**‘Model A’ Project Transfer Agreement**

**Version Date: Nov 15, 2022**

This is a sample for when a ‘Model A’ project is joining or exiting a fiscal sponsor, particularly when there are assets, liabilities, and ongoing obligations associated with the project. A term sheet is often used as a precursor to agreements like this and a work plan to help manage the transition is always recommended.

**Your use of this sample does not constitute legal advice from Social Impact Commons. Social Impact Commons is making this sample available for informational purposes only. Different circumstances and jurisdictions may call for different contract language. We assist our members in tailoring this and other templates to their particular needs and always recommend working with qualified and local legal counsel when preparing agreements of this nature.**

**PROJECT TRANSFER AGREEMENT**

**BY AND BETWEEN**

**NAME OF TRANSFERRING ENTITY**

**AND**

**NAME OF SUCCESSOR ENTITY**

This Project Transfer Agreement (“Agreement”) is entered into as of DATE by and between **NAME OF TRANSFERRING ENTITY** (“Transferor”), an CORPORATE INFORMATION and IRS designated 501(c)(3) public charity with EIN# # and NAME OF SUCCESSOR ENTITY (“Successor”), an CORPORATE INFORMATION and IRS designated 501(c)(3) public charity with EIN #. Each of Transferor and Successor are sometimes referred to herein as a “Party” and collectively as the “Parties”.

**BACKGROUND**

Prior to DATE (the “Transfer Date”), the nonprofit Project called “Project NAME” (the “Project”) organized to PURPOSE OF Project, has operated under the auspices of Transferor. The Project leadership desires that the Project be transferred to operate under Successor as of the Transfer Date and Successor has the demonstrated capacity and interest to administer the Project. Transferor supports this transition. Therefore, as of the Transfer Date, the Project will transition from Transferor and be carried out by Successor. To accomplish this transition, Transferor and Successor agree as follows:

**TERMS AND CONDITIONS OF PROJECT TRANSFER**

1. Cooperation. At all times, beginning on the date this Agreement is entered into and continuing until all actions set forth in this Agreement have been satisfactorily completed, Transferor and Successor will use reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary to consummate and effect the transactions contemplated by this Agreement with minimal disruption to the Project and Project Employees. For the avoidance of doubt, this includes working together to complete and submit grant reports becoming due after the transition.
2. Responsibility for Project. As of the Transfer Date, Transferor will cease operation of the Project and Successor will assume full direct responsibility for the Project and all its operations and activities, including all work in progress previously conducted under Transferor. Successor agrees to use all assets, including cash transferred to Successor pursuant to this Agreement to further the purposes of the Project;
3. Employee Matters. On or prior to the Transfer Date, each employee identified on ‘Exhibit A’ (“Project Employees”) will be terminated as an employee of Transferor. Successor intends, as of 12:00 a.m. on the Transfer Date, to offer employment to said Project Employees initially providing for the performance of services in such positions and for such compensation as is comparable to the services by such employees immediately prior to the Transfer Date.
4. Transfer of Cash. To help Successor and the Project plan for post transition operations, the parties will promptly work together to agree, by no later than DATE, upon a projected balance of the restricted fund established for the purposes of the Project (the “Restricted Fund”) that will be granted to Successor to support the Project. On or prior to the Transfer Date, Transferor will grant to Successor, and Successor will accept, all right, title, and interest in and to the assets in the Restricted Fund except for $[\_\_\_\_\_\_\_\_] (the “Holdback Funds”), which will be held back for a period of three months (the “Holdback Period”) for the purpose of settling any liabilities and obligations associated with the Project that are billed to Sponsor, or of which Sponsor becomes aware, after the Transfer Date. At the end of the Holdback Period, the remaining amount of the Holdback Funds, if any, shall be transferred by Transferor to Successor along with a final accounting of the Restricted Fund closeout.
5. Transfer of Non-Cash Assets. On the Transfer Date, Transferor agrees to grant to Successor, and Successor agrees accepts, all right, title, and interest in and to all non-cash assets, whether tangible or intangible, developed exclusively for or by the Project and held by Transferor as of the Transfer Date. A list of such other assets is set forth on ‘Exhibit B’ attached to this Agreement. The parties agree to cooperate and take all reasonable steps necessary to transfer said assets.
6. Use of Assets. All of the assets including cash received by Successor under this Agreement are impressed with a charitable trust limiting the purposes for which they may be used, and must be devoted to advancing the purposes of the Project, within the tax-exempt purposes of Successor.
7. Transfer of Contracts. ‘Exhibit C’ lists all contracts, including revenue and expense agreements, grant agreements, leases, & vendor agreements entered into by Transferor on behalf of the Project that will be active on or around the Transfer Date. Some contracts may be assigned, some may be terminated and renewed under Successor, some may continue to be held by Transferor after the Transfer date, and others may be terminated and not renewed under Successor. By no later than DATE the parties will work together to determine how each active contract will be managed through the transition and then take any and all actions necessary to effectuate these decisions.

### External Communications.

1. Third Party Inquiries to Transferor about the Project. For the period beginning on the Transfer Date and ending six months subsequent to the Transfer Date, Transferor, upon receipt of any and all communications related in any manner to the Project, will inform said party that Project is no longer a Project of Transferor and share contact information provided by Successor.
2. Communication Guidelines. The Parties agree to conform to the guidelines specified in ‘Exhibit D’ when communicating and describing the history of the Project.
3. No Disparagement. Neither Party, including the representatives, agents, and contractors to each Party, will engage in any activity tending to destroy, diminish, or adversely impact (i) goodwill associated with the other Party or the Project, or (ii) either Party or Project’s reputation and standing in the community and marketplace. Further, neither Party will engage in any activity that disparages, or is derogatory of, the other Party or Project or any of their directors, officers, members, employees, or agents.
4. Confidentiality.
   1. The Parties acknowledge that, in the course of this Agreement, certain confidential or proprietary information (collectively “Confidential Information”) may be disclosed by one Party to the other. Confidential Information will be identified as such and the Party who receives Confidential Information from the other Party will not disclose the same to third parties, other than disclosure to its employees and contractors who need to know and have a duty to comply with this provision. The receiving Party of Confidential Information will use the same only for the purposes related to its disclosure and will exercise reasonable care and precaution to protect the disclosing Party’s Confidential Information to prevent unauthorized disclosure.
   2. Confidential Information will not include information that can be demonstrated to be public as of the date of this Agreement or becomes general information after such date through acts not attributable to the non-disclosing Party to this Agreement.
   3. The obligations of this provision will continue indefinitely or for so long as permitted by applicable law.
5. Indemnification. As of the Transfer Date, Successor will become responsible for the Project. As such, Successor will, to the maximum extent permitted by law, indemnify, hold harmless and defend Transferor, its employees, directors, officers and agents (collectively, the “Indemnified Parties”) from and against any claim, action, loss, liability, expense, damages, judgment, or amounts paid in settlement, including costs, attorney fees and witness fees, (a “Claim”) to the extent arising:
   1. As a result of any breach by Successor of this Agreement; or
   2. Out of the performance, acts, or omissions of the Project, Project Employees or Successor occurring after the Transfer Date.

Successor will not cause or permit its Articles or Bylaws to limit its ability to indemnify the Indemnified Parties hereunder. The obligation of Successor to indemnify the Indemnified Parties will survive termination or expiration of this Agreement.

Successor will not be required to indemnify any Indemnified Party for any such Claim to the extent arising from any act or omission of any Project employees occurring prior to the Transfer Date or any act or omission of non-Project employees at Transferor.

1. Dispute Resolution. In the event of a breach by one of the Parties or disagreement between the Parties concerning this Agreement, both Parties agree to use their best efforts to resolve the dispute between them, and failing that, with the use of an independent mediator prior to taking legal action. In the event of any controversy, claim, or dispute between the Parties arising out of or related to this Agreement that ultimately is litigated, the prevailing party shall, in addition to any other relief, be entitled to recover its reasonable attorneys fees and costs of sustaining its position.
2. Notice**.** Except as otherwise expressly provided in this Agreement, any official communication between the Parties or notices will be given in writing, in person, by mail or email to:
   1. For Transferor: Primary Contact
   2. For Successor: Primary Contact
3. Termination. This Agreement may be terminated upon the mutual agreement of the Parties so long as such agreement to terminate is in writing and signed by an authorized representative of each Party. In addition, in the event of a material breach that goes uncured by the non-terminating Party for 20 days after receiving written notice of the breach, the Party not in breach may immediately terminate this Agreement by giving written notice to the other Party.
4. Miscellaneous.
   1. Authority. Each of the Parties represents that: (i) it is duly organized and validly existing under the laws of the jurisdiction in which it is established; and (ii) it has the authority to enter into this Agreement.
   2. Governing Law. The Agreement is governed by and construed in accordance with the laws of Maryland.
   3. Public Charity Status and Authorizations. Successor represents that it currently is and agrees it will continue to operate as a compliant public charity pursuant to Section 501(c)(3) of the Internal Revenue Code. Successor will immediately notify Impact Commons if it loses its public charity status. Successor further represents it possesses all governmental franchises, licenses, certificates, permits, authorizations, and approvals necessary for Successor to perform its obligations under this Agreement and to carry out the operations of the Project as of the Transfer Date..
   4. Severability. If any provision of this Agreement is held by a court or arbitrator of competent jurisdiction to be contrary to law, such provision will be changed by the court or by the arbitrator and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law, and the remaining provisions of this Agreement will remain in full force and effect.
   5. Waiver. Neither Party will by mere lapse of time, without giving notice or taking other action hereunder, be deemed to have waived any breach by the other party of any of the provisions of this Agreement.
   6. Entire Agreement. This Agreement constitutes the entire agreement of the parties with regard to the subject matter hereof, and replaces and supersedes all other agreements or understandings, whether written or oral. All Exhibits to this Agreement are a material part of this Agreement and are incorporated by reference. No amendment, extension, or change of this Agreement, including any Exhibits, will be binding unless in writing and signed by all Parties.
   7. Counterparts. This Agreement may be executed in any number of counterparts and by facsimile or electronic signature, each of which will be an original, and each of such counterparts together constitute but one and the same agreement.

The Parties, by their signatures below, acknowledge having read this Agreement, understand it, and agree to be bound by its terms and conditions.

**For: Name of Transferor**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_

NAME Date

Title

**For: NAME OF Successor**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_

Name & title of authorized signatory Date

Confirmed on behalf of PROJECT NAME:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_

PROJECT REP (director or advisory board member) Date

**Exhibit A. Project Employees**

| **Name** | **Title** |
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**‘Exhibit B’ Noncash Assets**

Unless otherwise provided under this Exhibit B, Project Assets referenced below will be immediately transferred from Transferor to Successor as of the Transfer Date.

Names and Logos:

The Project names Project Names and abbreviations, slogans, etc. and associated logos, including, but not limited to, all associated colors and fonts

Assets Subject to Copyright:

Website/Online Assets

- The Project website domain names, which include Websites,

- All website technology and coding necessary to operate or associated with the Project website, the homepage of which is Website

- All content in any form of the Project website

- All data stored on Website web server

- All data and templates from secondary websites that the Project uses that are currently contracted with Transferor

- All social media handles used by the Project

Project Content

- All training and research materials used by or in connection with the Project, including, but not limited to, all presentations, tools, and templates

- All materials used in connection with Projects of the Project, including, but not limited to, proposals, presentations, deliverables, tools, templates, contracts, and the invoice history for applicable consultant engagements and grantor/grantee relationships

- All publications by or in connection with the Project, including, but not limited to, all online and print publications produced or created by the Project

- All content in any form of the Project website

Data:

- All data associated with the Project in an exportable format

- Copies of all shared files relating to the Project

- All email communications transmitted to or from Project staff

Physical Assets:

All physical assets procured or developed with funds designed for the Project.

**‘Exhibit C’ Contracts & Grant Agreements**

Per Section 7 of the Agreement, by no later than DATE the parties will work together to determine how each of the below contracts will be managed through the transition and then take any and all actions necessary to effectuate these decisions.

* Grant Agreements LIST
* Fee for Service Contracts LIST
* Expense Contracts (including subcontract, independent contractor contracts, leases, vendor contracts) LIST

**‘Exhibit D’ Communication Guidelines**

Transferor and the Project will portray the history of Project on web and print when applicable in a manner consistent with the following:

HISTORY DESCRIPTION