

## **TERMS AND CONDITIONS FOR OHIO MINORITY MICRO-ENTERPRISE GRANT PROGRAM**

### **1. General.**

**Disbursement Process.** Upon execution of the Grant Agreement, Grant Funds will be disbursed to Grantee by Grantor (the "Initial Disbursement"). Following the Initial Disbursement and prior to the End Date, Grantor may request Grantee to provide documentation that evidences costs incurred, and proof of payment for grant funds. Grantor shall review the documentation no later than thirty (30) days after receipt. If Grantor determines all or a part of the expenses identified in the documentation are not eligible expenses, Grantor shall immediately notify Grantee in writing of the deficiencies of the documentation.

**Grant Funds Not Expended.** If Grant Funds have been paid to Grantee and Grantor determines that Grantee has not performed in accordance with the terms and conditions of this Agreement, Grantee shall return such improperly expended Grant Funds within thirty (30) days after demand by Grantor. In the event that Grantee does not submit any proof of incurred costs for the Initial Disbursement when requested and/or the Project is affirmatively abandoned by Grantee, this Agreement shall be null and void without any further action by the parties, the Grantee may be required to return the Initial Disbursement, and neither party shall have any further obligation under this Agreement.

**Remedies.** Following a default by Grantee, Grantor may exercise one or more of the following remedies:

(a) **Demand Repayment of Grant Funds or Liquidated Damages.** Demand repayment of Grant Funds improperly expended under this Agreement or demand liquidated damages. Grantee shall not be required to refund Grant Funds or pay liquidated damages in an amount that exceeds the Grant Funds awarded.

(b) **Other Legal Remedies.** Pursue any other legal or equitable remedies Grantor may have under this Agreement or applicable law.

**Remedies Cumulative.** No remedy provided to Grantor under this agreement or otherwise by law or in equity is exclusive of any other available remedy. No delay or omission by Grantor in exercising any right or power accruing upon any default shall impair any such right or power or be construed as a waiver, and each such right or power may be exercised from time to time as often as may be deemed by Grantor to be expedient.

**Notice.** Any notice or report required or permitted to be given under this Agreement shall be deemed to have been sufficiently given for all purposes if mailed by first class certified or registered mail or sent by commercial delivery to the following addresses of the parties or to such other address as either party may hereafter furnish by written notice to the other party.

If to Grantor:

Ohio Development Services Agency  
77 South High Street, 28th Floor  
P.O. Box 1001  
Columbus, Ohio 43216-1001  
ATTN: Chief, Minority Business Development  
Division

If to Grantee:

The contact and address identified on page one of  
the Agreement.

With a copy to the Chief Legal Counsel of the Ohio  
Development Services Agency

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For purposes of the Reporting required under the Agreement and these Terms and Conditions, e-mail notices and reports with confirmations between Grantor's Authorized Representative and an authorized representative of the Grantee shall be permitted. For all other purposes, Notices shall be given by first class certified or registered mail or sent by commercial delivery to the addresses listed above, as may be modified.

**Execution.** The Minority Micro-Enterprise Grant Program Agreement and subsequent amendments may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together

shall constitute one and the same agreement. Copies of signatures sent by facsimile transmission or provided electronically in portable document format (“PDF”) shall be deemed to be originals for purposes of execution and proof of amendment.

**Indemnification.** Grantee shall indemnify and hold harmless Grantor, the State of Ohio and their officials, employees and agents from any and all liability, loss, claim, damage, cost and expense arising from or related to this Agreement, including, without limitation, any failure of any representation or warranty of Grantee to be correct in all respects and any performance or non-performance by Grantee, its directors, officers, employees, agents or affiliates of any obligations or activities under this Agreement or in furtherance of the Project. Grantee shall bear all costs associated with the defense of Grantor, the State of Ohio and their officials, employees and agents against any claim for which Grantee may be liable under this Agreement.

## **2. Reporting.**

**Project Completion Report.** Grantee may be asked to provide a project completion report. Items to be reported may include use of funds, number of employees at the Project, jobs and payroll created or maintained as a result of the Project, and any additional information identified and requested by Grantor.

**Signature and Costs.** If requested, Grantee shall certify by signature of a duly authorized representative of Grantee on the Project Completion Report that the information reported by Grantee is true, complete and correct. All costs incurred by Grantee to comply with the reporting requirements of this Agreement shall be borne by Grantee and are not an allowable expense reimbursable from Grant Funds.

## **3. Non-Discrimination.**

**Minority Hiring Goal.** Grantee shall make a good faith effort to employ minority persons in the completion and operation of the Project in the same percentage as the average percentage of minority persons (meaning individuals belonging to those groups identified in O.R.C. Section 122.71(E)(1)) who reside in the county in which the Project is located and any contiguous Ohio counties.

**Equal Employment Opportunity.** Grantee shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability, age, military status or ancestry. Grantee shall ensure that applicants for employment are considered for employment, and that employees are treated during employment, without regard to their race, religion, color, sex, national origin, disability, age, military status or ancestry. Grantee will incorporate the requirements of this paragraph in all of its contracts for any of the work undertaken on the Project (other than subcontracts for standard commercial supplies or raw materials), and Grantee will require all of its contractors for any part of such work to incorporate such requirements in all subcontracts for such work.

## **4. Records Maintenance and Access.**

**Maintenance of Records.** Grantee shall establish and maintain for at least three (3) years after the Grant Expiration Date or any earlier termination date its records regarding this Agreement, the Grant Funds and the Project, including, but not limited to, financial reports, job creation and retention statistics, and all other information pertaining to Grantee’s performance of its obligations under this Agreement. If any audit, dispute or litigation is then pending, however, Grantee shall maintain such records as may be relevant to such matter until it is finally resolved.

**Inspection and Copying.** At any time during normal business hours and upon not less than twenty-four (24) hours’ prior written notice, Grantee shall make available to Grantor, its agents or other appropriate State agencies or officials all books and records regarding this Agreement, the Grant Funds and the Project which are in the possession or control of Grantee, including, but not limited to, records evidencing employment at the Project site. Grantor, its agents and other appropriate State agencies and officials may review, audit and make copies of such books and records, and any such inspection of books and records will be undertaken in such a manner as not to interfere unreasonably with the normal business operations of Grantee. Grantee shall, at its own cost and expense, segregate records to be made available for inspection from Grantee’s other records of operation.

## **5. Adherence to State and Federal Laws and Regulations.**

**General.** Grantee shall comply with all applicable federal, state, and local laws in the performance of Grantee’s obligations under this Agreement, the completion of the Project and the operation of the Project as long as Grantee has any obligation

to Grantor under this Agreement. Without limiting the generality of such obligation, Grantee shall pay or cause to be paid all unemployment compensation, insurance premiums, workers' compensation premiums, income tax withholding, social security withholding, and any and all other taxes or payroll deductions required for all employees engaged by Grantee in connection with the Project, and Grantee shall comply with all applicable environmental, zoning, planning and building laws and regulations.

Ethics. Grantee, by its signature on this document, certifies: (1) it has reviewed and understands the Ohio ethics and conflicts of interest laws including, without limitation, Ohio Revised Code §§ 102.01 et seq., §§ 2921.01, 2921.42, 2921.421, and 2921.43, and §§ 3517.13(I) and (J), and (2) will take no action inconsistent with those laws and the order, as any of them may be amended or supplemented from time to time. Grantee understands that failure to comply with the Ohio ethics and conflict of interest laws is grounds for termination of this Agreement and the grant of funds made pursuant to this Agreement and may result in the loss of other contracts or grants with the State of Ohio.

Conflict of Interest. No personnel of Grantee, contractor of Grantee or personnel of any such contractor, and no public official who exercises any functions or responsibilities in connection with the review or approval of any work completed under this Agreement, shall, prior to the completion of such work, voluntarily or involuntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge or fulfillment of his or her functions or responsibilities with respect to the completion of the work contemplated under this Agreement. Grantee shall immediately disclose in writing to Grantor any such person who prior to or after execution of this Agreement, acquires any personal interest involuntarily or voluntarily. Thereafter, such person shall not participate in any action affecting the work under this Agreement unless Grantor determines that, in light of the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest.

Outstanding Liabilities. Grantee represents and warrants to Grantor that Grantee does not owe: (1) any delinquent taxes to the State of Ohio or a political subdivision of the State of Ohio; (2) any moneys to the State of Ohio or a state agency for the administration or enforcement of any environmental laws of the State of Ohio; and (3) any other moneys to the State of Ohio, a state agency or a political subdivision of the State of Ohio that are past due, whether or not the amounts owed are being contested in a court of law.

Falsification of Information. Grantee represents and warrants to Grantor that Grantee has made no false statements to Grantor or any of its employees or agents in the process of obtaining the award of Grant Funds. Grantee acknowledges that any person who knowingly makes a false statement to obtain an award of financial assistance may be required under Ohio Revised Code § 9.66(C) to repay such financial assistance and shall be ineligible for any future economic development assistance from the State of Ohio, any state agency or a political subdivision. In addition, any person who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to Ohio Revised Code § 2921.13(F)(1).

Public Records. Grantee acknowledges that this Agreement and other records in the possession or control of Grantor regarding the Project are public records under Ohio Revised Code § 149.43 and are open to public inspection, unless a legal exemption applies. Grantee's non-public financial information may be exempt from disclosure under a trade secret exception to the public records law.

Pronouns. The use of any gender pronoun shall be deemed to include the other gender, and the use of any singular noun or verb shall be deemed to include the plural, and vice versa, whenever the context so requires.

Headings. Section headings contained in this Agreement are inserted for convenience only and shall not be used in construing this Agreement.