

**COMMERCIAL REFRIGERATION GRANT AGREEMENT
BETWEEN THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND
[GRANTEE].**

This Grant Agreement by and between Massachusetts Department of Environmental Protection and the [Grantee], is dated as of the _____ day of _____, [YEAR].

RECITALS

WHEREAS, the Massachusetts Department of Environmental Protection (“Department” or “MassDEP”), is a duly constituted agency of the Commonwealth of Massachusetts established pursuant to M.G.L. c. 21A, § 7; and with its principal office at One Hundred Cambridge Street, Suite 900, Boston, Massachusetts 02114 and the [Grantee – includes name, address]; and

WHEREAS, the Climate Protection and Mitigation Expendable Trust (“Trust”) was created pursuant to M.G.L. c. 6A, § 6 and 801 CMR 50.00 et seq., and in furtherance of the greenhouse gas emissions reduction goals of M.G.L. c. 21N and the regulations promulgated thereunder at 310 CMR 7.74, Reducing CO₂ Emissions from Electricity Generating Facilities, and 310 CMR 7.75, the Clean Energy Standard (CES), including any amendments thereto, to further programs or projects to reduce greenhouse gas emissions in order to mitigate the impacts of climate change; and

WHEREAS, through its Commercial Refrigeration Grant Program (“Program”), MassDEP has issued a grant opportunity to provide financial incentives to increase the voluntary adoption of more climate-friendly low global warming potential (“GWP”) refrigerants by the retail food industry, food banks, and nonprofit institutions with commercial refrigeration equipment; and

WHEREAS, under the Program, MassDEP has awarded the [Grantee] a Commercial Refrigeration Grant (“Grant”) from the Trust, valued at up to \$ **grant**; and

WHEREAS, This Grant will assist the Grantee with installing commercial refrigeration equipment using low global warming potential (GWP) refrigerants to reduce greenhouse gas emissions; and

WHEREAS, Grant funds can only be used as awarded and as specified below for the design and installation of commercial refrigeration equipment at the facility, as approved by MassDEP. Grant funds shall only be used for the work activities and/or project (hereinafter “Project”) described in the attached Scope of Work (“Scope”); and

WHEREAS, in response to this grant opportunity, MassDEP has received a grant application from the Grantee; and

WHEREAS, MassDEP has conditionally approved the Grantee’s application; and

WHEREAS, MassDEP's final approval of the Grantee's application is contingent upon the full execution of this Agreement and additional contract documents, as specified herein, by MassDEP and the Grantee; and

WHEREAS, the term of the Grant shall be through XXXX;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, MassDEP and the **[Grantee]** (hereinafter collectively the "Parties") agree as follows:

AGREEMENT

1. **[Grantee]** (“Grantee”), as the recipient of the Grant award from MassDEP, accepts the Grant award pursuant to all terms of the Agreement, and subject to all terms and conditions set forth in MassDEP’s Commercial Refrigeration Grant Program Requirements (“Program Requirements”), dated [INSERT DATE], which is incorporated herein by reference, together with the Grantee’s grantee application and all supporting materials, and the Commonwealth Standard Contract Form, which incorporates by reference the Commonwealth Terms and Conditions.
2. Use of Grant Funds/Scope of Work: The Project’s Scope prepared by the Grantee and approved by MassDEP is attached hereto and incorporated hereby is a part of this Grant Agreement. The Grantee shall comply with all of the Scope’s terms and conditions. Grantee must obtain approval, in writing, from MassDEP for any Grantee-proposed changes in the Project Scope after the execution of this Grant Agreement.
3. Grant Term: The term of the Grant award shall be for a period of three (3) years from the effective date of the Parties’ execution of all required contract documents, unless otherwise agreed to in writing by the Parties through amendment to both the Standard Contract Form and this Agreement. The Grantee agrees to complete the Project as described in the Scope and shall ensure that the Project is operational prior to the contract end date of this Grant award.

RESPONSIBILITIES OF THE GRANTEE

4. Commonwealth Contract Requirements: The Grantee agrees to execute all Commonwealth Contract Forms, including the Commonwealth Standard Contract Form, which incorporates by reference the Commonwealth Terms and Conditions, and this Agreement, to finalize the Grant award.
5. Project Equipment Purchases: All equipment purchased for the Project shall be utilized only for the commercial refrigeration Project(s) at the Grantee’s facility, all as identified in the Scope, unless otherwise approved in writing by MassDEP. MassDEP reserves the right to require the Grantee to provide supporting documentation to substantiate compliance with this requirement.
6. Ineligible Project Costs: the following Grantee costs are not eligible for funding under this Program and shall not be reimbursed by MassDEP: administrative costs; costs to develop and submit application materials; costs to submit any reports or other documentation required under the program; workforce development activities (including but not limited any costs associated to partner with trade associations); and travel, food, and other costs unrelated to the goal and purpose of this Program, as determined by MassDEP in its sole discretion. Funding received under this Program shall not be used to meet any cost sharing obligation or any other cost obligations associated with any other MassDEP grant program.

7. Invoicing and Payments: All grant funds are disbursed on a reimbursement basis, after receipt of supporting documentation and upon review and written approval of MassDEP. The Grantee shall submit invoices to MassDEP for the reimbursement of approved expenditures, accompanied by all supporting documentation required by MassDEP. Invoices for the reimbursement of approved expenditures shall be accompanied by, at a minimum, the following documentation: proof of purchase in the form of an invoice which lists the vendor name and address, items or services purchased, and the total cost. MassDEP reserves the right to require, at its sole discretion, additional supporting documentation from the Grantee with respect to the review and approval of any request for reimbursement of Project costs. Grantees may request up to 20% of the funds upon ordering of equipment and an additional 70% of the funds upon delivery of the equipment, provided that at the time of submission of such request the Grantee has incurred such costs to be reimbursed. The final 10% of the funds shall be disbursed upon submission of the final report, as described below.

Grantee must obtain approval, in writing, from MassDEP for any reallocation of Project funds among existing categories or approved new budgeted tasks in advance of any such reallocation. The Grantee's final invoice for reimbursement shall be submitted to MassDEP no later than three (3) months from the end of the contract term, unless otherwise approved in writing by MassDEP.

8. Reporting: The Grantee shall submit quarterly progress reports in a form and manner prescribed by MassDEP on the Project deliverables, including but not limited to workforce development activities (if any), to MassDEP during the Project's development and implementation. At the end of the Project, the Grantee shall submit a final report in a form and manner prescribed by MassDEP and as specified in the Program Requirements, no later than three (3) months from the end of the contract term.

9. Inspection and Site Visit(s): The Grantee shall allow MassDEP personnel to visit and inspect the facility during the first three years of operation.

10. Property Rights: The Grantee shall be solely responsible to ensure the Project improvements and/or equipment against damage, theft or loss during the time in which said equipment is in the possession, custody, or control of the Grantee. The Grantee shall be considered the owner of any property bought for purposes of the Project. For the duration of this grant, the Grantee shall not sell, lease, loan or otherwise transfer rights or possession of the Project's equipment, as defined in the Scope, unless it has received prior written authorization from the Department.

11. Early Termination of the Project: In the event that the Grantee terminates its work on the Project prior to Grantee's completion of the Project, including, without limitation, completion of all requirements of this Grant Agreement, the Scope of Work and other written agreements or amendments to such agreements between MassDEP and the Grantee, regardless of the reason for such termination, the Grantee shall remain solely responsible for all outstanding financial investments it has committed towards the Project. In the event of Project termination, the Grantee shall provide written notice to MassDEP of such termination as soon as reasonably practicable, but in no case no later than two (2) days after the Project termination date; the Grantee's written notice may be sent to MassDEP by electronic mail. The Grantee shall receive

no reimbursement from MassDEP, and MassDEP shall not be financially obligated to reimburse the Grantee, for any financial investments made towards the Project as of the Project termination date, notwithstanding any other terms and conditions provided to the Grantee through the Grant contract award. In the event that the Grantee elects to terminate the Project, but fails to notify MassDEP in writing as required of the Project's termination, MassDEP reserves the right to seek all legal remedies available against the Grantee, including but not limited to the recovery of grant funds MassDEP had previously reimbursed to the Grantee on or after the date of Project termination.

12. Environmental Compliance: The Grantee acknowledges and agrees that the receipt of a Commercial Refrigeration Grant from MassDEP does not in any way imply that the Grantee is in full compliance with all applicable environmental statutes and/or regulations. This Grant Agreement shall not be construed as, nor operate as, relieving the Grantee or any other person of the necessity of complying with all applicable federal, state, and local environmental laws, regulations and approvals. The Grantee's facilities are subject to inspection at any time by MassDEP and the Grantee's noncompliance with applicable environmental statutes and/or regulations may result in formal enforcement actions, including penalties. Additionally, any refrigerant from systems that are replaced or retrofitted at existing facilities under this Program must be removed, treated, and disposed of in accordance with existing laws and regulations relative to refrigerant handling and disposal. MassDEP reserves the right to request supporting documentation demonstrating proper refrigerant handling and disposal prior to disbursement of grant funds for the Project.

13. Failure to Comply: If the Grantee fails to comply with any of its responsibilities identified in this Grant Agreement, the Commonwealth Standard Contract Form, the Commonwealth Terms and Conditions and/or the Program Requirements, MassDEP may, in its sole discretion, elect to impose one or more of the following remedies:

- (a) MassDEP may deny reimbursement to the Grantee for any unfinished Project deliverables and/or Project deliverables that fail to comply with the Scope requirements;
- (b) MassDEP may reduce and/or revoke the Grantee's award due to the failure to initiate, continue and/or complete the Project in accordance with all requirements; and/or
- (c) MassDEP may determine that the Grantee is ineligible to apply for another Commercial Refrigeration Grant opportunity for up to three years following its failure to comply with Program requirements.

In its discretion, MassDEP may provide written notice to the Grantee of its failure to comply with one or more of the grant requirements and provide a reasonable time period, based upon the facts and circumstances, for the Grantee to remedy its noncompliance, prior to electing one or more of the remedies set forth above. However, the provision of any written notice from MassDEP to the Grantee is not a precondition to MassDEP's right to select options (a), (b) and/or (c) above.

14. Publicity/Acknowledgement of MassDEP Grant: If the Grantee provides information about the Program to media outlets or engages in other publicity, the Grantee shall note that the refrigeration equipment was obtained through a grant from MassDEP and shall provide

MassDEP with advance notice of and the opportunity to edit/comment upon the contents of such publicity.

GENERAL PROVISIONS

15. Authority: The Signatories of this Grant Agreement expressly acknowledge that they are duly authorized by their respective entities to enter into this Grant Agreement.
16. Amendments: This Grant Agreement may be amended or otherwise modified only by written agreement executed by the Parties.
17. Governing Law: This Agreement shall be governed by the laws of the Commonwealth of Massachusetts.
18. Public Records Law: all documents provided by the Grantee to MassDEP under the Program, including but not limited to any reports and financial documents, shall constitute public records pursuant to the Public Records Law, G. L. c. 4, § 7(26) and G. L. c. 66, § 6A, and, unless otherwise exempted under that law, may be provided to a party properly requesting such records.
19. Authorization for Agreement Execution in Multiple Counterparts: The Parties expressly authorize and agree that this Agreement may be executed in one or more counterpart originals by the authorized signatories, all of which when executed shall constitute a single executed and legally binding Agreement.
20. Authorization of the use of Electronic Signatures for Agreement Execution: The Parties expressly authorize and agree that the execution of this Agreement, or any amendments thereto, by its authorized signatories through the use of Electronic Signatures, whether digital or encrypted, are intended to and will have the legal effect of authenticating this Agreement and will have the same force and effect as manual signatures.

IN WITNESS WHEREOF, this Grant Agreement is executed in the name of each of the parties hereto by a duly authorized representative of each such party as of the date first written above.

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

BY:

**Christine Kirby, Assistant Commissioner, Bureau of Air and Waste
Massachusetts Department of Environmental Protection**

Date

[GRANTEE]

BY:

Print Name

Title

Signature

Date

ATTACHMENT: SCOPE OF WORK