

**GRANT AGREEMENT BETWEEN
DEL MAR FOUNDATION AND**

This Grant Agreement is entered into between Del Mar Foundation, a **Non-Profit California Corporation** and _____ (Grantee) on _____.

WHEREAS, on _____ the Del Mar Foundation allocated the grant funding set forth in this Agreement for the purpose described in this Agreement.

NOW, THEREFORE, the parties agree as follows:

1. **Purpose of Grant.** Grantee shall use the grant funds provided by Del Mar Foundation under this Agreement solely for the following purpose:
2. **Term of Agreement.** The term of this Agreement shall be _____ through _____
3. **Time Period for Use of Grant Funds and Documentation of Expenditures.**
 - a) **Grantee shall spend all grant funds provided by Del Mar Foundation for the purposes specified in Paragraph 1 before the end of the Term of Agreement.**
 - b) **Grantee shall complete a report (Documentation of Grant Expenditures) setting forth Grantee's total actual expenditures of the grant funds provided under this Agreement. Grantee shall submit this documentation to the Del Mar Foundation's Administrator promptly after spending the grant funds, but in no event later than 30 days after the end of the Term of Agreement specified above.** If the parties agree to extend the Term of Agreement, Grantee shall submit this expenditure documentation not later than 30 days after the end of the extended Term. If Del Mar Foundation's Administrator requests additional information regarding Grantee's expenditure of the grand funds, Grantee shall promptly submit the requested information to Del Mar Foundation's Administrator.
 - c) If after reviewing Grantee's expenditure documentation, the Del Mar Foundation's Administrator:
 - (i) determines that the Grantee failed to spend all of the grant funds,
 - (ii) disallows any expenditure by Grantee, or
 - (iii) determines that the grant funds provided exceed Grantee's total actual expenditures authorized under this agreement,

Grantee shall refund to the Del Mar Foundation the amount specified by the Del Mar Foundation's Administrator. Grantee shall make this refund within seven days after receiving a written request for refund from the Del Mar Foundation's Administrator. In its sole discretion, the Del Mar Foundation may offset the refund amount from any payment due to or to become due to Grantee under this Agreement or any other agreement with the Del Mar Foundation.

d) If Grantee fails to provide the required documentation of expenditures as required in Subparagraph (b) above, the Del Mar Foundation's Administrator may request Grantee to refund to the Del Mar Foundation all or any portion of the grant funds provided under this Agreement. Within seven days of receipt of a written request for a refund, Grantee shall refund to the Del Mar Foundation the amount specified by the Del Mar Foundation's Administrator.

e) If Grantee incurs expenses before the Del Mar Foundation pays the grant under this Agreement, the Del Mar Foundation will reimburse Grantee in an amount not to exceed the amount specified in Paragraph 4 upon submission of documentation to the Del Mar Foundation's Administrator setting forth Grantee's actual expenditures for the purpose specified in Paragraph 1 and approval of the documentation by the Del Mar Foundation's Administrator.

4. Amount of Grant. The Del Mar Foundation agrees to pay Grantee a grant of \$. Under no circumstances is the Del Mar Foundation obligated to pay Grantee more than this amount. Del Mar Foundation shall pay Grantee within 10 business days after Del Mar Foundation receives a signed copy of this Agreement from Grantee.

5. Administrator of Agreement.

The Administrator of this agreement on behalf of the Del Mar Foundation is: _____.

6. Notice. All communications from Grantee to the Del Mar Foundation shall be sent to the Del Mar Foundation, ATTN Grants Committee, at the address listed below. Any notice or notices required or permitted to be given pursuant to this Agreement shall be served by certified mail, postage prepaid, return receipt requested, to the following addresses:

Del Mar Foundation
ATTN Grants Committee
P.O. Box 2913
Del Mar, CA 92014

Grantee:

7. **Audit and Inspection of Records.** Upon reasonable notice, the Grantee shall make available to the Del Mar Foundation for examination all of its records with respect to all matters covered by this Agreement and will permit the Del Mar Foundation to audit, examine and make excerpts or transcripts from such records, and make audits of all invoices, materials, payrolls, records of personnel and other data relating to all matters covered by this Agreement. Unless otherwise specified by the Del Mar Foundation, said records should be made available for examination within San Diego County. Grantee shall maintain such records in an accessible location and condition for a period of not less than four years following receipt of final payment under this Agreement unless Del Mar Foundation agrees in writing to an earlier disposition.

8. **Termination of Agreement for Cause.** If Grantee fails to perform its obligations according to this Agreement, the Del Mar Foundation may send Grantee a written notice of default that specifies the nature of the default. Grantee shall cure the default within five business days following receipt of the notice of default. If Grantee fails to cure the default within that time, the Del Mar Foundation may terminate this Agreement by giving Grantee written notice of immediate termination. Upon termination, Grantee shall promptly provide Del Mar Foundation's Administrator with Documentation of Grant Expenditures setting forth Grantee's total actual expenditures for the purpose of the grant as of the effective date of termination. Grantee shall promptly refund to the Del Mar Foundation all funds Del Mar Foundation paid to Grantee under this Agreement that exceed Grantee's total actual expenditures for the purpose of the grant, as determined by Del Mar Foundation's Administrator, as of the effective date of termination. The Del Mar Foundation may also seek any and all legal and equitable remedies against Grantee for breaching this Agreement.

9. **Assignment.** Grantee shall not assign or transfer any interest in this Agreement (whether by assignment or novation), without the prior written consent of the Del Mar Foundation.

10. **Interest of Grantee.** Grantee covenants that Grantee presently has no interest, including, but not limited to, other projects or independent contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with Grantee's completing the purpose of the grant as specified in Paragraph 1. Grantee further covenants that in the performance of this Agreement, no person having any such interest shall be employed or retained by Grantee.

- 11. Publication, Reproduction and Use of Material; Acknowledgement of Grant.** The Del Mar Foundation shall have unrestricted authority to publish, disclose, distribute, and otherwise use, in whole or in part, any reports, data or other materials prepared under this Agreement, and to publicize the awarding of the grant the subject of this agreement. Grantee agrees to acknowledge this grant in its publications and printed publicity materials and on its website or in other electronic media, to the extent practicable. [INSERT DETAILS OF PUBLICITY/ACKNOWLEDGEMENT PROVISIONS HERE – E.G., DISPLAY OF BANNER AT EVENT, INCLUSION IN PRINTED PROGRAM]
- 12. Insurance, Defense and Indemnity.** Grantee shall maintain such insurance as will fully protect both Grantee and Del Mar Foundation from any or all claims under any workers' compensation act or employer's liability laws, and from any and all claims of whatsoever kind or nature for the damage to property or for bodily injury, including death, made by anyone whomsoever which may arise from operations carried on under this Agreement, either by Grantee or by anyone directly or indirectly engaged or employed by Grantee. Del Mar Foundation shall not be liable for, and Grantee shall defend and indemnify Del Mar Foundation and its officers, agents, employees and volunteers (collective, "Del Mar Foundation Parties") against any and all claims, deductibles, self-insured retentions, federal, state or local taxes or contributions, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including attorneys' fees and court costs (collectively, "Claims"), which arise out of or are in any way connected to Del Mar Foundation's provision of funds and/or Grantee's use of Del Mar Foundation funds under this Agreement arising either directly or indirectly from any act, error, omission, or negligence of Grantee or its officers, employees, agents, contractors, licensees or servants, including without limitation, Claims caused by the concurrent negligent act, error, omission, whether active or passive, of Del Mar Foundation Parties.
- 13. Independent Capacity.** In the performance of this Agreement, Grantee and its agents, employees and volunteers shall act in an independent capacity and not as officers, employees, agents or volunteers of the Del Mar Foundation. This Agreement does not create an employment relationship between Grantee and the Del Mar Foundation.
- 14. Governing Law.** This Agreement shall be construed and interpreted according to the laws of the State of California.
- 15. Complete Agreement.** This Agreement constitutes the entire agreement between Grantee and Del Mar Foundation regarding the subject matter contained herein. All other representations, oral or written, are superseded by this Agreement. Neither party is relying on any representation outside of this Agreement. This Agreement may be changed only by written amendment signed by both parties.

16. **Waiver.** The failure of either party to enforce any term, covenant or condition of this Agreement shall not be construed as a waiver of that party's right to subsequently enforce this, or any other term, covenant or condition of this Agreement. No waiver shall be deemed effective unless the waiver is expressly stated in writing and signed by the party waiving the right or benefit.
17. **Consultation with Counsel.** Each party has had the opportunity to consult with independent legal counsel of its own choosing before executing this Agreement and has executed this Agreement without fraud, duress, or undue influence of any kind.
18. **Interpretation.** The provisions of this Agreement shall be liberally construed to effectuate its purpose. The language of all parts of this Agreement shall be construed simply according to its plain meaning and shall not be construed for or against either party.
19. **Corporation Qualified to Do Business in California.** If Grantee is a California corporation, Grantee warrants that it is a corporation in good standing and is currently authorized to do business in California.
20. **Terms and Conditions Survive Expiration of Term of Agreement.** Unless otherwise specified herein, all terms and conditions of this Agreement shall survive the expiration of the Term of Agreement specified in Paragraph 2 above.
21. **Remedies.** Unless otherwise expressly provided herein, the rights and remedies in this Agreement are in addition to, and not a limitation on, other rights and remedies under this Agreement, at law or in equity, and exercise of one right or remedy shall not be deemed a waiver of any other right or remedy.

WHEREFORE, the parties execute this Agreement on the date first written above

DEL MAR FOUNDATION

GRANTEE

By:

By:

[Note: Person signing on behalf of Grantee must be authorized by Grantee's Board of Directors to sign this Agreement and must be same person Grantee listed in its Grant Application as being authorized to sign.]

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