

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

No. 190 CD 2023

**COMMONWEALTH OF PENNSYLVANIA,
PENNSYLVANIA HISTORICAL AND MUSEUM COMMISSION,
Petitioner, and ANCESTRY.com OPERATIONS INC.,
Petitioner/Intervenor,**

v.

**ALEC FERRETTI,
Respondent.**

**SUPPLEMENTAL RECORD OF ANCESTRY.com OPERATIONS INC.,
PETITIONER/INTERVENOR**

Appeal from the Final Determination of the Office of Open Records dated
January 26, 2023 at Docket No. AP 2022-2106

Craig J. Staudenmaier, Esq.
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Supreme Court ID No. 93967

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*Counsel for Petitioner/Intervenor, Ancestry.com
Operations Inc.*

Dated: September 1, 2023

**SUPPLEMENTAL RECORD OF ANCESTRY.com OPERATIONS, INC.,
PETITIONER/INTERVENOR**

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1. Affidavit of Quinton Atkinson 1b

NAUMAN, SMITH, SHISSLER & HALL, LLP

By: /s/Craig J. Staudenmaier

Craig J. Staudenmaier, Esquire

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*Counsel for Ancestry.com Operations Inc.,
Petitioner/Intervenor*

Date: September 1, 2023

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Craig J. Staudenmaier, Esquire

Signature: /s/Craig J. Staudenmaier
Craig J. Staudenmaier, Esquire
Supreme Court ID No. 34996
200 North Third Street, 18th Floor
Harrisburg, PA 17101
Telephone: (717) 236-3010

CERTIFICATE OF SERVICE

AND NOW, on the date stated below, I, Ijeoma Okereke an employee of the firm of Nauman, Smith, Shissler & Hall, LLP, hereby certify that I this day in conformance with Pa. R.A.P. 121, served the foregoing ***“Supplemental Record of Ancestry.com Operations, Inc., Petitioner/Intervenor”*** via PACfile eService and electronic mail addressed to the following:

Terry Lee Mutchler, Esquire
Evan Kramer, Esquire
Obermayer, Rebmann, Maxwell & Hippel
LLP
1500 Market St Ste 3400
Philadelphia, PA 19102
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Counsel for Alec Ferretti, Respondent

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Governor's Office of General Counsel
333 Market Street, 17th Floor
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*Counsel for Pennsylvania Historical
and Museum Commission, Petitioner*

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/s/Ijeoma Okereke

Ijeoma Okereke, Legal Assistant

Date: September 1, 2023

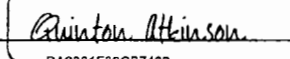
AFFIDAVIT

I, Quinton Atkinson, state that I am authorized to make this statement on behalf of Ancestry.com Operations Inc. and make the following statement subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsifications to authorities as follows:

1. I am Senior Director Global Content Acquisition for Ancestry.com Operations Inc. ("Ancestry") (formally known as The Generations Network, Inc. or TGN).
2. I have been with Ancestry for 26 years and have been in my current position as Senior Director since 2015.
3. Ancestry is a for-profit genealogy company and for decades has provided its users with access to genealogical and historical records, including birth and death records, marriage licenses, and military service records, both nationally and internationally.
4. Ancestry does so by providing on-line products both free and by subscription. Ancestry currently has over 3 million subscribers worldwide and websites offering subscription services to allow users to conduct genealogical research to explore their family histories.
5. As Senior Director Global Content Acquisition, my job duties include responsibility for Ancestry's global acquisition of content for the Ancestry websites.
6. My team and I develop relationships with archives, libraries, museums, and other stewards of historical records such as the Pennsylvania Historical and Museum Commission ("PHMC") and enter into licensing agreements to access and digitize relevant records for use on Ancestry's on-line websites used worldwide for genealogical and historical research.
7. In order to obtain access to these records from such entities, Ancestry fosters relationships and negotiates mutually beneficial agreements with them similar to the 2008 License Agreement ("License Agreement") between Ancestry and PHMC. See Exhibit A attached hereto. (R.R. 10a-20a)
8. I am familiar with the terms and purposes of the License Agreement having assisted in the negotiation of it.
9. PHMC did not initiate the License Agreement with Ancestry in 2008 and the purpose of the License Agreement was not to assist PHMC in maintaining the subject records or any other of its statutorily defined duties.
10. No public funds were paid by PHMC or by any other public agency to Ancestry under the License Agreement. To the contrary, Ancestry invested over \$3.25 million of its own funds to complete the project.
11. Under the express terms of the License Agreement, Ancestry was granted access to certain records for the purpose of digitizing and indexing them using Ancestry's proprietary processes and making them available to Ancestry's subscribers online. See Exhibit A, Preamble. (R.R. 8a)
12. The resulting digital images and indexes comprised the "Licensed Materials" under the License Agreement. Exhibit A, Preamble (R.R. 8a)

13. PHMC provided the records to be processed under the License Agreement on microfilm or paper which to the best of my knowledge would still be available to Mr. Ferretti and others. Exhibit A, Sec. 1.1 (R.R. 8a)
14. The physical records provided by PHMC to Ancestry under the License Agreement either remained with PHMC or were returned to it immediately upon completion of the digitization process. Exhibit A, Sec. 2.4 (R.R. 9a)
15. Ancestry agreed to provide digital copies of the Licensed Materials to PHMC subject to the specific use restrictions in the License Agreement.
16. PHMC granted to Ancestry the "right and license to digitize, index, copy, publish, republish, market, distribute, and sell the Licensed Materials anywhere in the world with any media, including printed and Electronic Products." Exhibit A, Sec. 2.1 (R.R. 8a)
17. In exchange, Ancestry granted PHMC a nontransferable right and license to use the Licensed Materials for the benefit of its patrons or its own internal use. Exhibit A, Sec. 2.2 (R.R. 9a)
18. The License Agreement, however, prohibited PHMC from posting the Licensed Materials on its own website for a rolling three (3) years from the date Ancestry first posted the applicable document set on-line and expressly forbade PHMC from distributing or reselling the Licensed Materials to "any company or institution for any purpose." Exhibit A, Sec. 2.2 (R.R. 9a)
19. In addition, if the License Agreement is terminated, PHMC is required to return to Ancestry "any Licensed Materials" received. Exhibit A, Sec. 8.3 (R.R. 11a)
20. The Licensed Materials (including the indexes and metadata created under the License Agreement) are the property of Ancestry and not the property of PHMC. Exhibit A, Preamble (R.R. 8a). They were not created as a delegation of or substitute for a governmental function required to be performed by PHMC.
21. In fact, the License Agreement itself contains an express "confidentiality" clause which compels PHMC to protect the proprietary information it obtains under the License Agreement "with the same diligence with which it guards its own proprietary information." Exhibit A, Sec. 7.1 (R.R. 10a-11a)
22. I am also familiar with the request Mr. Ferretti made to PHMC. Mr. Ferretti's request is not for the records held by PHMC which are required to be publicly available; rather he has requested the Licensed Materials which consist entirely of Ancestry's work product under the License Agreement including the indexes and metadata created using Ancestry's confidential and proprietary processes and at Ancestry's expense. The records PHMC provided to Ancestry pursuant to the License Agreement were undigitized and did not contain any metadata or indexes.
23. In connection with my role, I also take steps to protect the confidentiality of Ancestry's proprietary processes applicable to these Content Acquisition projects from competitors as outlined below.
24. Like its competitors, Ancestry keeps its processes confidential. A limited group of employees has access to the proprietary processes. Additionally, all Ancestry employees are required to sign confidentiality agreements upon hire as a condition of employment.

- Finally, contractual provisions such as the confidentiality clause, use limitations and ownership provisions in this License Agreement are used to limit access. (R.R. 10a-11a)
25. The indexes and metadata created under the License Agreement and related processes include proprietary tools such as “dictionaries” which are unique to Ancestry and which it keeps confidential. For example, our dictionaries can aggregate certain items such as names which can be expressed in numerous variations and standardize them through our proprietary process to display consistently throughout our site thereby providing more meaningful data and more accurate and efficient searches for our subscribers.
26. Mr. Ferretti is a board member of Reclaim the Records, an activist group whose mission is to provide free access to public documents online. If he obtains the Licensed Materials, Mr. Ferretti will cause them to be posted online through reclaimtherecords.org making Ancestry’s valuable work product available to the public and Ancestry’s competitors for free.
27. Ancestry has many competitors worldwide who provide similar on-line genealogy services and would unjustly benefit from disclosure of Ancestry’s proprietary processes developed over decades and at substantial cost.
28. If Ancestry’s competitors were to obtain the Licensed Materials with the indexes and metadata, by analysis they would be able to gain visibility into Ancestry’s proprietary production processes and recreate the logic behind the formulas we use to curate data, such as name dictionaries, allowing them to replicate and use the information to undercut Ancestry in the marketplace and unjustly profit from Ancestry’s multimillion dollar investment resulting in substantial competitive harm to Ancestry.

DocuSigned by:

DA2381F89CB7422...
Quinton Atkinson
Senior Director Content Acquisition
Ancestry.com Operations Inc.

Date: 8/31/2023 | 11:16 AM PDT

EXHIBIT A

MSC 17173

License Agreement

This License Agreement ("AGREEMENT") is entered into as of the date last signed below, between The Generations Network, Inc., Delaware corporation with its principal office at Provo, Utah ("TGN"), and the Pennsylvania Historical and Museum Commission, an independent agency of the Commonwealth of Pennsylvania ("Commonwealth"), located in Harrisburg, Pennsylvania ("PHMC").

WHEREAS, TGN operates multiple genealogy and family history related Web properties, including Ancestry.com, that provide family-oriented services, genealogy research and access to other related services (the "TGN Network").

WHEREAS, PHMC owns or has rights to historical records, including the records covered in Appendix A (the "Records"), as may be supplemented from time to time by mutual agreement; and

WHEREAS, TGN desires to access the Records for the purpose of digitization, index creation and distribution. The resulting digital images and indexes created by TGN from the Records are referred to as the "Licensed Materials."

THEREFORE, the parties, intending to be legally bound, agree to the following:

Definitions:

Records. The term "Records" shall mean those PHMC Collections as described in Appendix A.

Licensed Materials. The term "Licensed Materials" shall mean those digital images and indexes that TGN creates as a result of digitizing and indexing the records.

1. Records Access.

- 1.1. By PHMC. PHMC shall: a) deliver to TGN a copy of the Records on microfilm, and b) provide TGN with copies of digital records, as specified in Appendix A.
- 1.2. By TGN. TGN agrees to digitize and create a basic index of the Records, and, prior to or simultaneously to posting such records to the TGN Network, provide PHMC with a digital copy of the images and indexes, in a digital format approved by PHMC, subject to the use restrictions stated below. TGN agrees to provide free access for up to 20 simultaneous users to Ancestry.com, including the Licensed Materials, on location at the state archive. TGN agrees to provide the PHMC logo and sourcing credit and quarterly usage reports on web pages containing the Licensed Materials. TGN warrants that the digitized and indexed images provided to PHMC will be free from defect and that if defective, it will repair or replace the digitized and indexed images at its own expense.

2. Grant of Licenses.

- 2.1. By PHMC. PHMC grants to TGN the right and license to digitize, index, copy, publish, republish, market, distribute, and sell the Licensed Materials anywhere in the world within any media, including but not limited to printed and Electronic Products. "Electronic Product" shall mean the publication and/or distribution of the Licensed Materials in any and all electronic media, now known or developed in the future, including but not limited to floppy disk, CD-ROM, DVD, hand held devices, Internet (or any other method of on-line publication or distribution). For each collection, this right and license will be held exclusively by TGN for a period of three years (the "Exclusive Period") beginning the date on which TGN posts the Licensed Materials online, except as specified in the Appendixes.

- 2.2. By TGN. TGN grants PHMC a non-exclusive, non-transferable right and license to use the Licensed Materials for the benefit of its patrons. (Licensed Materials provided to PHMC may be used for internal purposes at any time during or after the Exclusive Period.) PHMC may not post the Licensed Materials on its website for a period of three years from the date when the Licensed Materials were posted online by TGN. The Licensed Materials may not be distributed or resold by PHMC to any company or institution for any purpose, and is solely for the use of individual patrons. Following the three-year exclusive period, PHMC can post the Licensed Materials on its website for use by the general public. In the event that PHMC chooses to post the Licensed Materials online following the Exclusive Period, TGN is no longer obligated to provide free access to the Licensed Materials on-site, at the state archive.
- 2.3. While either party may use third parties to assist in the development and production of the Electronic Product, the license granted to PHMC does not allow partnering, or co-publishing relationships by PHMC, whereby any third party becomes a publisher of the Licensed Materials in an Electronic Product, or shares in the profit from the publication of the Licensed Materials in an Electronic Product.
- 2.4. The PHMC reserves all rights pertaining to use of the original records, as described in Appendix A, provided to TGN.
3. Representations. Each party represents and warrants that it has the right to enter into this AGREEMENT and that by doing so it shall not violate or infringe the rights of any third party.
4. Background Checks.
- 4.1. TGN must, at its expense, arrange for a background check for each of its employees, as well as for the employees of its subcontractors, who will have access to Commonwealth facilities. Background checks are to be conducted via the Request for Criminal Record Check form and procedure found at <http://www.psp.state.pa.us/psp/lib/psp/sp4-164.pdf>. The background check must be conducted prior to initial access by an IT employee and annually thereafter.
- 4.2. Before the Commonwealth will permit a contract employee access to Commonwealth facilities, TGN must provide written confirmation to the office designated by the agency that the background check has been conducted. If, at any time, it is discovered that an contract employee has a criminal record that includes a felony or misdemeanor involving terroristic threats, violence, use of a lethal weapon, or breach of trust/fiduciary responsibility; or which raises concerns about building, system, or personal security, or is otherwise job-related, TGN shall not assign that employee to any Commonwealth facilities, shall remove any access privileges already given to the employee, and shall not permit that employee remote access to Commonwealth facilities or systems, unless the agency consents, in writing, prior to the access being provided. The agency may withhold its consent at its sole discretion. Failure of TGN to comply with the terms of this paragraph may result in default of TGN under its Agreement with the Commonwealth.
- 4.3. The Commonwealth specifically reserves the right of the Commonwealth to conduct background checks over and above that described herein.
5. Insurance (applicable only if TGN employees or contractors perform work onsite at PHMC).
- 5.1. TGN shall procure and maintain at its expense and require its subcontractors to procure and maintain, as appropriate, the following types of insurance, issued by companies acceptable to PHMC and authorized to conduct such business under the laws of the Commonwealth of Pennsylvania.

5.1.1. Worker's Compensation Insurance for all of TGN's employees and those of any subcontractor engaged in performing Services in accordance with the *Worker's Compensation Act* (77 P.S. § 101, *et seq.*).

5.1.2. Public liability and property damage insurance to protect the Commonwealth of Pennsylvania, TGN and any and all subcontractors from claims for damages for personal injury (including bodily injury), sickness or disease, accidental death, and damage to property, including loss of use resulting from any property damage which may arise from its operations under this AGREEMENT, whether such operation be by TGN, by any subcontractor, or by anyone directly or indirectly employed by either. The limits of such insurance shall be in an amount not less than \$500,000 per person and \$2,000,000 per occurrence, personal injury and property damage combined. Such policies shall be occurrence rather than claims-made policies and shall name the Commonwealth of Pennsylvania as an additional insured. The insurance shall not contain any endorsements or any other form designed to limit and restrict any action by the Commonwealth as an additional insured against the insurance coverages in regard to the work performed for the Commonwealth.

5.2. Prior to commencing work under the AGREEMENT, TGN shall provide PHMC with a copy of each current certificate of insurance. These certificates shall contain a provision that coverages afforded under the policies will not be canceled or changed in such a way to cause the coverage to fail to comply with the requirements of this Section until at least thirty (30) days prior written notice has been given to PHMC.

5.3. TGN agrees to maintain such insurance for the life of the AGREEMENT.

6. Conflicts.

6.1. In the event of a controversy or claim arising from the AGREEMENT, TGN must, within six months after the cause of action accrues, file a written claim with the Contracting Officer for a determination. The claim shall state all grounds upon which TGN asserts a controversy exists. If TGN fails to file a claim or files an untimely claim, TGN is deemed to have waived its right to assert a claim in any forum.

6.2. The Contracting Officer shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within 120 days of the receipt of the claim, unless extended by consent of the Contracting Officer and TGN. The Contracting Officer shall send his/her written determination to TGN. If the Contracting Officer fails to issue a final determination within the 120 days (unless extended by consent of the parties), the claim shall be deemed denied. The Contracting Officer's determination shall be the final order of the purchasing agency.

6.3. Within fifteen (15) days of the mailing date of the determination denying a claim or within 135 days of filing a claim if, no extension is agreed to by the parties, whichever occurs first, TGN may file a statement of claim with the Commonwealth Board of Claims. Pending a final judicial resolution of a controversy or claim, TGN shall proceed diligently with the performance of the AGREEMENT in a manner consistent with the determination of the Contracting Officer and PHMC shall compensate TGN pursuant to the terms of the AGREEMENT.

7. Confidentiality.

7.1. TGN agrees to guard the confidentiality of the PHMC with the same diligence with which it guards its own proprietary information. PHMC agrees to protect the confidentiality of

TGN's confidential information with the same diligence with which it guards its own proprietary information. In order for information to be deemed to be confidential, the party claiming confidentiality must designate the information as "confidential" in such a way as to give notice to the other party. The parties agree that such confidential information shall not be copied, in whole or in part, except when essential for authorized use under this AGREEMENT. Each copy of such confidential information shall be marked by the party making the copy with all confidentiality notices appearing in the original.

7.2. The obligations stated in this Section do not apply to Information:

- 7.2.1. already known to the recipient at the time of disclosure other than through the contractual relationship;
- 7.2.2. independently generated by the recipient and not derived from the information supplied by the disclosing party;
- 7.2.3. known or available to the public, except where such knowledge or availability is the result of unauthorized disclosure by the recipient of the proprietary information;
- 7.2.4. disclosed to the recipient without a similar restriction by a third party who has the right to make such disclosure; or
- 7.2.5. required to be disclosed by the recipient by law, regulation, court order, or other legal process.

7.3. There shall be no restriction with respect to the use or disclosure of any ideas, concepts, know-how, or data processing techniques developed alone or jointly with PHMC in connection with services provided to PHMC under this AGREEMENT.

8. Termination.

- 8.1. Termination for Cause by PHMC: If, through any cause, TGN fails to fulfill, in a timely and proper manner, its obligations under this AGREEMENT, PHMC shall give TGN written notice of a deficiency in its performance. If TGN does not correct the deficiency to the reasonable satisfaction of PHMC within thirty (30) days of its receipt of the notice of deficiency, PHMC may terminate this AGREEMENT.
- 8.2. Termination for Cause by TGN: If, through any cause, PHMC fails to fulfill, in a timely and proper manner, its obligations under this AGREEMENT, TGN shall give PHMC written notice of a deficiency in its performance. If PHMC does not correct the deficiency to the reasonable satisfaction of TGN within thirty (30) days of its receipt of the notice of deficiency, TGN may terminate this AGREEMENT.
- 8.3. Return of Materials. If this Agreement is terminated for cause by either party, PHMC agrees to return to TGN any Licensed Materials it has received from TGN and TGN agrees to return to PHMC any records, as described in Appendix A, it has received from PHMC.

9. Assignability

- 9.1. Subject to the terms and conditions of this Section, the AGREEMENT is binding upon the parties and their respective successors and assigns.

- 9.2. TGN may not assign, in whole or in part, the AGREEMENT or its rights, duties, obligations, or responsibilities hereunder without the prior written consent of PHMC, which consent may be withheld at the sole and absolute discretion of PHMC.
- 9.3. For the purposes of the AGREEMENT, the term "assign" shall include, but shall not be limited to, the sale, gift, assignment, encumbrance, pledge, or other transfer of any ownership interest in TGN provided, however, that the term shall not apply to the sale or other transfer of stock of a publicly traded company.
- 9.4. Any assignment consented to by PHMC shall be evidenced by a written assignment agreement executed by TGN and its assignee in which the assignee agrees to be legally bound by all of the terms and conditions of the AGREEMENT and to assume the duties, obligations, and responsibilities being assigned.
- 9.5. Notwithstanding the foregoing, TGN may, without the consent of PHMC, assign its rights to payment to be received under the AGREEMENT, provided that TGN provides written notice of such assignment to the PHMC together with a written acknowledgement from the assignee that any such payments are subject to all of the terms and conditions of the AGREEMENT.
- 9.6. A change of name by TGN, following which the TGN federal identification number remains unchanged, is not considered to be an assignment. TGN shall give PHMC written notice of any such change of name.

10. Commonwealth Held Harmless

- 10.1. TGN shall hold the Commonwealth harmless from and indemnify the Commonwealth against any and all third party claims, demands and actions based upon or arising out of any activities performed by TGN and its employees and agents under this AGREEMENT, provided the Commonwealth gives TGN prompt notice of any such claim of which it learns. Pursuant to the *Commonwealth Attorneys Act* (71 P.S. § 732-101, et seq.), the Office of Attorney General ("OAG") has the sole authority to represent the Commonwealth in actions brought against the Commonwealth. The OAG may, however, in its sole discretion and under such terms as it deems appropriate, delegate its right of defense. If OAG delegates the defense to TGN, the Commonwealth will cooperate with all reasonable requests of TGN made in the defense of such suits.
- 10.2. Notwithstanding the above, neither party shall enter into any settlement without the other party's written consent, which shall not be unreasonably withheld. The Commonwealth may, in its sole discretion, allow TGN to control the defense and any related settlement negotiations.

11. Independent Capacity of TGN

- 11.1. The parties to this AGREEMENT agree that the services performed by TGN under the terms of this AGREEMENT are performed as an independent contractor. The services performed by TGN are performed neither as an employee of the Commonwealth of Pennsylvania nor as a partnership or joint venture between the PHMC and TGN.
- 11.2. Except as otherwise provided by the terms of this AGREEMENT, PHMC shall have no control over the manner in which the contractual services are performed by TGN, or any subcontractor. Any job specifications or standards of work attached to or incorporated into this AGREEMENT or any subcontracting restrictions contained in this AGREEMENT

shall not be construed as PHMC's direction or control over the manner of the performance of services provided by TGN.

12. Notices. Notices provided under this AGREEMENT will be effective if delivered to the then current principal business address of the other party. The current addresses are:

If to TGN: 360 West 4800 North Provo, Utah, 84604 Attn: Al Viera, with a copy to General Counsel at the same address TGN's telephone: 801-705-7000. TGN's fax: 801-705-7001.

If to PHMC: 300 North Street, Harrisburg, PA 17120-0090 Attn: Barbara Franco, Executive Director, Pa. Historical & Museum Commission, telephone 717-787-2891, fax 717-705-0482. Notices may be given by first class mail, express courier or confirmed facsimile.

13. Applicable Law. This AGREEMENT shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions) and the decisions of the Pennsylvania courts. TGN consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania, waiving any claim or defense that such forum is not convenient or proper. TGN agrees that any such court shall have in personam jurisdiction over it, and consents to service of process in any manner authorized by Pennsylvania law.
14. Incorporation of Exhibits. Commonwealth Non-Discrimination/Sexual Harassment, Contractor Integrity Provisions, Contractor Responsibility Provisions, Tax Offset Clause, and Provisions Regarding the Americans with Disabilities Act are hereto attached and incorporated as Exhibits "A", "B", "C", "D" and "E", respectively. TGN shall be known as "Contractor" for purposes of these provisions

The signatures of the parties below indicate their respective acknowledgment of the terms outlined in this AGREEMENT.

The Generations Network, Inc.

Signed: [Signature]
Name: Gary L. Gibb
Title: V.P. Content
Date: Nov 18, 2008

Pennsylvania Historical and Museum Commission

Signed: [Signature]
Name: Barbara A. Franco
Title: Executive Director
Date: 12/15/08

APPROVED AS TO FORM AND LEGALITY

By [Signature] 12/15/08
Agency Counsel/OGC Date

[Signature]
Office of the Attorney General

map
7-3004
By [Signature] 2/6/09
Comptroller Date

Appendix A

Collections considered the Records for purposes of this AGREEMENT:

Project Name	Approx. # of Images	Years Covered	Format	Exclusivity
Septennial Census	11000	1775-1863	Microfilm	3 Years
Oyer and Terminer	4800	1757-1786	Microfilm	3 Years
Warrant Applications	90000	1734-1952	Microfilm	3 Years
Tax and Exoneration	31000	1761-1801	Microfilm	3 Years
Warrants	150,000	1882-	Microfilm	3 Years
Spanish-American Veterans' Compensation	73,000	1934	Microfilm	3 Years
War of 1812 Pension Files	21,600	1866-1896	Microfilm	3 Years
Civil War Border Claims	43000	1871-1879	Microfilm	3 Years
Supreme Court Naturalization Papers	40000	1794-1868	Microfilm	3 Years
WPA Church Archives	123,000	1937-1940	Microfilm	3 Years
Records of Marriages RG14	1500	1885-1889	Microfilm	3 Years
Births, Deaths Marriages RG26	5500	1852-1854	Microfilm	3 Years
Pennsylvania Veterans' Burial Cards	750,000	1929-1990	Digital	None

Exhibit A

NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

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

- a. In the hiring of any employees for the manufacture of supplies, performance of work, or any other activity required under the Contract or any subcontract, the Contractor, subcontractor or any person acting on behalf of the Contractor or subcontractor shall not by reason of gender, race, creed, or color discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- b. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work or any other activity required under the Contract an account of gender, race, creed, or color.
- c. The Contractor and any subcontractors shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
- d. The Contractor shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
- e. The Contractor and each subcontractor shall furnish all necessary employment documents and records to and permit access to its books, records, and accounts by the Contracting Officer and the Department of General Services Bureau of Contract Administration and Business Development far purposes of investigation to ascertain compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause. If the Contractor or any subcontractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the Contracting Officer or the Bureau of Contract Administration and Business Development.
- f. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that such provisions will be binding upon each subcontractor.
- g. The Commonwealth may cancel or terminate the Contract, and all money due or to become due under the Contract may be forfeited far a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

Exhibit B
CONTRACTOR INTEGRITY PROVISIONS

1. Definitions.
 - a. Confidential Information means information that is not public knowledge, or available to the public on request, disclosure of which would give an unfair, unethical, or illegal advantage to another desiring to contract with the Commonwealth.
 - b. Consent means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this agreement.
 - c. Contractor means the individual or entity that has entered into this agreement with the Commonwealth, including directors, officers, partners, managers, key employees, and owners of more than a 5% interest.
 - d. Financial interest means:
 - (1) ownership of more than a 5% interest in any business; or
 - (2) holding a position as an officer, director, trustee, partner, employee, or the like, or holding any position of management.
 - e. Gratuity means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.
2. The contractor shall maintain the highest standards of integrity in the performance of this agreement and shall take no action in violation of state or federal laws, regulations, or other requirements that govern contracting with the Commonwealth.
3. The contractor shall not disclose to others any confidential information gained by virtue of this agreement.
4. The contractor shall not, in connection with this or any other agreement with the Commonwealth, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any officer or employee of the Commonwealth.
5. The contractor shall not, in connection with this or any other agreement with the Commonwealth, directly or indirectly, offer, give, or agree or promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer or employee of the Commonwealth.
6. Except with the consent of the Commonwealth, neither the contractor nor anyone in privity with him shall accept or agree to accept from, or give or agree to give to, any person, any gratuity from any person in connection with the performance of work under this agreement except as provided therein.
7. Except with the consent of the Commonwealth, the contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project.
8. The contractor, upon being informed that any violation of these provisions has occurred or may occur, shall immediately notify the Commonwealth in writing.
9. The contractor, by execution of this agreement and by the submission of any bills or invoices for payment pursuant thereto, certifies and represents that he has not violated any of these provisions.
10. The contractor, upon the inquiry or request of the Inspector General of the Commonwealth or any of that official's agents or representatives, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to the Contractor's integrity or responsibility, as those terms are defined by the Commonwealth's statutes, regulations, or management directives. Such information may include, but shall not be limited to, the contractor's business or financial records, documents or files of any type or form which refer to or concern this agreement. Such information shall be retained by the contractor for a period of three years beyond the termination of the contract unless otherwise provided by law.
11. For violation of any of the above provisions, the Commonwealth may terminate this and any other agreement with the contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all expenses incurred in obtaining another contractor to complete performance hereunder, and debar and suspend the contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or nonuse of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

Exhibit C

CONTRACTOR RESPONSIBILITY PROVISIONS

For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee, or subgrantee, who has furnished or seeks to furnish goods, supplies, services, or leased space, or who has performed or seeks to perform construction activity under contract, subcontract, grant, or subgrant with the Commonwealth, or with a person under contract, subcontract, grant, or subgrant with the Commonwealth or its state-affiliated entities, and state-related institutions. The term contractor may include a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other entity of the Commonwealth.

1. The contractor must certify, in writing, for itself and all its subcontractors, that as of the date of its execution of any Commonwealth contract, that neither the contractor, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the contractor cannot so certify, then it agrees to submit, along with the bid/proposal, a written explanation of why such certification cannot be made.
2. The contractor must also certify, in writing, that as of the date of its execution, of any Commonwealth contract it has no tax liabilities or other Commonwealth obligations.
3. The contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the contractor shall have an obligation to inform the contracting agency if, at any time during the term of the contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.
4. The failure of the contractor to notify the contracting agency of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the contract with the Commonwealth.
5. The contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the contractor's compliance with the terms of this or any other agreement between the contractor and the Commonwealth, which results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The contractor shall not be responsible for investigative costs for investigations that do not result in the contractor's suspension or debarment.
6. The contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the internet at <http://www.dgs.state.pa.us/debarment.htm> or contacting the:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
Telephone No: (717) 783-6472
FAX No: (717) 787-9138

Exhibit D

Tax Offset Clause

The Contractor authorizes the Commonwealth to offset any state and local tax liabilities of the contractor of any of its subsidiaries, as well as, any other amount due to the Commonwealth from the contractor, against any payment due to the contractor under this or any other contract with the Commonwealth.

Exhibit E

AMERICANS WITH DISABILITIES ACT

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

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