

GRANT AGREEMENT

This Grant Agreement (this “Agreement”) made and entered into on the «**ApprovalDate**» (the “Award Date”), by and between the **Tobacco Region Revitalization Commission**, a body corporate and political subdivision of the Commonwealth of Virginia (the “Commission”), and «**Organization**» (the “Grantee”).

WITNESSETH:

WHEREAS, the Virginia General Assembly created the Commission to, among other things, stimulate the economic growth and development of tobacco dependent communities in the Southern and Southwest regions (the “**Region**”) of the Commonwealth of Virginia (the “**Commonwealth**”), and

WHEREAS, the Grantee submitted an application, to the Commission for funding (the “**Application**”) to undertake the Project (as defined herein) entitled «**ProjectTitle**», and

WHEREAS, the Commission has determined that the Project benefits the Region and is consistent with and in furtherance of the Commission’s public purposes, and

WHEREAS, the Commission approved a grant to the Grantee in the amount of «**NetAwardCalc**» (the “**Grant**”) to fund the Project, the approval and funding of such Grant the Commission has determined constitutes a valid public purpose for the expenditure of public funds and is the animating purpose for the Grant, and

WHEREAS, the parties desire to set forth their understanding and agreement as to the use of the Grant and the parties’ respective rights and obligations.

NOW, THEREFORE, in consideration of the foregoing, the mutual benefits, promises and undertakings of the parties to this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby represent, warrant, covenant and agree as follows:

1. Project and Budget. The Grantee will complete all actions described in **Exhibit A** and the Application (the “**Project**”), both of which are hereby incorporated by reference. In connection with the Project, the Grantee shall meet or exceed the deliverables described in Exhibit A (the “**Project Outputs**”). In the event the description of the Project or Project Outputs in the Application and Exhibit A conflict, Exhibit A will control.

The Grantee agrees to complete the Project within three years of the Award Date (the “**Grant Period**”). The Grant Period may be extended as provided in the Funding Policies (as defined herein).

The Grantee represents that the Grant funds and funds available from the other sources specified in the Project Budget (as defined herein) will be sufficient to cause the Project to be

completed and agrees that the Commission makes no actual or implied promise to fund the Project except as provided herein.

The “**Project Budget**” is the budget included in **Exhibit B** that is attached hereto and incorporated by reference. The expenses for which the Grant will be used are identified in the Project Budget (“**Project Expenses**”). Upon the Commission’s request, the Grantee agrees to provide a detailed line item budget that more specifically identifies how the Grantee will expend the Grant for the Commission’s review and approval (“**Detailed Budget**”), and the Detailed Budget will replace the Project Budget. If requested, the Commission shall not disburse any portion of the Grant until it receives an acceptable Detailed Budget.

The Grantee agrees to use the Grant exclusively for Project Expenses without the prior written approval of the Executive Director of the Commission (the “**Executive Director**”) or his designee. The Grantee must incur all Project Expenses during the Grant Period and acknowledges that the Commission will rescind and deobligate any remaining Grant proceeds.

The Grantee agrees that it may not make any material changes to the scope of the Project or to the Project Budget without obtaining the prior written approval of the Commission as provided in the Commission’s Funding Policies for Grant Awards that are hereby incorporated by reference (“**Funding Policies**”). The Commission’s approval must specifically set forth the accepted change(s). The Grantee acknowledges the Commission may update the Funding Policies from time to time and agrees to comply with the Funding Policies then in effect.

The Grantee agrees to provide a dollar-for-dollar match from non-Commission sources as required by Va. Code § 3.2-3103(A)(7) (“**Match**”) and that the Match must be consistent with the Funding Policies. The Executive Director or his designee must approve the Match. If the Project Budget does not identify an acceptable Match as of the Award Date, the Grantee must obtain the Match and provide satisfactory evidence thereof to the Commission within one year of the Award Date. The Grantee may make a written request for an extension for one or more years by demonstrating good cause for why it has not yet obtained the Match and explaining how it will obtain the Match. In his sole discretion, the Executive Director may grant a written extension for one or more additional years. If the Grantee fails to satisfy these requirements, the Commission may terminate this Agreement and rescind the Grant.

2. Payment of Grant Funds. Subject to the terms of this Agreement, the Funding Policies, and the conditions set forth in **Exhibit C** attached hereto and incorporated by reference, the Commission will pay the Grant to the Grantee on a reimbursement basis. The Commission in its sole discretion will determine whether the Grantee is in compliance with this Agreement and the documents incorporated by reference.

Prior to any disbursement, the Grantee must designate the officers, employees, or agents authorized to make a reimbursement request by submitting the Commission’s Signature Authorization Form. The Grantee may request reimbursement of Project Expenses upon submission of an original payment request on the Commission’s then-current form (“**Payment Request Form**”) signed by an authorized officer, employee or agent. The Grantee may submit reimbursement requests

no more frequently than quarterly unless the Commission agrees otherwise. The Grantee acknowledges that expenses incurred prior to the Award Date are not eligible for reimbursement.

The Grantee agrees to provide all supporting documentation required by the Funding Policies with each Payment Request Form. The Commission may in its sole discretion refuse to make a disbursement if the Grantee's documentation is not in accordance with the Funding Policies, adequate expenditure of Match has not been documented, the disbursement includes items that are not Project Expenses, or is otherwise contrary to or in violation of the provisions hereof. In addition, the Commission may refuse to disburse any funds to the Grantee if the Grantee is not current on its obligations to the Commission under this Agreement or an agreement related to a different Commission grant.

If the Grant exceeds the amount necessary to complete the Project, the Grantee agrees that the Commission will retain the excess. If the Commission disbursed excess funds, the Grantee shall return such excess to the Commission within thirty (30) days of the completion of the Project or the expiration of the Grant Period, whichever occurs first.

3. Right of Inspection. The Grantee agrees that the Commission (including its employees and agents) may inspect the Project upon reasonable notice to the Grantee; provided, however, that in the event of an emergency, the Commission may inspect the Project to preserve the intended purpose of the Grant, with notice to the Grantee as practicable given the circumstances.

4. Inadequate Progress; Assurances. If after the first two years of the Grant Period have passed, the Grantee has failed to make material progress toward completing the Project such that the Commission determines in its sole discretion that it is not reasonably likely the Project will be completed before the end of the Grant Period, the Commission may give written notice that it is ceasing any further disbursements until the Grantee provides acceptable assurances. If the Grantee fails to provide assurances the Commission finds acceptable in its sole discretion within 30 days of such notice, the Commission may terminate this Agreement and rescind the undisbursed portion of the Grant.

5. Recordkeeping. The Grantee shall maintain accurate and timely books and records with respect to the Grant and the Project and in accordance with generally accepted accounting principles. The Grantee shall retain all invoices from goods purchased and services performed or received, receipts, or other evidence of the actual payment of costs related to the Project. For at least three years after the end of the Grant Period, the Grantee shall retain all such documentation and copies of all Payment Request Forms with supporting documentation and Annual and Final Reports (as defined herein) submitted to the Commission. The Commission (including its employees and agents) shall have the right to inspect and make copies of all such documentation.

6. Annual Reports. The Grantee shall submit to the Commission annual financial and narrative reports reflecting activity related to the Project and progress made toward completion of the Project and Project Outputs using the Commission's then-current grant reporting form ("**Annual Report**"). The Grantee shall provide its first Annual Report one year from the Award Date and annually thereafter until the Project is complete. The Commission reserves the right to request, and the Grantee agrees to provide, additional information to supplement the information provided in the

Annual Report, including but not limited to, the Grantee's audited financial statements. In addition, the Grantee shall submit any additional information related to the Project upon the Commission's request.

7. Final Report. The Grantee shall submit to the Commission a final financial and narrative report with the final reimbursement request using the Commission's then-current grant reporting form ("**Final Report**"). The Final Report shall contain the type of information contained in the Annual Reports, including a narrative as to the success of the Project, the status of Project Outputs, and a discussion of the long-term achievements and expectations for the Project. The Commission may withhold disbursement of the final reimbursement until it receives a satisfactory Final Report. In addition, the Grantee agrees to provide any additional reports concerning the Project that the Commission may request.

8. Misuse of Award; Rights of Commission. If the Commission determines that any part of the Grant has not been used for Project Expenses or for a purpose otherwise approved in writing by the Executive Director, or that the Grantee has failed to comply with any material term or condition of this Agreement, or has made any materially false or misleading statement to the Commission in this Agreement, the Application, or in communications with the Commission, its employees, or its agents related to the Project, the Commission may withhold any further disbursements to the Grantee until the Grantee provides further assurances the Commission finds acceptable in its sole discretion. In addition, the Commission may:

- (a) terminate this Agreement and rescind the Grant by written notice to the Grantee, in which event the Grantee shall be obligated to return to the Commission, within five (5) days following receipt of such notice, an amount, from legally available funds, equal to all Grant proceeds received pursuant to this Agreement;
- (b) take any action as necessary to preserve the integrity of the Grant or to preserve Grant funds for appropriate uses;
- (c) determine that the Grantee is ineligible to receive future grant funding from the Commission;
- (d) withhold any and all disbursements requested by the Grantee from the Commission under any other grant approved by the Commission; and/or
- (e) take such judicial action as is necessary to collect any amounts owed, including legal action for breach of this Agreement.

The Commission reserves the right to modify or withhold any disbursement of Grant funds if the Commission determines that it is necessary to protect the purposes and objectives of the Commission and the Grant, the Grantee is unable or unwilling to complete the Project, or to comply with any law or regulation applicable to the Commission, the Grant and/or the Grantee.

9. Sale or Encumbrance; Security Interest. To the extent permitted by law, Grantee hereby pledges, delivers and assigns to the Commission a security interest in all tangible and intangible

property acquired or improved with any portion of the Grant. Upon the Commission's request, the Grantee shall provide and execute and provide all documents necessary to perfect Commission's security interest in such property, including deeds of trust, supplemental deeds of trust, amendments or modifications thereto, financing statements, continuation statements or other instruments and documents which may be reasonably required from time to time.

The Grantee agrees that if any interest in property acquired or improved in whole or in part with the Grant is licensed, leased, sold, exchanged, disposed of, hypothecated, mortgaged or encumbered in any manner, or no longer used in connection with the Project, the Commission will be entitled to recover the portion of the current fair market value of the property attributable to the Commission's funding of the Project as further provided in the Funding Policies. None of the assets or property acquired, constructed, improved, equipped, and/or furnished as part of the Project may be licensed, leased, sold, exchanged, disposed of, hypothecated, mortgaged or encumbered without the prior written approval of the Executive Director. In the event that such asset or property is licensed, leased, sold, exchanged, disposed of, hypothecated, mortgaged or encumbered without the prior written approval of the Executive Director, the Commission may assert its interest in the asset or property to recover the Commission's share of the value of such asset or property and/or recover from the Grantee, unless otherwise prohibited by law.

10. Compliance; Procurement. The Grantee agrees to comply with all applicable federal, state, and local laws and regulations pertaining to the Project and the use of Grant funds. If the Grantee is a "public body" under the Virginia Public Procurement Act (Va. Code § 2.2-4300 *et seq.*) (the "VPPA") and will procure goods or services from nongovernmental sources in connection with the Project, the Grantee agrees to comply with the VPPA. If the Grantee is not a public body or is otherwise not required to comply with the VPPA, the Grantee agrees to conduct competitive procurement processes consistent with applicable industry practice.

11. Miscellaneous.

(a) Press Releases. The Grantee agrees that it shall not issue any press releases or other public statements regarding the Grant without the prior written consent of the Executive Director.

(b) Entire Agreement; Assignment. To the extent there are inconsistencies between this Agreement and documents and exhibits incorporated by reference, this Agreement shall control. This Agreement expresses the entire understanding and all agreements between the Commission and the Grantee and may not be modified except in a writing signed by the parties. The Grantee may not assign this Agreement without the Commission's written consent.

(c) Governing Law; Jurisdiction; Venue. This Agreement shall be governed by the applicable laws of the Commonwealth. The venue of any judicial action shall be in the Circuit Court of the City of Richmond, Virginia, and such litigation shall only be brought in such court.

(d) Limitation of Liability; Indemnification; Attorneys' Fees. No member, employee, or agent of the Commission shall incur any personal liability with respect to any action taken by him or her pursuant to this Agreement. In connection with the award of the Grant or the

administration of the Project, the Commission does not and shall not assume any liability for any financial or other obligations of the Grantee made to third parties, whether or not related to the Project. There are no third party beneficiaries to this Agreement. Nothing contained herein shall be deemed an express or implied waiver of the sovereign immunity of the Commission or the Commonwealth. To the extent permitted by law, Grantee shall indemnify, save, and hold harmless the Commission, its members, agents, and employees from any claims or causes of action arising from the performance of this Agreement by the Grantee or the Grantee's agents or employees. In the event the Commission is required to take legal action under this Agreement, the Grantee shall be liable for all of the Commission's costs expended for the administration and enforcement of this Agreement, including but not limited to, reasonable attorneys' fees and court costs. If the Grantee is a public body, the Commission acknowledges the Grantee's obligations may be subject to receipt of necessary appropriations and applicable law.

(e) Severability. If any provision of this Agreement shall be held invalid by any court of competent jurisdiction, such holding shall not invalidate any other provision hereof.

(f) Public Documents. Unless specifically exempted pursuant to the Virginia Freedom of Information Act (Va. Code § 2.2-3700 *et seq.*), all reports, documents, financial data and other information provided to the Commission shall be public records.

(g) Notices. Unless otherwise provided for herein, all notices, approvals, consents, correspondence and other communications pursuant to this Agreement shall be in writing and shall be deemed received upon receipt or refusal after mailing of the same in the United States Mail by certified mail, postage fully pre-paid or by overnight courier (refusal shall mean return of certified mail or overnight courier package not accepted by the addressee) to (a) the Commission at 701 East Franklin Street, Suite 501, Richmond, Virginia 23219, Attention: Executive Director, or (b) the Grantee at the address set forth below.

(h) Conditional Funding. In the event that disbursement of Grant funds is contingent upon the happening of an event or events described herein that have not yet occurred as of the Award Date, the Commission may withdraw the Grant if such contingency has not been satisfied within twelve (12) months of the Award Date, unless otherwise provided in **Exhibit C**.

(i) Survival. The rights and remedies available to the Commission shall survive any expiration or termination of this Agreement.

(j) Counterparts. This Agreement may be executed in counterparts, each of which shall be an original, and all of which together shall constitute but one and the same instrument.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

TOBACCO REGION REVITALIZATION COMMISSION, a body corporate and political subdivision of the Commonwealth of Virginia

Signature of Executive Director: _____

Printed Name of Executive Director: Evan Feinman

Date: _____

«Organization»

Signature of Grantee's Chief Executive: _____

Printed Name of Chief Executive: _____

Date: _____

Grantee Information:

Address _____

Phone # _____ e-mail _____ Federal ID # _____

Project Description:

[PROJECT SUMMARY PREPARED BY TRRC STAFF]

Project Outputs:

[PROJECT OUTPUTS PREPARED BY TRRC STAFF]

Project Budget

**[BUDGET WORKSHEET SUBMITTED WITH THE APPLICATION TO BE ATTACHED
UNLESS TRRC GRANTS DIRECTOR APPROVES OTHERWISE.]**

Grant Conditions

1. At least 50% of the total Project Budget must be funded by non-Commission sources. The Grantee must provide satisfactory evidence thereof to the Commission prior to disbursement of any Grant proceeds. Unapproved applications to other funding sources are not satisfactory evidence.