

**GRANT AGREEMENT BETWEEN THE  
OFFICE OF THE GOVERNOR**

*and*

\_\_\_\_\_  
*for*

**TEXAS ADVANCED NUCLEAR DEVELOPMENT FUND  
ADVANCED NUCLEAR CONSTRUCTION REIMBURSEMENT GRANT PROGRAM,  
GRANT NO. [TANDF-####]**

**SECTION 1. THIS TEXAS ADVANCED NUCLEAR DEVELOPMENT FUND (“TANDF”) GRANT AGREEMENT (“Grant Agreement”)** is between the State of Texas (“State”), acting by and through the Office of the Governor, Texas Advanced Nuclear Energy Office (“OOG”), and \_\_\_\_\_ (“Grantee”). The OOG and Grantee are hereinafter referred to either individually as the “Party,” or collectively as the “Parties.” The Parties hereto have severally and collectively agreed and by the execution of this Grant Agreement are bound to the mutual obligations and to the performance and accomplishment of the tasks described herein.

**1.1. Parts Incorporated.** Unless otherwise specified, all exhibits, schedules, or attachments referenced in this Grant Agreement are incorporated into and expressly made a part of this Grant Agreement.

**SECTION 2. AUTHORITY; PURPOSE.**

**2.1. Authority.** The legislature tasked the OOG in Section 483.101, Texas Government Code, with advancing the nuclear energy industry ecosystem in the State. Pursuant to Section 483.201(b), Texas Government Code, the Texas Advanced Nuclear Development Fund may be used to provide reimbursement-based grants to eligible businesses, nonprofit organizations, and governmental entities, including institutions of higher education. The OOG may enter and administer this Grant Agreement pursuant to Section 483.101(c)(1), Texas Government Code, which authorizes the OOG to contract with any entity.

**2.2. Purpose.** The purpose of this Grant Agreement is to provide reasonable contractual controls to ensure that the public purposes of the grant are achieved. Payment of grant funds is not automatic. Payment by the OOG is dependent upon Grantee’s strict compliance with the terms of this Grant Agreement, including documentation the OOG, in its sole discretion, determines is sufficient to substantiate costs for which Grantee seeks reimbursement.

**2.3. Project Requirements.** Under Sections 483.201 and 483.204, Texas Government Code, proceeds from the Texas Advanced Nuclear Development Fund may be used to provide reimbursement-based grants to eligible businesses, nonprofit organizations, and governmental entities, including institutions of higher education, for expenses associated with or required for

expenses associated with the construction of an advanced nuclear project in this state. Subject to the requirements of applicable laws, regulations, and this Grant Agreement, Grantee may use grant proceeds to reimburse certain reasonable, necessary, and otherwise allowable costs that are directly allocable to the project described in EXHIBIT A (Grant Budget), EXHIBIT B (Grant Narrative), and EXHIBIT C (Special Conditions) of this Grant Agreement, and Grantee's Grant Application (collectively, the "Grant Project").

**SECTION 3. TERM OF AGREEMENT.** The term of this Grant Agreement commences on the date of last signature below ("Effective Date") and terminates upon the completion of the Grant Project as described herein, on [DATE], or the depletion of grant funds, whichever occurs first, unless terminated earlier pursuant to the terms of this Grant Agreement.

**SECTION 4. MAXIMUM LIABILITY OF THE OOG.** Notwithstanding any other provision of this Grant Agreement, the OOG and Grantee agree the total liability of the OOG to Grantee arising out of this Grant Agreement shall not exceed [AMOUNT SPELLED OUT] (\$[NUMERAL AMOUNT]) ("Maximum Liability of the OOG"). The Parties stipulate and agree that any act, action, or representation by either Party, their agents or employees that purports to increase the liability of the OOG is voidable by the OOG, unless such increase is by written amendment in accordance with SECTION 22 of this Grant Agreement.

**SECTION 5. GRANT BUDGET, DETAILED BUDGET DOCUMENT, GRANT NARRATIVE, AND SPECIAL CONDITIONS.**

**5.1. The Grant Budget.** The "Grant Budget," is established in attached EXHIBIT A. The Grant Budget is the approved budget for the planned expenditure of awarded grant funds, with expenditures identified by approved cost category.

**5.2. Detailed Budget.** As set forth in EXHIBIT A, the OOG and Grantee shall agree, in writing, to a "Detailed Budget" document. The Detailed Budget shall provide more detail regarding specific line items of expenditure in the associated cost categories. The Detailed Budget may be subject to adjustments as set forth in Section 5.5 of this Grant Agreement, and any such adjustments shall be incorporated herein as part of this Grant Agreement without further amendment to this Grant Agreement.

**5.3. Grant Narrative.** The Grant Narrative, including the grant benchmarks and milestones, is established in attached EXHIBIT B.

**5.4. Special Conditions.** Any Special Conditions imposed by the OOG are reflected in or authorized by attached EXHIBIT C.

**5.5. Adjustments.** Prior written approval from the OOG is required for any grant adjustments, including adjustments to the scope of the grant, the benchmarks and milestones, the Grant Budget, or the Detailed Budget. A request for prior approval of adjustments will be in the format specified by the OOG and shall be accompanied by a narrative justification for the proposed revision.

The OOG, in its sole discretion, and upon written notice by the OOG to Grantee of any proposed adjustment, and after Grantee has had an opportunity to respond to the proposed adjustment, may

adjust Grantee's Grant Budget, Detailed Budget, Grant Narrative, Special Conditions, and/or any other items deemed appropriate by the OOG, at any time, during the term of this Grant Agreement.

**5.6. Grant Program Limitations.** Except as may be further limited by the OOG, grant proceeds are only available to reimburse certain reasonable, necessary, and otherwise allowable costs that are directly allocable to the Grant Project.

**5.7. Eligible Grantee.** Grantee must remain an eligible entity in the State of Texas during the entire term of this Grant Agreement. The eligibility criteria are set forth in Subchapter C, Chapter 483, Texas Government Code and 10 Texas Administrative Code Sections 331.2 and 331.30.

## **SECTION 6. GRANTEE'S GENERAL OBLIGATIONS, REQUIRED REPORTS, AND FINANCIAL MATTERS.**

**6.1. Applicable Laws, Rules and Regulations, Directives, Guidelines, and Other Relevant Authorities.** This grant is subject to all applicable federal and state laws, executive orders, rules and regulations, directives, guidelines, policies, or any other authorities relevant to the performance of Grantee under this Grant Agreement, including, but not limited to, Subchapter C, Chapter 483, Texas Government Code; the administrative rules of the Texas Comptroller of Public Accounts ("CPA") at Title 34, Chapter 20, Subchapter I, Texas Administrative Code; and the Texas Grant Management Standards ("TxGMS"), found at <https://comptroller.texas.gov/purchasing/grant-management/>.

**6.1.1. Standards for Financial and Programmatic Management.** Grantee is responsible for the integrity of the fiscal and programmatic management of the Grant Project; accountability for all funds awarded; and compliance with OOG policies and procedures, and applicable federal and state laws and regulations.

**6.1.2. Reports.** Grantee shall provide to the OOG all applicable reports in a format specified by the OOG. Grantee shall ensure that it files each report or document required by the OOG in an accurate and timely manner. Unless filing dates are given herein, all other reports and other documents that Grantee is required to forward to the OOG shall be promptly forwarded.

**6.1.3. Cooperation, Additional Information, and Supporting Documentation.** Grantee shall cooperate fully with the OOG. In addition to the information contained in required reports, the OOG may require Grantee to submit other information, including more information regarding project performance or funds expenditures. If the OOG requires additional information regarding the information or data submitted, Grantee agrees to promptly provide the additional information. Grantee also agrees to assist the OOG in responding to questions and assisting in providing information responsive to any audit, legislative request, or other inquiry regarding the grant award. Upon request by the OOG, the Grantee must submit to the OOG any additional documentation or explanation that the OOG, in its sole discretion, may determine is necessary to support or document the requested payment or report submitted under this Grant Agreement.

**6.1.4. Annual Independent Financial Audit Report; Audit Documents.** If requested, Grantee shall submit to the OOG a copy of its most recent independent financial audit. If requested, Grantee shall submit to the OOG any audited financial statements, related management letters and management responses of Grantee, and financial audit documents or portions thereof that are directly related to the Grantee's performance of its obligations under this Grant Agreement.

**6.1.5. Security and Confidentiality of Records.** Grantee shall establish a method to secure the confidentiality of any records related to the grant that are required to be kept confidential by applicable federal or state law, rules, or regulations. This provision shall not be construed as limiting the OOG's access to such records and other information under SECTION 8 or another provision of this Grant Agreement; however, if the OOG accesses such records and information, the OOG will comply with the applicable state or federal public information laws.

**6.2. Quarterly Grant Status Reports and Requests for Reimbursement.**

**6.2.1. Quarterly Requirements.** On or before the thirtieth calendar day of the month following the end of a quarter, Grantee shall forward to the OOG a Grant Status Report and Request for Reimbursement for the quarter preceding the month in which Grantee must provide the report. These reports/requests are required each quarter even if Grantee has no update to the grant status or is not seeking reimbursement of costs. The four quarters end on the last calendar day of the month of August, November, February, and May.

**6.2.2. Grant Status Reports.** Grantee shall submit the Grant Status Report in the manner and form specified by the OOG.

**6.2.3. Requests for Reimbursement Report.** Requests for Reimbursement will be in a format specified by the OOG and shall be accompanied by a description and narrative explanation of the grant expenditures for the quarter, including a cumulative total of all grant expenditures for the grant term.

All grant funds will be disbursed on a cost reimbursement basis only. Requests for Reimbursement will be for actual, necessary, and otherwise allowable costs that are directly allocable to the Grant Project and, incurred during the term of this Grant Agreement and paid by Grantee during the quarter and, if authorized under Section 6.2.5, incurred in prior quarters.

The Request for Reimbursement must be accompanied by supporting documentation as required by the OOG, including, but not limited to, documentation of proof of payment as required by Section 6.4.

**6.2.4.** Grantee must specify in its Request for Reimbursement the detailed and total expenses for the quarter in the following cost categories:

**6.2.4.1.** Equipment;

- 6.2.4.2. Construction;
- 6.2.4.3. Supplies and materials; and
- 6.2.4.4. Other direct costs.

**6.2.5. Supplemental Requests for Reimbursement.** Prior OOG approval is required for Grantee’s submission of any Supplemental Requests for Reimbursement of expenditures incurred during any prior quarter of the term of this Grant Agreement. Supplemental Requests for Reimbursement must be submitted separately and shall include a narrative explanation of the reasons the supplemental expenditures were not timely submitted as part of the required quarterly Requests for Reimbursement.

**6.2.6. Request for Reimbursement at Grant Close-Out.** Grantee’s final Request for Reimbursement for the last quarter of the term of this Grant Agreement, and any Supplemental Requests for Reimbursement for any prior quarter, must be submitted to the OOG **no later than August 31, 2029** to allow sufficient time for Grant Close-Out.

### **6.3. Additional Reporting Requirements.**

**6.3.1. Equipment Inventory Report.** Once annually for the quarter ending on the last calendar day of the month of August, and at the time of the Close-Out Report, Grantee shall submit an Equipment Inventory Report that provides a record of the current inventory of items purchased, disposed of, replaced, or transferred for any equipment that was purchased with grant funds. The equipment inventory must include the following for each item of equipment:

- 6.3.1.1. a description of the equipment;
- 6.3.1.2. serial number or other identification number;
- 6.3.1.3. the acquisition date, cost, location, use, and condition of the equipment;
- 6.3.1.4. the source of funds used to purchase the equipment; and
- 6.3.1.5. the disposition of the equipment, if such a disposition has occurred.

**6.3.2. Grant Close-Out Report.** The Grantee shall submit a Grant Close-out Report summarizing all grant activity during the term of this Grant Agreement. Grantee will submit its Close-Out Report on or before the forty-fifth calendar day after the date this Grant Agreement expires or terminates.

**6.3.3. Sufficient Supporting Documents.** For any report submitted, Grantee shall submit any additional information or supporting document the OOG requires to

supplement the report.

#### **6.4. Reimbursement Process.**

**6.4.1. Reimbursement of Actual, Allowable, and Allocated Costs.** The OOG shall only reimburse actual costs incurred and paid by Grantee during the term of this Grant Agreement that are allowable under this Grant Agreement, directly in support of the Grant Project, and allocated in the Grant Budget.

Grant funds shall not be used for the payment of taxes, overhead, debt repayment, indirect expenses, administrative expenses, or any costs not allowed under Subchapter C, Chapter 483, Texas Government Code, this Grant Agreement, the Grant Budget, or other applicable law.

The amount requested for reimbursement, together with the total of past disbursements, shall not exceed the Maximum Liability of the OOG as set forth in SECTION 4 of this Grant Agreement.

**6.4.1.1. No Reimbursement of Post-Termination or -Expiration Costs.** The OOG will not consider requests for the reimbursement of expenditures Grantee incurs after this Grant Agreement has expired or terminated.

**6.4.2. Documentation of Proof of Payment.** Actual expenditures must be documented by proof of payment that verifiably reflects the transmission, transfer, and payment of funds related to an eligible paid expenditure. Examples of acceptable, verifiable proof of payment include, but are not limited to, a copy of a cleared/canceled check, credit card receipt, a bank statement, Electronic Funds Transfer (“EFT”)/Automated Clearing House (“ACH”) report or any third-party verifiable check inquiry report showing the check cleared.

**6.4.3. Allocated to an Eligible Cost Category.** Each item of expenditure shall be specifically attributed to the eligible cost category as identified in the Grant Budget. By submission of a Request for Reimbursement, Grantee warrants:

**6.4.3.1.** all invoices relating to the Request for Reimbursement have been carefully reviewed to ensure that all invoiced services or goods have been performed or delivered;

**6.4.3.2.** that the services or goods have been performed or delivered in compliance with all terms of this Grant Agreement;

**6.4.3.3.** that the amount of each new Request for Reimbursement added together with all previous invoices does not exceed the Maximum Liability of the OOG as stated in SECTION 4 of this Grant Agreement;

**6.4.3.4.** the charges and expenses shown on the Request for Reimbursement are

reasonable and necessary; and

6.4.3.5. all supporting documentation is attached.

6.4.4. **Submission of Requests for Reimbursement.** All Requests for Reimbursement and payment inquiries shall be submitted directly to:

taneo.tandf@gov.texas.gov

If requested or approved by the OOG, reports and other information may be submitted to:

Texas Advanced Nuclear Energy Office  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711

6.4.5. **Pre-agreement Expenditures.** Notwithstanding any provisions in this Grant Agreement to the contrary, Grantee may seek reimbursement of costs Grantee incurred prior to the Effective Date of this Grant Agreement if the costs:

6.4.5.1. were incurred directly pursuant to the negotiation and in anticipation of the grant award;

6.4.5.2. were necessary to comply with the timeline specified in EXHIBIT B;

6.4.5.3. would have been allowable if incurred after the date of the award; and

6.4.5.4. are approved in writing by the OOG.

6.5. **Disclosure of Reimbursement Information under the Public Information Act.** All reimbursement documentation submitted to the OOG is subject to disclosure under the Texas Public Information Act, Chapter 552 of the Texas Government Code (“the PIA”), whether created or produced by the Grantee or by any third-party. If it is necessary for Grantee to include proprietary or otherwise confidential information in the documents submitted, that specific information should be clearly identified as such. Merely making a blanket claim that all documents are protected from disclosure because they may contain some proprietary or confidential information does not render the whole of the information confidential. Any information that is not clearly identified as proprietary or confidential may be subject to release in accordance with the PIA.

6.6. **Grant Payments.** OOG acceptance of a Request for Reimbursement is required under SECTION 6. If the OOG determines that the Grantee is not in compliance with the terms of this Grant Agreement, the OOG, in its sole discretion, may withhold, offset, and/or suspend grant payments. It is the policy of the OOG to make payment on a properly prepared and submitted Request for Reimbursement on or before the thirtieth calendar day after the OOG’s approval and final acceptance of a properly submitted Request for Reimbursement.

**6.7. Return and Offset of Grant Funds.** The OOG, in its sole discretion, may require the Grantee to return or offset any funds paid to Grantee in excess of the amount the OOG determines Grantee is entitled to under the terms of this Grant Agreement. The OOG may:

- 6.7.1. offset and deduct the amount from any amount owed by the OOG to Grantee but not yet paid;
- 6.7.2. on or before the thirtieth calendar day after Grantee receives notice of overpayment from the OOG, unless the OOG authorizes an alternate payment plan, require a payment directly from Grantee rather than offset and deduct a specified amount; or
- 6.7.3. require the Grantee to repay to the OOG grant funds Grantee received from the OOG if the recipient fails to reach the benchmarks specified in EXHIBIT B.

**6.8. Equipment.**

**6.8.1. Equipment Inventory and Use Requirements.** Grantee shall maintain a current inventory of all equipment that shall include the information specified in Section 6.3.1. Grantee shall provide the inventory to the OOG upon request. Grantee shall:

- 6.8.1.1. not encumber the equipment for purposes other than the Grant Project without the prior written authorization of the OOG;
- 6.8.1.2. ensure the equipment does not leave the State of Texas;
- 6.8.1.3. permanently identify all equipment purchased under this Grant Agreement by appropriate tags or labels affixed to the equipment;
- 6.8.1.4. maintain, repair, and protect all equipment purchased in whole or in part with grant funds to ensure the full availability and usefulness of such equipment;
- 6.8.1.5. if Grantee is indemnified, reimbursed, or otherwise compensated for any loss of, destruction of, or damage to the equipment purchased under this Grant Agreement, use the proceeds from a compensated loss to repair or replace lost, destroyed, or damaged equipment; and
- 6.8.1.6. if Grantee must exchange, trade in, or sell equipment, use the proceeds from the exchange, trade, or sale toward the acquisition costs of replacing the equipment.

**6.8.2. Use of Equipment.** Grantee may use equipment paid for with OOG funds for any purpose consistent with its ordinary course of business, as long as the primary use

of such equipment remains for grant-related purposes.

- 6.8.3. Title Upon Termination.** Upon termination of this Grant Agreement, title, use, and disposal of equipment by the Grantee shall be in conformity with TxGMS; however, as between the OOG and Grantee, title for equipment will remain with Grantee, unless TxGMS requires otherwise.

## **SECTION 7. OBLIGATIONS OF OOG.**

**7.1. Monitoring.** The OOG shall monitor Grantee to ensure the effective and efficient use of grant funds to accomplish the purposes of this Grant Agreement.

**7.2. Reimbursement of Grantee Expenses.** Reimbursement of Actual, Reasonable, Allowable, and Allocable Costs. The OOG shall reimburse Grantee for the actual, reasonable, and allowable costs incurred by Grantee during the term of this Grant Agreement, subject to the requirements and limitations set forth in this Grant Agreement. The OOG shall reimburse Grantee only for costs that are directly allocable to the Grant Project as determined by the OOG, in its sole discretion, in accordance with Chapter 483, Texas Government Code, this Grant Agreement, and the Grant Budget, and in conformity with TxGMS.

**7.3. Grant Agreement Not Entitlement or Right.** This Grant Agreement does not create an entitlement or right to reimbursement with grant funds. Receipt of reimbursement with grant funds depends upon, among other things, strict compliance with all terms, conditions, and provisions of this Grant Agreement. The OOG and Grantee agree that any act, action, or representation by either Party, their agents or employees that purports to waive or alter the terms of this Grant Agreement or increase the Maximum Liability of the OOG is void unless a written amendment to this Grant Agreement is first executed that so increases the Maximum Liability of the OOG. Grantee agrees that nothing in this Grant Agreement will be interpreted to create an obligation or liability of the OOG in excess of the Maximum Liability of the OOG as set forth in SECTION 4 of this Grant Agreement.

**7.4. Funding Limitation.** The Texas Advanced Nuclear Development Fund account is authorized by Section 483.201, Texas Government Code, and is funded by legislative appropriations. Grantee agrees that funding for this Grant Agreement is subject to the actual receipt by the OOG of grant funds appropriated to the OOG for this grant program. Grantee agrees that the grant funds, if any, received from the OOG are limited by the term of each state fiscal biennium and by specific appropriation authority to, and the spending authority of, the OOG for the purpose of this Grant Agreement. Grantee agrees that, notwithstanding any other provision of this Grant Agreement, if the OOG is not appropriated the funds or if the OOG does not receive the appropriated funds for this grant program, or if the funds appropriated to the OOG for this grant program are required by the state to be reallocated to fund other state programs or purposes, the OOG is not liable to pay the Grantee the amount specified in SECTION 4 of this Grant Agreement as the Maximum Liability of the OOG or any other remaining balance of unpaid funds.

## **SECTION 8. AUDIT RIGHTS; RECORDS RETENTION.**

**8.1. Duty to Maintain Records.** Grantee shall maintain adequate records that enable the OOG

to verify all reporting measures and Requests for Reimbursements related to this Grant Agreement. Grantee also shall maintain records deemed necessary to be retained by the OOG, the State Auditor's Office, other auditors of the State of Texas, the federal government, or such other persons or entities designated or authorized by the OOG to ensure proper accounting for all costs and performances related to this Grant Agreement.

**8.2. Records Retention.** Grantee shall maintain and retain, for a period of three years after the expiration or termination of this Grant Agreement, or until full and final resolution of all audit or litigation matters which arise before the expiration of the three year period after the expiration or termination of this Grant Agreement, whichever time period is longer, such records necessary to fully disclose Grantee's performance under this Grant Agreement.

**8.3. Audit Trails.** Grantee shall maintain appropriate audit trails to provide accountability for all expenditures of grant funds, reporting measures, and Requests for Reimbursements. Audit trails maintained by Grantee will, at a minimum, identify the supporting documentation prepared by Grantee to permit an audit of its accounting systems and payment verification with respect to the expenditure of any funds awarded under this Grant Agreement. Grantee's automated systems, if any, must provide the means by which authorized personnel have the ability to audit and verify required performances and to establish individual accountability for any action that can potentially cause access to, generation of, or modification of payment information.

**8.4. Access and Audit.** At the request of the OOG, Grantee shall grant access to and make available all paper and electronic records, books, documents, accounting procedures, practices, and any other items relevant to the performance of this Grant Agreement, compliance with applicable state or federal laws and regulations, and the operation and management of Grantee to the OOG, auditors of the State of Texas, or the OOG's designees for the purposes of inspecting, auditing, or copying such items. Grantee will direct any other entity, person, or contractor receiving funds directly under this Grant Agreement or through a subcontract under this Grant Agreement to likewise permit access to, inspection of, and reproduction of all books, records, and other relevant information of the entity, person, or contractor that pertain to this Grant Agreement. All records, books, documents, accounting procedures, practices, and any other items, in whatever form, relevant to the performance of this Grant Agreement shall be subject to examination or audit. Whenever practical, the OOG, in its sole discretion, will provide Grantee with up to five business days advance notice of any such examination or audit.

**8.5. State Auditor.** In addition to, and without limitation to other audit provisions of this Grant Agreement, pursuant to Section 2262.154, Texas Government Code, the State Auditor's Office or successor agency may conduct an audit or investigation of Grantee or any other entity or person receiving funds from the State directly under this Grant Agreement or indirectly through a subcontract under this Grant Agreement. The acceptance of funds by Grantee or any other entity or person directly under this Grant Agreement or indirectly through a subcontract under this Grant Agreement acts as acceptance of the authority of the State Auditor's Office, under the direction of the Legislative Audit Committee, to conduct an audit or investigation in connection with those funds. Under the direction of the Legislative Audit Committee, Grantee or another entity that is the subject of an audit or investigation by the State Auditor's Office shall provide the State Auditor's Office with prompt access to any information the State Auditor's Office considers relevant to the investigation or audit. Grantee further agrees to cooperate fully with the State

Auditor's Office in the conduct of the audit or investigation, including providing all records requested. Grantee shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through Grantee and the requirement to cooperate is included in any subcontract it awards. The State Auditor's Office shall at any time have access to and the right to examine, audit, excerpt, and transcribe any pertinent books, documents, working papers, and records of Grantee related to this Grant Agreement. Notwithstanding any provision in this Grant Agreement, the Parties agree this Grant Agreement may be amended unilaterally by the OOG to comply with any rules and procedures of the State Auditor's Office in the implementation and enforcement of Section 2262.154, Texas Government Code.

**8.6. Location.** Any audit of records shall be conducted at Grantee's principal place of business and/or the locations of Grantee's operations during Grantee's normal business hours. Grantee shall provide to the OOG or its designees, on Grantee's premises (or if the audit is being performed of a subcontractor, the subcontractor's premises if necessary), private space, office furnishings (including lockable cabinets), telephone services and Internet connectivity, utilities, and office-related equipment and duplicating services as OOG or its designees may reasonably require to perform the audits described in this Grant Agreement.

**8.7. Corrective Action Plan.** If any audit or other compliance review reveals any discrepancies or inadequacies that are necessary to maintain compliance with this Grant Agreement, applicable laws, regulations, or Grantee's obligations hereunder, Grantee agrees to propose and submit to the OOG a corrective action plan to correct such discrepancies or inadequacies on or before the thirtieth calendar day after Grantee's receipt of the findings. Grantee's corrective action plan is subject to the approval of the OOG. Grantee further agrees to complete the corrective action approved by the OOG on or before the thirtieth calendar day after OOG approves Grantee's corrective action plan, at the sole cost of Grantee.

**8.8. Reports.** Grantee shall provide to the OOG periodic status reports regarding Grantee's resolution of any audit, corrective action plan, or other compliance activity for which Grantee is responsible.

**SECTION 9. NOTICE OF POSSIBLE DEFAULT; OPPORTUNITY TO CURE; CURE.** Each of the following acts or omissions of Grantee shall constitute an independent act of default under this Grant Agreement. However, before a default is determined by the OOG, the OOG shall give the Grantee "Notice of Possible Default" and an opportunity to cure as set forth below.

**9.1. Acts of Possible Default.** If, after receipt of notice from the OOG specifying the circumstances that support the OOG's determination of possible default, Grantee fails to remedy the deficiencies, the OOG may consider each of the following to be an act of possible default under this Grant Agreement:

**9.1.1. Failure to Progress with Grant Project.** Failing to make progress on the Grant Project;

**9.1.2. Failure to Perform or Comply with an Obligation, Term, Condition, or Provision of this Grant Agreement.** Failing to perform or comply with an obligation, term, condition, or provision of this Grant Agreement or any OOG

policies, procedures, guidelines, corrective action plans, or sanctions applicable to this Grant Agreement or Texas Advanced Nuclear Development Fund grants;

- 9.1.3. Failure to Provide Required Reports and Other Documentation.** Failing to provide required reports, information, documentation, or other information required under this Grant Agreement;
- 9.1.4. Failure to Return Grant Funds.** Failing to timely return grant funds as required by Section 7; and
- 9.1.5. Failure to Comply with Certifications and Warranties; False Statements.** Failing to truthfully certify any of the statements, representations, certifications, affirmations, warranties, or guarantees; executing this Grant Agreement with a false statement; or during the term of this Grant Agreement, violating any of the statements, representations, certifications, affirmations, warranties, or guarantees included in this Grant Agreement.

**9.2. Notice of Possible Default.** The OOG, in its sole discretion, shall determine whether Grantee has acted or failed to act in such a manner that gives rise to an act of possible default under this Grant Agreement. The OOG shall give written notice to Grantee setting forth the circumstances that support the OOG's determination of possible default.

**9.3. Opportunity to Cure.** The OOG shall give the Grantee at least thirty calendar days to cure the possible default and to provide the OOG sufficient information that supports a finding of cure by the OOG.

**9.4. Cure.** If the OOG is satisfied that the Grantee has cured the possible default event, the OOG shall give written notice to the Grantee. The OOG will be guided by good faith and reasonableness in determining, in the sole discretion of the OOG, whether the Grantee has cured the possible default.

**9.5. Default.** If the OOG is not satisfied that the Grantee has cured the possible default, the Grantee shall be in default hereunder, and the OOG shall give written notice to the Grantee declaring such default.

**9.6. Repeated Acts of Possible Default.** If Grantee commits more than two independent acts of possible default, even if each possible default was cured, the OOG may determine the Grantee is in default of this Grant Agreement. Notwithstanding any other provision of this Grant Agreement, the OOG is not required to give Grantee any notice of default or an opportunity to cure in this event.

## **SECTION 10. TERMINATION.**

**10.1. Termination for Convenience of OOG.** The OOG may, in its sole discretion, terminate this Grant Agreement without recourse, liability, or penalty against the OOG, upon thirty calendar days' notice to the Grantee.

**10.2. Termination for Cause.** If Grantee fails to perform or comply with an obligation, term, condition, or provision of this Grant Agreement, or if Grantee is in default of this Grant Agreement and has failed to cure the default after having received an opportunity to cure such default in accordance with SECTION 9, the OOG may, upon written notice to Grantee, terminate this Grant Agreement for cause. If the Termination for Cause is based on more than two independent acts of uncured default, then the OOG may terminate this Grant Agreement without further notice or opportunity to cure. Such notification of Termination for Cause will state the effective date of such termination if no effective date is otherwise specified.

**10.3. Termination Due to Funding Limitations.** If the OOG or the Texas Advanced Nuclear Development Fund becomes subject to legislative change, revocation of statutory authority, lack of appropriated funds, or unavailability of funds that renders performance under this Grant Agreement impossible, then upon written notice to Grantee, this Grant Agreement may be immediately terminated without recourse, liability, or penalty against the OOG.

**10.4. Agreed Termination.** The OOG and Grantee may mutually agree to terminate this Grant Agreement. The OOG in its sole discretion will determine if, as part of the agreed termination, Grantee is required to return any or all of the disbursed grant funds.

**10.5. Termination Not Exclusive Remedy.** Termination is not an exclusive remedy, but will be in addition to any other rights and remedies provided in equity, by law, or under this Grant Agreement. Following termination by the OOG, Grantee shall continue to be obligated to the OOG for the return of grant funds in accordance with applicable provisions of this Grant Agreement. In the event of termination under SECTION 10, the OOG's obligation to reimburse Grantee is limited to allowable costs incurred and paid by Grantee prior to the effective date of termination, and any allowable costs determined by the OOG, in its sole discretion, to be reasonable and necessary to cost-effectively wind up the grant, subject to the availability of funds as set forth in Section 7.4. Termination of this Grant Agreement for any reason or expiration of this Grant Agreement shall not release the Grantee from any liability or obligation set forth in this Grant Agreement that is expressly stated to survive any such termination or expiration.

## **SECTION 11. DISPUTE RESOLUTION.**

**11.1. Informal Meetings.** The Parties' representatives will meet as needed to implement the terms of this Grant Agreement and will make a good faith attempt to informally resolve any disputes.

**11.2. Chapter 2260 of the Texas Government Code.** If the dispute resolution process provided for in Chapter 2260, Texas Government Code, applies, it shall be used as the sole and exclusive process to resolve any claim by Grantee for breach of this Grant Agreement.

**11.3. Grantee's Continued Performance.** Grantee shall not be excused from performance during any pending dispute unless approved in writing by the OOG.

## **SECTION 12. CORRECTIVE ACTION PLANS AND SANCTIONS.**

**12.1. Good Faith Efforts.** The Parties agree to make a good faith effort to identify, communicate

about, and resolve problems found by either the OOG or Grantee.

**12.2. Corrective Action Plans.** If the OOG finds deficiencies in Grantee’s performance under this Grant Agreement, the OOG, in its sole discretion, may impose remedies as part of a corrective action plan, including, but not limited to: increased monitoring visits; requiring that Grantee submit additional or more detailed financial and/or programmatic reports; requiring prior approval for expenditures; requiring additional technical or management assistance and/or making modifications in business practices; reducing the grant award amount; and/or terminating this Grant Agreement. The foregoing are not exclusive remedies, and the OOG may impose other requirements that the OOG determines will be in the best interest of the State.

**12.3. Financial Hold.** Failure to comply with submission deadlines for required reports, Requests for Reimbursement, or other requested information may result in the OOG, in its sole discretion, placing Grantee on immediate financial hold without further notice to Grantee and without first requiring a corrective action plan. The OOG shall not process any Requests for Reimbursements until Grantee’s required information is submitted. If Grantee is placed on financial hold, the OOG, at its sole discretion, may deny reimbursement requests associated with expenses incurred during the time Grantee was placed on financial hold.

**12.4. Sanctions.** In addition to financial hold, the OOG, in its sole discretion, may impose other sanctions without first requiring a corrective action plan. The OOG, in its sole discretion, may impose sanctions, including, but not limited to, withholding or suspending funding, requiring return or offset of previous reimbursements, disallowing claims for reimbursement, reducing the Maximum Liability of the OOG, terminating this Grant Agreement, deeming the Grantee ineligible to receive future Texas Advanced Nuclear Energy Development Fund grant awards, and/or any other sanction the OOG determines is appropriate.

**12.5. No Waiver.** Notwithstanding the imposition of corrective actions, financial hold, and/or sanctions, Grantee remains responsible for complying with the terms and conditions of this Grant Agreement. Corrective action plans, financial holds, and/or sanctions do not excuse or operate as a waiver of failure to comply with this Grant Agreement.

## **SECTION 13. SUBMISSION OF INFORMATION TO THE OOG; NOTICE TO PARTY.**

**13.1. Designation of Methods to Submit Information.** The OOG will designate methods for Grantee to submit information to the OOG. The OOG generally requires submission of information via email.

**13.2. Programmatic Reports, Other Information and Notices (excluding Financial Information).** All Grant Status Reports, Equipment Inventory correspondence, or other reports or notices, except financial reports specified below, must be submitted via email to:

taneo.tandf@gov.texas.gov

If requested or approved by the OOG, programmatic reports and information may be submitted to:

Texas Advanced Nuclear Energy Office  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711

**13.3. Financial Information (excluding Programmatic Reports and Information).** All Requests for Reimbursement, audits, and other financial reports must be submitted in hard copy format to:

Texas Advanced Nuclear Energy Office  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711

If requested or approved by the OOG, the Financial Reports may be submitted to:

taneo.tandf@gov.texas.gov

**13.4. Notice to Grantee by the OOG.** The OOG may deliver notice to Grantee via email, hand-delivery, or United States Mail. The OOG will send notices to the Grantee using the following information:

«granteePOCName»  
«granteeName»  
«granteeAddress»  
«granteeAddressCity», Texas «granteeAddressZIP»  
«granteePOCEmail»

Grantee shall promptly notify the OOG in writing of any changes to the contact information for the Grantee set forth in in this Grant Agreement. Such changes in contact information shall not require an amendment of this Grant Agreement.

## **SECTION 14. GENERAL REQUIREMENTS APPLICABLE TO THE GRANT.**

**14.1. Compliance with Applicable Laws.** Grantee agrees to comply with all applicable state and federal laws, rules and regulations, directives, guidelines, or any other authorities relevant to the performance of Grantee under this Grant Agreement as they currently exist and as amended throughout the term of this Grant Agreement. Grantee agrees to comply with applicable laws, executive orders, regulations, and policies, as well as Chapter 783, Texas Government Code, and TxGMS or its successor. Notwithstanding SECTION 22 of this Grant Agreement, the OOG may, in its sole discretion, unilaterally amend this Grant Agreement to incorporate any modifications necessary for the OOG's compliance with applicable state and federal laws, regulations, requirements, and guidelines.

**SECTION 15. CERTIFICATIONS.** By agreeing to and signing this Grant Agreement, Grantee represents that Grantee has obtained all necessary authority to enter into this Grant Agreement and makes the following certifications, representations, and warranties:

**15.1. Child Support Obligation.** Under Section 231.006(d), Texas Family Code, regarding child support, Grantee certifies Grantee is not ineligible to receive specified payments and acknowledges this Grant Agreement may be terminated, and payment may be withheld if this certification is inaccurate.

**15.2. Prohibited Bids and Agreements.** Under Section 2155.004, Texas Government Code, Grantee certifies that Grantee is not ineligible to enter this Grant Agreement and acknowledges this Grant Agreement may be terminated and payment withheld if this certification is inaccurate.

**15.3. Human Trafficking.** Under Section 2155.0061, Texas Government Code, Grantee certifies that Grantee is not ineligible to receive this Grant Agreement and acknowledges that this Grant Agreement may be terminated and payment withheld if this certification is inaccurate.

**15.4. Terminated Contracts.** Grantee certifies that it has not had a contract terminated or been denied the renewal of any contract for non-compliance with policies or regulations of any state or federally funded program within the past five years, nor is it currently prohibited from contracting with a governmental agency. If Grantee does have such a terminated contract, and cannot make this certification, Grantee shall identify such in this Grant Agreement and provide an explanation for the termination.

**15.5. Buy Texas.** To the extent reasonably possible, Grantee represents and warrants that it will buy Texas products and materials for use in accomplishing the Grant Project when such products and materials are available at a comparable price and within a comparable period when compared to non-Texas products and materials as required by Section 2155.4441, Texas Government Code.

**15.6. Gift to Public Servant.** Grantee warrants that Grantee has not given, nor does Grantee intend to give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the award of this Grant Agreement.

**15.7. Former Executive Head and Employees of the Agency.** Grantee certifies that this Grant Agreement is compliant, and will remain in compliance during the term of this Grant Agreement, with the following sections of the Texas Government Code: Section 669.003 (Contracting with Executive Head of State Agency); Section 572.069 (Certain Employment for Former State Officer or Employee Restricted); and Section 2252.901 (Contracts with Former or Retired Agency Employees).

**15.8. No Claims.** Grantee certifies Grantee does not have any potential or existing claims against or unresolved audit exceptions with the State of Texas or any agency of the State of Texas.

**15.9. No Contributions.** Grantee certifies it will not use grant funds received under this Grant Agreement to make contributions to campaigns for elective office or endorse candidates.

**15.10. Debt to State.** Grantee acknowledges and agrees that, to the extent Grantee owes any debt, child support, delinquent taxes, or other obligations to the State of Texas, any payments Grantee is owed under this Grant Agreement may be applied by the CPA toward any debt or delinquent taxes Grantee owes the State of Texas until the debt or delinquent taxes are paid in full.

**15.11. Certification of Good Standing.** Grantee is in good standing under the laws of the state in which it was formed or organized, and it has provided the OOG with documentation to support this certification. Grantee agrees to remain in good standing with the Texas Secretary of State, the Texas CPA and related state or federal governmental bodies related to Grantee's right to conduct business in Texas.

**15.12. Corporate Franchise Tax.** Grantee certifies that, if applicable, Grantee's Texas franchise tax payments are current, or that Grantee is exempt from, or not subject to, such tax.

**15.13. Compliance with Licensing, Permitting, and Regulatory Bodies.** Grantee certifies that Grantee has or will obtain all licenses, certifications, permits, and authorizations necessary to perform Grantee's obligations under this Grant Agreement, without costs to the OOG. Grantee shall comply with any applicable laws, ordinances, resolutions, codes, decisions, orders, rules, and regulations, in connection with Grantee's obligations under this Grant Agreement. Grantee shall comply with all applicable federal and state health and safety standards.

Grantee certifies Grantee is currently in good standing with all licensing, permitting, or regulatory bodies that regulate any or all aspects of Grantee's operations. Grantee agrees to comply and remain compliant with all applicable licenses, legal certifications, inspections, and any other applicable local ordinance or state or federal laws.

**15.14. Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion.** The OOG will adhere to the directions provided in U.S. Presidential Executive Order 13224, "*Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism,*" published by the United States Department of the Treasury, Office of Foreign Assets Control.

Grantee certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the *State of Texas Debarred Vendor List* maintained by the CPA and the *System for Award Management (SAM)* maintained by the General Services Administration. Entities ineligible for federal procurement are listed at <https://www.sam.gov>.

Grantee further certifies that it will not knowingly enter any subcontract with an entity who is, or whose principals are, on the specially designated nationals list or debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.

Grantee will ensure that this provision regarding debarment, suspension, ineligibility, and voluntary exclusion, and the specially designated nationals list is included without modification in any subcontracts or solicitations for subcontracts.

**15.15. Deceptive Trade Practices; Unfair Business Practices.** Grantee represents and warrants that Grantee has not been the subject of allegations of Deceptive Trade Practices violations under

Chapter 17, Texas Business and Commerce Code, or allegations of any unfair business practice in any administrative hearing or court suit and that the Grantee has not been found to be liable for such practices in such proceedings. Grantee certifies that Grantee has no officers who have served as officers of other entities who have been the subject of allegations of Deceptive Trade Practices violations or allegations of any unfair business practices in an administrative hearing or court suit, and that such officers have not been found to be liable for such practices in such proceedings. Grantee shall notify the OOG in writing within five calendar days if Grantee or any of its officers are subject to allegations of Deceptive Trade Practices or are the subject of alleged violations of any unfair business practices in an administrative hearing or court suit, and Grantee or officers have been found liable for such practices in such proceedings.

**15.16. Felony Criminal Convictions.** Grantee represents and warrants that Grantee and Grantee's employees who will perform services under this Grant Agreement have not been convicted of a felony criminal offense, or that, if such a conviction has occurred, Grantee has fully advised the OOG in writing as to the facts and circumstances related to the conviction.

**15.17. Immigration.** Grantee shall not permit any employees, nor any employee of its subcontractors, to perform any work on behalf of, or for the benefit of, the OOG in the United States without first ensuring said employee's authorization to lawfully work in the United States. Grantee represents and warrants that Grantee shall comply with all applicable United States immigration laws with respect to the employment of any individual who will perform labor or services in the United States under this Grant Agreement, and that Grantee shall require that all employees provide proof of identity and employment eligibility before they can work in the United States.

**15.18. United States Department of Homeland Security's E-Verify System.** Grantee certifies and ensures that Grantee utilizes and will continue to utilize, for the term of this Grant Agreement, the United States Department of Homeland Security's E-Verify system as required by Chapter 673, Texas Government Code, to determine the eligibility of: all persons employed to perform duties within Texas, during the term of this Grant Agreement; and all persons, including subcontractors, employed or assigned by Grantee to perform work pursuant to this Grant Agreement, within the United States of America. If this certification is falsely made, the OOG, in its sole discretion, may terminate this Grant Agreement with no prior notification and with no fault to the OOG.

**15.19. Prior Disaster Relief Contract Violation.** Grantee certifies that it has not, in the past five years, been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by Section 418.004, Texas Government Code, occurring after September 24, 2005. Under Sections 2155.006 and 2261.053, Texas Government Code, Grantee certifies that it is not ineligible to enter into this Grant Agreement and acknowledges that the OOG may terminate this Grant Agreement and withhold reimbursements if this certification is inaccurate or false.

**15.20. Technology Accessibility.** To the extent applicable, Grantee expressly acknowledges that TANDF funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements relating to accessibility by persons

with visual impairment. Accordingly, Grantee represents and warrants to the OOG that the technology provided to the OOG for purchase is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of:

- 15.20.1. providing equivalent access for effective use by both visual and non-visual means;
- 15.20.2. presenting information, including prompts used for interactive communications, in formats intended for non-visual use; and
- 15.20.3. being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired.

**15.21. Liability for Taxes.** Grantee represents and warrants that Grantee shall pay all taxes or similar amounts resulting from this Grant Agreement, including, but not limited to, any federal, state, or local income, sales, or excise taxes of Grantee or Grantee’s employees. The OOG shall not be liable for any taxes resulting from this Grant Agreement.

**15.22. Entities that Boycott Israel.** If Grantee is required to make a certification pursuant to Section 2271.002, Texas Government Code, Grantee certifies that Grantee does not boycott Israel and will not boycott Israel during the term of this Grant Agreement. If Grantee does not make that certification, Grantee must state why the certification is not required. The term “boycott Israel” as used in this provision has the meaning assigned by Section 808.001, Texas Government Code.

**15.23. Iran, Sudan, or Foreign Terrorist Organization.** Grantee represents that neither Grantee, nor any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of Grantee, (i) is an entity listed by the CPA under Section 2252.153 or 2270.0201, Texas Government Code; (ii) constitutes a “scrutinized company” as defined by Section 2270.0001(9), Texas Government Code; or (iii) has contracts with, provides supplies or services to, or is otherwise engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152, Texas Government Code. The terms “foreign terrorist organization” and “designated foreign terrorist organization” have the meanings assigned to them in Sections 2252.151 and 2270.0001, Texas Government Code, respectively.

**15.24. Entities that Discriminate Against a Firearm Entity or Firearm Trade Association.** If Grantee is required to make a certification pursuant to Section 2274.002, Texas Government Code, Grantee certifies that Grantee does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and will not discriminate during the term of this Grant Agreement against a firearm entity or firearm trade association. If Grantee does not make that certification, Grantee must indicate and explain why the certification is not required.

**15.25. Entities that Boycott Energy Companies.** If Grantee is required to make a certification pursuant to Section 2276.002, Texas Government Code, Grantee certifies that Grantee does not boycott energy companies and will not boycott energy companies during the term of this Grant

Agreement. If Grantee does not make that certification, Grantee must indicate why the certification is not required.

**15.26. Critical Infrastructure.** If Grantee or Subcontractor of Grantee, if applicable, is required to access or control the State's critical infrastructure as defined in Sections 2275.0101, Texas Government Code, and Section 117.001, Texas Business and Commerce Code, Grantee certifies, pursuant to Section 2275.0102, Texas Government Code, and Section 117.002, Texas Business and Commerce Code, neither it nor its parent company, nor any affiliate of Grantee or its parent company, nor any Subcontractor of Grantee, if applicable, is: (1) majority owned or controlled by citizens or governmental entities of China, Iran, North Korea, Russia, or any other country designated by the Governor under Section 2275.0103, Texas Government Code, or (2) headquartered in any of those countries.

**15.27. Vaccine Passport.** To the extent applicable, Grantee certifies that, pursuant to Section 161.0085, Texas Health and Safety Code, it does not require its customers to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from Grantee's business in Texas. Grantee acknowledges that such a vaccine or recovery requirement in Texas would make Grantee ineligible to enter a contract payable with state funds.

**15.28. Cybersecurity Training Program.** To the extent Grantee has access to any state computer system or database, Grantee represents and warrants that it will comply with the requirements of Section 2063.104, Texas Government Code, relating to cybersecurity training and required verification of completion of the training program.

**15.29. Hardening of State Government.** Grantee certifies that neither Grantee nor any of its holding companies or subsidiaries are: (1) listed in Section 889 of the 2019 National Defense Authorization Act (NDAA); (2) listed in Section 1260H of the 2021 NDAA; (3) owned by the government of a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. § 791.4; or (4) controlled by any governing or regulatory body located in a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. § 791.4.

## **SECTION 16. GENERAL TERMS AND CONDITIONS.**

**16.1. Generally Accepted Accounting Principles or Other Recognized Accounting Principles.** Grantee shall adhere to Generally Accepted Accounting Principles (GAAP) promulgated by the American Institute of Certified Public Accountants, unless other recognized accounting principles are required by Grantee. Grantee shall follow OOG fiscal management policies and procedures in processing and submitting requests for reimbursement and maintaining financial records related to this Grant Agreement.

**16.2. No Solicitation or Receipt of Funds on Behalf of OOG.** The Parties agree that any solicitation for or receipt of funds of any type by Grantee is for the sole benefit of Grantee and is not a solicitation for or receipt of funds on behalf of the OOG or the Governor of the State of Texas.

**16.3. Independent Contractor.** Grantee expressly agrees that Grantee is an independent

contractor and under no circumstances shall any owner, incorporator, officer, director, employee, or volunteer of Grantee or any subcontractor of Grantee be considered an employee, agent, servant, joint venturer, joint enterpriser, or partner of the OOG, by virtue of this Grant Agreement. Grantee agrees to take such steps as may be necessary to ensure that each contractor of Grantee will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, joint enterpriser, or partner of the OOG.

All persons furnished, used, retained, or hired by or on behalf of Grantee or any of Grantee's subcontractors are solely the employees or agents of Grantee or Grantee's subcontractors. Grantee or Grantee's subcontractors shall be responsible for ensuring that all appropriate payments are made, such as vacation leave, sick leave, retirement benefits, health or disability benefits, taxes, unemployment, workers' compensation, social security, any benefit available to a state employee as a state employee, and other payroll taxes for such persons, including any related assessments or contributions required by law.

The OOG is not responsible for any types of claims whatsoever due to actions or performance, taken by the owners, incorporators, officers, directors, employees, volunteers of Grantee or any third parties under this Grant Agreement, including but not limited to, the use of automobiles or other transportation, taken by its owners, incorporators, officers, directors, employees, volunteers or any third parties.

**16.4. Subcontracting.** If Grantee should determine it is necessary or expedient to subcontract for any of the performances herein, Grantee understands and agrees that Grantee will be responsible to the OOG for any subcontractor's performance under this Grant Agreement. In no event shall this provision or any other provision of this Grant Agreement be construed as relieving Grantee of the responsibility for ensuring that performance under this Grant Agreement, and any subcontracts thereto, is rendered in compliance with all the terms of this Grant Agreement. If Grantee uses a subcontractor for any or all of the work required, the following conditions will apply:

- 16.4.1.** Grantee, in subcontracting for any performances specified herein, expressly understands and agrees that subcontracting will be solely at Grantee's expense, and the OOG shall not be liable in any manner to Grantee's subcontractor(s);
- 16.4.2.** Grantee will be the sole point of contact for the OOG; and
- 16.4.3.** Pursuant to Chapter 2251, Texas Government Code, Grantee will make any payments owed to subcontractors within ten calendar days after Grantee's receipt of funds from the OOG.

**16.5. No Assignment.** This Grant Agreement is not assignable by Grantee. Notwithstanding any attempt to assign this Grant Agreement, Grantee shall remain fully liable on this Grant Agreement and shall not be released from performing any of the terms, covenants, and conditions herein. Grantee shall be held responsible for all funds received under this Grant Agreement.

**16.6. Texas Public Information Act.** Grantee acknowledges that the State of Texas, the OOG,

and this Grant Agreement are subject to the Texas Public Information Act (“PIA”). Grantee agrees that all information created or exchanged in connection with this Grant Agreement is subject to the PIA. Grantee will cooperate with the OOG in the production of documents or information responsive to a request for information. Information provided by Grantee in connection with this Grant Agreement that Grantee considers proprietary, financial, or trade secret information (collectively, “Confidential Information”) shall be designated as such by Grantee when Grantee provides it to the OOG. The OOG will notify Grantee if all or part of the Confidential Information is requested under the PIA. Failure of Grantee to timely respond to such notification may result in the release of all or part of the Confidential Information. It is Grantee’s obligation to timely submit briefing to the Office of the Attorney General of Texas in accordance with the PIA, setting forth the legal basis upon which the requested information should remain confidential. The OOG assumes no responsibility for asserting legal arguments to the Office of the Attorney General of Texas on behalf of Grantee.

Grantee agrees that if any of Grantee’s agents receives any third-party request for the disclosure of information relating to this Grant Agreement, Grantee shall notify the OOG of any such request within twenty-four hours after receipt of the request. Grantee agrees that information not otherwise excepted from disclosure under the PIA, will be available in PDF, Microsoft Word, Microsoft Power Point, or Microsoft Excel formats at no additional charge to the OOG or the State of Texas.

**16.7. Political Activity.** None of the activities or performances rendered hereunder by Grantee shall involve lobbying or political activity, including, but not limited to, any activity to further the election or defeat of any candidate for public office, any activity undertaken to influence the passage, defeat, or final contents of legislation, or activity to affect or influence any act or decision of any government official or instrumentality of government.

**16.8. Americans with Disabilities Act.** To extent required by law, Grantee shall provide reasonable accommodations for persons with disabilities in compliance with the Americans with Disabilities Act, where applicable.

**16.9. Publicity.** Grantee shall not use the OOG’s name or refer to the OOG directly or indirectly in any media release, public service announcement, or public service disclosure relating to this Grant Agreement or any acquisition pursuant hereto, including in any promotional or marketing materials, without first obtaining written consent from the OOG. This provision is not intended to and does not limit Grantee’s ability to comply with its obligations and duties under the Texas Open Meetings Act or the PIA. This provision is not intended to and does not limit the OOG’s duties and obligations to report this Grant Agreement, any grant payments made under this Grant Agreement, any Grant Agreement compliance or performance information, or other state or federal reporting requirements applicable to the OOG.

**16.10. No Third-Party Beneficiary Rights.** This Grant Agreement is not intended to and shall not be construed to give any third party any interest or rights, including, without limitation, any third-party beneficiary rights, with respect to or in connection with any agreement, subcontract, or provision contained herein or contemplated hereby.

16.11. Indemnification.

**TO THE EXTENT ALLOWED BY LAW, GRANTEE SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE STATE OF TEXAS, THE OOG, AND/OR THEIR EMPLOYEES, AGENTS, OFFICERS, REPRESENTATIVES, CONTRACTORS, VENDORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL CLAIMS, ACTIONS, SUITS, DEMANDS, PROCEEDINGS, COSTS, DAMAGES, AND LIABILITIES, INCLUDING, WITHOUT LIMITATION, ALL RELATED COSTS, ATTORNEY'S FEES AND EXPENSES ARISING OUT OF, OR RESULTING FROM, ANY ACTS OR OMISSIONS OF GRANTEE OR ANY OF GRANTEE'S AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS IN THE EXECUTION OR PERFORMANCE OF THIS GRANT AGREEMENT. GRANTEE SHALL COORDINATE GRANTEE'S DEFENSE WITH THE TEXAS ATTORNEY GENERAL AS REQUESTED BY THE OOG, AND GRANTEE MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE TEXAS ATTORNEY GENERAL. GRANTEE AND THE OOG AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. THIS PARAGRAPH IS NOT INTENDED TO AND WILL NOT BE CONSTRUED TO REQUIRE GRANTEE TO INDEMNIFY OR HOLD HARMLESS THE STATE OR THE OOG FOR ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENT ACTS OR OMISSIONS OF THE OOG OR ITS EMPLOYEES.**

16.12. Intellectual Property.

**TO THE EXTENT ALLOWED BY LAW, GRANTEE SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE STATE OF TEXAS, THE OOG, AND/OR THEIR EMPLOYEES, AGENTS, OFFICERS, REPRESENTATIVES, CONTRACTORS, AND/OR DESIGNEES FROM AND AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS, OR INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHTS AND/OR OTHER INTANGIBLE PROPERTY, PUBLICITY, OR PRIVACY RIGHTS, AND/OR IN CONNECTION WITH OR ARISING FROM: (1) THE PERFORMANCE OR ACTIONS OF GRANTEE PURSUANT TO THIS GRANT AGREEMENT; (2) ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE, OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR (3) THE OOG'S AND/OR GRANTEE'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO THE OOG BY GRANTEE OR OTHERWISE TO WHICH THE OOG HAS ACCESS AS A RESULT OF GRANTEE'S PERFORMANCE UNDER THIS GRANT AGREEMENT. GRANTEE AND THE OOG AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. GRANTEE SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY GRANTEE WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT, AND GRANTEE MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE TEXAS ATTORNEY GENERAL. IN ADDITION, GRANTEE WILL REIMBURSE THE OOG AND THE**

**STATE OF TEXAS FOR ANY CLAIMS, DAMAGES, COSTS, EXPENSES, OR OTHER AMOUNTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COURT COSTS ARISING FROM ANY SUCH CLAIM. IF THE OOG DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF GRANTEE, OR IF THE OOG IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, THE OOG WILL BE PERMITTED TO SELECT SEPARATE COUNSEL, AND GRANTEE WILL PAY ALL REASONABLE COSTS OF THE OOG'S COUNSEL.**

**16.13. Taxes/Workers' Compensation/Unemployment Insurance – Including Indemnity.**

Employees and subcontractors furnished by Grantee shall not be considered employees of the OOG or the State of Texas.

**GRANTEE AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS GRANT AGREEMENT, GRANTEE SHALL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF GRANTEE'S AND GRANTEE'S EMPLOYEES' TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCES IN THIS GRANT AGREEMENT. GRANTEE AGREES TO COMPLY WITH ALL APPLICABLE LAWS RELATING TO ANY SUCH PERSONS, INCLUDING LAWS REGARDING WAGES, TAXES, INSURANCE, AND OCCUPATIONAL ACCIDENT INSURANCE (WORKERS' COMPENSATION). THE OOG AND/OR THE STATE OF TEXAS SHALL NOT BE LIABLE TO GRANTEE, ITS EMPLOYEES, AGENTS, OR OTHERS FOR THE PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/OR OCCUPATIONAL ACCIDENT INSURANCE (WORKERS' COMPENSATION) OR ANY BENEFIT AVAILABLE TO A STATE OF TEXAS EMPLOYEE OR EMPLOYEE OF THE OOG.**

**16.14. Tax Identification Information Required.** As a prerequisite to the OOG's ability to process any payments to Grantee under this Grant Agreement, Grantee shall provide the OOG with required tax and payee identification information in the form of a completed "Application for Texas Identification Number" (available on the CPA's website at [https://fmx.cpa.texas.gov/fmx/payment/resources/svpr\\_all.php](https://fmx.cpa.texas.gov/fmx/payment/resources/svpr_all.php)). If Grantee has previously completed the required documentation to obtain a Texas Identification Number ("TIN") prior to the Effective Date of this Grant Agreement, Grantee may satisfy this requirement by providing the OOG with Grantee's current TIN, name, and address to permit the OOG to verify registration in the TIN System with the CPA.

**16.15. Compliance with Applicable Laws.** Grantee must comply with all applicable international, federal, state, and local laws, including, but not limited to, statutes, regulations, and ordinances at all times, including, without limitation, the following: (i) the Foreign Corrupt Practices Act of 1977, 15 U.S.C. §§ 78dd-1, et seq.; (ii) Sections 36.02 or 36.03, Texas Penal Code, prohibiting bribery or coercion of public officials; and (iii) Section 36.09, Texas Penal Code, which prohibits the offering or conferring of benefits to public servants.

Grantee shall give all required notices and comply with all laws and regulations applicable to furnishing and performance of this Grant Agreement. Except where otherwise expressly required

by applicable laws and regulations, the OOG shall not be responsible for monitoring Grantee's compliance. If Grantee performs any work knowing or having reason to know that it is contrary to laws or regulations, Grantee shall bear all claims, costs, losses, and damages caused by, arising out of, or resulting there from. The OOG is entering into this Grant Agreement in reliance on the accuracy of the representations and the warranties contained in this Grant Agreement, including this provision. Grantee acknowledges that, in addition to any other remedies the OOG may have, breach of this provision constitutes grounds for the OOG to terminate this Grant Agreement immediately. In such event, Grantee agrees and acknowledges that Grantee shall lose any right to receive reimbursements, or any other payment or compensation under this Grant Agreement, regardless of whether Grantee has already incurred an otherwise-reimbursable expense. Upon request of the OOG during the term of this Grant Agreement, Grantee agrees to sign and deliver further certifications to the OOG upon request.

**16.16. Insurance.** Unless otherwise noted in this Grant Agreement, and to the extent that Grantee does not have or maintain insurance or does not have or maintain sufficient insurance, Grantee acknowledges and agrees that Grantee will be solely responsible for any losses or damages related to or caused by Grantee's performing Grantee's duties and obligations under this Grant Agreement. The Parties agree the OOG has no obligation to reimburse or otherwise pay Grantee for any costs incurred related to any losses or damages.

**16.17. Fraud, Waste, and Abuse.** Grantee understands that the OOG does not tolerate any type of fraud, waste, or misuse of funds received from the OOG. The OOG's policy is to promote consistent, legal, and ethical organizational behavior, by assigning responsibilities and providing guidelines to enforce controls. Any violations of law, OOG policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. In the event Grantee becomes aware of any allegation or a finding of fraud, waste, or misuse of funds received from the OOG that is made against Grantee, Grantee is required to immediately notify the OOG of the allegation or finding. Grantee must also inform the OOG of the status of any on-going investigations regarding allegations of fraud, waste, or abuse. Grantee must report any possible fraudulent or dishonest acts, waste, or abuse to the OOG's Fraud Coordinator or Ethics Advisor at (512) 463-1788 or in writing to: Ethics Advisor, Office of the Governor, P.O. Box 12428, Austin, Texas 78711. Grantee must also comply with Section 321.022, Texas Government Code, which requires that suspected fraud and unlawful conduct be reported to the State Auditor's Office.

**16.18. Information Security/Privacy.** Grantee must maintain and protect any information it receives, compiles, or creates as a result of this Grant Agreement in accordance with any applicable federal, state, or local laws and regulations. Grantee shall employ and maintain appropriate information security procedures to protect against the unauthorized acquisition, use, or disclosure of any personal information under applicable laws, including Personal Identifying Information or Sensitive Personal Information as those terms are defined in Chapter 521, Texas Business and Commerce Code, that it receives, compiles, or creates as a result of this Grant Agreement to ensure compliance with any agency requirements of the OOG and/or any applicable international, federal, state, or local laws, regulations, and ordinances. Unless required by law to disclose, Grantee agrees to maintain the confidentiality of information received from the OOG or the State of Texas during the performance of this Grant Agreement, including, but not limited to, Sensitive Personal Information, Personal Identifying Information, personal financial information, financial account

numbers, account access information, computer passwords, social security numbers or information that is confidential by law or otherwise subject to a lawful exception from disclosure. In the event of an unauthorized acquisition, use, or disclosure of the OOG's information by Grantee, its employees, representatives, subcontractors or other agents in the performance of Grantee's duties, Grantee shall: (i) immediately notify the OOG in writing; (ii) assume and comply with any applicable remedial requirements required by law; (iii) bear all costs of such compliance and remediation; and (iv) provide the OOG with information regarding the breach and the progress of any remedial efforts if requested. The obligations of Grantee under this provision will survive this Grant Agreement and must be included in all subcontracts in which the subcontractor may have access to personal information.

Grantee shall endorse the OOG's requirements and adhere to the Information Technology Security Standards of the State of Texas and the OOG. From time to time and on the request of the OOG, Grantee may be required to execute written information security or non-disclosure agreements as deemed necessary by the OOG to strictly comply with any applicable confidentiality or information security requirements or applicable laws, regulations, and protective orders. Grantee is required to assess risks, ensure data integrity, and determine the level of accessibility that must be maintained. Specific activities may include, but are not limited to, identification of security, privacy, legal, and other organizational requirements for recovery of institutional resources such as data, software, hardware, configurations, and licenses at the termination of this Grant Agreement. In addition, the OOG may periodically assess Grantee's privacy and security services related to providing the Deliverables under this Grant Agreement to ensure all obligations are being met and to manage and mitigate risk.

To the extent applicable, if Grantee is authorized to access, transmit, use, or store data for the OOG, Grantee must meet the security controls the OOG determines are proportionate with the OOG's risk under this Grant Agreement based on the sensitivity of the OOG's data. If Grantee is providing cloud computing services to the OOG, pursuant to Section 2063.408, Texas Government Code, Grantee must truthfully represent and warrant that it complies with the requirements of the state risk and authorization management program (TX-RAMP), and Grantee agrees that throughout the term of the Grant Agreement it shall maintain its certifications and comply with TX-RAMP program requirements in the performance of this Grant Agreement. Upon request, Grantee must provide to the OOG evidence that Grantee meets the security controls required under this Grant Agreement.

**16.19. Saturdays, Sundays, Holidays.** If the last or appointed day for the taking of any action or the expiration of any right required or granted in this Grant Agreement is a Saturday or a Sunday or a scheduled State of Texas or national holiday, then such action may be taken, or such right may be exercised on the next succeeding business day that is not a Saturday, Sunday, or holiday. A schedule of State of Texas holidays is located at: <http://www.hr.sao.texas.gov/Holidays/>.

**16.20. Applicable Law and Venue.** This Grant Agreement is made and entered into in the State of Texas. This Grant Agreement and all disputes arising out of or relating thereto shall be governed by the laws of the State of Texas, without regard to any otherwise applicable conflict of law rules or requirements.

Venue for any Grantee-initiated action, suit, or litigation arising out of or in any way relating to this Grant Agreement shall be commenced exclusively in the Travis County District Court or the United States District Court for the Western District of Texas - Austin Division. Venue for any OOG-initiated action, suit, or litigation arising out of or in any way relating to this Grant Agreement may be commenced in a Texas state district court or a United States District Court in Texas selected by the OOG in its sole discretion.

Grantee hereby irrevocably and unconditionally consents to the exclusive jurisdiction of the courts referenced above for the purpose of prosecuting and/or defending such litigation. Grantee hereby waives and agrees not to assert as a defense, or otherwise, in any suit, action or proceeding, any claim that Grantee is not subject to the jurisdiction of the above-named courts; the suit, action or proceeding is brought in an inconvenient forum; and/or the venue is otherwise improper.

**16.21. Non-Waiver of Rights.** Failure of the OOG to require performance by Grantee under this Grant Agreement will not affect the right of the OOG to require performance in the future. No delay, failure, or waiver of the OOG's exercise or partial exercise of any right or remedy under this Grant Agreement shall operate to limit, impair, preclude, cancel, waive, or otherwise affect such right or remedy. A waiver by the OOG of any breach of any term of this Grant Agreement will not be construed as a waiver of any continuing or successive breach.

**16.22. No Waiver of Sovereign Immunity.** The OOG is immune from suit and from liability. No part of this Grant Agreement, nor the conduct or statement of any person, will be construed as a waiver of sovereign immunity or official immunity, or of any of the privileges, rights, defenses, remedies, or immunities available to the OOG and/or the State of Texas, and their officers, employees, or agents as provided by law.

**SECTION 17. MONITORING.** The OOG or its designee may perform periodic on-site monitoring of Grantee's compliance with the terms and conditions of this Grant Agreement and of the adequacy and timeliness of Grantee's performance. After each monitoring visit, the OOG will provide Grantee with a written report of the monitor's findings. If the monitoring report notes deficiencies in Grantee's performances under the terms of this Grant Agreement, the monitoring report shall include requirements for the timely correction of such deficiencies by Grantee. Failure by Grantee to take the action specified in the monitoring report may be cause for termination of this Grant Agreement in accordance with SECTION 10 of this Grant Agreement.

## **SECTION 18. CONFLICTS OF INTEREST.**

**18.1. No Conflicts of Interest in Performing Grant Agreement Obligations.** Grantee represents and warrants that neither Grantee nor the personnel or entities employed in rendering services in relation to this Grant Agreement have, nor shall they knowingly acquire, any actual or potential conflicts of interest that would be adverse to or conflict in any manner with the performance of Grantee's obligations under this Grant Agreement, and that Grantee's performance of this Grant Agreement would not reasonably create an appearance of impropriety. Grantee has a continual and ongoing obligation to immediately notify the OOG in writing, upon discovery of any actual or potential conflict.

**18.2. No Inside Information.** No employee, agent, consultant, officer, or elected or appointed official, of either Grantee or of a subcontractor, who exercises or has exercised any functions or responsibilities or is in a position to participate in decision-making or gain inside information in regard to the activities involved in the Grant Project, shall be permitted to have or obtain a financial interest in or benefit from the Grant Project or any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties.

## **SECTION 19. REGULATORY AND LEGAL ACTIONS AND CLAIMS.**

**19.1. No Pending or Threatened Actions Impairing Performance.** Grantee represents and warrants that Grantee is not aware of and has received no notice of any court or governmental agency actions, proceedings, or investigations, etc., pending or threatened against Grantee within the five calendar years immediately preceding the Effective Date of this Grant Agreement that would or could impair Grantee's performance under this Grant Agreement. If the Grantee is unable to make the preceding representation and warranty, then Grantee instead represents and warrants that it has provided to the OOG a complete disclosure of any such court or governmental agency actions, proceedings, or investigations, etc. that would or could impair Grantee's performance under this Grant Agreement. In addition, Grantee represents and warrants that it shall notify the OOG in writing within five business days of any changes to the representations or warranties in this provision or of any actions that Grantee may become aware of and receives notice of on or after the Effective Date of this Grant Agreement. Grantee agrees that failure to timely update the OOG of actions shall constitute breach of this Grant Agreement and may result in immediate termination of this Grant Agreement.

**19.2. Notice of Actions Arising Out of Performance of Grant Agreement.** Grantee shall give the OOG immediate notice in writing of any action, including any proceeding before an administrative agency, filed against Grantee arising out the performance of this Grant Agreement. Except as otherwise directed by the OOG, Grantee shall immediately furnish to the OOG copies of all pertinent papers received by Grantee with respect to such action or claim. Grantee shall notify the OOG of any legal action filed against Grantee or any subcontractor. Grantee shall submit a copy of such notice to the OOG on or before the thirtieth calendar day after receipt. No funds provided under this Grant Agreement may be used in the payment of any costs incurred as the result of any claims, judgments, fines, or settlements.

**19.3. Bankruptcy.** Grantee shall notify the OOG in writing on or before the tenth calendar day after Grantee becomes subject to any proceedings for bankruptcy, insolvency, reorganization, arrangement, reorganization arrangement, winding-up, or composition or adjustment of debts, whether such proceedings are instituted by or against Grantee. In the event of such proceedings involving Grantee, the OOG, in its sole discretion, may terminate this Grant Agreement for cause.

**19.4. No Liability.** Grantee acknowledges that the OOG, the State of Texas, and their employees and officials shall not be held liable for any claims or causes of action whatsoever which may occur while performing the services described in this Grant Agreement, or from the award, cancellation, or withdrawal of this Grant.

**SECTION 20. NOTICE OF MATERIAL EVENTS.** Grantee shall furnish to the OOG prompt

written notice upon becoming aware or having knowledge of the occurrence of any event or development that has, or would reasonably be expected to have, a material adverse effect on the completion of the Grant Project. Grantee shall inform the OOG in writing on or before the tenth business day after Grantee learns of the existence of such an event.

**SECTION 21. FORCE MAJEURE.** Neither Party shall be liable to the other for any delay in, or failure of performance of, any requirement included in this Grant Agreement resulting from or caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed, provided the non-performing Party exercises all reasonable due diligence to perform. "Force majeure" is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either Party and that by exercise of due foresight such Party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such Party is unable to overcome. Each Party must inform the other in writing, with proof of receipt, on or before the third business day after the Party is affected by the force majeure. If non-performance under this provision continues for more than thirty calendar days, the OOG may terminate this Grant Agreement with no further notice to Grantee.

## **SECTION 22. CHANGES AND AMENDMENTS.**

**22.1. Alterations, Additions, Deletions.** Any alterations, additions, or deletions to the terms of this Grant Agreement shall be by a written amendment executed by both Parties. Any properly executed amendment of this Grant Agreement shall be binding upon the Parties and presumed to be supported by adequate consideration.

**22.2. Policy Directives.** During the term of this Grant Agreement, the OOG may issue policy directives to establish, interpret, or clarify requirements under this Grant Agreement. Policy directives from the OOG shall be binding upon Grantee.

**22.3. Change of Name or Merger.** Grantee shall promptly notify the OOG of any change of name, merger, consolidation, restructuring, sale, or other such change in the identification or designation of the proper legal entity in which it holds this Grant Agreement. In such an event, an amendment to this Grant Agreement shall be required, and shall specifically state that no other terms, conditions, or obligations of this Grant Agreement are thereby changed. Grantee shall not assign this Grant Agreement pursuant to this provision.

**SECTION 23. BINDING EFFECT.** This Grant Agreement and all terms, conditions, provisions, and obligations set forth herein shall be binding upon and shall inure to the benefit of the Parties and their permitted respective representatives, successors, assigns, and all other State of Texas agencies, as well as any other agencies, departments, divisions, governmental entities, public corporations, and other entities which shall be successors to each of the Parties or which shall succeed to or become obligated to perform or become bound by any of the covenants, agreements, or obligations hereunder of each of the Parties hereto.

**SECTION 24. SEVERABILITY.** If any provision of this Grant Agreement is held to be void or unenforceable by an authority with jurisdiction to reach such a determination, the Parties agree the remaining provisions of this Grant Agreement shall not be affected and will continue in full

force and effect. If one or more of the provisions contained in this Grant Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, by an authority with jurisdiction to reach such a determination, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and the resulting agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

**SECTION 25. CONSTRUCTION.** The language in all parts of this Grant Agreement shall be construed, in all cases, according to its fair meaning. The Parties acknowledge that each Party and its counsel have reviewed this Grant Agreement and that any rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Grant Agreement. Any vague, ambiguous, or conflicting terms shall be interpreted and construed in such a manner as to accomplish the purpose of this Grant Agreement.

**SECTION 26. CAPTIONS AND HEADINGS.** The captions and headings of the provisions of this Grant Agreement are for convenience only and shall not affect the construction or interpretation of this Grant Agreement's substantive terms.

**SECTION 27. SURVIVAL OF CERTAIN PROVISIONS.** Notwithstanding any expiration, termination, or cancellation of this Grant Agreement, the rights and obligations pertaining to grant close-out, repayment of grant funds or damages, Maximum Liability of the OOG, limitation of liability, public information, reporting requirements, retention and accessibility of records, audit rights, rights upon termination, indemnification, limitations of liability, dispute resolution, applicable law and venue, sovereign immunity, and any other provision implying survivability shall remain in effect after this Grant Agreement ends.

**SECTION 28. ENTIRE AGREEMENT.** This Grant Agreement, including all exhibits, is intended as a full and complete expression of and constitutes the entire Grant Agreement between the Parties hereto with respect to the subject matter hereof and all prior and contemporaneous understandings, agreements, promises, representations, terms and conditions, both oral and written, are superseded and replaced by this Grant Agreement. By executing this Grant Agreement, Grantee agrees to strictly comply with the requirements and obligations of this Grant Agreement, including all exhibits.

**SECTION 29. COUNTERPARTS.** This Grant Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but such counterparts shall together constitute one and the same instrument.

**SECTION 30. NO FALSE STATEMENTS.** By signature to this Grant Agreement, Grantee makes all the representations, warranties, guarantees, certifications, and affirmations included in this Grant Agreement. If Grantee signs this Grant Agreement with a false statement or it is subsequently determined that Grantee has violated any of the representations, warranties, guarantees, certifications or affirmations included in this Grant Agreement, Grantee shall be in default under this Grant Agreement, and the OOG may terminate or void this Grant Agreement for cause, seek repayment for amounts distributed, and pursue other remedies available to the OOG under this Grant Agreement and applicable law.

**SECTION 31. OFFICIAL CAPACITY.** The Parties stipulate and agree that the signatories hereto are signing, executing and performing this Grant Agreement only in their official capacity:

**OFFICE OF THE GOVERNOR**

**«CompanyName»**

\_\_\_\_\_  
Chief of Staff or Designee

\_\_\_\_\_  
[Signatory Name]  
[Signatory Title]

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**EXHIBIT A.  
GRANT BUDGET  
«CompanyName»  
GRANT NO. [TANDF-#####]**

**Maximum Liability of the OOG.** The OOG and Grantee agree the total liability of the OOG to Grantee arising out of this Grant Agreement shall not exceed the following:

[GRANT AMOUNT SPELLED OUT] (\$[GRANT AMOUNT NUMERALS])

**Budget.** Subject to the limitations within this Grant Agreement, the OOG will reimburse Grantee for actual and allowable allocable costs paid according to the following amounts and budget categories:

| Budget Category                 | Grant Funds to Be Disbursed |
|---------------------------------|-----------------------------|
| Construction <sup>1</sup>       | «grantConstruction»         |
| Equipment <sup>2</sup>          | «grantEquip»                |
| Supplies and Materials          | «grantS&M»                  |
| Other Direct costs <sup>3</sup> | «grantDirectOp»             |
| <b>Total</b>                    | «grantBudgetNumeral»        |

**The OOG and Grantee shall agree, in writing, as a supplement to the above budget chart, to a Detailed Budget. The Detailed Budget shall provide more detail regarding line items in the associated cost categories. The Detailed Budget shall be considered a part of this Grant Agreement without further amendment to this Grant Agreement.**

**EXHIBIT B.  
GRANT NARRATIVE**

<sup>1</sup> **“Construction Costs”** means construction of new buildings or renovation of existing buildings (including the installation of fixed equipment, but excluding the cost of land acquisition and off-site improvements). New construction, or activities that would change the “footprint” of an existing facility (e.g., relocation of existing exterior walls, roofs, or floors, attachment of fire escapes) is considered an allowable construction cost.

<sup>2</sup> **“Equipment”** means tangible, nonexpendable personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost that exceeds the lesser of the capitalization level established by the grantee for financial statement purposes, or \$10,000. Applicant shall not give any security interest, lien or otherwise encumber any item of equipment purchased with grant funds. Applicant shall permanently identify all equipment purchased under the grant by appropriate tags or labels affixed to the equipment. Applicant shall maintain a current inventory of all equipment, which shall be available to the OOG at all times upon request, however, the title for equipment will remain with the applicant. Applicant will operate, maintain, repair, and protect all equipment purchased in whole or in part with grant funds so as to ensure the full availability and usefulness of such equipment for the purposes of the TANF grant award. In the event Applicant is indemnified, reimbursed, or otherwise compensated for any loss of, destruction of, or damage to the equipment purchased with grant funds, it shall use the proceeds to repair or replace said equipment.

<sup>3</sup> **“Other Direct costs”** are defined as those costs not included in either Equipment, Construction, or Supplies & Materials cost categories and which are directly related to the day-to-day operation of the grant project.

**«CompanyName»  
GRANT NO. [TANDF-#####]**

**Project description:**

**Project location and facilities:**

**Estimated project timeline and major benchmarks and milestones:**

**Description of how the project develops an advanced nuclear project in Texas:**

**Description of the project's contribution to the development and long-term sustainability of the nuclear energy ecosystem in Texas:**

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**Description of the project’s actual and potential benefits to Texas:**

**Description of how the project advances economic development and investment in Texas:**

**EXHIBIT C.**

**SPECIAL CONDITIONS**

Special Conditions are imposed by the OOG, in its sole discretion. In addition to the conditions identified in this exhibit to this Grant Agreement, the OOG may, in its sole discretion, impose additional special conditions, with or without notice, without amending this Grant Agreement.

The OOG may place Grantee on immediate financial hold, without further notice, until all Special Conditions, if any, are met.

The following Special Conditions apply to this Grant Agreement: [NONE; OR specify conditions]