

SUBGRANT AGREEMENT

THIS SUBGRANT AGREEMENT (the “Agreement”) is made and entered into as of the date of the last signature on this Agreement (the “Effective Date”) between the Arizona Commerce Authority (“ACA”), through its State Broadband Office (“Office”), and [_____] (“Subgrantee”) (collectively, the “Parties”) to complete the Project.

DEFINITIONS

“**ACA**” means the Arizona Commerce Authority, an agency of the State of Arizona.

“**Application**” means Subgrantee’s approved and accepted Arizona BEAD Program application, attached hereto as Attachment 2 and hereby incorporated by reference into this Agreement as it may be amended from time to time by mutual agreement of the Parties.

“**Assistant Secretary**” means the Assistant Secretary of Commerce for Communications and Information and National Telecommunications and Information Administration (“NTIA”) Administrator.

“**Arizona BEAD Program**” means the State of Arizona’s BEAD Program as administered by the Office.

“**Award Funds**” means Grant Funds and Matching Funds (i.e., all of the funds associated with this Agreement).

“**BEAD GT&Cs**” means the General Terms and Conditions for the NTIA Broadband Equity, Access & Deployment Program (“BEAD”) Program Funds (November 2025), available at https://broadbandusa.ntia.gov/funding-programs/policies-waivers/BEAD_GTCs_Nov_2025, or as subsequently or further updated.

“**BEAD Program**” means the Broadband Equity, Access, and Deployment Program, authorized by the Infrastructure Investment and Jobs Act, Division F, Title I, including the terms of Section 60102, Public Law No. 117-58, 135 Stat. 429 (November 15, 2021) (“IIJA”).

“**BEAD NOFO**” means the NTIA BEAD Program Notice of Funding Opportunity (May 13, 2022) (Funding Opportunity Number NTIA-BEAD-2022) available at <https://broadbandusa.ntia.gov/funding-programs/broadband-equity-access-and-deployment-bead-program>, including the applicable obligations set forth in the Office of Management and Budget (“OMB”) Uniform Guidance, 2 C.F.R. Part 200, or as subsequently or further updated.

“**BEAD RPN**” means the NTIA BEAD Restructuring Policy Notice (June 6, 2025), available at <https://www.ntia.gov/sites/default/files/2025-06/bead-restructuring-policy-notice.pdf>.

“**Broadband Service**” has the meaning given the term “broadband internet access service” in Section 8.1(b) of title 47, Code of Federal Regulations (“C.F.R.”), or any successor regulation.

“**CAI**” means a Community Anchor Institution within the State of Arizona as identified by the

Office.

“Closeout Date” is the date when the Office determines Subgrantee has satisfied all state and federal reporting requirements related to the Project and completes close out of this award pursuant to 2 C.F.R. § 200.344.

“DOC” means the United States Department of Commerce.

“DOC GT&Cs” means the Department of Commerce Financial Assistance General Terms and Conditions (September 22, 2025), available at <https://www.commerce.gov/oam/files/doc-financial-assistance-general-terms-and-conditions-9-22-25>, including the applicable obligations set forth in the OMB Uniform Guidance, 2 C.F.R. Part 200, or as subsequently or further updated.

“Effective Date” is the date of the last signature when all Parties have fully signed this Agreement.

“End User” means a Broadband Serviceable Location (“BSL”) included within the scope of Subgrantee’s Application.

“Federal Grants Officer” means the National Institute of Standards and Technology (“NIST”) grants officer and **“Federal Program Officer”** means the NTIA program officer identified on the Arizona’s BEAD Program CD-450, as amended.

“Federal Interest Period” is the period during which Subgrantee will hold in trust for the beneficiaries of the BEAD Program all real property and equipment acquired or improved in connection with this Agreement (inclusive of both Federal funds and non-Federal matching funds). The Federal interest in all real property and equipment acquired or improved as part of this Agreement will start upon acquisition or improvement thereof and continue for ten (10) years after the year of the Closeout Date. This Federal interest shall apply regardless of whether the asset is acquired or improved with Federal funds or non-Federal matching funds. For example, if this award is closed out in 2027, regardless of the month, the Federal Interest Period will last until December 31, 2037. Pursuant to the BEAD RPN, NTIA will not take a Federal interest in equipment or property specifically acquired or improved with a LEO Capacity Subgrant. Additionally, the consumer and taxpayer protections set forth in the NOFO apply to the recipients of such subgrants for the duration of the LEO Capacity Subgrant ten-year Federal interest period.

“Grant Funds” means the Arizona BEAD Program funding awarded for this Project as identified in Attachment 1 (the Total Amount of the Federal Award committed to Subgrantee by the Office).

“Initial Proposal” means the Arizona BEAD Program Initial Proposal (Volumes I and II), as approved by NTIA on Aug. 5, 2024, and as subsequently updated and implemented (**“Final Proposal”**), available at <https://www.azcommerce.com/broadband/initiatives/bead>.

“LCSO” means the Low-Cost Service Option.

“LEO Subgrant” means this Agreement to the extent Subgrantee uses capacity on a Low Earth

Orbit (“LEO”) satellite network to deliver Qualifying Broadband Service and related services for part of the Subgrantee’s obligations or any portion of the Project, as modified or supplemented by Attachments 4.b., 12., as well as by the BEAD Program requirements (including those for LEO Capacity Subgrants) that apply to such LEO services, including to the extent it is obtained by or through a lower tier subgrantee or subcontractor, or other contractual arrangement, with all other terms, conditions, and provisions of this Agreement remaining in full force and effect.

“**LEO Subgrantee**” means the Subgrantee under this Agreement to the extent it uses a LEO satellite network to deliver Qualifying Broadband Service and related services for part of its obligations or any portion of the Project, including services obtained by or through a lower tier subgrantee or subcontractor, or other contractual arrangement, with all other terms, conditions, and provisions of this Agreement and the BEAD Program remaining in full force and effect.

“**Matching Funds**” means funds or in-kind contributions provided by Subgrantee or the ACA to meet or exceed the BEAD Program’s non-federal match requirement.

“**NIST**” is the National Institute of Standards and Technology, the entity within the United States Department of Commerce that administers BEAD Program grants.

“**NTIA**” is the National Telecommunications and Information Administration, the entity within the United States Department of Commerce responsible for implementing the BEAD Program.

“**Office**” is the State Broadband Office within the ACA.

“**Priority Broadband Project**” means a project that provides broadband service at speeds of no less than 100 megabits per second for downloads and 20 megabits per second for uploads, has a latency less than or equal to 100 milliseconds, and can easily scale speeds over time to meet the evolving connectivity needs of households and businesses and support the deployment of 5G, successor wireless technologies, and other advanced services.

“**Project**” means the planned and actual installation of broadband facilities and the provision of Qualifying Broadband Service as described in Subgrantee’s Application, which is hereby incorporated herein by reference and attached as Attachment 2.

“**Project Completion Criteria**” are the minimum criteria for Project completion set forth in Attachment 3 and the Application (and any changes approved by the Office, if applicable).

“**Project Property**” means “Real property” or “Equipment,” in each case as defined in 2 C.F.R. § 200.1, acquired or improved using Award Funds.

“**Project Schedule**” means the schedule for performance and completion of the Project by Subgrantee and approved in writing by the Office.

“**Qualifying Broadband Service**” to a location that is not a CAI is a Reliable Broadband Service with (i) a speed of not less than 100 Mbps for downloads; and (ii) a speed of not less than 20 Mbps for uploads; and (iii) latency less than or equal to 100 milliseconds. “Qualifying Broadband

Service” to a CAI is Reliable Broadband Service with (i) a speed of not less than 1 Gbps for downloads and uploads alike and (ii) latency less than or equal to 100 milliseconds.

“**Reliable Broadband Service**” means broadband service that the Broadband DATA Maps show is accessible to a location via: (i) fiber-optic technology; (ii) Cable Modem/Hybrid fiber-coaxial (HFC) technology; (iii) digital subscriber line (DSL) technology; or (iv) terrestrial fixed wireless technology utilizing entirely licensed spectrum, entirely unlicensed spectrum, a hybrid of licensed and unlicensed spectrum; or (v) “LEO” satellite services, so long as the technologies employed meet the technical performance requirements in the BEAD NOFO, as redefined by BEAD RPN, and the IIJA.

“**Schedule of Values**” is the schedule of costs for performance and completion of the Project by Subgrantee and approved in writing by the Office.

“**UGPN**” is the NTIA Uniform Guidance Policy Notice (December 26, 2023), titled “Policy Notice: Tailoring the Application of the Uniform Guidance to the BEAD Program.”

“**Underserved Location**” means a broadband-serviceable location that is (a) not an unserved location, and (b) that the Broadband DATA Maps show as lacking access to Reliable Broadband Service offered with—(i) a speed of not less than 100 Mbps for downloads; (ii) a speed of not less than 20 Mbps for uploads; and (iii) latency less than or equal to 100 milliseconds.

“**Unserved Location**” means a broadband-serviceable location that the Broadband DATA Maps show as (a) having no access to broadband service, or (b) lacking access to Reliable Broadband Service offered with — (i) a speed of not less than 25 Mbps for downloads; (ii) a speed of not less than 3 Mbps for uploads; and (iii) latency less than or equal to 100 milliseconds.

Capitalized terms not otherwise defined herein shall have the same meaning ascribed thereto in the BEAD NOFO.

RECITALS

WHEREAS, the ACA is authorized to make Grant Funds available to qualified subgrantees under the Arizona BEAD Program, and governed in accordance with the IIJA, the BEAD NOFO, and BEAD RPN, including any additional regulations promulgated by or guidance of the Assistant Secretary of Commerce for Communications and Information and NTIA Administrator;

WHEREAS, the granting of Arizona BEAD Program funds through this Agreement from the Office to Subgrantee for the benefit of End Users has been approved by the ACA;

WHEREAS, the granting of funds from ACA to Subgrantee will enable the development of valuable broadband facilities for End Users for the delivery of valuable services, particularly the increased availability of telemedicine services, distance learning, and telework;

WHEREAS, ACA and Subgrantee agree that this award is being provided by the State of Arizona to Subgrantee for Subgrantee to carry out part of the Federal BEAD award received by Arizona.

Specifically, Subgrantee will use Award Funds for the deployment of a broadband network and the provision of Qualifying Broadband Service to End Users to bridge the digital divide;

WHEREAS, ACA and Subgrantee agree that the major purpose of this award is a broadband infrastructure project;

WHEREAS, it is the intent of the Parties that this Agreement in all other respects is a “subaward” as that term is defined in 2 C.F.R. § 200.1 and that Subgrantee is a “subrecipient” as that term is defined in 2 C.F.R. § 200.1 and as evaluated under 2 C.F.R. § 200.331; and

WHEREAS, this subaward is a “fixed amount award” (“fixed amount subaward”) as defined in 2 C.F.R. § 200.1 and provided for in 2 C.F.R. § 200.201, where the major purpose of the subaward is a broadband infrastructure project, and will be administered by the Office pursuant to the UGPN, structured as a fixed amount award subject to final reconciliation of total Project costs at closeout as further detailed in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and incorporating by this reference the above Definitions and Recitals, the Parties hereby agree as follows:

I. Federal Award Identification

Information identifying this Federal subaward is set forth in Attachment 1 to this Agreement.

II. General Compliance Requirements, Order of Precedence, and Terminology

Subgrantee must perform its obligations under this Agreement in a manner that complies, and enables the ACA to comply, with all requirements contained in the following:

1. 47 U.S.C. § 1702;
2. Specific Award Conditions applicable to Arizona’s BEAD award;
3. BEAD GT&Cs;
4. BEAD RPN;
5. BEAD NOFO, including DOC Pre-Award Notification Requirements for Grants and Cooperative Agreements, and NTIA Notices, Guidance, and FAQs;
6. DOC GT&Cs;
7. This Agreement and all Attachments, which are hereby incorporated herein by reference, made part of this Agreement, and attached hereto (including Subgrantee’s Application as accepted by ACA, dated as of the Effective Date of this Agreement (Attachment 2));
8. Arizona BEAD Program Initial Proposal and Final Proposal, as amended;

9. ACA Uniform Terms and Conditions (May 11, 2018);
10. ACA Special Terms and Conditions - Insurance Requirements for Vendors (May 8, 2018); and
11. ACA's Uniform Instructions to Offerors for Procurement and Other Administrative Processes.

The foregoing are hereby incorporated herein by reference, made part of this Agreement, as if fully set forth herein, and are deemed to be Agreement obligations of the Subgrantee, which clarify and provide guidance as to, inter alia, the applicable regulatory provisions relating to internal controls, subgrantee monitoring and management, and audit requirements that apply to the ACA and thereby to Subgrantee and lower tier subgrantees or subcontractors receiving such funds through this Agreement. These requirements are legally binding and enforceable under this Agreement and the Subgrantee shall comply, and must require its lower tier subgrantees or subcontractors, to comply with all applicable federal, state, and local laws and regulations, and all applicable terms and conditions of this Subgrant Agreement.

Subgrantee is permitted to engage lower tier subgrantees or subcontractors to satisfy its performance obligations for such work under this Agreement, subject to any terms, conditions, or restrictions of this Agreement and NTIA requirements. The Subgrantee must require lower tier subgrantees or subcontractors to comply with all applicable federal, state, and local laws and regulations, and all applicable terms and conditions of this Agreement. The Subgrantee remains responsible for ensuring that all such lower tier agreements, including those necessary for design and construction of facilities, are implemented in compliance with BEAD requirements and this Agreement. No lower tier agreement that Subgrantee enters and that relates to performance of any obligations hereunder will, in any way, relieve the Subgrantee of any responsibility for acceptable performance of its duties or obligations with respect this Agreement, including any LEO capacity or services obtained as LEO Subgrantee by or through a lower tier LEO capacity or services subgrant, subcontract, or other agreement, a copy of which shall be provided to the Office. Current officers or employees of the State of Arizona may not act as lower tier subgrantees, subcontractors, or providers under this Agreement.

In any case where language among two or more authorities appears inconsistent, the relevant authorities should be read and interpreted in a manner that emphasizes consistency and harmonization across all relevant authorities. Where harmonization is not reasonably possible, the Parties agree to prioritize the following language contained in these authorities in the enumerated order of precedence (1. – 11.), from highest to lowest priority, and in a manner that will maintain the integrity of the underlying Agreement. Notwithstanding the foregoing, no provision of the Subgrantee Application shall be read or interpreted in a matter that contradicts a BEAD Program requirement, or reduces Subgrantee obligations under the BEAD Program or federal or state law. NTIA may issue subsequent or further guidance on allowable uses of BEAD funds. Any such guidance shall be considered incorporated herein and made part of this Agreement as if set forth in full without further notice.

The ACA, and any agency, instrumentality, or subdivision thereof, agrees not to enforce any law, regulation, executive order, contracting requirement, or other enforceable obligation that directly or indirectly regulates in any way the rates, terms, and conditions of broadband internet service, whether on a retail, wholesale, or network basis, or imposes net neutrality rules, open access, or other utility-style rules on broadband internet service, against the Subgrantee or its affiliates anywhere it provides service within the ACA's jurisdiction, while that Subgrantee has any subgrant that is still within its period of performance, extended period of performance, or federal interest period. For purposes of this provision, a "net neutrality rule" is any law, order, contracting requirement, or other enforceable obligation by the ACA that prohibits internet service providers from, among other things, blocking content, throttling speeds, imposing data caps, or engaging in paid prioritization, or that imposes a general conduct or similar standard upon internet service providers.

III. Nature of Award

Subgrantee shall deploy Qualifying Broadband Service to End Users and CAIs as described in Subgrantee's Application or otherwise with the prior approval of ACA. This Project must provide Qualifying Broadband Service to all broadband serviceable locations and CAIs identified in the Application and at the speeds and latency standards articulated therein, including but not limited to technical qualifications, certifications, and documentation.

Once Subgrantee's construction is complete for an End User, Subgrantee shall be capable of performing a standard installation of Qualifying Broadband Service to such End User, at a standard installation charge, within ten (10) business days after the date on which a service request is submitted by such End User.

The Subgrantee shall, without additional expense to ACA, be responsible for obtaining any necessary consents, rights-of-way, licenses and permits, and for complying with any federal, state, and municipal laws, codes, and regulations applicable to the performance of the Project work, including underground utility damage prevention and occupational safety and health requirements. The Subgrantee shall also be responsible for all damages to persons or property that occur as a result of the Subgrantee's fault or negligence. The Subgrantee shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire Project.

The ACA shall have the right, as set forth in, and subject to the limitations of, Section XV.B., to update this Agreement and Subgrantee shall remain obligated to comply with the current and future obligations of the BEAD Program and this Agreement through the Closeout Date, except for those obligations that survive closeout and remain in force during the Federal Interest Period as described in Section X. below, as applicable, or the extended Period of Performance for LEO Subgrant services as described in Attachment 12, below, which will continue. The Subgrantee must at all times comply with and observe all federal, state, and local laws, ordinances, and regulations that in apply to the Project, including, without limitation, applicable NTIA guidance, all rules and regulations promulgated to implement BEAD, and any other federal or state laws

applicable to this Agreement.

IV. Period of Performance and Closeout

A. Period of Performance

The Period of Performance shall start on the Effective Date and the Project must be completed within four (4) years (“Period of Performance”), during which period Subgrantee shall begin providing services to each End User that desires broadband service within the Project area not later than four (4) years after the Effective Date. Should Subgrantee propose a faster timeline than the four (4) year program deadline in Subgrantee’s Application (Attachment 2), the Subgrantee shall be bound by that faster timeline commitment. If applicable, the extended Period of Performance concludes ten (10) years from the date upon which the LEO Subgrantee certifies that broadband is available to every location covered by the LEO capacity or services for the Project.

B. Extension of the Period of Performance

ACA may, in its sole discretion, and subject to NTIA review and prior approval, extend the Period of Performance by up to one (1) year if Subgrantee demonstrates to the Office that: (a) Subgrantee has a specific plan for use of the Grant Funds, with Project completion expected by a specific date not more than five (5) years after the Effective Date; (b) construction on the Project is underway; or (c) extenuating circumstances require an extension of time to allow the Project to be completed. This one (1) year extension adds limited time to finish initial deployment. The extended Period of Performance for LEO Capacity Subgrants, as described in Attachment 12, below, imposes a separate, longer-term obligation to maintain qualifying LEO service.

C. Closeout

Closeout will be conducted on the timelines and in the manner set forth in 2 C.F.R. § 200.344. The Office may request and Subgrantee shall provide supporting information as reasonably necessary to complete closeout consistent with the requirements of 2 C.F.R. § 200.344(b) and Attachment 10. Closeout does not affect (a) any of the rights, requirements and obligations set forth in 2 C.F.R. § 200.345, or (b) any of Subgrantee’s obligations that survive closeout and remain in force during the Federal Interest Period as described in Section X. below, or, if applicable, the extended Period of Performance for a LEO Subgrant as described in Attachment 12, below.

V. Subgrantee’s Responsibilities to Deploy Broadband Infrastructure and Provide Broadband Service

A. Scope of Work

All work on the Project shall materially conform to the plans set forth in the Application submitted by Subgrantee, unless the Office approves a change to the Project, in which case the

work shall conform to the Application plans and the change, as applicable. Any material changes to the Project or key personnel must be approved in advance by the ACA.

B. Subgrantee Responsibilities

Subgrantee explicitly acknowledges the following obligations:

1. Standard of Work

Subgrantee shall ensure that all work associated with the Project is performed in a workmanlike fashion and in keeping with prevailing industry standards.

2. Subgrantee Responsibilities for Work

Notwithstanding any other provision of this Agreement, the Parties agree that Subgrantee is solely responsible for:

- Ensuring that Subgrantee meets all deadlines in approved plans and specifications;
- Monitoring the progress of the Project and all grant funded activities; however, the Office shall have the right to collect any information consistent with IIJA, BEAD, and federal, state, or local requirements for implementation of this Project and advise Subgrantee of any specific areas of concern and may impose specific award conditions or other corrective action as a result of monitoring findings, including but not limited to information from Subgrantee or subcontractors related to budgets, expenses, receipts, financial reports, and deployment milestones;
- Inspecting the Project and all grant funded activities; however, the Office shall have a right at any time, (i) during regular business hours and on at least forty-eight (48) hours' notice and (ii) with representatives of Subgrantee present, to inspect work-in-progress, or test and analyze all work purchased or constructed in whole or in part using funds provided by the Office, including inspections by a professional engineer, to determine whether in the Office's opinion the work is being performed in accordance with the provision of this Agreement and in an equitable and nondiscriminatory manner;
- Reporting progress as set forth in this Agreement;
- Providing for required construction licensing, permits, bonding, and adequate construction inspection so as to comply with all federal, state, and local laws;
- Promptly paying costs incurred for the Project, including but not limited to all grant funded activities, and, except as set forth in Attachments 9. and 9.a, ensuring that all parts of the Project remain encumbrance free and in good standing from a financial perspective;
- Monitoring and ensuring compliance of the Subgrantee's and lower tier subgrantees, subcontractors, or other lower tier agreement compliance with federal, state, and local requirements;

This Draft (05.07.26) is provided solely for discussion and negotiation purposes and does not constitute an offer or a binding agreement.

- Monitoring the Subgrantee’s compliance with its approved LCSO plan; and,
- Constructing and maintaining in good condition throughout the construction period a sign or signs, at the site of grant funded activities in a conspicuous place indicating that the Federal Government is participating in the activities.

3. Build America, Buy America

Congress passed the Build America, Buy America Act (“BABA”) on November 15, 2021, as part of the IIJA. BABA established domestic content procurement preference requirements for federal financial assistance projects for infrastructure, including the BEAD Program, consistent with IIJA § 70912(2).

Subgrantee shall comply with BABA consistent with applicable legal authorities, such as the IIJA, Executive Order 14005, 2 C.F.R. Part 184, OMB Memo M-24-02, and any applicable waivers issued by the DOC or NTIA, to include the NTIA Limited General Applicability Nonavailability Waiver of the Buy America Domestic Content Procurement Preference as Applied to Recipients of Broadband Equity, Access, and Deployment Program (effective February 22, 2024). All waivers applicable to BEAD will be posted on the Build America, Buy America page maintained by the DOC Office of Acquisition Management at <https://www.commerce.gov/oam/build-america-buy-america>. Subgrantee further acknowledges that NTIA may establish additional reporting requirements related to BABA compliance, including but not limited to documentation of material sourcing, manufacturer certifications, and reporting on the use of waived products, which the Subgrantee shall comply with as a condition of this Agreement.

4. Environmental and Historic Preservation (“EHP”) Review

Subgrantee must comply with the requirements of all applicable federal, state, and local environmental statutes, laws, and standards, including as set forth in Attachment 5 to this Agreement.

5. Other Federal Construction Requirements

Subgrantee shall perform its obligations under this Agreement in accordance with the federal construction requirements set forth in Attachment 6.

6. Other State and Local Requirements

Subgrantee shall perform its obligations under this Agreement in accordance with the following State of Arizona requirements:

- a. *No Israel Boycott*. Subgrantee certifies that it is not currently engaged in and agrees for the duration of this Agreement not to engage in a boycott of Israel as defined in A.R.S. § 35-393.

b. *No Uyghur Forced Labor.* In accordance with A.R.S. § 35-394, Subgrantee certifies and agrees that Subgrantee does not currently and shall not for the duration of this Agreement use (1) the forced labor of ethnic Uyghurs in the People's Republic of China, (2) any services or goods produced by the forced labor of ethnic Uyghurs in the People's Republic of China, and/or (3) any suppliers, subgrantees or sub-subgrantees that use the forced labor or any services or goods produced by the forced labor of ethnic Uyghurs in the People's Republic of China. If Subgrantee becomes aware during the term of this Agreement that Subgrantee is not in compliance with this Section, then Subgrantee shall notify the Office within five (5) business days after becoming aware of such noncompliance. If Subgrantee does not provide the Office with written certification that Subgrantee has remedied such noncompliance within one hundred eighty (180) calendar days after notifying the Office of such noncompliance, this Agreement shall be subject to termination, except that if the Agreement termination date occurs before the end of such one hundred eighty (180) day remedy period, this Agreement shall terminate on such Agreement termination date.

c. *Compliance with Immigration Laws and Regulations.* Pursuant to the provisions of A.R.S. § 41-4401, the Subgrantee warrants to the Office that the Subgrantee and all its subgrantees and subcontractors (at any tier) are in compliance with all Federal Immigration laws and regulations that relate to their employees and with the E-Verify Program under A.R.S. § 23-214(A). Subgrantee acknowledges that a breach of this warranty by the Subgrantee or any of its lower tier subgrantees or subcontractors is a material breach of this Agreement subject to penalties up to and including termination of this Agreement or any lower tier subagreement or subcontract. The Office retains the legal right to inspect the papers of any employee of the Subgrantee or any lower tier subgrantees or subcontractors who work on this Project or under this Agreement to ensure compliance with this warranty. The Office may conduct random verification of the employment records of the Subgrantee and any of its lower tier subgrantees or subcontractors to ensure compliance with this warranty. The Office will not consider the Subgrantee or any of its lower tier subgrantees or subcontractors in material breach of the foregoing warranty if Subgrantee and its lower tier subgrantees and subcontractors timely establish that they have complied with the employment verification provisions prescribed by 8 U.S.C. § 1324(a) and (b) of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A). The provisions of this Section must be included in any subagreement or subcontract the Subgrantee enters into with any and all of its lower tier subgrantees or subcontractors who provide services under this Agreement. As used in this Section "services" are defined as furnishing labor, time, or effort in the State of Arizona by a contractor, subcontractor, or subgrantee. Services include construction or maintenance of any structure, building, or transportation facility or improvement to real property.

d. *Cancellation.* Pursuant to the provisions of A.R.S. § 38-511, the ACA may cancel this Agreement, within three (3) years after its execution, without penalty or obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating this Agreement on behalf of the ACA is, at any time while this Agreement or any extension thereof is in effect, an employee of any other party to this Agreement in any capacity or a consultant to any other party to this Agreement with respect the subject matter of this Agreement.

e. *Financial obligations.* All financial obligations of Subgrantee under this Agreement (including without limitation letters of credit, bonds (including A.R.S. § 34-222, et seq. and/or A.R.S. § 33-1003, to the extent applicable), and insurance) shall be provided by institutions licensed and/or authorized to provide such under Arizona law and shall be collectable by the ACA in Maricopa County, Arizona.

f. *Licensing.* Subgrantee will only utilize properly Arizona-licensed and certified professionals performing under this Agreement (including without limitation lower tier subgrantee or subcontractor design professionals) as required under Arizona law.

g. *Other Arizona Laws.* Subgrantee shall perform all of its obligations in conformance with applicable Arizona state, county and municipal laws codes, rules and regulations.

C. Notice of Completion and Final Inspection

Pursuant to 2 C.F.R. § 200.201(b)(4), the Subgrantee must certify in writing to the Office that the Project is completed. Accordingly, once (a) all construction has been completed, Subgrantee's architect/engineer has conducted its own final inspection, and any deficiencies have been corrected, and (b) all Project Completion Criteria specified in Attachment 3 have been met, Subgrantee shall submit written certification ("Subgrantee Completion Certification") to the Office that the Project was placed into service, as defined in 47 U.S.C. § 1702(h)(4)(C) for last-mile broadband deployment projects, by the end of the Period of Performance and request that the Office certify completion of the Project and initiate closeout per Section IV.C., above.

Within twenty (20) business days of receipt of the Subgrantee's Completion Certification, the Office, in its sole discretion, may schedule a final inspection, and/or request Subgrantee to produce any Project data the Office reasonably requires to support certification of completion of the Project, which may include data related to deficiencies previously identified by the Subgrantee's architect/engineer. The Subgrantee acknowledges and agrees that it may further be required to provide explanations for any discrepancies between the Office's technical review findings and the Subgrantee's prior representations and/or Application. Representatives of the NTIA, the Office, the architect/engineer, and the Subgrantee and/or contractor(s) may attend the Office's final inspection for the Project. The Office will work with the Subgrantee to conduct this process within a reasonable timeframe upon receipt of the Subgrantee Completion Certification.

D. Certificate of Completion

Following the Office's review and approval of the Subgrantee Completion Certification described in Section V.C. above, the Office will provide to Subgrantee written certification of Project completion ("Certificate of Completion") within twenty (20) business days of final acceptance of the Project. A Project shall not be considered accepted until the Office issues a Certificate of Completion.

E. Rejection of Project; Resubmitting Subgrantee Completion Certification

Subgrantee's failure to meet any of the Project Completion Criteria or failure to meet any material obligation under this Agreement shall be cause for rejection of the Subgrantee Completion Certification by the Office. A Project shall be considered accepted unless, within twenty (20) business days of a final inspection (or the lapse of the period during which a final inspection could be scheduled by the Office), the Office notifies the Subgrantee that the Project is rejected or that the correction of non-conformances or deficiencies is required for the project to be accepted. If the Project is rejected, or if correction of non-conformances or deficiencies is required for the Project to be accepted, the Office will notify the Subgrantee and specify the non-conformances or deficiencies that must be remedied for the Project to be accepted. As part of this notification, the Office will also specify a reasonable time period for Subgrantee to resubmit its Subgrantee Completion Certification (which shall be a period of no less than twenty (20) business days).

In these instances, Subgrantee shall promptly remedy any non-conformances or deficiencies which prevent the work performed on the Project from satisfying the Project Completion Criteria or meeting any material obligation under this Agreement. Subgrantee shall provide an updated Subgrantee Completion Certification to the Office when Subgrantee resubmits the Project for acceptance. The Office shall review the resubmitted Project within thirty (30) business days of receipt of the updated Subgrantee Completion Certification. A resubmitted Project shall be considered accepted unless either: (1) within this period, the Office notifies Subgrantee in writing that the resubmitted Project is rejected and specifies the items that, if modified or added, will cause the resubmitted Project to be accepted; or (2) the Office notifies the Subgrantee in writing that the review will take a longer period of time, and specifies that time not to exceed sixty (60) business days. The Parties shall repeat this process until the resubmitted Project is accepted and the Office provides a Certificate of Completion, or the Office determines that Subgrantee has triggered the non-performance section of this Agreement.

VI. Disbursement of Grant Funds

A. Maximum Amount

The ACA shall have no obligation to pay Subgrantee any amount under this Agreement that exceeds the Grant Funds available to and received by the ACA. Subgrantee acknowledges and agrees that the ACA is only obligated to pay to Subgrantee in the amount of Grant Funds actually received by the ACA and approved for payment for the Project work and that the sole source of funding for payments to Subgrantee under this Agreement is payment to the ACA of the Grant Funds allocated to the Project. Payment to the ACA of the Grant Funds allocated to the Project is a condition precedent to the ACA's obligation to pay Subgrantee. Unless other sources of funding are disclosed herein, Subgrantee represents that, as of the Effective Date, it has no knowledge of any other federal, state, or local funding commitments for the Project or service area, and that it has not applied for – or, if applied for, will immediately withdraw – funding from any other federal, state, or local government body for the Project or service area.

B. Condition Precedent to Disbursement

The ACA shall not disburse any Grant Funds to Subgrantee until an officer of Subgrantee has made the attestations regarding cybersecurity and supply chain risk management specified in Attachment 7.

C. Schedule of Values

Subgrantee shall develop and submit with Subgrantee's Application, a proposed Schedule of Values for the cost of performance through completion of the Project. Subgrantee and the Office shall work collaboratively to finalize the Subgrantee's proposed Schedule of Values within twenty (20) business days after the Effective Date of this Agreement, in such form and detail including categories of cost as required by the Office. Once approved in writing by the Office, the Schedule of Values may not be changed without the prior written approval of the Office.

D. Project Schedule

Subgrantee shall develop and submit with Subgrantee's Application, or such other time as the Office shall require, a proposed Project Schedule, with benchmarks, historical and other cost or pricing data, milestones, and deployment deadlines, consistent with Attachment 4, for the purposes of managing the construction, installation, overall deployment, and any related reporting. Subgrantee and the Office shall work collaboratively to finalize the proposed Project Schedule within twenty (20) business days after the Effective Date of this Agreement, in such form and detail including categories of cost as required by the Office. Once approved in writing by the Office, the Project Schedule may not be changed without the prior written approval of the Office.

E. Disbursement Milestones

Grant Funds shall be disbursed in the amounts and based upon the Office's determination that Subgrantee has achieved the milestones set forth in Attachment 4.

The final milestone payment shall not be paid without an approved Certificate of Completion and Project Completion Report. Subgrantee's request for final payment shall be submitted within ninety (90) calendar days of the date the Office issues written certification of Project completion.

F. Disbursement Requests

Subgrantee must submit with each request for disbursement:

1. Certification that all elements of the relevant milestone have been met as set forth in Attachment 4.a., and 4.b., as applicable; and
2. A report showing the amount of Matching Funds expended as of the date of the request.

Subgrantee shall submit certified disbursement requests within thirty (30) calendar days of reaching each milestone stated in Attachment 4. The Subgrantee will be required to make available evidence of costs incurred after disbursement requests (e.g., during an annual review

and/or at Project completion) to validate the actual costs incurred and work performed under this Agreement. The Office will provide the Subgrantee with a Disbursement Request Form, which will be consistent with the requirements set forth above and shall constitute the manner whereby requests for payments are made to the Office by the Subgrantee.

The Subgrantee shall notify the Office, in writing, and submit updated information promptly upon becoming aware of any material variances from the approved Project plan and budget, including any internal cost saving measures implemented by the Subgrantee that are reasonably expected to result in a material cost underrun. If upon Project completion (including Project closeout under Section IV.C. and prior to the final milestone payment under Section VI.E.) there are cost savings resulting in total actual costs incurred by the Subgrantee to achieve the Attachment 4 milestones that are materially less than the aggregate Grant Funds approved in the Project plan and budget for such milestones, the Office, after consultation with the Subgrantee and an opportunity to respond, may reduce the total Grant Funds for a final Project plan and budget that the Office reasonably determines to be commensurate with the documented eligible costs under Section VIII.A. and the level of effort and investment actually devoted to the Project by the Subgrantee, which reduction shall be effected through a reduction in the final payment of Grant Funds to Subgrantee. To the extent the ACA may allow the Subgrantee to retain properly documented Project cost savings, and provided the Office has verified that all milestones have been achieved, any difference between the Subgrantee's actual costs and amounts paid in accordance with this Section shall not be treated as profit under 2 C.F.R. § 200.400(g), but may be retained by the Subgrantee consistent with 2 C.F.R. § 200.201(b).

G. Disbursement Procedures

Grant Funds shall be disbursed to the Subgrantee via ACH transfer or check, provided that Subgrantee has submitted to ACA a completed vendor substitute W-9 form and, in the case of ACH transfer, an ACH authorization form.

The acceptance of a disbursement request by the Office shall not constitute acceptance of any work performed or deliverables provided under this Agreement. Subgrantee agrees that, while disbursement by the ACA will occur as milestones are achieved as payment for tangible, allowable, and allocable work product that is properly requested for this Project pursuant and subject to the other terms of this Agreement, ultimate acceptance by the Office of all work will need to be verified pursuant to the process detailed in Section V. of this Agreement. All payments also must be consistent with all federal, state, and local laws. Subject to Section VIII.A., eligible expenditures may not be incurred prior to the Effective Date or subsequent to a grant termination date. Payments are further subject to the availability of funds to the Office from NTIA. Subject to Section VI.F. and Attachment 4.a., the ACA will use commercially reasonable best efforts to issue Grant Funds to Subgrantee within forty-five (45) calendar days of Subgrantee's completed submission of all information requested by the ACA for each applicable milestone.

H. Record Retention and Auditing

All disbursement requests are subject to audit for five (5) years from date of the Office's approval of Subgrantee's Project Completion Report.

VII. Matching Funds

Subgrantee shall provide total Matching Funds in the amount of [\$] [%], as described in the approved Project plan and budget specified in the Application. Subgrantee shall expend Matching Funds generally proportional with the expenditure of Grant Funds over the course of the Project. As part of Project closeout, ACA shall perform a final reconciliation of Matching Funds, and final payment and closeout shall be conditioned on Subgrantee demonstrating that its total Matching Funds equal at least the matching percentage committed in the Application, subject to Section VI.F.

Subgrantee shall have substantially secured the full amount of Matching Funds prior to the Effective Date. Subgrantee shall provide evidence, reasonably satisfactory to the Office, that the full amount of Matching Funds is, or will be available to Subgrantee for use in connection with the Project. Match funds must meet the requirements set forth in Section III.B. of the BEAD NOFO and 2 C.F.R. § 200.306.

Matching Funds may be provided in the form of either cash or in-kind contributions, so long as such contributions are made consistent with the requirements set forth in 2 C.F.R. Part 200 and as specified in the Application. The Office may at any time verify Matching Funds, including but not limited to comparing facility in-kind matches with current mortgage statements or rental rates, or time keeping for services spent on BEAD Program work. All Matching Funds must meet the requirements for reasonable allowable costs under this Agreement.

Subgrantee shall retain records detailing the source, amount, quantity, time, and delivery of each match service through the life of this Agreement and closeout consistent with the requirements of 2 C.F.R. § 200.306 and the BEAD Program.

VIII. Permissible Costs; Use of Award Funds

A. Permissible Uses of Funds

As authorized by NTIA, and pursuant to exceptions of 2 C.F.R. §§ 200.333 and 200.201(b) approved by OMB, the Office has elected to make this award as a fixed amount award and additionally, as allowed by NTIA, to require the Subgrantee to submit evidence of costs. Cost overruns shall be borne by the Subgrantee. The Subgrantee must report its expenses and use of Matching Funds in accordance with Attachment 10.

Award Funds shall be used solely for allowable costs under the BEAD NOFO and related NTIA guidance. The use of Award Funds will adhere to the terms of this Agreement and the authorities identified in Section II. of this Agreement. Any costs incurred by Subgrantee prior to the Effective Date shall not be allowable absent specific written determination from the ACA of pre-award costs as provided for below. Certain pre-award costs (incurred on or after September 4, 2025, and prior to the Effective Date) (“pre-award costs”), may be allowable costs based on the Office’s determinations that such costs were incurred directly pursuant to the negotiation and in anticipation of this Agreement and Subgrantee subsequently has met the milestones (Attachment 4) and other conditions set forth herein. Subgrantee shall not separately submit pre-

award costs and must first obtain ACA's determination that such costs were necessary for efficient and timely performance of the Project prior to ACA disbursing Grant Funds for a specific milestone. Pre-award costs will be allowable only to the extent that they would have been allowed if incurred after the Effective Date of this award and are subject to the written approval of NTIA. The ACA reserves the right to perform additional reviews on all disbursement milestones listed in Attachment 4, and Subgrantee may be required to provide additional documentation to substantiate the eligibility of any pre-award costs, including whether such costs are allowable costs under the pre-implementation activities set forth in Attachment 5 to this Agreement, or as otherwise determined by the ACA. The Subgrantee's costs for work performed after the Period of Performance, or after any performance period end date for a respective milestone, shall not be allowable. The ACA will only provide disbursements for allowable costs described in this Agreement if those costs are actually incurred in performance of the work.

The Parties agree that the ACA may not pay Subgrantee for costs that the Federal Program Officer determines are not allowable pursuant to Arizona's BEAD Program award. The Parties agree to work in good faith to ensure that costs determined by the Office to be allowable under this Agreement are found allowable by the Federal Program Officer.

Subgrantee acknowledges that for a cost to be reimbursable under this Agreement, it must "be reasonable, necessary, allocable, and allowable for the proposed Project or other eligible activity and conform to generally accepted accounting principles." (BEAD NOFO at 82, § V.H.1.) and is subject to 2 C.F.R. Part 200. Subgrantee further acknowledges that while the federal cost principles do not govern fixed amount subawards, the Office will look to those principles as a guide when reviewing financial information and certifications submitted in connection with Project closeout under Sections IV. and V. Consistent with 2 C.F.R. §§ 200.306 and 200.472, Subgrantee may submit closeout costs incurred in connection with this Agreement, to the extent such costs are otherwise allowable under 2 C.F.R. Part 200 and are incurred within the applicable closeout period. Subject to the same requirements, such closeout costs may be treated as Matching Funds for the Project's required non-Federal cost share.

Pursuant to Section VI.F., if the Office determines that the actual costs of the Project are less than the Grant Funds made available to Subgrantee through cost savings or otherwise, after consultation with the Subgrantee and an opportunity to respond, the Office may reduce the amount of funding accordingly and Subgrantee shall refund to the Office any unexpended funds.

Subgrantee shall be responsible for all Project costs that exceed the amount of the Award Funds. In the event the available Award Funds are insufficient to satisfy all Project costs, Subgrantee shall nevertheless be responsible for fulfilling all of its obligations under this Agreement.

Subgrantee is responsible for repaying the ACA for any Grant Funds that are determined by the Office to be ineligible, misused, misappropriated, or inadequately documented under this Agreement. Any repayment required by the Office under this Section, with or without termination of this Agreement, shall be due within thirty (30) calendar days after giving written notice to the Subgrantee. The ACA also reserves the right to recover such Grant Funds by any other legal means, including litigation and drawing the funds in any letter of credit, performance, or payment bond. The Subgrantee must indemnify, defend and hold harmless the ACA for all

suits, actions, claims and the reasonable attorneys' fees and legal expenses incurred in recovering such funds, irrespective of whether the funds are recovered. This duty to indemnify and hold harmless does not apply where the ACA and Subgrantee are opposing parties, unless or until the ACA is determined by a final, non-appealable judgment of a court of competent jurisdiction to be the prevailing party in that action, in which case Subgrantee's indemnification obligations shall apply. Any such judgment in a civil action solely between the ACA and the Subgrantee shall award the prevailing party its reasonable attorneys' fees and reasonable costs incurred in that action.

B. Prohibited Uses of Award Funds

In addition to any other use of Award Funds prohibited or made ineligible by state or federal law, regulation, or policy, the following are prohibited as uses of Award Funds (whether by Subgrantee or Subgrantee's lower tier subgrantees or subcontractors), and are not an allowable cost under this Agreement:

1. Prohibition Against Payment of Bonus or Commissions

Payment of any bonus or commission for the purpose of obtaining approval or concurrence under this Agreement.

2. Political Activity

Any partisan political activity or to further the election or defeat of any candidate for public office or influence the approval or defeat of any ballot issue.

3. Prohibited Equipment and Services

Subgrantee shall not obligate or expend any Grant Funds, or any Matching Funds counted toward the required match, or any other funds used in connection with the Project, to purchase, obtain, lease, support, or fund any equipment, system, or service that uses (a) any covered communications equipment or service (as defined in Section 9 of the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. § 1608)), or (b) fiber optic cable and optical transmission equipment manufactured in the People's Republic of China.

4. Incremental Profits and Fees

A profit, fee, or other incremental charge above Subgrantee's actual cost. The Parties expressly acknowledge that this prohibition does not extend to program income, which Subgrantee may retain without restriction, including retaining program income for profit.

5. Collective Bargaining

Direct or indirect support of or opposition to collective bargaining.

IX. Service Obligations

A. Broadband Service Obligations

Subgrantee agrees in connection with the provision of any Broadband Service over the Project network to provide access to Broadband Service to each customer served by the Project that desires broadband service on terms and conditions that are reasonable, non-discriminatory, and meeting BEAD Program commitments to consumer and taxpayer protections. Subgrantee shall offer the proposed minimum download and minimum upload speeds set forth in the Application, and in no event less than 100 Mbps download and 20 Mbps upload with latency of less than or equal to 100 milliseconds, measured as specified in the BEAD NOFO and BEAD RPN.

B. Other Obligations

1. Middle Mile Interconnection [If applicable, based on subgrantee selection.]

To the extent Subgrantee is receiving Award Funds to deploy Middle Mile Infrastructure, Subgrantee shall permit other broadband service providers to interconnect with its funded Middle Mile Infrastructure network facilities on a just, reasonable, and nondiscriminatory basis. Subgrantee shall allow such interconnection at any technically feasible point on the Middle Mile Infrastructure network (without exceeding current or reasonably anticipated capacity limitations). This duty includes, at a minimum, the physical interconnection of Subgrantee's Middle Mile Infrastructure to a requesting party's facilities for the exchange of traffic. In addition, Subgrantee shall connect to the public internet directly or indirectly and provide requesting parties with an ability to connect to the internet. Rates and terms for interconnection shall be reasonable and nondiscriminatory. Subgrantee shall negotiate in good faith with any requesting party (including public, Tribal, private, non-profit, or other parties) making a bona fide request for interconnection.

2. Public Notice and Awareness Campaign

Subgrantee shall submit written acknowledgement to ACA within ten (10) calendar days after the Effective Date recognizing the NTIA Obligations for Subgrantees Deploying Network Projects. Subgrantee shall provide public notice and carry out public awareness campaigns in its service areas that are designed to highlight the value and benefits of broadband service in order to increase the adoption of broadband service by consumers.

3. Federal Labor and Employment Law Compliance

By signing this Agreement, Subgrantee certifies to ACA that the Subgrantee has a demonstrated record of and plans to be in compliance and will maintain compliance with all applicable Federal labor and employment laws.

4. Cybersecurity and Supply Chain Risk Management

Subgrantee shall, to the extent it relies in whole or in part on network facilities owned or operated by a third party (e.g., purchases wholesale carriage on such facilities), obtain from that third party network provider the attestations regarding cybersecurity and supply chain risk management practices substantially in the form set forth in Attachment 7.

5. Network Resilience

Subgrantee shall establish and maintain a risk management plan that accounts for the reliability and resilience of broadband infrastructure deployed under this Agreement, including risks from natural disasters applicable to the Project area (e.g., wildfires, flooding, extreme heat, and severe storms), as well as technology infrastructure reliability. The plan shall incorporate best practices as defined by NTIA for ensuring the reliability and resilience of broadband infrastructure.

6. Other Federal Obligations

Subgrantee shall fulfill the other federal obligations set forth in Attachment 8. Further, the DOC GT&Cs are incorporated into every NTIA grant award, including this Agreement. Subgrantee thus shall comply, without limitation, with the provisions regarding Section F. (CONFLICT OF INTEREST, CODE OF CONDUCT AND OTHER REQUIREMENTS PERTAINING TO DOC FINANCIAL ASSISTANCE AWARDS, INCLUDING SUBAWARD AND PROCUREMENT ACTIONS) and Section G. (NATIONAL POLICY REQUIREMENTS) thereof, unless otherwise specified in an authority with priority as specified in Section II. above.

X. Subgrantee Obligations during the Federal Interest Period for non-LEO Broadband Infrastructure Subgrants and Extended Period of Performance for LEO Capacity Subgrants

Subgrantee explicitly acknowledges that the obligations described in this Section X. survive beyond the Period of Performance and the closeout of this award and remain in effect during the entirety of the Federal Interest Period (or extended Period of Performance for LEO Capacity Subgrants, if applicable), as enforceable post-closeout obligations. The full “duration of this Agreement” shall thus encompass both the Period of Performance and the Federal Interest Period (or extended Period of Performance for LEO Capacity Subgrants).

A. Property Standards

For the purposes of this Agreement, the useful life of Project Property (inclusive of both Federal funds and non-Federal matching funds) shall coincide with the Federal Interest Period. Title to Project Property vests in Subgrantee upon acquisition, subject to the exception and clarifications set forth in Attachment 9, which themselves remain in effect for the duration of the Federal Interest Period.

B. Service Availability

Once Subgrantee's construction is complete for an End User, Subgrantee shall be capable of performing a standard installation of Qualifying Broadband Service to such End User, at a standard installation charge, within ten (10) business days after the date on which a service request is submitted.

C. Eligible Subscribers

The term "Eligible Subscriber" means any household seeking to subscribe to broadband internet access service that is eligible for the FCC's Lifeline Program. 47 C.F.R. Part 54, Subpart E, et seq. (Universal Service Support for Low-Income Consumers).

D. Low-Cost Service Option

Subgrantee must offer an LCSO to Eligible Subscribers as set forth in the Subgrantee's Application. Subgrantee may not materially modify the LCSO without prior written notice to the ACA describing the proposed modification and its consistency with then-current BEAD requirements, and demonstrating to the ACA's reasonable satisfaction that the methodology complies with BEAD requirements.

E. Conduit Access Points *[If applicable, based on subgrantee selection.]*

Any work that involves laying fiber-optic cables or conduit underground or along a roadway must include interspersed conduit access points at regular and short intervals. Where necessary, conduit access points may be placed at reasonable, engineering-feasible intervals considering terrain, ROW constraints, and safety, as shown in approved plans.

F. Reporting

Subgrantee shall file reports with the Office, NIST, and/or NTIA as specified in Attachment 10.

G. Wholesale Obligation on Default

The Parties agree that if Subgrantee at any time during the Federal Interest Period (or extended Period of Performance for LEO Capacity Subgrants, if applicable) is no longer able to provide Broadband Service to the End Users at any time on a retail basis, remedial action will be taken to ensure continuity of service. Subgrantee shall, after consultation with and as approved in writing by the ACA and NTIA, either (a) sell Project network capacity at a reasonable, wholesale rate on a nondiscriminatory basis to one or more other broadband service providers or public-sector entities; (b) sell the Project in its entirety to a new provider who commits to providing services under the terms of the BEAD Program; or, if applicable, (c) obtain comparable satellite or similar service. The ACA may require Subgrantee to take the appropriate remedial action so long as such action results in continued retail service to End Users in the grant area.

H. Letter of Credit and Performance Bond Requirements

As a condition of entering into this Agreement, Subgrantee shall have obtained, and commits to maintain, an irrevocable standby letter of credit in an amount of not less than 25% of the total subaward amount (or, if expressly permitted in writing by the Office, a performance bond in an amount of not less than 100% of the total subaward amount).

If the Office determines, in its sole discretion, that the Subgrantee is eligible to participate in the alternative structure authorized under the Section 2.4 of the BEAD Letter of Credit Programmatic Waiver, the Subgrantee will be deemed to satisfy the above letter of credit or performance bond condition if it has obtained and commits to maintain an irrevocable standby letter of credit or performance bond in the amount of not less than 10% of the total subaward amount until the Subgrantee has demonstrated, to the satisfaction of the Office, that it has completed the buildout of one hundred percent (100%) of locations to be served by the Project or until the Period of Performance of this subaward has ended, whichever occurs first, provided that Subgrantee agrees that disbursement requests under this Agreement will be made on a reimbursable basis with reimbursement periods of no more than six (6) months. The Subgrantee must submit a disbursement request for each Attachment 4 milestone reimbursement within period of no more than six (6) months. For incomplete milestones a disbursement request may be for a zero-dollar amount, provided it is submitted with supporting documentation and covers a period of no more than six (6) months. The Office's review and approval of any disbursement request (including a zero-dollar request) shall not waive the Subgrantee's obligation to fully achieve the applicable milestone(s) or any right or remedy of the Office for noncompliance.

In all cases, the Subgrantee must: (i) use the model(s) provided by the Office; (ii) meet all BEAD Program requirements; (iii) provide for letter of credit or bond effective date on or before the Effective Date; and (iv) maintain the letter of credit or bond until it has demonstrated, to the satisfaction of the Office, that it has completed the buildout of one hundred percent (100%) of locations to be served by the Project or until the Period of Performance of this subaward has ended, whichever occurs first. Any letter(s) of credit shall also include a legal opinion, satisfactory to the Office, addressing bankruptcy considerations.

XI. Reporting

Subgrantee will adhere to the conditions and regulations for reporting, as outlined in this Agreement, and ACA's BEAD Reporting Guidelines and Compliance and Monitoring Guidelines.

Subgrantee shall file reports with the Office, NIST, and/or NTIA as specified in Attachment 10. Subgrantee acknowledges that the reporting requirements set forth in this Agreement (including Attachment 10) may be updated from time to time, and Subgrantee shall comply with any other reasonable reporting requirements determined by the Office to meet the reporting requirements established by the Assistant Secretary and certify that the information in the report is accurate. Subgrantee further acknowledges that the Office must make all Subgrantee reports available to NTIA upon request. The Office shall not implement any change in the reporting requirements set

forth herein that results in additional costs to the Subgrantee, other than (a) in response to any nonperformance by Subgrantee or (b) as required by NTIA, or other applicable federal or state law.

Subgrantee shall maintain sufficient records to substantiate all information submitted in reports under this Agreement.

The Office will conduct an implementation meeting with grant recipients within thirty (30) calendar days of the Effective Date and will make reporting templates and instructions available at or shortly after the implementation meeting. The Office and Subgrantee agree to work in good faith to identify and implement any changes to reporting requirements and protocols in a reasonable and timely manner.

XII. Recordkeeping and Audits

The Office and Subgrantee shall support BEAD Program reviews and evaluations by submitting required financial and performance information and data in an accurate and timely manner, and by cooperation with the ACA, NTIA, DOC, and external program evaluators.

A. Recordkeeping

In accordance with 2 C.F.R. § 200.201(b)(1), Subgrantee agrees to keep financial records, including budgets, expenses, receipts, financial reports, supporting documents, statistical records, and all other records pertinent to Award Funds, the Project, and this Agreement and make them available to the ACA upon request and for not less than a period of five (5) years after the Closeout Date. This should include all Subgrantee network designs, diagrams, Project costs, build-out timelines and milestones for Project implementation, and capital investment schedules submitted as a part of the application process.

Subgrantee acknowledges that NTIA, NIST, Inspectors General, the Comptroller General of the United States, and the ACA, or any of their authorized representatives, shall have the right of access to any documents, papers, or other records which are pertinent to Award Funds, the Project, and this Agreement, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to Subgrantee's personnel for the purpose of interview and discussion related to such documents.

B. Audits

Subgrantees must maintain adequate financial systems and financial records to accurately account for awarded funds. The ACA, NTIA, the DOC Office of Inspector General, or another authorized federal agency may conduct an audit of an award at any time.

1. Non-Federal Entities

If Subgrantee is subject to the provisions of Subpart F of 2 C.F.R. Part 200 and expends

\$1,000,000 or more in a year in federal awards during its fiscal year, Subgrantee must have an audit conducted for that year in accordance with the requirements contained in Subpart F of 2 C.F.R. Part 200, including but not limited to the provisions of 2 C.F.R. § 200.501, "Audit Requirements" and Arizona BEAD Program specific requirements.

Within the earlier of thirty (30) calendar days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period, unless a different period is specified in a program-specific audit guide, a copy of the audit must be submitted electronically to the Federal Audit Clearinghouse (FAC) through the FAC's Internet Data Entry System (IDES) (<https://harvester.census.gov/facides/>).

In accordance with 2 C.F.R. § 200.425 (Audit services), Subgrantee may include a line item in the budget for the allowable costs associated with the audit, which is subject to the approval of the Federal Program Officer.

2. Other Entities, including For-Profit Entities

If Subgrantee is not subject to the provisions of Subpart F of 2 C.F.R. Part 200, it must submit to the Office either:

(i) a financial related audit of each DOC award or subaward in accordance with Generally Accepted Government Auditing Standards (GAGAS); or

(ii) a Project specific audit in accordance with the requirements contained in 2 C.F.R. § 200.507; or

(iii) to the extent permitted by applicable guidance and BEAD Program rules, annual audited financial statements prepared by an independent Certified Public Accountant prepared in the ordinary course of business.

Subgrantee shall require and cause any lower tier subgrantees or subcontractors used in connection with this Agreement to (a) maintain complete and accurate records related to the performance of work and expenditure of funds under their agreements with Subgrantee; and (b) provide Subgrantee, ACA, and NTIA, together with their respective auditors and representatives with access to such records and reasonable cooperation, upon request, for purposes of monitoring, review, or audit of the Project or this Agreement.

Audits are to be performed annually. Within the earlier of thirty (30) calendar days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period, unless a different period is specified in a program-specific audit guide, a copy of the audit must be submitted to the Federal Program Officer. In accordance with 2 C.F.R. § 200.425, Subgrantee may include a line item in the budget for the allowable costs associated with the audit, which is subject to the approval of the Federal Program Officer.

Subgrantee shall perform all necessary efforts to assist the Office in verifying for the benefit of

the Office and federal auditors that Award Funds have been expended in a manner consistent with this Agreement within the timeframe established in Subgrantee's Application, beginning on the Effective Date. Subgrantee shall prepare appropriate audited financial statements, including the schedule of expenditures of federal awards in accordance with 2 C.F.R. § 200.510, if required, and provide the Office with access to personnel, accounts, books, records, supporting documentation, and other information as needed. If Subgrantee fails to spend or fails to document the expenditure of Award Funds on eligible Project-related expenses, which include properly approved material changes to the Project, within that timeframe, Subgrantee agrees to immediately return to the ACA any Grant Funds that it failed to spend appropriately. Those funds, regardless of source, shall be returned to the ACA, upon request, within ten (10) business days.

C. Protected and Proprietary Information

Notwithstanding any other provision of this Agreement, Subgrantee and the ACA agree that all records related to the Arizona BEAD Program are public records as provided by the Arizona Public Records Law, A.R.S. § 39-121, et seq., subject to exceptions to production related thereto including without limitation trade secret and proprietary information; provided, however, that the Subgrantee provide an adequate restrictive legend on each page and for all information that it deems protected and proprietary.

In accordance with 2 C.F.R. § 200.303(e), the Office and Subgrantee will take reasonable measures to safeguard protected personally identifiable information and other confidential or sensitive personal or business information created or obtained in connection with this Agreement. The Office shall give Subgrantee reasonable written notice of any request for production of public records that may seek production of such materials to allow Subgrantee to seek such appropriate court protection from production as Subgrantee deems appropriate.

The ACA shall not disclose information designated by Subgrantee as proprietary or confidential unless (i) it determines in its reasonable judgment, after consultation with counsel, that the information is not proprietary or confidential under applicable law; or (ii) it is ordered to disclose the information by a public body or authority with legal jurisdiction to make such an order which is enforceable by law. If the ACA receives a request, demand or order for disclosure of information designated by Subgrantee as proprietary or confidential and concludes that it is required to disclose such information, it shall make a reasonable effort to notify Subgrantee of the request and the pending disclosure in a timely manner to permit Subgrantee to seek legal relief to prevent the disclosure. If within ten (10) business days after the receipt of notice from the ACA the Subgrantee has not notified the ACA of the initiation of legal proceedings to protect the identified information, the ACA may proceed to disclose the information as demanded and required by law. The ACA is not obligated to take any position in any legal action related to any dispute over confidentiality, but has the right to do so as it deems appropriate in its discretion.

XIII. Representations and Warranties

Subgrantee represents and warrants:

i. It is authorized to do business in the State of Arizona and properly licensed in compliance with all applicable federal, state, and local laws to perform all work included within its Application.

ii. It is registered and will maintain registration through the Federal Interest Period with the System for Award Management ("SAM"), and confirms that it has provided its correct Unique Entity Identifier ("UEI").

iii. The making and performance of this Agreement and each and every other document required to be delivered hereunder are within Subgrantee's powers, have been duly authorized by all necessary corporate action, have received all necessary approvals, valid and proper authorizations and endorsements of certifications, and do not contravene any law, regulation or decree or any contractual restriction.

iv. This Agreement and each and every other document required to be delivered hereunder, when duly executed and delivered, will be the legal and binding obligations of Subgrantee enforceable in accordance with their respective terms.

v. To the best of Subgrantee's knowledge, there are no pending or threatened actions or proceedings before any court or administrative agency which may materially adversely affect the financial condition or operation of Subgrantee.

vi. The Project developed hereunder shall be free from defects in design and implementation, and shall continue to meet the specifications agreed to in this Agreement until the Closeout Date; until the Closeout Date, Subgrantee shall, without additional charge to the ACA, correct any such defects and make such additions, modifications, or adjustments to the Project as may be necessary to keep the Project operating as specified in its Application.

vii. The specific operating performance characteristics of the services developed and/or installed hereunder as stated in its Application and any approved material changes to the Project, if applicable.

viii. To the best of its knowledge and belief, except to the extent already disclosed to the Office, there are no facts or circumstances that could give rise to a personal or organizational conflict of interest and further that the Subgrantee and agents or representatives have no interest and will not acquire any direct or indirect interest that would conflict in any manner or degree with the Project work; the Subgrantee agrees that, if after signing this Agreement, the Subgrantee discovers or is made aware of a conflict of interest or potential conflict of interest, the Subgrantee will immediately and fully disclose such interest in writing to the Office; the Office reserves the right to make a final determination regarding the existence of conflicts of interest, and the Subgrantee agrees to abide by Office's decision.

ix. To the best of its knowledge and belief, neither Subgrantee nor any of its principals or lower tier subcontractors or subgrantees is excluded from federal procurement or nonprocurement programs; Subgrantee agrees that if Subgrantee or any of its principals or lower tier subcontractors or subgrantees is placed on the list of excluded parties (www.sam.gov) it shall notify ACA immediately and take all steps requested by ACA (and NTIA, if required) to establish its present responsibility and cure the effect of an exclusion status based on 2 C.F.R. 180.860, including, if applicable, terminating its relationship with excluded individual(s), subcontractor(s), subgrantee(s), or other excluded parties for work under this Agreement.

XIV. Non-Performance, Termination, and Other Remedies

Non-performance, termination, and other remedies for non-performance or breach of this Agreement will be handled consistent with the authorities set forth in Section II. of this Agreement, to include without limitation 2 C.F.R. §§ 200.339 - 200.343 and A.R.S. § 38-511. When a determination or decision regarding non-performance is to be made, the Office will make such determination or decision by exercising good faith and reasonable discretion.

A. Non-Performance

Non-performance occurs when, after notice and a reasonable cure period provided by the Office, the Subgrantee fails to comply with any material requirements under the U.S. Constitution, applicable federal statutes (to include 47 U.S.C. § 1702) and regulations, Specific Award Conditions applicable to Arizona's BEAD Program award, BEAD GT&Cs, BEAD NOFO, BEAD RPN, DOC GT&Cs, Arizona BEAD Program Initial Proposal, Final Proposal, ACA Uniform Terms and Conditions (May 11, 2018), ACA Special Terms and Conditions - Insurance Requirements for Vendors (May 8, 2018), this Agreement, and Subgrantee's Application as accepted by the Office.

Specific examples of non-performance include, but are not limited to:

1. Failure to comply with the LCSO requirement pursuant to 47 U.S.C. § 1702(h)(4)(B);
2. Failure to meet other applicable Federal or Arizona statutory obligations;
3. Wasteful, fraudulent, or abusive expenditure of Award Funds;
4. Failure to provide Broadband Service at the minimum connection speed as set forth in the Application;
5. Failure to provide financial and performance information and data as required by Section XI. of this Agreement;
6. Material deviation from the approved Project without prior authorization from the Office, such as materially altering Project scope, location, or technology; or
7. Non-performance resulting in failure to deliver Project outcomes.

B. Non-Performance Administrative Sanctions and Damages

1. General Authority

The Office and NTIA may enforce applicable rules and laws by imposing administrative measures or damages for non-performance, including but not limited to Subgrantee's failure to meet statutory obligations and BEAD Program requirements, or the wasteful, fraudulent, or abusive expenditure of Award Funds, as set forth in this Section. The remedies set forth in this Agreement, including without limitation the Clawback remedy, are cumulative and may be exercised singly, successively, or in combination, and the Office's pursuing any remedy shall not preclude it from pursuing any other available remedy.

2. Additional Conditions

Administrative sanctions or damages for non-performance by Subgrantee may include the imposition of additional conditions, as described in 2 C.F.R. § 200.208.

3. Remedies when Additional Conditions are Insufficient

If the Office or NTIA determines that non-performance cannot be remedied by imposing additional conditions, the ACA or NTIA may take one or more of the following actions, as appropriate in the circumstances:

- (a) Temporarily withhold cash payments pending correction of the deficiency by Subgrantee or more severe enforcement action by the ACA or NTIA;
- (b) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
- (c) Wholly or partly suspend or terminate this Agreement;
- (d) In the case where the funded network fails to meet the required speed or latency network standards for any subscriber the Subgrantee will be required to improve the network until the minimum performance standards are met;
- (e) Recommend the initiation of suspension or debarment proceedings by the DOC as authorized under 2 C.F.R. Part 180 and implementing regulations;
- (f) Withhold further Arizona BEAD Program awards;
- (g) Submit a claim on any applicable bonds and/or collect from any letters of credit or certificates of deposit; and

- (h) Take other legal or equitable remedies that may be available at law or equity under federal or state law.

4. Clawback

If the Office or NTIA determine that Subgrantee has failed to comply with any material requirement under applicable law or this Agreement, and Subgrantee cannot or will not remedy such failure, the Office may require withholding, forfeiture, or recoupment for cause, at the reasonable discretion of the Office and without any obligation to first exhaust other remedies while taking into account factors including, but not limited to, the amount of the Project that was timely completed, excusable delays or other force majeure events, and the materiality of any Subgrantee noncompliance or default. Specifically, in the event the Subgrantee has failed to provide service to a BSL, or cannot or will not provide Qualifying Broadband Service, the Office may claw back funds allocable for such service to the BSL(s). The amount of the clawback related to the locations the Subgrantee failed to serve will be determined by the Office based on the estimated costs attributable for service to such BSL(s), cost-per-BSL, or other similar allocation as the Office, in its reasonable discretion, otherwise determines. If the Subgrantee fails to timely return the Grant Funds sought by the Office, the Office will initiate collection efforts which include, but are not limited to, withdrawing funds from the letter of credit, performance and payment bond(s), which amount(s) shall accrue interest if not paid within thirty (30) calendar days of the request for repayment by the Office. Interest shall accrue on any amount that becomes due pursuant to this provision at a rate of 1.5% per month or fraction thereof from the date requested until paid (which interest shall not accrue during the pendency of a good faith dispute). The number of subscribers that subscribe to Broadband Service offered by Subgrantee in the Project area shall not be a measure of performance under this Agreement for the purposes of this provision.

The Parties acknowledge that NTIA may pursue clawback of funds directly from the ACA if the ACA fails to ensure Subgrantee accountability as required by applicable law. To the extent NTIA successfully pursues clawback from the ACA on these grounds, Subgrantee shall repay the ACA in an amount equal to the clawback, including being obligated to indemnify, defend, and hold harmless ACA for any reasonable costs, expenses, collection fees, attorneys' fees or other damages as a result of Subgrantee's failure to comply with the terms of this Agreement. The extent of this duty to indemnify, defend and hold ACA harmless for all costs associated with a material default of this nature by the Subgrantee shall be upheld to the fullest extent allowed by Arizona and federal law. Subgrantee agrees, acknowledges and understands that any default under this provision shall require payment of such reasonable costs and expenses, and shall be due and payable upon written demand by ACA. Interest shall accrue on any amount that becomes due pursuant to this provision at a rate of 1.5% per month or fraction thereof from the date requested until paid (which interest shall not accrue during the pendency of a good faith dispute).

The Parties agree to work in good faith to resolve issues relating to BSLs that prove to be miscategorized or cannot reasonably be served due to circumstances beyond the Subgrantee's reasonable control, including the failure to obtain access to private or public property or any government permits under reasonable terms, such resolution to be achieved through NTIA's reason code process, waivers, or such other mechanism as may be available and appropriate.

Subgrantee shall monitor and promptly identify any changes or errors in the eligibility status of BEAD locations included in the Project area, including, but not limited to structures that are not a BSL ("non-BSLs"). Subgrantee must regularly review the most current FCC Fabric data and compare it against the BEAD locations in the Project area. If a location initially treated as BEAD-eligible subsequently becomes ineligible based on Subgrantee's identification or updated data, Subgrantee shall immediately report the location to the Office for review and validation of its eligibility status, and shall provide sufficient documentation and any applicable NTIA- or FCC-recognized reason or non-service codes. Locations reclassified as non-BSLs or ineligible BSLs ("no-BEAD") locations will not be treated as BEAD-funded BSLs under this Agreement. Locations added to the BEAD-eligible list due to NTIA-recognized circumstances may be incorporated into the Project area only as directed by the Office, subject to available funding and modification or amendment of this Agreement.

5. [RESERVED]
6. [RESERVED]
7. Indemnification

The Subgrantee assumes all liability for any and all injuries, damages, or claims in any way associated with this Agreement or the Project. Subgrantee must defend, indemnify and hold harmless the ACA and all its officers, agents, and employees from all suits, actions or claims of any character brought for or on account of any injuries or damages related to the Project, including reasonable attorneys' fees and costs for enforcement. Subgrantee must defend, indemnify and hold harmless the ACA and all its officers, agents and employees from all suits, actions or claims of any character brought for or on account of any obligations arising out of agreements between itself and lower tier subgrantees, subcontractors, suppliers, vendors, materialmen, and Subgrantee personnel to perform services or otherwise supply products or services. Subgrantee must, if any claim is submitted that subjects it or ACA to any claim for injuries, damages or liability, defend, indemnify and hold ACA harmless for those injuries, including paying for any legal defense with a law firm of ACA's choosing. Subgrantee shall pay all reasonable legal expenses, including all attorneys' fees and costs associated with any potential defense of any claim that may be brought against ACA. The Subgrantee must also hold the ACA harmless for any audit disallowance irrespective of whether the audit is ordered by federal or state agencies or by the courts. If an audit is required by federal law and if the Subgrantee is also the recipient of funds by or through the Office under the same or a separate grant or contract program, then the Office-funded programs must also be included in the scope of the federally required audit. Any amounts due to ACA under to this Section, upon written demand by ACA, shall be immediately due and payable, and interest shall accrue on any unpaid amounts at a rate of 1.5% per month or fraction thereof from the date requested until paid, to the extent permitted

by applicable Arizona and federal law (which interest shall not accrue during the pendency of a good faith dispute).

C. Termination Due to Unavailability of Funds

If federal funding for the Project become unavailable for any reason, including without limitation, a change in the federal or state law, ACA shall have the right to terminate this Agreement after giving the Subgrantee written notice of the termination. The notice of termination shall contain the effective termination date. Upon notice, the Subgrantee shall not expend any BEAD Award Funds without ACA's express written authorization. Upon termination of this Agreement due to unavailability of funds, the ACA shall have no responsibility to make additional payments to the Subgrantee beyond funds legally available for this purpose.

XV. Other Provisions

A. Assignment or Transfer

Subgrantee's rights and obligations under this Agreement may not be assigned or transferred without the prior, written consent of the ACA, which consent shall not be unreasonably withheld. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Subgrantee's rights and obligations approved by the ACA shall be subject to the provisions of this Agreement. For purposes of this Agreement, an assignment or transfer includes, but is not limited to, a merger, consolidation, reorganization, or similar transactions, or the sale, lease, licensing or other disposition of all or substantially all of the assets or business of the Subgrantee. Any direct change of control of the Subgrantee or any subcontracting arrangement that relates to this Agreement shall be deemed an assignment or transfer. Notwithstanding anything to the contrary in this Agreement, routine financing shall not constitute a change of control or assignment unless and until a transaction results in any direct change of control of the Subgrantee.

The Parties acknowledge that if the ACA, in its reasonable discretion, conditionally approves a proposed assignment or transfer, it will exercise reasonable efforts to obtain any required prior written approval from NTIA, and that such approval may require a novation consistent with federal requirements. Additionally, if licensing or other terms require third-party approval (e.g., FCC, or state agencies), any assignment or transfer shall be conditioned on securing these approvals. The Subgrantee shall be responsible for obtaining all necessary third-party approvals and shall bear all costs and expenses associated therewith.

The Subgrantee must provide no less than thirty (30) calendar days advance notice to the Office of any proposed assignment or transfer, or transaction anticipated to result in a direct change of control of the Subgrantee. The Office may request reasonable supporting information for granting conditional consent and obtaining advance NTIA approval. Any agreement to assign, transfer, or subcontract any portion of the Project work must mandate compliance with all covenants, obligations, and agreements by the Subgrantee hereunder, and the Subgrantee shall continue to be bound by such covenants, obligations, and agreements.

The Subgrantee shall not create, incur, or suffer, any lien, mortgage, pledge, assignment, or other encumbrance on, or security interest in the Project real estate, equipment, or other property funded by this Agreement, other than ACA-approved encumbrances or encumbrances and as expressly approved by NTIA in accordance with Attachment 9 of this Agreement.

B. Amendments and Modifications

This Agreement may only be amended or modified through a written instrument signed by the ACA and Subgrantee, except as provided in this Section.

Notwithstanding the foregoing, the ACA may, by written notice to Subgrantee, unilaterally amend or modify this Agreement to the extent the ACA reasonably determines changes are required, and only to the extent necessary to conform this Agreement to applicable federal, state, or local statutes, regulations, guidance, or award conditions governing the Arizona BEAD Program. Each such notice will cite the specific authority requiring the change and briefly explain how the change is implemented and provide at least ten (10) business days' notice prior to the effective date of such amendment. If a proposed amendment or modification made under this Section materially affects the rights, remedies or obligations of either Party, the Parties will confer in good faith regarding reasonable adjustments to this Agreement. Any dispute regarding an amendment or modification or a proposed amendment or modification shall be resolved in accordance with the Disputes provision of the Agreement, provided that Subgrantee shall continue to comply with performance and applicable federal, state, and local requirements pending resolution of such dispute.

C. Conflicts of Interest

No officer or employee of the Subgrantee or the Office shall have any direct personal pecuniary gain or interest in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the Project that is the subject matter of this Agreement. The Subgrantee will promptly notify the Office should it become aware of any violation or attempt at circumventing the requirements of this Section.

D. Governing Law

This Agreement shall be governed under the laws of the State of Arizona. Any dispute arising between the Parties shall only be brought pursuant to Attachment 11, "Disputes." Nothing in this Agreement is intended to waive, nor shall it act as a waiver of, the sovereign immunity of the State of Arizona. To the extent there is no applicable state law, the substantive law of federal procurement and non-procurement actions shall apply.

E. Force Majeure

Neither the ACA nor Subgrantee shall be liable to the other or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out unforeseeable causes beyond the Parties' reasonable control. Such causes may include Acts of God or of a public

enemy, fires, floods, epidemics, pandemics, and quarantine restrictions. The Parties shall use reasonable efforts to eliminate or minimize the effect of such events upon performance of their respective duties under this Agreement. Typical weather patterns, except severe weather events or emergencies declared by the Federal Government, the State of Arizona, or a county or local authority, are foreseeable and shall not constitute cause pursuant to this section. The Office shall determine whether a delay or failure results from an Act of God or force majeure based on its review of all facts and circumstances.

F. Notice

All communications and notices provided for hereunder shall be in writing and mailed, emailed, or delivered to the Parties hereto at their business addresses set forth below or, as to each party, at such other address as shall be designated by such party in a written notice to the other Parties.

Any notice from the Subgrantee requesting a modification or amendment of this Agreement must be provided in writing and delivered to the ACA by certified mail, registered mail, or by courier service providing proof of delivery, which are deemed received upon actual delivery as evidenced by a signed receipt or delivery confirmation. Notice by email alone shall not constitute effective notice of the Subgrantee's requested modification or amendment. The notice must include a detailed description of the relevant provisions(s) of this Agreement, events, date(s) of occurrence(s), issue(s), and documentation supporting a requested modification or amendment. A copy of the notice must be contemporaneously submitted to the designated broadband e-mail address shown immediately below. Failure to comply with these notice and delivery requirements may result in a waiver or rejection of a modification or amendment, unless expressly waived in writing by the ACA.

If to the ACA/Office, then to:

Arizona Commerce Authority
Attention: State Broadband Director
100 N. 7th Ave., Suite 400
Phoenix, AZ 85007
Phone: [Phone]
E-mail: [Designated BEAD Broadband E-mail]

With a copy to:

Arizona Commerce Authority
Attention: General Counsel
100 N. 7th Ave., Suite 400
Phoenix, AZ 85007
Phone: [Phone]
E-mail: [Designated BEAD Broadband E-mail]

If to Subgrantee, then to:

[Name]

Attention:

[Address 1]

[Address 2]

Phone: [Phone]

E-mail: [E-mail]

Communications may be exchanged by e-mail upon the written agreement of the Parties, but e-mail communications are not binding upon the ACA and cannot change the terms of this Agreement, the scope of work, exhibit, schedule or any other Agreement document, nor effectuate any change that requires a written amendment, approval, or change. The use of e-mails is for information only. A separate written formal notice, amendment, modification, or document, in complete and appropriate form, may be attached to an e-mail. By typing its name or inserting an electronic signature on this Agreement or any formal notice, amendment, modification, or document and sending same to the ACA or Office electronically, the Subgrantee is signing electronically. The Subgrantee agrees its electronic signature ("E-Signature") is the legal and binding equivalent of its manual or handwritten signature and that no certification authority or other third-party verification is necessary to validate its E-Signature.

G. Severability

If any provision under this Agreement or its application to any person or circumstances is held invalid by any court of competent jurisdiction, such invalidity shall not affect any other provision of this Agreement which can be given effect without the invalid provision.

H. Financing

The ACA acknowledges that, in connection with its obligations under this Agreement and to maximize its efforts in connection with the primary purpose of this Agreement, Subgrantee may elect to obtain financing from third-party lenders. ACA agrees that if Subgrantee is arranging such financing, ACA will negotiate reasonably and in good faith with the Subgrantee with respect to such financing.

I. Successors and Assigns

This Agreement shall be binding upon and inure to the benefit of the ACA and Subgrantee and their successors and assigns.

J. Waivers

No conditions or provisions of this Agreement may be waived unless approved by the ACA and Subgrantee, in writing.

This Draft (05.07.26) is provided solely for discussion and negotiation purposes and does not constitute an offer or a binding agreement.

K. Terms and Conditions

Subject to the terms of Section II. of this Agreement, in the event of any conflict or inconsistency between the terms and conditions hereof and any terms or conditions set forth in any document relating to the transactions contemplated by this Agreement, the terms and conditions set forth in this Agreement shall prevail.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date of the last signature below.

ARIZONA COMMERCE AUTHORITY

[SUBGRANTEE]

By: _____
State Broadband Director
Arizona Commerce Authority

By: _____
[Authorized Organization
Representative]
[Title]
[Subgrantee]

Date: _____

Date: _____

Attachment 1 – Project Description

Item	Requirement	Data
1	Subrecipient/Subgrantee name ¹	[]
2	Subrecipient's/Subgrantee's unique entity identifier	[]
3	Federal Award Identification Number (FAIN);	[INSERT NUMBER]
4	Federal Award Date ²	[INSERT DATE]
5	Subaward Period of Performance Start and End Date	[]
6	Subaward Budget Period Start and End Date	[]
7	Amount of Federal Grant Funds Obligated by this action by the pass-through entity to the Subrecipient/Subgrantee	[]
8	Total Amount of Federal Grant Funds Obligated to the Subrecipient/ Subgrantee by the pass-through entity including the current financial Obligation	[]
9	Total Amount of the Federal Award committed to the Subrecipient/ Subgrantee by the pass-through Entity	[]
10	Federal Award Project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA)	BEAD for Arizona
11	Name of federal awarding agency	U.S. Department of Commerce
	Name of pass-through entity	Arizona Commerce Authority
	Contact information for awarding official of the Pass-through entity	State Broadband Director Arizona Commerce Authority 100 N. 7th Ave., Suite 400 Phoenix, AZ 85007
12	Assistance Listings number and Title ³	11.035 - Broadband Equity, Access, and Deployment Program
13	Identification of whether the award is R&D	Award is not R&D
14	Indirect cost rate for the Federal Award (including if the de minimis rate is charged) per 2 C.F.R. § 200.414.	[]

¹ Must match the name associated with its unique entity identifier.

² The date when the Federal Award to Arizona was signed by the authorized official of the federal awarding agency (see 2 C.F.R. § 200.201).

³ If other federal awards are implicated, Arizona Commerce Authority must identify the dollar amount made available under each federal award and the Assistance Listings Number at time of disbursement.

This Draft (05.07.26) is provided solely for discussion and negotiation purposes and does not constitute an offer or a binding agreement.

Attachment 2 - Approved Application

Attachment 3 - Project Completion Criteria

1. A "Project Completion Report" signed by an officer of Subgrantee must include:
 - a. An attestation by an officer of Subgrantee that the Project as described in the Application has been completed in all material respects, to include, but not limited to:
 - (1) Qualifying Broadband Service
 - (a) Subgrantee has deployed a network capable of providing Qualifying Broadband Service to all End Users at the speed and latency standards specified in the Application, the BEAD NOFO, and the BEAD RPN; and/or
 - (b) If applicable, LEO Subgrantee has initiated broadband service capable of providing Qualifying Broadband Service to all End Users in the Project area at the speed and latency standards specified in the Application, the BEAD NOFO, and the BEAD RPN;
 - (2) Installation/Initiation
 - (a) Subgrantee is capable of performing a standard installation of Qualifying Broadband Service at all End Users, at a standard installation charge, within ten (10) business days after the date on which a service request is submitted; or
 - (b) If applicable, LEO Subgrantee is capable of initiating Qualifying Broadband Service to all End Users in the Project area, at a standard charge, at the speed and latency standards specified in the Application within ten (10) business days of a request to any covered BSLs in the Project area, with no charges or delays attributable to the extension of the service.
 - (3) Subgrantee is capable of providing Qualifying Broadband Service to all CAIs included in the Application at the speed and latency standards specified in the Application, the BEAD NOFO, and BEAD RPN; and
 - (4) Subgrantee has provided all Matching Funds in accordance with the terms of this Agreement.
 - b. A technical report sufficient to demonstrate, in the Office's sole discretion, that the Project is capable of delivering broadband internet access service to all End Users and CAIs at the speed and latency standards specified in the Application, the BEAD NOFO, and the BEAD RPN.
2. To the extent it relies in whole or in part on network facilities owned or operated by a third party (e.g., purchases wholesale carriage on such facilities), attestations regarding cybersecurity and supply chain risk management practices substantially in the form set forth in Attachment 7.

Attachment 4.a. - Subgrantee Disbursement Milestones

Milestone	Disbursement (percent of Grant Funds)	Maximum Cumulative Disbursement (percent of Grant Funds)
Administrative Set-Up, including Office approval of: <ul style="list-style-type: none"> • Project plan and budget, Project Schedule, and Schedule of Values as described herein; • Permitting plans detailing all anticipated permits required to complete the Project, including their anticipated submission and approval and completion dates; and • Proof of BABA-compliant equipment agreements, where applicable. 	5%	5%
Office approval of certification from Subgrantee that pre-construction and initial permits have been received by relevant permit authorities (federal, state, or local)	5%	10%
Office approval of certification from Subgrantee architect/engineer that Project site is mobilized.	10%	20%
Provider certification and Office approval of evidence, as required herein, that Subgrantee is capable of providing service to:		
10% of Project BSLs	10%	30%
30% of Project BSLs	10%	40%
50% of Project BSLs	15%	55%
70% of Project BSLs	15%	70%
90% of Project BSLs	15%	85%
100% of Project BSLs and the Office’s approval of Subgrantee’s Project Completion Report, which includes an approved Certificate of Completion.	15%	100%

For the purposes of this Agreement, and consistent with the Federal Communications Commission’s Broadband Data Collection, and based upon the approved Project plan and budget, Subgrantee may certify that it is capable of providing service to a Project BSL when Subgrantee is capable of performing a standard installation of Qualifying Broadband Service, at a standard installation charge, at such location, within ten (10) business days after the date on which a service request is submitted. See 47 U.S.C. §§ 642(b)(2)(A)(i)(I)-(II); 47 C.F.R. § 1.7001(a)(19). Subgrantee may not require subscribers to make modifications to their own or surrounding property or charge fees for the same in connection with the installation of broadband services funded by the BEAD Program. Payment (but not Matching Funds) is subject to 15% retainage as calculated in the “Maximum Cumulative Disbursement (percent of Grant Funds)” in the Milestone table set forth above in this Attachment 4.a.

This Draft (05.07.26) is provided solely for discussion and negotiation purposes and does not constitute an offer or a binding agreement.

The ACA will perform a technical and/or compliance review on at least one of the five milestone disbursements pertaining to Project BSLs. The ACA reserves the right to perform additional reviews on all disbursement milestone points listed in this Attachment 4.a. and withhold payments for a disbursement milestone until a review is completed; provided, however, that disbursement milestone payments shall not be withheld for more than sixty (60) calendar days after Subgrantee submits a disbursement request and the required associated documents, unless the ACA provides specific notice of a technical or compliance-related concern that Subgrantee is required to correct. Noncompliance with monitoring requests may result in a delay, pause, and/or recoupment in funding to the BEAD Subgrantee, until the request is reasonably satisfied.

Attachment 4.b. - LEO Subgrantee Disbursement Milestones

[See Attachment 12.]

Milestone	Disbursement (percent of Grant Funds)	Maximum Cumulative Disbursement (percent of Grant Funds)
Phase 1: Pre-Construction & Service Availability (First 50%)		
1. Administrative Set-Up, including Office approval of: Project plan and budget, Project Schedule, permitting plans, and proof of BABA-compliant equipment agreements, where applicable.	5%	5%
2. Certification of Service Availability throughout the entire Project area.	20%	25%
3. Certification of 25% subscription rate of all locations in the Project area.	10%	35%
4. Certification of 50% subscription rate of all locations in the Project area.	15%	50%
Phase 2: Post-Availability Performance Period (Final 50%)		
5. Year 1 Post-Availability: Installment Payment	12.50%	62.50%
6. Year 2 Post-Availability: Installment Payment	12.50%	75%
7. Year 3 Post-Availability: Installment Payment	12.50%	87.50%
8. Year 4 Post-Availability: Final Installment Payment and Project Closeout	12.50%	100%

For the purposes of this Agreement, and consistent with the Federal Communications Commission’s Broadband Data Collection, and based upon the approved Project plan and budget, LEO Subgrantee may certify that a location is “serviceable” when the LEO Subgrantee is capable of performing a standard installation of Qualifying Broadband Service, at a standard installation charge, within ten (10) business days after the date on which a service request is submitted, with no charges or delays attributable to the extension of the network of the provider. *See* 47 U.S.C. §§ 642(b)(2)(A)(i)(I)-(II); 47 C.F.R. § 1.7001(a)(19). Subgrantee may not require subscribers to make modifications to their own or surrounding property or charge fees for the same in connection with the installation of LEO broadband services and associated customer premises equipment funded by the BEAD Program.

The ACA will perform technical and/or compliance reviews for LEO services and Project BSLs. The ACA reserves the right to perform additional reviews to support any disbursement listed in this Attachment 4.b. and withhold payments until a review is completed; provided, however, that payments shall not be withheld for more than sixty (60) calendar days after Subgrantee submits a disbursement request and the required associated documents, unless the ACA provides specific notice of a technical or compliance-related concern that Subgrantee is required to correct. Noncompliance with monitoring requests may result in a delay, pause, and/or recoupment in funding to the BEAD Subgrantee, until the request is reasonably satisfied.

Attachment 5 - Environmental and Historic Preservation Review

I. General Environmental and Historic Preservation Review Requirements

Subgrantee shall not initiate or allow any grant funded implementation activities—except for the limited permissible activities identified in the “Uses Prior to Implementation” subsection below—prior to the following:

- The completion of any review required under the National Environmental Policy Act of 1969 (42 U.S.C. § 4321, et seq.) (NEPA), and issuance, as required, of a Categorical Exclusion (Cat Ex) determination, Record of Environmental Consideration (REC), Finding of No Significant Impact (FONSI), Record of Decision (ROD) (hereinafter “decision documents”) that meets the requirements of NEPA;
- The completion of reviews required under Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. § 470, et seq.) (NHPA), including any consultations required by Federal law, to include consultations with the State Historic Preservation Office and Federally recognized Native American tribes;
- The completion of consultations with the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS), as applicable, under Section 7 of the Endangered Species Act (16 U.S.C. § 1531, et seq.), and/or consultations with the U.S. Army Corps of Engineers (USACE) under Section 404 of the Clean Water Act (33 U.S.C. § 1251, et seq.), as applicable; and
- Demonstration of compliance with all other applicable federal, state, and local environmental laws and regulations.

The BEAD RPN has added the Environmental Screening and Permitting Tracking Tool (ESAPTT) within the NTIA Grants Portal (NGP) to support NTIA’s goal of issuing NEPA approvals.

II. NEPA Compliance

To ensure the timely completion of environmental review for all BEAD-funded activities subject to NEPA review, the ACA shall:

- Serve as a “joint lead agency” in its capacity as the State (or Territory) agency administering the BEAD Program in accordance with 42 U.S.C. § 4336a(a)(1)(B) and carry out the duties described in 42 U.S.C. § 4336a(a)(2); and
- Complete an evaluation of the sufficiency, applicability and accuracy of the analysis in First Responder Network Authority (FirstNet) Regional Programmatic Environmental Impact Statement (PEIS) chapter as it applies to anticipated implementation activities for Arizona;

The Parties agree that:

- Subgrantee will not commence implementation and funds will not be disbursed until any necessary environmental review is complete and NTIA has approved any necessary decision document, except for the limited permissible activities identified below;
- Subgrantee must timely prepare any required NEPA documents and obtain any required permits, and must adhere to any applicable statutory deadlines as described in 42 U.S.C. § 4336g(a);
- Subgrantee must provide a milestone schedule identifying specific deadlines and describing how Subgrantee proposes to meet these timing requirements including, as required, the completion of consultations, the completion of NEPA and Section 106 reviews, and the submission of Environmental Assessments (EAs) or Environmental Impact Statements (EISs); and
- The Office may stipulate the format of the NEPA and permitting milestone schedule and, upon review, request revisions to reflect sequencing requirements. The Office may require periodic reporting to track milestone progress.

The Office will certify the sufficiency of all Subgrantee decision documents either by:

- preparing such documents; or
- by supervising Subgrantees' preparation of draft documents, independently reviewing those drafts, and verifying that decision documents meet the requirements of NEPA prior to transmittal to NTIA.

Subgrantee shall, as directed by the Office:

- Submit all NEPA documentation, including any supporting environmental documentation required or requested by NTIA for review through ESAPTT for review and approval.

III. NHPA Compliance

To ensure the timely completion of historic preservation review for all BEAD grant-funded activities, Subgrantee shall provide all such information as the Office requires to:

- Provide notified Tribes with information regarding grant funded activities via their preferred communication means, as identified in FCC's Tower Construction Notification System (TCNS);
- Complete Section 106 review of grant-funded activities applying the Advisory on Historic Preservation (AHP) Program Comment to Avoid Duplicative Reviews for Wireless Communications Facilities, Program Comment for Federal Communications Projects, and any other applicable program comment or program alternative following AHP rules at 36 C.F.R. Subpart B.;

- Adhere to the provisions of the NTIA Memorandum to State Historic Preservation Officers (SHPOs), Tribal Historic Preservation Officers (THPOs), grant recipients and subrecipients authorizing Section 106 consultation for NTIA funded projects;
- Notify NTIA of any Tribal request for government-to-government consultation or any identification that a grant funded activity may impact an historic property of religious or cultural significance to a Tribe; and
- Provide all consulting parties with the statutorily required time to respond to its determination of a grant funded activity's effect on historic properties.

IV. Permitting Obligations

To help ensure that BEAD projects are carried out in a timely and effective manner, the ACA will take the following actions, to the extent permissible by law, to streamline permitting processes:

- Consistent with any relevant legal requirements and authorities, the ACA will establish procedures to ensure that broadband-related permit applications are promptly accepted, and requests are approved or denied within ninety (90) calendar days, including by:
 - Meeting regularly to identify and facilitate resolution of any delays or disputes related to deploying BEAD-funded facilities.
 - Collecting complaints (and supporting information) from Subgrantees that are not timely resolved through this process and escalate such complaints through the appropriate Permitting Roundtable or working group.
 - Assisting state and local authorities in establishing a single, dedicated point of contact with knowledge of the application and review processes for broadband-related permits.
 - Providing technical assistance to permitting agencies to ensure sufficient capacity (e.g., Master Agreement and Consultant Reimbursement Agreement templates, surge support for permit processing, etc.).
 - Providing deference to the construction techniques chosen by BEAD subgrantees (without seeking to influence those decisions), absent any identified safety concerns.
 - Maximizing streamlined processing through permitting by rule; batch processing of substantially similar permit requests; and waiving or expediting duplicative or burdensome broadband permitting requirements where possible.

- Following FCC rules regarding timelines, rates, terms, and conditions for access to municipally owned poles and conduit for broadband projects—including provisions in the FCC’s rules providing for “one-touch make-ready” and “self-help”—and requiring BEAD subgrantees that own poles (including cooperatives) to comply with FCC rules across their footprint. Subgrantee acknowledges and agrees that all poles owned within the ACA’s jurisdiction that are not currently subject to state or FCC pole attachment regulation will be governed by FCC rules through the Federal Interest Period.
- ACA will seek to minimize state and local permitting-related costs for broadband deployments and ensure (1) permitting fees are a reasonable approximation of the state or local government’s costs, (2) only objectively reasonable costs are factored into those fees, and (3) the fees are no higher than the fees charged to similarly situated competitors in similar situations.
- ACA will establish Permitting Roundtables and/or working groups of relevant federal, state, local, and Tribal authorities and representatives of impacted industries that will:
 - Meet to identify and facilitate resolution of any delays or disputes related to deploying BEAD-funded facilities.
 - Collect complaints (and supporting information) from subgrantees that are not timely resolved through this process and escalate such complaints through the appropriate Permitting Roundtable or working group.
- ACA will track, publicly post, and submit to NTIA, as part of its semiannual report, information on subgrantee compliance with the NEPA milestone schedules and data regarding unresolved complaints from Subgrantees, including: (1) issues escalated through the Permitting Roundtable or working group; (2) delays in broadband-related projects that Subgrantees attribute to a state or local prohibition on using its preferred construction techniques; and (3) delays in broadband related projects that Subgrantees attribute to state and/or local authorities failing to follow FCC rules regarding pole attachment timelines, rates, terms, and conditions for access to municipally owned poles and conduit for broadband projects.

V. Uses of Award Funds Prior to Implementation

Subgrantee shall ensure that implementation (site preparation, demolition, construction, ground disturbance, fixed installation, or any other implementation activities) does not begin prior to the completion of the above activities. Subgrantee must comply with all conditions placed on the grant funded activities as the result of NEPA or consultation processes—e.g., best management practices or other measures necessary to reduce environmental impacts. Subgrantee shall provide any related information requested by

the Office or by NTIA (directly or through the Office) to ensure both initial and ongoing compliance with all requirements described above.

Subject to Section VIII.A. of this Agreement, the allowable use of Award Funds prior to beginning implementation includes, but is not limited to, activities necessary for the completion of the following:

- Pre-construction planning, including collecting information necessary to complete environmental reviews;
- Applications for environmental permits;
- Studies including, but not limited to, Environmental Assessments (EA), wetland delineations, biological assessments, archaeological surveys, and other environmental reviews and analyses;
- Administrative costs;
- Pre-award application costs incurred solely by the Subgrantee that receives this Subgrant;
- Activities supporting consultations required under the NHPA, the Endangered Species Act, and the Clean Water Act; and/or
- Limited, preliminary procurement, including the purchase or lease of equipment, or entering into binding contracts or agreements to do so; the purchase of applicable or conditional insurance; and/or funds used to secure land or building leases (including right-of-way easements).

Grant funded activities with significant impacts to environmental or historic resources may face deobligation of funding if impacts cannot be avoided, minimized, or mitigated. Subgrantee shall notify the Office within 24 hours upon receipt of any Section 106 notices of foreclosure; notices requesting continuing or supplemental consultation received from the SHPO, Tribal Historic Preservation Office (THPO), or other consulting party or the USFWS; or notices of noncompliance received from consulting authorities or regulatory agencies.

The Parties acknowledge that any change to the approved scope of grant funded activities proposed after the completion of environmental and historic preservation review that has the potential for altering the nature or extent of environmental or historic preservation impacts must be brought to the attention of NTIA and will be re-evaluated for compliance with applicable requirements.

VI. Archaeological Resources

Burial sites, human remains, and funerary objects are subject to the requirements of all applicable Federal, Tribal, State, and local laws and protocols, such as the Native American Graves Protection and Repatriation Act (NAGPRA), in addition to Section 106 of the NHPA. Subgrantee must notify the Office of inadvertent discoveries and potential impacts to these resources and identify and follow all applicable laws or protocols.

This Draft (05.07.26) is provided solely for discussion and negotiation purposes and does not constitute an offer or a binding agreement.

Subgrantees should have an archaeologist who meets the Secretary of the Interior's Professional Qualification Standards monitor ground disturbance for grant funded activities proposed in the vicinity of National Register eligible archaeological sites and suspected or known burials. If any potential archeological resources or buried human remains are discovered during construction, Subgrantee must immediately stop work in that area, secure that area, and keep information about the discovery confidential, except to notify the Office, NTIA and the interested SHPO, THPO, and potentially affected Tribes. Such construction activities may not resume in the area without the prior written approval of the ACA and NTIA.

This Draft (05.07.26) is provided solely for discussion and negotiation purposes and does not constitute an offer or a binding agreement.

Attachment 6 – Other Federal Construction Obligations

Energy Efficiency

Subgrantee shall apply, where feasible, design principles for the purpose of reducing pollution and energy costs and optimizing lifecycle costs associated with the construction of the Project.

Attachment 7 – Cybersecurity and Supply Chain Risk Management Attestation

[Signatory], [Title], Subgrantee hereby attests that:

1. Subgrantee has a cybersecurity risk management plan (“CRM Plan”) in place that is:
___ Operational, if Subgrantee is providing service prior to the award of the grant; or
___ Ready to be operationalized upon providing service, if Subgrantee is not yet providing service prior to the grant award;
2. The CRM Plan reflects the latest version of the NIST Framework for Improving Critical Infrastructure Cybersecurity and the standards and controls set forth in Executive Order 14028 and specifies the security and privacy controls being implemented;
3. The CRM Plan will be reevaluated and updated on a periodic basis and as events warrant;
4. If Subgrantee makes any substantive changes to the CRM Plan, a new version will be submitted to the Office within thirty (30) calendar days. Subgrantee acknowledges that the Office must provide Subgrantee’s CRM Plan to NTIA upon NTIA’s request.

Signatory further attests:

1. Subgrantee has a supply chain risk management plan (“SCRM Plan”) in place that is either:
___ Operational, if Subgrantee is already providing service at the time of the grant; or
___ Ready to be operationalized, if Subgrantee is not yet providing service at the time of grant award;
2. The SCRM Plan is based upon the key practices discussed in the NIST publication NISTIR 8276, Key Practices in Cyber Supply Chain Risk Management: Observations from Industry and related SCRM guidance from NIST, including NIST 800-161, Cybersecurity Supply Chain Risk Management Practices for Systems and Organizations and specifies the supply chain risk management controls being implemented;
3. The SCRM Plan will be reevaluated and updated on a periodic basis and as events warrant;
4. If Subgrantee makes any substantive changes to the SCRM Plan, a new version will be submitted to the Office within thirty (30) calendar days. Subgrantee acknowledges that the Office must provide Subgrantee’s SCRM Plan to NTIA upon NTIA’s request.

Subgrantee

By: _____
[Signatory], [Title], Subgrantee

Date: _____

Attachment 8 – Other Federal Obligations

1. Prevention of Waste, Fraud and Abuse

a. Training

Consistent with the principles in 2 C.F.R. Part 200, at any time(s) during the Period of Performance, the Office or NTIA may direct a member or members of Subgrantee's key personnel to take a Government-provided training on preventing waste, fraud and abuse. Key personnel include those responsible for managing Subgrantee's finances and overseeing any contractors, subcontractors or lower tier subgrantees (for financial matters and/or general oversight related to the grant).

NTIA or the Office will provide instructions on when and how to take such training(s), and costs incurred by Subgrantee relative to the training (e.g., staff time) are eligible for reimbursement pursuant to this Agreement.

b. Monitoring

Subgrantee shall be subject to monitoring consistent with BEAD Program requirements as described in ACA's BEAD Monitoring and Compliance Guidelines. This may include, but is not limited to, monitoring activities such as risk assessments, desktop reviews, and field visits. Subgrantee must monitor award activities for common fraud schemes, including but not limited to:

- false claims for materials and labor;
- bribes related to the acquisition of materials and labor;
- product substitution;
- mismarking or mislabeling on products and materials; and
- time and materials overcharging.

Should Subgrantee detect any fraud schemes or any other suspicious activity, Subgrantee must contact (a) the Office point of contact designated in this Agreement, and (b) the assigned NTIA Federal Program Officer and the DOC Office of Inspector General Hotline, as indicated at <https://www.oig.doc.gov/Pages/Contact-Us.aspx>, as soon as possible.

c. Mandatory Disclosures

Additionally, Subgrantee must make disclosures in accordance with 2 C.F.R. § 200.113, in a timely manner, in writing to the Office. Subgrantee is required to report credible evidence of the commission of a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code or a violation of the civil False Claims Act (31 U.S.C. §§ 3729-3733). The disclosure must be made in writing to the Federal agency, the agency's Office of Inspector General, and pass-through entity (if applicable). Failure to make required disclosures can result in any of the remedies described in 2 C.F.R. §§ 200.339 - 200.343. (See also 2 C.F.R. Part 180, 31 U.S.C. § 3321, and 41 U.S.C. § 2313.) The Subgrantee may use the ACA Fraud Reporting Form available at <https://www.azcommerce.com/about-us/aca-policies/>.

d. Compliance Monitoring and Reporting

Subgrantee shall publicize the telephone numbers and email addresses for: (a) ACA compliance programs, including the ACA policies to promote ethics and report waste, fraud, and abuse (<https://www.azcommerce.com/about-us/aca-policies/>) (complaints@azcommerce.com) (602.845.1200); (b) the U.S. Department of Commerce Office of Inspector General Hotline (<https://www.oig.doc.gov/contact/-Us.aspx>) including its online form and toll-free telephone number (1.800.424.5197); and (c) Subgrantee's mechanisms for reporting waste, fraud, abuse and mismanagement in accordance with the ACA's Reporting Requirements Guidelines. Subgrantee acknowledges its responsibility to maintain and, upon request of the Federal Program Officer, promptly produce copies of all materials used for such purposes.

2. Protection of Whistleblowers

The DOC Financial Assistance General Terms and Conditions are incorporated into every NTIA grant award, including this Agreement. Section F.05 of the DOC GT&Cs states that each award is subject to the whistleblower protections afforded by 41 U.S.C. § 4712 (Enhancement of contractor protection from reprisal for disclosure of certain information).

Generally, this law provides that an employee or contractor (including subcontractors and personal services contractors) of a Grantee, Subgrantee, contractor, subcontractor or personal services contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body information that the employee reasonably believes is evidence of gross mismanagement of a federal award, subgrant, or a contract under a federal award or subgrant, a gross waste of federal funds, an abuse of authority relating to a federal award or subgrant or contract under a federal award or subgrant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal award, subgrant, or contract under a federal award or subgrant.

Grantees, subgrantees, and subcontractors under federal awards and subgrants must inform their employees in writing of the rights and remedies provided under 41 U.S.C. § 4712, in the predominant native language of the workforce.

A person that believes they have been the subject of retaliation for protected whistleblowing can contact the DOC Office of Inspector General Hotline, as indicated at <https://www.oig.doc.gov/contact/>, or the U.S. Office of Special Counsel, toll free at 1-800- 872-9855.

3. Nonprocurement Debarment and Suspension

Non-Federal entities must comply with the provisions of 2 C.F.R. Part 1326 (Nonprocurement Debarment and Suspension), which generally prohibit entities that have been debarred, suspended, or voluntarily excluded from participating in federal nonprocurement transactions either through primary or lower tier covered transactions, and which set forth the responsibilities of recipients of Federal Financial Assistance regarding transactions with other persons, including subrecipients and subcontractors.

4. Restriction on Human Subjects Research Work

BEAD projects and activities funded as administrative expenses may not include Human Subjects Research. BEAD lower tier subgrantees or subcontractors must comply with DOC regulations relating to the protection of human subjects for all research conducted or supported pursuant to an NTIA award. The DOC regulations related to the protection of human subjects are found in 15 C.F.R. Part 27. The BEAD Program Human Subjects Research Guidance (September 29, 2022) is incorporated by reference into this Agreement.

5. Compliance with Executive Orders

The policies set forth in all applicable Executive Orders (EOs) currently in legal force and effect are incorporated into this Agreement. By accepting this Agreement and expending federal funding hereunder the Subgrantee: (a) agrees to comply with the policies and to further the objectives set forth in all applicable EOs, as well as those that may be issued after the Effective Date hereof; (b) agrees pursuant to EO 14173, 90 Fed. Reg. 8633 (January 21, 2025), that compliance with Federal antidiscrimination laws is material to payment decisions for purposes 31 U.S.C. § 3729(b)(4); and (c) certifies that Subgrantee does not operate any programs promoting diversity, equity, and inclusion that violate any applicable Federal antidiscrimination laws. Whenever Subgrantee believes that any of the activities in its approved scope of work may be inconsistent with EO policies, Subgrantee shall immediately stop work on potentially inconsistent activities and contact the Office. Performance of activities that violate or that are otherwise inconsistent with EO requirements may be subject to enforcement or other remedies.

Attachment 9 - Property Standards

1. Subgrantee is not required to comply with the Procurement Standards set forth in 2 C.F.R. §§ 200.318-320 and 200.324-326. All other Procurement Standards, i.e., 2 C.F.R. §§ 200.311, 300.313, 200.317, 200.321-200.323, and 200.327, remain as requirements (inclusive for both Federal funds and non-Federal matching funds).
2. Subgrantee must follow its existing commercial practices for managing equipment in the normal course of business and must use inventory controls indicating the applicable Federal interest and loss prevention procedures. This requirement is in lieu of the requirements contained in 2 C.F.R. § 200.313(d), pursuant to an exception from OMB. If Subgrantee does not have existing commercial practices for managing equipment in the normal course of business, it must comply with 2 C.F.R. § 200.313(d).
3. Subgrantee must comply with the use and equipment disposition requirements of 2 C.F.R. §§ 200.313(c)(4) and 313(e) as follows:
 - a. If Subgrantee acquires replacement equipment under 2 C.F.R. § 200.313(c)(4), Subgrantee may treat the equipment to be replaced as “trade-in” even if Subgrantee elects to retain full ownership and use over equipment. As with trade-ins that involve a third party, Subgrantee will have to record the fair market value of the equipment being replaced in its Tangible Personal Property Status Reports (as specified in the DOC GT&Cs § A.01) to the DOC to ensure adequate tracking of the federal percentage of participation in the cost of the grant funded activities. Subgrantee will also be responsible for tracking the value of the replacement equipment, including both the Federal and non-Federal share.
 - b. Subgrantee may sell, lease, or transfer Project Property only after (i) securing the agreement of the successor or transferee to comply with these requirements and the acknowledgement of the successor or transferee of the Federal Interest in the subject Project Property, and (ii) obtaining consent to the sale or transfer from NTIA. NTIA will provide additional information concerning the review and approval process for transactions involving Project Property in subsequent or further guidance.
 - c. Subgrantee must notify the Office and NTIA upon the filing of a petition under the United States Bankruptcy Code, whether voluntary or involuntary, with respect to Subgrantee or any affiliate that would impact Subgrantee’s ability to perform in accordance with its subgrant.
4. Subgrantees must record liens or other appropriate notices of record, acceptable in form and substance to the Federal Program Officer, to indicate that Project Property has been acquired or improved with a federal award and that use and disposition conditions apply to the property. Specific requirements are set forth in Attachment 9.a. to this Agreement.
5. Subgrantee may encumber Project Property only after provision of notice to NTIA and to the Federal Program Officer, and subject to a requirement that the DOC receives either a first priority security interest (preferred) or a shared first priority security interest in the Project Property such that, if the Project Property were foreclosed upon and liquidated, the DOC would be entitled to receive, on a *pari-passu* basis with other first position creditors, the portion of the current fair market value of the

property that is equal to the DOC's percentage of contribution to the Project costs. For example, if the DOC had contributed 50% of the Project costs, the DOC would receive, on a *pari-passu* basis, 50% of the current fair market value of the Project Property when liquidated. NTIA will address the notice requirement for encumbrances in future guidance.

6. Pursuant to exceptions approved by OMB as described in the UGPN, the property standards set forth in 2 C.F.R. §§ 200.314-315 for supplies and intangible property, respectively, shall not apply to this Agreement.

7. Subgrantee must comply with 2 C.F.R. § 200.316. Pursuant to this Section and in recognition that the BEAD Program is being executed for the benefit of the public being served by the broadband infrastructure projects, for the duration of the Federal Interest Period, Subgrantee must hold Project Property in trust for the beneficiaries of the BEAD broadband infrastructure project.

8. Subgrantee must comply with the insurance requirements of 2 C.F.R. § 200.310.

9. Subgrantee must comply with 2 C.F.R. § 200.312 to the extent any Federally-owned real property or equipment is used by Subgrantee.

Attachment 9.a – Specific Requirements to Document the Federal Interest in Project Property

I. Covenant of Purpose, Use and Ownership

To document the Federal interest in BEAD-funded real property, Subgrantee must prepare and properly record a “Covenant of Purpose, Use and Ownership” (Covenant). The Covenant differs from a traditional mortgage lien in that it does not establish a traditional creditor relationship requiring the periodic repayment of principal and interest to NTIA or the ACA. Rather, pursuant to the Covenant, Subgrantee acknowledges that it holds title to the BEAD-funded property in trust for the public purposes of the BEAD financial assistance award and agrees, among other commitments, that it will repay the Federal interest if it disposes of or alienates an interest in the BEAD-funded property, or uses it in a manner inconsistent with the public purposes of the BEAD award, during the useful life of the BEAD-funded property. The Covenant must be properly recorded in the real property records in the jurisdiction in which the real property is located in order to provide public record notice to interested parties that there are certain restrictions on the use and disposition of the BEAD-funded property during its useful life and that NTIA retains an undivided equitable reversionary interest in the BEAD-funded property during the Federal Interest Period.

NTIA will provide a suggested sample form to use for the Covenant to record notice of the Federal interest in real property. Subgrantee acknowledges that the Covenant will be recorded in all relevant jurisdictions related to any and all Grant funds issued to Subgrantee to ensure that the Covenant is properly recorded. Subgrantee shall be obligated to indemnify, defend, and hold harmless ACA for any costs, expenses, collection fees, attorneys’ fees or other damages that ACA sees fit to seek as a result of Subgrantees’ failure to comply with this requirement.

II. UCC-1 Filing and Attorney’s Certification

Pursuant to 2 C.F.R. § 200.316, after acquiring all or any portion of the equipment under this award, Subgrantee shall properly file a UCC-1 with the appropriate State office where the equipment will be located in accordance with the State’s Uniform Commercial Code (UCC). This security interest shall be executed in advance of any sale or lease and not later than closeout of the grant or subgrant, as applicable. The UCC filing(s) must include the below or substantively similar language providing public notice of the Federal interest in the equipment acquired with BEAD funding. Also, a clear and accurate inventory of the subject equipment must be attached to and filed with the UCC-1.

The UCC filing must include the below or substantively similar language:

The Equipment set forth at Attachment A hereto was acquired with funding under a financial assistance award (03-20-B151) issued by the National Institute of Standards and Technology, U.S. Department of Commerce. As such, the U.S. Department of Commerce retains an undivided equitable reversionary interest (Federal interest) in the Equipment for ten years after the end of the year in which the award is closed out in accordance with 2 C.F.R. § 200.344.

In addition, within fifteen (15) calendar days following the required UCC filing(s), Subgrantee shall provide the Office and the Federal Program Officer with complete and certified copies of the filed UCC forms and attachments for the equipment acquired with Award Funds including all subgrants, along with a certification from legal counsel, licensed by the State within which the filings were made (Attorney's Certification), that the UCC filing was properly executed and filed in accordance with applicable state law. The Attorney's Certification must include the below or substantively similar language:

NIST Award Number: 03-20-B151

Pursuant to 28 U.S.C § 1746, I hereby certify as follows:

I am legal counsel at _____.

I am licensed to practice law in the State of _____ having been a license holder of said state and in good standing since _____.

Attached hereto is a certified copy of UCC-1 form(s) reflecting that this document was filed in the _____ on _____, 202x, bearing the following filing information [insert filing data, e.g., instrument number, etc.] and consists of ___ recorded pages as certified by the Secretary of State of _____.

I certify that this UCC-1 form(s) has/have been validly executed and properly recorded as noted above. I certify under the penalty of perjury that the foregoing is true and correct.

Executed on this ___ day of _____. (Attorney name and title)

(Address and phone number)

In addition, during the estimated useful life of the Project Property, Subgrantee shall timely file any necessary UCC-3 continuation statements (or other filings) for the subject equipment consistent with the requirements set forth in this specific award condition. Copies of all filed UCC continuation statements, together with an Attorney's Certification, must be submitted to the Office and the Federal Program Officer within fifteen (15) calendar days following each such filing. The UCC filing(s) and the accompanying Attorney's Certification(s) must be acceptable in form and in substance to the Office, NTIA, and the Federal Program Officer.

Attachment 10 – Reporting

Monthly Reporting Requirements

Subgrantee shall submit to the Office a monthly written report describing the status of all federal, state, tribal, and local permit applications required for performance of the Project. Monthly permit status reports shall be submitted in a form and manner prescribed by the Office and shall continue until all required permits have been obtained or the Office confirms in writing that reporting is no longer required.

Quarterly Reporting Requirements

Subgrantee shall, for the duration of this Agreement, submit to the Office a “Quarterly Progress Report” for the Project on a quarterly basis for the period ending the last calendar day of each quarter, due no later than fifteen (15) calendar days following the end of each reporting period. The report shall include current information to date reporting:

1. Total Award Funds (Grant Funds and Matching Funds) associated with this Agreement, including any amendments or modifications.
2. Cumulative Award Funds expended (specifying Grant Funds and Matching Funds), reported in a manner consistent with the requirements of Section VI.F. of this Agreement.
3. Percentage of Project complete based on total eligible costs incurred or defined milestones as specified in the Project Schedule.
4. Updated expected Project completion date, and an explanation of material changes from prior forecasts, if any.
5. Linear feet of fiber deployment planned in the Project Schedule for the reporting period and cumulatively.
6. Linear feet of fiber installed during the reporting period and cumulatively, by construction status (e.g., placed but not in service, or in service) if available.
7. Number of Project serviceable locations (addresses) in the Project Schedule, by location type (residential, business, community anchor institutions), as of the reporting date.
8. Number of Project serviceable locations (addresses) actually able to receive service by location type (residential, business, community anchor institutions).
9. Grant Funds received by Subgrantee from ACA and Matching Funds expended by Subgrantee during the reporting period and cumulatively.
10. Subcontractors and lower tier subgrantees providing materials or services for the Project.
11. Key permits required for the Project and the status of each (e.g., not yet submitted, submitted/pending, issued), including any material permitting delays.
12. Health and safety incidents or identified risks affecting the Project.

Semiannual Reporting Requirements

Subgrantee shall, for the duration of this Agreement, submit to the Office a “Semiannual Progress Report” for the Project on a semi-annual basis for the periods beginning on January 1 and ending June 30 (Period 1) and beginning on July 1 and ending on December 31 (or any portion thereof) (Period 2) no later than twenty (20) calendar days following the end of each reporting period. The Semiannual Progress Report content is subject to revision at ACA’s reasonable discretion to the extent required, and pursuant to updates provided, by NTIA. Based on the BEAD NOFO and BEAD RPN, the information currently required includes, at a minimum:

1. A list of addresses or location identifications (including the Broadband Serviceable Location Fabric established under 47 U.S.C. § 642(b)(1)(B)) that constitute the service locations that will be served by the broadband infrastructure to be constructed or initiated as LEO broadband service and the status of each project.
2. New Project locations served within the relevant reporting period and, for each such service and whether service taken (if applicable).
3. Include an aggregate percentage of customers taking service at new locations served within each Project area.
4. Whether each address or location identified in item 2 is residential, commercial, or a community anchor institution.
5. A description of the types of facilities that have been constructed and installed, or initiated as broadband service.
6. A description of the peak and off-peak actual speeds of the broadband service being offered.
7. A description of the maximum speed of the broadband service being offered.
8. A description of the non-promotional prices, including any associated fees, charged for different tiers of broadband service being offered.
9. List all middle mile interconnection agreements made to Subgrantee during the reporting period, and their current status (if applicable).
10. Any other data that would be required to comply with the data and mapping collection standards of the Federal Communications Commission under Section 1.7004 of title 47, Code of Federal Regulations, or any successor regulation, for broadband infrastructure projects, including (i) fiber-optic technology; (ii) Cable Modem/Hybrid fiber-coaxial (HFC) technology; (iii) digital subscriber line (DSL) technology; or (iv) terrestrial fixed wireless technology utilizing entirely licensed spectrum, entirely unlicensed spectrum, a hybrid of licensed and unlicensed spectrum; or (v) Low Earth Orbit (LEO) satellite services.
11. A SF-425, Federal Financial Report that meets the requirements described in the DOC GT&Cs, Section A.01 for Financial Reports.
12. A SF-429, Real Property Status Report Federal Financial Report that meets the

requirements described in the DOC GT&Cs, Section A.01 for Real Property Status Reports.

13. A SF-428, Tangible Personal Property Status Report that meets the requirements described in the DOC GT&Cs, Section A.01 for Tangible Personal Property Status Reports.

14. Certification by an officer of Subgrantee that:

a. That Subgrantee has informed its employees in writing of the rights and remedies provided under 41 U.S.C. § 4712 in the predominant native language of the workforce, and required its subcontractors and subgrantees to do the same.

b. The information in the Semiannual Progress Report is accurate.

c. Subgrantee complies with the Contract Work Hours and Safety Standards Act, 40 U.S.C. § 3702 and 3704, as supplemented by 29 C.F.R. Part 5.

d. Subgrantee complies with Federal Fair Labor Standards Act, as amended (29 U.S.C. §§ 201-219), as supplemented by 29 C.F.R. Part 516, including provisions thereof related to collective bargaining.

15. In addition to the information required above, Subgrantee shall include in each Semiannual Progress Report the following information, which shall be reported on a cumulative basis for the Project and, where applicable, on a year-to-date basis in the Semiannual Progress Report covering the period ending December 31 of each year:

a. Coverage and adoption metrics, including: (1) the total number of residential and commercial locations that have access to Qualifying Broadband Service as a result of the Project, (2) the percentage of End Users in the Project area who have access to Qualifying Broadband Service, (3) the percentage of End Users with such access who actually subscribe to Qualifying Broadband Service, and (4) the average number of subscriptions for residential and for commercial Qualifying Broadband Service in the Project area;

b. In connection with the Period 2 semi-annual report of each year, performance testing data in a template and format prescribed the ACA and NTIA; all performance measures data must remain in compliance with NTIA Performance Measures for BEAD Last Mile Networks Policy Notice, as subsequently or further updated;

c. Any right-of-way, permit, or franchise fees paid to any local government, state government, railroad, private entity, or person in connection with the Project during the reporting period and, to the extent applicable, the cumulative total of such fees paid to date, and a description of any delays encountered when obtaining right-of-way permissions during the reporting period, including the nature and duration of such delays and the entities from which permission was sought; and

d. Unless Subgrantee meets one of the exceptions set forth in 2 C.F.R. § 170.110, the executive compensation information required to be reported under 2 C.F.R. Part 170 and the Federal Funding Accountability and Transparency Act of 2006 (FFATA) (Pub. L. No. 109-282), as referenced in DOC GT&C G.05.0.

Reporting Requirements on Expiration of the Period of Performance

Within ninety (90) calendar days after the expiration of the Period of Performance Subgrantee shall submit to the Office:

- a. A final Form SF-425 and a final Performance (Technical) Report;
- b. Final performance testing data in a template and format prescribed the ACA and NTIA; all performance measures data must remain in compliance with NTIA Performance Measures for BEAD Last Mile Networks Policy Notice, as subsequently or further updated;
- c. If applicable, a SF-429, Real Property Status Report Federal Financial Report that meets the requirements described in the DOC GT&Cs, Section A.01 for Real Property Status Reports; and,
- d. If applicable, a SF-428, Tangible Personal Property Status Report that meets the requirements described in the DOC GT&Cs, Section A.01 for Tangible Personal Property Status Reports.

As Requested/Ad Hoc Reporting

Subgrantee shall provide Project-related information as requested in writing by the Office on such reasonable timelines as the Office may request to support ACA federal, state, or local reporting obligations.

Attachment 11 – Disputes

1.0 Informal Dispute Resolution. The Parties to this Agreement agree that time is of the essence in relation to performance of this Agreement and completion of the Project. Therefore, any and all disputes in relation to this Agreement will initially be referred to the designated Project manager and/or the Subgrantee representative as applicable to the dispute, for immediate resolution. If, after good faith efforts to reach a resolution, none is reached, any party to the dispute may submit the dispute to the Dispute Resolution process set forth below, which is intended to be an expedited process.

2.0 Dispute Resolution Representative Process

2.1 The Parties under this Agreement agree that all claims and disputes in relation to the Project that are not resolved in the ordinary course of the Project (“Claim” or “Claims”) shall, as a prerequisite to any mediation, or litigation of the Claim(s), first be submitted for resolution between the designated Dispute Resolution Representative (“DRR”) for each party as set forth herein (the “DRR Process”).

2.2 The DRR Process shall be initiated through service of a DRR Notice as set forth below:

(a) The DRR Process shall be initiated by the party asserting the Claim(s) serving written Notice on the other party’s designated DRR setting forth in detail the basis for the Claim(s), including:

(i) the basis for entitlement and amount of its Claim(s), with specific reference(s) to the provisions in this Agreement and any related Project documents that apply, including the Project Schedule; (ii) identifying any other party or parties involved in the Claim(s), and how they are involved; (iii) the specific relief requested, the amount or time requested, and how such relief was determined, together with all supporting evidence related to a potential claim, including but not limited to, cost, pricing data, scheduling data, citations to the relevant contractual provisions or other relevant documents; and (iv) an outline of all efforts made to date to resolve any issues, including submitting all documentation related to the settlement efforts.

(b) The DRR Notice shall be delivered and e-mailed to the other party’s or parties’ designated DRR(s).

2.3 The responding party shall respond in writing (“DRR Response”) within ten (10) business days of receipt of the DRR Notice, setting forth those items in the DRR Notice that are not disputed, or disputed, and/or are which require further information. The DRR Response shall be delivered and e-mailed (with read receipt) to the other party or parties designated DRR.

2.4 The DRR for the respective parties to the Claim(s) shall then meet as soon as reasonably possible and in any event within twenty (20) calendar days of submission of the DRR Notice (regardless of whether a DRR Response has been submitted by all parties involved in the dispute), at a mutually agreed upon time and place (which can include via video teleconference if agreed to by all parties), to attempt to resolve the Claim based upon the DRR Notice and DRR Response.

2.5 At any time after the first meeting required above, either party may terminate the DRR Process by written notice to the other party.

2.6 The parties may agree, in writing, to extend or modify the time limits or other provisions of the DRR process in relation to any specific pending Claim(s).

2.7 Unless otherwise designated in a written notice to the other parties, the Office's Project manager and the Subgrantee designated Representative shall act as the respective DRRs.

2.8 The resolution of any Claim(s) shall be set forth in writing and shall be signed by the respective designated DRRs. If the resolution involves modification or amendment to this Agreement, the parties shall sign an appropriate written modification, amendment, or other document pursuant to the terms of this Agreement.

3.0 Claim Submission Under ACA Uniform Terms and Conditions

3.1 Unless extended by written agreement of the parties involved in a dispute, any Claim(s) not resolved through the DRR Process set forth above within five (5) calendar days after the meeting required under Section 2.4, above, or after the DRR is terminated pursuant to Section 2.5, above, whichever is earlier, the Claim(s) shall be subject to the Claims Submission process outlined under Section 10 of the ACA Uniform Terms and Conditions, with the exception that any claim must be filed within thirty (30) calendar days of the date that it is eligible for submission to the process. Any claim filed more than thirty (30) calendar days after the claim is eligible to be submitted shall be either waived and forever discharged per the terms of this Agreement.

Attachment 12 – LEO Satellite Capacity
[If applicable, based on subgrantee selection.]

A. LEO Satellite Capacity for the BEAD Program

1. In the BEAD RPN, the NTIA has stated that all broadband technologies that meet the performance requirements of the IIJA, BEAD NOFO, and BEAD RPN are eligible to participate in the BEAD Program.

2. To meet the BEAD Program needs, the LEO Subgrantee is required to reserve sufficient capacity to deliver broadband service that meets the BEAD performance and technical requirements for each BSL in a Project area.

3. Certain portions of the BEAD NOFO, BEAD RPN, and Specific Award Conditions address unique issues related to services provided by a LEO Subgrantee. The Parties have defined a common set of requirements and objectives as the basis of the technical and performance terms of the LEO Subgrantee's providing capacity to provide high-speed, Qualifying Broadband Service for the ACA's BEAD Program. These conditions apply even if only a portion of the BEAD funds under this Agreement goes to reimburse a Subgrantee for the reservation of capacity on a LEO network to deliver last-mile broadband service.

4. The LEO Subgrantee shall be bound by all provisions of the accompanying Agreement, and where appropriate, any alternate or supplemental provisions therein as stated to apply to a LEO Subgrant and LEO Subgrantee shall apply, with all other terms, conditions, and provisions of this Agreement remaining in full force and effect.

5. The LEO Subgrantee providing access to a LEO satellite network to deliver Qualifying Broadband Service by any means, agreement, subagreement, subcontract, or otherwise, remains responsible for meeting all terms, conditions, and provisions of this Agreement applicable to a "LEO Subgrant" and "LEO Subgrantee," including but not limited to Attachment 4.b., Attachment 10, and this Attachment 12.

B. Required Conditions for LEO Capacity and Services

1. The LEO Subgrantee must begin providing broadband service to each customer that desires broadband service not later than four (4) years from the date of the Subgrant Agreement.

2. The LEO Subgrantee shall be deemed to have begun to provide service when it certifies to the Office that the LEO Subgrantee can initiate broadband service within ten (10) business days of a request to any covered BSL in the Project area, with no charges or delays attributable to extension of the service.

3. The LEO Subgrantee must demonstrate to the Office that it has ensured, either through provider installation or third-party installation, that subscribers that do not wish to self-install will have fully functioning service within ten (10) business days.

4. Pursuant the BEAD Program provisions, and the nature of LEO services that do not provide a defined network dedicated to fixed locations in which the Federal Government can take an interest to ensure performance, the Subgrantee shall provide LEO capacity and related services for an extended Period of Performance that concludes ten (10) years from the date upon which the LEO Subgrantee certifies to the Office that Qualifying Broadband Service is available to every location covered by the Project.

a. The LEO Subgrantee must continue to offer access to broadband service as set forth in the Application to each BSL served by the Project throughout the extended Period of Performance. If a customer receiving service at a BSL moves, the LEO Subgrantee must continue to offer service to the BSL under the terms of the Subgrant if subsequent occupants request service.

b. Although NTIA does not take a Federal interest in equipment or property acquired or improved by the LEO Subgrantee with this Subgrant, the consumer and taxpayer protections set forth in the BEAD NOFO apply to the LEO Subgrantee for the duration of the ten (10) year Federal Interest Period.

5. Pursuant to 47 U.S.C. § 1702(h)(4)(H), if Subgrantee, at any time during the Federal Interest Period, is no longer able to provide broadband service to the end user locations on a retail basis, the Office may take remedial action to ensure continuity of service. In consultation with NTIA, the Office may require Subgrantee to sell the network capacity at a reasonable, wholesale rate on a nondiscriminatory basis to one or more other broadband service providers or public sector entities.

C. LEO Subgrantee Disbursements

Disbursements to the LEO Subgrantee shall be made on a reimbursement basis in accordance with terms of this Agreement and Attachment 4.b, which establishes the agreed upon disbursement milestones.

D. Letter of Credit and Bonding Requirements

1. Subject to Section X.H. of the Agreement, prior to entering into this Agreement, upon request by the Office, the LEO Subgrantee shall have obtained an irrevocable standby letter of credit, performance and/or payment bond(s), or certificate of deposit using the model(s) provided by the Office, equal to or exceeding 25% of the total award amount (100% for performance bonds). The LEO Subgrantee must retain the letter of credit, bond(s), or certificate or deposit, until the final milestone, disbursement, or installment in Attachment 4.b. is achieved, whichever is later, and confirmed complete by the Office. The Office will, in its sole

discretion, and subject to NTIA review and prior approval, consider requests by the Subgrantee to have a letter of credit, performance and/or payment bond, or certificate of deposit obligation reduced with completion of deployment milestones, if applicable and as follows:

a. The LEO Subgrantee may reduce its Letter of Credit by 50% at the point it certifies to Office that Qualifying Broadband Service is available to each location in the Project area.

b. The Letter of Credit can be reduced by an additional 25% of the original amount after the subscription rate reaches at least 25% of all locations in the Project area and may be closed out once the subscription rate reaches 50%.

c. Regardless of the subscription rate, the Letter of Credit may be terminated four (4) years after the LEO Subgrantee certifies that it can initiate broadband service within ten (10) business days of a request to any covered BSL in the Project area.

2. In addition to the above requirements, the LEO Subgrantee shall submit audited financial statements to the Office demonstrating its financial capacity to undertake the commitments of a subgrantee in all areas in which the Subgrantee provider seeks to serve. The Office will provide the audited financial statements to NTIA to verify the financial capability of the LEO Subgrantee, and the LEO Subgrantee may obtain and provide a financial certification letter from NTIA demonstrating its financial capacity to undertake the commitments of a subgrantee.

E. Consumer Premises Equipment

1. In light of the advantages conferred on the LEO Subgrantee by the unique structure of BEAD LEO broadband service and the higher costs of Consumer Premises Equipment (“CPE”) essential for delivery of broadband service via LEO satellite, the LEO Subgrantee must provide all necessary CPE at no cost as part of the standard installation for each new subscriber (i.e., for each new resident or group of residents) at the BEAD-funded location throughout the Period of Performance and extended Period of Performance.

2. If the same subscriber requests additional CPE after installation, the LEO Subgrantee may charge customary rates unless the request is made due to equipment malfunction or damage caused by a weather event.

3. If the Subgrantee plans to send CPE to the subscriber to self-install or use a third-party installer, Subgrantee must ensure, at a minimum, that the subscriber receives the CPE within ten (10) days.

4. The Subgrantee may charge standard installation fees to subscribers on the BEAD-Funded Network but may not require subscribers to make modifications to their own or surrounding property or charge fees for the same in connection with installation of broadband services funded by BEAD funds.

F. Additional Terms

1. The Parties will definitize any additional terms as are necessary and consistent with this Agreement and to give effect to the terms set forth in this Agreement and this Attachment 12.

2. In connection with this Agreement, the Subgrantee shall provide in the Application or otherwise the additional commercial terms or services, including any lower tier subgrant, subcontract, or other agreement to provide the required LEO capacity and related services. No such additional terms or agreement(s) shall be read or interpreted in a matter that contradicts BEAD Program requirements, or reduces Subgrantee obligations under the BEAD Program, including the BEAD NOFO, the BEAD RPN (including Appendix B: Low Earth Orbit Capacity Subgrants), this Agreement, or federal or state law.

This Draft (05.07.26) is provided solely for discussion and negotiation purposes and does not constitute an offer or a binding agreement.

**Attachment 13 – Protecting the BEAD Program from Defaults
Certification Template**

[Subgrantee Letterhead]

National Telecommunications and Information Administration (NTIA),
Broadband Equity, Access, and Deployment (BEAD) Program

As required by BEAD GT&C 51 (Updated November 2025)