

REIMBURSABLE GRANT AGREEMENT

THIS REIMBURSABLE GRANT AGREEMENT (“Agreement”) is entered into this _____ day of _____, 202█ (“Effective Date”), by and between the **Maryland Technology Development Corporation** (“Grantor”), a body politic and corporate and a public instrumentality of the State of Maryland (the “State”), and _____, a <State of formation> <form of business organization> (“Grantee”).

RECITALS

A. The Grantor has created its Rural & Underserved Business Recovery from Impact of COVID-19 (RUBRIC) Program (the “Program”) to assist Maryland technology companies that have been detrimentally impacted by the COVID-19 pandemic and its associated economic downturn, and are either considered socially or economically disadvantaged or are located in rural areas of the State.

B. Grant proceeds under the Program shall be used to defray the cost of attracting/retaining jobs, attracting/retaining customers, and helping sustain companies having difficulties raising capital associated with the COVID-19 pandemic.

C. Grantee has applied to Grantor for grant assistance to undertake activities which are consistent with the aforementioned goals. Grantor, in reliance upon the representations contained in Grantee’s application which is attached hereto and, to the extent that it is consistent herewith incorporated herein, as Exhibit A (the “Application”), has approved an award of grant funds to be expended by Grantee in accordance with the provisions of this Agreement.

IN CONSIDERATION of the mutual promises and covenants contained in this Agreement, the parties agree as follows:

1. **Purpose.** The purpose of this Agreement is to provide the Grantee with funds which will enable the Grantee to carry out the activities described in Exhibit A (the “Project”).

2. **Grant.** In consideration of the various obligations to be undertaken by Grantee pursuant to this Agreement, Grantor agrees to provide Grantee with funds in an amount not to exceed █ Thousand and 00/100 Dollars (\$█) (the “Grant”) on such further terms and conditions as are described in this Agreement. Grantee shall accept and use the Grant only for costs incurred in carrying out the Project as described in, and pursuant to any budget contained in, Exhibit A, which costs shall constitute “Eligible Expenses”. The Grant is subject to the availability of funds for such purpose, as determined by Grantor in its sole discretion, and to Grantee’s compliance with this Agreement.

3. **Disbursement of Grant Funds.**

(a) Grantor will disburse Grant funds as follows: (i) as promptly as is practicable following the execution of this Agreement, a sum equal to 50% of the Grant (the “Initial Disbursement”); and (ii) as promptly as is practicable following Grantor’s receipt and

acceptance of the Initial Activity Report (as defined in Section 4(d)), a sum equal to the balance of the Grant.

(b) The Grantor reserves the right not to disburse all or any portion of the Grant if in the Grantor's sole discretion Grantee is in default under this Agreement.

4. **Records and Reports.**

(a) The Grantor shall monitor Grant activities and compliance with the terms and conditions of this Agreement. It shall receive and review Grant reports and may, in its sole discretion, decline to accept any Grant report which does not demonstrate satisfactory progress towards completion of the Project or otherwise comply with this Section 4.

(b) Grantee shall maintain accurate financial records, in a form acceptable to Grantor, of all transactions relating to the receipt and expenditure of the Grant.

(c) Grantee shall allow any auditors of the Grantor or legislative auditors of the Maryland General Assembly to inspect and audit, at reasonable times, all records and documents relating to this Grant, which records shall be retained for at least three years after the termination of this Agreement.

(d) Within six (6) months after the Effective Date, Grantee shall submit to Grantor an Initial Activity Report detailing the Project activities and results to date, and an accounting of all expenditures made from the Initial Disbursement and their impact on the Grantee.

(e) Within twelve (12) months after the Effective Date, Grantee shall submit to Grantor a Second Activity Report which shall include an overview of all activities undertaken during the Project, a detail description of the results of the Project, and an accounting of all Project expenditures made from the Grant and their impact on the Grantee.

(f) Beginning six (6) months after the Effective Date and continuing quarterly thereafter so long as Grantee owes Grantor any reimbursement duties pursuant to Section 8 of this Agreement, Grantee shall forward to Grantor a "Quarterly Financial Report" in such form and containing such content as shall be specified by Grantor from time to time, and accompanied by such additional documentation as Grantor may reasonably request.

(g) Grantee will identify to Grantor any parts of Exhibit A or the reports required by this Agreement which are alleged to contain confidential or proprietary information of a Grantee or any other person ("Identified Confidential Information"). To the extent reasonably permitted by the Maryland Public Information Act, Grantor agrees to hold such Identified Confidential Information in confidence for five (5) years from the date of its disclosure to Grantor. Notwithstanding the foregoing, Grantor shall not be obligated to maintain in confidence any information: (i) which was already known to Grantor; or (ii) which is or comes into the public domain through no fault of Grantor; or (iii) which is independently developed by

Grantor; or (iv) which comes to Grantor from a third party which is not in violation of any obligation of confidentiality to a Grantee or Grantor.

5. **Expenditure of Grant Funds.** All expenses to be financed with the Grant funds shall be incurred on or before twelve (12) months after the Effective Date, unless a written waiver is requested and approved by Grantor on or before this date.

6. **Compliance with Applicable Law.**

(a) Grantee agrees to comply with all applicable federal, State, and local law.

(b) Grantee certifies that it prohibits, and covenants that it shall continue to prohibit, discrimination on the basis of: (i) political or religious opinion or affiliation, marital status, race, color, creed, or national origin; or (ii) sex or age, except when age or sex constitutes a bona fide occupational qualification; or (iii) the physical or mental disability of a qualified individual with a disability.

7. **Grantee's Certifications.** Grantee hereby certifies to Grantor that:

(a) Any resolution or other action which may be required to authorize the execution and delivery of this Agreement by Grantee in such manner and form as to comply with all applicable laws to make this Agreement the valid and legally binding act and agreement of Grantee has been properly taken;

(b) The representations, statements, certifications and other matters contained in the Application are, and shall remain, true and complete in all material respects, and that the Grantee is, and shall remain, in compliance with all eligibility requirements of the Program; and

(c) It is not in arrears with respect to the payment of any moneys due and owing the state of Maryland, or any department or unit thereof, including, but not limited to, the payment of taxes and employee benefits, and that it shall not become so during the term of this Agreement.

8. **Reimbursement to Program.** Grantee shall reimburse Grantor as follows:

(a) For purposes of this Agreement, the term "Quarterly Revenues" shall have the following meaning: "Quarterly Revenues" shall mean the Grantee's gross sales or service revenues for each quarter *excluding* revenues which, in the sole determination of Grantor, are from activities related to sponsored research or development not resulting in the sale or delivery of a product or service in what would be Grantee's commercial business activities. Examples of such exclusions include, but are not limited to, MIPS investments, SBIR grants, CRADA agreements, research and development grants from public or private agencies or foundations, or fees for services rendered directly in connection with corporate sponsored research and development contracts covering specific activities. "Quarterly Revenues" shall further *exclude* income which, in the sole determination of Grantor, is deemed to constitute the proceeds of grants or investments.

(b) Except as may be otherwise provided in Subsection (c) below, beginning six (6) months after the Effective Date (the “First Payment Date”), and continuing quarterly thereafter until five (5) years after the First Payment Date, or until the total of all Quarterly Revenue Payments made shall equal one hundred-fifty percent (150%) of the Grant, whichever shall first occur, Grantee shall, contemporaneously with the filing of its Quarterly Financial Reports pursuant to Section 4(f) above, tender a payment to Grantor (the “Quarterly Revenue Payment”) in an amount equal to three percent (3%) of the Grantee’s Quarterly Revenues for the quarter immediately preceding the payment date (i.e. Revenue Payment = 3% x Quarterly Revenues for preceding quarter).

(c) Notwithstanding the foregoing provisions of Subsection (b) above, the Grantee’s reimbursement obligation shall be reduced as follows:

- (i) If repaid in full on or before one year after the First Payment Date, the total repayment amount due from the Grantee will be a sum equal to the Grant.
- (ii) If not repaid in full by one year after the First Payment Date, but on or before two years after the First Payment Date, the total repayment amount due from the Grantee will be a sum equal to one hundred ten percent (110%) of the Grant.
- (iii) If not repaid in full by two years after the First Payment Date, but on or before three years after the First Payment Date, the total repayment amount due from the Grantee will be a sum equal to one hundred twenty per cent (120%) of the Funds.
- (iv) If not repaid in full by three years after the First Payment Date, but on or before four years after the First Payment Date, the total repayment amount due from the Grantee will be a sum equal to one hundred thirty per cent (130%) of the Funds.
- (v) If not repaid in full by four years after the First Payment Date, but on or before five years after the First Payment Date, the total repayment amount due from the Grantee will be a sum equal to one hundred forty per cent (140%) of the Grant.

9. **Default and Remedies.**

(a) A default shall consist of: (i) any use of Grant funds for any purpose other than as authorized by this Agreement; or (ii) any breach of any covenant, agreement, provision, representation or warranty of Grantee which was made in this Agreement, including a failure to file any report in accordance with Section 4.

(b) Upon the occurrence of any default, the Grantor may immediately suspend Grantee’s authority to receive any Grant funds at any time by notice to Grantee.

(c) If a default occurs, Grantor shall provide written notice of default to and Grantee shall have 30 days from the date Grantor's notice was postmarked to cure the default.

(d) In the event of termination for default:

(i) Grantee's authority to request a disbursement shall cease, Grantee shall have no right, title or interest in or to any of the Grant funds not disbursed, and Grantor may immediately demand repayment of all or a portion of the Grant funds which have been disbursed, although Grantee may avail itself of any applicable prepayment rights set forth in Section 8(c);

(ii) Grantor's remedies described above may be exercised contemporaneously with each other and with remedies pursuant to Section 9(e) below, and all of such rights shall survive the termination of this Agreement.

(e) If a default occurs, Grantor may at any time proceed to protect and enforce all rights available to Grantor, by suit in equity, action at law, or by any other appropriate proceedings, which rights and remedies shall survive the termination of this Agreement.

10. **Indemnification.** Grantee releases the Grantor from, agrees that Grantor shall not have any liability for, and shall to protect, indemnify and save harmless Grantor from and against any and all liabilities, suits, actions, claims, demands, losses, expenses and costs of every kind and nature incurred by, or asserted or imposed against, Grantor as a result of or in connection with the Grant. Notwithstanding the foregoing, Grantee will not be required to defend or indemnify Grantor with respect to losses or expenses caused by Grantor's own negligence or willful misconduct.

11. **Press Releases and Promotional Materials.** Grantor may issue press releases or other promotional materials describing in general terms the award of Grant funds and the specific purposes for which the Grant funds were awarded.

12. **Assignment.** Grantor has the right to assign any or all of its rights and/or delegate any or all of its duties under this Agreement. No right, benefit or advantage inuring to Grantee under this Agreement may be assigned, and no duty imposed on Grantee hereunder may be delegated, without the prior written approval of Grantor.

13. **Amendment.** This Agreement, or any part, may be amended from time to time only in writing executed by the parties.

14. **Entire Agreement.** This Agreement, and any exhibits incorporated herein, constitutes the entire agreement between the parties and supersedes all prior or contemporaneous oral or written agreements between the parties hereto with respect to the Grant.

15. **Effective Date.** This Agreement shall be accepted and executed by Grantee

and forwarded to Grantor for final execution. The effective date of this Agreement shall be the date Grantor enters on the face of this Agreement. This Agreement shall be in effect from the date of execution and until all Grantee's obligations under the Agreement have been satisfied, including but not limited to the reporting provisions of Section 4 and the reimbursement provisions of Section 8.

AS WITNESS, the hands of the parties hereto as of the day and year first above written.

WITNESS:

GRANTEE

Name: _____
Title: _____

By: _____
Name: _____
Title: _____

WITNESS:

**MARYLAND TECHNOLOGY
DEVELOPMENT CORPORATION**

Name: _____
Title: _____

By: _____
Troy A. LeMaile-Stovall
Executive Director & CEO

Approved for form and legal sufficiency:

Ira Schwartz, Esq., TEDCO Gen'l. Counsel
Office of the Attorney General

Attachment: Exhibit A- Application

Exhibit A – Application
(see attached)