

**Susan G. Komen Detroit Race for the Cure
GRANT AGREEMENT
COMMUNITY GRANTS PROGRAM 2016-2017**

GRANTEE ORGANIZATION: [COUNTERPARTY NAME]

GRANTEE ADDRESS: [COUNTERPARTY ADDRESS]

PROJECT DIRECTOR: [FIRST AND LAST NAME]

EFFECTIVE DATE: [EFFECTIVE DATE] **TERMINATION DATE:** [TERMINATION DATE]

PROJECT TITLE AND PURPOSE: [PROGRAM NAME]

Unless otherwise stated in this Agreement, the Grant Funds will be used specifically as described in Grantee's grant application and proposed budget (together, the "Application"), which can be located in the Komen Grants e-Management System ("GeMS") and are made a part hereof for all purposes. To the extent that the terms of this Agreement conflict with the terms of the Application, the terms of this Agreement will prevail.

GRANT AMOUNT ("Grant Funds"): \$ [TOTAL PAYMENT AMOUNT]

PAYMENT TERMS:

Grant Funds will be payable in two equal installments of [DOLLAR AMOUNT] each. The first payment will be made to Grantee within 30 days after Grantee executes this Agreement in GeMS, and a final payments will be made to Grantee within 30 days after Komen's receipt and approval of timely reports due on May 15, 2017 as required below.

Komen may require Grantee to deplete the current installment of Grant Funds prior to receiving payment of the next installment of Grant Funds. In addition, Komen may withhold the next installment of Grant Funds if the report does not contain all the required information or Grantee has not demonstrated sufficient progress on Project objectives, as determined by Komen in its sole discretion. Within 45 days after the expiration or early termination of this Agreement, Grantee will remit to Komen all unspent funds.

Notwithstanding any provisions in the Application, Grant Funds may not be used for indirect costs in excess of **15%** of the direct costs for the Project. See additional restrictions on use of Grant Funds in Section 1 of the attached Terms and Conditions.

REPORTING REQUIREMENTS (Written reports to be uploaded in the forms located in GeMS) (Select as applicable):

- Progress Report(s), to include progress and financial reporting, due (Select one reporting cycle):
 - Mid-year (6 month) report due May 15, 2017
 - Quarterly reports due February 14, 2017 and August 14, 2017
- Final Report due November 14, 2017

Additional reports required by the Affiliate, but not required to be uploaded in GeMS.

- Monthly Status Updates via teleconference on the 1st business day of every month during the term of this Agreement
- Weekly Status Updates via teleconference every **DAY** during the term of this Agreement
- Written Monthly Status Updates due on the 1st business day of every month during the term of this Agreement
- Written Weekly Status Updates due every **DAY** during the term of this Agreement

The above reports will not be treated as confidential and may be reviewed and evaluated by third parties. Komen will not be responsible for any damages resulting from the disclosure of the reports to third parties. Further, Komen may share Grant information, including the reports, with donors or with members of the general public.

ACKNOWLEDGMENTS (Select as applicable.): Grantee will acknowledge and will cause any subgrantees and contractors involved in the Project ("Collaborating Organizations") to acknowledge Komen's funding in the following ways, using the Komen name and signature logo when possible:

- in a conspicuous location on all printed and electronic materials created in connection with the Project ("Materials")
- in all training sessions, workshops and presentations conducted in connection with the Project

- on Grantee’s website
- in Grantee’s annual report and other donor listings
- other

See additional requirements for acknowledgments in Section 3(A) of the attached terms and conditions.

BENEFITS (Select as applicable.): Grantee will provide the following to Komen:

- copies of all Materials, at no charge, including without limitation all surveys and tools, methodologies, studies, evaluations, presentations, training and educational materials, photographs, reports, press releases, articles and other publications created in connection with the Project
- unlimited access to any raw digital data collected during the Project (“Data”)
- a summary report of any evaluations received in connection with the Project
- any and all surveys or other items submitted by Komen to Grantee for completion regarding this Project
- the opportunity for a Komen representative to make site visits
- other

Grantee grants (and shall cause any Collaborating Organizations to grant) to Komen, the Susan G. Komen Breast Cancer Foundation, Inc. (“Komen National”) and its affiliates a limited, royalty-free, non-exclusive, non-transferable, worldwide, irrevocable license to use the Materials, or any part thereof and Data (if any provided) for their own non-commercial purposes.

NOTIFICATIONS: Grantee will notify Komen through GeMS at least 30 days in advance of and must receive prior written approval for any proposed changes to the personnel, design, budget, Collaborating Organizations, if any, content or specific aims of the Project. Komen will be provided a minimum of 14 days to review and accept or reject any proposed changes. Notwithstanding the above, Grantee may modify the budget without prior approval of Komen, so long as the modification does not (i) change any budget expense subcategory by more than 5%; (ii) increase the amount of any cost above the maximum allowable for a subcategory item (such as indirect or equipment costs); or (iii) result in an expenditure outside of the Grant purpose. In addition to the above notifications, Grantee will promptly notify Komen of (w) any potential or threatened litigation, claim, assessment or audit related to the Project; (x) any challenge that may prevent Grantee from fulfilling the objectives described in the Application, including any issues with Collaborating Organizations; (y) any actual inability to fulfill the objectives in the Application; or (z) the occurrence of any event listed in Section 7(B) of the attached Terms and Conditions.

SPECIAL TERMS/OTHER:

- Grantee is required to provide one rigid, laminated poster, 24” x 36”, describing your grant-funded program.
- Grantee is strongly encouraged to attend the annual Komen Detroit Race for the Cure.

This Agreement will be null and void if not executed by both parties within 45 days after the Agreement becomes available for execution through GeMS. By executing this Agreement, Grantee agrees to be bound by the Terms and Conditions attached to this Agreement and incorporated herein. The signers below warrant that they have full power and authority to sign for and bind their respective organizations.

[AFFILIATE NAME] (“Komen”)

By: _____
 Name/Title: _____

[COUNTERPARTY NAME] (“Grantee”)

By: _____
 Name/Title: _____

TERMS AND CONDITIONS

1. **Restrictions on Use of Grant Funds.** (A) Except as specifically provided in the Agreement, Grantee will use the Grant Funds exclusively as provided in the budget in GeMS. (B) The Grant Funds awarded hereunder may not be obligated or expended prior to the Effective Date or subsequent to the Termination Date of this Agreement. (C) Any travel costs covered by Grant Funds must be reasonable and customary, covering only the following as applicable: coach air and train travel, ground travel to the Project, moderate hotel (room and taxes only), and meals (alcoholic beverages excluded).

2. **Collaborating Organizations.** Grantee is responsible for ensuring that all Collaborating Organizations comply with the terms of this Agreement, including but not limited to the restrictions on the use of Grant Funds.

3. **Acknowledgments; Komen Intellectual Property; Permission to Use Grantee Name and Logo.**

(A) Grantee is authorized to and will acknowledge Komen's funding of the Project in the Materials as set forth in "Acknowledgments" section of this Agreement. The specific language to be used in such acknowledgments, including how Komen's name and logo will be used, will be agreed to in advance between the parties.

(B) Komen is and will remain the sole and exclusive owner of all rights, title and interest in and to any and all materials that Komen or its employees, agents or contractors permit Grantee to use in connection with the Project, including but not limited to all works of authorship, copyrights, trade names, trademarks, service marks, domain names and other indicia of source (whether registered or not), data and data bases, lists, educational materials and other information and all translations, adaptations, editions, excerpts or derivative works thereof (collectively, "Komen Intellectual Property"). Komen Intellectual Property must not be amended or modified in any manner without Komen's prior written consent. Grantee will include the appropriate attributions for any Komen Intellectual Property used in connection with the Project, which must be approved by Komen in advance of publication.

(C) For the sole purpose of releasing information regarding this Grant and the Project to the general public and news media, Komen is authorized to use the Grantee's name and logo in a fair and accurate manner (and Grantee will cause any and all Collaborating Organizations to grant Komen authorization to use their respective names and logos for the same purposes). Nothing in this Agreement grants any further rights to the Grantee name and logo.

4. **Representations, Warranties and Covenants.** Grantee represents, warrants, and covenants that:

(A) it is a governmental organization described in Section 170(c)(1) or a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code and will continue to qualify as such throughout the term of this Agreement;

(B) it is a duly incorporated and is validly existing as a corporation in good standing under the laws of the state of its incorporation and in all other jurisdictions in which it conducts its business and has all requisite power and authority to carry on its business as now conducted;

(C) it has the authority to grant the license to the Materials set forth in the "Acknowledgments" section and that no Materials delivered to Komen (nor any element thereof) violate or will violate the right of privacy or publicity, or defame or violate any copyright, trademark, or service mark or any common law or other right of any third party;

(D) none of the Grant Funds will be used (i) for lobbying as defined under the Internal Revenue Code, (ii) to directly or indirectly participate in or intervene in any political campaign on behalf of any candidate for public office; or (iii) for any other purpose that is inconsistent with Section 501(c)(3) of the Code; and

(E) none of the execution and delivery of this Agreement by Grantee, the consummation of the transactions contemplated hereby or

compliance by Grantee with any of the provisions hereof conflict with, or result in any violation of or default under (with or without notice, the lapse of time or both) or give rise to a right of termination or cancellation under any provision of (i) the formation and governing documents of Grantee; (ii) any contract or permit to which Grantee is a party; or (iii) any applicable law or any order of any governmental body.

5. **Compliance with Laws.** Grantee will comply with all applicable laws and regulations applicable to any of its activities associated with this Grant, including but not limited to the Health Insurance Portability & Accountability Act of 1996, and all applicable anti-terrorist financing and asset control laws, statutes and executive orders. Grantee will cooperate with Komen in supplying additional information to Komen, or in complying with any procedures which might be required by any governmental agency, in order for Komen to establish that it has observed all requirements of law with respect to this Grant.

6. **Right to Audit.** Grantee agrees to (and will cause any and all Collaborating Organizations to) maintain accurate and complete records of the expenditure of Grant Funds for a period of five (5) years from the earlier of the termination or expiration of this Agreement and agrees that Komen may conduct an audit of such records at any time during usual business hours as reasonably requested in advance by Komen. Grantee will ensure that Komen will have the same audit rights for records of any Collaborating Organization that receives Grant Funds.

7. **Default and Early Termination.**

(A) If either party should fail to perform or be in breach of any of the terms, conditions, agreements, covenants, representations or warranties contained in this Agreement, or anticipatorily breach this Agreement, and such default is not curable, or if such default is curable but remains uncured for a period of 30 days after written notice thereof has been given to the defaulting party, the other party, at its sole election, may immediately terminate this Agreement by written notice thereof to the defaulting party.

(B) Notwithstanding the provisions of Section 7(A), Komen may terminate this Agreement immediately due to the occurrence of any one or more of the following events: (i) Grantee implements Project changes without Komen's prior approval, as required under the "Notifications" Section of the Agreement; (ii) Grantee does not maintain its status as a governmental organization described in Section 170(c)(1) or a nonprofit organization described in Section 501(c)(3) non-profit, tax-exempt status with the Internal Revenue Service; (iii) the Project is not conducted in conformance with applicable laws or, if applicable, any approvals, licenses or certifications required to conduct the Project are not obtained or are suspended or revoked; (iv) Grantee commits a willful breach of this Agreement or Grantee or any Collaborating Organization commits an act of gross negligence or willful misconduct in connection with the Project; (v) Komen has a reasonable good faith basis to believe that Grantee or any of its or its Collaborating Organization's key employees, directors, officers or agents has committed fraud or any other financial or administrative impropriety; or (vi) Grantee or any Collaborating Organization is debarred from the receipt of federal or state funding.

(C) In the event of an early termination due to breach by Grantee under Section 7(A) or an occurrence under Section 7(B), Komen will have no further obligation to provide funding hereunder, and Grantee immediately will (i) provide Komen with the Final Report due hereunder, which will include all required information available as of the termination date; (ii) reimburse Komen for the full amount of Grant Funds (including any accrued interest) that have been expended in connection with and subsequent to the breach or any of the above occurrences, and (iii) immediately refund all unspent Grant Funds (including any accrued interest) as of the termination date.

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(D) Notwithstanding the provisions of Sections 7(A), 7(B) and 7(C), Komen may terminate the Agreement immediately and receive full reimbursement of the latest disbursement of Grant Funds plus any additional unspent Grant Funds (including any accrued interest) in the event Komen does not receive a Reporting Requirement when due and/or such Reporting Requirement does not contain all the required information and/or sufficient progress has not been made with respect to the Project as determined by Komen in its sole discretion.

(E) The provisions of this Section 7 will not preclude Komen from seeking any other remedies that may be available under this Agreement and applicable law.

8. INDEMNITY. AS BETWEEN THE PARTIES, GRANTEE ACKNOWLEDGES THAT IT IS SOLELY RESPONSIBLE FOR ANY LIABILITIES THAT MAY ARISE IN CONNECTION WITH THE PROJECT. TO THE EXTENT NOT PROHIBITED UNDER THE APPLICABLE LAWS THAT GOVERN GRANTEE, GRANTEE AGREES TO INDEMNIFY, DEFEND AND HOLD KOMEN AND KOMEN NATIONAL HARMLESS FROM AND AGAINST ANY AND ALL COSTS, LOSSES OR EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, THAT KOMEN MAY INCUR BY REASON OF GRANTEE'S OR ANY COLLABORATING ORGANIZATION'S NEGLIGENCE OR MISCONDUCT, OMISSION OR BREACH OF ANY OF THE PROVISIONS OF THIS AGREEMENT, OR BY REASON OF ANY THIRD-PARTY CLAIM OR SUIT ARISING OUT OF OR IN CONNECTION WITH GRANTEE'S PERFORMANCE OR FAILURE TO PERFORM PURSUANT TO THIS AGREEMENT.

9. **Insurance.** Grantee agrees to maintain and will cause any Collaborating Organizations to maintain the following insurance during the term of this Agreement:

(A) commercial general liability insurance with combined limits of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate, which covers liability for bodily injury, property damage, death and advertising injury (including reasonable attorneys' fees);

(B) workers' compensation insurance in the amount required by law of the state(s) in which workers are located and employers liability insurance with limits of not less than \$1,000,000.00;

(C) to the extent medical services are provided, medical malpractice coverage with combined limits of not less than \$1,000,000.00 per occurrence and \$3,000,000.00 in the aggregate;

(D) to the extent any transportation services are provided, \$1,000,000.00 combined single limit of automobile liability; and

(E) excess/umbrella insurance, in excess of the coverage in (A) above, with a limit of not less than \$5,000,000.00. Grantee will name Komen and Komen National as Additional Insureds on its commercial general liability policy solely with respect to the Project and any additional policies and riders entered into by Grantee in connection with the Project. Upon execution of this Agreement, Grantee will provide Komen with a certificate of insurance evidencing this coverage by uploading such certificate in GeMS All insurance required of Grantee will be primary and non-contributory to any insurance Komen may carry.

10. **Dispute Resolution.** In the event of any dispute arising out of this Agreement, the parties shall use good faith efforts to resolve their differences amicably. In the event they are unsuccessful, the parties agree not to commence litigation until attempting to resolve their dispute through mediation. Either party may initiate the mediation process with 30 days' prior written notice to the other party. The dispute will be submitted to mediation in **Detroit, Michigan**. Costs of mediation will be borne equally by the parties. Mediation of the dispute must be completed within 15 days of commencement, unless the parties extend the time by mutual agreement or unless the mediator declares the parties to be at an impasse. Notwithstanding the above, in the event that

either party believes that immediate injunctive relief is required to protect its intellectual property or there is a violation of law, such party may invoke the immediate powers of the appropriate court of law without the requirement to first mediate the dispute.

11. **Non-endorsement.** It is expressly agreed and understood by the parties that the Grant does not constitute an endorsement by Komen of any entity, organization, company or individual, nor the products, actions, behavior, or conduct of any entity, organization, company or individual, and any negligent or intentional misrepresentation by Grantee or any Collaborating Organization to the contrary, in any context and in any forum, will constitute a material breach of this Agreement, and the same will be grounds for immediate termination of this Agreement by Komen. In the event of any such misrepresentation, Komen may require Grantee or any pertinent Collaborating Organization to publicly acknowledge the misrepresentation in a like forum in which the misrepresentation was made. It is agreed that in the event of a breach of this provision, damages may not be an adequate remedy, and Komen will be entitled to whatever other remedies are available under applicable law.

12. **Relationship of Parties; No Guarantee of Additional Support.** The nature of this Agreement is a funding agreement, and no employment, partnership, joint venture or agency relationship is created, implied or deemed to be created pursuant to this Agreement. Grantee accepts the Grant Funds with the understanding that Komen is not obligated to provide Grantee or any Collaborating Organization any additional financial support, or other support, in connection with the Grant, the Agreement or the Project or for any other reason.

13. **Entire Agreement; Amendment; Severability; No Waiver.** This Agreement supersedes any prior oral or written understandings or communications between the parties and constitutes the entire agreement between the parties with respect to the Grant. This Agreement may not be modified, altered, amended or revoked except in writing, duly executed by each of the parties. The provisions of this Agreement are severable so that if any provision is found to be invalid or illegal, that finding will not affect the validity or enforceability of the remaining provisions. Failure of either party to enforce its rights under this Agreement will not constitute a waiver of such rights.

14. **Governing Law and Venue.** This Agreement will be governed by and construed in accordance with the laws of **Michigan**, without regard to any conflicts of law principles. Any dispute arising out of or in connection with this Agreement that is not resolved under Section 10 will be filed and heard in state or federal courts of **Detroit, Michigan**, and the parties consent to the exclusive jurisdiction of such courts.

15. **Assignment.** This Agreement is entered into by Komen in reliance upon the qualifications of Grantee. Grantee may not assign or transfer this Agreement, directly or indirectly, by operation of law, change of control or otherwise, without Komen's prior written consent. This Agreement may be assigned by Komen to Komen National or to any other affiliate of Komen National without approval of Grantee, provided that all obligations hereunder are assumed by the assignee.

16. **Notices.** Any notice will be in writing and personally delivered, delivered by facsimile or sent via reputable overnight courier (such as Federal Express) or certified mail, postage prepaid and return receipt requested, addressed to the other party at the address specified below (unless otherwise notified in writing by a party):

If to Komen: **4100 John R. , Mailcode: VE01RF**

Detroit, MI 48201If to Grantee: At the address on Page 1 of this Agreement.

17. **Survival.** The provisions of the "Acknowledgments and Benefits" Section of the Agreement and Sections 3, 4, 6, 7, 8, 10, 13, 14, 16 and 17 will forever survive termination of this Agreement.

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18. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which will be deemed an original and all of which together will constitute one and the same agreement.