



FRIP



NORTH AMERICAN
Sustainable
Refrigeration
Council

F-gas Reduction Incentive Program (FRIP): Commercial and Industrial Refrigeration

Appendix B: Grant Agreement Template

**[TECHNICAL GRANTEE NAME]:
Technical Grantee for FRIP**

August 1, 2024

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**EXHIBIT A: GRANT AGREEMENT TERMS AND CONDITIONS
BY AND BETWEEN THE NORTH AMERICAN SUSTAINABLE REFRIGERATION
COUNCIL AND [TECHNICAL GRANTEE NAME]**

This Grant Agreement (“Grant”, “Grant Agreement” or “Exhibit A”) is entered into by and between the State of California acting by and through the North American Sustainable Refrigeration Council (hereinafter referred to as “NASRC”, or the “Grantor”) and [TECHNICAL GRANTEE NAME] (hereinafter referred to as the “Grantee”). Grantor and Grantee are each a “Party” and together the “Parties” to this Grant Agreement.

I. GRANT SUMMARY

- A. Project Title: PROJECT TITLE HERE
- B. Project Address: PROJECT ADDRESS HERE
- C. Total Grant Amount: \$ GRANT AMOUNT HERE

The Grantee agrees to comply with the requirements and conditions contained herein, the F-Gas Reduction Incentive Program (FRIP) 2024 Program Guidelines (hereinafter referred to as “FRIP Guidelines”), as well as all commitments identified in the Grantee Application. The Parties agree as follows:

II. PURPOSE

- A. NASRC shall provide the Total Grant Amount per Section I (hereinafter referred to as the “Grant Funds” from FRIP (hereinafter referred to as the “Program”) to the Grantee to implement a FRIP project in accordance with the conditions set forth.
- B. In the order of precedence set out herein below, Grantee agrees to comply with all of the terms, provisions and conditions contained in this Grant Agreement (“Exhibit A”) as well as the following Exhibits, which are presently or will be incorporated into and made a part of this Grant Agreement by this reference upon completion of their agreed upon terms:
 - 1. Exhibit B - FRIP 2024 Program Guidelines
 - 2. Exhibit C - Grantee Application Package

III. TERM; TERMINATION; AMENDMENTS

- A. **Term.** The term of this Grant Agreement (“Term”) commences the date this Grant Agreement is executed by authorized representatives of both Parties (the “Effective Date”) and terminates on April 1, 2027, unless terminated or

cancelled sooner per the terms of this Grant Agreement. The Grantee's performance of work or other expenses billable to CARB under this Grant may not commence until after full execution of this Grant by authorized representatives of both Parties.

B. **Project Deemed Complete.** The Grantee must submit a Final Status Update to NASRC when the Project is complete, as defined in the Funding Guidelines, and no later than January 1, 2027. The Final Status Update must be accompanied by a request for payment for Grant Funds, unless all Grant Funds were advanced. (See Sections VII and X of this Grant Agreement for additional details.)

C. **Termination**

1. Termination Without Cause by Grantor. This Grant Agreement may be terminated at any time for any or no reason by Grantor upon providing thirty (30) days advance written notice.
2. Termination for Cause by Grantee. Upon providing thirty (30) days advance written notice to Grantor, this Grant Agreement may be terminated by Grantee if Grantor has breached a material provision of the Grant Agreement.
3. Termination for Cause by Grantor. This Grant Agreement may be terminated by NASRC without advance notice at any time if NASRC has determined, in its sole discretion, that the Grantee, or any of the Grantee partners, consultants, contractors, subcontractors, employees, representatives, agents, officers, or affiliates has breached any of the terms or conditions of this Grant Agreement or has violated or are in violation of any of his, her, their, its respective obligations or responsibilities under this Grant Agreement or any other agreement where NASRC is an intended third party beneficiary.
 - a. Non-performance (Breach) Provisions. The Grantee agrees that the following is a non-exhaustive list of the circumstances that constitute non-performance (breach) under this Grant. These circumstances will be solely determined by NASRC and include, but are not limited to:
 - i. Failure to comply with any of the provisions of the Grant, including Exhibits.
 - ii. Failure to obligate or expend Grant Funds within established timelines, or failure to show timely interim progress to meet these timelines.
 - iii. Insufficient performance or widespread deficiencies with Grant Fund

or Project oversight, enforcement, recordkeeping, contracting, inspections, or any other duties.

- iv. Failure to complete necessary project tasks, such as ordering refrigeration equipment, providing required documentation, and/or requesting an extension for such items, within the required timeframe, as defined in the Funding Guidelines.

b. **Misuse of Grant Funds.**

- i. Funding of ineligible activities or other items.
- ii. Exceeding the allowable Grant Fund allotment.
- iii. Insufficient, incomplete, or faulty documentation.
- iv. Failure to provide required documentation or reports requested from NASRC in a timely manner.
- v. Poor performance as determined by a review or fiscal audit.

c. **Additional Remedies.** In addition to any other requirements and remedies set out elsewhere in this Grant Agreement, upon request by NASRC, the Grantee will also perform as follows:

- i. Within fourteen days of any request, timely develop and implement a corrective action plan.
- ii. Immediately cease all work and spending and notify all contractors, subcontractors, consultants, and employees to immediately cease all work and spending.

d. Upon termination of this Grant Agreement or upon issuance of the termination notice (whichever occurs sooner) by either Party, the Grantee shall immediately turn over all remaining Grant Funds in its possession or control and all records, personally identifiable information ("PII"), intellectual property, documents, information and data relating to performance, accounting, administration, contracting and management of the Grant Funds, the Project and the Program, as well as any other materials requested by NASRC or as otherwise required by any of the provisions of this Grant.

e. NASRC, at its sole discretion, may elect to have any or all of the funding, documentation, intellectual property, and other property transferred to another selected Grantee or designee.

- f. Unless otherwise directed in writing by NASRC, upon termination of this Grant Agreement or upon issuance of the termination notice (whichever occurs sooner) by either Party, Grantee shall immediately cease all work, and cease all expenditure of Grant Funds.
 - g. Unless otherwise directed in writing by NASRC, upon termination of this Grant Agreement or upon issuance of the termination notice (whichever occurs sooner), the Grantee shall submit a final request for reimbursement and a Final Status Update covering activities up to and including the termination date. The Final Status Update shall be subject to review and approval by NASRC before any final payments are disbursed. Upon receipt of the reimbursement request and Final Status Update, and once all intellectual property and requested data, information, and property have been transferred and assigned to NASRC, NASRC, at its sole discretion, may make a final payment directly to the Grantee or to the equipment manufacturer if authorized to do so by the Grantee (see section VII.A.2.a). This payment shall be for all NASRC-approved, actually incurred costs that in the opinion of NASRC are justified. However, the total amount paid shall not exceed the total authorized amount for the Grant Funds.
- D. **Contingency Provision.** In the event this Grant Agreement is terminated for whatever reason, the NASRC Executive Officer or designee reserves the right in his or her sole discretion to use or make the Grant Funds available in a manner consistent with applicable laws, policies and the applicable FRIP Program Guidelines requirements, which may include but is not limited to allocating the Grant Funds to other projects or awarding the Grant to the next highest scored applicant and if an agreement cannot be reached, to the next applicant(s) until an agreement is reached.
- E. **CEQA.** CARB retains full discretion to consider all available information relating to California Environmental Quality Act (CEQA) compliance before determining whether to proceed with funding or authorization of any work under this Grant Agreement. No work may be initiated by the Grantee, nor will any funding be disbursed by NASRC, until NASRC has affirmatively notified the Grantee in writing that this CEQA condition has been satisfied. If CARB decides not to proceed with this Grant Agreement, the Grant Agreement will be terminated immediately by NASRC upon written notice to the Grantee.
- F. **Amendments.** This Grant Agreement may only be amended by a written amendment to this Grant Agreement which has been fully executed by authorized representatives of both Parties.

IV. GRANT AMOUNT

- A. The total Grant fund amount (“Grant Funds”) is set out in the Grant Cover Sheet to which this Exhibit A (Grant Agreement) is attached.
- B. The administration of Grant Funds is set out in Section VII below.

V. PROJECT REPRESENTATIVES

The Project Representatives during the term of this Grant Agreement are as follows:

North American Sustainable Refrigeration Council (“NASRC” or “Grantor”):

The NASRC Project Liaison is Danielle Wright and correspondence regarding this Grant Agreement or performance shall be directed to:

Danielle Wright
Executive Director, North American Sustainable Refrigeration Council
35 Miller Ave, #1019
Mill Valley, CA 94941
Phone: 833-852-3747
Email: info@fripfunding.com

Technical Grantee Name (“Grantee” or “TECHNICAL GRANTEE NAME ACRONYM”):

The Grantee Liaison is _____, and correspondence regarding this Grant Agreement or performance shall be directed to:

GRANTEE LIAISON NAME
TITLE, COMPANY NAME
ADDRESS
CITY, STATE ZIPCODE
Phone: (XXX) XXX-XXXX
Email: LIAISON EMAIL ADDRESS

VI. GENERAL DUTIES AND REQUIREMENTS

This Section generally sets out the respective duties and requirements of NASRC and the Grantee in implementing the Project and Program under this Grant Agreement. More detailed duties and responsibilities are set out in other Sections of this Grant Agreement.

- A. **The Grantor.** NASRC is responsible for the following:
 - 1. Comply with all applicable requirements of statutes and regulations under federal and California laws;
 - 2. Comply with all terms, provisions, and conditions of this Grant Agreement,

- including all incorporated documents and fulfill all assurances, declarations, representations, and statements. Ensure employees, officers, directors, agents, assigns, affiliates, representatives, contractors, subcontractors, and consultants meet all the aforementioned requirements, as applicable.
3. Use best efforts and subject matter expertise in managing, overseeing, and implementing the day-to-day administration of the Program, which includes providing support to the resulting projects that come from all Grantee solicitations, the scope of work outlined in said solicitations and overall support to the Program. NASRC's responsibilities include, but are not limited to, the following tasks:
 4. Project planning and implementation throughout the Term, and in consultation with CARB; assist with updating and finalizing required or requested plans, policies, and procedures manuals in a form and with content acceptable to CARB.
 5. Closely communicate with CARB any significant changes to Project implementation, including agreement termination decisions or requests, that would impact the administration or implementation of the Project as provided by the Statement of Work.
 6. Applying best efforts, and industry best practices and standards, manage, oversee, and administer quality control and timely delivery of Grantee deliverables, ensuring that Grantee fulfill their obligations and responsibilities under this agreement.
 7. Accomplish all the other Grantor duties, responsibilities, and obligations set out in all other Sections of this Grant Agreement.
 8. Data Collection and Processing
 - a. Ensure that data collection, as required by this agreement, is collected, processed, analyzed, evaluated for compliance, and reported to CARB in a timely manner.
 - b. Support Grantee with data collection efforts.
 - c. Keep Project data in compliance with all privacy requirements as set forth in this Agreement and applicable laws.
 - d. Consult with and get CARB approval before the release of any data that has been collected during the course of the Project.
 - e. Promptly respond to CARB's request for Project data.

- f. Promptly notify CARB if there is any request for Project data.
 - g. Document findings from the Project.
 - h. Coordinate with other CARB data collectors and processors, as requested by CARB.
- B. California Air Resources Board.** CARB is responsible for the following:
- 1. Select Grantee projects for funding that result from a solicitation, except where NASRC is required to do so per direction from CARB.
 - 2. Review, approve, or deny Grantee funding requests, except where NASRC is required to do so per direction from CARB.
- C. The Grantee.** The Grantee and its representatives shall:
- 1. Perform or cause to be performed, in a timely manner, all Project work as described in this Grant Agreement, as well as Exhibit C.
 - 2. Comply with all applicable requirements of statutes and regulations under federal and California laws.
 - 3. Comply with all terms, provisions, and conditions of this Grant Agreement, including all incorporated documents, and fulfill all assurances, declarations, representations, and statements made by Grantee in the Grantee application materials and as reflected in the solicitation.
 - 4. Ensure employees, officers, directors, agents, assigns, affiliates, representatives, contractors, subcontractors, and consultants to meet all the aforementioned requirements, as applicable.
 - 5. Use best efforts and subject matter expertise in managing, overseeing, and implementing the day-to-day administration of the Project. Grantee's responsibilities include, but are not limited to, the following tasks:
 - a. Project planning and implementation throughout the Term, and in consultation with NASRC, assist with updating and finalizing required or requested plans, policies, and procedures manuals in a form and with content acceptable to NASRC.
 - 6. Closely communicate with NASRC any significant changes to Project implementation, including requests for agreement termination, that would impact the administration or implementation of the Project as provided by the Statement of Work.

7. Applying best efforts and industry best practices and standards, Grantee will manage, oversee, and administer quality control and timely delivery of Grantee deliverables, ensuring that Grantee fulfill their obligations and responsibilities under this agreement.
8. Accomplish all the other Grantee duties, responsibilities, and obligations set out in all other Sections of this Grant Agreement.

VII. FISCAL ADMINISTRATION

A. Project Funding

1. The Grant Disbursement Request

- a. Requests for payment shall be made through the FRIP website, and conform to the instructions identified in this Section and in the FRIP web portal. Disbursements requesting funds from multiple funding sources shall be submitted individually by funding source. Grant payments shall be made only for reasonable costs incurred by the Grantee and only when the Grantee has submitted to NASRC a reimbursement request, a Final Status Update, demonstration of completion of milestones stipulated in Exhibit C, demonstration that the requirements of this Section have been satisfied, and any other associated deliverables (if applicable).
- b. The Grantee shall submit the reimbursement requests through the FRIP website. The Grantee must submit reimbursement requests electronically, based on NASRC's electronic submission guidance in effect at the time of the request. The Grantee must make all requests for payment by submitting the required documentation through the FRIP web portal.
- c. Grant payments are, in each instance, subject to NASRC's advance review and approval, including review and approval of the Final Status Update and any accompanying deliverables. A payment will not be made if NASRC determines that a milestone has not been accomplished or documented, that a deliverable meeting specification has not been provided, that claimed expenses have not been documented or accomplished or are not valid per the budget or are not reasonable, or that the Grantee has not met other terms or conditions of the Grant.
- d. The NASRC authorized representative may review NASRC's approval or disapproval of a Grant disbursement. No reimbursement will be made for expenses that, in the judgment of the Division Chief of the CARB Research Division, are not reasonable or do not comply with the Grant

Agreement.

- e. NASRC shall disburse funds in accordance with the California Prompt Payment Act, Government Code, Section 927, et seq.

2. Grantee Funding.

- a. NASRC is responsible for making payments to the Grantee upon verifying completion of milestones in this agreement. NASRC supports, reviews, validates, and finalizes all Grantee reimbursement requests and assists the Grantee with submitting any and all needed backup documentation or reports to CARB. NASRC will disburse payments directly to the Grantee or to the equipment manufacturer if authorized to do so by the Grantee.
 - i. In the event that NASRC disburses payments directly to the manufacturer, NASRC can only pay up to the remaining award amount available under this grant. The Grantee agrees to accept all liability for any remaining cost of the equipment. The Grantee further agrees to indemnify and hold harmless CARB, NASRC, their employees, and contractors with respect to any amount owing on the invoice after NASRC has disbursed such payment. In the event the invoice amount is less than or equal to the award amount available under the grant, NASRC will pay up to that amount.
- b. In every instance where a request for reimbursement is submitted for approval, the Grantee payment requests will be subject to the advance review and approval of an authorized representative of NASRC. The following requirements also apply in each instance:
 - i. Submit valid, true, and correct invoices justifying the payment requested. Invoices must reflect only actual costs incurred by the Grantee.
 - ii. Submit a reimbursement request on the FRIP web portal, including all documents required to be accompanied with the request.
 - iii. Submit all documentation demonstrating cost of work completed in the following categories where such reimbursements are allowed by this agreement: 1) equipment costs and 2) labor expenses (including total staff time and labor costs). Due to funding constraints, equipment costs will be prioritized for reimbursement. This means that in the event the total equipment cost exceeds the total award amount, only equipment costs will be eligible for reimbursement.

- iv. Provide any and all additional invoices and documentation requested by NASRC.
- c. The above documentation, records, and referenced materials must be made available for review during monitoring visits and audits by NASRC, or its designee. These records must be retained for a minimum of three years after submittal of the final Program invoice to NASRC.
- d. The above documentation must be provided to NASRC upon request, in Quarterly Status Updates, and in the Final Status Update.

B. Suspension of Payments

1. NASRC may issue a suspension order (stop work order) at any time for any reason. The suspension order shall remain in effect until the dispute has been resolved, the suspension order has been rescinded, or the Grant has been terminated. The Grantee will not be reimbursed for any expenditure incurred during the suspension. Upon issuance of the suspension order, the Grantee shall stop all work, unless otherwise specified in the suspension order. Failure to comply with the terms of the suspension order is a material breach of this agreement and will subject the Grantee to liquidated damages. The Grantee shall resume work only upon receipt of written instructions from NASRC.

C. Advance Payments

1. Consistent with the Legislature's direction to expeditiously disburse grants, CARB in its sole discretion may provide advance payments of Grant Funds in a timely manner to support Program initiation and implementation with a focus on mitigating the constraints of modest reserves and potential cash flow problems.
2. The Grantee acknowledges that CARB has finalized Advance Payment regulations. The Grantee agrees that this Grant Agreement and all advance payment requests will comply with these regulations, which can be found at California Code of Regulations (C.C.R.), title 17, sections 91040 to 91044.
3. The Grantee acknowledges that, alternatively, NASRC may pay the manufacturer directly subject to the terms listed above in paragraph (A)(2) of this section. This alternative alleviates the requirement to comply with the Advance Payment regulation.

D. Financial Records and Accounts

1. Fiscal management systems and accounting standards. The Grantee agrees that, at a minimum, its fiscal control and accounting procedures will be

sufficient to permit tracing of all Grant Funds to a level of expenditure adequate to establish that such funds have not been used in violation of local, state, or federal law or this Grant Agreement. Unless otherwise prohibited by federal, state, or local law, the Grantee further agrees that it will maintain a separate Grant Fund (including Administrative Fee) accounting location (e.g. QuickBooks or Excel spreadsheet) as required to manage and administer the Project, including the use of generally accepted accounting principles.

2. The Grantee shall not commingle the Grant Fund with any other accounts, revenues, grants, donations, or funds. Maintain all Grant Funds in a separate location designated specifically for the purposes of carrying out the obligations of this Grant. The bank account must be held in the name of the Grantee (the official agency name, and not a dba), and no other person or entity. Grant Funds shall not be used, obligated, or relied upon for any purposes other than those purposes and uses set out in this Grant Agreement. Grant Funds shall not be used as collateral for or an obligation to any debt, loan or other borrower commitments of the Grantee, its officers, directors, Board members, agents, assigns, contractors, subcontractors, representatives, employees, or affiliates. The Grant Fund account shall adequately and accurately depict all amounts received and expended.

VIII. DOCUMENTATION OF EXPENDITURE OF STATE FUNDS

Per the terms and conditions of this Grant as set out herein above and below, the Grantee must provide NASRC with documentation accounting for the proper expenditure of Grant Funds. The documentation must be provided upon NASRC request, in Quarterly Status Updates submitted quarterly to NASRC, and in a Final Status Update submitted at the completion of the Project prior to the Grantee receiving the disbursement of funding.

IX. PROJECT MONITORING

- A. Meetings between key project personnel and NASRC and site visits by NASRC shall be held as needed for proper project implementation. Site visits may be requested at NASRC's discretion. Virtual meetings may be requested as needed by the Grantee or NASRC to support project implementation.
- B. Technical Monitoring
 1. Any material changes in the scope or schedule for the Project shall require prior approval by NASRC and will require a formal Grant amendment. Normal project delays are not considered material for the purposes of this Agreement.

2. The Grantee shall notify NASRC via the Quarterly Status Update if any circumstances arise (technical, economic, or otherwise), which might place continued operation or completion of the Project in jeopardy.
3. In addition to Quarterly Status Updates (see Section X of this Grant Agreement), the Grantee shall provide information requested by NASRC that is needed to assess progress in completing tasks and meeting the objectives of the Project.
4. Any change in budget allocations, material re-definition of deliverables, or material extension of the Project Schedule must be requested via the Quarterly Status Update to NASRC and approved by NASRC, in its sole discretion, and will require a formal Grant amendment.

X. REPORTING

A. Quarterly Status Updates

1. The Grantee shall submit Quarterly Status Updates on a quarterly basis. The Quarterly Status Updates shall be provided in a format determined by NASRC and meet the requirements specified herein. NASRC may specify an electronic format for Quarterly Status Updates.
2. The Grantee acknowledges, understands, and agrees that any information contained in any Quarterly Status Updates or other submissions provided by the Grantee or any of its officers, employees, agents, representatives, contractors, or subcontractors may be used by NASRC or any of its third-party representatives to verify compliance with the provisions of this Grant Agreement. Furthermore, the Grantee acknowledges, understands, and agrees that Quarterly Status Updates submitted to NASRC must include the following certification signed by a person with authority to make such a certification on behalf of the Grantee:

I certify, under penalty of perjury under the laws of the State of California, that I have examined and am familiar with the information in the enclosed Quarterly Status Update, including all attachments thereto. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements, representations, conclusions, and information are true, accurate, and complete. I am aware that there are significant penalties for knowingly submitting false statements, claims, or information to the State of California, including the possibility of criminal sanctions.

3. Quarterly Status Updates must be submitted quarterly. The first Quarterly

Status Update must be submitted three months after the Grant Agreement is fully executed.

4. If the Project is behind schedule, the Quarterly Status Updates must contain an explanation of reasons for delay and how the Grantee plans to resume timely completion of milestones and deliverables in the Grantee Application (Exhibit C).

B. Final Status Update

1. The Grantee must submit a Final Status Update to NASRC when the Project is complete, as defined in the Funding Guidelines, and no later than January 1, 2027.
2. The Final Status Update must be submitted to NASRC in a format determined by NASRC and must include information identified in the Funding Guidelines. The Final Status Update must be accompanied by a request for payment for Grant Funds, unless all Grant Funds were advanced. The Final Status Update must meet the requirements specified in this Grant.
3. The Final Status Update must also contain the same signed statement set out in Section X.A.2) above.

XI. OVERSIGHT AND ACCOUNTABILITY

- A. The Grantee shall comply with all oversight responsibilities identified in this Grant Agreement.
- B. NASRC or its designee may recoup Grant Funds due to misinformation, misrepresentation, or fraud. NASRC also reserves the right to prohibit any entity from participating in existing or future NASRC programs, projects, or grants due to non-compliance with Grant Agreement or Program requirements or due to misinformation, misrepresentation, or fraud. This does not impact the rights of CARB to determine prohibitions with respect to its programs.
- C. The Grantee shall, for each occurrence, document and immediately report to NASRC any and all suspected or known substandard work; fraud, misrepresentations, or abuse of funds; suspected or known violations of any Grant terms or conditions; and all misrepresentations and fraud carried out by any third parties including but not limited to the Grantee's contractors, subcontractors, consultants, employees, agents, affiliates, officers, directors, or representatives. The Grantee shall fully cooperate and work with NASRC to investigate, resolve and take appropriate action to enforce the terms and conditions of this Grant Agreement, including appropriately prosecuting or litigating any civil or criminal claims as determined necessary by NASRC or its

representative.

XII. PROJECT RECORDS

- A. The Grantee shall establish and maintain records of the Project. As further described below, by way of example but not limitation, Project records include Grantee, financial, and Program records ("Project Records").
- B. The Grantee shall:
 1. Utilize best practices to store all records in a safe and secure storage facility that maintains confidentiality and provides fire and natural disaster protection. Files shall be retained during the Term of the Grant Agreement plus three years. Upon completion of the required record-retention period, the Grantee must submit all Project records to NASRC. Hardcopy or electronic records are suitable. Acceptable forms of electronic media must be approved based on prior written concurrence from NASRC.
 2. Provide data updates to NASRC upon request, which could include all Project records.
 3. Provide periodic data summaries to NASRC.
 4. Provide Quarterly Status Updates to NASRC detailing the status of the Project. Where requested by NASRC, the Grantee will clarify, supplement, modify, or update its Quarterly Status Updates at no additional cost to NASRC.
 5. Where necessary as solely determined by NASRC, the Grantee shall support NASRC's enforcement efforts, including the recapturing of funds, and by providing NASRC with any information, documents, data, or other materials needed to investigate or carry out such efforts.
 6. The Grantee shall retain a combined file for the Project containing:
 - a. Original executed copy of the Grant Agreement and exhibits, as well as any amendments to the Grant Agreement, if applicable.
 - b. NASRC-approved plans, policies, procedures, and manuals.
 - c. Copies of Grantee's reimbursement requests and back-up documentation.
 - d. Communications between NASRC and the Grantee, communications between the Subgrantees and the Grantee, and communications between NASRC and the Subgrantees.

- e. Copies of all deliverables from the Grantee.
 - f. Copies of any decision that NASRC has made in support of Grantee projects such as minor changes in project scope, changes in timeline, or line-item shifts.
7. Establish an official file for the Project which shall adequately document all significant actions relative to the project.
 8. Records, contracts, subcontracts, statements of work, work product from subcontractors or contractors of the Grantee.
 9. All Project records must be retained for a period of three (3) years after termination or expiration of the Grant, whichever occurs first. Upon completion of the third year of record retention, the Grantee shall submit all remaining Project records to NASRC that have not previously been requested or turned over to NASRC. Hardcopy or electronic transfer of electronic records are suitable. Forms of electronic media may be defined by NASRC.
 10. All Project records are subject to audit pursuant to the audit provisions of this Grant Agreement.

XIII. INTELLECTUAL PROPERTY & MEDIA

- A. Any webpage(s), software, databases, project data, or other intellectual property developed, licensed, or purchased by the Grantee with any Grant Funds shall be transferred and permanently assigned to NASRC or, at NASRC's sole discretion, to a new third party administrator/grantee selected by NASRC if the Grant Agreement is terminated, cancelled, or expires, or if the Grantee is replaced by a different grantee to manage the Project. It will be the Grantee's responsibility to immediately turn over this property and information to NASRC no later than 10 business days prior to the termination, cancellation, or expiration of this Grant Agreement (whichever is sooner) and provide all reasonable and necessary assistance needed to ensure a smooth transition in accordance with the Project Transition Plan.
- B. Where applicable, the Grantee agrees to acknowledge the California Climate Investments Program and CARB as a funding source for the Project.
 1. The California Climate Investments logo and name serves to bring under a single brand the many investments whose funding comes from the Greenhouse Gas Reduction Fund (GGRF). The logo represents a consolidated and coordinated initiative by the State of California to address climate change by reducing greenhouse gases, while also investing in disadvantaged communities and achieving many other co-benefits.

2. The Grantee shall acknowledge CARB as a funding source for the Project when publicized in any news media, websites, applications, brochures, publications, audiovisuals, or other types of promotional material. The Grantee shall adhere to the Board's logo usage requirements in a manner directed by CARB. CARB logos and any additional required materials shall be provided to the Grantee by NASRC staff.
3. The Grantee shall acknowledge the California Climate Investments Program as a funding source whenever projects funded, in whole or in part by this Agreement, are publicized in any news media, websites, brochures, publications, audiovisuals, or other types of promotional material. The acknowledgement must read as follows: "This Project is part of California Climate Investments, a statewide program that puts billions of Cap-and-Trade dollars to work reducing greenhouse gas emissions, strengthening the economy, and improving public health and the environment particularly in disadvantaged communities." Guidelines for the usage of the California Climate Investments logo are incorporated by reference and may be changed at CARB's discretion at any time. A copy of the Guidelines applicable to this Grant Agreement can be found at <http://www.caclimateinvestments.ca.gov/logo-graphics-request>.

XIV. CONFIDENTIALITY AND DATA SECURITY

- A. Except as required by applicable law, or as otherwise expressly authorized by this Grant Agreement, the Grantee shall not disclose to any third party any record, data, or information which NASRC has designated as confidential. It is expressly understood and agreed that information the Grantee collects, generates, or acquires in performing its obligations under this Grant may be deemed confidential by NASRC. Therefore:
 1. Rights to Data: The Grantee acknowledges, accepts, and agrees that as between the Grantee and Grantor, all rights, including all intellectual property rights, in and to PII, data, information, documentation and materials shall remain the exclusive property of the Grantor, and the Grantee has a limited, non-exclusive license to access and use said information solely for performing its obligations under the Grant Agreement. Nothing herein shall be construed to confer any license or right to said PII, data, documentations, materials, or information, including user tracking and exception data, by implication, estoppel, or otherwise, under copyright or other intellectual property rights, to any third party. Unauthorized use of said information by the Grantee or third parties is prohibited. For the purposes of this requirement, the phrase "unauthorized use" means the data mining or processing of data stored or transmitted by the Grantee or any third-party service for unrelated or commercial purposes, advertising, or advertising-related purposes, or for any other

- purpose other than security or service delivery analysis that is not explicitly authorized by Grantor.
2. The Grantee certifies that it has appropriate systems and controls in place to ensure that the Project and Grant Funds will not be used for the acquisition, operation, or maintenance of computer software in violation of copyright or other intellectual property laws.
 3. Information or data, including but not limited to personally identifiable information ("PII") and all records and supporting documentation that personally identifies or describes an individual or individuals is confidential in accordance with California Civil Code sections 1798, et seq. and other relevant state or federal statutes and regulations. During the Term, in the performance of any of the terms or conditions of this Grant, the Grantee shall safeguard all such information, records, applications, PII, and data which comes into its possession or control in perpetuity, and shall not release or publish any such information, records, data, or application records without first obtaining in each instance the advance written approval of an authorized representative of NASRC.
 4. The Grantee must ensure that the Grantee employees, officer, agents, representatives, affiliates, contractors, subcontractors, and consultants are informed of the confidential nature of any shared information or data and ensure by written agreement that such individuals and entities are prohibited from copying, revealing, or utilizing such information or data (or any parts thereof) for any purpose other than in compliance with applicable laws and in fulfillment of this Grant, and are precluded from taking any action otherwise prohibited under any provision of this Grant or applicable laws.
 5. The Grantee, its employees, agents, representatives, affiliates, directors, officers, contractors, subcontractors, and consultants, must adhere to all NASRC confidentiality, disclosure, and privacy policies.
 6. If the Grantee suspects loss or theft of PII or other confidential information, the Grantee must report any lost or stolen PII including all information, data, or equipment developed or collected pursuant to this Grant to NASRC immediately and report to state or federal officials where required by applicable laws.
 7. The Grantee must sign all non-disclosure and confidentiality agreements provided by NASRC and shall require its employees, officers, directors, affiliates, representatives, agents, consultants, contractors, and subcontractors to do the same when requested by NASRC.

8. The Grantee agrees to notify NASRC immediately of any security incident involving suspected or actual release or breach of any information system, servers, data, or any other information developed or collected pursuant to this Grant. The Grantee agrees that NASRC has the right to participate in the investigation of a security incident involving such suspected or actual release or breach or conduct its own independent investigation, and that the Grantee shall cooperate fully in such investigations.
9. The Grantee agrees that it shall be responsible for all costs incurred by it and by NASRC due to a security incident resulting from any act or omission of the Grantee or any of its employees, agents, officers, directors, affiliates, representatives, consultants, contractors, or subcontractors, including any acts or omissions resulting in an unauthorized disclosure, release, access, review, or destruction of data or information; or loss, theft or misuse of information or data developed or gathered pursuant to this Grant. If the Grantee experiences a loss or breach of data, the Grantee shall immediately report the loss or breach to NASRC and, where required by applicable law, to state or federal officials. If applicable law requires, or if NASRC determines, that notice to the individuals whose data has been lost or breached is needed, then the Grantee shall provide all such notification and will bear any and all costs associated with the notice or any mitigation selected by NASRC. These costs include, but are not limited to, staff time, material costs, postage, media announcements, credit monitoring for impacted individuals, and other identifiable costs associated with the breach or loss of data.
10. If the Grantee believes disclosure of a confidential record or information may be required under the California Public Records Act, the Grantee shall first give NASRC at least ten (10) calendar days advance written notice prior to any planned disclosure so that NASRC can seek, solely at NASRC's discretion, an order preventing disclosure from a court of competent jurisdiction. The Grantee agrees that it shall immediately notify and work cooperatively with NASRC to respond timely and correctly to any and all public records requests. The Grantee agrees that it will not challenge or authorize or endorse any challenge to any action or request by NASRC to obtain a protective order or court order to prevent the release of any information.
11. The Grantee assumes all responsibility and liability for the security and confidentiality of PII, sensitive, and confidential information and data under its jurisdiction or control.
12. The Grantee certifies, represents, and warrants that:
 - a. Its data and information security standards, tools, technologies, and

procedures are sufficient to protect confidential, sensitive, and PII data and information;

- b. The Grantee is in compliance and shall remain in compliance at all times during the Grant Term with the following requirements and obligations:
 - i. The California Information Practices Act (Civil Code Sections 1798 et seq.);
 - ii. California State Administrative Manual 5350.1 and California Statewide Information Management Manual 5305-A pertaining to encryption of confidential, sensitive and/or PII information or data;
 - iii. Current NIST special publications 800-171 Protecting Controlled Unclassified Information in Nonfederal Information Systems and Organizations. Third party audit results and the Grantee's plan to correct any negative findings shall be made available to the NASRC upon request;
 - iv. Undergo an annual Statement on Standards for Attestation Engagements (SSAE) No. 16 Service Organization Control (SOC) 2 Type II audit. Third party audit results and the Grantee's plan to correct any negative findings and implementation progress reports shall be made available to the NASRC upon request; and
 - v. Privacy provisions of the Federal Privacy Act of 1974; Compliance with industry standards and guidelines applicable to the work performed under the Grant. Relevant security provisions may include but are not limited to: Health Insurance Portability and Accountability Act of 1996, IRS 1075, Health Information Technology for Economic and Clinical (HITECH) Act, Criminal Justice Information Services (CJIS) Security Policy, Social Security Administration (SSA) Electronic Information Exchange Security Requirements, and the Payment Card Industry (PCI) Data Security Standard (DSS) as well as their associated Cloud Computing Guidelines.

XV. GENERAL PROVISIONS

- A. **Total Agreement; Entirety.** This Grant Agreement constitutes the entire agreement and understanding between the Parties and supersedes and replaces any and all prior negotiations and agreements of any kind, whether written or oral, between the Parties concerning this Grant Agreement.
- B. **Americans with Disabilities Act (ADA) Language.** The Grantee must ensure that all products and services submitted to, uploaded, or otherwise provided to or funded by NASRC or made available to the public by the Grantee and/or

its contractors, or subcontractors, including but not limited to data, software, plans, drawings, specifications, reports, operating manuals, notes and other written or graphic work prepared in the course of performance of this Grant Agreement, including Quarterly Status Updates and Final Status Update (collectively, the "Work"), comply with Web Content Accessibility Guidelines 2.0, levels A and AA, and otherwise meet the accessibility requirements set forth in California Government Code Sections 7405 and 11135, Section 202 of the federal Americans with Disabilities Act (42 U.S.C. § 12132), and Section 508 of the federal Rehabilitation Act (29 U.S.C. § 794d) and the regulations promulgated thereunder (36 C.F.R. Parts 1193 and 1194) (collectively, the "Accessibility Requirements"). For any Work provided to NASRC or the public in PDF format, the Grantee, along with its contractors, and subcontractors, shall also provide an electronic version in the original electronic format (for example, Microsoft Word or Adobe InDesign). NASRC may request from the Grantee documentation of compliance with the requirements described above and may perform testing to verify compliance. The Grantee agrees to respond to and resolve any complaint brought to its attention regarding accessibility of materials provided under this Grant Agreement.

1. The Grantee must bring into compliance, at no cost to NASRC, any Work by the Grantee, or its contractors, subcontractors and subgrantees, not meeting the Accessibility Requirements. If the Grantee fails to bring the Work into compliance with the Accessibility Requirements within five (5) business days of issuance of written notice from NASRC, or within the time frame specified by NASRC in its written notice, then the Grantee will be responsible for all costs incurred by NASRC in bringing the Work into compliance with the Accessibility Requirements. The Grantee agrees to respond to and resolve any complaint brought to its attention regarding accessibility of deliverables provided under this Grant Agreement for a period of one year following delivery of the final deliverable under this Grant Agreement.
 2. Deviations from the Accessibility Requirements are permitted only by advance written consent by NASRC in each instance.
- C. **No Assignment.** This Grant Agreement is not assignable, in whole or in part, by the Grantee without the advance written consent of NASRC in the form of a formal written amendment signed by authorized representatives of both Parties.
- D. **Audit.** The Grantee agrees that NASRC, CARB, the California Department of General Services, California Department of Finance, the California State Auditor, the California Bureau of State Audits, and any of their respective designated representatives shall have the right to review and copy any records

and supporting documentation pertaining to the performance of this Grant Agreement and all Grant Funds received or expended. The Grantee agrees to maintain such records for a possible audit for a minimum of five (5) years from the date of termination, cancellation, or expiration of this Grant Agreement or for 5 years after a funded incentive activity has concluded whichever is later. The Parties may stipulate to a longer records retention period. The Grantee agrees to allow such NASRC and other state designated representatives (including auditors) access to such records during normal business hours, and to allow interviews of any and all employees, representatives, agents, officers, consultants, contractors, and subcontractors of the Grantee who might reasonably have information related to such records. Furthermore, the Grantee agrees to include in all agreements, contracts and subcontracts, language identical to or similar to this paragraph to ensure NASRC and CARB have the ability and right to audit records and conduct interviews of any and all the Grantees, contractors, consultants, and subcontractors in relation to performance or use of the Grant Funds under this Grant Agreement.

- E. **Availability of funds.** The Grantee acknowledges, agrees, and understands that Grantor's obligations under this Grant Agreement are contingent upon the availability of funds. In the event funds are not available, Grantor shall have no obligation and no liability to pay any funds whatsoever to the Grantee or to furnish any other consideration under this Grant Agreement or for any other reason.
- F. **Compliance with Law.** The Grantee agrees that it will, at all times, comply with, and require its employees, agents, representatives, officers, consultants, contractors, and subcontractors to comply with, all applicable federal, state, and local laws, rules, guidelines, regulations, and requirements during the Term.
- G. **Conflict of Interest.** Conflict of Interest. Government Code Section 87104 prohibits public officials of CARB, which includes any member, officer, employee, or consultant of a CARB advisory body, from making a formal or informal appearance before, or oral or written communication to CARB for the purpose of influencing a decision by CARB on a grant or other entitlement for use, such as a contract, loan, license, or permit. Prohibited communications include grant applications, letters, emails, phone calls, meetings, or any other form of oral or written communication within or outside of a public committee meeting with CARB, or CARB staff, for the purpose of influencing a CARB decision on an application for funding submitted to CARB. A knowing or willful violation of this Section may result in a member being guilty of a misdemeanor and fined up to the greater of \$10,000 or three times the amount of an amount unlawfully received. If a court determines a violation occurred and that the official action might not otherwise have been taken or approved if not for the prohibited communication, the grant may be voided. (See Gov. Code §§

91000, 91003.)

1. For this reason, CARB officials, including but not limited to advisory body members, also may not be a signatory, or administrator on a grant application, or on any resulting grant agreement. Such individuals should not be listed on the grant application except as necessary to show their role in the organization.
 2. Note that an advisory body member's organization may continue to be eligible for a grant. However, the grant must not follow any communications for purposes of influence by the advisory body member on CARB's decision on that grant agreement. Additionally, that organization would need to identify a different member of the organization to sign or be the administrator for any applications and awarded grants.
 3. Please also note that applications from organizations affiliated with CARB Board members may require additional review and Board approval. Although CARB will make every effort to obtain required review and approval in a timely manner, this may delay grant execution and/or distribution of funds.
 4. The Grantee certifies that it is, and shall remain, in compliance with all applicable State and federal conflict of interest laws during the entire Term of this Grant Agreement. The Grantee will have no interest, and shall not acquire any interest, direct or indirect, which will conflict with its ability to impartially perform under, or complete the tasks described in, this Grant. The Grantee must disclose any direct or indirect financial interest or situation which may pose an actual, apparent, or potential conflict of interest with its duties throughout the Grant Term. CARB may consider the nature and extent of any actual, apparent, or potential conflict of interest in the Grantee's ability to perform the Grant. The Grantee must immediately advise NASRC in writing of any potential new conflicts of interest throughout the Grant Term.
- H. **Disputes.** The Grantee shall continue with the responsibilities under this Grant Agreement during any dispute between the Grantee and NASRC, unless otherwise directed by NASRC. The Grantee staff or management will work in good faith with NASRC staff and management to resolve any disagreements or conflicts arising from implementation of this Grant Agreement. Nothing contained in this paragraph is intended to limit any of the rights or remedies that the Parties may have under law.
- I. **Alternative Enforcement.** The remedies set out in this Grant Agreement are contractual in nature. Nothing stated in this Grant Agreement in any way limits, prevents or precludes the State of California from taking any enforcement

action, exercising any police power, or prosecuting any violation of law.

- J. **Entitlements and Regulatory Compliance.** The Grantee agrees to comply with all applicable laws, ordinances, regulations, and standards in its performance under this Grant Agreement, including obtaining, where needed or required by law, any permits or approvals necessary to undertake the activities funded by the Grant Funds, and complying with all environmental review requirements associated with such activities.
- K. **Environmental Justice.** In the performance of this Grant Agreement, the Grantee shall conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, genders, cultures, and income levels, including minority populations and low-income populations, of the State of California. Equal access includes, but is not limited to, ensuring language barriers are fully addressed to the satisfaction of NASRC and as otherwise required by local, state, and federal law.
- L. **Force Majeure.** Neither NASRC nor the Grantee are liable for or deemed to be in default for any delay or failure in performance under this Grant Agreement or interruption of services resulting, directly or indirectly, from acts of God, civil unrest, war, fire, flood, earthquakes, other physical natural disasters. If either Party intends to invoke this clause to excuse or delay performance, the Party invoking the clause must provide written notice to the other Party immediately of the intent to invoke the clause and the reasons why the force majeure event is preventing that Party from, or delaying that Party in, performing its obligations under this Grant Agreement. NASRC may terminate this Grant Agreement immediately, in writing and without penalty, in the event the Grantee invokes this clause, in which case the Grantee shall immediately return all remaining Grant Funds to NASRC or a NASRC designee, cease all expenditure of Grant Funds, and turn over all documents, records, deliverables, intellectual property and other information in relation to this Grant Agreement.
1. If the Grant Agreement is not terminated by NASRC pursuant to this clause, upon completion of the force majeure event, the Grantee must immediately re-commence the performance of its obligations under this Grant Agreement. The Grantee must also provide to NASRC a written proposal to revise the Project Schedule, inclusive of anticipated major milestones and timeframes for expending remaining Grant Funds, while minimizing the effects of the delay caused by the force majeure event.
 2. An event of force majeure does not relieve a Party from any of its obligations which arose before the occurrence of the force majeure event nor is any Party relieved from those obligations which survive termination or

cancellation of the Grant Agreement.

- M. **Governing Law and Venue.** This Grant Agreement is governed by, and shall be interpreted in accordance with, the laws of the State of California. NASRC and the Grantee hereby agree that any action arising out of this Grant Agreement shall be filed and maintained in the Superior Court in and for the County of Sacramento, California, or in the United States District Court in and for the Eastern District of California. The Grantee hereby waives any existing sovereign immunity for the purposes of this Grant Agreement.
- N. **Electric Vehicle Charging Infrastructure and Equipment.** Grantee must ensure the following requirements are met pursuant to this Grant:
1. Prior to authorizing work, if the Grantee was awarded funds to install electrical charging equipment for use by on-road transportation vehicles, the Grantee must produce both of the following to NASRC:
 - a. An AB 841 Certification that certifies the project will comply with all AB 841 (2020) requirements or describes why the AB 841 requirements do not apply to the project. The certification shall be signed by the Sub-grantee's authorized representative; and
 - b. EVITP Certification Numbers of each Electric Vehicle Infrastructure Training Program-certified electrician that will install electric vehicle charging infrastructure or equipment.
 2. Evidence, such as Certification Numbers, is not required to be obtained by the Grantee if AB 841 requirements do not apply to a project.
 3. Prior to receiving payment, the Grantee is responsible for producing all AB 841 Certifications to NASRC, to ensure the project did comply with all AB 841 (2020) requirements and shall retain Certification Numbers in accordance with the Grantee's records retention schedule.
 4. These electric vehicle requirements do not apply to any of the following:
 - a. Electric vehicle charging infrastructure installed by employees of an electrical corporation or local publicly owned electric utility,
 - b. Electric vehicle charging infrastructure funded by moneys derived from credits generated from the Low Carbon Fuel Standard Program (Sub article 7 (commencing with Section 95480) of Article 4 of Subchapter 10 of Chapter 1 of Division 3 of Title 17 of the California Code of Regulations), and
 - c. Single-family home residential electric vehicle chargers that can use an

existing 208/240-volt outlet.

- O. **Grantee's Responsibility for Work.** The Grantee shall be responsible for all work performed pursuant to this Grant Agreement, including but not limited to work performed by any of the Grantee's agents, employees, representatives, affiliates, suppliers, contractors, and subcontractors. The Grantee shall be responsible for any and all disputes arising out of its contract for work performed in relation to, as a result of or as a consequence of this Grant Agreement, including, but not limited to, payment disputes with contractors, subcontractors, employees, agents, affiliates, suppliers, and providers of services. NASRC will not mediate disputes between the Grantee and any other entity concerning responsibility for performance of work performed pursuant to this Grant Agreement.
1. The Grantee is required, where feasible, to employ best contracting and procurement practices that promote open competition for all goods and services. The Grantee shall obtain price quotes from an adequate number of sources for all subcontracts.
 2. Upon request, the Grantee will provide NASRC with a copy of all solicitations for services or products used or needed to carry out the terms of this Grant Agreement, including copies of the proposals or bids received.
 3. The Grantee is responsible for handling all contractual and administrative issues arising out of or related to any subcontracts it enters into under this Grant Agreement. Nothing contained in this Grant Agreement or otherwise creates any contractual relation between NASRC and any subcontractors, and no subcontract may relieve Grantee of its responsibilities under this Grant Agreement. Grantee is solely liable and responsible for the acts and omissions of its subcontractors or persons directly or indirectly employed by any of them.
 4. The Grantee's obligation to pay its contractors, consultants, employees, agents, representatives, and subcontractors is an independent obligation from NASRC's obligation to make payments to the Grantee. As a result, NASRC has no obligation to pay or enforce the payment of any funds to any such third parties. The Grantee is responsible for establishing and maintaining contractual agreements with and reimbursing each such third parties for work performed in accordance with the terms of this Grant Agreement and the terms of any such third-party agreements.
 5. Without limiting any of NASRC's other remedies, failure to comply with the above requirements is a material breach of this Grant Agreement and grounds for immediate termination.

- P. **Indemnification.** The Grantee agrees to indemnify, defend, and hold harmless the State of California, NASRC, and NASRC officers, Board members, employees, agents, representatives, and successors-in-interest against, for and from any and all liabilities, losses, damages, claims and expenses, including reasonable attorneys' fees, arising out of, resulting from or related to any actions or inactions of the Grantee or any of its contractors, subcontractors, affiliates, employees, officers, agents, and/or assigns, including but not limited to actions or inactions relating to, arising out of or resulting from the operation, design or manufacture of any equipment, vessels, vehicles or engines purchased, acquired, developed, modified, or used with Grant Funds, in whole or in part.
- Q. **Independent Actor.** The Grantee and its agents, employees, affiliates, contractors, subcontractors, suppliers, officers, and assigns, if any, in their, its, his or her performance of this Grant Agreement, shall act in an independent capacity and not as officers, employees or agents of the State of California or NASRC.
- R. **Nondiscrimination.** During the performance of this Grant Agreement, the Grantee and its contractors, subcontractors, consultants and agents shall ensure that no person is, on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age (40 or over), mental disability, physical disability, medical condition, genetic information, marital status, veteran or military status, or sexual orientation, unlawfully denied full and equal access to the benefits of, or unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered under this Grant Agreement or funded with Grant Funds. In addition:
1. During the performance of this Grant Agreement, the Grantee and its contractors, subcontractors, consultants, and agents shall not unlawfully discriminate against, harass, or allow harassment against any employee or applicant for employment, because of race, religious creed, color, national origin, ethnic group identification, ancestry, physical disability, mental disability, reproductive health decision making (e.g. family-care leave, medical-care leave, or pregnancy-disability leave), medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (40 or over), sexual orientation, or veteran or military status, nor shall the Grantee or any of its contractors, subcontractors, consultants or agents refuse to hire or employ any person or to refuse to select any person for a training program leading to employment, or bar or discharge any person from employment or from a training program leading to employment, or discriminate against any person in compensation or in terms, conditions, or privileges of employment because of race, religious creed, color, national origin, ethnic group identification, ancestry, physical disability, mental disability, reproductive health decision making (e.g.

- family-care leave, medical-care leave, or pregnancy-disability leave), medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (40 or over), sexual orientation, or veteran or military status.
2. The Grantee and its contractors, subcontractors, consultants, and agents shall ensure that the evaluation and treatment of all persons receiving or applying for Grant Funds or participating in any Grant programs, projects, or activities, along with all respective employees and applicants for employment, are free of such discrimination and harassment.
 3. The Grantee and its contractors, subcontractors, consultants, and agents shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, title 2, section 10000 et seq.). The applicable regulations (California Code of Regulations, title 2, section 11000 et seq.) of the Civil Rights Council are incorporated into this Grant Agreement by reference and made a part hereof as if set forth in full.
 4. The Grantee and its contractors, subcontractors, agents, and consultants shall give written notice of their respective obligations under this clause to labor organizations with which any may have a collective bargaining or other agreement. The Grantee shall include the nondiscrimination and compliance provisions of this clause in all contracts, subcontracts, and agreements where work is performed to fulfill any term or condition of this Grant Agreement.
- S. **Funding Prohibitions for Sectarian Purposes and Non-Public Schools.** The Grantee may use or authorize the use of NASRC-provided funds only in any manner that is consistent with applicable laws, including California Constitution, article XVI, section 5, article IX, section 8, and federal law. NASRC reserves the right to obtain additional information from the Grantee and others to determine compliance with California Constitution, article XVI, section 5 and article IX, section 8. Failure to provide any requested information may result in denial of Grant Funds, or termination of this Grant Agreement or any other agreements.
- T. **No Third-Party Rights.** The existence of this Grant Agreement does not create, and nothing stated in this Grant Agreement creates rights in, or grants remedies to, any third party or third parties as a beneficiary or beneficiaries of this Grant Agreement, or of any duty, covenant, obligation, or undertaking establish herein.
- U. **Conflict of interest.** By entering into this grant, award, voucher, contract,

subcontract or agreement, said party is or may be a direct or indirect recipient ("Grantee") of funds received from or provided by the California Air Resources Board ("CARB"), and as such certifies, represents and warrants that he, she, it is in compliance with all applicable state and federal conflict of interest laws on the date said grant, award, contract, subcontract, agreement or voucher (as applicable) is signed and shall remain in compliance with all such laws for a period of five (5) consecutive years following receipt of any and all funding amounts on a rolling continuous basis. The Grantee further certifies, represents, and warrants that he, she, it has no interest, and shall not acquire any interest, direct or indirect, which will conflict with the Grantee's ability to impartially perform under, or complete the tasks described in, this agreement. The Grantee acknowledges, understands, and accepts that the Grantee must disclose any direct or indirect financial interest or situation which may pose an actual, apparent, or potential conflict of interest. The Grantee acknowledges, understands, and accepts that the nature and extent of any actual, apparent, or potential conflict of interest may be a basis for disqualification from receiving any funds. The Grantee certifies, represents, and warrants that the Grantee will immediately advise NASRC in writing of any potential new conflicts of interest as they arise.

- V. **Cooperation with Audits.** The Grantee warrants, represents, and agrees to cooperate fully, without delay, in all audits, inquiries and investigations initiated by or on behalf of NASRC and/or the State of California concerning or relating to compliance with local, state, or federal air quality laws, or this agreement, including but not limited to timely submission of any and all records requested and full cooperation with any on-site inspections.
- W. **Payment on Demand.** The Grantee represents, warrants, and agrees that upon notification by NASRC or its authorized representative of an overpayment, a wrongful payment, or a violation of or failure to comply with any of the grant, agreement, contract, voucher, or program requirements or obligations, the Grantee will, without challenge or delay, remit to NASRC or its authorized representative the requested amount within 60 days from the date of issuance of said notice.
- X. **Separate Accounts.** The Grantee shall not commingle Grant Funds with any other accounts, revenues, grants, donations, or resources except where expressly authorized in the fully executed written agreement between the Grantee and NASRC. The Grantee shall maintain Grant Funds subject to the provisions in section VII(D)(2). above.
- Y. **Third Party Beneficiary.** The Grantee acknowledges, accepts, and agrees that the state of California, acting by and through CARB, is an intended third-party beneficiary to any and all Grantee agreements, vouchers, contracts, subcontracts, awards, and grants with NASRC where any funds provided by

CARB are used or applied.

- Z. **Authorized Signature.** The Grantee agrees and acknowledges that it has signed or has authorized the signing of the grant, award, contract, subcontract, and/or agreement with NASRC, and by doing so hereby declares under penalty of perjury, under the laws of the State of California, that all statements and responses made in said grant, award, contract, subcontract and/or agreement are true and correct, with full knowledge that all statements and responses are subject to investigation and that any incomplete, unclear, false, or dishonest response may be grounds for disqualification from receiving any existing or further funding or participating in any programs or projects using the CARB-provided or NASRC-provided funds, or from doing business with the State of California or NASRC. The Grantee acknowledges, understands, and accepts that by providing or making any false statements or providing false information, the Grantee may be in a violation of the California False Claims Act (Government Code Section 12650 et seq.). The Grantee certifies, represents, and warrants that the individual signing on its, his or her behalf herein below is an authorized representative of the Grantee with full power and legal authority to sign below and by said signature the Grantee is bound to and will comply with all terms, conditions and obligations set forth in this agreement, grant, voucher, application and/or contract, as applicable.
- AA. **Compliance with Air Quality Laws.** The Grantee understands, acknowledges, and agrees that compliance with all applicable federal, state, and local air quality rules, regulations and statutes is a precondition to the receipt or use of any state funds provided by or through CARB, and is a continuing obligation for the consecutive five (5) years following receipt of any state funds on a rolling continuous basis. The Grantee understands, acknowledges and agrees that a failure to comply in whole or in part with any local, state or federal air quality rules, regulations or statutes, or a failure to comply, in whole or in part, with any of the requirements or obligations under the project, award, voucher, or grant (as applicable) is, in each instance, a material breach of the conditions under which state funds were provided or made available, and such breach will result in undue hardship and damages to NASRC and the State of California some or all of which may be impossible to easily calculate.
- BB. **Liquidated Damages.** If NASRC or the state of California determines, within its or their sole and absolute discretion, that the Grantee is in breach or has breached any obligation to remain in compliance with any applicable federal, state, or local air quality rules, regulations, and statutes, then the Grantee, immediately upon demand, will pay NASRC (or to CARB, as requested), as liquidated damages, the full amount of all state funds received to date. The Grantee agrees that quantifying the losses arising from any breach is inherently difficult insofar as breach may cause the state of California or NASRC irreparable, serious, or substantial harm or damage, including to taxpayers or

to the environment. The Grantee further stipulates that the agreed upon amount of liquidated damages is not a penalty, but rather a reasonable measure of damages based upon experience and given the nature of the losses that may result from said breach. The Grantee agrees that the liquidated damages have been computed, estimated, and agreed upon by all parties and represents an attempt to make a reasonable forecast of probable actual loss because of the difficulty of estimating with exactness the damages which will result. This obligation shall apply even if there is concurrent noncompliance or violation of air quality rules, regulations or laws caused by a third party. The remedies set out in this paragraph are contractual in nature.

1. Nothing stated herein above in any way limits, prevents, or precludes the State of California or NASRC from taking any enforcement action, exercising any police power, or prosecuting any violation of law against the Grantee, its employees, officers, agents, assigns, representatives, contractors, subcontractors, affiliates, grantees, subgrantees, or any third parties.
- CC. **Survival.** The Grantee acknowledges, agrees and accepts that those terms, conditions, provisions and exhibits which by their nature should survive termination, cancellation or expiration of the grant, award, contract, voucher, subcontract or agreement, shall so survive, including but not limited to those sections and provisions pertaining to indemnity, recordkeeping, audit, third party beneficiary status, return of funds, data security, insurance, confidentiality, and the general provisions.
- DD. **Executive Order N-6-22 - Russia Sanctions.** On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law. The EO directs state agencies to terminate contracts and grants with, and to refrain from entering any new contracts and grants with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should the State determine the Grantee is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this agreement. The State shall provide the Grantee with advance written notice of such termination, allowing the Grantee at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the State.
- EE. **Office of Foreign Asset Control.** The Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted foreign countries and regimes, terrorists,

international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy, or economy of the United States. OFAC publishes lists of individuals and companies owned or controlled by, or acting for or on behalf of, targeted countries. It also lists individuals, groups, and entities, such as terrorists and narcotics traffickers designated under programs that are not country-specific. These lists can be found at <https://home.treasury.gov/policy-issues/office-of-foreign-assets-control-sanctions-programs-and-information>. The Grantee represents, warrants, and agrees that neither the Grantee nor any of its contractors, subcontractors, affiliates, agents, employees, officers, representatives, or assigns are in violation of any federal law or laws pertaining to any entity or individual listed on any of the OFAC lists. Unless otherwise authorized or exempt, transactions by U.S. persons or in the United States may be or are prohibited if they involve transferring, paying, exporting, withdrawing, or otherwise dealing in the property or interests in property of an entity or individual listed on the Office of Foreign Asset Control's (OFAC) SDN or other Lists. The property and interests in property of an entity that is 50 percent or more owned, whether individually or in the aggregate, directly or indirectly, by one or more persons whose property and interests in property are blocked pursuant to any part of 31 C.F.R. chapter V are also blocked, regardless of whether the entity itself is listed. Refer also to the U.S. Department of the Treasury website: <https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions>.

- FF. **Cumulative Remedies.** The rights and remedies of the Parties to this Grant Agreement, whether pursuant to this Grant Agreement or in accordance with law, shall be construed as cumulative, and the exercise of any single right or remedy shall constitute neither a bar to the exercise of nor the waiver of any other available right or remedy.
- GG. **Equipment/Vehicle Ownership.** Equipment, acquired by the Grantee or any of the Grantee's employees, agents, affiliates, officers, contractors, subcontractors, or representatives, is defined as having a useful life of at least one year from the date of purchase, having an acquisition unit cost of at least \$5,000, and purchased with CARB funds. Equipment means any products, objects, vehicles, computers, software, hardware, licenses, vessels, engines, machinery, apparatus, implements, or tools purchased, used, or constructed within the Term. CARB, within its discretion, may elect to determine the normal useful life of such Equipment. All such Equipment is, upon acquisition, the exclusive property of CARB, and shall be used solely for the purposes of carrying out the obligations of this Grant Agreement during the Term. If requested by CARB, the Equipment shall be returned to CARB upon cancellation, termination, or expiration of this Grant Agreement, whichever

occurs first, and CARB shall solely determine the future use of all Equipment.

- HH. **Paragraph Headings.** The headings and captions of the various paragraphs, subparagraphs and sections hereof are for convenience only, and they shall not limit, expand, or otherwise affect the construction or interpretation of this Grant Agreement.
- II. **Disadvantaged Communities.** The Grantee, for the purposes of this Program, will designate disadvantaged communities, as identified by CalEnviroScreen 4.0. The identified disadvantaged community census tracts are available at: <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30>.
- JJ. **Construction.** This Grant Agreement shall not be construed more strongly against either Party regardless of who is more responsible for its preparation.
- KK. **Assurances.** NASRC reserves the right, but not the obligation, to seek further written assurances from the Grantee and any of the Grantee's contractors, subcontractors, employees, agents, officers, or affiliates, that the work performed under this Grant Agreement will be performed consistent with the terms and conditions of this Grant Agreement.
- LL. **Prevailing Wage and Labor Compliance.** Where applicable, the Grantee agrees to be bound by and comply with all the provisions of California Labor Code Section 1771 et seq. regarding prevailing wages. The Grantee agrees to monitor all agreements subject to reimbursement from this Grant Agreement to ensure that the provisions of California Labor Code Sections 1720-1861 are being met by the Grantee, contractors, and subcontractors.
- MM. **Professionals.** The Grantee agrees that only licensed professionals will be used to perform services or conduct work under this Grant Agreement where such services are called for and where licensed professionals are required for those services under California law.
- NN. **Authority.** Each person executing this Grant Agreement on behalf of a Party represents that he or she is duly authorized to execute and deliver this Grant Agreement on that Party's behalf.
- OO. **Severability.** If a court of competent jurisdiction holds any provision of this Grant Agreement to be illegal, unenforceable, or invalid, in whole or in part, for any reason, the validity and enforceability of the remaining provisions, or portions of those provisions, will not be affected, and will remain in full force and effect.
- PP. **Timeliness.** Time is of the essence in the performance of this Grant Agreement. The Grantee shall proceed with and complete all of its obligations under this Grant Agreement in a timely and expeditious manner.

QQ. **Waiver of Rights.** Any waiver of rights with respect to a default or other matter arising under the Grant Agreement at any time by either Party shall not be considered a waiver of rights with respect to any other default or matter. Any rights and remedies of NASRC provided for in this Grant Agreement are in addition to any other rights and remedies provided by law.

RR. **Compliance with AB794.** The Grantee shall ensure that if any Grant Funds are used to support the purchase of new drayage or short-haul trucks (the "fleet purchaser"), the Grantee shall comply at all times with the requirements of AB794 as a condition of award and participation in the Program.

1. The Grantee shall ensure that beginning with the 2022-23 fiscal year, and each fiscal year thereafter, each fleet purchaser of a new drayage or short-haul truck shall only be allowed to participate in this Grant Program or receive Grant Funds if it can demonstrate that it does not have any applicable law violation at the time of applying for Grant Funds, it is not on the list maintained by the California Division of Labor Standards Enforcement under Section 2810.4 of the Labor Code, and it attests it will retain direct control over the manner and means for performance of any individual using or driving the vehicle. The Grantee shall ensure that each fleet purchaser attest in writing to all of the following as a condition of eligibility and before receipt of any Grant Funds.
 - a. That it will maintain compliance with applicable laws for at least three years from the date of application for Grant Funds or the duration of the Grantee agreement, whichever is longer.
 - b. That it will retain direct control over the manner and means for performance of any individual using or driving the vehicle for at least three years from the date of application for Grant Funds or the duration of the Grantee agreement, whichever is longer.
2. The Grantee shall also ensure that each fleet purchaser shall, on a yearly basis, for the life of the Grantee agreement, disclose or provide to CARB all of the following:
 - a. An attestation in writing that it has done both of the following:
 - i. Maintained compliance with applicable laws and does not have any applicable law violations.
 - ii. Maintained direct control of the individuals operating the vehicle and maintained full ownership and operational control of the vehicle.
 - b. A copy of any judgments, rulings, citations, decisions, orders, or awards finding that the fleet purchaser or any parent company or subsidiary or

other commonly controlled entity has applicable law violations as of the date of the disclosure made pursuant to this Section 15.II.

- c. A list of all operating authorities under which the vehicle purchased will be or was operated.
 - d. A certification that the fleet purchaser has completed all required maintenance and upkeep on the vehicle purchased with the Grant Funds.
3. A failure of a fleet purchaser to comply fully at all times with all of the provisions set out in this Section 15.II. and all applicable provisions of Sections 39680 through 39693 of the California Health and Safety Code, is a breach of this Grant Agreement and is cause for immediate termination of this Grant Agreement without advance notice.
- SS. **Order of Precedence.** In the event of any inconsistency between the exhibits, attachments, specifications, or provisions which constitute this Grant Agreement, the following order of precedence shall apply:
1. Grant Agreement Cover Sheet
 2. Exhibit A - Grant Agreement Terms and Conditions
 3. Exhibit B - FRIP 2024 Program Guidelines
 4. Exhibit C - Grantee Application Package
 5. All other Exhibits incorporated into the Grant Agreement or as otherwise listed on the Grant Agreement Cover Sheet.
- TT. **Survival.** Those terms, conditions, provisions, and exhibits which by their nature should survive termination, cancellation, or expiration of this Grant Agreement, shall so survive, including but not limited to those sections pertaining to indemnity, insurance, recordkeeping, audit, return of funds, data security, confidentiality, transition, ownership, and the general provisions.