

**KEYSTONE DEVELOPMENT CENTER
COOPERATIVE DEVELOPMENT TECHNICAL ASSISTANCE AGREEMENT**

This Agreement dated as of March 31, 2017, hereinafter referred to as the "Agreement", is made by and between the **South Central Pennsylvania Harvest Hub** whose address is 653 S Baltimore Street, Dillsburg PA 17019 , hereafter referred to as the "Client," *AND* Keystone Development Center, 108F. N. Reading Road, Suite 200, Ephrata, PA 17522, hereafter referred to as "KDC."

WHEREAS, Client and KDC hereby enter into a contract and agreement whereby KDC will render certain work, services, labor and/or materials to and for the benefit of the Client without cost to the Client with the exception that the Client agrees to pay 100% of all travel costs and 50% of any attorney costs incurred working on behalf of the Client. KDC will provide an estimate of projected travel and attorney costs in advance and attain the Client's approval in writing to incur such costs.

1. *Consultation services.* KDC agrees to perform the services summarized in The Work Plan of this Agreement. Client acknowledges that KDC does not guarantee its ability to cause any or all of the desired outcomes for which services will be rendered to be consummated. The referenced schedules are deemed to be an integral part of this Agreement and are incorporated by reference.

2. *Term.* The respective duties and obligations of the contracting parties shall be for a period of 9 months, commencing on April 1, 2017, hereinafter referred to as the "Term". This Agreement may be renewed or extended upon the mutual written consent of the parties. This Agreement may be terminated by either party giving thirty (30) days written notice to the other party at the addresses stated above or at an address chosen subsequent to the execution of this Agreement and duly communicated to the party giving notice. Client acknowledges that KDC's ability to perform under this Agreement may depend on receipt of financial and other support from government agencies and other entities. In the event of KDC's failure to receive such support, KDC shall have the right to terminate this Agreement without the period of notice provided for above, or to propose modifications to this Agreement which may be agreed to the parties hereto.

3. *Client's principal agent.* Diane Staz shall serve as the Client's principal agent under this Agreement and, as such, shall provide direction on behalf of the Client to KDC and be responsible for providing approvals as required by this Agreement and the Schedules appended hereto. The Client shall inform KDC in writing of any change in its principal agent.

4. *KDC status.* KDC will act as an independent contractor in the delivery of the services provided for in this Agreement. Unless otherwise specifically agreed to by the parties in writing, neither KDC nor the Client shall act as the agent or joint venturer of the other and neither party shall have the power or authority to bind or obligate the other party in any manner.



5. **Confidentiality.** KDC acknowledges that while providing services to the Client, it may learn and use certain of Client's confidential information and thus will take reasonable precautions to prevent third parties from learning such information. Likewise, Client will take reasonable precautions to prevent third parties from learning about KDC's confidential and proprietary information, which includes without limitation KDC's methodology, processes, programs, and know-how. These obligations do not apply to information or materials that: (1) are or become generally known by third parties other than as a result of an act or omission by the receiving party; (2) were already independently known by the receiving party prior to receiving them from the disclosing party; (3) are developed independently by the receiving party; or (4) are required by law or a governmental agency to be disclosed, provided the receiving party promptly notifies the disclosing party of such requirement so that the disclosing party can seek to obtain a protective order or similar remedy. The confidentiality obligations of the parties herein shall continue in effect for a period of two (2) years after the end of the Term.

6. **Use of Client name.** Notwithstanding any provision of this or any other agreement to the contrary, KDC shall have the right, upon Client's acceptance of the work identified in The Work Plan of this Agreement, to reference Client and the general nature of the work performed on behalf of the Client in publications produced by KDC, on KDC's web site, in presentations to current or prospective clients or others, and in other ways that KDC may deem useful and appropriate. KDC shall also have the right, from time to time, to create materials such as case studies, presentations, articles, and other summaries of the work it performed for the Client to utilize in public speaking engagements, publications, and other similar ways. In no event will KDC use these materials to: (1) misrepresent outcomes generated by KDC's efforts on behalf of the client; (2) damage or disadvantage Client's competitive position; or (3) violate KDC's obligations of confidentiality to Client hereunder.

7. **Obligation to provide annual report.** Client supported by federal funds hereby agree to provide an annual progress report to KDC including: sales/revenues, net income, total number of members, total number of full and part time employees, three (3) or more current contacts for the co-op. This data shall be provided three months after the close of each calendar year for ten (10) years commencing the year in which this contract is signed. These reports will provide KDC with information to monitor your business progress, assess the accuracy of our projections, and provide us with early warning signs should your business be struggling to reach your goals. The data, which is confidential, will be utilized in aggregation all of our clients' data for statistical analysis and for grant reporting purposes which KDC is obligated to report to funders. The client will not be named alongside this data in public-facing reports unless they have expressly authorized the use in this manner.

8. **Arbitration.** Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration in accordance of the rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) shall be entered in any court having jurisdiction thereof. For that purpose, the parties hereto consent to the jurisdiction and venue of an appropriate court located in York County within the



Commonwealth of Pennsylvania.

9. **Limitation on liability.** Client agrees that KDC's liability for any claim against KDC, or its employees, or its agents is limited to an amount equal to the total value of the services KDC provides under this Agreement, and shall not include any special, incidental, consequential, or punitive damages, any damages based on injury to person or property, or any lost sales or profits.

10. **Governing law.** This Agreement shall be governed by and shall be construed in accordance with the laws of the Commonwealth of Pennsylvania.

11. **Amendment of this Agreement.** This Agreement may only be modified in writing and contains the entire terms of the agreement between the parties and supersedes all other prior written or oral agreements and undertakings with respect to such subject matter. No waiver of any portion of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar. No waiver shall be binding unless executed in writing by the parties hereto.

12. **Non-waiver.** A delay or failure by either party to exercise a right under this Agreement, or a partial or single exercise of that right, shall not constitute a waiver of that or any other right.

13. **Headings.** Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

14. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

15. **Non-Solicitation of KDC Employees and Consultants.** Client covenants and agrees that during the Term of this Agreement directly or indirectly, through an existing corporation, unincorporated business, affiliated party, successor employer, or otherwise, solicit, hire for employment or work with, on a full-time, part-time, consulting, advising or any other basis, other than on behalf of KDC any employee, designated consultant or independent contractor employed by KDC. This clause may be relaxed with prior approval from the KDC Board of Directors. Client acknowledges that the terms of this section are reasonably necessary to protect the legitimate interests of KDC, are reasonable in scope and duration, and are not unduly restrictive. Client further acknowledges that a breach of any of the terms of this section will render irreparable harm to KDC, that a remedy at law for breach of the Agreement is inadequate, and that KDC shall therefore be entitled to seek any and all equitable relief, including, but not limited to, injunctive relief, and to any other remedy that may be available under any applicable law or agreement between the parties.

16. **Binding effect.** The provisions of this Agreement shall be binding upon the parties, their permitted successors and assigns.



17. **Severability.** If any provisions of this Agreement or application thereof to any person or circumstances shall be deemed or held invalid, illegal, or unenforceable to any extent, the remainder of this Agreement shall not be affected and the application of such affected provision shall be enforced to the greatest extent possible under law.

18. **Pronouns.** All the words used in this Agreement, regardless of the number and gender in which they are used, shall be deemed to include any other number, singular or plural, and any other gender, masculine, feminine, or neuter, as the context may require.

19. **Force Majeure.** Neither KDC nor the Client shall be held responsible for delay or failure to perform when such delay or failure is due to fire, flood, epidemic, strike, shortage of material supply, performance failure by third parties, acts of God, acts of a public enemy or a public authority or a cause which cannot be reasonably foreseen or provided against.

20. **Successors and Assigns.** All of the terms, conditions, obligations and provisions contained herein shall inure to the benefit of and be binding upon the parties hereto and their permitted successors and assigns. Neither party may assign any rights or delegate any duties hereunder without the advance written consent of the other party, which consent shall not unreasonably be withheld.

In witness whereof, the parties have agreed and executed this Agreement as of the date first above written.

For Keystone Development Center

For Client

X

Margaret R. Fogarty
Executive Director



Work Plan
South Central Pennsylvania Harvest Hub
Scope of Work
Technical assistance and services to be provided by
Keystone Development Center

This Schedule is an integral part of the Agreement dated March 31, 2017 between the South Central Pennsylvania Harvest Hub and the Keystone Development Center.

This Scope of Work shall run from April 1, 2017 through July 31, 2017 to support the Client through the initial phases of Cooperative Development: Needs Assessment and Leadership and Work Plan Development. A new Scope of Work will be detailed for subsequent phases of co-op development. Up to 14 hours of support will be provided on a pro bono basis, which includes two (2) joint webinars that will include other co-ops at a similar phase of development.

Technical assistance and services to be provided by Keystone Development Center under this agreement shall include, but may not be limited to, the following:

- Needs Assessment: to support the Client's Steering Committee in the following processes through coaching:
 - Identify the Economic Need
 - Clarify, Review, and Evaluate Proposed Business Activity
 - Evaluate/Identify Appropriate Organizational Structure
 - Define Mission Statement
- Education: Leadership and Work Plan: to support the Client in cultivating the democratic leadership capacity needed to undergo the co-op development process:
 - Co-op 101: Co-op education for Steering Committee (and potential membership)
 - Co-op 201: Co-op development steps education (for Steering Committee)
 - Advise on methods to cultivate a Steering Committee that is representative of the future membership
 - Advise on the cultivation of an advisory team (if needed)
 - Support the development of a plan of work and timeline for next phases of co-op development including target dates for action
 - Steering committee consultation
- Meetings with the Steering Committee, any appropriate committee designated by the Steering Committee, and the General Manager (or equivalent) as needed to understand the unique needs of the co-op and to support the cultivation of organizational unity and advise leadership of best practices.
- Miscellaneous technical assistance.

Note: The hours limits herein may be modified by KDC at any time and we will make an attempt to notify the Client of changes to our pro bono hours allotment in a timely manner. Work performed in excess of those allotted in this plan may require a modified Work Plan and payment by the client at our standard hourly rate (currently \$75/hour). KDC will make a good faith effort to notify Client if allocated pro bono hours are close to reaching their limit so as to discuss options (i.e. revise scope of work, continue on a fee for service hourly basis, etc.)

