



MASSACHUSETTS CLEAN ENERGY TECHNOLOGY CENTER

RENEWABLE ENERGY TRUST FUND MEMBERSHIP AGREEMENT

This **Membership Agreement**, (the "Agreement") is made and entered into as of **[Date- Month,DD,YYYY]** (the "Effective Date"), by and between the **Massachusetts Clean Energy Technology Center**, a public instrumentality of the Commonwealth of Massachusetts with a principal business address of 294 Washington Street, Suite 1150 Boston, MA 02108 ("MassCEC"), the **[insert name and address of the MLP]** (the "MLP") and **[insert name and address of the municipality]** (the "Electing Municipality") (MassCEC, the MLP and the Electing Municipality are at times referred to in this Agreement as a "Party" and collectively, as the "Parties").

WHEREAS, the MLP is the municipal lighting plant whose service territory covers the Electing Municipality;

WHEREAS, pursuant M.G.L. c. 25, § 20(b), the MLP has the ability to make an irrevocable decision to become a participant in and member of MassCEC's Renewable Energy Trust Fund and collect and provide to MassCEC's Renewable Energy Trust Fund a renewable energy surcharge from its customers;

WHEREAS, the MLP has not made such an election;

WHEREAS, pursuant to M.G.L. c. 25, § 20(c), enacted by *An Act Relative to Municipal Light Plant Participation in Green Communities* (230 Mass. Acts 2022), municipalities served by municipal lighting plants that serve multiple municipalities that do not supply generation service outside their own service territory or do not open their service territory to competition at the retail level and have not made an election pursuant to M.G.L. c. 25, § 20(b) to assess and remit a charge to the Renewable Energy Trust Fund may adopt a mandatory charge per kilowatt-hour upon their electricity consumers on the same terms and conditions as apply to the charge imposed on consumers residing in competitive distribution service territories, provided that the municipal lighting plant whose service territory covers the municipality collects the applicable charge from ratepayers through electric bills;

WHEREAS, the Electing Municipality desires to become a participant in and member of MassCEC's Renewable Energy Trust Fund;

WHEREAS, pursuant to the terms and conditions of this Agreement and any attachments hereto, the MLP and Electing Municipality indicate that they have all requisite authority to enter into this Agreement and to facilitate the Electing Municipality's irrevocable decision to join MassCEC's Renewable Energy Trust Fund;

WHEREAS, in accordance with M.G.L. c. 25, § 20, the decision to join MassCEC's Renewable Energy Trust Fund is irrevocable in nature, and it is necessary and appropriate to contractually document the Electing Municipality's consent thereto, as well as to provide remedies for any subsequent actions taken by the Electing Municipality that are contrary to the irrevocable decision; and

WHEREAS, in order to document the Electing Municipality's decision and to govern the relationship amongst and provide appropriate protections for the Parties, they collectively deem it reasonable and appropriate to enter into this Agreement.

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

1. Irrevocable Decision to Join MassCEC's Renewable Energy Trust Fund. The Electing Municipality hereby irrevocably determines and decides that it shall become a member of MassCEC's Renewable Energy Trust Fund (the "Irrevocable MassCEC Renewable Energy Trust Fund Membership Decision"). The Electing

Municipality hereby represents and warrants that it is fully and duly authorized to make the Irrevocable MassCEC Renewable Energy Trust Fund Membership Decision pursuant to its submission to MassCEC of written documentation, satisfactory to MassCEC in the sole exercise of its discretion, that it has all such power and authority, such written documentation collectively attached hereto as Exhibit A (the "Authority Documentation"). The Authority Documentation shall, among other things, definitively state whether a regular or special town meeting and/or town vote or any other official action by the Electing Municipality is or is not legally required to duly authorize and effectuate the Irrevocable MassCEC Renewable Energy Trust Fund Membership Decision. The MLP represents and warrants that it has full authority to enter into this Agreement and facilitate the MassCEC Renewable Energy Trust Fund Membership Decision.

2. Collection and Payment of MassCEC Renewable Energy Trust Fund Charge. As a result of the Irrevocable MassCEC Renewable Energy Trust Fund Membership Decision, the Electing Municipality hereby agrees that it shall impose on each of its customers an obligation to pay a renewable energy surcharge as a certain percentage of each bill the MLP issues to its customers (the "MassCEC Renewable Energy Trust Fund Charge") and the MLP hereby agrees that it will duly collect the MassCEC Renewable Energy Trust Fund Charge and timely remit it in its entirety to MassCEC's Renewable Energy Trust Fund. The foregoing notwithstanding, the MLP is not required to impose a charge on customers that are party to a long-term energy supply contract (the "Long Term Contract") with the MLP that was executed and made effective prior to the Effective Date and that does not contemplate or require payment of MassCEC's Renewable Energy Trust Fund Charge. However, upon expiration or termination of the Long Term Contract, the MLP shall be required to impose and collect the MassCEC Renewable Energy Trust Fund Charge from such customers. So long as a customer is not paying the MassCEC Renewable Energy Trust Fund Charge, they are not eligible for funding from MassCEC's Renewable Energy Trust Fund. Furthermore, the MLP shall cooperate with MassCEC to establish the mechanisms for payment of the MassCEC Renewable Energy Trust Fund Charge and the initial date of such payment.
3. Eligibility for Renewable Energy Trust Funding. The MLP and the Electing Municipality acknowledge that the MassCEC Renewable Energy Trust Fund Membership Decision pertains solely to the Electing Municipality and customers residing within the Electing Municipality. As such, the MassCEC Renewable Energy Trust Fund Membership Decision: (i) solely creates eligibility for the Electing Municipality and customers residing therein to receive funds from the Renewable Energy Trust Fund (subject to Section 2 hereof); and (ii) does not create eligibility for other municipalities and/or customers residing therein serviced by the MLP to receive funding from the Renewable Energy Trust Fund. The MLP and the Electing Municipality acknowledge that neither the Irrevocable Renewable Energy Trust Fund Membership Decision nor any other provision of this Agreement constitutes a guarantee that the MLP, any resident or entity residing in the Electing Municipality, the Electing Municipality or any subdivision thereof (each a "Potential Awardee" and collectively, the "Potential Awardees") shall be entitled to the receipt of funds from the Renewable Energy Trust Fund and that any application by a Potential Awardee for such funding shall be judged in accordance with the applicable requirements of the award for which the Potential Awardee has applied.
4. Events of Default, Breach and Revocation Payments. The Electing Municipality and MLP explicitly acknowledge and agree that in the event that the MLP, acting pursuant to its own authority, at the direction of the Electing Municipality, or otherwise, commits an Event of Default as defined herein, then the MLP shall be deemed to have materially breached this Agreement; provided, however, that if the MLP cures or remedies any Event of Default to MassCEC's satisfaction within thirty (30) days of the first occurrence thereof, no material breach will be deemed to exist. For purposes of this Agreement, an "Event of Default" shall mean any event in which the MLP (a) purports to revoke its Irrevocable Renewable Energy Trust Fund Membership Decision or in any way takes action contrary to it, (b) fails to impose or collect the MassCEC Renewable Energy Trust Fund Charge and/or timely remit the MassCEC Renewable Energy Trust Fund Charge to MassCEC's Renewable Energy Trust Fund, thereby revoking the Irrevocable MassCEC Renewable Energy Trust Fund Membership by default, or (c) is otherwise noncompliant with the material terms and conditions of this Agreement, including without limitation a breach of the representations and warranties set forth herein.
 - a. Revocation Payment. In the event that the MLP and/or Electing Municipality has materially breached the Agreement, including without limitation any material breach arising as a result of an Event of Default, the MLP and the Electing Municipality shall be jointly and severally liable to repay MassCEC's Renewable Energy Trust Fund a capped revocation payment that is equal to the lesser of (i) the entire amount of any and all awards of financial assistance made by MassCEC's Renewable Energy Trust Fund to Potential Awardees and (ii) One Million Dollars (\$1,000,000) (the "Revocation Repayment"). In the event that the aggregate amount of all awards of financial

assistance from MassCEC's Renewable Energy Trust Fund to the Awarded Parties exceeds One Million Dollars, the Revocation Payment shall be amended and capped at Two Million Dollars (\$2,000,000), with successive increases in One Million Dollar (\$1,000,000) increments thereafter. Calculation of a Revocation Payment shall include any and all awards of financial assistance made on or after the Effective Date of this Agreement. For the avoidance of doubt, examples of Revocation Repayment scenarios are set forth in the attached Exhibit B. The entire amount of the Revocation Repayment shall be remitted to MassCEC's Renewable Energy Trust Fund not later than sixty (60) days after the MLP and/or the Electing Municipality receives notice from MassCEC of the existence of a material breach.

- b. Limitations to Revocation Payment. MassCEC awards for which the date of the award is greater than or equal to ten (10) years prior to the date of the notice requiring the Revocation Payment provided by MassCEC to the MLP and/or the Electing Municipality shall not be included in the calculation of any amounts due to MassCEC as a Revocation Payment.

5. Public Records. As a public entity, MassCEC is subject to the Massachusetts Public Records Law (set forth at Massachusetts General Laws Chapter 66) and thus documents and other materials made or received by MassCEC and/or its employees are subject to public disclosure. Unless subject to a statutory or common law exemption, all information received by MassCEC shall be deemed to be subject to public disclosure. By signing this Agreement the MLP and Electing Municipality acknowledge, understand and agree that any documents submitted by the MLP and/or Electing Municipality to MassCEC may be subject to public disclosure.

6. Choice of Law and Forum; Equitable Relief. This Agreement shall be construed under, and governed by, the laws of the Commonwealth of Massachusetts, without giving effect to its conflict of laws principles. The Parties agree that any Federal or State legal proceedings arising under this Agreement shall be commenced and maintained in court of competent jurisdiction within the Commonwealth of Massachusetts. However, no such action shall be instituted before the Parties submit the dispute to arbitration before the American Arbitration Association in Boston, Massachusetts and the arbitrator issues a final decision and award. Judgment upon any arbitration award may be entered in any court of competent jurisdiction. All parties shall cooperate in the process of arbitration for the purpose of expediting discovery and completing the arbitration proceedings. This Section shall not be construed to limit any other legal rights of the parties. The MLP and Electing Municipality acknowledge and agree that any breach or threatened breach of this Agreement by the MLP and/or Electing Municipality will result in substantial, continuing and irreparable damage to MassCEC. Therefore, in addition to any other remedy that may be available to MassCEC, MassCEC will be entitled, immediately and without first submitting the matter for arbitration, to seek injunctive or other equitable relief by a court of appropriate jurisdiction in the event of any breach or threatened breach by the MLP and/or Electing Municipality of the terms of this Agreement.

7. Force Majeure. No Party shall be liable to the other Parties, or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include, but are not limited to, acts of God or of a public enemy, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or unusually severe weather. Dates or times of performance of this Agreement may be extended to account for delays excused by this Section, provided that the Party whose performance is affected notifies the other Parties promptly of the existence and nature of such delay.

8. Waivers. Conditions, covenants, duties and obligations contained in this Agreement may be waived only by written agreement between the Parties. Forbearance or indulgence in any form or manner by a Party shall not be construed as a waiver, nor in any way limit the remedies available to that Party.

9. 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.

10. Binding Effect; Benefit; Entire Agreement and Amendments. This Agreement shall be binding on the Parties hereto 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 hereto, 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 hereto 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. All conditions, covenants, duties and obligations contained in the Agreement may be amended only through a written amendment signed by the Parties.

11. Headings. The headings and captions of the various subdivisions of this Agreement are for convenience of reference only and will in no way modify or affect the meaning or construction of any of the terms or provisions hereof.
12. 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.

[Remainder of Page Intentionally Blank – Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers as of the Effective Date.

The Massachusetts Clean Energy Technology Center (MassCEC)

[Insert Name] MLP

By: _____

By: _____

Name: Emily Reichert

Name: _____

Title: Chief Executive Officer

Title: _____

Date: _____

Date: _____

[Insert Name] Electing Municipality

By: _____

Name: _____

Title: _____

Date: _____

Exhibit A
Authority
Documentation

See Attached.

Exhibit B
Examples of Revocation Payment Calculations

Assumption:

The example below assumes an Effective Date of the MassCEC Renewable Energy Trust Fund Participation Agreement of January 1, 2024. **Note:** the references to rebates and grants below are solely for purposes of illustration and are not indicative of any ongoing rebates or awards offered by MassCEC for which the Electing Municipality and/or customers residing within the Electing Municipality would be eligible to apply for because of the Irrevocable Renewable Energy Trust Fund Membership Decision.

MassCEC Awards Since Effective Date	Year of Award Decision by MassCEC	Amount	Years Before Breach Condition	Amount Applicable to Revocation Payment
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Example 1. Breach of the Agreement **two years** after the Effective Date – January 1, 2026

Solar Rebate A	2024 – 2025	\$60,000	0 to 2	\$60,000
Feasibility Grant B	2024 – 2025	\$120,000	0 to 2	\$120,000
Total Revocation Payment				\$180,000

Example 2. Breach of the Agreement **six years** after the Effective Date – January 1, 2030

Solar Rebate A	2024 – 2025	\$60,000	4 to 6	\$60,000
Feasibility Grant B	2024 – 2025	\$120,000	4 to 6	\$120,000
Solar Rebate C	2026 – 2029	\$100,000	0 to 4	\$100,000
Feasibility Grant B	2026 – 2029	\$200,000	0 to 4	\$200,000
Development Grant D	2026 – 2029	\$500,000	0 to 4	\$500,000
Total Revocation Payment				\$980,000

Example 3. Breach of the Agreement **twelve years** after the Effective Date – January 1, 2036

Solar Rebate A	2024 – 2025	\$60,000	10 to 12	zero
Feasibility Grant B	2024 – 2025	\$120,000	10 to 12	zero
Solar Rebate A	2026 – 2029	\$100,000	6 to 10	\$100,000
Feasibility Grant B	2026 – 2029	\$200,000	6 to 10	\$200,000
Development Grant D	2026 – 2029	\$500,000	6 to 10	\$500,000
Solar Rebate A	2030 – 2035	\$125,000	0 to 6	\$125,000
Feasibility Grant B	2030 – 2035	\$250,000	0 to 6	\$250,000
Development Grant D	2030 – 2035	\$750,000	0 to 6	\$750,000
Total Revocation Payment				\$1,925,000