcontractor on such a project, then Contractor shall provide to Subcontractor a written statement, which Subcontractor shall sign, setting forth the job

order, and that it is given pursuant to the PCA Contract, and specifically setting forth the description of the real estate to which the work under that job order applies, as well as any other specific terms and conditions which may be applicable to the engagement of Subcontractor by Contractor under that job order, such as the price and the time of the work.

## 2. **WAIVER OF MECHANICS' LIEN**

Subcontractor hereby waives any rights that it has, or may have, now or in the future, to file mechanics' liens in connection with any labor done and/or material supplied to or for Contractor in connection with any work performed under Contractor's job order under the PCA Contract, which job order is subjected to the terms of this Agreement pursuant to Paragraph 1 above. Subcontractor agrees not to file or send any such lien, or notice of intention to file any such lien, and shall indemnify and hold harmless, in accordance with Paragraph 5 below, not only PCA, but also Contractor and the owner of the property which is the subject of the applicable work order and against which Subcontractor in fact files a lien or sends a notice of intention to lien.

## 3. **CONFIDENTIALITY**

a. **Confidentiality of Consumer Information.** In the course of performing its services under this Agreement, Subcontractor (called for purposes of this Paragraph 3, "Provider") may be required to use, create, receive, disclose or maintain personal information about PCA consumers, including information relating to the consumer's finances, family contacts and health care. For purposes of this Agreement, "Consumer" shall mean the intended occupant of the real estate which is the subject of the applicable job order, whether or not that person is the owner. All such individually identifiable information ("Confidential Consumer Information"), whether or not in written or documented form, including but not limited to the consumer's name, birth date, social security number and other identification numbers, bank account information, medical status, prognosis, provider of service, service date, diagnosis code and certain claims payment information, shall be used and disclosed only as needed to provide the services under this Agreement and subject to the terms and conditions of these Confidentiality Provisions.

b. **Definition of Protected Health Information.** Provider may be required to use, create, receive, disclose or maintain health care information about a PCA consumer in connection with a program that is subject to the Health Insurance Portability and Accountability Act of 1996 and the regulations published thereunder relating to the electronic transaction standardization, privacy and security of individually identifiable health information ("HIPAA"). Such individually identifiable health information ("Protected Health Information") may include the name, birth date, identification number, medical condition status, prognosis, provider of service, service date, diagnosis code and certain claims payment information.

c. **PCA Business Information.** In connection with the services to be provided to Contractor by Provider, PCA or Contractor may disclose to Provider and/or give Provider access to, information that is of a confidential and proprietary nature ("Proprietary Information"). Proprietary information shall include, but not be limited to,

marketing data and strategies, financial information, and other information whether or not in written or documented form, that is not generally known to the public, that relates to PCA's anticipated or existing business, products, operations, or customers, and that has been expressly or implicitly protected from unrestricted use by persons not associated with PCA. Provider and its employees and agents shall at all times, both during the term of this Agreement and after its termination, keep in trust and confidence and not disclose Proprietary Information and shall not use such information other than in the course of Provider's duties under this Agreement.

d. Confidential Information. For purposes of this Agreement, Confidential Information shall include Confidential Consumer Information, Protected Health Information, Proprietary Information and any individually identifiable information about a PCA consumer.

1. Provider agrees to protect all Confidential Information that comes into its possession from unauthorized use or disclosure.
2. Provider shall take reasonable steps to ensure that such Confidential Information is used solely and exclusively to perform the services under this Agreement ("Identified Purposes") or as required by law.
3. Provider shall restrict access to Confidential Information to those employees whose access is reasonably necessary to fulfill the Identified Purposes. Employees shall only be provided the minimum necessary information required for the Identified Purposes.
4. Provider shall maintain the confidentiality of Confidential Information pursuant to the terms of the Agreement, any applicable Pennsylvania Department of Public Welfare ("DPW") or Department of Aging ("PDA") agreement, guidance or regulation and in accordance with any applicable state and federal laws and regulations.
5. Provider agrees to mitigate, to the extent practicable, any harmful effect that is known to Provider of a use or disclosure of Confidential Information in violation of the terms of these confidentiality provisions.
6. Provider shall take reasonable measures to secure all Confidential Consumer Information and protect its integrity. All electronic Protected Health Information shall be maintained in accordance with the HIPAA Security Rule. In the event there is an unpermitted or unauthorized disclosure of Protected Health Information (a "security incident") in the possession or control of Provider, Provider shall notify the PCA Privacy Officer of the

security incident in writing (by email or letter) immediately upon discovery. The parties shall coordinate on the investigation of the incident and any necessary risk mitigation steps. Provider shall promptly provide sufficient details regarding the incident to allow PCA and Provider to investigate and assess whether the incident constitutes a breach for which notice must be provided to any individual, government agency or the media under HIPAA or any other applicable law. Such detailed information shall be provided to PCA no later than fifteen (15) days following the discovery of any unauthorized disclosure of Confidential Consumer Information. To the extent that any legal notice of the breach or other remedies are required by law as a result of the unauthorized disclosure, Provider shall be responsible for the cost of making the notification and providing any required remedy.

e. Authorization for Uses Beyond Identified Purposes. Except for Identified Purposes, as required by law or in response to a court order:

1. Provider will not release or disclose Confidential Information to any third party or person without Consumer's express written authorization or PCA's consent in the case of Proprietary Information.
2. Protected Health Information may only be released in response to a written request of the Consumer or his or her personal representative in a HIPAA compliant authorization form.

f. Notice.

1. Prior to releasing or disclosing Protected Health Information, Provider agrees to provide PCA with prompt written notice of any third party's or person's request for Confidential Information by providing a copy of the request to PCA and to give PCA a reasonable opportunity, at its discretion, to seek a protective order or similar relief before Provider makes any disclosure of Confidential Information.
2. Upon the release or disclosure of Protected Health Information by a Provider to any third party or person for any reason other than in the course of treatment of the Consumer, payment for health care services by a health plan or health care operations of Provider (including disclosures required by law, in response to a court order or with the PCA consumer's express written authorization), Provider shall supply PCA with written notice of the disclosure accompanied with a copy of any court order, HIPAA authorization form or other documentation of the request for disclosure and a description of the information disclosed.

3. Requests of PCA consumers to exercise individual rights under HIPAA (e.g., a request for access to, to restrict access, to amend, or for an accounting of disclosures of Protected Health Information) shall be referred to PCA promptly for response.

g. Subcontractors and Assigns. Provider agrees to require any subcontractors or independent contractors that it uses to perform Identified Purposes, if any, to agree to abide by these confidentiality provisions prior to receiving access to Confidential Information.

h. Termination for Breach of Confidentiality Provisions.

1. Notwithstanding any contrary termination provision in this Agreement, PCA shall notify Provider of any material breach or violation of the terms of these confidentiality provisions and the period in which Provider must either, at its own expense, cure the breach or end the violation.
2. PCA may, in its sole discretion, determine that the breach or violation is such that immediate termination is justified and necessary to protect the confidentiality of Confidential Information. If Provider does not cure the breach or end the violation within that period, or if PCA determines that no period is appropriate, PCA shall direct Contractor to, and Contractor shall, terminate the Agreement as soon as feasible.
3. The Parties will undertake reasonable efforts that may be necessary to keep this Agreement compliant with all applicable state and federal privacy laws, including all new laws or amendments to existing laws adopted hereafter.

i. Return or Destruction of Protected Health Information. To the extent reasonably feasible and permitted by applicable laws and regulations, Provider will destroy or return to PCA all documents containing Confidential Information upon termination of the Agreement. Notwithstanding anything herein to the contrary, the restrictions on Provider's use and disclosure of Confidential Information set forth in this Agreement shall continue to apply for so long as Provider retains copies of Confidential Information disclosed by PCA under the terms of this Agreement.

j. Indemnification. Provider agrees that the duty to indemnify, defend and hold harmless set forth in this Agreement shall apply to any loss, claim, liability, damage, demand, suit, action, investigation, audit or charge against Provider or an Indemnitee (as defined in the Indemnification provision) arising out of the breach or violation of these confidentiality provisions, including any judgments, assessments, penalties, fines, costs and expenses (including reasonable attorneys' fees and costs) and other liabilities of any kind, nature or description arising out of or attributable to any actual or alleged breach or violation of these confidentiality provisions by Provider, its directors, officers, employees, agents, or subcontractors.

#### 4. **INSURANCE**

Subcontractor shall, at its sole cost and expense, procure and maintain in full force and effect, throughout the term of this Agreement, general liability insurance, with no deductible, and with no endorsement excluding or limiting contractual liability coverage, naming PCA and its agents as additional insureds, with an endorsement stating that the coverage afforded the additional insureds shall be primary and non-contributory to any other coverage available, and with limits of coverage of not less than \$1,000,000 combined bodily injury and property damage per occurrence and \$2,000,000 per annual aggregate and workers compensation insurance (with statutory limits of coverage and no deductible for all states in which work is to be performed under the Agreement, including without limitation, Pennsylvania).

#### 5. **INDEMNIFICATION**

Subcontractor shall indemnify, defend and hold harmless Contractor, PCA and the Commonwealth of Pennsylvania, and their directors, officers, employees and agents, (individually, "Indemnitee", and collectively, "Indemnites"), from and against any and all losses, claims, liability, damages, demands, suits, actions, costs, expenses (including, without limitation, settlement costs, attorney's fees and court costs) and judgments recovered from or asserted against Subcontractor or Indemnites, whether or not such claims are based upon PCA's alleged active or passive negligence, on account of injury (including, without limitation, death) to any person, (including an employee of Subcontractor), or damage to or loss (including, without limitation, theft) of any property (i) when any such injury, damage or loss may be incident to, arise out of, or be caused, wholly or in part, by any act, omission, negligence or misconduct on the part of Subcontractor or any of its agents, servants, employees, contractors, licensees or invitees, or (ii) when any such injury, damage or loss is the result, proximate or remote, of the violation by Subcontractor or any of its agents, servants, employees, contractors, licensees or invitees of any law, ordinance or governmental order of any kind or any term of the Agreement, or (iii) when any such injury, damage or loss may in any other way arise from, out of, or in connection with Subcontractor's performance or failure to perform under the Agreement.

When Subcontractor has the duty to indemnify, defend and hold harmless Indemnites as set forth in the preceding paragraph, such duty shall include, but shall not be limited to: (a) environmental contamination; (b) Subcontractor's failure to pay its contractors, vendors and employees; (c) any infringement or violation of any proprietary right (including without limitation, patent, trademark and copyright) or right of privacy, whether arising out of publication or use of data generated or furnished under the Agreement, or otherwise; (d) audit exceptions and misuse of funds by Subcontractor; (e) the full amount of any claims made by Subcontractor's employees (notwithstanding any (i) provisions set forth in the Pennsylvania Worker's Compensation Act prohibiting or limiting such claims or the amount of such claims such as Section 481(b) of such Act, (ii) statutory or constitutional immunity Subcontractor may enjoy from suit, or (iii) limitations of liability under the worker's compensation laws of any state that provides employers with immunity from suit, the benefits of which are specifically hereby waived by Subcontractor); and (f) damages to or loss of (i) PCA-funded property and (ii) PCA

property entrusted to Subcontractor (except for PCA-owned vehicles, in which case indemnification shall be limited to the amount of PCA's deductible).

In the event of any obligation of Subcontractor to indemnify, defend and hold harmless any Indemnitee hereunder due to the institution of proceedings against any Indemnitee by a third party, as to which PCA shall have received written notice from the third party (a "Third Party Action"), PCA shall give Subcontractor written notice of such Third Party Action, specifying the nature thereof. Within ten (10) calendar days after receipt of such notice, Subcontractor shall give PCA written notice stating whether or not Subcontractor assumes responsibility for, and intends to defend or settle, such Third Party Action. If Subcontractor assumes responsibility, PCA shall, at Subcontractor's sole expense, cooperate with Subcontractor and provide reasonably necessary information and documents within the control of PCA, and any Indemnitee may participate in such defense at his, her or its own expense. Failure of PCA to give notice to Subcontractor of such Third Party Action shall excuse the obligation of Subcontractor hereunder if such failure shall materially affect the ability of Subcontractor to defend or settle such Third Party Action, but only to the extent of such effect. Failure of Subcontractor to give timely notice to PCA shall be deemed notice that Subcontractor does not assume responsibility for such Third Party Action, except that if Subcontractor thereafter notifies PCA of its intention to assume responsibility, upon payment of the expenses incurred by Indemnitees to date in connection with the matter, Subcontractor may assume the defense or settlement as if Subcontractor had originally elected to do so. If (i.) Subcontractor does not assume responsibility for such Third Party Action, (ii.) Subcontractor assumes responsibility for, but fails reasonably to defend or settle such Third Party Action, or (iii.) PCA determines that any such Third Party Action may have a material adverse effect on the reputation or operations of PCA, Indemnitees may defend or settle such Third Party Action on terms determined in their sole discretion and Subcontractor shall be responsible for indemnification hereunder. In determining whether to invoke the rights provided in clause iii of the preceding sentence, PCA shall use reasonable business judgment, and PCA shall give reasonable notice of such determination to the Subcontractor prior to taking any action based on PCA's determination. In those cases in which Indemnitees have determined to defend or settle such Third Party Action, at Subcontractor's sole expense, cooperate with PCA and provide reasonably necessary information and documents within the control of Subcontractor, and Subcontractor may participate in such defense at its own expense.

The duty to indemnify, defend and hold harmless Indemnitees set forth in the Agreement: (a) shall be effective without regard to limits of coverage for insurance required or procured hereunder; (b) shall survive termination of the Agreement; (c) shall in no way be construed to limit or reduce (or be limited or reduced by) any other indemnification obligation of Subcontractor under the Agreement; and (d) shall apply regardless of whether Indemnitees are alleged or otherwise determined to be negligent or grossly negligent except that indemnification shall not be available when Indemnitees are determined to be solely negligent; provided, however, that the duty to defend Indemnitees shall nevertheless apply.

## 6. ADDITIONAL PROVISIONS

a. In accordance with Executive Order 11246, Subcontractor agrees not to discriminate against any employee or applicant for employment because of sex, race, color, religion, disability, veteran status, citizenship or national origin. Subcontractor will take affirmative action to ensure that Equal Employment Opportunity is implemented in employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. All federal, state and local equal employment opportunity laws and regulations, the Drug-Free Workplace Act of 1988, and other applicable provisions of the rules, regulations and relevant orders of the Secretary of Labor are herein incorporated by reference including, but not limited to, Section 60-1.4 of Chapter 60 of Title 41 of the Code of Federal Regulations, Section 503 of the Rehabilitation Act of 1973 and Sections 4301-4333 of the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended. Subcontractor shall in turn notify all subcontractors, vendors or suppliers and unions of their responsibilities to comply with non-discrimination laws.

b. Subcontractor hereby agrees that it will comply with the following: Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), as amended, and the regulations at 45 C.F.R. Part 80; Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and the regulations at 45 C.F.R. Part 84; Title IX of the Educational Amendments of 1972 (Pub. L. 92-318), as amended, and the regulations at 45 C.F.R. Part 86; the Age Discrimination in Employment Act of 1975 (Pub. L. 94-135) as amended, and the regulations at 45 C.F.R. Part 91; and the American With Disabilities Act, 28 C.F.R. 35.101 et seq.; the Older Americans Act, as amended, 42 U.S.C.A Section 3001 et seq.

c. In carrying out the Agreement, Subcontractor shall minimize pollution and shall strictly comply with all Environmental Laws. The term "Environmental Laws" as used herein is defined to include any and all current or future federal, state, and local environmental laws, statutes, rules, regulations and ordinances, including but not limited to, the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251 et seq., and the regulations of the Environmental Protection Agency ("EPA") with respect thereto, at 40 C.F.R. Part 15, as amended from time to time. The Agreement is also subject to the National Environmental Policy Act of 1969 ("NEPA"), 42 U.S.C. Section 4321 and all federal environmental regulations, procedures and requirements set forth at 24 C.F.R. Part 58 (Environmental Review Procedures for CDBG Programs) and other provisions of law which further the purposes of NEPA, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., as amended, ("CERCLA"), the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., as amended ("RCRA"), the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq., as amended, ("TSCA"), the Pennsylvania Solid Waste Management Act, 35 P.S. Section 6018.101 et seq., as amended, the Pennsylvania Clean Streams Laws, 35 P.S. Section 691.1 et seq., as amended, the Pennsylvania Hazardous Sites Cleanup Act, 35 P.S. Section 6020.101 et seq., and the Water Obstructions Act, Act of June 25 1913, P.L. 555, as amended, Environmental Health and Safety Regulations, 25 Pa. Code §151 et seq., and Fire and Panic Regulations, 34 Pa. Code Chapters 49-60, and The Philadelphia



Air Management Code (Chapter 3-100 et seq., Philadelphia Code). In accordance with the Philadelphia Air Management Code, as amended, any facilities receiving assistance under the Agreement shall not be in violation of any Air Management Code Standards or shall be performing satisfactorily on a compliance schedule. Further, any pollution equipment made necessary by the Agreement shall be installed to the full satisfaction of Air Management Services. Subcontractor stipulates that any facility to be utilized in the performance of the Agreement is not listed on the List of Violating Facilities issued by the EPA pursuant to 40 C.F.R. 15.20. Subcontractor shall give prompt notice to PCA of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the Agreement is under consideration to be listed on the EPA List of Violating Facilities. Subcontractor will include or cause to be included the above criteria in every nonexempt subcontract and will take such action as the Government may direct as a means of enforcing such provisions. In no event shall amounts paid under the Agreement be utilized with respect to a facility which has given rise to a conviction under Section 113(c)(1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

d. (i) Subcontractor certifies that it has not been debarred, suspended or excluded by the Commonwealth of Pennsylvania, the federal government, or any governmental entity, instrumentality or authority, and that as of the date of execution of the Agreement it does not owe any taxes or other obligations to the Commonwealth, and agrees to notify PCA within five (5) days of receipt of notice by Subcontractor that it has been debarred, suspended or excluded or within five (5) days after it has become delinquent in the payment of taxes or other obligations to the Commonwealth. (ii) Subcontractor will not use any individual or company to provide services nor invoice PCA for services rendered under the Agreement by any individual or company that has been excluded from any federal health care program, including Medicare and Medicaid (42 C.F.R. §1001.1901; 55 Pa. Code §52.53(c)). Subcontractor will check the appropriate databases of persons excluded from participation in federal healthcare programs for employees and sub-subcontractors names upon contracting or hire and not less than monthly thereafter during the term of the Agreement. (iii) Subcontractor will not use any individual or company to provide services nor invoice PCA for services rendered under the Agreement by any individual or company that has been debarred or suspended by the Commonwealth, the federal government, or any governmental entity, instrumentality or authority. Subcontractor will check the appropriate databases for employees and sub-subcontractors names upon contracting or hire and on a regular basis thereafter during the term of the Agreement. (iv) Subcontractor shall retain documentation evidencing compliance with the requirements in (ii) and (iii) above and provide it to PCA upon request.

e. During the term of the Agreement, Subcontractor agrees as follows: In the hiring of any employees for the manufacture of supplies, performance of work, or any other activity required under the Agreement, Subcontractor or any person acting on behalf of Subcontractor shall not by reason of gender, race, creed, color, disability, national origin, ancestry or age discriminate against any citizen of the Commonwealth of Pennsylvania who is qualified and available to perform the work to which the employment relates. Neither Subcontractor nor any person on its 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 Agreement on

account of gender, race, creed, color, disability, national origin, ancestry or age. Subcontractor shall establish and maintain a written non-discrimination/sexual harassment policy and shall inform its 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. Subcontractor shall furnish information, necessary employment documents and records and permit access to its books, records and accounts by PCA for purposes of investigation to ascertain compliance with this non-discrimination/sexual harassment clause consisting of this paragraph e. If Subcontractor does not possess documents or records reflecting the necessary information requested, it shall furnish the information on reporting forms supplied by PCA. Neither Subcontractor nor any subcontractor shall apply a policy of mandatory retirement to positions funded under the Agreement.

f. The Subcontractor certifies, to the best of its knowledge and belief, that: (a) No federal appropriated funds have been paid or will be paid, by or on behalf of PCA and/or the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan, or cooperative agreement; (b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities", in accordance with its instructions; (c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrantees, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. Subcontractor shall provide immediate written notice to PCA if Subcontractor learns that its certification was erroneous or has become erroneous because of changed circumstances.

g. Subcontractor agrees to maintain books, program and financial records, documents, policies and procedures and other evidence and supporting information (hereinafter collectively referred to as the "Records") pertaining to the transactions, costs and expenses, performance, representations, and reporting related to the Agreement and Subcontractor's compliance with the Agreement's provisions. Subcontractor agrees to make available through such electronic means as are required from time to time by PCA, and at Subcontractor's office at all reasonable times during the term of the Agreement and the applicable period set forth below, any of the Records for inspection, audit and/or reproduction by any authorized representative of PCA, the Department of Aging, the Auditor General, federal auditors, or PCA's designees. Except for documentary evidence delivered to PCA, Subcontractor shall preserve and make available its Records for the period of time that is the greater of (i) six (6) years from the date of

final payment under the Agreement, (ii) the expiration date of the Agreement, (iii) the date when all questioned costs or activities have been resolved to the satisfaction of the Commonwealth and PCA, (iv) for such period, if any, as is required by applicable federal, state and local statutes, rules, regulations, ordinances, and other requirements (e.g., HIPAA's six year retention requirement), including but not limited to Aging Program Directives and other policies of the Pennsylvania Department of Aging, (v) by any other paragraph of the Agreement, or (vi) by paragraphs a. and b. as follows, whichever is longer: a. If the Agreement is completely or partially terminated, the Records relating to the work terminated shall be preserved and made available for a period of six (6) years from the date of the later of any resulting final statement or final settlement; b. Records which relate to litigation or the settlement of claims arising out of the performance of this Agreement, or costs under this Agreement as to which exception has been taken by the auditors, shall be retained by Subcontractor until such litigation, claims or exceptions have been litigated or settled to final disposition.

h. As applicable, Subcontractor shall comply with the following: The Davis Bacon Act, as amended (40 U.S.C. 276(a)); the Contract Work Act (40 U.S.C. 328) and the regulations at 29 C.F.R. Section 5; and the Copeland Anti-Kickback Act (40 U.S.C. 276c) and the regulations.

i. Subcontractor acknowledges that all data, including without limitation any reports, memoranda, articles, photographs, drawings, designs, diagrams, improvements, recommendations, software, and work of any similar nature in any form, created under the Agreement are works made for hire. If for any reason, any such data is deemed not to be a work made for hire then Subcontractor agrees to and does hereby assign to PCA all rights, including copyrights, in such data. All intellectual property rights, title and interest in such data are owned exclusively by PCA.

j. If Subcontractor provides goods or services to the City of Philadelphia through PCA, the following shall apply: Subcontractor certifies and represents that, and agrees that, it (and any parent, subsidiary, exclusive distributor, or company affiliated with Subcontractor, collective hereinafter in this section called "Subcontractor") does not and will not, and Subcontractor will not utilize any subsubcontractors, suppliers or consultants who (or whose parent, subsidiary, exclusive distributor, company affiliated with such subsubcontractor, supplier or consultant, or their subsubcontractors, suppliers or consultants) (i) have any investments, licenses, franchises, management agreements, or operations in Northern Ireland and/or (ii) provide products which originate in Northern Ireland, unless, in either or both cases, Subcontractor has, or its subsubcontractors, suppliers or consultants or their parent, subsidiary, exclusive distributor, company affiliated with them, subsubcontractors, suppliers or consultants have, implemented the fair employment principles embodied in the MacBride Principles. Subcontractor shall cooperate with PCA, Contractor and the City of Philadelphia in accordance with Section 17-104 of the Philadelphia Code. Subcontractor expressly understands and agrees that any false certification or representation in connection with this section, or failure to comply with any of the requirements of this section, shall be such a substantial or material breach as to entitle PCA to all rights and remedies provided in this Agreement or otherwise available at law or in equity.

k. Subcontractor shall comply with all federal, state and local statutes, regulations, rules, ordinances, codes, and other requirements, including but not limited to Aging Program Directives and other policies of the Pennsylvania Department of Aging,

and shall commit no trespass on any public or private property in performing any of the work embraced by this Agreement. Subcontractor shall require its subcontractors (if any) to comply with same, to the extent these are applicable to Subcontractor or subcontractor or to the provision of services or supplies under the Agreement.

7. **THIRD-PARTY BENEFICIARIES**

PCA and the property owner referred to in Paragraph 2 above, while not signatories to this Agreement, are intended to be third-party beneficiaries of this Agreement. Without limiting the meaning of the preceding sentence, PCA and such property owner shall have the right, but not the obligation, to enforce for their own respective benefit, any provisions of this Agreement in their favor.

8. **CRIMINAL HISTORY RECORD INFORMATION**

Without in any way limiting Subcontractor's duties under any other term or condition of this Agreement, Subcontractor shall comply with any federal, state or local law pertaining to mandatory use of criminal history record information, including but not limited to the Older Adults Protective Services Act, 35 P.S. Section 10225.101 *et seq.*, and the regulations promulgated pursuant thereto, 6 Pa. Code Chapter 15 (commonly referred to as "Act 13"). In the event that Subcontractor is not otherwise required by applicable law to review criminal history record information, Subcontractor shall obtain criminal history record information for all employees having contact with PCA consumers and shall exercise reasonable discretion in making employment decisions based thereon.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the day and year first above written.

**CONTRACTOR**

Seal

By: \_\_\_\_\_

\_\_\_\_\_  
Name and Title

**SUBCONTRACTOR**

Seal

By: \_\_\_\_\_

\_\_\_\_\_  
Name and Title