



GRANT AGREEMENT

THIS GRANT AGREEMENT (this “Agreement”) is entered into as of **[DATE]** (the “Effective Date”) by and between Green Building Alliance (“GBA”), a Pennsylvania nonprofit corporation located at River Walk Corporate Centre, 33 Terminal Way, Suite 331, Pittsburgh PA, 15219 and **[COMPANY]**, a **[STATE OF ORGANIZATION] [TYPE OF ORGANIZATION]** located at **[ADDRESS]** (the “Recipient”).

W I T N E S S E T H:

WHEREAS, GBA is 501(c)(3) nonprofit corporation organized for the purpose of, among other things, promoting and encouraging the development of green building and green building practices for the social and economic benefit of Western Pennsylvania; and

WHEREAS, GBA has received funds from the Commonwealth of Pennsylvania acting through the Ben Franklin Technology Development Authority (together, the “Commonwealth”), and other private sources for the administration, management, and fiscal responsibility for all programs and project requirements of the Pennsylvania Green Growth Partnership (the “PAGGP”); and

WHEREAS, the activities of GBA will include the awarding of grants to recipients to support and encourage industry-led applied research and innovation that is intended to lead to the commercialization of new or improved green building products (the “GBA Grant Program”); and

WHEREAS, in connection with the GBA Grant Program, the Recipient has submitted to GBA a grant proposal as set forth on Exhibit A hereto that describes the research and development activities proposed to be completed with the grant funds awarded under the GBA Grant Program (the “Proposal”); and

WHEREAS, in connection with the research and development activities described in the Proposal, the Recipient has entered into, or intends to enter into, an agreement with **[NAME OF UNIVERSITY DEPARTMENT AND/OR CENTER AND NAME OF UNIVERSITY]** (the “Partner”), a copy of which is attached hereto as Exhibit B (the “Partner Agreement”), whereby the Partner will provide certain consulting, technical and professional services; and

WHEREAS, GBA has reviewed and approved the Proposal and has awarded a Grant (as defined in Section 1.1 below) to the Recipient subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and intending to be legally bound hereby, the parties enter into this Agreement under the terms and conditions hereinafter set forth.

1. THE GRANT

1.1 **The Grant.** GBA has reviewed the Recipient's Proposal, as set forth in Exhibit A and incorporated into this Agreement by reference, and has approved a grant to the Recipient in the amount of **[VERBAL GRANT AMOUNT] [(\$NUMERICAL GRANT AMOUNT)]** for use by the Recipient to fund up to fifty percent (50%) of the allowable costs of the research and development activities as set forth in the Proposal (the "Grant").

1.2 **Use of Grant.** The Grant may be used to pay for the following allowable costs:

- (a) Direct costs of personnel and supplies directly related to the research and development described in the Proposal.
- (b) Direct costs of the rental of equipment and facilities used in connection with the research and development activities described in the Proposal.

The Grant may not be used to pay any other costs and/or expenses, including late fees, penalties, or damages owed by Recipient, travel or administrative expenses, facility and other overhead expenses, and expenses related to lobbying, political networking or entertaining activities.

1.3 Disbursement of Grant to Recipient.

1.3.1 GBA shall disburse the funds available under the Grant in accordance with the disbursement schedule and other requirements detailed below as set forth in Exhibit C, which is attached to this Agreement and incorporated by reference. In no event shall the total amount of the disbursements exceed the amount of the Grant.

- (a) **Initial Payment.** After awards have been announced, Recipient may invoice for up to thirty-three percent (33%) of the total grant amount listed in Section 1.1.
- (b) **Mid-Point Status Report.** At the mid-point of the project, Recipient must submit a Status Report in the format provided in Exhibit C or in an updated GBA Status Report format. Recipient may invoice for a second grant installment, not to exceed thirty-three percent (33%) the total grant amount listed in Section 1.1.
- (c) **Final Status Report.** When the project is complete and GBA has received a final Status Report and Invoice in the format provided in Exhibit C or in an updated GBA Invoice format, GBA will pay the final thirty-three percent (33%) of the total grant amount listed in Section 1.1.

1.3.2 Notwithstanding anything herein to the contrary, it is specifically acknowledged and agreed that GBA's obligation to make a disbursement of any amount of the Grant to Recipient pursuant to this Agreement shall be conditioned upon each of the following:

- (a) Recipient's timely submission of the certified invoices described in Exhibit C;
- (b) Recipient's completion and timely submission of complete and accurate reports and other information required pursuant to Section 1.5 of this Agreement, to the extent such reports are due at or prior to the time of such disbursement;
- (c) GBA shall be satisfied that Recipient has paid all amounts due to the Partner and any other vendors or subcontractors for services performed in connection with the Proposal activities when such amounts were due; and
- (d) No event shall have occurred that would permit GBA to terminate this Agreement pursuant to Section 2.2 below.

1.4 **Monitoring by GBA.** GBA shall have the right to monitor Recipient's performance under this Agreement to ensure that: (i) the Grant is being used in accordance with and as set forth in the Proposal, and (ii) Recipient is complying with the covenants and other obligations of Recipient under this Agreement, including, without limitation, the reporting requirements of Section 1.5. Monitoring may take place through, among other things, site visits on reasonable notice by a representative of GBA and review by a representative of GBA of invoices and other reports that are required to be filed by Recipient hereunder.

1.5 **Reporting Requirements.**

1.5.1 Recipient acknowledges and agrees that GBA is obligated, pursuant to the contract between the GBA and the Commonwealth with respect to the funds received from the Commonwealth (the "PA Contract"), to file certain status and other periodic reports with the Commonwealth and that GBA requires information from Recipient in order to fulfill such reporting obligations. Recipient shall provide the GBA with such information as may be necessary for the GBA to timely comply with such reporting obligations.

1.5.2 Recipient shall provide the GBA with certain information and reports as set forth below:

- (a) **Invoices.** The Recipient shall submit invoices for allowable costs in accordance with the disbursement schedule set forth in Exhibit C.
- (b) **Status Reports.** The Recipient shall submit a status report (each a "Status Report") (i) at the mid-point of the completion of the research and development activities set forth in the Proposal, and (ii) no later than thirty (30) days following the termination of this Agreement. The Status Report shall be in the form provided by GBA in Exhibit C or in an updated GBA Status Report format.

- (c) **Impact Survey.** For a period of five (5) years after the termination of this Agreement, Recipient shall complete and submit to GBA an impact survey on or before July 15th of each year (each an “Impact Survey”). Such Impact Survey shall be in the form provided by GBA and shall include information for the period commencing at the termination of this Agreement and ending on June 30th of the year in which such Impact Survey is filed.
 - (d) **Miscellaneous Documents and Information.** In addition to the foregoing, for a period of five (5) years after the termination of this Agreement, Recipient agrees to provide GBA and/or the Commonwealth with copies of such other documents as may be requested by the Commonwealth and/or GBA from time to time.
- 1.5.3 **Content of Reports.** All reports, forms and information required to be submitted by Recipient are described in Exhibit C; under this Agreement, these reports, forms, and information shall be accurate and complete to GBA’s satisfaction.
- 1.5.4 **Final Payment.** GBA has the right, in its sole discretion, to withhold up thirty-three percent (33%) of the total amount of the Grant unless and until the Recipient submits the Final Status Report in accordance with the requirements of Section 1.5.2(b).
- 1.5.5 **Site Tours.** The Recipient will cooperate with the GBA to provide site tours and presentations to governmental, funding and industry representatives to demonstrate the impact of the Grant on the Recipient's subject-technology.
- 1.5.6 **Demonstration and Display Models.** The Recipient shall provide GBA with display and demonstration models of products incorporating technology developed or resulting from the research and development activities funded by the Grant for purposes of promoting the Recipient, GBA Grant Program and GBA related activities.
- 1.5.7 **Promotional Materials.** GBA shall have the right to use the Recipient's corporate name, trademarks and logo in communications, press releases, case studies, and presentations regarding the GBA Grant Program.
- 1.5.8 **Press Release and Announcing Grants.** GBA shall retain the right of first announcing grant disbursements in a public forum, including press releases, press conferences, and web postings. Recipients shall refrain from issuing any press release or making any other public announcement regarding their receipt of a grant until GBA has issued its formal announcement, which will be shared with all recipients.
- 1.6 **Audit and Record Retention.** The GBA and the Commonwealth, or any of their respective duly authorized representatives, shall have the right to examine and audit directly pertinent books, documents, papers and records of the Recipient, including financial transactions and supporting documents, general accounting systems, internal controls, management practices, policies and procedures pertaining to the Recipient's performance with respect to the Grant. Recipient agrees to allow access

for such examination and audit at any reasonable time with prior notice and to allow interviews of any employees, agents, advisors or representatives who might reasonably have information related to such examination and audit. The Recipient shall retain all such information for a period of three (3) years following the date of the final disbursement of the Grant. In addition, the Recipient will comply, and cooperate with GBA in complying, with the audit requirements contained in the PA Contract (Contract Audit and Closeout Requirements), a copy of which requirements are available upon request. Any costs deemed unallowable in such the report of such audit shall be returned to GBA for further return to the Commonwealth.

1.7 Ownership of Intellectual Property. Any and all intellectual property created by the Recipient from the research and development activities described in the Proposal shall remain the property of the Recipient, provided, however, that the Recipient is encouraged to negotiate ownership or license of such intellectual property with its Partner such that such intellectual property may be utilized by the Partner for further research and development activities for the public benefit.

2. TERM AND TERMINATION

2.1 Term. The term of this Agreement shall commence on the Effective Date and shall continue until the earlier of (a) the termination of this Agreement pursuant to Section 2.2 or (b) the date that GBA has completed disbursement of the funds under the Grant.

2.2 Termination by GBA. GBA may terminate this Agreement and any further funding of the Grant immediately upon written notice to Recipient in the event of:

- (a) Any termination or reduction in funding to GBA, including but not limited to the termination or suspension of funding under the PA Contract;
- (b) The Grant project has significantly deviated from that described in the Proposal;
- (c) If the Recipient is in material breach of this Agreement and such breach shall have continued for fifteen (15) days after written notice from GBA to the Recipient of such failure or breach;
- (d) If the Recipient (i) files for bankruptcy, (ii) becomes or is declared insolvent, (iii) is the subject of any proceedings (not dismissed within thirty (30) days) related to its liquidation, insolvency, involuntary bankruptcy or the appointment of a receiver, (iv) makes an assignment for the benefit of its creditors, or (v) takes any action for its winding-up, dissolution or administration.
- (e) If the research and development activities described in the Proposal have not been completed on or before **[THE FIRST ANNIVERSARY OF THE EFFECTIVE DATE]**;
- (f) If the Recipient or any subcontractor of Recipient becomes suspended or debarred by the Commonwealth or the federal government; or

(g) The Recipient's experiences a material adverse change in its financial condition.

2.3 **Refund Due Upon Termination.** In the event that this Agreement is terminated pursuant to one of the events described in Sections 2.2(b) through 2.2(f) of this Agreement, the Recipient shall repay to GBA all Grant funds disbursed to the Recipient.

2.4 **Survival.** Sections 1.4, 1.5, 1.6, 2.3, 2.4, 3.1, 3.2, 3.4, 4.9, and 5 shall survive the expiration or termination of this Agreement for any reason.

3. COVENANTS OF RECIPIENT

3.1 Significant Portion of Manufacturing and Production.

3.1.1 **Significant Portion of Manufacturing and Production.** A significant portion of the technological advances developed or produced in whole or in part as a result of the Grant, including without limitation, technology, products and/or processes, shall be manufactured or produced in the Commonwealth of Pennsylvania from the first date of the manufacture or production of such technological advances (the "Manufacture Date") until the third (3rd) anniversary of the Manufacture Date ("Pennsylvania Manufacturing Requirement"). Notwithstanding the foregoing, the Pennsylvania Manufacturing Requirement shall be deemed to be satisfied by Recipient, if: (i) Recipient manufactures or produces components of the technological advances in Pennsylvania, even though the final technological advances are assembled elsewhere; or (ii) the technological advances are manufactured or produced outside of Pennsylvania; provided that the final assembly of the technological advances occurs in Pennsylvania. Further, notwithstanding the foregoing, the Pennsylvania Manufacturing Requirement will not apply to Recipient's manufacturing and/or production of the technological advances in the event that, but only for so long as, all of the following three factors exist: (1) due to cost considerations or other mitigating factors, Recipient is unable to produce or manufacture a significant portion of the technological advances itself; (2) Recipient has used its best efforts to identify and engage a Pennsylvania company, not subject to the cost considerations and other mitigating factors faced by Recipient, to manufacture or produce a significant portion of the technological advances; and (3) there is no other default under this Agreement.

3.1.2 **Presence in Pennsylvania.** In addition to the requirement set forth in Section 3.1.1, regardless of whether it manufactures or produces any technological advances, Recipient or any successor to Recipient or its assets, must, at a minimum, maintain employees and a commercial facility dedicated to Recipient's business within the Commonwealth of Pennsylvania for a period of three (3) years after the expiration of this Agreement.

3.1.3 Notice of Violation; Transfer Fee. In the event that the Recipient or any successor to Recipient or its assets, violates, or becomes aware of circumstances that will lead to the violation of, the provisions of Section 3.1 or 3.2, the Recipient or its successor, as the case may be, shall immediately provide written notice thereof to GBA. Promptly following Recipient's violation of the provisions of Section 3.1 or 3.2, Recipient shall, without demand, pay to GBA a transfer fee equal to the amount of the Grant disbursed hereunder (the "Transfer Fee"). It is specifically acknowledged and agreed by the Recipient that the Transfer Fee shall be paid in addition to, and not in lieu of, any other amounts that may be owed to GBA under this Agreement. Notwithstanding the foregoing, the Transfer Fee shall not be required to be paid to GBA if the breach of Section 3.1 or 3.2 is directly caused by (i) the dissolution of Recipient or the successor to Recipient or its assets or (ii) Recipient or the successor to Recipient or its assets ceasing to do business on a permanent basis.

3.2 PA Agreement Requirements. The Recipient acknowledges and agrees that, pursuant to and in connection with the PA Contract, GBA, and the Recipient, or any subcontractor of or person acting on behalf of GBA and the Recipient shall comply with certain applicable statutes, Commonwealth regulations, and provisions of the PA Contract. The Recipient accepts and agrees to be bound by the additional provisions set forth on Exhibit D attached to this Agreement and incorporated herein by reference.

3.3 Subcontractor Requirements. Recipient agrees that it will require certification of no suspension or debarment by the Commonwealth from any subcontractor (not vendor or supplier) who performs essential services under this Agreement and provide a copy of such certification to GBA upon request. Recipient may obtain the current list of suspended and debarred contractors at the following address:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, Pennsylvania 17125
Phone: (717) 783-6472
Fax: (717) 787-9138

3.4 Notice of Information. Recipient shall notify GBA immediately after the Recipient becomes aware of any information that constitutes or may constitute a breach of this Agreement.

4. RECIPIENT REPRESENTATIONS, WARRANTIES, AND COVENANTS

Recipient represents warrants and/or covenants as of the date of this Agreement and as of the date of each invoice and reporting submission as follows:

- 4.1 **Organization and Good Standing.** Recipient is duly organized, validly existing, and in good standing under the laws of its state of formation/organization. True and complete copies of Recipient's financial statements for two years prior to Effective Date and verification of the Recipient's Pennsylvania Employer Identification Number have been delivered to GBA.
- 4.2 **Capacity; Authority; Validity.** Recipient has all necessary power and authority to enter into this Agreement and to perform all of the obligations to be performed by it under this Agreement. This Agreement and the consummation by the Recipient of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate or other action on the part of the Recipient, and this Agreement has been duly executed and delivered by the Recipient, constitutes the valid and binding obligation of the Recipient and is enforceable in accordance with its terms.
- 4.3 **Conflicts; Defaults.** Neither the execution and delivery of this Agreement by the Recipient, nor the consummation of the transactions contemplated herein, shall (i) conflict with, result in the breach of, constitute a default under or accelerate the performance required by the terms of any contract, instrument or commitment to which the Recipient is a party or by which the Recipient is bound; (ii) violate the certificate of incorporation, bylaws, or any other equivalent organizational document of the Recipient; or (iii) require any consent or approval under any judgment, order, writ, decree, permit or license to which the Recipient is a party or by which the Recipient is bound. The Recipient is not subject to any agreement with any governmental authority that would prevent the consummation of this Agreement.
- 4.4 **Litigation.** There is no claim, litigation, proceeding, arbitration, investigation or controversy pending before any governmental authority or arbitral or similar forum to which the Recipient is a party and by which it is bound, that will prevent the Recipient's compliance with the terms of this Agreement.
- 4.5 **No Consents, Etc.** No consent of any person and no consent, license, permit, approval, authorization or exemption by notice of, report to or registration, filing or declaration with, any governmental authority is required in connection with the execution or delivery of this Agreement by the Recipient, the validity of this Agreement with respect to the Recipient, the enforceability of this Agreement against the Recipient, the consummation by the Recipient of the transactions contemplated hereby, or the performance by the Recipient of its obligations hereunder.
- 4.6 **Insurance.** Recipient maintains and shall maintain during the term of this Agreement, at its sole expense, with financially sound and reputable insurers, insurance with respect to its properties and business and against such liabilities, casualties and contingencies and of such types and in such amounts as is customary in the case of corporations, partnerships or other entities of Recipient's size and stage of development engaged in the same or similar business, including, but not limited to, workers' compensation insurance, property insurance and comprehensive general liability insurance as reasonably determined by Recipient.

- 4.7 **Taxes.** The Recipient has timely filed all tax returns and reports as required by law and such returns and reports are true and correct in all material respects. The Recipient has paid all taxes and other assessments due as of the date hereof to all federal, state and local authorities.
- 4.8 **Illegal Payments.** Neither the Recipient nor any person affiliated therewith has ever made on behalf of Recipient any illegal payment or contribution or any kind, directly or indirectly, including, without limitation, payments, gifts or gratuities, to United States or foreign national, state, or local government officials, employees, or agents or candidates therefore.
- 4.9 **Partner Matters.** The Grant funds shall be used to reimburse Recipient for a portion of the allowable costs and expenses paid to Partner under the Partner Agreement and that such Grant funds shall not exceed fifty percent (50%) of the total allowable costs and expenses paid to such Partner under such Partner Agreement. The Recipient would not have entered into such Partner Agreement if the Recipient had not been awarded the Grant. The Recipient has match-funding available sufficient to cover the other fifty percent (50%) of the total allowable costs and expenses to be paid to such Partner under such Partner Agreement and sufficient, in conjunction with the Grant funds, to complete the activities described in the Proposal and as contemplated to be completed under the Partner Agreement.
- 4.10 **No Suspension or Disbarment.** Recipient and all current or proposed subcontractors of the Recipient in connection with the activities described in the Proposal are not under suspension or debarment by the Commonwealth, any other governmental entity, instrumentality or authority.

5. MISCELLANEOUS.

- 5.1 **Relationship of the Parties.** The parties agree that in performing their responsibilities pursuant to this Agreement, they are in the position of independent contractors. This Agreement is not intended to create, nor does it create, and shall not be construed to create, a relationship of partners, joint ventures, fiduciaries, or any association for profit between and among GBA, the Recipient, or the Commonwealth or any of their respective affiliates.
- 5.2 **Public Program.** Recipient acknowledges and agrees that its participation in the GBA Grant Program is a matter of public record and that certain of the information required to be submitted under Section 1.5 will be provided to the Commonwealth and may be subject to laws regarding freedom of information.
- 5.3 **Confidential Information.** GBA shall use commercially reasonable efforts to avoid disclosure or dissemination of the Recipient's Confidential Information (as defined below), provided, however, that the GBA may disclose such Confidential Information to the Commonwealth as may be required under the PA Contract.

As used in this Section, “Confidential Information” of the Recipient means all confidential and/or proprietary information concerning the intellectual property of the Recipient that is marked as “confidential and/or proprietary” and that is disclosed to the GBA in connection with the GBA Grant Program, provided, however, it is expressly acknowledged and agreed that Confidential Information shall not include any information that:

- (a) Is or becomes publicly available without breach of this Section;
- (b) Becomes known to the GBA from a source other than the Recipient;
- (c) Is disclosed pursuant to the order or requirement of a court, administrative agency or other governmental body pursuant to a requirement of applicable law; and
- (d) As shown by written records, was in the possession of GBA prior to such disclosure by the Recipient.

5.4 Limitation of Liability; Disclaimer of Warranty; Indemnification.

5.4.1 **GBA, AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, ADVISORS AND REPRESENTATIVES SHALL NOT BE LIABLE FOR DAMAGES OF ANY KIND WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DIRECT, INDIRECT, COMPENSATORY, SPECIAL, INCIDENTAL, EXEMPLARY, LOST PROFITS, LOSS OF REVENUE, OR CONSEQUENTIAL DAMAGES, EXCEPT IF SUCH DAMAGES ARE A RESULT OF GBA'S INTENTIONAL MISCONDUCT.**

5.4.2 **EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, IS MADE BY THE GBA HEREUNDER, INCLUDING BUT NOT LIMITED TO WITH RESPECT TO ANY ASSISTANCE PROVIDED (OR NOT PROVIDED) TO THE RECIPIENT IN CONNECTION WITH THE RECIPIENT'S PROPOSAL OR RECEIPT OF THE GRANT. ANY AND ALL SUCH ASSISTANCE, IF ANY, IS PROVIDED “AS-IS,” AND TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, GBA DISCLAIMS ALL WARRANTIES, WHETHER STATUTORY, EXPRESS OR IMPLIED, RELATED TO THE SAME.**

5.4.3 The Recipient hereby irrevocably and unconditionally agrees to indemnify, defend and hold harmless GBA and the Commonwealth, and their respective officers, directors, employees, advisors, agents and representatives from and against any and all claims, demands, actions damages and/or losses whatsoever (including attorneys' fees and professional and court costs) arising out of or in any manner related to this Agreement and/or the Recipient's application for and use of the Grant funds, including, but not limited to, those arising out of or related to (i) the use, application, performance, operation, or any other function of any invention, product,

process, software, or other technology developed in whole or in part with the Grant, or (ii) the violation or alleged violation of intellectual property or other proprietary rights, or (iii) the breach of any representation, warranty or covenant of Recipient under this Agreement.

5.5 Publications; Limited Meaning of Grant Decision.

5.5.1 Any publication prepared or authorized by the Recipient or Partner concerning the research and development activities funded under this Agreement or products or services resulting from such activities will contain the following acknowledgement:

“This [Project, Research, or Product Development] was financed in part by a grant from the Green Building Alliance in collaboration with the Pennsylvania Green Growth Partnership, an initiative funded in part by the Commonwealth of Pennsylvania, Ben Franklin Technology Development Authority, the Richard King Mellon Foundation, and The Heinz Endowments.”

5.5.2 The actions or omissions of GBA in connection with or related to this Agreement, shall not be construed in any way as any endorsement, representation, or warranty by GBA or the Commonwealth as to the effectiveness, adequacy of performance, reliability, or safety of any invention, product, process, software, or other technological advances implemented, manufactured, or developed in whole or in part with the Grant.

5.6 Assignment; Parties Bound. This Agreement may not be assigned (including implied assignments by operation of law) by the Recipient without the prior written consent of the GBA, and any purported assignment without such consent shall be null and void *ab initio*. This Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of the parties. The terms and provisions of this Agreement are for the sole benefit of the parties and hereto and their respective permitted successors and assigns, and are not intended to confer any third-party benefit on any other person.

5.7 Notices. Any notice required or permitted hereunder shall be in writing and shall be deemed effectively given: (a) upon personal delivery to the party to be notified; (b) when sent by confirmed facsimile if sent during normal business hours of the recipient, if not, then on the next business day; (c) five (5) days after having been sent by certified or registered mail, return receipt requested, postage prepaid; or (d) the next business day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be addressed as follows:

If to GBA:

Attention: Research Manager
Green Building Alliance
333 East Carson Street
Suite 331
Pittsburgh PA 15219
(412) 431-0709
Fax: (412) 431-1432
research@gbapgh.org

If to Recipient:

Attention: XXX
[RECIPIENT NAME]
[RECIPIENT ADDRESS]

or to such other address as any party shall specify by ten (10) days advance written notice so given.

- 5.8 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania without regard to its conflict of law principles.
- 5.9 **Disputes.** All disputes arising between the parties hereto with respect to any matter pertaining to this Agreement, which cannot be resolved by the agreement of the parties, shall be commenced in the Court of Common Pleas of Allegheny County, Pennsylvania or the United States District Court for the Western District of Pennsylvania. The parties hereto expressly submit and consent in advance to jurisdiction in any such action or proceeding commenced in either of such courts.
- 5.10 **Waiver; Severability.** Any term, condition, or provision of this Agreement may be waived (either generally or particularly and either retroactively or prospectively) only with the prior written consent of the parties hereto. No waiver of any term, condition or provision of this Agreement, in any one or more instances, shall be deemed to be, or construed as, a further or continuing waiver of any such term, condition or provision. If one or more provisions of this Agreement are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (a) such provision shall be excluded from this Agreement, (b) the balance of the Agreement shall be interpreted as if such provision were so excluded and (c) the balance of the Agreement shall continue in full force and effect.
- 5.11 **Modifications/Amendments.** This Agreement (including the Exhibits and Schedules hereto) may not be amended or modified except by a writing executed by the parties.
- 5.12 **Entire Agreement.** This Agreement, including the Exhibits and Schedules hereto, constitutes the entire understanding between the parties with respect to the subject matter hereof. There are no promises, terms, conditions, or obligations other than those contained herein. This Agreement shall supersede all previous communications, representations, or agreements, either verbal or written between the parties on the subject matter contained herein.

IN WITNESS WHEREOF, these parties have affixed their signature below, intending that this Grant Agreement as of the Effective Date set forth above.

GREEN BUILDING ALLIANCE

By: _____
Name: Geoffrey Stillson
Title: Interim Executive Director

[RECIPIENT NAME]

By: _____
Name: **[INDIVIDUAL'S NAME]**
Title: **[INDIVIDUAL'S TITLE]**

EXHIBIT A

PRODUCT INNOVATION GRANT PROPOSAL

(As Submitted to Green Building Alliance by Recipient)

[See attached]

EXHIBIT B

PARTNER AGREEMENT

(Authored by Recipient's Partnership)

[See attached]

EXHIBIT C

**GREEN BUILDING ALLIANCE
PRODUCT INNOVATION GRANTS
REQUEST FOR PROPOSALS #3**

[See attached]

EXHIBIT D

ADDITIONAL PROVISIONS

All activities related to this Agreement shall be performed in accordance with all applicable statutes, regulations, conditions, directives, guidelines and such additional requirements as may be included in this Exhibit D or as are otherwise provided by the Commonwealth in connection with the PA Contract. The Recipient acknowledges and agrees that the Recipient shall comply with any future requirements with respect to subcontractors that are provided by the Commonwealth in connection with the PA Contract.

- (1) **Compliance with Commonwealth Statutes and Regulations.** The Recipient will comply with all applicable state statutes and regulations.

- (2) **Nondiscrimination / Sexual Harassment Provisions:**
 - (a) In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity, Recipient or any persons acting on behalf of Recipient shall not, by reason of gender, race, creed or color, discriminate against any citizen of the Commonwealth of Pennsylvania who is qualified and available to perform the work to which the employment relates.
 - (b) Neither Recipient nor any person acting on Recipient's behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity, on account of gender, race, creed or color.
 - (c) Recipient shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
 - (d) Recipient shall not discriminate by reason of gender, race, creed or color against any subcontractor or supplier who is qualified to perform the work for Recipient.
 - (e) Recipient shall comply with all state and federal laws prohibiting discrimination in hiring or employment opportunities. In the event of Recipient's noncompliance with the nondiscrimination clause of this Agreement or with any such laws, this Agreement may be terminated or suspended, in whole or in part, and Recipient may be declared temporarily ineligible for further Commonwealth contracts, and other sanctions may be imposed and remedies invoked.
 - (f) Recipient shall furnish all reasonably necessary employment documents and records to, and permit reasonable access to its books, records, and accounts by, GBA and/or the Commonwealth for purposes of investigation to ascertain compliance with the provisions of this clause. If Recipient does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by GBA and/or the Commonwealth.

- (g) Recipient shall include the provisions of this nondiscrimination contract in every subcontract, so that such provisions will be binding upon each subcontractor.
 - (h) Recipient's obligations under this Exhibit are limited to Recipient's facilities within Pennsylvania or, where a contract is for purchase of goods manufactured outside of Pennsylvania, the facilities at which such goods are actually produced.
 - (i) Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R., Section 35.101 et seq., Recipient understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in activities provided for under this Agreement. As a condition of accepting and executing this contract, Recipient agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R Section 35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to the benefits, services, programs, and activities prohibited by the Commonwealth through contracts with outside contractors.
- (3) **Anti-Pollution and Environmental Liability.** Recipient acknowledges that pursuant to the PA Contract, GBA and Recipient are obligated to comply with all anti-pollution laws, regulations, and standards. Recipient agrees that in its performance of its obligations under this Agreement to minimize pollution, to comply with all applicable environmental laws and regulations and to require its subcontractors who perform essential services related to this Agreement to comply with such laws.
- (4) **Prevailing Wage.** If the Grant involves construction, reconstruction, demolition, alteration, and/or repair work other than maintenance work, done under contract, where the estimated cost is in excess of \$25,000, then Recipient shall comply with the provisions of the Pennsylvania Prevailing Wage Act, as amended (the "Prevailing Wage Act"). Recipient shall, upon the request of GBA, submit such documentation to GBA as GBA may require demonstrating proof of compliance with the Prevailing Wage Act.
- (5) **Personal Interest.** The Recipient acknowledges and agrees that no member of the General Assembly of the Commonwealth or any official or employee of the Commonwealth, or any member of such person's immediate family, as said term is defined by the Public Official and Employee Ethics Law, as amended (65 Pa. Cons. Stat. Sec. 110165 et seq.), shall have any personal interest in the benefits or proceeds of this Agreement; nor shall such person or any member of such person's immediate family have an interest in any partnership, corporation, association, or other entity which has an interest in the benefits or proceeds of this Agreement.
- (6) **Employment Efforts.** Recipient will, to the extent feasible, it will use reasonable efforts to hire unemployed, underemployed or minority candidates from the area in which Recipient's business is located.
- (7) **Employment of Illegal Aliens.** The Recipient shall not knowingly employ, or knowingly permit any of its subcontractors to knowingly employ, the labor services of an illegal alien on activities funded in whole or in part by the Grant funds.