

Subgrant Agreement

This is a Subgrant Agreement (“Agreement”), dated as of _____, 20__, between _____ (“Client”), a California nonprofit corporation, and _____ (“Subgrantee”), a [_____].

Background

Client is a nonprofit organization whose mission is to [_____]. Client is party to an agreement (“Funding Agreement”) with a funder identified in **Exhibit A** (“Project Plan”) and attached as **Exhibit B**. In carrying out its activities under the Funding Agreement, Client will disburse funds to Subgrantee for the work (“Project”) described in the Project Plan. This Agreement set out the basis on which Subgrantee will do that work and Client will make such disbursements.

Client and Subgrantee agree as follows:

1. Project Funds and Compliance

1.1 Funds Payment

Client will disburse funds (“Funds”) to Subgrantee as described in the Project Plan. Subgrantee will, upon Client’s request, refund any unused portion of the Funds if Subgrantee does not complete its work as described in, and on the timeframe set out in, the Project Plan.

1.2 Use of Funds

Subgrantee will use Funds solely as described in the Project Plan. Subgrantee will not use Funds or any income earned from investment of Funds to influence any election, to engage in any political or other activity that is prohibited by Internal Revenue Code Section 501(c)(3), or to support any person or organization engaged in terrorist activity.

1.3 Report and Materials

Subgrantee will provide such reports, documents, and royalty-free licenses as contemplated by the Project Plan or as Client may otherwise request in connection with Project execution and compliance with the Funding Agreement. Subgrantee acknowledges that Client is relying on information provided by Subgrantee for purposes of complying with the Funding Agreement and for other matters relating to the Project.

1.4 Compliance with Funding Agreement

Subgrantee will comply with all provisions of the Funding Agreement relevant to the Project and related activities, including funds use, reporting, licensing, open-access, and attribution requirements. Subgrantee will be bound to Client to the same extent that Client is bound by to the grantor under the Funding Agreement. If there are any inconsistencies between the Funding Agreement and this Agreement or the Project Plan, the Funding Agreement will control.

2. Project Execution

2.1 Project Activities

Subgrantee will carry out the Project in accordance with this Agreement, the Funding Agreement, and applicable law.

2.2 Project Contacts

Client and Subgrantee will each appoint one individual to act as the principal contact person and to coordinate activities in connection with the Project. The initial appointees are identified in the Project Plan.

2.3 Recordkeeping

Subgrantee will maintain records relating to its Project responsibilities as contemplated by the Project Plan and in a manner such that Client can evaluate Subgrantee's compliance with this Agreement and the Funding Agreement. Subgrantee will make those records available for review by Client on reasonable notice during the term of this Agreement and for a period of three (3) years after its termination. Subgrantee will reasonably cooperate with Client in providing information in connection with any funder, financial or tax audit, or similar matter, in which Client is engaged.

2.4 External Communications

For consistency of communication, except as contemplated by the Project Plan or as required by law, neither Client nor Subgrantee will issue any public statement (including statements on its website) relating to the Project, or use each other's trademarks or logo in any promotional materials, or in any website, press release, or public communication, without obtaining the other's prior written consent.

2.5 Responsibility for Actions

Subgrantee will have sole responsibility for planning and carrying out its activities. Subgrantee will have sole responsibilities for hiring, monitoring, and paying any employees, and for its contracts with third parties. Client will not assume any liability for the performance by Subgrantee of its contracts or of any of its other obligations. Subgrantee acknowledges that conduct of Subgrantee and its agents, if any, and any other legal obligations of Subgrantee, are the sole responsibility of Subgrantee.

2.6 Confidentiality

Each of Subgrantee and Client will use the other's Confidential Information (as defined below) only in connection with activities under this Agreement and will keep it confidential, using at least the same degree of care each uses to prevent the unauthorized use or disclosure of its own confidential information. "Confidential Information" means all information, in any form, relating to one party and furnished to or obtained by the other under this Agreement including, without limitation, employee and client data, personal health or financial data, budget and other financial data, information about funding, product plans and strategies, technical data and research, and know-how. It does not include information which: (a) is or becomes generally available to the public other than as a result of a disclosure by the receiving party; (b) was known by the receiving party prior to its being furnished by the disclosing party; (c) is or becomes available to the receiving party on a non-confidential basis from a source other than the disclosing party; or (d) is independently developed by the receiving party. All Confidential Information furnished under this Agreement is and will remain the property of the disclosing party.

2.7 Adverse Developments

Subgrantee will notify Client promptly of: (a) any changes in Subgrantee's status as a nonprofit corporation in good standing under local law or as a tax-exempt public charity under Section 501(c)(3) of the Internal Revenue Code; (b) any changes in its senior management team or key personnel responsible for carrying out the Project; (c) loss of other funding, the filing of any litigation, or any other development that has, or could have, a materially adverse effect on Subgrantee's financial condition, or otherwise materially affect its ability to carry out the Project or its other obligations under this Agreement; or (d) any material changes in Project design or implementation.

3. Insurance and Indemnification

3.1 Insurance

Subgrantee will carry or obtain the insurance, if any, specified in the Project Plan.

3.2 Indemnification of Client

Subgrantee will defend, indemnify, and hold Client and Client's directors, officers, employees, agents, and assigns (collectively, "Client Parties"), harmless against all third party claims, liabilities, losses, damages, and expenses, including, without limitation, reasonable attorneys' fees and expenses, plus penalties and interest, any Client Party may suffer and which arise directly or indirectly from: (a) Subgrantee's execution of the Project; (b) Subgrantee's breach of this Agreement or the Funding Agreement; or (c) actions by Subgrantee that cause Client to be in breach of the Funding Agreement. Subgrantee will have no obligation to indemnify any Client Party to the extent the liability is caused by such Client Party's gross negligence or willful misconduct.

4. Termination

4.1 Termination by Client

Client may in its sole discretion terminate this Agreement at any time if (i) Subgrantee uses the Funds for any purpose other than as stated in the Project Plan; (ii) Subgrantee makes any misrepresentation in any report or other document delivered or statement made to Client; or (iii) the Funding Agreement terminates by reason of grantor action or otherwise. If Client take such action, Client will send Subgrantee a written notice to that effect, with the termination effective ten (10) days after Client delivers it.

4.2 Termination for Breach

If either party materially breaches any of its obligations under this Agreement, the non-breaching party may provide the breaching party with written notice of the material breach. If the breaching party fails to cure the breach within fifteen (15) days after receipt of such notice, the non-breaching party may terminate this Agreement effective immediately upon delivery to the breaching party of a written notice to that effect. The non-breaching party may in its reasonable discretion determine whether the breach has been cured.

4.3 Effect of Termination

Subgrantee upon Client's request will repay to Client any unused portion of the Funds within thirty (30) days after the effective date of termination. In addition, Client and Subgrantee will each, upon the request of the other, return or destroy the other's Confidential Information in its possession. Client and Subgrantee will cooperate in transition activities and will use reasonable efforts to minimize interruption and any adverse impacts of the termination. Sections 1.1, 2.3, 2.4, 2.6, 3.2, 4.3, and 5 will survive the expiration or termination of this Agreement.

5. General Provisions

5.1 Entire Agreement

This Agreement, together with the Project Plan and any other exhibits, expresses the final, complete, and exclusive agreement between Subgrantee and Client, and supersedes any and all prior or contemporaneous written and oral agreements, arrangements, negotiations, communications, course of dealing, or understanding between Subgrantee and Client relating to its subject matter. If there are any inconsistencies between the Project Plan and this Agreement, this Agreement will control.

5.2 Amendment

This Agreement may be amended only as stated in and by a writing signed by both Subgrantee and Client which recites that it is an amendment to this Agreement.

5.3 Severability

If any provision in this Agreement is held invalid or unenforceable, the other provisions will remain enforceable, and the invalid or unenforceable provision will be considered modified so that it is valid and enforceable to the maximum extent permitted by law.

5.4 Waiver

Any waiver under this Agreement must be in writing and signed by the party granting the waiver. Waiver of any breach or provision of this Agreement will not be considered a waiver of any later breach or of the right to enforce any provision of this Agreement.

5.5 Independence

Client and Subgrantee are and will remain independent contracting parties. The arrangements contemplated by this Agreement do not create a partnership, joint venture, employment, fiduciary, or similar relationship for any purpose. Neither Client nor Subgrantee has the power or authority to bind or obligate the other to a third party or commitment in any manner. Any use of the term "partner" or comparable term in any communications is solely for convenience.

5.6 Assignment

Subgrantee may not assign its rights or delegate its duties under this Agreement to anyone else without the prior written consent of Client.

5.7 Notices

Notices and consents under this Agreement must be in writing and delivered by mail, hand delivery, fax, or e-mail to the contact persons set out in the Project Plan. These addresses may be changed by written notice to the other party.

5.8 No Third Party Beneficiaries

Except as provided in Section 3.2, this Agreement is for the exclusive benefit of Subgrantee and Client and not for the benefit of any third party, including, without limitation, any client, employee, affiliate, subcontractor, or vendor of Subgrantee or Client.

5.9 Governing Law

This Agreement will be governed by California law.

5.10 Counterparts

This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which will be taken together and deemed to be one instrument. Transmission by fax or PDF of executed counterparts constitutes effective delivery.

Client and Subgrantee signed this Agreement as of the date stated in its first paragraph.

[Client]

[Name of Subgrantee Entity]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Exhibit A Project Plan

Subgrantee contact

Subgrantee name	
Subgrantee address	
Subgrantee contact person	Name: Title: E-mail: Telephone:

Client contact

Client address	
Client contact person	Name: Title: E-mail: Telephone:

Funding agreement

Funder name	[insert funder name]
Funding purpose	[describe broad purpose of grant]

Funds disbursement to and use by Subgrantee

Term	Description
Amount	[insert total amount of disbursement]
Payment method	[insert check or wire transfer]
Payment schedule	[insert payment dates; may be a lump sum on one date, or multiple distributions; consider corresponding installment payments to dates deliverables or progress reports are due]
Project purpose	[state purpose of funding]
Project activities and deliverables	[describe Subgrantee activities, deliverables, and timeline]
Subgrantee recordkeeping requirements	[timesheets, segregated general ledger accounts, supervision procedures, etc.]

Progress reports and due dates (if any)	[describe any progress reporting requirements, required formats, and due dates]
Final report due date (if any)	[describe final report requirement, if any, and due date]

Other matters

External communications	[describe PR plan if any]
Subgrantee insurance	[describe Subgrantee insurance obligation, if any, including coverage, additional insured requirements, and documentation]
Other	[set out other agreements, if any]

Exhibit B
Funding Agreement (copy attached)