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January 19, 2024

The Honorable Joseline A. Pena-Melnyk  
Chair, Health and Government Operations Committee  
House Office Building, Room 241  
Annapolis, Maryland 21401

Re: SUPPORT House Bill 289 *State Contracts – Prohibited Provisions*

Dear Chair Pena-Melnyk,

Towson University respectfully submits this letter in **SUPPORT** of **House Bill 289/Senate Bill 375** *State Contracts – Prohibited Provisions*. The bill proposes to prohibit and void certain provisions from being included in State contracts, as well as to clarify that Maryland law will control such issues. The enumerated provisions are already contrary to State law; the bill simply proposes to ensure that those problematic provisions cannot bind the State.

Towson University, as an institution of the University System of Maryland, must comply with State law. Nonetheless, vendors and other counterparties routinely present Towson University's procurement officers and legal staff with form contracts that, among other things, elect another state's laws, mandate binding arbitration, impose impermissibly broad indemnification obligations, or otherwise run afoul of Maryland law. This dilemma arises in matters big and small and requires careful consideration and attention in nearly every contract.

In the best-case scenario, the vendor and Towson's staff can negotiate these issues and remove the problematic provisions. Increasingly, however, Towson's counterparties are taking firmer stands against any revisions to their form agreements. This problem is especially acute when dealing with vendors presenting "click-wrap" online agreements or other electronic contracting mechanisms.

As a result, even when Towson is able to navigate these State law issues, valuable time and resources are expended on what amounts to basic threshold concerns for a State entity. Towson's resources would be better spent supporting its academic and administrative priorities.

This bill would empower Towson staff with clear and direct statutory authority to simplify the contracting process, all while mitigating litigation risk over whether certain provisions can apply to a State contract.

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For these reasons, Towson University supports HB 289.

Sincerely,