

LICENSE AGREEMENT

This LICENSE AGREEMENT (“License”) entered into between the Department of Health, State of New Jersey (hereinafter referred to as the “State”) with its principal offices at 369 S. Warren Street, Trenton, New Jersey 08608, as **Licensee** and Genesis Administrative Services, LLC, a Delaware limited liability company with its principal offices located at 101 East State Street, Kennett Square, Pennsylvania 19348, as the administrative services provider to the licensed operators of the skilled nursing facilities listed on Exhibit 1, as **Licensor** made as of May 14, 2020 (the “**Effective Date**”).

WITNESSETH

WHEREAS, Coronavirus disease 2019 (“COVID-19) is a contagious and, at times fatal, respiratory disease caused by the SARS-CoV-2 virus; and

WHEREAS, COVID-19 is responsible for the 2019 coronavirus outbreak which has now spread to the United States of America including but not limited to the State of New Jersey; and

WHEREAS, the spread of COVID-19 within New Jersey constitutes an imminent public health hazard that threatens and presently endangers the health, safety and welfare of the residents of the State; and

WHEREAS, the federal Center for Disease Control and Prevention (“CDC”) has determined that older adults may be at a higher risk for severe health complications due to COVID-19; and

WHEREAS, the CDC has issued specific guidelines and advice related to COVID-19 for older adults in retirement communities and independent living facilities; and

WHEREAS, on March 9, 2020, New Jersey Governor Philip D. Murphy issued Executive Order No. 103 (“EO 103”) proclaiming that a public health emergency and that a state of emergency exists in the State of New Jersey; and

WHEREAS, EO 103 recognizes that it is necessary and appropriate to take action against this public health hazard to protect and maintain, as well as, restore the health, safety and welfare of New Jersey residents and visitors pursuant to N.J.S.A. 26:13-1, et seq. and N.J.S.A. App. A:9-33 et seq., among other legal authorities; and

WHEREAS, the hospital facilities in New Jersey have an urgent need to be able to use as many of their existing in-patient hospital beds and medical resources for the treatment of patients with COVID-19 related illnesses; and

WHEREAS, in order to create additional capacity in our hospitals to treat COVID-19 related illnesses, the State has determined that there is a similarly urgent need to dedicate existing long-term care facilities for the sole purpose of housing and treating those long-term care residents of the State of New Jersey who are suffering from COVID-19 illnesses and require long-term care outside of a hospital setting; and

WHEREAS, due to the CDC-acknowledged vulnerability for older adults generally and those living within long-term care facilities in particular, the State has additionally determined there is an emergent need to ensure that long-term care residents who test positive for COVID-19 can continue to receive the required medical care at long-term care facilities while not placing other residents or staff at risk of infection; and

WHEREAS, it was necessary for the State to find suitable locations for the contemplated long-term care activities; and

WHEREAS, due to the location and existing treatment provided at the properties, the State has identified two long-term care and patient rehabilitation facilities administered by the Licensor as being suitable for the care and treatment of long-term care patients with COVID-19 illnesses; and

WHEREAS, prior to the execution of the License, the State authorized Genesis via telephone to convert two facilities to the sole care, sheltering, and treatment of long-term care patients who have tested positive for COVID-19 and to move, as necessary, other long-term care patients who had not tested positive for COVID-19 from the two authorized facilities to prevent further spread of COVID-19; and

WHEREAS, the property known as Powerback Rehab Piscataway located at 10 Sterling Drive, Piscataway, NJ 08854, designated as Lot 2.04 in Block 10402 on the Tax Map of the Township of Piscataway and described in Exhibit 1 (“Piscataway”), received authorization from the State on April 8, 2020 to convert the facility to the sole care, sheltering, and treatment of long term care patients who had tested positive for COVID-19; and

WHEREAS, the property known as Powerback Rehabilitation located at 113 South Route 73, Voorhees, New Jersey 08043, designated as Lot 54 in Block 227.01 on the Tax Map of the Township of Voorhees and described in Exhibit 1 (“Voorhees”), received authorization

from the State on April 17, 2020 to convert the facility to the sole care, sheltering, and treatment of long term care patients who had tested positive for COVID-19; and

WHEREAS, Licensee acknowledges that (i) Licensor is executing this License on behalf of the affiliated licensed operators of Piscataway and Voorhees, (ii) Licensor does not operate or manage Piscataway or Voorhees, and (iii) that all of the performance obligations set forth herein shall be solely the responsibility of the licensed operators of Piscataway and Voorhees as set forth in Exhibit 1; and

WHEREAS, in response to the urgent requests of hospital facilities in New Jersey, Piscataway and Voorhees began admitting COVID-19 patients commencing as of April 8, 2020 and April 17, 2020, respectively (the “Authorization Dates”); and

WHEREAS, pursuant to Executive Order 103 and N.J.S.A. 26:13-9, the Department of Health is authorized to procure by contract facilities necessary to respond to the public health emergency; and

WHEREAS, because Piscataway and Voorhees (each a “LICENSED PREMISE”), is a suitable location for dedication as a long-term care facility for patients suffering from COVID-19 who have been discharged from area hospitals; and

WHEREAS, the parties understand and agree that the LICENSED PREMISE is ready in its existing condition to undertake the treatment of long-term care patients who have tested positive for COVID-19 and, therefore, no construction, rehabilitation or similar work is required to convert the LICENSED PREMISE for the use under this License; and

WHEREAS, to protect public health and safety and save lives, the State requires immediate, temporary access and use of the LICENSED PREMISE for the care, sheltering, and treatment of patients who have tested positive for COVID-19 and require long-term care outside of a hospital setting; and

WHEREAS, based on the Governor’s declared emergency under both the Emergency Health Powers Act (the “EHPA”) N.J.S.A. 26:13-1 et seq., and the Civilian Defense and Disaster Control Act (the “DCA”), N.J.S.A. App.A:9-34 et seq., the Licensee requires the use of the LICENSED PREMISE until the contemplated long-term care activities under this License are complete; and

WHEREAS, on April 1, 2020, New Jersey Governor Philip D. Murphy issued Executive Order No. 112 (“EO 112”) which further explained limitations on liability for health care facilities while the state of emergency continues; and

WHEREAS, Licensor is expected to and hereby directed to keep the LICENSED PREMISE open and available for Licensee for the duration of the term of this License as set forth in Paragraph 7 below; and

WHEREAS, it is the understanding of the parties that Licensor shall operate the LICENSED PREMISE in accordance with the terms of this License and in accordance with all New Jersey Department of Health requirements for COVID-19 and/or non-COVID-19 patient treatment; and

WHEREAS, it is the understanding of the parties that Licensor shall be solely responsible for providing the staff, supplies, and equipment necessary to operate the LICENSED PREMISE in accordance with this License; and

WHEREAS, pursuant to the EHPA, specifically N.J.S.A. 26:13-9, and the DCA, specifically N.J.S.A. App.A:9-34, the State is authorized to enter into this License.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, and with the intent to be legally bound hereby, the parties agree as follows:

1. The above referenced recitals shall be incorporated in this License.
2. Grant of License.

2.1 Licensor hereby licenses to Licensee the LICENSED PREMISE for the care, sheltering, and treatment of patients who have tested positive for COVID-19 and require long-term care outside of a hospital setting. Pursuant to this license, Piscataway and Voorhees shall admit any COVID-19 patient requested by Licensee unless:

- 2.1.1 The patient requires medical care that exceeds the scope of the nursing facility levels of care;
- 2.1.2 The nursing facility does not then have sufficient staffing to admit additional residents;
- 2.1.3 The nursing facility does not have a bed available; or

- 2.1.4 The resident or the resident's authorized representatives, as the case may be, refuses admittance or refuses to sign the facility's standard admissions agreement and such other customary admission documents as reasonably requested by the facility.
- 2.2 Licensor agrees that the control, use, operation, and maintenance of the LICENSED PREMISE shall be retained by the Licensor throughout the term of the License. Licensor agrees that such operation shall include, but is not limited to, provision of utilities, staff, supplies, equipment, waste management, and linens, all in accordance with accepted medical standards and, specifically, guidance from the New Jersey Department of Health and/or the CDC with respect to COVID-19 treatment.
- 2.3 Licensee acknowledges and agrees that Voorhees and Piscataway may cohort and accept non-Covid patients in the LICENSED PREMISE if, in the reasonable determination of Voorhees and Piscataway, those patients can be separated and appropriately cared for to protect the patients' health and safety.
- 2.4 LICENSEE shall be restricted in its use of the LICENSED PREMISE solely for the purposes set forth in this License. In the event that LICENSEE requires any change in use of the LICENSED PREMISE, LICENSEE shall submit in writing a request to LICENSOR who shall have a period of twenty-four (24) hours to grant such request, which will not be unreasonably withheld.
- 2.5 Licensee agrees that it shall not use the LICENSED PREMISE for any unlawful purpose or act and Licensee shall comply with all laws, rules, regulations, orders, ordinances, directions and requirements of any governmental authority or agency applicable to Licensee's use of and activities within the LICENSED PREMISE.

3. Consideration.

- 3.1. In consideration for the Licensee's right to access and the sole use of the LICENSED PREMISE for the activities described within,

Licensee agrees to pay to Licensor a license fee of \$1 for the term of the License.

- 3.2. Licensor shall be responsible for the reasonable cost of all utilities, staff, and supplies for the LICENSED PREMISE associated with the activities contemplated under the License during the term of the License. The parties understand that because all such costs are to protect public health and safety and to save lives, the costs may be eligible for FEMA reimbursement. Licensor shall invoice and submit any requested verifiable documentation of its costs associated with the LICENSED PREMISE on a monthly basis. In the event Licensor must procure additional supplies, equipment, and other services related to this License at the request of Licensee, such procurement must be done in accordance with 2 CFR Part 200 and the terms set forth in **Exhibit 2** of this License, as applicable.
 - 3.3. In the event of any dispute arising out of this License, Licensor must follow the requirements of the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq., to preserve and pursue its claim.
 - 3.4. In addition, Licensor may, as a parallel process and as a means of alternative dispute resolution, file a petition for a compensation award with an emergency compensation board composed of three persons appointed by the Governor pursuant to N.J.S.A. App.A:9-51(3). The emergency compensation board shall be constituted in the county in which the LICENSED PREMISE is located. A copy of said petition shall be served on the Attorney General. The board shall thereupon after reasonable and proper notice to the petitioner and the Attorney General, grant a hearing upon such petition and render a decision fixing the amount of the award. If the Licensor considers the matter to be resolved by the board's decision fixing the amount of compensation, it shall be the basis of a written settlement agreement and release of claim between the parties. If the Licensor does not consider the board's decision to resolve the matter of compensation, Licensor must comply with the New Jersey Contractual Liability Act to pursue its claim.
4. Condition of the Licensed Premises. Licensee acknowledges and agrees that it has been afforded the opportunity to inspect the LICENSED PREMISE and that

Licensee has satisfied itself that the LICENSED PREMISE is suitable for the purposes described in this Agreement and that Licensee is not relying upon any statement or representation by Licensor unless such statement or representation is specifically embodied in this Agreement.

5. End of Term. At the end of the term as set forth in Paragraph 7, Licensor may resume treatment of all long-term care residents in accordance with Licensor's previously-established and licensed practices.
6. Assignment: Licensee shall not assign, pledge, sublicense or transfer or encumber the LICENSED PREMISE without Licensor's prior written consent.
7. Term. This License shall commence immediately upon the execution of this License and shall remain in full force and effect until June 30, 2020, provided, however, that this License may be extended for periods of thirty (30) days upon ten (10) days' notice if, after consultation with relevant State and federal officials, the parties determine that the then-existing conditions warrant the continued operation of Piscataway and/or Voorhees for the care, sheltering and treatment of COVID-19 patients.
8. Relationship of the Parties. No Landlord/Tenant relationship and no tenancy leasehold or estate rights on the part of the Licensee shall at any time be construed to exist or to have been created by this License. Licensee hereby expressly acknowledges that it has no interest or estate in the LICENSED PREMISE other than the License set forth in this Agreement.
9. Representations and Warranties.
 - 9.1. Licensor represents and warrants to Licensee that (i) it is the administrative services provider of the LICENSED PREMISE and has authority to execute this License; (ii) to the best of its knowledge, there are no mortgages, easements, liens or any other encumbrances which would prevent the Licensor from using the LICENSED PREMISE for the intended purposes; (iii) it is organized and validly existing under the laws of the State of Delaware; (iv) all action necessary to authorize the execution of this License has been taken by the Licensor; (v) the individual executing and delivering this License on behalf of Licensor has been authorized to do so, and such execution and delivery shall bind Licensor.
 - 9.2. Licensee represents and warrants to Licensor that (i) it is organized and validly existing under the laws of the State of New Jersey; (ii) all action necessary to

authorize the execution of this License has been taken by the Licensee; (iii) the individual executing and delivering this License on behalf of Licensee has been authorized to do so, and such execution and delivery shall bind Licensee.

10. Merger; Amendment. This License contains the entire agreement between the parties with respect to the subject matter hereof and any and all prior agreements between the parties with respect to the subject matter hereof are of no further force and effect and are deemed merged into this License. This License may not be amended except in writing, signed by both parties thereto.
11. Governing law. This License shall be governed by and construed in accordance with the laws of the State of New Jersey.
12. Notices. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested, addressed as follows (or any other address that the party to be notified may have designated to the sender by like notice:

LICENSEE
New Jersey Department of Health
369 S. Warren Street, Trenton,
New Jersey 08608

LICENSOR
Genesis Administrative Services, LLC
101 East State Street
Kennett Square, Pennsylvania 19348
Attn: Law Department

13. Insurance and Immunity.
 - 13.1. Licensor and Licensee acknowledge that this License is being entered into as part of the efforts to address the State of Emergency and Public Health Emergency declared by New Jersey Governor Philip Murphy pursuant to Executive Order 103 on March 9, 2020. Therefore, the contractor immunity provisions in the New Jersey Emergency Health Powers Act, N.J.S.A. 26:13-1, et seq., and specifically N.J.S.A. 26:13-19 (c), shall be applied to the fullest extent permitted by law, which provides:

- (1) A person or private entity who:

- (a) owns, manages or controls property that is used in connection with a public health emergency shall not be liable for an injury with respect to the property, unless the injury is a result of gross negligence or willful misconduct. The immunity applies whether the person or entity owning, managing or controlling the property permits the use of the property voluntarily, with or without compensation, or the State or another public entity exercises the condemnation powers in this or any other act with respect to the use of the property;
- (b) is acting in the performance of a contract with a public entity in connection with a public health emergency shall not be liable for an injury caused by the person or entity's negligence in the course of performing the contract, unless the injury is a result of gross negligence or willful misconduct; and
- (c) in connection with a public health emergency, renders assistance or advice to a public entity or public employee or donates goods and services shall not be liable for an injury arising out of the person or entity's assistance, advice or services, or associated with the donated goods, unless the injury is a result of gross negligence or willful misconduct.

(2) Paragraph 9 of Executive Order No. 112 dated April 1, 2020 is incorporated by reference, wherein the Governor ordered that any healthcare facility (such as the facilities to be used at the LICENSED PREMISE) shall be immune from civil liability as described in more detail therein.

13.2. Licensor further recognizes and understands that Licensee is a governmental entity and as such is subject to the provision of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq. and the availability of appropriations. The Licensee as a governmental entity cannot agree to indemnify any third party for acts of negligence attributable to parties other than the entities, agents or employees of the State of New Jersey. The State of New Jersey does not carry public liability insurance, but the liability of the State and the obligation of the State to be responsible for tort claims is covered by the terms and provisions of the New Jersey Tort Claims Act. Claims against the State of New Jersey arising under this Agreement should be referred to Michael Smith Director of Risk

Management, Department of the State Treasury, P. O. Box 620, Trenton, New Jersey 08625.

14. Attached Schedules and Exhibits. All of the terms, covenants and conditions of the following schedules are attached to this License and incorporated herein by reference and shall be deemed a part of this License as though fully set forth in the body of this License:

Schedule A – State Mandatory Provisions;
Schedule B – Disclosure of Investment Provisions in Iran;
Schedule C – Affirmative Action Affidavit (AA302);
Schedule D – Disclosure Statement;
Exhibit 1 –Nursing Facilities
Exhibit 2 – Federally Funded Contracts Rider.

Licensors has fourteen (14) business days after executing this License to complete Schedules B, C, and D, and deliver the completed schedules to the Licensee.

16. Enforceability and Counterparts. This License may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument. If any provision of this License shall be invalid or unenforceable, the remainder of this License shall remain in full effect. Executed copies hereof may be delivered by facsimile or by email in a PDF attachment, and upon receipt, shall be deemed originals and binding upon the parties hereto. Without limiting or otherwise affecting the validity of executed copies hereof that have been delivered by facsimile or by email in a PDF attachment, the parties shall use diligent efforts to deliver originals as promptly as possible after execution.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto, duly authorized, have executed this Agreement as of the date and year written above.

LICENSOR

GENESIS ADMINISTRATIVE SERVICES, LLC

By: 
Name: **Michael Berg**
Title: **Assistant Secretary**

LICENSEE

NEW JERSEY DEPARTMENT OF HEALTH

By: _____
Name: Eric Anderson
Title: Director, Management & Administration/CFO

APPROVED AS TO FORM ONLY:
GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: _____
Kavin K. Mistry
Assistant Attorney General

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GENESIS ADMINISTRATIVE SERVICES, LLC

By: _____
Name:
Title:

LICENSEE

NEW JERSEY DEPARTMENT OF HEALTH

By:  _____
Name: Eric Anderson
Title: Director, Management & Administration/CFO

APPROVED AS TO FORM ONLY:
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ATTORNEY GENERAL OF NEW JERSEY

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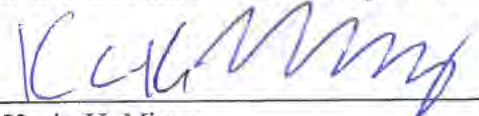
By: _____
Name:
Title:

LICENSEE

NEW JERSEY DEPARTMENT OF HEALTH

By: _____
Name: Eric Anderson
Title: Director, Management & Administration/CFO

APPROVED AS TO FORM ONLY:
GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: 
Kavin K. Mistry
Assistant Attorney General

SCHEDULE A

State Mandatory Provisions

- A. Consistent with the New Jersey Prompt Payment Act, N.J.S.A. 52:32-32, et seq., the Licensor hereby agrees to pay any reimbursement due to the State pursuant to this License within sixty (60) days of the resolution of the amounts to be reimbursed.
- B. Pursuant to N.J.S.A. 52:18A-78.22, the State's incurrence of any liabilities pursuant to this License, including without limitation, the payment of any and all rental payments or other amounts required to be paid by the Licensee hereunder, is subject to and dependent upon appropriations being made from time to time by the State Legislature for that purpose.
- C. Conflict of Interest and Brokers' Fees
1. The Licensor hereby warrants that the provisions of N.J.S.A. 52:34-15 and 52:34-19 have been complied with in that no person or selling agency has been employed or retained to solicit or secure this License upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide brokers who have a license to conduct business in the State of New Jersey, employed by the Licensor for the purpose of soliciting or negotiating this License. Licensor shall, at its sole cost and expense, pay all brokerage commissions due the broker pursuant to a separate agreement between Licensor and the broker.
 2. The Licensor hereby agrees to abide by the prohibitions contained in this Section on activities between the Licensor and any State officer or employee. Any violation of these prohibitions shall render the Licensor liable to debarment in the public interest, pursuant to the procedures established by Executive Order No. 34 (1976), Executive Order No. 189 (Kean 1988), and N.J.A.C. 17:19-3, as amended and supplemented.
 3. The Licensor hereby warrants that it has not paid and shall not pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b and e, in the Department of the Treasury or any other agency with which such vendor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i, of any such officer or employee, or any partnership, firm, or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13g.
 4. The Licensor hereby warrants that the solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any State vendor shall be reported in writing forthwith by the Licensor to the Attorney General and the Executive Commission on Ethical Standards.

5. The Licensor hereby warrants that it shall not undertake directly or indirectly any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, expressed or implied, or sell any interest in such vendor to, any State officer or employee or special State officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he or she is employed or associated or in which he or she has an interest within the meaning of N.J.S.A. 52:13D-13g. The Licensor hereby warrants that any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.

6. The Licensor hereby warrants that it shall not influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his or her official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.

7. The Licensor hereby warrants that Schedule D annexed and attached hereto is a full and complete disclosure of the names and business addresses of any and all persons or agencies employed or retained, directly or indirectly, to solicit or secure this License upon an agreement or understanding for a commission, percentage, brokerage or contingent fee of any kind, and the Licensor further warrants that it has provided, in advance of the execution of this License, a true and complete copy of any such agreement or understanding to the State.

8. The parties hereby agree that, in the event of a breach or violation of the warranties contained in this Section, the State shall have the right to annul this License without liability or in its discretion to deduct from the Rent or consideration provided herein the full amount of such commission, percentage, brokerage or contingent fee.

D. Compliance with Affirmative Action and Anti-Discrimination Laws

1. The parties of this License do hereby agree that the provisions of N.J.A.C. 17:27, as amended and supplemented, prohibiting discrimination in employment or public contracts, are hereby incorporated into and made a part of this License and are binding upon them.

2. The Licensor agrees to comply and to require its contractors and subcontractors to comply with all provisions of the following: The Licensor or its contractors and subcontractors, where applicable, shall not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. The Licensor or its contractors and subcontractors shall take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated

during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. Such action shall include, but not be limited to the following: 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.

3. The Licensor or its contractors and subcontractors agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause. The Licensor or its contractors and subcontractors, where applicable, shall state, in all solicitations or advertisements for employees placed by or on behalf of the contractors and subcontractors, that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. The Licensor or its contractors and subcontractors, where applicable, shall send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's or subcontractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Licensor or its contractors and subcontractors, where applicable, agrees to comply with P.L. 1975, c.127, as amended and supplemented, the rules promulgated by the Treasurer pursuant thereto, including N.J.A.C. 17:27, as amended and supplemented, and the Americans with Disabilities Act.

4. The Licensor or its contractors and subcontractors agrees to attempt in good faith to employ minority and female workers consistent with the applicable county employment goals prescribed by N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c.127, as amended and supplemented from time to time, or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c.127, as amended and supplemented from time to time. The Licensor or its contractors and subcontractors agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and that it shall discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

5. The Licensor or its contractors and subcontractors agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms to the principles of job-related testing, as established by Federal and New Jersey law. The Licensor or its contractors and subcontractors agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, sex, or affectional or sexual orientation, and conform with the applicable employment goals, consistent with Federal and New Jersey law.

6. The Licensor or its contractors and subcontractors shall furnish such reports or other documents to the Affirmative Action Office as may be requested by the office from time to time in order to carry out the purposes of this provision and applicable law. Public agencies shall furnish such information as the Affirmative Action Office may request for conducting a compliance investigation pursuant N.J.A.C. 17:27-10.

7. In the event of a breach or violation of the warranties contained in this Section by the Licensor, the State shall have the right to cancel this License without liability.

8. In the event of a breach or violation of the warranties contained in this Section by the Licensor's contractors or subcontractors, the Licensor agrees to provide proof that the violation has been abated to the satisfaction of the agency enforcing said violation (hereinafter referred to as the "Enforcing Agency"). In the event the Licensor fails to provide said proof of the abatement of the violation within thirty (30) days of notice of said violation, the State shall have the right to terminate this License without further liability.

E. Equal Opportunity for Individuals with Disabilities

1. The Licensor and the State do hereby agree that the provisions of Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.*, which prohibits discrimination on the basis of disability by public entities in all services, programs, and activities provided or made available by public entities, and the rules and regulations promulgated pursuant thereto (hereinafter referred to collectively as the "ADA"), are incorporated into and made a part of this License.

2. In providing any aid, benefit, or service on behalf of the State pursuant to this License, the Licensor agrees that the performance shall be in strict compliance with the ADA on the Commencement Date of the License Term.

3. In the event that the Licensor, its agents, servants, employees or subcontractors violate or are alleged to have violated the ADA during the performance of this License, the Licensor shall defend the State in any action or administrative proceeding commenced pursuant to the ADA. The Licensor shall indemnify, protect, and save harmless the State, its agents, servants, and employees from and against any and all suits, claims, losses, demands, or damages of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The Licensor, at its own expense, shall appear, defend, and pay any and all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the State's grievance procedure, the Licensor agrees to abide by any decision of the State rendered pursuant to said grievance procedure. If any action or administrative proceeding results in an award of damages against the State or if the State incurs any expense to cure a violation of the ADA which has been brought pursuant to its grievance procedure, the Licensor shall satisfy and discharge the same at its own expense.

4. As soon as practicable after the making of a claim against the State, the State shall give written notice thereof to the Licensor along with full and complete particulars of the claim. If any action or administrative proceeding is brought against the State or any of its agents, servants, and employees, the State shall expeditiously forward or have forwarded to the Licensor every demand, complaint, notice, summons, pleading or other process received by the State or its representatives.

5. It is expressly agreed and understood that any approval by the State of the services provided by the Licensor pursuant to this License shall not relieve the Licensor of the obligation to comply with the ADA and to defend, indemnify, protect, and save harmless the State pursuant to this Section.

6. It is expressly agreed and understood that the State assumes no obligation to indemnify or save harmless the Licensor, its agents, servants, employees and subcontractors for any claim which may arise out of their performance of this License. Moreover, the Licensor expressly understands and agrees that this Section shall not limit the Licensor's obligation under this License, shall not be construed to relieve the Licensor from any liability, and shall not preclude the State from taking any other actions available to it under this License or at law.

7. It is expressly understood that any claims against the State, its employees, etc., arising out of the use of the Demised Premises or the actions of State employees while performing their duties on behalf of the State shall be made to the Attorney General, Division of Law, Claims Service Section, Richard J. Hughes Justice Complex, 25 Market Street, PO Box 112, Trenton, NJ 08625-0112.

F. Wages

1. The New Jersey Prevailing Wage Act ("NJPWA"), N.J.S.A. 34:11-56.25 et seq. is hereby made a part of every contract entered into on behalf of the State of New Jersey through DPMC, except those contracts which are not within the contemplation of the NJPWA.

2. The Licensor's execution of this License is a guarantee that neither the Licensor nor any contractors or subcontractors the Licensor may employ to perform work required pursuant to this License has been suspended or debarred by the Commissioner, Department of Labor for violation of the NJPWA and/or the Public Works Contractor Registration Act ("PWCRA"), N.J.S.A. 34:11-56.48 et seq. The Licensor's execution of this License is also a guarantee that the Licensor and any contractors or subcontractors the Licensor may employ to perform work required pursuant to this License will comply with the provisions of the NJPWA and the PWCRA, where required.

3. The PWCRA requires all contractors, subcontractors and lower tier subcontractors who bid on or engage in any contract for "public work" as defined in N.J.S.A. 34:11-

56.26 be first registered with the New Jersey Department of Labor and Workforce Development. Any questions regarding the registration process should be directed to the Division of Wage and Hour Compliance at (609) 292-9464 or <http://www.nj.gov/labor/lssc/lspubcon.html>.

4. If Demised Premises is “Leased by the State,” as defined in N.J.S.A. 34:11-56.59 of the State Building Service Contracts Act N.J.S.A. 34:11-56.58 et seq. (“SBSCA”), then in accordance with Governor Corzine’s Executive Order No. 86 (2007) (“Corzine EO 86”) the following terms and conditions will apply (all of the definitions set forth in SBSCA shall apply to this Section):

4.1. The Licensor is required to ascertain from the Commissioner of Labor and Workforce Development the prevailing wage rates for the performance of building services and to specify in all contracts for the performance of building services in the Demised Premises what the prevailing wage rate in the locality is for each worker employed in the performance of such contracts;

4.2. The Licensor is required to include in all contracts for the performance of building services in the Demised Premises a stipulation that the workers performing such building services shall be paid not less than the applicable prevailing wage rates as ascertained by the Licensor from the Commissioner of Labor and Workforce Development, and that the contractor shall provide to each such worker individual written notification every six months of the prevailing wage rates for each classification involved in the contractor’s performance of building services;

4.3. The Licensor is required to include in all contracts for the performance of building services in the Demised Premises a statement that the contractor and any subcontractor covered under the contract shall: (i) keep accurate records showing the name, classification, and actual hourly rate of wages and any benefits paid to each worker employed by the contractor or subcontractor to perform building services in the Demised Premises; (ii) preserve those records for two years after the date of payment; and (iii) make the contracts and the records available at all reasonable hours to the inspection of the Commissioner of Labor and Workforce Development and to any other party to the License;

4.4. The Licensor is required to include in all contracts for the performance of building services in the Demised Premises a stipulation that the contractor and any subcontractor covered under the contract shall provide to the Licensor on a biannual basis (no later than January 15 and July 15 of each year) a sworn certification, under penalty of perjury, that during the preceding six-month

period the workers performing such building services were paid not less than the applicable prevailing wage rates as ascertained by the Licensor from the Commissioner of Labor and Workforce Development and that these workers were provided with individual written notification of the prevailing wage rates for each classification involved in the contractor's performance of building services;

4.5. The Licensor is required to provide to the State no later than January 31 and July 31 of each year a copy of the sworn certification required pursuant to §§§ 23.4.4 above;

4.6. If the State has not received a copy of the sworn certification required to be provided in accordance with §§§ 23.4.5 above within thirty (30) days of the due date under §§§ 23.4.7, the State has the right to withhold up to fifteen percent (15%) of the Rent until the State receives the copy of the sworn certification and to take other action it deems appropriate to enforce Corzine EO 86; and

4.7. If the Commissioner of Labor and Workforce Development determines that a contractor's certification pursuant to §§§ 23.4.4 is false and that the contractor has failed to pay its employees the prevailing wage rates required by Corzine EO 86, the Commissioner may formally request that the State leasing agency effect a Rent abatement of no less than the amount of wages due to said employees and to take other action it deems appropriate to enforce Corzine EO 86. The State leasing agency may take unilateral action without such written request in the case of a written decision by the Division of Wage and Hour Compliance finding a prevailing wage violation following the contractor's opportunity to be heard before the Director of the Division of Wage and Hour Compliance. If the contractor disagrees with the written decision of the Division of Wage and Hour Compliance, the contractor may appeal the decision to the Commissioner of Labor and Workforce Development, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

5. Pursuant to N.J.S.A. 34:11-56.14, a contractor who enters into a contract with the State or any agency or instrumentality of the State to perform "qualifying services: or "public work," as defined in the statute, for the public body shall provide the Commissioner of Labor and Workforce Development a report regarding the compensation and hours worked by employees categorized by gender, race, ethnicity, and job category. For more information and report templates see <https://nj.gov/labor/equalpay/equalpay.html>.

SCHEDULE B

DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN



**STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY**

**33 WEST STATE STREET, P.O. BOX 230
TRENTON, NEW JERSEY 08625-0230**

DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN FORM

BID SOLICITATION #: _____

VENDOR/BIDDER: _____

PART 1

CERTIFICATION

VENDOR/BIDDER MUST COMPLETE PART 1 BY CHECKING ONE OF THE BOXES

FAILURE TO CHECK ONE OF THE BOXES WILL RENDER THE PROPOSAL NON-RESPONSIVE

Pursuant to Public Law 2012, c. 25, any person or entity that submits a bid or proposal or otherwise proposes to enter into or renew a contract must complete the certification below to attest, under penalty of perjury, that neither the person nor entity, nor any of its parents, subsidiaries, or affiliates, is identified on the Department of the Treasury's Chapter 25 list as a person or entity engaged in investment activities in Iran. The Chapter 25 list is found on the Division's website at <http://www.state.nj.us/treasury/purchase/pdf/Chapter25List.pdf>. Vendors/Bidders **must** review this list prior to completing the below certification. **Failure to complete the certification will render a Vendor's/Bidder's proposal non-responsive.** If the Director of the Division of Purchase and Property finds a person or entity to be in violation of the law, s/he shall take action as may be appropriate and provided by law, rule or contract, including but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party.

CHECK THE APPROPRIATE BOX

A. I certify, pursuant to Public Law 2012, c. 25, that neither the Vendor/Bidder listed above nor any of its parents, subsidiaries, or affiliates is listed on the N.J. Department of the Treasury's list of entities determined to be engaged in prohibited activities in Iran pursuant to P.L. 2012, c. 25 ("Chapter 25 List"). Disregard Part 2 and complete and sign the Certification below.

OR

B. I am unable to certify as above because the Vendor/Bidder and/or one or more of its parents, subsidiaries, or affiliates is listed on the Department's Chapter 25 list. I will provide a detailed, accurate and precise description of the activities in Part 2 below and sign and complete the Certification below. Failure to provide such information will result in the proposal being rendered as nonresponsive and appropriate penalties, fines and/or sanctions will be assessed as provided by law.

PART 2

PLEASE PROVIDE ADDITIONAL INFORMATION RELATED TO INVESTMENT ACTIVITIES IN IRAN

If you checked Box "B" above, provide a detailed, accurate and precise description of the activities of the Vendor/Bidder, or one of its parents, subsidiaries or affiliates, engaged in the investment activities in Iran by completing the boxes below.

ENTITY NAME: _____

RELATIONSHIP TO VENDOR/BIDDER: _____

DESCRIPTION OF ACTIVITIES: _____

DURATION OF ENGAGEMENT: _____

ANTICIPATED CESSATION DATE: _____

VENDOR/BIDDER CONTACT NAME: _____

VENDOR/BIDDER CONTACT PHONE No.: _____

Attach Additional Sheets If Necessary.

CERTIFICATION

I, the undersigned, certify that I am authorized to execute this certification on behalf of the Vendor/Bidder, that the foregoing information and any attachments hereto, to the best of my knowledge are true and complete. I acknowledge that the State of New Jersey is relying on the information contained herein, and that the Vendor/Bidder is under a continuing obligation from the date of this certification through the completion of any contract(s) with the State to notify the State in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification. If I do so, I will be subject to criminal prosecution under the law, and it will constitute a material breach of my agreement(s) with the State, permitting the State to declare any contract(s) resulting from this certification void and unenforceable.

Signature

Date

Print Name and Title

SCHEDULE C

Affirmative Action Affidavit (AA302)

**AFFIRMATIVE ACTION CERTIFICATE OF EMPLOYEE INFORMATION
REPORT**

All licenses or leases with the State must be in compliance with the laws governing Public Agency contract awards. P.L. 1975, c.127; N.J.A.C. 17:27.

You are required to furnish to the Division of Property Management and Construction a current New Jersey Certificate of Employee Information Report (AA302) or the Public Agency copy of an AA302. Visit the links below for the instructions, fee and form required.

https://www.state.nj.us/treasury/contract_compliance/documents/pdf/forms/aa302ins.pdf

https://www.state.nj.us/treasury/contract_compliance/documents/pdf/forms/aa302.pdf

Any renewal or extension of the license or lease will require that you provide a copy of a current certificate to this office upon notice of any such renewal or extension by this office.

Please acknowledge your understanding of these obligations and your agreement to comply with them by executing this form before a notary or other person authorized to administer oaths.

Licensors:

By: _____

Sworn to and subscribed before me

This ____ day of _____, 20__.

Notary Public

SCHEDULE D

DISCLOSURE STATEMENT

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
Division of Property Management and Construction
Office of Property and Lease Negotiations
Post Office Box 231
Trenton, NJ 08625-0231

DISCLOSURE STATEMENT

SPR/Lease No: _____
Date: _____

Address of the property proposed to be licensed to the State or currently leased to the State (the "Property"):

Building Name: _____

Street: _____

City, State, Zip: _____

PLEASE COMPLETE ALL THE QUESTIONS BELOW USING THIS FORM FOR YOUR RESPONSE AND INITIALING EACH OF YOUR RESPONSES WHERE INDICATED ON THIS FORM.

List the exact name, address, phone number, and Federal ID Number if applicable, of the person(s) or entities which hold title to the Property. If an entity, please indicate the type of business organization, i.e. sole proprietorship, general partnership, limited partnership, corporation, or limited liability company. INITIAL HERE: _____

<u>Name</u>	<u>Type of business Organization</u>	<u>Address/ City/State/Zip</u>	<u>Phone /Fax/email</u>
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Pursuant to N.J.S.A. 52:25-24.2, for any entity listed in your response to item #1 please list below the exact name and addresses of all individuals who own or control 10% or more of the profits or assets of the entity or owns or controls 10% or more of the stock in a corporation, of any class of stock, or all the individual partners or members of a partnership or limited liability company who own a 10% or greater interest therein, as the case may be. If an entity owns or controls 10% or more of the profits or assets of the association, company or partnership or 10% or more of the stock in a corporation with regard to the entity named in item #1, provide the same information requested herein for that entity. Continue this disclosure process until the names and addresses of every non-corporate stockholder and individual member or partner, exceeding the 10% ownership criteria has been listed. If the entity is a publicly held corporation, provide the most recent annual report and Federal Form 10K, or a comparable filing with the Federal Securities and Exchange Commission. INITIAL HERE. _____

<u>Name</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>	<u>Held % of Prop. In Item 1</u>
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Is any individual listed in item #2 above, currently or formerly a state officer, employee, aide, or a special state officer? If yes, provide below the name of the individual and position held. Please also notify in writing, the Executive Commission on Ethical Standards, CN 082, Trenton, NJ 08625. [Attach copy of correspondence to this form]. In answering this question please include employment by any of the State's independent authorities, commissions and/or agencies.

YES: _____ NO. ___ ATTACHMENT: _____ INITIAL HERE: _____

<u>Name</u>	<u>Position</u>
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Is any individual listed in item #2 above or is a member of his/her immediate family, currently or formerly a member of the legislature, a legislative employee, or aide? If yes, provide the name of the individual and position held, and his/her relationship to the individual below and notify in writing the Joint Legislative Committee on Ethical Standards, CN 0868, Trenton, NJ 08628. [Attach copy of correspondence to this form].

YES: _____ NO. ___ ATTACHMENT: _____ INITIAL HERE: _____

Name Position Relation

Is any individual listed in item #2 above, currently or formerly a member of the judiciary or an employee of the judiciary? If yes, provide the name of the individual and position held below and notify in writing, the Administrative Director of The Courts, CN 037, Trenton, NJ 08625. [Attach copy of correspondence to this form].

YES: ____ NO. ____ ATTACHMENT: ____ INITIAL HERE: ____

Name Position

Has any individual listed in item #2 above ever been arrested, indicted, or convicted of a crime? If yes, please provide further explanation and copies of any relevant documents filed with the court.

YES: ____ NO. ____ ATTACHMENT: ____ INITIAL HERE: ____

Name

Has any individual listed in item #2 above ever been debarred from doing business with the State of New Jersey, the Federal government or any municipal government? If yes, please provide further written explanation including dates of debarment and copies of any relevant documents.

YES: ____ NO. ____ ATTACHMENT: ____ INITIAL HERE: ____

Name

8a. Are all the real estate taxes on the Property current? PROVIDE A COPY OF THE MOST RECENT PAID TAX BILL OR CERTIFICATION FROM THE TAX

OFFICE SHOWING THAT ALL TAXES ARE PAID TO DATE. If no, please explain.

YES: ____ NO. ____ ATTACHMENT: _____ INITIAL HERE: _____

8b. Is the Property or any portion thereof, tax exempt? If yes, please explain.

YES: ____ NO. ____ ATTACHMENT: _____ INITIAL HERE: _____

8c. Are there any tax abatements on the Property? If yes, please explain.

YES: ____ NO. ____ ATTACHMENT: _____ INITIAL HERE: _____

9. Does any individual listed in item #2 above have any other licenses or lease(s) with the State of New Jersey, any of its authorities or other public bodies of state government? If yes, please provide the information requested below for this question for each such license or lease. If no other current licenses or leases, indicate none.

ATTACHMENT: _____ NONE. ____ INITIAL HERE: _____

<u>Lessor/Licensor</u> <u>Name</u>	Lessor/Licensor Street Address/ <u>City/State/Zip</u>	<u>License or</u> <u>Lease No.</u>	Premises Address/ <u>City/Sate/Zip</u>	<u>Occupation</u>
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List the name, address, and phone number to be used for legal notices. The address provided **MUST** be a New Jersey address. Only list one. INITIAL HERE: ____

<u>Name</u> <u>Number</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>	<u>Phone</u>
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List the name, address, and phone number of all mortgagees or assignees, if any for this Property. If no mortgagee or assignee, indicate none.

NONE: ____ INITIAL HERE: _____

Name Address City State Zip Phone
Number

List the name and address of any and all persons or agencies employed or retained, directly or indirectly, to solicit or secure this lease upon an agreement or understanding for a commission, percentage, brokerage or contingent fee of any kind. (Attach a true and complete copy of any such agreement or understanding). If no persons or agencies employed or retained, indicate none.

ATTACHMENT: _____ NONE: ____ INITIAL HERE: _____

Name Address City State Zip

Are there any blind trusts associated with this Property? If yes, explain.

YES: ____ NO. ____ ATTACHMENT: _____ INITIAL HERE: _____

14a. Is any individual listed in item #2 above subject to a federal, state or local tax lien, notice of tax deficiency or tax related judgment? If yes, please explain and attach a copy of the notice, lien or judgment.

YES: ____ NO. ____ ATTACHMENT: _____ INITIAL HERE: _____

Name

14b. Is any individual referenced in item #2 above in arrears in payment of real estate taxes on any property in which they have an interest of 10% or more? If yes, please explain.

YES: ____ NO. ____ ATTACHMENT: _____ INITIAL HERE: _____

14c. Is any individual referenced in item #2 above have a 10% or greater interest in another property, the mortgage of which is in arrears? If yes, is the property in pre-foreclosure or foreclosure proceedings? If yes, please explain.

Yes: _____ No: _____ INITIAL HERE: _____

14d. Has any individual referenced in item #2 above filed for Bankruptcy within the last ten (10) years? If yes, please explain and attach a copy of any notices or judgments.

YES: _____ NO. ____ ATTACHMENT: _____ INITIAL HERE:

15. Is the mortgage on the Property in arrears? If yes, is the Property in pre-foreclosure, foreclosure, under a rent receivership or any other custodial oversight at this time? If yes, please explain and attach any agreements that may be in effect.

YES: _____ NO. ____ ATTACHMENT: _____ INITIAL HERE:

[The remainder of this page is intentionally left blank.]

EXHIBIT 1

NURSING FACILITIES

Center Name: Powerback Rehab Piscataway (“Piscataway”)
Licensed Operator: Skiles Avenue and Sterling Drive Urban Renewal Operations LLC
Address: 10 Sterling Drive, Piscataway, NJ 08854

Center Name: Powerback Rehabilitation (“Voorhees”)
Licensed Operator: SR-73 and Lakeside Avenue Operations LLC
Address: 113 South Route 73, Voorhees, NJ 08043

EXHIBIT 2

FEDERALLY FUNDED CONTRACT RIDER ADDITIONAL FEDERALLY FUNDED AGREEMENT PROVISIONS

A TERMS RELATING TO ALL CONTRACTS FUNDED, IN WHOLE OR IN PART, BY FEDERAL FUNDS

The provisions set forth in this Federally Funded Contract Rider apply to all contracts funded, in whole or in part, by Federal funds as required by 2 CFR 200.317, and are in addition to those in the License.

A.1 PROCUREMENT OF RECOVERED MATERIALS

To the extent that any other requirement in the contract requires the contractor to provide any of the following items, this Section A.1 of the Federally Funded Contract Rider modifies the terms of the other contract requirements.

Pursuant to 2 CFR 200.322, the contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6962. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$ 10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$ 10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

- A. Designated items are those set forth in 40 CFR 247 subpart B, as may be amended from time to time, including:
 1. Paper and paper products listed in 40 CFR 247.10;
 2. Certain vehicular products as listed in 40 CFR 247.11;
 3. Certain construction products listed in 40 CFR 247.12;
 4. Certain transportation products listed in 40 CFR 247.13;
 5. Certain park and recreation products, 40 CFR 247.14;
 6. Certain landscaping products listed in 40 CFR 247.15;
 7. Certain non-paper office products listed in 40 CFR 247.16; and
 8. Other miscellaneous products listed in 40 CFR 247.17.

- B. As defined in 40 CFR 247.3, “recovered material” means:
 1. waste materials and byproducts which have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process; and

2. for purposes of purchasing paper and paper products, means waste material and byproducts that have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process. In the case of paper and paper products, the term recovered materials includes:
 - a. Postconsumer materials such as --
 - i. Paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; and
 - ii. All paper, paperboard, and fibrous wastes that enter and are collected from municipal solid waste, and
 - b. Manufacturing, forest residues, and other wastes such as --
 - i. Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel in smaller rolls of rough sheets) including: envelope cuttings, bindery trimmings, and other paper and paperboard waste, resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and
 - ii. Finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others;
 - iii. Fibrous byproducts of harvesting, manufacturing, extractive, or wood-cutting processes, flax, straw, linters, bagasse, slash, and other forest residues;
 - iv. Wastes generated by the conversion of goods made from fibrous material (that is, waste rope from cordage manufacture, textile mill waste, and cuttings); and
 - v. Fibers recovered from waste water which otherwise would enter the waste stream.
- C. For contracts in an amount greater than \$ 100,000, at the beginning of each contract year, contractor shall provide the State estimates of the total percentage of recovered material utilized in the performance of its contract for each of the categories listed in subsection (A). For all contracts, at the conclusion of each contract year, contractor shall certify to the State the minimum recovered material content actually utilized in the prior contract year.

A.2 EQUAL EMPLOYMENT OPPORTUNITY

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

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. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

A.3 DAVIS-BACON ACT, 40 U.S.C. 3141-3148, AS AMENDED

When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The provisions of 29 C.F.R. 3.1 to 3.11 are incorporated into this contract as if set forth at length herein.

A.4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT, 40 U.S.C. 3701-3708

Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the

wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

A.5 RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

A.6 CLEAN AIR ACT, 42 U.S.C. 7401-7671Q, AND THE FEDERAL WATER POLLUTION CONTROL ACT, 33 U.S.C. 1251-1387, AS AMENDED

Contracts and subgrants of amounts in excess of \$ 150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

A.7 DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689)

A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

A.8 BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. 1352

Contractors that apply or bid for an award exceeding \$ 100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any

Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

A.9 TERMINATION

This contract may be terminated by the State: a) upon material breach of the License by Licensor upon five days written notice during which five days the Licensor shall have the opportunity to cure the material breach, or b) for convenience on 30 days notice by the State.

A.10 RECORDS RETENTION AND AUDIT

Licensor shall maintain all records related to the License and any goods or services provided hereunder for five years after the State make the final payment on the final invoice pursuant to the License. Licensor shall make all records related to the License available to the State or federal Government and to any person(s) authorized by the State or federal government to review or audit such records.

A.11. SEALS

Licensor shall not use the State or federal seals, logos, crests or reproductions of flags without written approval of the State or federal government, as applicable.

A.12 ASSURANCES.

During the term of or the performance of the work required under this License, Licensor shall comply with all applicable State and federal laws with regard to this License.