

Commonwealth Standard Terms and Conditions State-Affiliated University Grant Version (Revised – 7/24/2024)

1. DEFINITIONS

Capitalized terms used in these Commonwealth standard terms and conditions that are not otherwise defined in these provisions have the meanings specified in the agreement to which they are attached.

2. INDEMNIFICATION

The Grantee shall pay for any loss, liability, or expense that arises out of or relates to the Grantee's acts or omissions with respect to its obligations under this agreement, where a final determination of liability on the part of the Grantee is established by a court of law or where settlement has been agreed to by the Grantee. This provision may not be construed to limit the Grantee's rights, claims or defenses that arise as a matter of law or pursuant to any other provision of this agreement.

3. NONDISCRIMINATION/SEXUAL HARASSMENT

- a. Representations. The Grantee represents that it is presently in compliance with and will remain in compliance with all applicable federal, state, and local laws, regulations, and policies relating to nondiscrimination and sexual harassment for the term of the agreement. The Grantee shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to its books, records, and accounts by the Commonwealth for the purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.
- b. Nondiscrimination/Sexual Harassment Obligations. The Grantee shall not:
 - i. in any manner discriminate in the hiring of any employee(s) for the performance of the activities required under this agreement or any subgrant agreement, contract, or subcontract, by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the Pennsylvania Human Relations Act ("PHRA") and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
 - ii. in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any of its employees.
 - iii. in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws,

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- in the provision of services under this agreement or any subgrant agreement, contract, or subcontract.
- iv. in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subgrantee, contractor, subcontractor, or supplier who is qualified to perform the work to which this agreement relates.
 - v. in any manner discriminate against employees by reason of participation in or decision to refrain from participating in labor activities protected under the Public Employee Relations Act, Pennsylvania Labor Relations Act, or National Labor Relations Act, as applicable, and to the extent determined by entities charged with the Acts' enforcement and shall comply with any provision of law establishing organizations as employees' exclusive representatives.
- c. Establishment of Grantee Policy. The Grantee shall establish and maintain a written nondiscrimination and sexual harassment policy that complies with the applicable law and these Nondiscrimination/Sexual Harassment provisions and shall inform its employees in writing of the policy. The policy must contain a provision that states that sexual harassment will not be tolerated and employees who practice it will be disciplined. For the entire period of this agreement, the Grantee shall: (1) post its written nondiscrimination and sexual harassment policy or these Nondiscrimination/Sexual Harassment provisions conspicuously in easily accessible and well-lighted places customarily frequented by employees at or near where the grant activities are performed; or (2) provide electronic notice of the policy or this clause to its employees not less than annually.
- d. Notification of Violations. The Grantee's obligations pursuant to these provisions are ongoing from the effective date and through the termination date of the agreement. Accordingly, the Grantee shall notify the Commonwealth if, at any time during the term of this agreement, it becomes aware of any actions or occurrences that would result in violation of these provisions.
- e. Cancellation or Termination of Agreement. The Commonwealth may cancel or terminate this agreement and all money due or to become due under this agreement may be forfeited for a violation of the terms and conditions of these Nondiscrimination/Sexual Harassment provisions. In addition, the granting agency may proceed with debarment or suspension and may place the Grantee in the Contractor Responsibility File.
- f. Subgrant Agreements, Contracts, and Subcontracts. The Grantee shall include these Nondiscrimination/Sexual Harassment provisions in its subgrant agreements, contracts, and subcontracts with all subgrantees, contractors, and subcontractors providing goods or services under this agreement. The incorporation of these provisions in the Grantor's subgrants, contracts, or subcontracts does not create privity of contract between the Commonwealth and any subgrantee, contractor, or subcontractor, and no third-party beneficiaries are created by those provisions. If the Grantee becomes aware of a subgrantee's, contractor's, or subcontractor's violation of these provisions, the Grantee shall use its best

efforts to ensure the subgrantee's, contractor's, or subcontractor's compliance with these provisions.

4. GRANTEE INTEGRITY

a. Definitions. For purposes of these Grantee Integrity Provisions, the following definitions apply:

- i. "Affiliate" means two or more entities where (a) a parent entity owns more than 50% of the voting stock of each of the entities; (b) a common shareholder or group of shareholders owns more than 50% of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.
- ii. "Grantee" means the individual or entity, that has entered into this agreement with the Commonwealth.
- iii. "Grantee Related Parties" means any Affiliates of the Grantee and the Grantee's executive officers, Pennsylvania officers and directors, or owners of five percent or more interest in the Grantee.
- iv. "Financial Interest" means ownership of more than a five percent interest in any business or holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
- v. "Gratuity" means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the [Governor's Code of Conduct, Executive Order 1980-18](#), as may be amended, 4 Pa. Code §7.153(b), apply.
- vi. "Non-Solicitation Award Process" means a method of awarding grants based on predetermined criteria, without the solicitation of grant applications.

b. Representations and Warranties.

- i. Grantee Representation and Warranties. The Grantee represents, to the best of its knowledge and belief, and warrants that within the last five years neither the Grantee nor Grantee Related Parties have:
 1. been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
 2. been suspended, debarred, or otherwise disqualified from entering into any contract with any governmental agency;
 3. had any business license or professional license suspended or revoked;

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4. had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
 5. been, and are not currently, the subject of a criminal investigation by any federal, state, or local prosecuting or investigative agency or civil anti-trust investigation by any federal, state, or local prosecuting or investigative agency.
 - ii. **Grantee Explanation.** If the Grantee cannot make the representations and warranties set forth above at the time of its submission of its grant application or if the agreement is awarded pursuant to a Non-Solicitation Award Process at the time of the execution of the agreement, the Grantee shall submit a written explanation outlining the reasons why it cannot make those representations and warranties. The Commonwealth may, based on its evaluation of the explanation provided, determine whether it is in the Commonwealth's best interest to execute the agreement.
 - iii. **Further Representations.** By submitting any bills, invoices, or requests for payment pursuant to the agreement, the Grantee further represents that it has not violated any of these Grantee Integrity Provisions during the term of the agreement.
 - iv. **Notice.** The Grantee shall immediately notify the Commonwealth, in writing, if at any time during the term of the agreement it becomes aware of any event that would cause the Contractor's certification or explanation to change. The Grantee acknowledges that the Commonwealth may, in its sole discretion, terminate the agreement for cause if it learns that any of the certifications made in these Grantee Integrity Provisions are currently false due to intervening factual circumstances or were false or should have been known to be false when entering into the agreement.
- c. **Grantee Responsibilities.** During the term of this agreement, the Grantee shall:
- i. maintain the highest standards of honesty and integrity.
 - ii. take no action in violation of any applicable laws, regulations, or other requirements applicable to the Grantee that govern Commonwealth contracting or grant administration.
 - iii. establish and implement a written business integrity policy that includes, at a minimum, the requirements of these Grantee Integrity Provisions as they relate to the Grantee's activity with the Commonwealth and Commonwealth employees.
 - iv. not accept, agree to give, offer, confer, agree to confer, or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order, statement of policy, management directive, or bulletin applicable to the award of grants or the administration of this agreement.

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- v. not have a financial interest in any other subgrantee, contractor, subcontractor, or supplier providing services, labor, or material under this agreement, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Grantee's financial interest. The Grantee must disclose the financial interest to the Commonwealth at the time of submission of its grant application, or if a Non-Solicitation Award Process is used, no later than the date the Grantee signs the agreement. The Commonwealth shall be deemed to have consented if the required disclosure is received and all of the required Commonwealth signatures are affixed.
 - vi. comply with the requirements of the Lobbying Disclosure Act (65 Pa.C.S. § 13A01 et seq.) regardless of the method of award.
 - vii. comply with the requirements of Section 1641 of the Pennsylvania Election Code (25 P.S. § 3260a) if this agreement was awarded pursuant to a Non-Solicitation Award Process.
 - viii. immediately notify the Commonwealth or the Office of the State Inspector General, in writing, when the Grantee has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or these Grantee Integrity Provisions has occurred or may occur, including, but not limited to, contact by a Commonwealth officer or employee, which, if acted upon, would violate the ethical standards.
- d. Investigations. If a State Inspector General investigation is initiated, the Grantee shall:
- i. reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the State Inspector General for investigations of the Grantee's compliance with the terms of this or any other agreement between the Grantee and the Commonwealth that results in the suspension or debarment of the Grantee. The Grantee shall not be responsible for investigative costs for investigations that do not result in the Grantee's suspension or debarment.
 - ii. cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Grantee non-compliance with these Grantee Integrity Provisions and make identified Grantee employees and volunteers available for interviews at reasonable times and places.
 - iii. upon the inquiry or request of an Inspector General, provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to Grantee's integrity and compliance with these provisions. This information may include, but is not be limited to, the Grantee's business or financial records, documents or files of any type or form that refer to or concern this agreement.
- e. Termination. For violation of any of these Grantee Integrity Provisions, the Commonwealth may terminate this agreement and any other contract with the Grantee, claim liquidated

damages in an amount equal to the value of anything received in breach of these Grantee Integrity provisions, claim damages for all additional costs and expenses incurred in obtaining another grantee to complete performance under this agreement, and debar and suspend the Grantee from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one does 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.

- f. Subcontracts. The Grantee shall include these Grantee Integrity Provisions in its subgrant agreements, contracts, and subcontracts with all subgrantees, contractors, and subcontractors providing goods or services under this agreement. The incorporation of this provision in the Grantee's subgrant agreements, contracts, and subcontracts shall not create privity of contract between the Commonwealth and any subgrantee, contractor, or subcontractor, and no third-party beneficiaries are created by the inclusion of these provisions. If the Grantee becomes aware of a subgrantee's, contractor's, or subcontractor's violation of these provision, the Grantee shall use its best efforts to ensure their compliance with these provisions.

5. CONTRACTOR RESPONSIBILITY

- a. Definition. For the purpose of these provisions, the term "Contractor" means as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee or lessor, who has furnished or performed or seeks to furnish or perform, goods, supplies, services, leased space, construction or other activity, under a contract, grant, lease, purchase order or reimbursement agreement with the Commonwealth. The term also includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.
- b. Contractor Representations.
 - i. The Contractor represents for itself and its subgrantees, contractors, and subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this agreement, that neither the Contractor, nor any of its subgrantees, contractors, and subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot make this representation, the Contractor shall submit, along with the agreement, a written explanation of why the certification cannot be made.
 - ii. The Contractor represents that, as of the date of its execution of this agreement, it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal, if any liabilities or obligations exist, or is subject to a duly approved deferred payment plan if any liabilities exist.
- c. Notification. The Contractor shall notify the Commonwealth if, at any time during the term of the agreement, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best of its knowledge, any of its subgrantees, contractors, or subcontractors are suspended or debarred by the Commonwealth, the federal government, or

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any other state or governmental entity. The Contractor shall provide this notification within 15 days of the date of suspension or debarment.

- d. Default. The Contractor's failure to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government constitutes an event of default of the agreement with the Commonwealth.
- e. Reimbursement. The Contractor shall 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 agreement or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. These costs include, but are not 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.
- f. Suspension and Debarment List. The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by visiting the eMarketplace website at <http://www.emarketplace.state.pa.us> and clicking the Debarment list tab.

6. AMERICANS WITH DISABILITIES ACT

- a. No Exclusion. Pursuant to the Americans with Disabilities Act, 42 U.S. Code § 12101, et seq., no qualified individual with a disability may, on the basis of the disability, be excluded from participation in this agreement or from activities provided for under this agreement.
- b. Compliance. For all goods and services provided pursuant to this agreement, the Grantee shall comply with Title II of the Americans with Disabilities Act, the "General Prohibitions Against Discrimination" set forth in 28 C. F. R. § 35.130, and all other regulations promulgated under Title II of the Americans with Disabilities Act that apply to state and local governments.
- c. Indemnification. The Grantee shall indemnify the Commonwealth against all third-party claims, suits, demands, losses, damages, costs, and expenses, including without limitation, litigation expenses, attorneys' fees, and liabilities, arising out of or in connection with the Grantee's failure or its employee's or agent's failure to comply with the provisions of paragraph a.

7. APPLICABLE LAW AND FORUM

This agreement is governed by and must be 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. The Grantee consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania and waives any claim or defense that such forum is not convenient or proper. Any Pennsylvania court or tribunal has in personam jurisdiction over the Grantee, and the Grantee consents to service of process in any

manner authorized by Pennsylvania law. This provision may not be interpreted as a waiver or limitation of the Commonwealth's rights or defenses.

8. RIGHT TO KNOW LAW

- a. **Applicability.** The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, ("RTKL") applies to this agreement.
- b. **Grantee Assistance.** If the Commonwealth needs the Grantee's assistance in any matter arising out of the RTKL related to this agreement, the Commonwealth shall notify the Grantee that it requires the Grantee's assistance, and the Grantee shall provide to the Commonwealth:
 - i. access to, and copies of, any document or information in the Grantee's possession (Requested Information) arising out of this agreement that the Commonwealth reasonably believes is a public record under the RTKL, within ten calendar days after receipt of written notification; and
 - ii. any other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this agreement.
- c. **Trade Secret or Confidential Proprietary Information.** If the Grantee considers the Requested Information to include a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Grantee considers exempt from production under the RTKL, the Grantee shall notify the Commonwealth and provide, within seven calendar days of receipt of the written notice a written statement, signed by a representative of the Grantee, that explains why the requested material is exempt from public disclosure under the RTKL. If the Commonwealth determines that the Requested Information is clearly not exempt from disclosure, the Grantee shall provide the Requested Information to the Commonwealth within five business days of receipt of written notice of the Commonwealth's determination.
- d. **Reimbursement**
 - i. **Commonwealth Reimbursement.** If the Grantee fails to provide the Requested Information and the Commonwealth is ordered to produce the Requested Information, the Grantee shall reimburse the Commonwealth for any damages, penalties, or costs that the Commonwealth may incur as a result of the Grantee's failure, including any statutory damages assessed against the Commonwealth.
 - ii. **Grantor Reimbursement.** The Commonwealth will reimburse the Grantee for any costs that the Grantee incurs as a direct result of complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL.

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- e. Challenges of Commonwealth Release. The Grantee may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Grantee shall reimburse the Commonwealth for any legal expenses incurred by the Commonwealth as a result of the challenge, including any damages, penalties or costs that the Commonwealth may incur as a result of the Grantee's legal challenge, regardless of the outcome.
- f. Waiver. As between the parties, the Grantee waives all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.
- g. Survival. The Grantee's obligations contained in this Section survive the termination or expiration of this agreement.

9. OFFSET

The Commonwealth may set off the amount of any state tax liability or other obligation of the Grantee, or its subsidiaries, owed to the Commonwealth against any payments due the Grantee under any contract between the Commonwealth and Grantee.

10. AUTOMATED CLEARING HOUSE (ACH) PAYMENTS

- a. Payment Method. The Commonwealth shall make payments to the Grantee through the Automated Clearing House (ACH). Within 10 days of the grant award, the Grantee must submit or must have submitted its ACH information within its user profile in the Commonwealth's Master Database. The Grantee may enroll to receive remittance information via electronic addenda and email (e-Remittance). ACH and e-Remittance information is available at the following:

<https://www.budget.pa.gov/Services/ForVendors/Pages/Direct-Deposit-and-e-Remittance.aspx>

- b. Unique Identifier. The Grantee must submit a unique invoice number with each invoice submitted. The Commonwealth shall list the Grantee's unique invoice number on its ACH remittance advice to enable the Grantee to properly apply the state agency's payment to the respective invoice or program.
- c. ACH Information in the Commonwealth's Master Database. The Grantee shall ensure that the ACH information contained in Commonwealth's Master Database is accurate and complete. The Grantee's failure to maintain accurate and complete information may result in delays in payments.

11. WORKER PROTECTION AND INVESTMENT

The Grantee shall comply with all applicable Pennsylvania state labor laws and worker safety laws including, but not limited to, the following:

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- a. Construction Workplace Misclassification Act;
- b. Employment of Minors Child Labor Act;
- c. Minimum Wage Act;
- d. Prevailing Wage Act;
- e. Equal Pay Law;
- f. Employer to Pay Employment Medical Examination Fee Act;
- g. Seasonal Farm Labor Act;
- h. Wage Payment and Collection Law;
- i. Industrial Homework Law;
- j. Construction Industry Employee Verification Act;
- k. Act 102: Prohibition on Excessive Overtime in Healthcare;
- l. Apprenticeship and Training Act; and
- m. Inspection of Employment Records Law.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
GENERAL GRANT CONDITIONS**

1. Legality. The Grantee shall perform all work under this agreement in accordance with applicable statutes, rules, and regulations of the Federal, State, and local governments.
2. Subcontracts. The Grantee may not enter into contract or agreement for the execution of the Project activities or provision of services to the Project (other than purchases of supplies, or standard commercial or maintenance services) that is not incorporated in the approved Project Scope of Work or approved in advance by the Department. The approved contract or agreement must provide that the Grantee will retain ultimate control and responsibility for the Project, and that the subcontractor is bound by these conditions and any other requirements applicable to the Contractor in the conduct of the Project.
3. Changes. Any changes to this agreement must be made in the form of a formally executed amendment with the exception of the items listed below. The following changes may be documented in a letter of mutual consent and do not require an amendment:
 - A. The addition of work tasks incidental to the original scope of work that do not require changes to the contract budget.
 - B. The reallocation of budget category dollar amounts to and from other budget categories.
 - C. Extension of the Period of Performance.
4. Suspension. If the Department determines, in its sole discretion, that the terms and conditions of the agreement are not materially being met, the Department may, upon written notice to the Grantee, suspend the agreement until the Grantee has taken corrective action to the satisfaction of the Department, or until the agreement is terminated.
5. Assignment. In actual economic practice, overcharges by the Grantee's suppliers resulting from violations of State or Federal antitrust laws are, in fact, borne by the Commonwealth. As part of the consideration for the award of the grant, the Grantee assigns to the Commonwealth all right, title, and interest in and to any claims the Grantee now has or may hereafter acquire under State or Federal antitrust laws relating to the goods or services that are the subject of this agreement.
6. Termination. The Department may terminate the agreement, in whole or in part, at any time before the Project Completion Date:

- A. if it, in its sole discretion, determines that terms and conditions of the Agreement have not been met, by providing written notice of termination to the Grantee. Payments or recoveries by the Department will be in accordance with the legal rights and obligations of the parties.
- B. if anticipated state or Federal funds are not obtained or continued at a sufficient level, by providing written notice of termination to the Grantee.
- C. for its convenience or for any other reason if the Department determines, in its sole discretion, that termination is in the best interest of the Commonwealth, or is otherwise appropriate, by providing written notice of termination to the Grantee. Payments or recoveries by the Department will be in accordance with the legal rights and obligations of the parties.

7. Conflict of Interest

- A. Interest of Parties and Others. No officer, member, employee, independent contractor, or elected official of the Commonwealth and no member of its governing body who exercises any functions or responsibilities in the review or approval of activities being performed under this agreement may participate in any decision relating to this agreement that affects his or her personal interest or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested; nor may any such officer, member, elected official, or employee of the Commonwealth or any member of its governing body have any interest, direct or indirect, in this agreement or the proceeds of the grant award.
 - B. Interest of Contractor. The Grantee represents and warrants that it presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of its work under this agreement. The Grantee further covenants that in the performance of this agreement, it shall not knowingly employ any person having such interest. The Grantee further represents and warrants that no member of the board of directors of the Grantee or any of its officers have an adverse interest.
8. Payments. The Department shall make payment to the Grantee as stipulated in the agreement or Attachment A, as applicable. The Grantee shall pay its subcontractors or vendors for purchases or work performed under this agreement within 45 days of receipt of payment from the Department for the applicable reimbursement request. If the Grantee has a current environmental violation, the Department may withhold payment until the environmental violation is resolved to the satisfaction of the Department.
9. Interest Payments. For purposes of the interest payments required under 72 P.S. § 1507, if the Department directs the Grantee to perform additional work that is not included in the agreement, and no amendment to the agreement has been executed by the parties for the additional work, or if the term of the agreement has expired, payment is not due under the

agreement until after the required amendment for the additional work or time extension has been fully executed by all of the parties.

10. Fiscal Records. The Grantee shall maintain complete and accurate books, records, documents, correspondence, and other evidence pertaining to the costs and expenses of this agreement ("Records") at its principal office or place of business. The Records must properly reflect all costs, direct and indirect, of labor, materials, equipment, supplies, and services, and other costs and expenses of whatever nature for which funding has been provided under this agreement, and in accordance with generally accepted accounting principles and the Department's fiscal regulations and guidelines.
11. Retention of Records. The Grantee shall maintain the Records retain and make them available for audit for a period of three years after final payment is made and the agreement has expired or terminated, and all other pending matters are resolved.
12. Right to Audit. The Grantee shall grant the Department and the Office of Auditor General, or any of their duly authorized representatives, access to the Records for the purpose of conducting an audit of financial transactions, compliance with the terms of the agreement, and evaluation of the Grantee's performance. The Department may choose to examine excerpts, copies, and transcriptions of the Records during the course of an audit.
13. Copyright and Patent Indemnity. The Grantee shall indemnify and hold the Commonwealth harmless from and against any damages or suit or proceeding brought against the Commonwealth on account of any alleged infringement of any copyright or patent arising out of the performance of this Agreement, including all work, services, materials, reports, supplies and computer programs provided by the Grantee.
14. Press Releases. The Grantee shall coordinate and seek input from DEP prior to the issuance of any press release or official statement concerning the grant program.
15. Sensitive Information. The Grantee shall not publish or otherwise disclose, any information or data obtained under the agreement from private individuals, organizations, or public agencies, including the Department, ("Sensitive Information") in a publication whereby Sensitive Information furnished by or about any person or establishment can be identified, except with the consent of that person or establishment. This limitation does not apply to information that the Grantee solely discloses to the Commonwealth or to matters of public record. Personal data, including names and addresses obtained in conjunction with grant activities ("Personal Data"), may not be used in any manner other than that contained in the scope of work. The Grantee shall not sell or use Personal Data to create solicitation lists of any kind, including donor solicitation lists.
16. Indirect Costs – If the Grantee requests payment for indirect costs it incurred performing the Project work set forth in the Statement of Work, the Grantee shall specify the method of determining those costs and provide sufficient documentation to support those costs. Regardless of the method used to calculate indirect costs, the amount charged must not exceed actual costs incurred.

17. Independent Contractor - Nothing contained in this agreement is intended or may be construed to, in any respect, create or establish the relationship of partners between the parties, or as constituting the Grantee as the representative or general agent of the Department for any purpose whatsoever.
18. Severability - The provisions of this agreement are severable. If any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the Constitution of Pennsylvania or of the United States or of the laws of the Commonwealth the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance will not be affected.
19. Non-English Translations - This agreement has been prepared and written in English. Any non-English translation provided is for convenience only and is not valid or legally binding.

SPECIAL REQUIREMENTS/ SPECIAL CONDITIONS

The funding for this Agreement is 100% Federal from the Climate Pollution Reduction Grants Program (CPRG) under the Inflation Reduction Act (IRA) of 2022. Special terms and conditions apply to projects funded by the IRA relating to:

Notification and Meetings:

1. The Grantee shall meet with the Department at the request of either party to discuss the progress of the ongoing work.
2. The Grantee shall immediately notify the Department, in writing, of any unusual development or circumstances, which could significantly change or otherwise delay the work outlined in the Scope of Work. This includes changes in key personnel or project partners overseeing the work.
3. The Grantee shall notify the Department, in writing, of any deviation from the original budget. The Grantee must receive written approval from the Department for any changes to the original budget.

Invoicing and Payment:

4. Working Capital in the amount of \$5,137,579 will be provided to Grantee upon full execution of this agreement.
5. The fiscal mechanism for this Agreement is reimbursement payments. Proof of payment is required for all reimbursement requests. Payments under this Agreement will be made to the Grantee for reimbursement of expenditures for work completed by this Grant Agreement, if verified by the Department upon review of submitted invoices or other appropriate original documents showing proof of payment. Payment documentation must be submitted with the Application for Reimbursement form. Payment may be made on a quarterly basis.
6. Financial statements for payment of work shall include in detail the various items of cost expenditures during the period covered. Monthly Programmatic Progress Reports must be on file with the Department which correspond to the invoice period identified on the Application for Reimbursement.
7. Payments will be made to the Grantee only if the Grantee is in full compliance with the terms and conditions of this agreement. An amount equal to 10% of the total grant may be retained for final payment, which will be made after all items in the Scope of Work are satisfactorily completed and the Final Report is received and approved by the Department.
8. The Department may decline to pay the final invoice if it is received more than 90 days after the project completion date.

Reporting

9. The Grantee shall submit Monthly Programmatic Progress Reports by the 5th of the following month with updates on the status of SAT project implementation, including the number of projects awarded, the number of projects in process, and the number of projects completed.
10. The Grantee shall submit Semi-annual Performance Reports to DEP on April 15 and October 15. The reports must include brief information on each of the following areas: A comparison of actual

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technical progress and milestones achieved during the reporting period to the outputs, outcomes, and performance measures listed in 12-14. This may include technical changes made to the project, public events conducted, websites published, release of public-facing documents or tools, or other reportable activities described in the work plan;

- a. A budget update that includes how much was spent during the reporting period and cumulatively and, when appropriate, additional pertinent information analysis and explanation of cost overruns, high-unit costs, cost-share expenditures, program income, infrastructure costs subject to Buy America, Build America (BABA) compliance, or requested budget modifications (for example, when the Grantee is requesting to move funding from one budget category to another) and any other updates regarding changes to the subaward budget;
 - b. If necessary, a description of the reasons why any implementation timeline milestones or outputs/outcomes were missed, including the Grantee's strategy to address challenges faced and/or the Grantee's approach to ensure that the outputs/outcomes will be achieved within the period of performance;
 - c. Documentation of community engagement activities conducted in low-income and disadvantaged communities, which describes how the activities were publicized, categorizes respondents/attendees (e.g., the number of people from Tribal governments, federal government, state government, local government, nonprofits, for profits, universities, and the public), explains how input from participants was considered in decisions for implementing RISE PA, and details how meaningful engagement with low-income and disadvantaged communities will be continuously included in the development and implementation of RISE PA.
 - d. As applicable, strategies for mitigating environmental risks;
 - e. A description of any climate resiliency planning, siting, design, and operation of the project.
 - f. As applicable, updates to individuals, who serve as key contacts and/or any changes to the roles and responsibilities of key contacts involved in RISE PA and the reason(s) for the change(s);
 - g. As applicable, progress on generating high-quality jobs with a diverse, highly skilled workforce and support of strong labor standards; and
 - h. A summary of anticipated activities for the next 6-month reporting period.
11. As part of the second Semi-Annual Performance Report (i.e. the more detailed One-Year Report), the Grantee agrees to report additional data to DEP including the co-pollutant emissions reductions of each pollutant impacted by RISE PA, the sector impacted, and the counties in which the emissions changes occurred. In addition, the Grantee agrees to report the Climate and Economic Justice Screening Tool (CEJST) Census tract IDs or the EPA's EJScreen Census block group IDs for areas affected by SAT projects, consistent with the EPA's definition of low-income and disadvantaged communities for the CPRG program.
12. The detailed Final Report shall be submitted to DEP by November 1, 2029. The final report must include a summary of the GHG reduction measures implemented, outputs and outcomes achieved, and costs of the measures. In addition, the final report shall report the total GHG emissions and other pollutants reduced (in general and in low-income and disadvantaged communities), provide a summary of community engagement, and discuss the problems, successes, and lessons learned from the implementation of the GHG reduction measures that could help overcome structural, organizational, or technical obstacles to implementing a similar project elsewhere.
13. The outputs the Grantee must report on include the following:
- a. Number of small-scale greenhouse gas reduction projects (GERPs) completed
 - b. Quantities of Nox and Sox air pollutants reduced
 - c. Summary of the press and social media activity communicating the successful completion of small-scale GERPs
14. The outcomes the Grantee must report on include the following:
- a. Reduction in cumulative metric tons of GHG emissions

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- b. Reduction of NO_x and SO_x air pollutants in LIDACs
 - c. Lower energy demand and industrial energy expenditures
 - d. Number of high-quality jobs created/retained throughout Pennsylvania and in LIDACs through the prevailing wage, apprenticeship, and Fair Labor Bonus requirements as reported by sub-awardee (manufacturer)
15. The performance measures the Grantee must report on include the following:
- a. Number and type of GERPs completed, including the number completed in LIDACs
 - b. Levelized cost of a GERP's reduction in GHG emissions
 - c. Quantified GHG emissions reductions
 - d. Quantified reductions of NO_x and SO_x air pollutants, including in LIDACs
 - e. Number of high-quality Pennsylvania jobs created/retained (direct and indirect) both during GERP construction and operation of the facility upon GERP completion as reported by sub-awardee (manufacturer)
 - f. Number of local jobs created/retained (both direct and indirect) both during GERP construction and operation of the facility upon GERP completion as reported by sub-awardee (manufacturer)
 - g. Number of high-quality jobs created/retained in LIDACs as reported by sub-awardee (manufacturer)
 - h. GERP energy savings (kWh for electricity, kBTU for gas)

Title and Control of Property

16. The Grantee agrees that for the term of this Agreement, including any extensions, the Grantee will not lease, sell, transfer, or assign any and all property, whether real or personal, that is purchased in the whole or in part with funds provided by the Department under this Agreement. The Grantee agrees to obtain the prior written approval of the Department prior to leasing, selling, transferring, or assigning such property, in whole or part, during the term of this Agreement.
17. The Department reserves the right to recover funding from grant recipients that do not meet the requirements of the grant agreement during the grant term.

Compliance with Law:

18. Nothing in this agreement or the approval shall be construed as an authorization by the Department to conduct any activity otherwise governed by law or regulation. This agreement does not affect or replace any permit or other requirement of the Department's regulations. The Grantee must comply with all laws, regulations, and permits governing its activities and is solely responsible for doing so.
19. Prior to issuing awards to subgrantees, Grantee will provide DEP with sufficient information to run compliance checks in eFACTS and Contractor Responsibility Provision.

Miscellaneous Provisions

20. The Grantee shall use best efforts to engage the services of Pennsylvania businesses and to obtain Pennsylvania materials and equipment for use in the Project, provided that such services, materials, equipment are consistent with Project specifications and are available at competitive prices.
21. Any printed document produced by the Grantee under this agreement that is selected by the Department for the purpose of printing, distribution, or posting on the Department's website or other electronic media, shall be provided by the Grantee to the Department in an electronic format. Specifically, the document must be received as either a Microsoft Word or Adobe Acrobat PDF document. The Grantee shall include the statement, "This material was prepared with support and

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funding of DEP's RISE PA Program. Any opinions, findings, conclusions, or recommendations expressed herein are those of the author(s) and do not necessarily reflect the views of the DEP."

22. **Conduct of Work** Unless otherwise provided herein, the Grantee with due diligence shall complete the work described in Attachment A, Scope of Work. In determining whether or not the Grantee has performed with due diligence hereunder, it is agreed and understood that the DEP may measure the amount and quality of the Grantee's effort against the written representations made by the Grantee in the negotiations of this agreement.
23. **Inspection and Acceptance** Final inspection and acceptance of all work required under this agreement shall be performed by the Department in coordination with EPA.
24. **Assignability** This agreement may not be assigned by the Grantee either in whole or in part without the prior written consent of the Department.
25. **Environmental Protection** In carrying out this agreement, the Grantee shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations.
26. The Department values working with partners who share our view that diversity and equity are integral to success in restoring and protecting the environment for all Pennsylvanians. As we work to demonstrably improve the inclusivity of our programs and processes, we also encourage our partners to pursue increased inclusivity in their operations. In this way, Pennsylvania's natural resources are best protected as "the common property of all the people, "as identified in our state constitution."

FEDERAL REQUIREMENTS

1. General Federal Funding. If this agreement is funded, in whole or in part, with funds from the Federal Government, or by non-Federal funds used to match a federal grant, the following provisions apply:
 - A. All work under this agreement must be performed in accordance with applicable statutes, rules, and regulations of the Federal Government. All applicable Federal statutes and provisions of the Code of Federal Regulations (CFR) in effect on the date of execution of this agreement are an integral part of this agreement.
 - B. All applicable contract provisions specified by the Federal Government are an integral part of this agreement.
2. EPA Funding. If this agreement is funded, in whole or in part, by a grant from the United States Environmental Protection Agency (EPA), all applicable provisions of 40 CFR Parts 31, 33, and 35 (Subpart O), in effect on the date of the Assistance Award for this Project, are an integral part of this agreement. Further, Grantee shall comply with the provisions pertaining to conflict of interest set forth at 40 CFR §35.6550(b)(2)(ii) and the MBE/WBE reporting requirements detailed more thoroughly in Section 6 of these terms.
3. Rights to Inventions Made Under a Contract or Agreement. Contracts or agreements for the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 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 Federal Grantor Agency. Further this agreement is subject to Federal Grantor Agency requirements and regulations pertaining to reporting and patent rights if the agreement involves research, developmental, experimental or demonstration work with respect to any discovery or invention which arises or is developed in the course of or under this agreement, as well as Federal Grantor Agency requirements and regulations pertaining to copyrights and rights in data.
4. Equal Employment Opportunity. The Grantee shall comply with Executive Order 11246, "Equal Employment Opportunity," as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
5. General Audit Requirements.
 - A. Audit Requirements. The Grantee shall comply with all Federal and State audit requirements including: the Single Audit Act Amendments of 1996; Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200 ("Uniform Guidance at 2 CFR Part 200"); and any other applicable law or regulation and any amendment to any other applicable law or regulation that may be enacted or promulgated by the Federal government. In instances where a Federal program-specific audit guide is applicable, the audit report package

for a program-specific audit may be different and should be prepared in accordance with the audit guide and Uniform Guidance at 2 CFR Part 200.

B. Audit Thresholds.

- i. If the Grantee is a local government or non-profit organization and expends total Federal awards of \$750,000 or more during its fiscal year, received either directly from the Federal Government or indirectly through the Department, the Grantee is required to have an audit made in accordance with the provisions of Uniform Guidance at 2 CFR Part 200.
- ii. If the Grantee expends total Federal awards of less than \$750,000 during its fiscal year, it is exempt from the audit requirements of Uniform Guidance at 2 CFR Part 200, but is required to maintain auditable records of Federal awards and any state funds that supplement the awards, and to provide access to those records by Federal and state agencies or their designees.

C. Submission of Audit Information to the Commonwealth. The Grantee shall submit copies of the audit report package to the Commonwealth. The audit report package must include:

- i. the Data Collection Form;
- ii. financial statements and schedule of expenditures of Federal awards;
- iii. Auditor's reports on the financial statements and schedule of expenditures of Federal awards, internal control, and compliance as well as a schedule of findings and questioned costs;
- iv. a summary schedule of prior audit findings;
- v. a corrective action plan, if applicable; and
- vi. a Management letter comments.

The Grantee shall submit audit information to the Pennsylvania Office of the Budget, Bureau of Accounting and Financial Management, electronically, in the manner described on the Office of the Budget's webpage for Single Audit Submissions: <https://www.budget.pa.gov/Services/ForGranteesAndSubrecipients/Pages/SingleAuditSubmissions.aspx>.

D. Required Auditing Standards. The Grantee is responsible for obtaining the necessary audit and securing the services of a certified public accountant or other independent governmental auditor. Federal regulations preclude public accountants licensed in the Commonwealth of Pennsylvania from performing audits of Federal awards. The Grantee's auditor shall retain the audit documentation and audit reports for a minimum of five years from the date of issuance of the audit report, unless the Grantee's auditor is notified in writing by the Commonwealth or the cognizant or oversight Federal agency to extend the retention period. The Grantee's auditor must make the audit documentation available upon request to authorized representatives of the Commonwealth, the cognizant or oversight agency, the Federal funding agency, or the Government Accountability Office.

- E. Commonwealth Audit Rights Reserved. The Commonwealth reserves the right for Federal and state agencies or their authorized representatives to perform additional audits of a financial or performance nature, if deemed necessary by Commonwealth or Federal agencies. Any additional audit work will rely on work already performed by the Grantee's auditor, and the costs for any additional work performed by the Federal or state agencies will be borne by those agencies at no additional expense to the Contractor.
6. Required Utilization of Minority Business Enterprises/Woman-Owned Business Enterprises ("MBE/WBE") and Reporting Requirements.
- A. General Requirement for MBE/WBE Utilization. The Grantee shall not discriminate on the basis of race, color, national origin or sex in the performance of this agreement. The Grantee shall carry out applicable requirements of [40 CFR part 33](#) in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the Grantee to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or other legally available remedies.
- B. MBE/WBE Reporting Requirements. The Grantee shall provide the Commonwealth with documentation of all procurements awarded in relation to the Scope of Work provided in this agreement, regardless of the awarded amount. If a procurement involved a certified MBE/WBE entity, that information must also be included. Procurement activity must be reported to the Commonwealth by all Grantees, within 15 days of the close of each calendar quarter (January 15, April 15, July 15, and October 15, each a "Reporting Period"). A procurement is defined as any expenditure through contract, order, purchase, lease or barter of supplies, equipment, construction, or services needed to complete the work. All procurements *awarded* during the Reporting Period must be reported, even if it did not involve a certified MBE/WBE contractor. The Grantee shall submit procurement information for the Reporting Period even if no procurement occurred during the Reporting Period. Procurement documentation must be provided via email at RA-EPMBEWBE@pa.gov and meet the following requirements:
1. The subject line of the email must contain the following: **MBE/WBE Reporting for Report Period [INSERT APPLICABLE REPORTING PERIOD DATE] – NAME OF REPORTING ORGANIZATION, DEP DOCUMENT/CONTRACT NUMBER**
 - a. DEP Document Numbers usually begin with a C9, 40, 41, or 43.
 2. The body of the email must contain the following information:
 - a. Point of Contact Information: Name, Telephone Number, Email Address, Reporting Period.
 - b. If the entered report is a Final Report, indicate as much. A Final Reporting period is the last quarter of the agreement's term.
 - c. If no procurements were awarded, indicate as such.

- d. Total Procurements & MBE/WBE awarded during the Reporting Period (in dollars) in the following format:

	<u>Construction</u>	<u>Non- Construction</u>	<u>Total</u>
Total Procurement	\$ _____	\$ _____	\$ _____
MBE/WBE Combined	\$ _____	\$ _____	\$ _____

- e. If procurements were made during the Reporting Period, indicate whether the Grantee has followed the six Good Faith Efforts found in 40 CFR Part 33, Subchapter C, 40 CFR 33.501, and 2 CFR 200.321.
- f. If procurements were made but no MBE/WBE procurements are being reported, indicate the reason as one of the following:
- No MBE/WBE applied
 - No MBE/WBE was qualified
3. An itemization of all procurements must be attached to the email. A template Excel spreadsheet is available upon request. An example of the desired information is as follows:

Federal CFDA#	Construction (Yes or No)	Commitment item/Expenditure Classification		Payment Type	Vendor Name	Actual Expend	No MBE/ WBE(s) applied	No MBE /WBE(s) qualified	Other (Please explain)
66.805	No	6331100	Telecomm-Rec	check	CDW GOVT	\$ 19.52			

7. Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.). If the Grantee is in receipt of a grant award in excess of \$100,000, the Grantee shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.). Any contract entered into by the Grantee that is in excess of \$100,000 and utilizes these awarded funds must contain a provision that requires compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.). The Department shall report violations to the Regional Office of the EPA.
8. U.S. Energy Policy and Conservation Act. The Grantee shall comply with mandatory standards and policies relating to energy efficiency in compliance with the U.S. Energy Policy and Conservation Act (Pub. L. 94-163).
9. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 et. seq.) – Where applicable, all contracts awarded by the Grantee in excess of \$100,000 for construction contracts and in excess of \$2500 for other contracts that involve the employment of mechanics or laborers must include a provision for compliance with the Contract Work Hours and Safety Standards Act, as supplemented by Department of Labor regulations (29 CFR Part 5). The Act, each contractor is 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 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The Act is applicable to construction work and provides that no laborer or mechanic will 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.

10. Copeland “Anti-Kickback” Act (18 U.S.C. 874 and 40 U.S.C. 276c) – All contracts and subgrants entered into by the Grantee under this agreement in excess of \$100,000 for construction or repair must include a provision for compliance with the Copeland “Anti-Kickback” Act (18 U.S.C. 874), 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 shall 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 is otherwise entitled. The Grantee shall report all suspected or reported violations to the Federal Grantor Agency.
11. Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) – When required by Federal program legislation, all construction contracts awarded by the Department and the Grantee of more than \$2000 must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) and as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). Under this Act, contractors must be required to pay wages to laborers and mechanics not less than the prevailing wage rates and fringe benefits, as determined by the Secretary of Labor, for corresponding classes of laborers and mechanics employed on similar projects in the area. In addition, contractors must be required to pay wages not less than once a week. The Department shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract is conditioned upon the acceptance of the wage determination. The Department shall report all suspected or reported violations to the Federal Grantor Agency.
12. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) – Grantees who apply or bid for an award of more than \$100,000 must file the required certification. Each grantee certifies to its grantor 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 grantee must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.
13. Build America, Buy America Act (23 U.S.C. 313; 23 CFR 635.410)
 - A. General Requirement. As required by Section 70914 of the Build America Buy America (BABA) Act, also known as the “Infrastructure Investment and Jobs Act”, P.L. 117-58, on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance program for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials

used in the project are produced in the United States, unless subject to a waiver approved by the United States Department of Interior. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products under this program.

B. Applicability to Infrastructure Projects. The Grantee is hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

1. all iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
2. all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
3. all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

C. Excluded Items. The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to a project site and removed at or before the completion of the infrastructure project. Nor does a BABA preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

14. Debarment and Suspension (Executive Orders 12549 and 12689). No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Non-procurement Programs in accordance with Executive Orders 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than Executive Order 12549. Grantees and any contractor to whom they award contracts utilizing the Federal money that is the subject of this Agreement must certify that they are not debarred, suspended, or proposed for debarment by the Federal Government. Certifications made by contractors of Grantee must be retained by Grantee and made available to the Department upon request.
15. Appropriation Contingency. This commitment is contingent upon funds being appropriated by the legislature for each succeeding fiscal year and Federal funds being provided to the Commonwealth for the contract purpose.

16. Registration and Identification Information. The Grantee shall maintain current registration in the System for Award Management (www.sam.gov) at all times during which it has active federal awards funded pursuant to this agreement. A Unique Entity Identifier (UEI) number is one of the requirements for registration in the System for Award Management. The Grantee shall provide its assigned UEI number to the Commonwealth along with the Grantee's return of the signed agreement. The Department will not process this agreement for Commonwealth signature until the Grantee provides this required information.
17. Primary Location. The Grantee must provide to the Commonwealth the primary location of performance under the award, including the city, State, and zip+4. If performance is to occur in multiple locations, the Grantee must list the location where the largest amount of the grant award is to be expended pursuant to this agreement. The Grantee must provide this information to the Commonwealth when the Grantee returns the signed agreement. The Department will not process this agreement for Commonwealth signature until the Grantee provides this required information.
18. FFATA Requirements.
 - A. Information Required. Pursuant to the Federal Funding Accountability and Reporting Act ("FFATA"), the Grantee must provide to the Department the names and total compensation of the five most highly compensated officers of the entity if—
 1. the entity in the preceding fiscal year received—
 - a. 80% or more of its annual gross revenues in Federal awards;
and
 - b. \$25,000,000 or more in annual gross revenues from Federal awards; and
 2. the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.
 - B. Exemption Requirements. If the Grantee does not meet the conditions listed above, it must specifically affirm to the Department that the requirements of this clause are inapplicable to the Grantee. The Grantee must provide information responding to this question along with the Grantee's return of the signed agreement. The Department will not process this grant until such time that Grantee provides the information responding to this question.

**EPA CLIMATE POLLUTION REDUCTION IMPLEMENTATION GRANT
PROGRAMMATIC TERMS AND CONDITIONS**

To the extent they applicable to the Grantee, Grantee is required to comply with the attached Programmatic Terms and Conditions. These Programmatic Terms and Conditions will take precedence over any conflicting terms in Attachment E- Federal Requirements.