

THE M&T CHARITABLE FOUNDATION
GRANT TERMS AND CONDITIONS

These Grant Terms and Conditions ("**Terms and Conditions**") set forth the terms and conditions under which The M&T Charitable Foundation (the "**Foundation**") offers, awards, makes, pays out, or otherwise commits to make any grant ("**Grant**") to an eligible applicant hereunder ("**Applicant**"). An Applicant will not be considered for a Grant unless and until it agrees to these Terms and Conditions. Notwithstanding the foregoing, nothing contained herein shall be construed as a contractual right of Applicant to receive a Grant or as any other obligation of the Foundation to offer, award, make, pay out, or otherwise commit to make any Grant. Unless and until Applicant has actually received the funds of the Grant pursuant to a Grant letter issued by the Foundation (a "**Grant Letter**"), Applicant shall not have any rights to a Grant nor shall it be entitled to rely on the award of a Grant.

By accepting a Grant (including, without limitation, by depositing or cashing a Grant check), Applicant ratifies and reaffirms these Terms and Conditions, including, without limitation, all representations, warranties, and certifications made herein. If Applicant is not offered or awarded a Grant or rejects a Grant, Sections 2, 3, 5, 6, 7, 9, and 10 of these Terms and Conditions shall be inoperative and of no force or effect.

1. Tax-Exempt Status of Applicant. As to its tax status, Applicant certifies that it:

- a. is a tax-exempt organization as described under Internal Revenue Code ("**Code**") Section 501(c)(3);
- b. has received an Internal Revenue Service ("**IRS**") determination letter that qualifies it as a public charity pursuant to Code Sections 509(a)(1) or 509(a)(2) and is not a "Supporting Organization" under Code Section 509(a)(3);
- c. has not had notice of a change of its non-private foundation status published by the IRS nor received notice from the IRS that it will be deleted from such status;
- d. has not, since the date of its IRS determination letter, to the best of its knowledge and belief, changed its basic purposes or the manner of conducting its affairs in any way that might affect the continuation of its tax-exempt or non-private foundation status; and
- e. knows of no basis upon which it could be considered to be controlled directly or indirectly by the Foundation.

2. Grant Purpose and Expenditure of Funds. Applicant agrees to apply the Grant funds, which will be administered by Applicant, exclusively for the purpose set forth in the Grant application submitted with these Terms and Conditions (the "**Application**") or, if not set forth in the Application, the Grant Letter. The Grant funds are not to be used for any other purpose without prior approval in writing from the Foundation. Applicant agrees to use the Grant funds only for charitable purposes consistent with Applicant's above-described tax-exempt status and will not use the Grant funds for any purposes other than charitable, scientific, literary, educational, or other purposes described in Section 170(c)(2)(B) of the Code. Applicant will not use any of the Grant funds to influence any legislation or the outcome of any specific public election, to conduct, directly or indirectly, any voter registration drive (within the meaning of Section 4945(d)(2) of the Code), or to pay the overhead expenses attributed to any such activities. If Applicant carries on propaganda, or otherwise attempts to influence legislation (within the meaning of Section 4945(d)(1) of the Code), then either:

- a. the Grant is a general support grant which has not been earmarked to be used in an attempt to influence legislation; or
- b. the Grant is a specific project grant (i) which Grant has not been earmarked to be used in an attempt to influence legislation and (ii) which Grant, together with any other grants by the Foundation for the same project for the same year, does not exceed the amount budgeted, for the year of the Grant, by Applicant for activities of the project that are not attempts to influence legislation.

Additionally, Applicant will not use any of the Grant funds to satisfy a pledge or obligation of any person or organization other than the Foundation, or to provide any tangible economic benefit to any Foundation director,

officer, employee, or substantial contributor or their respective family members (each of the foregoing being, a “**Foundation Interested Party**”).

3. Return of Grant Funds. The term of the Grant is set forth in the Application. Any funds not expended during this period must be promptly returned to the Foundation unless an extension of the term of the Grant has been approved by the Foundation. Applicant agrees to return any Grant funds not expended for the purposes described in the Application or Grant Letter to the Foundation at One M&T Plaza, 4th Floor, Buffalo, NY 14203. The rules governing private foundations also require Applicant to return the Grant if Applicant is no longer recognized by the IRS as having the tax-exempt status described in Section 1, and Applicant agrees to do so in such event.

4. Right to Grant; Reliance; Future Installments. Applicant acknowledges and agrees that neither these Terms and Conditions nor any verbal or written statements of the Foundation or any Foundation Interested Party prior to the date of the issuance by the Foundation of a Grant Letter, if one is issued, are to be construed as a contractual right of Applicant to receive the Grant or an obligation of the Foundation to award or fund the Grant. Until Applicant has actually received the funds of the Grant under a Grant Letter (subject to these Terms and Conditions), Applicant shall not have any rights to the Grant nor shall it be entitled to rely on the award of the Grant, nor shall it cause any other party to rely on the award of the Grant. Should the Grant be structured to be paid in installments, Applicant acknowledges that, although it is the intention of the Foundation to fulfill all installments of its pledge, the Foundation does not undertake any obligation to do so, and any future payments or installments will be made, if at all, at such times and in such amounts as determined in the Foundation’s sole discretion.

5. Compliance with Laws; Indemnification. Applicant represents and warrants that it is and shall remain in compliance with all applicable federal, state, and local laws and regulations, including those prohibiting discrimination against qualified individuals based on a protected status. Applicant certifies that Grant funds will be used in compliance with Section 2 of this Agreement and all applicable anti-terrorist financing and asset control laws, regulations, rules, and executive orders, including, but not limited to, the USA Patriot Act of 2001, as amended, and Executive Order No. 13224, as amended. Furthermore, Applicant agrees that any Grant funds, either directly or through a sub-grant, will not be disbursed to any organization or individual listed on the United States Government’s Terrorist Exclusion List or the Office of Foreign Assets Control (OFAC) Specially Designated Nationals & Blocked Persons List. In addition, Applicant takes reasonable steps to ensure that its board, staff, sub-grantees, and volunteers have no dealings whatsoever with known terrorists or terrorist organizations.

To the fullest extent permitted by law, Applicant will defend, indemnify, and hold harmless the Foundation, the Foundation Interested Parties, and the Foundation Affiliates (as defined below) and its and their respective personnel, officers, directors, and agents (each, an “**Indemnified Party**”) from and against all liabilities, costs, obligations, losses, costs, expenses and any other damages, including reasonable attorneys’ fees and expenses, arising from or related to (a) a claim, suit, action, proceeding, assertion, or demand brought against an Indemnified Party by a third party arising from Applicant’s violation of this Section 5 and (b) any injury to persons or property arising in connection with the pursuit of the Grant purpose. “**Foundation Affiliate(s)**” means any current or future entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Foundation.

6. No Goods or Services. Applicant acknowledges that neither the Foundation nor any Foundation Interested Party or Foundation Affiliate has received any goods and/or services or anything of value in return for the Grant. Applicant agrees that no portion of the Grant may be used to pay board membership fees, director contributions, or similar payments of any Foundation Interested Party that are the obligation of such individuals.

7. Progress Reporting. Upon the request of the Foundation, Applicant agrees to provide progress reports and/or a final report satisfactory to the Foundation that will include measurable outcomes to demonstrate the impact of the Grant and other information reasonably requested by the Foundation. Applicant agrees to maintain and, at the request of the Foundation, to make available to the Foundation books and records adequate to verify Applicant’s compliance with these Terms and Conditions.

8. Confidentiality Obligations. Applicant shall maintain in strict confidence all Confidential Information (as defined below) of the Foundation and shall not disclose such Confidential Information to any third party, except

with the written consent of the Foundation. Notwithstanding the foregoing, Applicant may disclose Confidential Information as required by law or order of a court or administrative body of competent jurisdiction, and to auditors and attorneys representing Applicant, and examiners as may be necessary, provided such disclosure is limited to the information specifically required to be disclosed. **“Confidential Information”** means these Terms and Conditions, as well as any information in written, oral, or other tangible or intangible form relating to the Foundation, Manufacturers and Traders Trust Company (**“M&T Bank”**), or any other Foundation Affiliate that is not generally known to the public, including information that is competitively sensitive or that relates to past, present, or future business affairs, financial matters, marketing strategies, non-public intellectual property, products, services, policies, or procedures.

9. Announcements; Foundation Logo. The Foundation and Applicant agree that any public acknowledgement of the Grant will be credited as follows: “The M&T Charitable Foundation” and/or “M&T Bank” and/or “M&T.” Notwithstanding the foregoing, Applicant shall obtain advanced written approval of the text of any written public statement regarding the Grant or of any press release or other announcement or recognition that references the Grant or the Foundation, except that listing the Grant among other general donor listings shall not require advanced written approval. Except as expressly set forth in this Section 9, Applicant shall obtain the Foundation’s prior written consent before using the Foundation’s or M&T Bank’s or any other Foundation Affiliate’s name, logo or other trademarks in any advertising, brochures, press release, promotional materials, or in any other manner.

10. Termination. The Foundation may terminate an Application or decline or withhold payment of a Grant, or both, if Applicant becomes unable to carry out the purposes of the Grant, ceases to be an appropriate means of accomplishing the purposes of the Grant, or fails to comply with these Terms and Conditions. If termination or withholding of payment is being considered by the Foundation after the issuance of a Grant Letter, Applicant will be notified of the non-compliance issue(s) and will have a specified period of time to remediate the non-compliance issue(s) cited by the Foundation. Successful remediation will be determined in the sole discretion of the Foundation.

11. Governing Law. The Grant and these Terms and Conditions will be governed by and construed in accordance with the substantive laws of the State of New York and the United States of America. Each party hereby consents to the exclusive jurisdiction of the courts located in Erie County in the State of New York in the event of a dispute arising out of or in connection with the Grant or these Terms and Conditions. Each party hereby irrevocably waives any objection to the laying of the venue of any suit, action, or proceeding and irrevocably submits to the exclusive jurisdiction of such court in such suit, action, or proceeding. THE FOUNDATION AND APPLICANT HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHT TO TRIAL BY JURY THE FOUNDATION AND APPLICANT MAY HAVE IN ANY ACTION OR PROCEEDING, IN LAW OR IN EQUITY, IN CONNECTION WITH THE GRANT OR THESE TERMS AND CONDITIONS.

12. Other Terms. The Grant (as evidenced by the applicable Grant Letter and/or Application supporting such Grant) and these Terms and Conditions encompass the entire agreement between the Foundation and Applicant and supersede all previous understandings and agreements between the Foundation and Applicant, whether oral or written. Should there be any conflict or inconsistency between the terms and conditions of a Grant Letter and these Terms and Conditions, the terms and conditions of the Grant Letter will govern. The Grant and these Terms and Conditions do not create and shall not be deemed to create an agency, partnership, franchise, employment relationship, or joint venture between Applicant and the Foundation, or any of their respective personnel, agents, or subcontractors. Neither the Foundation nor Applicant shall be liable to the other for any failure or delay caused by elements of nature or acts of God or any similar unforeseeable event that cannot be reasonably circumvented, is beyond its reasonable control, and is not due to its own negligence, provided that such party uses commercially reasonable efforts to resume performance as soon as reasonably practicable. If any provision of these Terms and Conditions is invalid, illegal, void, or unenforceable, then that provision will be deemed severed from these Terms and Conditions and will not affect the validity or enforceability of the remaining provisions of these Terms and Conditions.

13. Electronic Signature. Each party agrees that an electronic signature, whether digital or encrypted, of a party, including, without limitation, by typing a signature or clicking to “agree” to or “submit” an electronic Application, is intended to authenticate these Terms and Conditions and to have the same force and effect as a manual signature.