

Appendix D - Sample Contract

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

PROFESSIONAL SERVICES CONTRACT

CONTRACT NO. [year].[number of contract]

1. PARTIES – The parties to this Contract (“Contract”) are the Bay Area Air Quality Management District (“DISTRICT”) whose address is 375 Beale Street, Suite 600, San Francisco, CA 94105, and [Vendor Name] (“VENDOR”) whose address is [Vendor Address].
2. RECITALS
 - A. On June 23, 2016, the California Air Resources Board (CARB) adopted the Fiscal Year 2016-17 Funding Plan for Low Carbon Transportation and Fuels Investments and the Air Quality Improvement Program appropriating \$5 million for the Enhanced Fleet Modernization Program (“EFMP Plus-up Program,” “Clean Cars for All” or “Program”) for DISTRICT to achieve significant emissions reductions by incentivizing eligible lower-income Bay Area residents living in or near disadvantaged communities to replace their older, high-emitting vehicles with newer, cleaner and more fuel-efficient vehicles or an alternative transportation option.
 - B. DISTRICT implements the Program in the San Francisco Bay Area in accordance with:
 - i. California Health and Safety Code (HSC), Sections 44125 through 44126;
 - ii. California Code of Regulations (CCR), Title 13, Chapter 13, Article 2, Sections 2620 through 2630;
 - iii. Fiscal Year 2016-17 Funding Plan for Low Carbon Transportation and Fuels Investments and the Air Quality Improvement Program (Funding Plan); and
 - iv. EFMP Plus-Up Pilot Project Requirements
 - C. Under the Program, a vehicle owner (“Participant”) applies to DISTRICT for funding of a vehicle replacement (“Vehicle”) or alternative transportation option. If the application is approved, DISTRICT provides a notice of project and funding approval to the Participant. Participant contacts an authorized vendor to select a replacement option. DISTRICT provides Participant’s Program incentive directly to vendor to be used directly towards Participant’s total replacement vehicle cost. Vendor submits a report and necessary supporting documents outlined in the Scope of Work to DISTRICT.
 - D. DISTRICT has contracted with GRID Alternatives (“Case Manager”) to provide Case Management support.
 - E. DISTRICT has contracted with Fluxx, Inc. (Fluxx) to provide the Grant Management System for Program.
 - F. VENDOR has represented to DISTRICT that it is aware of the Program’s goals, and agrees to abide by the Program requirements. Based solely on VENDOR’s representations, DISTRICT has identified VENDOR as one of multiple VENDORS as authorized to sell and lease Vehicles to Participants in the Bay Area under the Program. DISTRICT has not reviewed VENDOR’s operations or reached any conclusion on the quality of the VENDOR’s operations.
 - G. DISTRICT and VENDOR desire to enter into this Contract under which DISTRICT will provide VENDOR with potential business opportunities to sell and lease Vehicles under the Program and VENDOR will provide services as described in the Scope of Work, attached hereto as Attachment A and made a part hereof by this reference, which will assist DISTRICT in implementing the Program.

H. All parties to this Contract have had the opportunity to have this contract reviewed by their attorney/s.

3. PERFORMANCE REQUIREMENTS

- A. VENDOR currently has a valid business license issued in California and has had the license for a minimum of the last two years.
- B. VENDOR agrees to obtain any and all required licenses, permits, and all other appropriate legal authorizations from all applicable federal, state and local jurisdictions and pay all applicable fees.
- C. VENDOR attests that it is in good tax standing with federal and state authorities
- D. VENDOR shall comply with all laws and regulations that apply to its performance under this Contract, including any requirements to disclose potential conflicts of interest under DISTRICT's Conflict of Interest Code.
- E. VENDOR shall not engage in any performance of work during the term of this contract that is in direct or indirect conflict with duties and responsibilities set forth in the Scope of Work.
- F. VENDOR shall exercise the degree of skill and care customarily required by accepted professional practices and procedures.
- G. VENDOR shall ensure that any subcontractors, employees and agents performing under this Contract comply with the performance standards set forth in this section.
- H. VENDOR must ensure compliance with any federal, State and local material disposal requirements, regulations, permits or requirements.
- I. VENDOR affirms that it understands and agrees to abide by the Program requirements and the terms of this Contract.
- J. VENDOR shall have a valid California business license, be licensed by the California Department of Motor Vehicles (DMV), and, if required, have a valid California Environmental Protection Agency (Cal/EPA) Hazardous Materials Generators Permit. In addition, VENDOR must ensure compliance with any federal, State and local material disposal requirements, regulations, permits or requirements.

4. TERM – The term of this Contract shall begin upon the date of full execution and shall continue in full force and effect until it is terminated in accordance with section 5.

5. TERMINATION

- A. DISTRICT may terminate this Contract at any time, at will, and without specifying any reason, by notifying VENDOR in writing. The notice of termination shall specify the effective date of termination, which shall be no less than thirty (30) calendar days from the date of delivery of the notice of termination, and shall be delivered in accordance with the provisions of section 11 below. Immediately upon receipt of the notice of termination, VENDOR shall cease all work under this Contract, except such work as is specified in the notice of termination.
- B. Either party may terminate this Contract for breach by the other party.
 - i) Failure to perform any agreement or obligation contained in this Contract or the Guidelines or failure to perform the services in a satisfactory manner shall constitute a breach of the Contract.
 - ii) The non-breaching party may terminate the Contract by delivery of a written notice of breach. The notice of breach shall specify the date of termination, which shall be no earlier than ten (10) business days from delivery of the notice of breach. In the alternative, at its sole discretion, the non-breaching party may require the breaching party to cure the

- breach. The notice of breach shall specify the nature of the breach and the date by which such breach must be cured.
- iii) If VENDOR fails to perform any obligation under this Contract, DISTRICT at its sole discretion, may perform, or cause the performance, of the obligation itself. In that event, DISTRICT shall deduct the costs to perform such obligation and any other costs to cure the breach from the payment otherwise due to VENDOR for work performed under this Contract. DISTRICT's performance hereunder shall not be deemed a waiver or release of any obligation of, or default by, VENDOR under this Contract.
 - iv) The notice of breach shall be provided in accordance with the notice requirements set forth in section 11.
 - v) The non-breaching party reserves all rights under law and equity to enforce this Contract and recover any damages.
 - vi) DISTRICT's remedies for VENDOR's breach also include, but are not limited to, cancelling the Contract, recapturing grant funds, and disqualifying VENDOR from Program participation.
- C. DISTRICT and VENDOR agree that if the California Budget Act of the current year and/or any subsequent years covered under this Contract does not appropriate sufficient funds for the Program, this Contract shall be of no further force and effect. In this event the State shall have no liability to pay any funds whatsoever to the DISTRICT and VENDOR or to furnish any other considerations under this Contract. Should such event occur, DISTRICT shall notify VENDOR and may elect to terminate this Contract pursuant to the provisions in section 5.A. Should DISTRICT elect to terminate the Contract under these circumstances, VENDOR will not dispute the termination.

6. INSURANCE

- A. VENDOR shall maintain the following insurance:
- i) Workers' compensation and employers' liability insurance as required by California law or other applicable statutory requirements.
 - ii) Occurrence-based commercial general liability insurance or equivalent form with a limit of not less than one million dollars (\$1,000,000) each occurrence. Such insurance shall include DISTRICT and its officers, agents, and employees as additional insureds and shall be primary with respect to any insurance maintained by DISTRICT.
 - iii) Business automobile liability insurance or equivalent form with a limit of not less than one million dollars (\$1,000,000) each accident. Such insurance shall include coverage for owned, hired, and non-owned vehicles. If VENDOR is a sole proprietor, VENDOR may meet this insurance requirement with personal automobile liability insurance carrying a business use endorsement or by demonstrating to the satisfaction of DISTRICT that business use is covered under the VENDOR's personal automobile liability insurance. A VENDOR using only rental vehicles in performing work under this Contract may meet this insurance requirement by purchasing automobile liability insurance in the required coverage amount from the rental agency.
- B. All insurance shall be placed with insurers acceptable to DISTRICT.
- C. Prior to commencement of work under this Contract, VENDOR shall furnish properly-executed certificates of insurance for all required insurance. Upon request by DISTRICT, VENDOR shall provide a complete copy of any required insurance policy. VENDOR shall notify DISTRICT in writing thirty (30) days prior to cancellation or modification of any required insurance policy. Any such modifications are subject to pre-approval by DISTRICT.

- D. If VENDOR fails to maintain the required insurance coverage set forth above, DISTRICT reserves the right either to purchase such additional insurance and to deduct the cost thereof from any payments owed to VENDOR or to terminate this Contract for breach.
7. INDEMNIFICATION - VENDOR agrees to indemnify, defend, and hold harmless DISTRICT, its officers, employees, agents, representatives, and successors-in-interest against any and all liability, demands, claims, costs, losses, damages, recoveries, settlements, and expenses (including reasonable attorney fees) that DISTRICT, its officers, employees, agents, representatives, and successors-in-interest may incur or be required to pay arising from the death or injury of any person or persons (including employees of VENDOR), or from destruction of or damage to any property or properties, caused by or connected with the performance of this Contract by VENDOR, its employees, subcontractors, or agents.
8. RIGHT TO BIND - Neither VENDOR nor its employees, subcontractors or consultants have the right to act on behalf of DISTRICT in any capacity, or to bind DISTRICT to any obligation.
9. PAYMENT AND REPORTING
- A. DISTRICT will pay VENDOR incentive funds and not pay or otherwise compensate in any way VENDOR for its services rendered in keeping with this Contract, but the benefit received by VENDOR under this Contract is the opportunity to participate in the Program, which includes the corresponding opportunity for VENDOR to profit from the sale of on-road equipment to Program Participants.
 - B. DISTRICT does not promise that any Program participant will select VENDOR for purchase of vehicles.
 - C. VENDOR or Program Participant will be reimbursed by DISTRICT for the grant amount once VENDOR or Program Participant submits a complete reimbursement to DISTRICT as outlined in this Contract and Program Guidelines.
 - D. IRS Form 1099: VENDOR is aware that DISTRICT will issue an IRS Form 1099 for all grant funds to VENDOR. Upon approval as a participating VENDOR, VENDOR shall submit a completed IRS Form W-9 to DISTRICT.
10. DISPUTE RESOLUTION – A party that disputes a notice of breach must first seek mediation to resolve the dispute in accordance with the provisions set forth below.
- A. Upon receipt of a notice of breach of contract, the party may submit a demand for mediation to resolve whether or not a breach occurred. The party must state the basis of the dispute and deliver the demand within ten (10) business days of the date of receipt of the notice of breach.
 - B. The mediation shall take place at DISTRICT’s office at 375 Beale Street, San Francisco, or at such other place as may be mutually agreed upon by the parties and the mediator.
 - C. The parties shall make good faith efforts to hold the mediation within thirty (30) days after receipt of the demand for mediation.
 - D. Each party shall bear its own mediation costs.
 - E. In the event the parties are unable to resolve the dispute, either party may file an action in a court of competent jurisdiction to enforce the Contract.
11. NOTICES – All notices that are required under this Contract shall be provided in the manner set forth herein, unless specified otherwise. Notice to a party shall be delivered to the attention of the person listed below, or to such other person or persons as may hereafter be designated by that

party in writing. Notice shall be in writing sent by e-mail, facsimile, or regular first class mail. In the case of e-mail and facsimile communications, valid notice shall be deemed to have been delivered upon sending, provided the sender obtained an electronic confirmation of delivery. E-mail and facsimile communications shall be deemed to have been received on the date of such transmission, provided such date was a business day and delivered prior to 4:00 p.m. PST. Otherwise, receipt of e-mail and facsimile communications shall be deemed to have occurred on the following business day. In the case of regular mail notice, notice shall be deemed to have been delivered on the mailing date and received five (5) business days after the date of mailing.

DISTRICT: Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, CA 94105
Attn: Satnam Hundel, Business Manager

VENDOR: [Vendor Name]
[Vendor Street Address]
[Vendor City, CA, Vendor Zip]
Attn: [Vendor Contact]

12. ADDITIONAL PROVISIONS – All attachments to this Contract are expressly incorporated herein by this reference and made a part hereof as though fully set forth.

13. EMPLOYEES OF VENDOR

- A. VENDOR shall be responsible for the cost of regular pay to its employees, as well as cost of vacation, vacation replacements, sick leave, severance pay, and pay for legal holidays.
- B. VENDOR, its officers, employees, agents, or representatives shall not be considered employees or agents of DISTRICT, nor shall VENDOR, its officers, employees, agents, or representatives be entitled to or eligible to participate in any benefits, privileges, or plans, given or extended by DISTRICT to its employees.

14. CONFIDENTIALITY – In order to carry out the purposes of this Contract, VENDOR may require access to certain of DISTRICT’s confidential information (including trade secrets, inventions, confidential know-how, confidential business information, and other information that DISTRICT considers confidential) (collectively, “Confidential Information”). It is expressly understood and agreed that DISTRICT may designate in a conspicuous manner Confidential Information that VENDOR obtains from DISTRICT, and VENDOR agrees to:

- A. Observe complete confidentiality with respect to such information, including without limitation, agreeing not to disclose or otherwise permit access to such information by any other person or entity in any manner whatsoever, except that such disclosure or access shall be permitted to employees of VENDOR requiring access in fulfillment of the services provided under this Contract.
- B. Ensure that VENDOR’s officers, employees, agents, representatives, and independent contractors are informed of the confidential nature of such information and to assure by agreement or otherwise that they are prohibited from copying or revealing, for any purpose whatsoever, the contents of such information or any part thereof, or from taking any action otherwise prohibited under this section.

- C. Not use such information or any part thereof in the performance of services to others or for the benefit of others in any form whatsoever whether gratuitously or for valuable consideration, except as permitted under this Contract.
 - D. Notify DISTRICT promptly and in writing of the circumstances surrounding any possession, use, or knowledge of such information or any part thereof by any person or entity other than those authorized by this section. Take at VENDOR's expense, but at DISTRICT's option and in any event under DISTRICT's control, any legal action necessary to prevent unauthorized use of such information by any third party or entity which has gained access to such information at least in part due to the fault of VENDOR.
 - E. Take any and all other actions necessary or desirable to assure such continued confidentiality and protection of such information during the term of this Contract and following expiration or termination of the Contract.
 - F. Prevent access to such materials by a person or entity not authorized under this Contract.
 - G. Establish specific procedures in order to fulfill the obligations of this section.
15. NON-DISCRIMINATION – In the performance of this Contract, VENDOR shall not discriminate against, harass, or allow harassment against any employee or applicant in its recruitment, hiring, promotion, demotion, and termination practices on the basis of race, religious creed, color, national origin, ancestry, sex, age (over 40), marital status, sexual orientation, medical condition, or physical (including HIV and AIDS) or mental disability or allow denial of family-care leave, medical-care leave, or pregnancy-disability leave. VENDOR shall comply with the provisions of the California Fair Employment & Housing Act (Government Code Section 12900 et seq.), the applicable regulations promulgated thereunder (California Code of Regulations, title 2, section 7285 et seq.), the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said Acts. The applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12990 (a-f), set forth in Chapter 5 of Division 4 of title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. VENDOR shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. VENDOR shall also require each subcontractor performing work in connection with this Contract to comply with this section and shall include in each contract with such subcontractor provisions to accomplish the requirements of this section.
16. PROPERTY AND SECURITY – Without limiting VENDOR'S obligations with regard to security, VENDOR shall comply with all the rules and regulations established by DISTRICT for access to and activity in and around DISTRICT's premises.
17. ASSIGNMENT – No party shall assign, sell, license, or otherwise transfer any rights or obligations under this Contract to a third party without the prior written consent of the other party, and any attempt to do so shall be void upon inception.
18. WAIVER – No waiver of a breach, of failure of any condition, or of any right or remedy contained in or granted by the provisions of this Contract shall be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right, or remedy shall be deemed a waiver of any other breach, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies. Further, the failure of a party to enforce performance by the other party of any term, covenant, or condition of this Contract, and

the failure of a party to exercise any rights or remedies hereunder, shall not be deemed a waiver or relinquishment by that party to enforce future performance of any such terms, covenants, or conditions, or to exercise any future rights or remedies.

19. ATTORNEYS' FEES – In the event any action is filed in connection with the enforcement or interpretation of this Contract, each party shall bear its own attorneys' fees and costs.
20. FORCE MAJEURE – Neither DISTRICT nor VENDOR shall be liable for or deemed to be in default for any delay or failure in performance under this Contract or interruption of services resulting, directly or indirectly, from acts of God, enemy or hostile governmental action, civil commotion, strikes, lockouts, labor disputes, fire or other casualty, judicial orders, governmental controls, regulations or restrictions, inability to obtain labor or materials or reasonable substitutes for labor or materials necessary for performance of the services, or other causes, except financial, that are beyond the reasonable control of DISTRICT or VENDOR, for a period of time equal to the period of such force majeure event, provided that the party failing to perform notifies the other party within fifteen calendar days of discovery of the force majeure event, and provided further that that party takes all reasonable action to mitigate the damages resulting from the failure to perform. Notwithstanding the above, if the cause of the force majeure event is due to party's own action or inaction, then such cause shall not excuse that party from performance under this Contract.
21. SEVERABILITY – If a court of competent jurisdiction holds any provision of this Contract to be illegal, unenforceable or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them will not be affected.
22. HEADINGS – Headings on the sections and paragraphs of this Contract are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this Contract.
23. COUNTERPARTS/FACSIMILES/SCANS – This Contract may be executed and delivered in any number of counterparts, each of which, when executed and delivered, shall be deemed an original, and all of which together shall constitute the same contract. The parties may rely upon a facsimile copy or scanned copy of any party's signature as an original for all purposes.
24. GOVERNING LAW – Any dispute that arises under or relates to this Contract shall be governed by California law, excluding any laws that direct the application of another jurisdiction's laws. Venue for resolution of any dispute that arises under or relates to this Contract, including mediation, shall be San Francisco, California.
25. ENTIRE CONTRACT AND MODIFICATION – This Contract represents the final, complete, and exclusive statement of the agreement between the parties related to VENDOR providing services to DISTRICT and supersedes all prior and contemporaneous understandings and agreements of the parties. No party has been induced to enter into this Contract by, nor is any party relying upon, any representation or warranty outside those expressly set forth herein. This Contract may only be amended by mutual agreement of the parties in writing and signed by both parties.
26. SURVIVAL OF TERMS – The provisions of sections 7 (Indemnification) and 14 (Confidentiality), shall survive the expiration or termination of this Contract.

IN WITNESS WHEREOF, the parties to this Contract have caused this Contract to be duly executed on their behalf by their authorized representatives.

BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

[VENDOR NAME]

By: _____
Jack P. Broadbent
Executive Officer/APCO

By: _____
[Vendor Authorized Signer]
[Title]

Date: _____

Date: _____

Approved as to form:
District Counsel

By: _____
Brian C. Bungler
District Counsel

**ATTACHMENT A
SCOPE OF WORK**

1. Project Description

- A. VENDOR shall sell or lease new or used vehicles for the Program in accordance with Program requirements and the requirements in this scope of work. The intent of selling or leasing vehicle is to replace an older in-use vehicle from service to be scrapped thereby reducing the emissions associated with Participant's vehicle operation.

DISTRICT will evaluate potential Participant applications. DISTRICT will award funds to a Participant with an eligible project through a Grant Agreement and Notice to Proceed depending on the applicant eligibility and availability of funding. Participant will take Notice to Proceed to VENDOR to purchase or lease a replacement vehicle. VENDOR shall confirm in Fluxx that Participant is eligible and submit a sales report in Fluxx at the point of sale.

2. Incorporation by Reference

- A. The Clean Cars for All Dealership Operations Manual ("Manual") describes the process and procedures that VENDOR must follow to participate in the Program. The Manual, in its entirety, is herein incorporated by reference and may be requested by VENDOR at any time. DISTRICT retains, in its sole discretion, the right to modify, revise, and or/ otherwise update the Manual, all eligibility criteria, and any other policy or procedure as deemed necessary in order to improve program operations, accomplish meaningful vehicle emissions reductions, or to comply with the terms required by DISTRICT and CARB. VENDOR hereby agrees to be bound by all terms and conditions set forth in whatever version of the Manual is most current at the time VENDOR is taking an action to implement this Contract.

2. VENDOR Qualifications

VENDOR warrants that it meets the following minimum qualifications for participation in the Program and will maintain these qualifications throughout its participation in the Program.

- A. VENDOR currently has a valid business license issued in California and has had the license for a minimum of the last two years.
- B. VENDOR currently has a valid dealership license with DMV and has had the DMV license for a minimum of the last two years.
- C. VENDOR will maintain a minimum of one (1) employee who has successfully completed the training by DISTRICT regarding the terms, conditions and requirements of the Program for each location listed in Attachment A, Paragraph 9. VENDOR with more than one location must have at least one employee trained at each location listed. All VENDOR staff that perform the work described in this Contract must complete training provided by the DISTRICT.
- D. VENDOR agrees to incorporate any changes to guidance issued by the DISTRICT or CARB into their processes and participate in any additional training provided by the DISTRICT or CARB.

3. VENDOR Requirements

- A. VENDOR agrees to perform all processes and procedures set forth in the Manual and to provide Incentives and all related services to Participants.
- B. VENDOR agrees to provide accurate Program information to Participants and potential Participants.

- C. VENDOR agrees to check for any open recalls for Vehicles at vinrcl.safecar.gov/vin/, and VENDOR agrees to repair defects or issues identified by recall before Vehicle purchase.
- D. VENDOR shall show the approved funding amount on the replacement vehicle invoice. The approved funding amount should not reduce the sales price of the vehicle, but should reduce the purchase price the Participant will pay for the vehicle. The receipt of grant funds does not lower the base price of the vehicle, nor does it reduce the tax basis of the vehicle.
- E. VENDOR must ensure the title for the vehicle is registered to the Participant in California. If the replacement vehicle is not registered in California, the project will be invalid and not paid.
- F. VENDOR shall provide to Participant documentation of any Vehicle warranty.
- G. VENDOR shall not provide brokerage fees or provide any incentives to brokers or third parties for any referral or work related to the Program.
- H. VENDOR agrees to direct Participant to California Low Cost Auto Insurance Program.
- I. VENDOR agrees that loan interest rate shall be less than 16 percent for Vehicles financed through dealer.
- J. VENDOR agrees to implement the following consumer protections:
 - i. VENDOR shall provide to Participant the estimate of cost of car ownership;
 - ii. VENDOR shall provide to Participant the CARFAX;
 - iii. VENDOR shall provide to Participant the vehicle maintenance schedule;
 - iv. VENDOR shall provide a minimum five-day return or exchange period after the purchase of a replacement vehicle; and
 - v. VENDOR shall provide no-haggle prices for Vehicles, provide a \$500 discount from listed prices, or have negotiated fixed prices agreed upon by DISTRICT.

5. Reimbursement

DISTRICT shall only reimburse VENDOR for vehicles that are sold or leased that meet Vehicle Eligibility defined in the Manual and in this Contract. VENDOR shall submit reports to DISTRICT for vehicles sold and must submit a monthly reimbursement request to DISTRICT. A description of documents in the reimbursement request is listed in this Contract. The request for reimbursement must include:

- A. A sales report for each vehicle sold that shall specify the vehicles for which the report is submitted;
- B. The VENDOR Reimbursement Invoice, which should be signed and returned to DISTRICT upon receipt;
- C. VENDOR invoice signed by the Program Participant that shows the final purchase price less the grant award;
- D. Copy of DMV registration paperwork showing vehicle registered to Program Participant in California;
- E. Copy of any Finance documents (if applicable).

6. DISTRICT Requirements

- A. DISTRICT will provide training to VENDOR staff prior to VENDOR participation in Program.
- B. DISTRICT will provide VENDOR with forms and any other applicable Program materials.
- C. DISTRICT shall process invoices for payment upon receipt of a completed and approved request for reimbursement.

7. Vehicle Eligibility

VENDOR agrees that vehicles sold or leased to Participant shall meet the following requirements:

- A. Must be eight years old and newer, calculated by subtracting seven from the current calendar year of the transaction;
- B. Must be:
 - i. Hybrid electric vehicles with an EPA combined fuel economy rating of at least 20 miles per gallon of fuel or more depending on the model year as allowed per CCR, Title 13, Chapter 13, Article 2, Section 2627(g)(2)(A) (See Table 3: Minimum U.S. EPA Combined Fuel Economy Rating by Model Year), or
 - ii. Plug-in hybrid electric vehicles (PHEV), or
 - iii. Zero-emission vehicles, including battery electric vehicles (BEV) and fuel cell electric vehicles (FCEV);
- C. Must be registered in California;
- D. Must have less than 75,000 miles on the odometer unless approved by the DISTRICT;
- E. May be purchased or leased;
- F. Leased vehicles must be new and Clean Vehicle Rebate Project (CVRP) eligible (i.e. PHEV, BEV or FCEV);
- G. May be new or used vehicle:
 - i. New vehicles may participate in both CVRP and EFMP Plus-Up,
 - ii. Used vehicles that have participated in CVRP are eligible;
- H. Must not have any modifications to the vehicle's emissions control systems, hardware, software calibrations, or hybrid system (California Vehicle Code section 27156);
- I. Must not have been previously funded with EFMP or EFMP Plus-Up funds; and
- J. Must not have any outstanding vehicle recalls (check for vehicle recalls and address prior to purchase or lease).
- K. Ineligible replacement vehicles include:
 - i. Vehicles older than eight years old;
 - ii. Conventional internal combustion engine vehicles;
 - iii. Other alternatively-fueled vehicles;
 - iv. Vehicles with an EPA combined fuel economy rating of less than 20 miles per gallon;
 - v. Neighborhood electric vehicles (NEVs);
 - vi. Zero-emission motorcycles (ZEMs);
 - vii. Vehicles with a chassis that has been modified with aftermarket parts or equipment to create a hybrid electric, PHEV, or zero-emission vehicle;
 - viii. Dismantled vehicles;
 - ix. Vehicles with a salvaged title (as defined in California Vehicle Code, Section 544);
 - x. Vehicles previously funded with EFMP or EFMP Plus-Up funds;
 - xi. Vehicles with unaddressed recalls;
 - xii. Vehicles registered to a non-profit organization or business; and
 - xiii. Vehicles operated by a public agency or fleet licensed and registered pursuant to HSC Sections 44019 and 44020.

8. Program Outreach

- A. VENDOR will use DISTRICT approved logos on any printed material for public distribution. Program materials must be submitted to DISTRICT for approval, prior to use.
- B. VENDOR will credit DISTRICT, CARB, and California Climate Investments as the funding source for the replacement program in any related articles, news releases, or other publicity materials. All advertising materials, information packages, and any other materials provided to media, to the public, or to vehicle owners require prior approval by DISTRICT.

- C. DISTRICT will notify VENDOR of Program workshops and outreach events. VENDOR shall endeavor to attend at least one workshop or outreach event if VENDOR has a location within 10 miles of the event.

9. Recordkeeping, Monitoring, Auditing and Enforcement

- A. VENDOR shall maintain copies of the project materials and records for a minimum of five (5) years after the sale of the replacement vehicle and shall make those records available to DISTRICT or CARB upon request.
- B. DISTRICT or CARB may conduct announced and unannounced audits and on-site inspections of VENDOR and its subcontractors' operations. VENDOR shall cooperate fully in such situations to ensure operations are being conducted according to all applicable rules and regulations in the Guidelines and outlined in this Contract. VENDOR agrees to allow DISTRICT or CARB to inspect vehicles or audit program records during normal business hours. DISTRICT shall notify any noncompliant VENDOR of the nature of the violation and may initiate an appropriate enforcement or remedial action.

10. VENDOR Locations

VENDOR agrees that the locations listed herein, will provide services described in the Scope of Work, which will assist DISTRICT in implementing the Program.

(Vendor Name)
(Vendor Street Address)
(Vendor City), CA (Vendor Zip)
Attn: (Vendor Contact)

(Vendor Name)
(Vendor Street Address)
(Vendor City), CA (Vendor Zip)
Attn: (Vendor Contact)

11. Project Forms

- A. VENDOR shall use the project forms and materials identified in the Manual and in this Contract.
- B. DISTRICT will provide VENDOR request for reimbursement forms and any other applicable Program materials.