

**INDIANA ECONOMIC DEVELOPMENT CORPORATION
SKILLS ENHANCEMENT FUND (SEF) GRANT AGREEMENT**
(REV: 08/11)

This Agreement (the "Agreement") is between the **INDIANA ECONOMIC DEVELOPMENT CORPORATION** (the "IEDC") and **CARRIER CORPORATION** (the "Grantee"). The parties to this Agreement, in consideration of the mutual covenants, obligations, and stipulations set forth herein, witness and agree as follows:

1. PURPOSE OF AGREEMENT:

To fulfill the purposes provided in Indiana Code § 5-28-1-1 and pursuant to Indiana Code § 5-28-7, and in accordance with the terms and conditions contained herein, the IEDC has awarded a grant to the Grantee from the State of Indiana's Training 2000 Program and Fund, Skills Enhancement Fund Allocation ("SEF Fund") of up to the lesser of (i) the Maximum Grant Amount (as defined at Exhibit A) or (ii) fifty percent (50%) of the Total Training Budget Commitment for the Project (as defined at Exhibit A). Exhibit A is attached hereto and incorporated by reference. The grant funds shall be used exclusively in accordance with the provisions of this Agreement and Indiana Code § 5-28-7, which establishes the SEF Fund, as well as any rules adopted thereunder, and no other purpose.

2. TERM OF AGREEMENT:

The term of this Agreement shall be from the Commencement Date until the end of the Reporting Period, as defined at Exhibit A. The training program for the project as described in Exhibit A (the "Project"), must be fully completed by the Expiration Date, as defined in Exhibit A. The Grantee shall have sixty (60) days from the Expiration Date to submit a final claim and all final paperwork. In no event shall payments be made for work done or services performed after the Expiration Date. Any other extensions or amendments shall occur pursuant to Paragraph 8C. The IEDC's obligation for payment shall not survive past the Expiration Date and all other terms survive the Expiration Date to the end of the Reporting Period.

3. DESCRIPTION OF THE PROJECT:

The Grantee will complete the Project as described at Exhibit A. The Project will be at the location(s) listed at Exhibit A (collectively, the "Project Location"). The Grantee shall be solely responsible for the development and implementation of the training programs for the Project as described at Exhibit A. The Grantee represents that the number of permanent, Indiana resident full-time employees (as defined in Indiana Code § 6-3.1-13-4) employed as of the Commencement Date at the Project Location is as set forth at Exhibit A as the Base Employment Number (as defined at Exhibit A) (the "Full-Time Employees"). The Project will result in the creation of net new permanent, Indiana resident full-time jobs (as defined in Indiana Code § 6-3.1-13-6) as described in the Company Economic Impact Goals (as defined at Exhibit A). Although not expressly attached to this Agreement, the Grantee agrees to complete the Project in accordance with the Grantee's representations, including but not limited to any plans and specifications contained in its application submitted to the IEDC for the Project. Modification of the Project shall require prior written approval of the IEDC.

4. PAYMENT OF GRANT FUNDS BY THE IEDC:

The payment of this grant by the IEDC to the Grantee shall be made in accordance with the following schedule and conditions:

- A. The IEDC will reimburse the Grantee fifty percent (50%) of eligible training costs, subject to the conditions and limitations set forth in this Agreement and provided that the funds

available under this Agreement are expressly limited to the lesser of (i) the Pro-Rata Distribution Amount (as defined in Paragraph 4D below) and (ii) the Maximum Grant Amount (as defined at Exhibit A), notwithstanding any other provision of this Agreement to the contrary. The IEDC may deobligate any grant funds which have not been expended and drawn down as of sixty (60) days after the Expiration Date.

- B. Prior to a payment disbursement, this Agreement must be fully executed, and all the evidentiary materials required by this Agreement must be submitted to and approved by the IEDC. Further, any other grant conditions specified in this Agreement must also be fulfilled to the IEDC's satisfaction.
- C. Requests for disbursement of the payment to the Grantee will be made by the IEDC, after approval of the claim and in accordance with State fiscal policies and procedures. The Grantee agrees to comply with requests for information so the IEDC can make payment requests. The Grantee will submit claims detailing expenditures eligible for reimbursement towards the Total Training Budget Commitment and the data to meet the Company Economic Impact Goals. If requested by the IEDC, the Grantee shall further list expenditures by line items as specified by the IEDC. In accordance with State fiscal policies and procedures and as required by Indiana Code § 4-13-2-14.8, and notwithstanding any law, rule, or custom to the contrary, payments will be made by electronic funds transfer to the financial institution designated in writing by the Grantee, unless a specific waiver has been obtained from the Auditor of the State. The written authorization for the electronic funds transfer must designate a financial institution and an account number to which all payments are to be credited. For forms and additional information, the Grantee should see the Auditor of State's website (www.in.gov/auditor). No payments will be made in advance of receipt of the goods or services that are the subject of this Agreement, except as permitted by Indiana Code § 4-13-2-20 or by Indiana Code § 5-28-25.
- D. In order to receive a payment, the Grantee shall provide the IEDC satisfactory evidence that the scheduled progress has occurred towards completion of the Project and the achievement of the Company Economic Impact Goals and that the conditions set forth or referenced in this Agreement have been met. Further, the IEDC shall not disburse funds to the extent that the total funds disbursed under this Agreement exceed the Pro-Rata Distribution Amount. The Pro-Rata Distribution Amount shall mean the Maximum Grant Award multiplied by the quotient of the Grantee's current employment level of full-time Indiana resident employees at the Project Location and the employment level set forth in the Company Economic Impact Goals at the Expiration Date. In no event shall the IEDC be required to disburse funds under this Agreement until the IEDC determines that the scheduled progress has occurred toward the completion of the Project and the achievement of the Company Economic Impact Goals and that the disbursement will not result in grant funds being disbursed in excess of the Pro-Rata Distribution Amount, notwithstanding any other provision of this Agreement to the contrary. In addition, if the Grantee fails to meet Company Economic Impact Goals (defined in Exhibit A) by the Expiration Date, the grant funds will be deobligated by the IEDC and the Grantee may not make any additional claims for reimbursement, even if the Grantee's performance, after the Expiration Date and before the end of the Reporting Period, meets the Company Economic Impact Goals. The Grantee's obligation to report until the end of the Reporting Period shall remain unchanged.
- E. Failure by the Grantee to produce the evidence required by the IEDC under Paragraphs 4 and 7 shall be deemed a material breach of this Agreement. In such instances, in addition to its other remedies, the IEDC may (i) withhold authorization for any payment request of the grant funds until such time as the deficiency is corrected, (ii) require the

Grantee to immediately repay the IEDC any funds disbursed under this Agreement, or (iii) terminate this Agreement, pursuant to Paragraph 6A. If the IEDC is entitled to a repayment of the grant funds disbursed to the Grantee, the IEDC may further impose sanctions against the Grantee, including but not limited to the suspension of the Grantee's participation in all other State grant or incentive programs until the IEDC is repaid or all material breaches are cured to the IEDC's satisfaction.

- F. As set forth in Paragraph 9B, the IEDC may retain an amount of up to Final Distribution Amount until a final Monitoring Review has been completed in accordance with Paragraph 9 of this Agreement. Such Monitoring Review may include the IEDC's review of a report prepared by a duly authorized representative of the IEDC summarizing the Monitoring Review, detailing how funds have been spent on the training program for the Project and evaluating the Grantee's timely progress.
- G. Notwithstanding any other provision of this Agreement to the contrary, the reimbursement amount allowable for travel costs shall not exceed thirty percent (30%) of the total grant amount nor shall travel expenses be reimbursed in a manner inconsistent with the State Travel Policies and Guidelines as specified in the State's most current Financial Management Circular (the "Circular"), which is hereby incorporated herein by reference and which may be amended from time to time.

5. USE OF GRANT FUNDS BY GRANTEE:

Grant funds received by the Grantee pursuant to this Agreement shall be used only to reimburse the Grantee for eligible training expenditures for the approved Project as defined in Exhibit A and permissible under Indiana Code § 5-28-7-2. The Grantee may use funds from other public sources to finance the training activities eligible for reimbursement under this Agreement as long as the Grantee receives no more than 100% of the training costs from all sources.

6. DUTIES AND RESPONSIBILITIES OF GRANTEE:

- A. Pursuant to the provisions of Indiana Code § 5-28-7, Indiana Code § 5-28-6-6, and this Agreement, the Grantee shall submit to the IEDC, not later than the 45th day following the close of each calendar year for which this Agreement is in force, an annual report, the form and medium of which will be provided by the IEDC (the "Annual Report"). The information submitted to the IEDC in the Annual Report must be certified as true and correct by an officer of the Grantee. The Annual Report shall contain the information listed below:"
 - (1.) The information requested by the IEDC in its annual Incentive Procedure Packet, including the progress made towards completing the Company Economic Impact Goals (as defined at Exhibit A);
 - (2.) The Grantee's federal identification number and taxpayer account number, as assigned by the Indiana Department of Workforce Development for the purpose of unemployment insurance, to assist in the verification of the information provided by the Grantee;
 - (3.) The number of full-time Indiana resident employees employed by the Grantee at the Project Location, listed by employee name, assigned employee identification number (subject to verification by the IEDC), mailing address, hire date, and termination date (if applicable), together with designation of whether termination was voluntary or involuntary (if readily available); and

- (4.) Any other information required by the IEDC to perform its duties under Indiana Code § 5-28-7, so long as the Grantee is given notice of such requirements and reasonable time to prepare such information.

The IEDC shall treat the above information as confidential, financial information pursuant to Indiana Code § 5-14-3-4(a)(5), unless the IEDC determines that it is prohibited from doing so by law or judicial order.

- B. The Grantee shall maintain operations at the Project Location from the Commencement Date and for 5 years after the Expiration Date.

7. EMPLOYMENT COMMITMENT:

- A. The Grantee acknowledges and agrees that the grant provided pursuant to this Agreement is conditioned upon the representations of the Grantee set forth in this Agreement, including without limitation the Company Economic Impact Goals.
- B. The Grantee hereby certifies and reports that it employed the Base Employment Number at the Project Location as of the Commencement Date.
- C. For purposes of Indiana Code § 5-28-6-6, the IEDC hereby expects, and the Grantee hereby agrees, that from the Commencement Date until the Expiration Date, the Grantee shall maintain material operations of the Project at any site where grant funds are used.
- D. For purposes of Indiana Code § 5-28-6-6, the IEDC hereby expects, and the Grantee hereby agrees, that between the Expiration Date and the end of the Reporting Term, the Grantee shall (i) maintain material operations of the Project at any site where grant funds are used and (ii) employ a number of full-time Indiana resident employees at the Project location of at least eighty percent (80%) of the Grantee's Base Employment Number.
- E. In the event that the IEDC finds that the Grantee has not met the terms of this Paragraph 7, the Grantee may be subject to a determination by the IEDC that the Grantee shall be required to repay to the IEDC all or part of the funds disbursed under this Agreement, plus any reasonable collection costs, attorney's fees, and other expenses, and all applicable interest and penalties. In the event that the IEDC determines that the Grantee has ceased to maintain material operations of the Project at any site where grant funds were used, the Grantee hereby agrees that the repayment of all funds received under this Agreement, plus any reasonable collection costs, attorney's fees, expenses, and all applicable interest and penalties, would be fair, reasonable, and balanced in proportion to the Grantee's default in light of expectations surrounding the grant's original award.
- F. Prior to making a final determination, and only to the extent required by Indiana Code § 5-28-6-6, the IEDC shall hold a closed-door hearing to provide the Grantee an opportunity to prove its compliance or otherwise explain its noncompliance. The Grantee hereby consents and agrees that (i) a hearing under Indiana Code § 5-28-6-6 (or other applicable law) shall consist solely of the IEDC providing the Grantee a brief opportunity to prove The Grantee's compliance or explain the Grantee's non-compliance, either in person or telephonically, which opportunity shall occur no sooner than ten (10) days (unless waived by the Grantee) and no later than forty-five (45) days (unless waived by the IEDC) after the IEDC provides written notice of the Grantee's potential noncompliance (pursuant to Paragraph 18); (ii) the hearing may be conducted at any time set by the IEDC during business hours (EST) and may take place at the IEDC's principal office or within five (5) miles thereof, or at such other time and location as agreed upon by the parties; (iii) unless the IEDC and the Grantee mutually consent to an alternative time or the Grantee can demonstrate to the IEDC that exceptional circumstances

prevented its attendance, the Grantee's failure to attend the scheduled in-person or telephonic hearing, either through an authorized company representative or by counsel, shall be considered a full and irrevocable waiver of any right of the Grantee under Indiana Code § 5-28-6-6; and (iv) the aforementioned guidelines are reasonable, fair, and consistent with Indiana Code § 5-28-6-6. The Grantee hereby waives any right to a hearing under Indiana Code § 5-28-6-6 in the event of a default under Paragraph 19 or Paragraph 23J. The Grantee further acknowledges that the IEDC may temporarily impose a penalty to protect its legal interests, which penalty may be rescinded, adjusted, or removed upon the completion of the hearing. The IEDC will consider written responses or materials of no more than ten (10) pages received no later than one (1) full business day prior to the scheduled hearing, which written response shall act as a waiver of any right of the Grantee to a hearing unless the written response specifically and conspicuously states otherwise. After having been offered, in writing, an opportunity for a hearing under this Paragraph, the Grantee may waive, in writing, any right to a hearing or other further proceeding under Indiana Code § 5-28-6-6 at any time. The Grantee acknowledges and agrees that the provisions of Indiana Code § 5-28-6-6 shall apply only to a violation of this Paragraph 7. The Grantee hereby acknowledges and agrees that notice provided to the Grantee in accordance with Paragraph 18 shall fully satisfy any requirement of this paragraph or Indiana Code § 5-28-6-6.

- G. Any penalty imposed by the IEDC under this Agreement shall be a matter of public record and shall state the total incentive received by the Grantee under this Agreement in a fair and balanced way. The IEDC may disclose certain information relating to (i) any reduction or repayment of funds provided under this Agreement as a result of the Grantee's noncompliance; (ii) any waivers or modifications of this Agreement; (iii) information describing any hearings or determinations made pursuant to this Paragraph 7; and (iv) any other incentive information required to be disclosed by law, as determined by the IEDC.

8. TERMINATION; FUNDING CANCELLATION; EXTENSION:

- A. This Agreement may be terminated with or without cause by the IEDC before its Expiration Date by sending the Grantee written notice, as described in Paragraph 18, at least thirty (30) days prior to the date of termination. Upon receipt of this notice from the IEDC to the Grantee, no new or additional liabilities payable from grant funds shall be incurred without the prior written approval of the IEDC. The Grantee shall continue to be responsible and liable for the proper performance of its obligations through the date of termination. In the event of a termination, the IEDC will perform an on-site Monitoring Review of all training program expenditures, as described in Paragraph 9 below, with respect to the Grantee's proper expenditure of all grant funds and matching funds through the date of termination. Notwithstanding anything set forth in this Agreement to the contrary, a termination shall not alter or affect the Grantee's obligations set forth in Paragraphs 4 and 7 that extend through the Reporting Period, unless the parties specifically terminate those obligations through a mutually executed written agreement.
- B. In the event that the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Agreement, this Agreement shall be canceled, and the IEDC shall have no further obligation to make payments under this Agreement. A determination by the Budget Director that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.
- C. By the Expiration Date, the Grantee may request in writing additional time beyond the sixty (60) days described in Paragraph 2 in which to submit a final claim and all final paperwork. The Grantee's request may be approved and acknowledged by a duly

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INCENTIVE ID: A229-11-SEF-8135

authorized representative of the IEDC. It is solely within the IEDC's discretion whether to grant additional time for submission of claims.

9. MONITORING REVIEW

- A. The IEDC may periodically carry out a Monitoring Review, including an evaluation of activities, as deemed appropriate by the IEDC. The Grantee shall effectively ensure the cooperation of its employees in such monitoring and evaluation efforts and shall produce all documentation reasonably requested by the IEDC evidencing the worker training conducted in relation to the Project or the progress made toward the Grantee's achievement of the Company Economic Impact Goals. The Grantee will take all actions necessary to correct or cure any issues identified by the IEDC during its monitoring and evaluation.
- B. If the IEDC elects to conduct an on-site monitoring review of the Project and its related training program, the IEDC may withhold up to the Final Distribution Amount (as defined at Exhibit A) until such Monitoring Review is completed and the results analyzed. The Monitoring Review may document any or all of the following:
- (1.) Whether grant and matching funds allocated for the training activities were expended for activities consistent with the terms of this Agreement, Exhibit A, and the Grantee's grant application;
 - (2.) A complete, detailed analysis of actual grant and matching funds expended to date on the training program for the Project;
 - (3.) A detailed listing of all training costs which are accrued yet unpaid, if any, in a format that may be prescribed by the IEDC;
 - (4.) A written evaluation of the adequacy and veracity of the Grantee's financial management and control systems necessary to verify the information submitted in the Annual Reports and the worker training conducted; and
 - (5.) A written evaluation as to the Grantee's timely submission of Annual Reports and the Grantee's progress toward achieving the Company Economic Impact Goals.

The parties acknowledge that the Monitoring Review is only for the benefit of the IEDC and that the IEDC may elect, in whole or in part, to disburse funds before the Monitoring Review has been completed.

- C. If grant funds are disbursed and this Agreement is terminated by either party prior to the Expiration Date, the IEDC may elect to conduct an on-site Monitoring Review of the training program for the Project, as described in Paragraph 9B above.
- D. The Grantee's failure to meet the requirements of the Monitoring Review, including but not limited to failure to respond to IEDC requests for information, records and/or on-site access, shall be a material breach of this Agreement.

10. ACCESS TO RECORDS:

- A. The Grantee and its permitted subgrantees, if any, shall maintain all books, documents, papers, accounting records, and other evidence, including federal, State and/or local tax record filings, which pertain to costs incurred under this Agreement ("Records") for inspection by the IEDC, the State, or any of their respective authorized representatives. Upon reasonable request, copies thereof shall be furnished to the IEDC and the State. Upon reasonable notice, the Grantee and its permitted subgrantees, if any, shall make all Records available at their respective offices at all reasonable times during the term of this

Agreement and for three (3) years following the date of final payment under this Agreement, or until a State or federal audit has been completed and all audit exceptions cleared, whichever is earlier.

- B. If the IEDC determines that the Grantee has engaged in fraud or other criminal misconduct with respect to disbursements made to the Grantee, the Grantee will be deemed in default, and the IEDC will terminate this Agreement in accordance with Paragraph 8. The Grantee shall be responsible for immediate reimbursement to the IEDC of the full amount disbursed to the Grantee as of the time of the termination.
- C. The IEDC and its authorized representatives and staff have the right, at all reasonable times, to make site visits to (i) review Project accomplishments and confer with principals of the Grantee and its permitted subgrantees, if any; (ii) audit Records and management control systems; and (iii) provide such technical assistance as may be required. If any site visit is made on the premises of the Grantee or any subgrantee or contractor under this Agreement, the Grantee shall provide and shall require its subgrantees and contractors to provide all reasonable facilities and assistance for the safety and convenience of the IEDC or its representatives in the performance of their duties. All site visits and evaluations shall be performed in such a manner as will not unduly delay the Grantee's operations or work on the Project. The Grantee will be given at least one (1) week prior notice before any site visit.
- D. The Grantee agrees that the IEDC may elect to engage in monitoring practices independently of, or in conjunction with other appropriate State agencies or departments. Upon reasonable notice, the Grantee shall make available to the IEDC, its agents, or other appropriate State agencies or officials all books or records in its possession or control which pertain to this Agreement, the tax credits, and the Project, including but not limited to records of personnel and conditions of employment. All such inspections are to be performed so as not to unreasonably disrupt or interfere with the normal business operations of the Grantee.

11. SUBSTANTIAL PERFORMANCE:

This Agreement shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any modification thereof.

12. STATUTORY AUTHORITY OF GRANTEE:

As a condition of receiving a grant from the SEF Fund, the Grantee expressly represents and warrants to the IEDC that it is statutorily eligible to receive monies from the SEF Fund under Indiana Code § 5-28-7. The Grantee expressly agrees to promptly repay all monies received under this Agreement should a legal determination of the Grantee's ineligibility be made.

13. COMPLIANCE WITH LAWS:

- A. The Grantee agrees to comply with all applicable federal, State, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. At the request of either party, the enactment of any relevant State or federal statute or the promulgation of regulations thereunder after execution of this Agreement will be reviewed by the IEDC and the Grantee to determine whether the provisions of this Agreement require formal modification.
- B. The Grantee and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the Grantee and the State, as set forth in Indiana Code § 4-2-6, Indiana Code § 4-2-7, the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If the Grantee is not familiar with these

ethical requirements, the Grantee should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website (www.in.gov/ethics/). If the Grantee or its agents violate any applicable ethical standards, the IEDC may, in its sole discretion, terminate this Agreement immediately upon notice to the Grantee. In addition, the Grantee may be subject to penalties under Indiana Code § 4-2-6-12.

- C. The Grantee certifies, by entering into this Agreement, that neither it nor any of its principals is presently in arrears in payment of its taxes, permit fees, or other statutory, regulatory, or judicially required payments to the IEDC or the State. Further, the Grantee agrees that any payments in arrears and currently due to the IEDC or the State may be withheld from payments due to the Grantee until the Grantee is current in its payments and has submitted proof of such payment to the IEDC.
- D. The Grantee warrants that it has no pending, current, or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the IEDC of any such actions, should they arise. During the term of such actions, the Grantee agrees that the IEDC may delay, withhold, or deny payment of claims for grant funds otherwise available under this Agreement or any other tax credits or incentives issued pursuant to this Agreement or any other agreement with the State or any of its agencies or departments.
- E. If a legitimate dispute exists as to the Grantee's liability or guilt in any action initiated by the IEDC, the State, or its agencies, and the IEDC decides to delay, withhold, or deny funding or credits to the Grantee, the Grantee may request that funding be continued. The Grantee must submit, in writing, a request for review to the Indiana Department of Administration (the "IDOA") following the procedures for disputes outlined herein. A determination by the IDOA shall be binding on the parties.
- F. The Grantee warrants that the Grantee and its contractors, if any, shall obtain and maintain all required permits, licenses, and approvals, as well as comply with all health, safety, and environmental statutes, rules, and regulations. In the event of noncompliance, the Company will have a reasonable opportunity to cure the failure. Failure to cure is a material breach of this Agreement and is grounds for delay, withholding, or denial of payment of claims for grant funds under this Agreement.
- G. The Grantee hereby affirms that it is properly registered and owes no outstanding reports with the Indiana Secretary of State and that it is in good standing with the Indiana Department of Revenue (the "IDOR"). The Grantee also affirms that (i) there are no outstanding enforcement actions against it by agencies of the State, and (ii) there are no significant workforce issues pending against the Grantee. The below named signatory hereby warrants that he/she is authorized to make such affirmations to the IEDC.
- H. The Grantee agrees that the IEDC may confirm, at any time, that no liabilities exist to the IEDC or to the State. If any such liabilities are discovered, the Grantee agrees that the IEDC or the State may bar the Grantee from contracting with the IEDC or the State in the future, cancel existing contracts, withhold payments to offset such obligations, and/or withhold further payments or purchases until the Grantee becomes current in its payments on its liability to the IEDC or to the State, and has submitted proof of such payment to the IEDC or to the State.
- I. Any payments that the IEDC may delay, withhold, deny, or apply under this Agreement shall not be subject to penalty or interest under Indiana Code § 5-17-5.

14. COMPLIANCE WITH TELEPHONE SOLICITATIONS ACT:

As required by Indiana Code § 5-22-3-7:

- A. The Grantee and any principals of the Grantee certify that:
- (1.) The Grantee, except for de minimis and nonsystematic violations, has not violated the terms of:
 - (a.) Indiana Code § 24-4.7 [Telephone Solicitation of Consumers];
 - (b.) Indiana Code § 24-5-12 [Telephone Solicitations]; or
 - (c.) Indiana Code § 24-5-14 [Regulation of Automatic Dialing Machines] in the previous three hundred sixty-five (365) days, even if Indiana Code § 24-4.7 is preempted by federal law; and
 - (2.) The Grantee will not violate the terms of Indiana Code § 24-4.7 for the duration of this Agreement, even if Indiana Code § 24-4.7 is preempted by federal law.
- B. The Grantee and any principals of the Grantee certify that an affiliate or principal of the Grantee and any agent acting on behalf of the Grantee or on behalf of an affiliate or principal of the Grantee:
- (1.) Except for de minimis and nonsystematic violations, has not violated the terms of Indiana Code § 24-4.7 in the previous three hundred sixty-five (365) days, even if Indiana Code § 24-4.7 is preempted by federal law; and
 - (2.) Will not violate the terms of Indiana Code § 24-4.7 for the duration of this Agreement, even if Indiana Code § 24-4.7 is preempted by federal law.

15. CONFLICT OF INTEREST:

- A. As used in this section:
- (1.) "Immediate family" means the spouse and the unemancipated children of an individual.
 - (2.) "Interested party" means:
 - (a.) The individual executing this Agreement;
 - (b.) An individual who, combined with his immediate family, has an equity interest of one percent (1%) or more of the Grantee, if the Grantee is not an individual; or
 - (c.) Any member of the immediate family of an individual specified under Paragraph 15A(1) or (2).
 - (3.) "Commission" means the State Ethics Commission.
- B. The IDOA may cancel this Agreement without recourse by the Grantee if such cancellation is consistent with an opinion of the Commission or if any interested party is (i) an employee of the State or the IEDC; (ii) a State officer or special State appointee of the IEDC under Indiana Code § 4-2-6; or (iii) a public servant of the IEDC under Indiana Code § 35-44-1.
- C. The IDOA may take action consistent with an opinion of the Commission obtained under this section, including cancellation of this Agreement. The IDOA will not exercise its right of cancellation under Paragraph 15B above if the Grantee gives the IDOA an opinion by the Commission indicating that the existence of this Agreement and the employment, election, or appointment by the State of the interested party does not violate any statute or code relating to ethical conduct of state employees, officers, and special State appointees of the IEDC.
- D. The Grantee has an affirmative obligation under this Agreement to disclose to the IDOA when an interested party is or becomes an employee, officer, or special state appointee of the State or a public servant of the IEDC. The obligation under this paragraph extends only to those facts that the Grantee knows or reasonably could know.

16. DRUG-FREE WORKPLACE CERTIFICATION:

The Grantee hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace at the Project locations. The Grantee's commitment to maintaining a drug-free workplace is evidenced by its policy attached hereto as Exhibit B (the "Carrier Indianapolis Substance Abuse Policy"), which the parties hereby deem to constitute substantial compliance with the requirements set forth in Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. Pursuant to requirements of the IDOA, Grantee shall give written notice to the IEDC within ten (10) days after receiving actual notice that an employee at the Project Location has been convicted of a criminal drug violation occurring in the workplace. It shall not constitute a breach of this Agreement for the Grantee to (a) impose stricter policies than those contained in the Carrier Indianapolis Substance Abuse Policy, or (b) make non-material changes to the Carrier Indianapolis Substance Abuse Policy.

17. NONDISCRIMINATION:

Pursuant to Indiana Code § 22-9-1-10, the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Grantee and its subgrantees shall not discriminate against any employee or applicant for employment related to this Agreement with respect to the hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, sex, age, disability, national origin, ancestry, or status as a veteran. Breach of this covenant may be regarded as a material breach of this Agreement. Acceptance of this Agreement also signifies compliance with applicable federal and State laws and regulations prohibiting the aforementioned discrimination in the provision of services.

18. NOTICE TO PARTIES:

A. Whenever any notice, statement, or other communication ("Notice") is required under this Agreement, it shall be sent to the following address, unless otherwise advised in writing:

(1.) Notices to the IEDC shall be sent to:

INDIANA ECONOMIC DEVELOPMENT CORPORATION
Attention: Account Manager
Office of Development Finance
One North Capitol Avenue, Suite 700
Indianapolis, IN 46204-2288

(2.) Notices to the Grantee shall be sent to the Grantee Contract Administrator (as defined at Exhibit A).

B. Notice from the IEDC to the Grantee may be provided via electronic mail to the Grantee's electronic mail address specified at Exhibit A, or via certified, registered, or first-class U.S. mail at the option of the IEDC. Notice shall be deemed delivered upon dispatch. Any change in Grantee Contract Administrator or contact information must be provided in writing by the Grantee to the IEDC.

C. As required by Indiana Code § 4-13-2-14.8 and detailed in Paragraph 4C, payments to the Grantee shall be made via electronic funds transfer in accordance with the instructions filed by the Grantee with the Indiana State Auditor's Office, unless an exception to such requirement is approved by the IEDC and the State. Payments shall be deemed delivered upon transmission pursuant to the written instructions of the Grantee.

19. ASSIGNMENT:

- A. This Agreement binds the Grantee's successors and assignees to all terms and conditions herein. The Grantee shall not assign, subgrant or subcontract the whole or any part of the Project or this Agreement without prior written approval of the IEDC.
- B. In the event of any reorganization, transfer of assets, consolidation, merger, or dissolution, the Grantee must notify the IEDC in writing within thirty (30) days following the reorganization, transfer of assets, consolidation, merger, or dissolution. The Grantee may not, through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, seek to avoid the observance or performance of its obligations to the IEDC under this Agreement.

20. INDEMNIFICATION:

The Grantee agrees to indemnify, defend, and hold harmless the IEDC and the State and their respective agents, officers, employees, and representatives from all claims and suits. The Grantee shall bear all costs, including court costs, attorney's fees, and other expenses caused by any act or omission of the Grantee and/or its contractors or invitees, if any. The IEDC shall not provide any indemnification to the Grantee or its employees, contractors, or invitees.

21. DEBARMENT AND SUSPENSION:

The Grantee certifies, by entering into this Agreement, that neither it nor any of its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Agreement by any federal agency or department, the IEDC, or any agency or political subdivision of the State. The term "principal" for purposes of this Agreement means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Grantee.

22. PENALTIES; INTEREST; ATTORNEY'S FEES:

The IEDC will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law, including Indiana Code § 5-17-15, Indiana Code § 34-54-8, and Indiana Code § 34-13-1. Notwithstanding the provisions contained in Indiana Code § 5-17-5, the parties hereto stipulate and agree that any liability of the IEDC shall be limited to only the amount of grant funds for which the Grantee is eligible due to its performance under this Agreement. In the event of legal action or proceedings of any kind, including without limitation enforcement of payment terms, the recapture of grant funds, or for an assessment, whether brought by either party, the IEDC shall be entitled to reasonable attorney's fees, court costs, and other related reasonable expenses, plus interest pursuant to Indiana Code § 34-51-4-9.

23. MISCELLANEOUS:

- A. The headings in this Agreement are intended solely for convenience or reference and will be given no effect in the construction or interpretation of this Agreement.
- B. This Agreement, including any attached Exhibits, supersedes all prior oral and written proposals and communications, if any, and sets forth the entire Agreement of the parties with respect to the subject matter hereof. This Agreement may not be altered or amended except in writing, signed by an authorized representative of each party hereto.
- C. Any inconsistency or ambiguity in this Agreement shall be resolved by giving precedence in the following order: (1) Indiana Code § 5-28-7; (2) regulations pertaining to the IEDC; (3) this Agreement; (4) Exhibit A, attached hereto. All of the foregoing are fully incorporated herein by reference.

- D. The construction and enforcement of this Agreement will be governed by the laws of the State of Indiana, without regard to principles of choice of law. The venue for any court action shall be the circuit or superior court of Marion County, Indiana or the United States District Court of the Southern District of Indiana. The Grantee hereby consents to the personal jurisdiction of said courts.
- E. No waiver of any default, failure to perform, condition, provision, or breach of this Agreement will be deemed to imply or constitute a waiver of any other like default, failure to perform, condition, provision, or breach of this Agreement.
- F. If any paragraph, term, condition, or provision of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, or if any paragraph, term, condition, or provision is found to violate or contravene the laws of the State of Indiana, then the paragraph, term, condition, or provision so found will be deemed severed from this Agreement, but all other paragraphs, terms, conditions, and provisions will remain in full force and effect.
- G. The parties to this Agreement, in the performance thereof, will be acting in an individual capacity and not as agents, employees, partners, joint venturers, or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of any other party for any purposes whatsoever. No party will assume any liability for any injury (including death) to any persons, or any damage to any property arising out of the acts or omissions of the agents, employees, or subagents of any other party.
- H. The Grantee shall be responsible for providing all necessary unemployment and workers' compensation insurance for its employees.
- I. Unless otherwise terminated or modified as expressly permitted hereunder, this Agreement will remain in force during the term stated in Paragraph 2. Notwithstanding anything contained herein to the contrary, provisions of this Agreement which by their nature contemplate rights and obligations of the parties to be enjoyed or performed after the expiration or termination of this Agreement will survive until their purposes are fulfilled.
- J. The IEDC may terminate this Agreement, and the Grantee shall be obligated to promptly repay any funds received under this Agreement, if any one or more of the following events occur: (i) the Grantee makes an assignment, conveyance or surrender of the Project facilities for the benefit of creditors; (ii) the Grantee applies to any court for the appointment of a trustee or receiver of any substantial part of the assets of the same or commences any proceedings relating to any of the same under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution, or other liquidation law of any jurisdiction; or (iii) any application is filed or proceedings are commenced as described above against the Grantee and the Grantee indicates its approval, consent or acquiescence, or an order is entered appointing a trustee or receiver or adjudication of any of the same as a bankrupt or an insolvent or approving the petition in any such proceedings and such proceedings are not dismissed within sixty (60) days after the filing or commencement of such proceedings. Should any of the foregoing events occur, the Grantee shall provide written notice to the IEDC immediately. This paragraph shall not be construed to limit the ability of the IEDC or the IDOR to collect, or limit the Grantee's obligation to repay, any grant funds disbursed under this Agreement, plus any applicable interest and penalties, should any one or more of the aforementioned events occur.

K. This Agreement may be executed through an original or through a facsimile copy, and in duplicate or through counterparts, each of which shall be deemed to be an original, and all of which shall constitute but one and the same Agreement.

24. REPRESENTATIONS CONCERNING APPLICATION:

The Grantee represents and warrants that all representations, statements, and all other matters contained in the application submitted by the Grantee to the IEDC are true and complete in all material respects, unless disclosed or made a part of this Agreement. It shall be considered a material breach of this Agreement if such representations, statements, and other matters were not true and complete at the time the application was made.

25. AUTHORITY TO COMMIT TO AGREEMENT:

Notwithstanding anything in this Agreement to the contrary, the signatory for the Grantee represents that he/she has been duly authorized to execute contracts on behalf of the Grantee and has obtained all necessary or applicable approvals to make this Agreement fully binding upon the Grantee when his/her signature is affixed. This Agreement is not subject to further acceptance by the Grantee once accepted by the IEDC.

26. NOTICE OF SEVERE WORKFORCE REDUCTIONS:

During the term of this Agreement, the Grantee will provide the IEDC written notice at least sixty (60) days in advance of any reductions in workforce that will result in loss of employment for fifty percent (50%) or more of the employees at the Project Location.

27. DISLOCATED WORKER PROGRAM:

The Grantee agrees to consider qualified dislocated workers who reside in Indiana and apply to the Grantee for available employment positions related to the Project. The Grantee is also encouraged to post available job openings and to solicit applications by using IndianaCareerConnect (www.indianacareerconnect.com), or such other resources promoted by the IEDC Dislocated Worker Program. The Grantee understands that the provision of grant funds under this Agreement is contingent upon the Grantee's compliance with this provision.

28. NON-COLLUSION AND ACCEPTANCE:

The undersigned representative of the Grantee attests, subject to the penalties for perjury, (i) that he/she is the contracting party or that he/she is the duly authorized representative, agent, member, or officer of the Grantee; (ii) that he/she has not, nor has any other member, employee, representative, agent, or officer of the Grantee, directly or indirectly, to the best of the undersigned's knowledge, entered into or offered to enter into any combination, collusion, or agreement to receive or pay; and (iii) that he/she has not received or paid, any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face of this Agreement.

(remainder of page intentionally left blank)

IN WITNESS WHEREOF, the Grantee and the Indiana Economic Development Corporation have, through duly authorized representatives, understood the foregoing terms of this Agreement and do by their respective signatures hereby enter into this Agreement and agree to the terms hereof.

CARRIER CORPORATION

X _____

PRINTED NAME

TITLE

DATE

INDIANA ECONOMIC DEVELOPMENT CORPORATION

X *Victor Smith* _____
VICTOR P. SMITH
Secretary of Commerce 

TITLE

DATE *8/1/13*

STATE BUDGET AGENCY

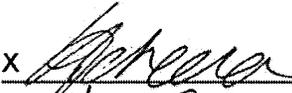
X *Brian E. Bailey (for)* _____
Brian E. Bailey
State Budget Agency Director

TITLE

DATE *8-27-2013*

IN WITNESS WHEREOF, the Grantee and the Indiana Economic Development Corporation have, through duly authorized representatives, understood the foregoing terms of this Agreement and do by their respective signatures hereby enter into this Agreement and agree to the terms hereof.

CARRIER CORPORATION

X 

Jim Scherer

PRINTED NAME
Director of Finance / CFO

TITLE
9/11/13

DATE

INDIANA ECONOMIC DEVELOPMENT CORPORATION

X

VICTOR P. SMITH
Secretary of Commerce

TITLE

DATE

STATE BUDGET AGENCY

X

Brian E. Bailey
State Budget Agency Director

TITLE

DATE

**INDIANA ECONOMIC DEVELOPMENT CORPORATION
SKILLS ENHANCEMENT FUND (SEF)
GRANT AGREEMENT**

CARRIER CORPORATION

EXHIBIT A

1. SCHEDULE OF TERMS:

A. Time Frames:

- (1.) "Commencement Date" shall mean **May 25, 2011**.
- (2.) "Expiration Date" shall mean **December 31, 2013**, unless sooner terminated under this Agreement.
- (3.) "Reporting Period" shall mean the Commencement Date through **December 31, 2018**.

B. Financials:

- (1.) "Base Employment Number" shall mean **1,450**.
- (2.) The "Company Economic Impact Goals" shall mean, by the Expiration Date, making a capital investment of at least **\$16,000,000**, training a minimum of **500** new and or existing employees, and retaining the Base Employment Number for years 2011-2013.
- (3.) "Final Distribution Amount" shall mean **\$40,000.00**, which is equal to twenty percent (20%) of the Maximum Grant Amount.
- (4.) "Maximum Grant Amount" shall mean **\$200,000.00**.
- (5.) "Total Training Budget Commitment" shall mean **\$1,600,000.00** used for eligible training expenses.

C. "Grantee Contract Administrator" shall mean:

**Mark Bernicke
Plant Finance Manager
Carrier Corporation
7310 W Morris Street
Indianapolis, IN 46231
Mark.Bernicke@carrier.utc.com
<http://www.carrier.com>**

2. PROJECT INFORMATION:

- A. The project shall consist of the Grantee expanding by adding next generation HVAC units to their product line.
- B. The Capital Investment for the entire Project is anticipated to be **\$16,000,000.00**.

**INDIANA ECONOMIC DEVELOPMENT CORPORATION
SKILLS ENHANCEMENT FUND (SEF)
GRANT AGREEMENT**

CARRIER CORPORATION

EXHIBIT B

**Carrier Indianapolis Substance Abuse Policy
2004**

Carrier Corporation is committed to providing a safe work environment and to fostering the well-being and health of its employees. There is no place in our environment for alcohol and drug abuse. Being under the influence of alcohol or other drugs on Company property is strictly prohibited and it is a condition of employment for employees to refrain from reporting to work or working with the presence of drugs or alcohol in their body. Therefore, Carrier Corporation, Indianapolis is implementing a drug-free workplace program. The Company recognizes the dangers of alcohol and drug abuse and will help any employee who requires assistance through the Company's Employee Assistance program ("EAP"). If you have an alcohol or drug problem, we encourage you to seek help immediately from Carrier's EAP by contacting the medical department. All job applicants will undergo testing for the presence of alcohol and drugs as a condition of employment. Each offer of employment shall be conditioned upon the successful completion of a test for alcohol and drugs. Employees who violate this policy will be subject to disciplinary action up to and including discharge. An employee's refusal to cooperate and provide the necessary sample when requested will result in termination of employment.

TESTING

In order to ensure a safe working environment, job applicants and employees will be subject to alcohol and drug testing as follows: pre-employment (also referred to as "post-offer"), reasonable-suspicion, post serious accident and follow-up drug testing after completing the recommended substance abuse treatment following a positive test.

Post Serious Accident is defined as:

Any work-related injury or illness that requires immediate evaluation and/or treatment outside the capabilities of the on-site medical staff.

Any incident involving a powered industrial vehicle that results in property damage and/or personal injury. Where there is reasonable-suspicion, as provided for within this policy, to believe that an employee is using or has used drugs in violation of this policy.

Reasonable-suspicion drug testing means drug testing based on the belief that an employee is using or has used drugs in violation of Carrier's policy drawn from specific objective facts and reasonable inferences drawn from those facts. Among other things, such facts and inferences may be based upon:

Observable phenomena while at work, such as direct observation of drug use or of the physical symptoms or manifestations of being under the influence of drugs or alcohol;

Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;

Evidence of drug or alcohol use, provided by reliable and credible source;

Evidence that an individual has tampered with a drug or alcohol test during employment with Carrier Corporation, Indianapolis;

Information that an employee has caused, contributed to, or been involved in an accident while at work; or

Evidence that an employee has used, possessed, sold, solicited or transferred drugs while working or while on Carrier's premises or while operating Carrier's vehicle, machinery or equipment.

Upon reasonable suspicion that an employee is under the influence of drugs or alcohol, the employee will be immediately suspended without pay pending the results of the test. If the results are negative, the employee will be returned to work and made whole for any losses as a result of the suspension. Employees under the influence of drugs or alcohol who commit major violation of safety rules which may result, or does result, in injury to the employee or other employees may be subject to immediate discharge. If drug testing is conducted based on reasonable-suspicion, the circumstances under which the determination that reasonable suspicion existed will be detailed in writing. This documentation will be given to the employee and appropriate Union representative and will be retained in the employee's personnel file.

POSITIVE TEST

The presence of alcohol or drugs in the body will result in the following actions:

A mandatory indefinite suspension without pay.

A mandatory referral to the Employee Assistance Program or other approved treatment plan.

In order to continue employment, the employee must sign an agreement to participate in the prescribed *Drug or Alcohol Rehabilitation Program*.

In addition, the employee must sign a "*Last Chance Agreement*" which will not exceed one (1) year and will allow for Random Testing of the employee to verify compliance with the recommendations of the Rehabilitation Program.

The Company must receive written confirmation that the employee is in compliance. Failure to do so will result in termination.

A positive test while under the "*Last Chance Agreement*" is considered "just cause" for termination using the substance abuse guidelines. Refusal to comply will result in immediate discharge.

Employees with eighteen (18) months or less of continuous service will not be afforded the opportunity of a "Last Chance" letter and will face termination for violation of this policy.

Employees who are on layoff status for more than ninety (90) days will be subject to a drug screen during their rehiring physicals. Those employees who test positive will be terminated.

TESTING GUIDELINES

Carrier will afford applicants and employees subject to testing the opportunity, prior to and after being tested, to list all prescription, non-prescription drugs and controlled substances they have used and to explain the circumstances surrounding the use of such drugs and controlled substances. In addition, job applicants and employees have a right to consult with the medical review officer for technical information regarding prescription or nonprescription medication. Failure to establish adequately a legal basis for use of such drugs or controlled

substances with respect to which the employee tests positive shall constitute a violation of this policy. Screening for five (5) drug groups and alcohol shall be performed (See Attachment A). This will require urinalysis to screen for the presences of drugs or controlled substance and a Breathalyzer to test for the presence of alcohol. Carrier will pay for initial testing and confirmation testing if the initial test shows positive results. The employee, at his/her option, shall pay for any additional testing. The Drug and Alcohol Screening Consent Form will be completed by the employee and witnessed by medical personnel prior to tests being conducted.

CONFIDENTIALITY

Results and consent forms will become part of the employee's medical file. Test results will be communicated to the employee in the presence of his/her union representative. Carrier Corporation, Indianapolis will make every effort to respect the confidentiality of employees for any actions taken. Information relative to investigations, possible employee violations and medical test will be communicated only on a strict "need to know" basis. Requests for EAP will be treated with the same degree of confidentiality as other requests for medical assistance. Release of information to anyone other than Carrier Corporation, laboratories, medical review officers, employee assistance programs and drug rehabilitation programs and their agents will be done only if the employee voluntarily signs a valid consent form.