

## AGREEMENT FOR SERVICES

This **AGREEMENT FOR SERVICES** (the “Agreement”) is effective as of [**Date – M/D/YYYY**], the (“Effective Date”) by and between the **Massachusetts Clean Energy Technology Center** (“MassCEC”), an independent public instrumentality of the Commonwealth of Massachusetts (the “Commonwealth”) with a principal office and place of business at 294 Washington Street, Suite 1150, Boston, MA 02108, and [**fill in COMPANY NAME AND PRINCIPAL PLACE OF BUSINESS**] (“Contractor”) (each a “Party” and together the “Parties”).

**WHEREAS**, MassCEC is part of a coalition led by the Massachusetts Department of Energy Resources (“DOER”) awarded funding from the U.S. Environmental Protection Agency (“EPA”) under the Solar For All Program (“SFA Program”) intended to expand the number of low-income and disadvantaged communities primed for residential solar investment (the “Award”);

**WHEREAS**, [provide an introduction to the Agreement, why it is being entered into, provide facts about the relationship and goals of the parties, the nature of the contract, definition of the “Project”, and mention other related transactional documents];

**WHEREAS**, [use as many clauses as necessary]; and

**WHEREAS**, MassCEC desires to retain Contractor to provide certain services described more fully herein, and Contractor desires to provide MassCEC said services, all in accordance with the terms of this Agreement;

**NOW, THEREFORE**, in consideration of the recitals, the mutual promises and covenants contained in this Agreement, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Scope of Services:** Contractor shall carry out all services reasonably contemplated by this Agreement and described in Exhibit 1 attached hereto (the “Services”), which exhibit is incorporated herein by reference. This Agreement shall apply to all Services provided from time to time by Contractor to MassCEC during the Term, as defined below. Contractor shall perform the Services in accordance with schedule in Exhibit 1 (the “Schedule”).

2. **Deliverables:** Contractor shall provide all services and deliverables described in Exhibit 1 (the “Deliverables”).

3. **Payment:**

a. [**FIXED FEE:** MassCEC shall pay Contractor an aggregate amount of up to \$[**fill in AMOUNT**] (the “Fee Amount”) to perform the Services. The Fee Amount shall be the sole and complete compensation for the Services performed by Contractor under this Agreement.]

[**HOURLY FEE:** MassCEC shall pay Contractor at the hourly rate of \$[**fill in AMOUNT**] per [**fill in AMOUNT OF TIME**] to perform the Services. Such payments shall not exceed \$[**fill in AMOUNT**] in total (the “Fee Amount”).]

The Fee Amount shall be the sole and complete compensation for Services performed by Contractor under this Agreement.

b. Contractor shall submit to MassCEC reasonably detailed invoices [**each quarter/each month**] describing the Services rendered during the invoice period, and such invoices shall become payable within forty-five (45) days of receipt by MassCEC. Invoices shall provide reasonable documentation of evidence of costs incurred including, but not limited to:

- i. [**IF APPLICABLE**] Staff Charges: staff charges for each employee, the employee's name, title, number of hours worked, and hourly rate; and
- ii. [**IF APPLICABLE**] Direct Materials/Other Direct Costs: all direct materials and other direct costs, itemized.

Contractor shall promptly provide MassCEC with any additional documentation or information upon MassCEC's reasonable request.

c. **Condition Precedent.** The Parties agree that a condition precedent to the Contractor performing work under the Agreement or MassCEC paying any of the Fee Amount is the availability of funding for the SFA Program. Contractor shall not start work or incur costs under this Agreement, or towards a specific Deliverable or milestone, until receiving written confirmation from MassCEC's Project Manager (defined below) that this condition precedent has been satisfied.

4. **Term:** This Agreement shall take effect as of the Effective Date, and shall remain in effect for [**fill in NUMBER OF DAYS/YEARS or until DATE – NOTE: Include sufficient time for invoicing/payment**] (the "Term"), unless terminated in accordance with this Agreement.

5. **Access and Use:** Contractor agrees to provide all contributions made in the scope of the Services, including Deliverables, as work made for hire for MassCEC, which shall own all rights, including without limitation copyrights and patents, in materials Contractor prepares and delivers to MassCEC or its customers or clients or others on its behalf, and which shall have the right to use them in any way without additional payment to Contractor. In the event that Contractor's contributions are for any reason deemed not to have been a work made for hire, Contractor hereby assigns to MassCEC any and all right, title, and interest that the Contractor has, including any copyright or patent, in the work created or performed in the scope of the Services. Contractor, both during the Term and subsequently, shall cooperate with MassCEC to perfect, enforce, defend, and prosecute all such rights.

Contractor represents and warrants that Contractor's contribution will not infringe on any copyright, right of privacy, or personal or proprietary rights of others. If Contractor delivers or uses materials subject to the rights of any third parties (e.g., requiring permission from a copyright owner), Contractor will provide all information required of the person or entity to use such materials without infringing on any copyright, right of privacy, or other personal proprietary right of such third party. If Contractor provides to MassCEC or uses in the performance of the Services any material to which Contractor claims copyright, patent, or other interests or rights for itself, such use or delivery shall be deemed to be an assignment of such material, interests, and rights to MassCEC, unless a contrary agreement is reached in writing, between the Parties, prior to such delivery or use.

6. **Contractor's Representations, Warranties, and Certifications:** As of the Effective Date of this Agreement, Contractor hereby represents, warrants, and certifies under the pains and penalties of perjury as follows:

- a. Contractor is duly authorized to enter into this Agreement.
- b. Contractor and all personnel to be employed or engaged by Contractor under this Agreement ("Project Personnel") are fully capable and qualified to perform the Services and Contractor's other obligations under this Agreement and have obtained all requisite licenses and permits to perform all of the Services.
- c. Contractor and its Project Personnel are familiar with, and will remain in compliance with, and will not take any actions contrary to the provisions of, any laws, rules, regulations, ordinances, orders, or requirements of the Commonwealth and other governmental authorities applicable to or implicated by the subject matter of this Agreement.
- d. Contractor and its employees are independent contractors of MassCEC, and not employees, partners, or joint-venturers of MassCEC. Contractor will be solely responsible for withholding and paying all applicable payroll taxes of any nature and imposed by any authority, including social security and other social welfare taxes or contributions that may be due on amounts paid to its employees. Contractor has filed and will continue to file all necessary state tax returns and reports and has paid and will continue to pay all taxes and has complied and will continue to comply with all state laws relating to contributions and payment in lieu of contributions to the employment security system, and with all state laws relating to worker's compensation, codified at M.G.L. c. 152.
- e. Contractor certifies that appropriate insurance coverage for all activities under this Agreement has been obtained and shall be maintained in effect through the term of this Agreement. CONTRACTOR ACKNOWLEDGES THE SUFFICIENCY OF THE TYPES AND AMOUNTS OF INSURANCE COVERAGE MAINTAINED AND THE APPROPRIATENESS OF THOSE COVERAGES FOR THE DURATION OF THE TERM. At MassCEC's request, Contractor will provide MassCEC with copies of the certificates of insurance evidencing such coverage. The insurance requirements for the Project and pursuant to this Agreement are solely Contractor's responsibility and shall not relieve Contractor of any responsibility to MassCEC.
- f. Contractor agrees to comply with all applicable federal, state, and local statutes, rules, regulations, and permitting requirements, including, but not limited to, all laws promoting fair employment practices or prohibiting employment discrimination and unfair labor practices, and shall not discriminate in the hiring of any applicant for employment nor shall any qualified employee be demoted, discharged, or otherwise subject to discrimination in the tenure, position, promotional opportunities, wages, benefits, or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, religion, disability, handicap, sexual orientation, gender identity, or for exercising any rights afforded by law.
- g. Contractor represents and warrants that all of Contractor's Project Personnel are eligible to work in the United States during the entire Term of this Agreement.

h. Contractor agrees and acknowledges that MassCEC is relying upon Contractor to provide the Services in a competent, complete, and professional manner, and, accordingly, Contractor performance under this Agreement shall be conducted with due diligence and in accordance with the highest industry standards of professionalism and competence.

i. Contractor represents and warrants that Contractor is not debarred or suspended from receiving funds in consideration of performing the Services and is not listed on the governmentwide exclusions in the System for Award Management (the “SAM”) in accordance with the Office of Management and Budget’s (OMB) guidelines a 2 C.F.R. 180 implementing Executive Orders, 12549 and 12689. Further, in no event shall Contractor assign or in any way transfer any interest in Contractor’s rights or obligations under this Agreement to any third party that is listed on the governmentwide exclusions in the SAM.

j. [Include if contract is for an amount exceeding \$100,000] **Byrd Anti-Lobbying:** Contractor certifies that it will not and has not used federally appropriated funds to pay any person or organization for the purpose of influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or other award covered by 31 U.S.C. 1352. Further, Contractor shall require that any subcontractor of Contractor or other assignee of Contractor’s rights or obligations pursuant to this Agreement shall provide Contractor the same certification Contractor has provided to MassCEC pursuant to this Section and provide a copy of such certification to MassCEC.

**7. Project Managers:**

a. MassCEC and Contractor have designated the following persons to serve as Project Managers to support effective communication between MassCEC and Contractor and to report on the Project’s progress (the “Project Managers”).

For Contractor:

[First Name Last Name], [Title] ([phone number] / [email]@)

For MassCEC:

[First Name Last Name], [Title] ([phone number] / [email]@masscec.com)

b. Contractor shall be required to obtain prior written approval from MassCEC to make any change to its Project Managers. For the avoidance of doubt, MassCEC may update its Project Manager(s) listed without amending this Agreement, in compliance with the notice provisions of this Agreement.

8. **Notice:** Any notice hereunder shall be in writing and shall be sent either by (i) facsimile, email, or other electronic transmission, (ii) courier, or (iii) first class mail, postage prepaid, addressed to the Project Manager(s) listed in this Agreement at the address indicated in the preamble of this Agreement (or to such other address as a Party may provide by notice to the Party pursuant to this Section), and shall be effective (x) at dispatch, if sent by facsimile, email, or other electronic transmission, (y) if sent by courier, upon receipt as recorded by courier, (z) if sent by first class mail, five (5) days after its date of posting.

**9. Termination:**

a. MassCEC may terminate this Agreement at any time, in the exercise of its sole discretion. In the event of such termination, compensation shall be paid by MassCEC to Contractor for the actual costs of allowable expenses incurred for work performed and the reasonable and necessary actual direct costs incurred in the performance of the work pursuant to this Agreement prior to the effective date of the termination.

b. Either Party may terminate this Agreement in the event that the other Party materially breaches its obligations under this Agreement and fails to cure such breach within thirty (30) days after written notice and demand for such cure, or in the event that any representation or warranty of such Party contained herein was materially incorrect when given.

c. MassCEC may terminate this Agreement in the event of loss of availability of sufficient funds for the purposes of this Agreement or in the event of an unforeseen public emergency or other change of law mandating immediate MassCEC action inconsistent with performing its obligations under this Agreement.

d. Except as otherwise provided in the Agreement, termination or expirations of this Agreement shall not affect the rights and obligations of each Party under any provision of this Agreement which by its nature would be intended to survive any such termination or expiration, which shall include the following: 5 (Access and Use), 8 (Notice), 9 (Termination), 10 (Assignment and Subcontracting), 12 (Audit), 13 (Indemnification), 14 (Confidentiality), 15 (Public Records and CTHRU), 17 (Choice of Law), 18 (Independent Status), 20 (Severability), 21 (Amendments and Waivers), and 29 (Binding Effect and Entire Agreement).

10. **Assignment and Subcontracting:** MassCEC may assign its rights and obligations under this Agreement to any person who succeeds to all or any portion of MassCEC's business, and all covenants and agreements hereunder shall inure to the benefit of and be enforceable by said successors or assigns. Contractor shall not assign or in any way transfer any interest in, or any of Contractor's rights or obligations under this Agreement, including by operation of law, without the prior written consent of MassCEC, nor shall Contractor subcontract any services to anyone without the prior written consent of MassCEC. Any subcontract entered into by Contractor pursuant to this Section shall not relieve Contractor from any of its obligations pursuant to this Agreement, any act or omission by a subcontractor of Contractor shall be deemed an act or omission by Contractor, and Contractor shall be responsible for each of its subcontractors complying with all obligations of Contractor pursuant to this Agreement.

11. **Conflicts of Interest:** Contractor acknowledges the application of the Commonwealth's Conflict of Interest Law, codified at M.G.L. c. 268A to the subject matter of this Agreement and that Contractor's Project Personnel, and Contractor's subcontractor's personnel, if any, may be considered "special state employees" and thus may be subject to the provisions of such law. Contractor represents and warrants that, for the entire Term of this Agreement, it and its subcontractors, if any, shall remain in full compliance with the Commonwealth's Conflict of Interest Law.

12. **Audit:** Contractor shall maintain books, records, and other compilations of data pertaining to its activities pursuant to this Agreement to the extent and in such detail as to properly substantiate claims for payment and Contractor's performance of its duties under the Agreement. All such records shall be kept for a period of seven (7) years, starting on the first day after final payment under the Agreement (the "Retention Period"). If any litigation, claim, negotiation, audit, or other action involving the records is

commenced prior to the expiration of the Retention Period, all records shall be retained until completion of the audit or other action and resolution of all issues resulting therefrom, or until the end of the Retention Period, whichever is later. MassCEC or the Commonwealth or any of their duly authorized representatives shall have the right at reasonable times and upon reasonable notice, to examine and copy at reasonable expense, the books, records, and other compilations of data of Contractor which pertain to the provisions and requirements of the Agreement. Such access shall include on-site audits, reviews, and copying of records. If such audit reveals that any portion of the fees was utilized for purposes not expressly permitted under this Agreement, Contractor shall refund to MassCEC the amount determined by such audit within thirty (30) days of Contractor's receipt of such audit and demand.

**13. Indemnification:**

a. To the fullest extent permitted by law, Contractor shall indemnify and hold harmless the Commonwealth, MassCEC, and each of their respective agents, officers, directors, and employees (together with the Commonwealth and MassCEC, the "Covered Persons") from and against any and all liability, loss, claims, damages, fines, penalties, costs, and expenses (including reasonable attorney's fees), judgments and awards (collectively, "Damages") sustained, incurred or suffered by or imposed upon any Covered Person resulting from (i) any breach of this Agreement or false representation of Contractor, its officers, directors employees agents, subcontractors, or assigns under this Agreement, or (ii) any negligent acts or omissions or reckless misconduct of Contractor, its officers, directors, employees, agents, subcontractors, or assigns. Without limiting the foregoing, Contractor shall indemnify and hold harmless each Covered Person against any and all Damages that may arise out of or are imposed due to the failure to comply with the provisions of applicable law by Contractor or any of its agents, officers, directors, employees, or subcontractors.

b. In no event shall either Party be liable for any indirect, incidental, special, or consequential damages whatsoever (including, but not limited to, lost profits or interruption of business) arising out of or related to Contractor, its employees, agents, or assigns performance of Services under this Agreement, even if advised of the possibility of such damages.

**14. Confidentiality:**

a. Contractor hereby agrees to protect the physical security and restrict access to all data compiled for, used by, or otherwise in the possession of Contractor in performance of the Services in accordance with reasonable business practices and as otherwise provided in this Agreement. Contractor shall comply with all applicable laws and regulations relating to confidentiality and privacy, including, without limitation, all requirements of M.G.L. c. 66A implicated by the subject matter of this Agreement.

b. In connection with the performance of the Contractor's Services, Contractor will be exposed to and have access to MassCEC's confidential and proprietary information and information that MassCEC's employees, applicants, consultants, affiliates, licensors, customers, vendors, and others have entrusted to MassCEC that may include, but is not limited to, trade secrets, know-how, or other intellectual property, financial, and commercial information, marketing and servicing information, costs, business affairs, future plans, employee compensation, employee personnel information, programs, databases, operations, and procedures (collectively, "Confidential Information") to which Contractor did not have access

prior to performing Services of MassCEC, and which Confidential Information is of great value to MassCEC. Contractor, at all times, both during and after any termination of this Agreement by either party, shall not in any manner, directly or indirectly, use any Confidential Information for Contractor's own benefit, or divulge, disclose, or communicate in any manner, or otherwise make available such Confidential Information, unless expressly authorized to do so in writing by an officer of MassCEC. Confidential Information shall not include information which was in the public domain at the time of disclosure to Contractor, or information which is or becomes generally known or available to the public through no act or failure to act on the part of Contractor. Contractor may disclose Confidential Information as required by law or court order, provided the Contractor gives MassCEC prompt, prior written notice of any such disclosure.

c. Contractor has read and agrees to comply with, and will cause its agents, officers, directors, employees, and subcontractors to comply with, the provisions of this Section. Contractor agrees, for itself and for its agents, officers, directors, employees, and subcontractors, as follows:

- i. Not at any time, whether during or after the termination of this Agreement, to divulge, disclose, or reveal to any person any Confidential Information, whether or not such information is produced by Contractor's own efforts, except (A) as specifically required in connection with the fulfillment of Contractor's obligations hereunder, or (B) as otherwise directed by MassCEC in connection with a disclosure request under M.G.L. c. 66 (the "Public Records Law"), a request for discovery, subpoena, court, or administrative order or other compulsory legal process, disclosure requirement or request relating to such Confidential Information;
- ii. Not at any time, whether during or after the termination of this Agreement, use any Confidential Information for Contractor's direct or indirect financial or other benefit or for the benefit of any Person related to or affiliated with Contractor or with whom Contractor is now or hereafter associated, other than MassCEC, nor will Contractor use or attempt to use any Confidential Information in any manner which could reasonably be expected to injure or cause loss, whether directly or indirectly, to MassCEC or any applicable third party;
- iii. In the event that Contractor (or any of its agents, officers, directors, employees, or subcontractors) is questioned about Confidential Information by anyone who has not demonstrated to Contractor that it is authorized to receive or have access to such Confidential Information, or is asked to provide Confidential Information to any such Person, Contractor agrees to promptly notify MassCEC and respond to the inquirer in accordance with MassCEC's instructions; and
- iv. Not at any time, whether during or after the termination of this Agreement, reproduce any materials containing Confidential Information except to the extent necessary to perform Contractor's obligations under this Agreement, nor make or use (or permit any of its agents, officers, directors, employees, or subcontractors to use) any materials other than in connection with the performance of Contractors' obligations under this Agreement and for the benefit of MassCEC, it being understood and agreed that all materials are, shall be and shall remain the sole and exclusive property of MassCEC. Contractor shall, upon request by MassCEC, return all

Confidential Information and copies thereof to MassCEC, except that Contractor may keep a copy of Confidential Information as required by law or in accordance with its record retention policies.

d. Contractor shall collaborate directly with MassCEC to prepare any public statement, media strategy, webpage update, or announcement relating to this Agreement, or to prepare any press release or for any news conference in which MassCEC is concerned or discussed. The aforementioned includes, but is not limited to, any media pitches, interviews, embargoed materials, photo opportunities, blogs, guest columns, media events, or editorial boards which relates to this Agreement or MassCEC.

e. Notwithstanding the foregoing, Contractor is hereby notified that in accordance with the Defend Trade Secrets Act of 2016 (18 U.S.C. Sec. 1833(b)), as amended, Contractor will not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that: (a) is made (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (b) is made in a complaint or other document that is filed under seal in a lawsuit or other proceeding.

15. **Public Records and CTHRU:** As a public entity, MassCEC is subject to the Commonwealth's Public Records Law, codified at M.G.L. c. 66 (the "Public Records Law"). Contractor acknowledges and agrees that any documentary material, data, or other information submitted to MassCEC are presumed to be public records subject to disclosure. An exemption to the Public Records Law may apply to certain records, such as materials that fall under certain statutory or common law exemptions, including the limited exemption set forth in M.G.L. c. 23J, Section 2(k) regarding certain types of confidential information submitted to MassCEC by an applicant for any form of assistance. Contractor shall be solely responsible for informing MassCEC in advance of any information it plans to submit to MassCEC that it considers exempt from the Public Records Law. Notwithstanding the foregoing, Contractor acknowledges and agrees that MassCEC, in its sole discretion, shall determine whether any document, material, data, or other information is exempt from or subject to public disclosure. Contractor shall not send MassCEC any confidential or sensitive information that may be subject to public disclosure.

Contractor agrees and acknowledges that MassCEC shall have the right to disclose the name of Contractor and/or payee, the amount of any payments under this Agreement and any other information it may deem reasonably necessary on CTHRU, the Commonwealth's online database of state spending, or any other applicable state spending website.

16. **Tax Forms:** MassCEC will record payments to Contractor on, and provide to Contractor, a United States Internal Revenue Service ("IRS") Form 1099, and MassCEC will not withhold any state or federal employment taxes on Contractor's behalf. Contractor shall be responsible for paying all such taxes in a timely manner and as prescribed by law. Contractor shall provide MassCEC with a properly completed IRS Form W-9 (the "W-9"). Failure to provide the W-9 shall be grounds for withholding payment until such W-9 is received. The W-9 must be emailed to ap@masscec.com. For all tax-exempt entities (including government entities), a tax-exemption certificate or IRS tax-exemption determination letter must be emailed to ap@masscec.com.

17. **Choice of Law:**



a. This Agreement and the rights and obligations of the Parties shall be governed by and construed in accordance with the laws of the Commonwealth, without giving effect to its conflict of laws principles. Any dispute arising out of or relating to this Agreement or its breach, termination, or invalidity, whether before or after termination of this Agreement, if not resolved by negotiation among the Parties within thirty (30) days after such dispute is raised by either Party in writing, will be settled by binding arbitration by a single arbitrator in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction over this Agreement. Any such arbitration will be conducted in or near Boston, Massachusetts. The prevailing Party shall be entitled to receive from the other Party its reasonable attorney fees and costs incurred in connection with any action, proceeding, or arbitration hereunder.

b. This Section shall not be construed to limit any other legal rights of the Parties. Each Party acknowledges and agrees that any breach or threatened breach of this Agreement by the other Party may result in substantial, continuing, and irreparable damage to the first Party. Therefore, before or during any arbitration, either Party may apply to a court having jurisdiction for a temporary restraining order or preliminary injunction, where such relief is necessary to protect its interests pending completion of the arbitration proceedings.

18. **Independent Status:** Nothing in this Agreement will be construed or deemed to create a relationship of employer and employee, partner, joint venturer, or principal and agent between MassCEC and Contractor, its employees, agents, or officers.

19. **Counterparts:** This Agreement may be executed in two (2) or more counterparts, and by different parties hereto on separate counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

20. **Severability:** Each provision of this Agreement shall be treated as a separate and independent clause and any decision from a court of competent jurisdiction to the effect that any clause or provision of this Agreement is null or unenforceable shall in no way impair the validity, power, or enforceability of any other clause or provision of this Agreement.

21. **Amendments and Waivers:** MassCEC may amend this Agreement as required by changes in applicable law or SFA Program requirements and shall promptly deliver any and all such amendments to Contractor in the manner provided in the notice provision in this Agreement. Except as provided in the immediately preceding sentence, no amendments to or modifications of this Agreement, and no waiver of any provision of this Agreement, shall be effective unless the same shall be in writing and shall be signed by each of the Parties. Any waiver by MassCEC of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of such provision or any other provision of this Agreement. Forbearance or indulgence in any form or manner by a Party shall not be construed as a waiver, or in any way limit the remedies available to that Party.

22. **Force Majeure:** Neither Party shall be liable or responsible to the other Party, nor be deemed to have breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by or results from acts beyond the impacted Party's ("Impacted Party") reasonable control, including, without limitation, the following force majeure events ("Force Majeure Events"): (a) acts of God; (b) flood, fire, earthquake, or explosion; (c) war,

invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (d) actions, embargoes, or blockades in effect on or after the date of this Agreement; (e) national or regional emergency; and (f) strikes, labor stoppages or slowdowns. The Impacted Party shall give notice within two (2) days of the Force Majeure Event to the other Party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period of ten (10) days following written notice given by it under this Section, the other Party may thereafter terminate this Agreement upon fifteen (15) days' written notice.

23. **Additional Requirements:** Contractor shall comply with the following additional provisions, all as required by law:

- a. **Prohibition on Certain Telecommunications Equipment or Services.** In the course of providing the Services, Contractor shall not use products or services that incorporate telecommunications or surveillance equipment or services produced by: (1) Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company or any subsidiary or affiliate of those entities or (2) any entity owned or controlled by the government of a foreign country.
- b. **Small and Minority Businesses, Women's Business Enterprises, Veteran-owned Businesses, and Labor Surplus Area Firms:** As required by 2 CFR 200.321, when possible, Contractor should ensure that small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms are considered to complete the Services, including by taking the following steps:
  - i. Including these business types on solicitation lists;
  - ii. Soliciting these business types when deemed eligible as potential sources;
  - iii. Dividing procurements into separate procurements to permit maximum participation by these business types;
  - iv. Establishing delivery schedules that encourage participation by these business types;
  - v. Using organizations such as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
  - vi. Requiring subcontractors to take the affirmative steps listed in (i) through (vi) of this Section.
- c. **Procurement of Recovered Materials:** As applicable in its provisions of the Services, Contractor shall comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, including: (i) procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; (ii) procuring solid waste management services in a manner that maximizes energy and resource recovery; and (iii) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. Further, Contract shall, to the greatest extent practicable and consistent with law, purchase, acquire, or use products and services that can be reused,

refurbished, or recycled; contain recycled content, are biobased, or are energy and water efficient; and are sustainable.

- d. **Workforce Development and OSHA Compliance.** Contractor agrees to comply with any applicable federal statutes and regulations related to labor and equitable workforce development, including applicable health and safety regulations as administered by the Occupational Safety and Health Administration.
- e. [Include if contract is for an amount exceeding \$100,000] **Clean Air Act and Federal Water Pollution Control Act:** Contractor shall comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33. U.S.C. 1251-1387). Violations shall be reported to the EPA's Region 1 Office located in Boston, Massachusetts.

23. **Special Terms and Conditions and Intellectual Property Provisions:** Contractor shall comply with all terms and conditions of the Award applicable to Contractor, including, without limitation, those terms and conditions set forth in the Special Terms and Conditions attached hereto as Exhibit 2 and incorporated herein by reference.

24. **Opportunity to Seek Counsel:** Contractor has: (i) had the opportunity to review and consider this Agreement prior to executing this Agreement; (ii) been strongly encouraged to consult with its own attorneys and confidential advisors before executing this Agreement; and (iii) read and understood this Agreement in its entirety.

25. **Binding Effect, Entire Agreement:** This Agreement shall be binding on the Parties and their respective successors and permitted assigns and shall inure to the benefit of the Parties and their respective successors and permitted assigns. Except as provided in the immediately preceding sentence, nothing in this Agreement shall be construed to create any rights or obligations except between the Parties, and no Person shall be regarded as a third-party beneficiary of this Agreement. This Agreement embodies the entire understanding and agreement between the Parties with respect to the subject matter of this Agreement and supersedes all prior oral or written agreements and understandings relating to such subject matter. No statement, representation, warranty, covenant, or agreement of any kind not set forth in this Agreement will affect, or be used to interpret, change, or restrict, the express terms and provisions of this Agreement. Furthermore, neither Contractor's nor any of its subcontractors' provision of services under this Agreement implies, establishes or otherwise creates any rights or expectations of additional contracts with the MassCEC, whether related or unrelated to the subject matter of this Agreement. The following (together with all exhibits, schedules, and attachments) are hereby incorporated into this Agreement by reference:

- a. Exhibit 1: Scope of Services
- b. Exhibit 2: Special Terms and Conditions

[Rest of Page Intentionally Blank]

**In witness whereof**, the Parties have caused this Agreement to be executed as a document under seal as of the Effective Date.

**Massachusetts Clean Energy Technology Center**

**[Contractor Name]**

**By:** \_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_  
**Date:** \_\_\_\_\_

**By:** \_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_  
**Date:** \_\_\_\_\_  
**Federal Tax ID No.:** \_\_\_\_\_

**Exhibit 1**  
**SCOPE OF SERVICES: Project Plan, Deliverables, and Schedule**

- I. Project Plan [provide a description of the project]
- II. Payment Terms [describe payment terms and the invoicing process. Make sure this section is consistent with the terms of Section 3]
- III. Schedule and Deliverables

**EXAMPLE TABLE**

<b>Task Number</b>	<b>Task Description</b>	<b>Milestone/Deliverable</b>	<b>Completion Date</b>	<b>Payment Amount</b>
1				
2				
3				

**Exhibit 2**  
**Special Terms and Conditions**