



Request for Proposals: Accelerator Funding Program FY2023

Date of Issue: October 3, 2022

Proposals Due: January 5, 2023

Total Funding Available: \$340,000

All proposals must be submitted to:

innovationecosystem@masscec.com

Please note: the deadline has been extended to January 5th, 2023. There are no other changes.

I. SUMMARY

This Request for Proposal (“RFP”) is being issued by the Massachusetts Clean Energy Center (“MassCEC”) in order to seek applicants (the “Applicants”) to MassCEC’s Accelerator Funding Program (the “Program”) to fund accelerator business development activities to support Cleantech Startups (as defined in Section IV) in their commercialization life cycle.

The Program offers an annual solicitation and will provide awards of up to One Hundred Twenty Thousand Dollars (\$120,000) per awarded accelerator. Accelerator staff may request funds for 1) accelerator operations and events (the “Accelerator Operations”) and 2) scholarships for their current cohort of startups (“Scholarships”). Funding may be used to support key accelerator activities, including operations and management expenses, events and educational series, growing strategic clusters, prizes, and scholarships.

II. ABOUT MASSCEC

The Massachusetts Clean Energy Center (MassCEC) is a state economic development agency dedicated to accelerating the growth of the clean energy sector across the Commonwealth to spur job creation, deliver statewide environmental benefits and to secure long-term economic growth for the people of Massachusetts. MassCEC works to increase the adoption of clean energy while driving down costs and delivering financial, environmental, and economic development benefits to energy users and utility customers across the state.

MassCEC’s mission is to accelerate the clean energy and climate solution innovation that is critical to meeting the Commonwealth’s climate goals, advancing Massachusetts’ position as an international climate leader while growing the state’s clean energy economy. MassCEC is committed to creating a diverse, equitable, and inclusive organization where everyone is welcomed, supported, respected, and valued. We are committed to incorporating principles of diversity, equity, inclusion, and environmental justice in all aspects of our work in order to promote the equitable distribution of the health and economic benefits of clean energy and support a diverse and inclusive clean energy industry. MassCEC strives to lead and innovate in equitable clean energy and climate solutions.

III. PROGRAM GOALS AND DESCRIPTION

The goals of the Accelerator Funding Program are to:

- Grow the clean energy innovation ecosystem;
- Promote commercialization of early stage cleantech startups;
- Support accelerators in their endeavors to provide the startup community with valuable resources; and
- Continue to attract early-stage cleantech startups to Massachusetts.

Accelerators (as defined in Section IV) provide strategic, valuable, and complementary resources to MassCEC by attracting and accelerating growth of early-stage Massachusetts cleantech startups and improving their chances for commercialization success. MassCEC funding aims to support accelerator program operations and direct scholarships to eligible cleantech startups. These startup recipients can use the scholarship to achieve important commercialization milestones.

IV. ELIGIBILITY

An **applicant** must meet the following criteria:

- Applicants must be accelerator programs based in the Commonwealth of Massachusetts and/or contain a large percentage of Massachusetts-based startups in their cohort.
- Applicants must have startups that satisfy the definition of cleantech startup companies set forth below.
- Applicants are not required to *exclusively* host cleantech startups in their accelerators, but the accelerator must have a cleantech element or track.
- Applicants should have experienced management teams, a documented track record of providing effective services to cleantech startups and a sustainable accelerator model backed up by a credible business plan.

“Accelerators” run programs that accept early-stage companies on a competitive basis for a determined period of time. Participating startups gain certain business and technology advancement through the accelerator program. The programs typically work with a cohort of startups for a fixed period and culminate in a pitch event or demo day where the startups are eligible to compete for cash or in-kind prizes. Accelerators help mitigate market barriers by connecting startups with mentors, investors, corporate partners, and customers through organized events and workshops.

“Cleantech Startups” are considered to be companies whose primary product or business strategy meets the statutory definition of “clean energy” pursuant to M.G.L. c. 23J § 1, as amended pursuant to Chapter 179 of the Acts of 2022 [“An Act Driving Clean Energy and Offshore Wind”](#), namely “...advanced and applied technologies that significantly reduce or eliminate the use of energy from non-renewable sources including, but not limited to: (i) energy efficiency; (ii) demand response; (iii) energy conservation; or (iv) technologies powered, in whole or in part, by the sun, wind, water, geothermal energy, including networked geothermal and deep geothermal energy, hydrogen produced by non-fossil fuel sources and methods, alcohol, fuel cells, fusion energy or any other renewable, nondepletable or recyclable fuel...”. Please note that technologies related to coal, oil, nuclear power, biomass, and natural gas (except where used in fuel cells) will not be considered clean energy for purposes of this RFP.

V. ESTIMATED TIMELINE

This timeline is subject to change at MassCEC's discretion.

| | |
|-------------------------------------|-----------------|
| Application period opens | October 3, 2022 |
| Proposals Due | January 5, 2023 |
| Notification of Award (Anticipated) | March 2023 |

VI. HOW TO APPLY

Applicants must use and submit the pre-formatted application template available at: www.masscec.com/accelerator-funding-program-0.

There are two (2) application form templates:

1. "Accelerator Funding Request Form for Returning Applicants"
 - a. Accelerators are eligible to complete and submit this abbreviated application form if they have received **at least three (3) Accelerator Funding grants** from MassCEC over the past four (4) years and completed all of the associated milestones and deliverables associated with each of those grants.
2. "Accelerator Funding Application Form"
 - a. Accelerators that have **not** received at least three (3) grants from MassCEC in the past four (4) years are required to submit this application form.

Proposals should be:

- Submitted via email to innovationecosystem@masscec.com
- Submitted in MS Word or PDF Format, using Calibri font in 11 pt. size
- Maximum of one file submitted; proposal followed by attachments

Do not disclose any proprietary information in your proposal. Applicants will receive a reply e-mail as a confirmation for receipt of a completed proposal. MassCEC reserves the right to disqualify any submission at its sole discretion. Proposals that are not received by the closing deadline will not be considered.

VII. SELECTION CRITERIA

Applications will be reviewed and evaluated based on the following criteria. The first two (2) evaluation criteria are relevant for new Applicants to the Program only, as described further in Section VI. New Applicants are those accelerators that have **not** received at least three (3) grants from the Program in the past.

| Applicant Type | Evaluation Criteria | Details |
|----------------|----------------------------------|---|
| New only | Accelerator Program Background | <ul style="list-style-type: none"> • How well the accelerator’s mission aligns with the overall goals of the Accelerator Funding Program • How well the program benefits its cleantech startups • The niche benefits of the accelerator compared to others in the space • Geographic composition of participating and graduate companies – MA-based companies should comprise approximately half of the annual cohort, at a minimum. |
| New only | Accelerator Staff Qualifications | <ul style="list-style-type: none"> • Level of staff’s experience with running accelerator programs and working with entrepreneurs • Staff’s understanding of the innovation ecosystem in the region |
| All | Current Accelerator Program | <ul style="list-style-type: none"> • Quality and frequency of hosted events • Access to mentors, coaches, investors, corporate partners, and customers during the program • Curriculum benefits to startups broadly, and to cleantech startups specifically • Recent success and progression of current startups and graduates • Development of new (or evolution of existing) programming and benefits for startups • Impact of COVID-19 on accelerator operations and programming |
| All | Cleantech Ecosystem Benefits | <ul style="list-style-type: none"> • Percentage of cleantech startups accepted into the accelerator program each year • Percentage of MA-based participants compared to MA-based cleantech participants • Cleantech startup outreach, recruitment, and engagement strategies |
| All | Funding Background | <ul style="list-style-type: none"> • How well the accelerator’s funding sources (from CEC or other sources) directly benefit cleantech startups • Accelerator’s plan for long-term financial sustainability • Recent/new efforts to access new sponsors and partners • Impact of COVID-19 on accelerator financials and plan to address any challenges |
| All | Funding Request | <ul style="list-style-type: none"> • Funding request relative to the number of cleantech startups represented • Funding request relative to the accelerator’s revenue (last year’s revenue) • Use of funds to benefit cleantech startups • Reasonableness of the request for scholarship funding, if applicable |

VIII. BUDGET

Use of Funds

The Accelerator Funding Program provides funding for accelerators and their current cohort of startups. Accelerator staff may request funds for 1) Accelerator Operations and 2) Scholarships.

Individual scholarships are capped at Five Thousand Dollars (\$5,000) per scholarship with a total cap of Forty Thousand Dollars (\$40,000) for all scholarships. MassCEC will provide the accelerator with an application form to distribute to eligible cleantech startups within the program. MassCEC will review the applications to determine if the startup is eligible to receive a scholarship. Once scholarships are awarded by MassCEC, the accelerator will be responsible for distributing the scholarship funds to the startups.¹

Typical uses of Accelerator Operations funding include, but are not limited to:

- Networking events;
- Educational workshops and programming;
- Prize funding for the winner of a competition;
- Judge/sponsor/partner recruitment efforts;
- Marketing collateral; and
- Cleantech startup recruitment and outreach efforts.

Typical uses of Scholarship funding include, but are not limited to:

- Travel stipends for Massachusetts-based Cleantech Startups;
- Membership at a Massachusetts-based cleantech incubator (**Note:** In order to be eligible for this scholarship type, a startup does not need to be Massachusetts based at the time of application but must intend to relocate a majority² of its business functions to the incubator or elsewhere within Massachusetts if accepted); and
- Funding for participating cleantech startups' technology development and commercialization activities.

IX. CONTACT INFORMATION FOR QUESTIONS

All questions regarding the Program and this RFP should be directed to innovationecosystem@masscec.com.

X. GENERAL REQUEST FOR PROPOSALS CONDITIONS

NOTICE OF PUBLIC DISCLOSURE

As a public entity, MassCEC is subject to Massachusetts' Public Records Law, codified at Chapter 66 of the Massachusetts General Laws. Thus, any documentary material, data, or other information received by MassCEC from an Applicant is a public record subject to disclosure, and Applicant acknowledges that MassCEC, in its sole discretion, shall determine whether any particular document, material, data, or other information is exempt from or subject to public

¹ If MassCEC selects fewer startups for scholarships than awarded, MassCEC retains the right to reduce the amount of scholarship funding.

² "Majority of Businesses Functions" is defined as the majority of the following (i.e. if four apply, then three must be based within MA/the incubator, and if three apply, at least two must be based within MA/the incubator): company headquarters (primary executives located in Massachusetts); primary research and development operations; primary manufacturing operations; primary sales & marketing office.

disclosure. Applicants shall not send MassCEC any confidential or sensitive information in response to this RFP.

DISCLAIMER & WAIVER AUTHORITY

This RFP does not commit MassCEC to award any funds, pay any costs incurred in preparing an application, or procure or contract for services or supplies. MassCEC reserves the right to accept or reject any or all applications received, waive minor irregularities in submittal requirements, modify the anticipated timeline, request modification of the application, negotiate with all qualified Applicants, cancel or modify the RFP in part or in its entirety, or change the application guidelines, when it is in its best interests.

This RFP has been distributed electronically using MassCEC's website. It is the responsibility of Applicants to check the website for any addenda or modifications to an RFP to which they intend to respond. MassCEC accepts no liability and will provide no accommodation to Applicants who submit an application based on an out-of-date RFP document.

CONTRACT REQUIREMENTS

Upon MassCEC's authorization to proceed with the proposal, MassCEC and the awarded Applicant(s) will execute a contract, substantially in the form of the Sample Agreement in Attachment 2, which will set forth the respective roles and responsibilities of the parties.

ATTACHMENT 1: AUTHORIZED APPLICANT'S SIGNATURE AND ACCEPTANCE FORM

Accelerator Funding Program - FY2023

The undersigned is a duly authorized representative of the Applicant named below. The undersigned has read and understands the RFP requirements and acknowledges and confirms that the Applicant and each member of its team has read and understands the RFP Requirements. The undersigned acknowledges and agrees that all of the terms and conditions of the RFP are mandatory.

The undersigned and each Applicant and each member of its team acknowledges and agrees that (i) all materials submitted as part of the application are subject to disclosure under the Massachusetts Public Records Law, as explained in the RFP; (ii) that the Massachusetts Clean Energy Technology Center ("MassCEC") has no obligation, and retains the sole discretion to fund or choose not to fund the application set forth herein; and (iii) that MassCEC's receipt of the application does not imply any promise of funding at any time.

The undersigned and each member of the Applicant's team understands that, if the Application is selected by MassCEC pursuant to this RFP, the Applicant will execute and deliver an agreement to be provided by MassCEC that shall set forth the terms and conditions, together the respective roles and responsibilities of the Applicant, and each member of its team, and MassCEC, with respect to the project described in the RFP.

I certify that the statements made in this Application, including all attachments and exhibits, are true and correct.

Applicant: _____

(Printed Name of Applicant)

By: _____

(Signature of Applicant or Authorized Representative)

Title: _____

Date: _____

ATTACHMENT 2: SAMPLE AGREEMENT

GRANT AGREEMENT

This Grant Agreement (the “Agreement”), effective as of [Date – Month DD, YYYY] (the “Effective Date”), is 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, Boston, MA 02110, and [Grantee Name] with a principal office and place of business at [Grantee Address] (“Grantee”). Each of MassCEC and Grantee are at times referred to in this Agreement as a “Party,” and together the “Parties”.

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, and mention other related transactional documents]; and

WHEREAS, [use as many clauses as necessary].

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

1. Performance of the Work

- a. Grantee shall complete the Project (as defined in Attachment 1) and provide the deliverables (the “Deliverables”) described in the Scope of Work set forth in Attachment 1 (the “Scope of Work”).
- b. Grantee is solely responsible for all Project decisions, the preparation of all plans and specifications, and completing the Project in accordance with the Scope of Work.
- c. Grantee is solely responsible for selecting and entering into a written contract (or contracts) with contractors as necessary to provide the Deliverables and complete the Scope of Work, and for ensuring that the contractors Grantee retains comply with all applicable provisions of this Agreement. Grantee acknowledges that MassCEC shall have no responsibility for managing such contractors or the relationship between Grantee and its contractors. Further, Grantee shall indemnify and hold harmless MassCEC from any Damages (as defined in Section 14) associated with any disputes occurring between Grantee and its contractors arising from or in relation to the Project.
- d. Grantee acknowledges that MassCEC will have no responsibility for management of the Project, including obtaining all local, state, and federal permits, as applicable.
- e. Grantee shall be responsible for completing all required steps to receive funding from any other entity besides MassCEC

2. Term

The term of this Agreement shall commence on the Effective Date, and shall expire on [Date – Month DD, YYYY] (the “Term”) unless otherwise terminated in accordance with Section 8 herein.

3. Grant Amount; Payment; Rescission

- a. *Grant Amount.* In consideration of the various obligations to be undertaken by Grantee pursuant to this Agreement, MassCEC agrees to provide Grantee with funds in an amount not to exceed **[write out amount] Dollars (\$numerical amount)** (the “Grant”). The Parties acknowledge and agree that this is a maximum authorization, and MassCEC is under no obligation to transfer the full amount to Grantee, or any amount, in the event Grantee does not satisfy the requirements under this Agreement. Grantee acknowledges and agrees that receipt of this Grant, or any portion of this Grant, does not create any rights of preferences to receive subsequent funding from MassCEC. In no event shall the Grant exceed the amount specified in this section.
- b. *Payment.* MassCEC will pay Grant funds to Grantee in installments in accordance with the Schedule and Deliverable table set forth in Attachment 1 (each installment a “Grant Installment”) within forty-five (45) days of approval of the corresponding Deliverable, receipt of a written invoice describing the work performed with Grant funds during the invoice period, and receipt of a completed and signed **[IF APPLICABLE: Cost Share and]** Expenditure Certification (Attachment 2).
- c. *Rescission.* If Grantee materially breaches any term of the Agreement, in addition to the ability to terminate as set forth in Section 8(a), MassCEC shall have the right to rescind Grant payments; provided, however, that Grantee shall have the opportunity to cure such breach within thirty (30) days of the breach and if Grantee does so, MassCEC shall not exercise the right to rescind Grant payments. If Grantee becomes insolvent, makes an assignment of rights or property for the benefit of creditors, or files for or has bankruptcy proceedings instituted against it under the federal bankruptcy law of the United States, or if MassCEC reasonably believes that such an event is imminent, MassCEC, acting in its sole discretion, may rescind the remaining undisbursed portion of the Grant.

4. Project Managers

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

For MassCEC:

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

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

For Grantee:

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

- b. Grantee shall obtain prior written approval from MassCEC to make any change to its Project Manager. For the avoidance of doubt, MassCEC may update its Project Manager(s) listed without amending this Agreement, if done in compliance with the notice provisions of Section 5.

5. Notice

Any notice in this Agreement 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 listed in Section 4(a) 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, or (z) if sent by first class mail, five (5) days after its date of posting.

6. Publicity; Use of Name

Grantee shall collaborate directly with MassCEC to prepare any public statement, media strategy, or announcement relating to or bearing on the work performed or data collected under this Agreement or to prepare any press release or for any news conference in which MassCEC is concerned or discussed, including, but not limited to, any media pitches, interviews, embargoed materials, photo opportunities, blogs, guest columns, media events, or editorial boards which relate to this Agreement or MassCEC (each, a “Public Statement”) and shall in no event be permitted to publish, release, or otherwise disseminate any such Public Statement without MassCEC’s prior written consent.

Grantee agrees that MassCEC shall have the right to make use of and disseminate, in whole or in part, all work products, reports, Deliverables, and other information produced in the course of the Project’s completion, and to use the information in such materials contained to produce summaries, case studies, or similar information resources.

7. Other Requirements

- a. *Program Evaluation.* Grantee agrees to support MassCEC’s program evaluation activities, and MassCEC’s dissemination of information regarding Grantee’s experiences. To this end, Grantee agrees that its key personnel and contractors working on the Project will be available at reasonable times with advance notice to be interviewed by MassCEC or its authorized representatives for purposes of program evaluation or case study development.
- b. *Grant Administration.* Grantee shall use the Grant funds only for the activities described in the approved Scope of Work. Grantee shall maintain financial records relating to the receipt and expenditure of all Grant funds in accordance with the terms set forth under this Agreement for a period of seven (7) years starting on the first day after final payment under the Agreement.
- c. *Grant Expenditure.* All costs incurred by Grantee before the Effective Date are incurred voluntarily, at Grantee’s risk and upon its own credit and expense. Grantee shall not incur any costs to be charged against Grant funds prior to the Effective Date.
- d. [Include (d) and (e) together if applicable.] *Cost Share.* Grantee agrees to meet and maintain a minimum [number written out] percent ([number]%) cost share for the Project (“Cost Share”). MassCEC and Grantee will share in any cost savings that result from Project expenses that are less than the amount identified in the Project Budget by maintaining the minimum Cost Share. [NOTE: THIS SECTION MAY BE UPDATED BASED ON PROGRAM NEEDS. Grantee agrees and acknowledges that its Cost Share may be cash, documented grants from other parties (such as other state or federal agencies or charitable organizations), or a combination thereof, but that consultants or subcontractors performing work on the Project shall not provide any of the Cost Share.]

- e. [Only include if including (d)] *Allowable Expenses*. Grantee's costs uniquely associated with the Project and incurred directly in the completion of Milestones set forth in the Scope of Work and identified in the Project Budget (the "Allowable Expenses"), shall be eligible for Cost Share. For the avoidance of doubt, Allowable Expenses shall not include general administration, overhead, mark-ups, travel (either by Grantee or by subcontractors to Grantee), Grantee's own labor, or general purpose facilities, equipment, materials, or software.

8. Termination

- a. MassCEC may terminate this Agreement at any time if Grantee has materially breached any term of the Agreement and fails to cure such breach as provided in Section 3(c).
- b. 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 action inconsistent with MassCEC performing its obligations under this Agreement.
- c. Except as otherwise provided in the Agreement, the rights and obligations of each of the Parties under Sections: 5, 6(b), 7(b), 8, 10, 11, 14, 15, 18, 19, 21, 22, 24, 26, and 27 of this Agreement shall survive and remain in effect after the termination or expiration of this Agreement.

9. Tax Forms and Grant Taxability

- a. Grantee shall provide MassCEC with a properly completed United States Internal Revenue Service ("IRS") Form W-9 (the "W-9"). Failure to provide the W-9 shall be grounds for withholding all Grant Installments until such W-9 is received. W-9s shall be emailed to finance@masscec.com.
- b. Grants may be considered taxable income by the IRS and the Massachusetts Department of Revenue. Grantee is solely responsible for any failure to timely consult with a tax professional to determine the federal and/or state tax implications of this Agreement. MassCEC will issue an IRS Form 1099 to each Grantee. For all tax-exempt entities (including government entities), a tax-exemption certificate or IRS tax-exemption determination letter must be emailed to finance@masscec.com.

10. Access and Use

Grantee agrees to license or otherwise make available to MassCEC in perpetuity, without charge, Grantee's interest in and copyright (if any) to all non-confidential materials prepared and produced in relation to the Project, including, without limitation, all plans, specifications, and analyses developed in connection with the Project and specified as being for MassCEC's use and public dissemination; provided, however, that any and all inventions that are conceived or first reduced to use during the course of the Project shall be the sole property of Grantee (except that if jointly invented, title shall flow in accordance with United States patent law), and any licensing requests for such inventions shall be subject to good faith negotiations between the Parties.

11. Audit

At any time prior to the completion of the Project and as otherwise provided in this section, MassCEC shall have the right to audit Grantee's or its other agents' records to confirm the use of the Grant awarded under this Agreement. If such audit reveals that any portion of such funds was used for purposes not permitted under the Agreement (a "Nonconformance Event"), then Grantee shall refund

to MassCEC the amount determined by such audit to have been improperly used within thirty (30) days of Grantee's receipt of such audit and demand. In the event such audit reveals a Nonconformance Event, MassCEC shall be entitled to immediately terminate this Agreement and discontinue disbursing Grant Installments to Grantee from the date the audit is completed, subject to any limitations set forth by Section 8. Grantee shall maintain books, records, and other compilations of data pertaining to the funds paid pursuant to this Agreement to the extent and in such detail as to properly substantiate use of such payments. 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 from audit or other action, 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 Grantee which pertain to the provisions and requirements of this Agreement. Such access may include on-site audits, review, and copying of records.

12. Assignment and Subcontracting

Grantee shall not assign or in any way transfer any interest in Grant funds without the prior written consent of MassCEC. nor shall Grantee subcontract any of its obligations hereunder without the prior written consent of MassCEC; provided, however, that any subcontract entered into by Grantee pursuant to this Section 12 shall not relieve Grantee from any of its obligations pursuant to this Agreement, any act or omission by a subcontractor of Grantee shall be deemed an act or omission by Grantee, and Grantee shall be responsible for each of its subcontractors complying with all obligations of Grantee pursuant to this Agreement.

13. Compliance with Laws

Grantee 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.

14. Indemnification

- a. To the fullest extent permitted by law, Grantee 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 Grantee, its officers, directors, employees, agents, subcontractors, or assigns under this Agreement, or (ii) any negligent acts or omissions or reckless misconduct of Grantee, its officers, directors, employees, agents, subcontractors, or assigns. Without limiting the foregoing, Grantee 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 Grantee or any of its agents, officers, directors, employees, subcontractors, or assigns.
- b. In no event shall either Party be liable for any indirect, incidental, special, punitive, or consequential damages whatsoever (including, but not limited to, lost profits or interruption of business) arising out of or related to Grantee's, its officers', directors', employees', agents', subcontractors', or assigns' performance of the Project under this Agreement.

15. Public Records and CTHRU

[If you anticipate receiving confidential documents add] 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"). Grantee acknowledges and agrees that any documentary material, data, or other information submitted to MassCEC are presumed to be public records, and that MassCEC, in its sole discretion, shall determine whether any particular document, material, data, or other information is exempt from or subject to public disclosure. An exemption to the Public Records Law may apply to certain records, including materials that fall under certain categories under a statutory or common law exemption, 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. Grantee shall be solely responsible for considering what documents, materials, data, and other information are submitted to MassCEC in connection with this Agreement.

In accordance with the Public Records Law, MassCEC generally considers the following types of information to be confidential:

- [Fill in as necessary]

[If you do not anticipate receiving confidential documents add] As a public entity, MassCEC is subject to the Commonwealth's Public Records Law, codified at M.G.L. c. 66. Thus, any documentary material, data, or other information received by MassCEC from an applicant is a public record subject to disclosure. Grantee acknowledges and agrees that MassCEC, in its sole discretion, shall determine whether any particular document, material, data, or other information is exempt from or subject to public disclosure. Grantee agrees and acknowledges that it shall not send MassCEC any confidential or sensitive information under this Agreement.

Grantee agrees and acknowledges that MassCEC shall have the right to disclose the name of Grantee and/or payee, the amount of the payment pursuant to 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. Insurance

Grantee 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. GRANTEE 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, Grantee 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 Grantee's responsibility and shall not relieve Grantee of any responsibility to MassCEC.

17. Conflict of Interest

Grantee acknowledges that all MassCEC employees are subject to the Commonwealth's Conflict of Interest statute, codified at M.G.L. c. 268A.

18. Lobbying

No funds awarded by this Agreement may be used to pay for or otherwise support any activities intended to influence any matter pending before the Massachusetts General Court or for activities covered by the law and regulations governing "legislative agents" or "executive agents" set forth in the Commonwealth's Lobbying Law, codified at M.G.L. c. 3, Section 39.

19. Choice of Law and Forum; Arbitration; Equitable Relief

- 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's fees and costs incurred in connection with any action, proceeding, or arbitration under this subsection.
- 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.

20. Registration

Grantee represents and warrants that Grantee is registered and in good standing with the Secretary of State's Office of the Commonwealth.

21. 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.

22. Amendments and Waivers

MassCEC may amend Section 15 (without any action by Grantee) to reflect changes in law or MassCEC policies and shall promptly deliver any and all such amendments to Grantee in the manner provided in Section 5. 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.

23. 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.

24. 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 Grantee, its employees, agents, or officers.

25. Counterparts

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

26. Headings; Interpretation

The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement. For purposes of this Agreement, (a) the words "include," "includes," and "including" are deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto," and "hereunder" refer to this Agreement as a whole. Unless the context otherwise requires, references in this Agreement: (x) to sections, subsections, schedules, and exhibits mean the sections of, the subsections of, and schedules and exhibits attached to, this Agreement; (y) to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions of such agreement, instrument, or other document; and (z) to a statute means such statute as amended from time to time and includes any successor legislation to such statute and any regulations promulgated under such statute. Whenever the singular is used in this Agreement, the same shall include the plural, and whenever the plural is used in this Agreement, the same shall include the singular, where appropriate. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. This Agreement is the result of negotiations between, and has been reviewed by, the Parties and their respective legal counsel.

27. 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 Grantee'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:

Attachment 1—Scope of Work

Attachment 2 – [Cost Share and Expenditure Certification] OR [Expenditure Certification]
[Remainder of Page Intentionally Blank]

In witness whereof, the Parties have caused this Agreement to be duly executed and delivered by their duly authorized officers effective as of the Effective Date.

Massachusetts Clean Energy Technology Center

[Grantee's full legal entity name]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Federal Tax ID No.:

SAMPLE

Attachment 1
SCOPE OF WORK: 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

| Task Number | Task Description | Milestone/Deliverable | Completion Date | Payment Amount |
|--------------------|-------------------------|------------------------------|------------------------|-----------------------|
| 1 | | | | |
| 2 | | | | |
| 3 | | | | |
| | TOTAL | | | \$ |

MassCEC shall have the right at its sole discretion to allow for additional time for the completion of Milestones/Deliverables without need to amend this Agreement. If Grantee cannot satisfy a Completion Date, it shall seek MassCEC's prior written approval, email acceptable, of a later Completion Date and provide reasoning for its request. MassCEC shall approve or deny Grantee's request, email acceptable, within a reasonable time period.

Attachment 2— [IF APPLICABLE: Cost Share and] Expenditure Certification

For submission with Grantee's invoice

| Grantee Contact and Project Financing Information | |
|---|--|
| Project Title | |
| Grantee Contact Name, Title | |
| Company/Organization | |
| Milestone # and Name | |
| Grant Installment Amount Requested | |
| <i>IF APPLICABLE: Grantee Cost Share Amount for Milestone</i> | [DELETE THESE 4 CELLS IF NO COST SHARE] |
| <i>IF APPLICABLE: Cost Share Source(s)</i> | <i>I.e. Investors, in-kind, labor, cash, etc. Please include names of entities contributing to each type of cost share, amounts for each</i> |

This *[IF APPLICABLE: Cost Share and]* Expenditure Certification is subject to the Agreement, by and between Grantee and MassCEC. By signing below, the undersigned certifies that:

1. They are authorized to sign on behalf of Grantee;
2. MassCEC, pursuant to Section 11 of the Agreement, has the right to audit records to confirm the use of funds is consistent with the Grant requirements and may do so at any time in compliance with the terms of the Agreement; and
3. Grantee has used and/or will use all Grant funds for the Project.

By: _____

(Signature of Authorized Representative)

Name _____

Title _____

Date _____